

STATE OF VERMONT  
PUBLIC SERVICE BOARD

Docket No. 5713

Investigation into New England Telephone and )  
Telegraph Company's (NET's) tariff filing re: )  
Open Network Architecture, including )  
the unbundling of NET's network, expanded )  
interconnection, and intelligent networks in re: )  
Phase II, Module 2 – Cost Studies )

Order entered: 8/23/2000

**ORDER ALLOWING SGAT TO TAKE EFFECT, ADDRESSING FUTURE PROCEDURES, CORRECTING  
FEBRUARY 4, 2000 ORDER AND CLOSING INVESTIGATION**

Introduction

With this Order, the Public Service Board ("Board") formally closes its investigation in Docket 5713. Over time, this investigation was expanded to include most of the major issues related to the emergence of competition in both the local and long distance markets. The decisions in this investigation, together with many changes in state and federal law and Federal Communications Commission rulemakings, have established the legal and regulatory framework in which both new and incumbent telecommunications companies operate today in Vermont.

Today's Order allows to take effect the Statement of Generally Available Terms and Conditions ("SGAT") that New England Telephone & Telegraph Company d/b/a Bell Atlantic-Vermont<sup>1</sup> ("BAVT") filed on April 4, 2000, as modified on July 27, 2000. This Order also addresses the procedures for future review of the SGAT and revisions thereto, and corrects an error in our February 4, 2000 Order in this Docket.

Allowing SGAT to Take Effect

The last major order in this investigation was issued on February 4, 2000. On April 4, 2000, BAVT filed an SGAT and supporting cost studies in compliance with the requirements of the February 4 Order, Docket 5900, and federal law. In a letter dated July 25, 2000, the Vermont Department of Public Service ("Department") states its belief that BAVT has complied with the

---

1. BAVT changed its corporate name to Verizon New England, Inc. on August 1, 2000.

Board's Order.<sup>2</sup> It recommends that the Board allow the SGAT into effect subject to ongoing review but without explicit review and approval.<sup>3</sup>

The SGAT cost studies were most recently modified in a compliance filing on July 27, 2000. To date, no party has raised objections to that filing.

As recommended by the Department, we conclude that the SGAT should take effect and allow it to do so here.<sup>4</sup> Any future concerns, including possible violations of Board Orders or federal law, regarding the SGAT or any other compliance matters related to Docket 5713 shall be addressed through separate investigation, or in connection with Docket 5900.

#### Future Review of SGAT and Procedures

In response to the Board's February 4, 2000 Order, AT&T Communications of New England, Inc. ("AT&T"), the Department and BAVT filed comments on future proceedings related to the establishment and revision of the SGAT and the establishment of Unbundled Network Element ("UNE") rates.<sup>5</sup> These comments follow recommendations made by the Hearing Officer in this investigation.<sup>6</sup> The Hearing Officer proposed an update of the SGAT every three years, after which the Board would have a defined period for determining whether to permit the updated SGAT to go into effect or to initiate a more extensive investigation. If the Board then opens an investigation, it would proceed in an expedited manner; the parties would then be provided with opportunity for comment on the Board's report prior to Board action.

In its comments, the Department urges no specific procedure for either the review of the current SGAT nor for the review of future updates. Rather, the Department urges the Board to let the current SGAT take effect subject to ongoing review and address any issues relating to the SGAT on a case-by-case basis. In three years' time, the Department urges the Board to invite comments from the Department and certified carriers on the rates, terms, and conditions in BAVT's SGAT. At that time, the Board can determine the need for new proceedings.

In response to the Hearing Officer's proposal for an update of the SGAT every three years, AT&T notes that an expedited review process cannot foreclose the ability of competitive local

---

2. Letter from Leslie A. Cadwell, Esq., Department of Public Service to Susan M. Hudson, Clerk, Vermont Public Service Board, dated July 25, 2000.

3. *Id.*

4. Section 47 U.S.C 252(f) permits a state commission to allow the SGAT to take effect in lieu of a completed review and approval.

