STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 6012

Generic Investigation into the Transition from)
Regulation to Competition for Public Telephone)
Services in Vermont)

Order entered: 9/22/98

I. Background

On October 17, 1997, the Board opened this docket to examine issues related to the transition from regulation to competition for public telephone services in Vermont. Specifically, this investigation included the following:

> (1) the review of payphone prices to ensure that competitive markets have developed and, if necessary, the development of a petition to the FCC seeking authority to regulate payphone rates;
>
> (2) the review of the need for public interest payphones and, if needed, the development of recommendations for financing and locating public interest payphones; and
>
> (3) the review of other issues related to the transition to competitive payphones in Vermont, such as standard terms and conditions of service for all providers of payphones, including customer-owned, coin-operated telephones ("COCOTS") and customer-owned, pay telephones ("COPTS").

This Order addresses (2) above regarding the need for a public interest payphone program in Vermont.

The parties to this docket were as follows: the Vermont Department of Public Service ("DPS"), represented by Leslie A. Cadwell, Special Counsel; New England Telephone and Telegraph Company d/b/a Bell Atlantic-Vermont ("Bell Atlantic") by Thomas M. Dailey, Esq. and Cecelia T. Roudiez, Esq.; nine independent telephone companies, including Shoreham Telephone Company, Topsham Telephone Company, Northfield Telephone Company, Perkinsville Telephone Company, Ludlow Telephone Company, Franklin Telephone Company, STE/NE Acquisition Corp. d/b/a Northland Telephone Company of Vermont, Waitsfield-Fayston

Telephone Company, Inc. d/b/a Waitsfield Telecom and Champlain Valley Telecom by William B. Piper, Esq. and Trevor Lewis, Esq. of Primmer & Piper, P.C.; [1] Vermont Telephone Company, by Julie Ladieu-Walton; Vermont Agency of Transportation, by Thomas R. Viall, Esq.; New England Public Communications Council, Inc., by Paul Besozzi, Esq.; Vermont Center for Independent Living, by Margaret Franzen; Vermont Legal Aid, Inc., by John J. McCullough, Esq.; and Sprint Communications Company, by Kimberly Ross, Esq.[2]

Public interest payphones are defined under federal law as:

> a payphone which (1) fulfills a public policy objective in health, safety, or public welfare, (2) is not provided for a location provider with an existing contract for the provision of a payphone, and (3) would not otherwise exist as a result of the operation of the competitive marketplace.

In the Matter of Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, CC Docket No. 96-128, FCC 96-388, ¶ 282 (Sept. 20, 1996). The FCC directed the states to evaluate the need for a public interest payphone program by September 20, 1998. This Order adopts the parties recommendation to defer the establishment of a public interest payphone ("PIP") program to a future date.

To facilitate the PIP evaluation, the Board convened two workshops. The first workshop, held on January 16, 1998, addressed issues related to PIPs, as well as the other issues encompassed in this proceeding (as described above). A PIP-specific workshop was held on August 26, 1998.[3] The Board also required payphone providers operating in Vermont to supply the Board and the DPS with certain data in order to monitor the market. In addition, the parties held informal workshops prior to the Board's August workshop, in an attempt to reach consensus on PIPs and other issues relevant to this docket.

On August 25, 1998, the DPS filed a Position Statement on Public Interest Payphones, as well as the results of a statewide survey it performed on the need for PIPs. After a preliminary examination of the survey data, as well as the market monitoring data and answers to discovery,

---

1. These nine independent companies withdrew from active participation in the docket prior to the final workshop on a public interest payphone program.

2. Sprint also withdrew from active participation prior to the final public interest payphone workshop.

3. The DPS and Bell Atlantic were the only parties in attendance at that workshop.

the DPS recommended that the Board should not establish a PIP program at this time, nor should a statewide funding mechanism be created. Although some survey responses indicate that some unmet payphone needs may exist, the DPS suggested that it is too soon to conclude that these needs cannot be met by the operation of the market. The DPS points to two factors in the market that have the potential to meet existing needs in the coming months and years. First, previously unprofitable locations may become profitable as a result of the deregulation of the price of local calls at payphones. Second, an increased number of participating vendors may bring service to more locations in the state.