5. *See*, BAVT Comments on Future Proceeding, 4/11/00; Comments by AT&T on the Hearing Officer's Suggestions about Processes for Future Filing; and Letter from Leslie A. Cadwell, Esq., to Susan M. Hudson, 4/11/00.

6. Docket 5713, Order of 2/4/00 at 92-95.

exchange carriers ("CLECs") from litigating an issue fully. AT&T also notes that some issues may take more time to resolve than is contemplated by the timeframes suggested by the Hearing Officer.<sup>7</sup> Consequently, AT&T urges the Board to make clear that the Board can choose to devote more time to issues than that contemplated in the guidelines put forward by the Hearing Officer. AT&T also argues against the Hearing Officer's proposed use of an advance deliberative workshop to address methodological and modeling questions in the context of future SGAT reviews.<sup>8</sup>

BAVT argues that the Board should not adopt the Hearing Officer's proposal for refiling and review of the SGAT every three years or at any other set time. It asserts that market change and the evolution of technology will drive the need to amend the SGAT. BAVT suggests that any carrier who has a filed SGAT should be able to "make, add to, modify, and delete from the SGAT as they do today with a tariff."<sup>9</sup> Any person with standing would then have the opportunity to request a review of all or part of the SGAT at any time. BAVT supports generally the use of more streamlined and collaborative proceedings, in line with the Hearing Officer's recommendations. BAVT also joins the Department and AT&T in recommending against a workshop on "abstract, generic costing issues."<sup>10</sup>

In light of the comments of the Department, AT&T, and BAVT, we will not establish specific procedures for future review and approval of either the current SGAT or revisions to that SGAT. As AT&T and BAVT note, whatever process the Board employs, it must comply with the requirements of federal law (i.e., 47 USC §252(f)(3) & (4)). As market demands and technology change, the SGAT, or portions of the SGAT, may be subject to investigation and/or revision. In accordance with Department recommendations, after three years, the Board will invite comments from the Department and certified carriers on the rates, terms, and conditions in BAVT's SGAT. At that time, the Board can determine the need for and nature of new proceedings.

#### Correction to February 4 Order

On May 10, 2000, we received a request from BAVT to correct an error in our

---

7. Comments by AT&T Communications of New England, Inc., on the Hearing Officer's Suggestions about Processes for Future Filing at 2.

8. Docket 5713, Order of 2/4/00 at 94.

9. BAVT Comments on Future Proceeding, 4/11/00 at 1.

10. *Id.*, at 2.

February 4 Order.<sup>11</sup> Specifically, BAVT requested that we substitute the figure 0.0082 for the figure 0.0061 for "Digital Circuit Equipment" as the charge on page 48 of the Order. No party has objected to this proposed correction. BAVT's request is granted.

### Closing of Investigation

We conclude that with the SGAT and other compliance filings submitted by BAVT on April 4, 2000, May 25, 2000, and July 27, 2000, this investigation can now be, and is hereby, closed. Any issues arising from these filings will be addressed as matters for separate investigation.

SO ORDERED.

Dated at Montpelier, Vermont, this 23<sup>rd</sup> day of August, 2000.

|                             |   |                |
|-----------------------------|---|----------------|
| <u>s/Michael H. Dworkin</u> | ) | PUBLIC SERVICE |
|                             | ) |                |
|                             | ) | BOARD          |
| <u>s/David C. Coen</u>      | ) |                |
|                             | ) | OF VERMONT     |
|                             | ) |                |
|                             | ) |                |

OFFICE OF THE CLERK

Filed: August 23, 2000

Attest: s/Susan M. Hudson  
Clerk of the Board

*NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or mail) of any technical errors, in order that any necessary corrections may be made. (E-mail address: Clerk@psb.state.vt.us)*

*Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.*

---

11. Letter from Gregory M. Kennan, Esq., BAVT, to Susan M. Hudson, dated May 10, 2000.