The DPS also suggested that, at this time, lack of understanding of both the payphone market and the means to request placement of payphones seem to be the greatest impediments for interested persons to secure payphones in locations of apparent need. Thus, the market can be further stimulated by an increased awareness by location owners, towns, and other key decision makers about the existing mechanisms for securing a payphone.

Based on its analysis, the DPS recommended the following:

1. No publicly-funded, statewide program to provide PIPs is necessary at this time.
2. For a period of two years, market monitoring of payphone locations and removals should continue, with data provided in electronic form to facilitate analysis.
3. At the end of two years, the Board should reopen this investigation to determine whether, and to what extent, the market has fulfilled unmet needs for public interest payphones.[4]
4. During that time, the DPS will undertake the creation and dissemination of a guide to securing payphones in locations of unmet need. This guide will be distributed to towns, schools and colleges, chambers of commerce, other business groups, and other appropriate stakeholders.[5]

At the August 26 workshop, Bell Atlantic concurred with the DPS's recommendation to allow the market to operate for two years before determining whether a PIP program is necessary

4. At the August 26 workshop, counsel for the DPS stated that should it become clear before the end of the two-year period that the market will not adequately provide for the placement of payphones in locations necessary to meet public health, safety, and welfare needs, the DPS will ask the Board to take action to ensure those needs are met through some other means.

5. The DPS anticipates that the booklet will be ready for distribution by the end of the year.

in Vermont. Bell Atlantic indicated that its concurrence did not necessarily mean that it agreed with the Department's conclusions relating to the survey data.

The DPS informed the workshop attendants that it understood that other parties to this docket, namely the New England Public Communications Council, Inc., the Vermont Center for Independent Living, the Vermont Low-Income Advocacy Council, and Vermont Telephone Company, did not object to the DPS's proposal.

II. Conclusion

I find that the DPS's proposal is reasonable and recommend the Board adopt it. This recommendation is based on the consensus of the parties that, after analysis of the available data, there is no need to institute a PIP program at this time. Nevertheless, there is some survey data that was supplied that suggests that there may be certain locations that might qualify for a PIP, pursuant to the FCC's definition, where intervention could be appropriate at some point in the future. At this time, I agree with the parties that we should allow the market to work for a certain period to see if these potential needs can be accommodated by the market. Consequently, to allow the DPS, the Board and the other parties to continue to monitor the payphone market, I recommend that the Board require all certificated payphone providers in Vermont to supply the market monitoring data outlined in my Order of June 2, 1998, in electronic format[6] according to the following schedule:

Report Period	Report Due Date
7/98-12/98	2/15/99
1/99-6/99	8/15/99
7/99-12/99	2/15/2000
1/2000-6/2000	8/15/2000

Because not all payphone providers are parties in this proceeding, I recommend that the Board issue an order directing all such providers to furnish the market monitoring data as described herein and in the June 2 Order in this docket.

6. The format should be Lotus 1-2-3 or Lotus 1-2-3 compatible.

All parties to this proceeding have waived the opportunity to comment on this Proposal for Decision in accordance with 3 V.S.A. § 811.

Dated at Montpelier, Vermont this 18th day of September, 1998.

s/ Peter B. Meyer
Peter B. Meyer
Hearing Officer

III. ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that:

1. The Hearing Officer's findings and recommendations are accepted.
2. All certificated payphone providers in Vermont shall supply the data described in the June 2 Order in this docket according to the schedule provided in this Order.
3. The Board will revisit the issue of public interest payphones in October 2000.

DATED at Montpelier, Vermont, this 22nd day of September, 1998.

s/ Richard H. Cowart)	
)	PUBLIC SERVICE
)	
s/ Suzanne D. Rude)	BOARD
)	
)	OF VERMONT
s/ David C. Coen)	

OFFICE OF THE CLERK

Filed: September 22, 1998

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 of any technical errors, in order that any necessary corrections may be made.

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.