

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: 10/17/97

ORDER OPENING INVESTIGATION
AND NOTICE OF HEARING

BACKGROUND

The Public Service Board ("Board") last addressed the subject of the public or semi-public telephone services in Docket No. 5566, Generic Investigation Into the Regulation of Public Telephone and Operator Service Providers in Vermont, Order of 1/6/95. In that docket, the Board reaffirmed and strengthened policies related to the provision of public telephone services and to operator service providers. After that decision, Congress passed the Telecommunication Act of 1996 ("Act"), significantly changing the regulatory structure for public payphones. As implemented by the Federal Communications Commission ("FCC") in CC Docket No. 96-128,¹ the Act creates a deregulatory and streamlined regulatory structure for the payphone industry that is intended to allow market-based incentives to determine industry decisions, including rates, while at the same time maintaining the availability of payphone services where needed to serve the public interest.

As part of the FCC's deregulatory structure for the payphone industry, some important duties and responsibilities are reserved for the states. One of the most important

of these allows the states to monitor the competitive marketplace and petition the FCC for regulatory relief if market imperfections develop that prevent the establishment of competitive payphone rates. The second gives the states the primary responsibility to administer public

1. Implementation of Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, FCC 96-388 (rel. Sept. 20, 1996) ("Payphone Order"); Order on Reconsideration, FCC 96-439 (rel. Nov. 8, 1996) ("Reconsideration Order").

interest payphone programs, in accordance with FCC guidelines, to ensure that sufficient numbers of payphones are maintained and distributed geographically to satisfy the public interest. In this regard, "states may ensure the maintenance of payphones serving public interests in health, safety and welfare, in locations where they would not otherwise be available as a result of the operation of the market." Payphone Order at ¶ 26.² Finally, states are able to continue to regulate other aspects of the payphone business, including market entry and terms and conditions for service.

This fundamental change in the regulatory environment for the public payphone industry may significantly affect the price, availability and other aspects of payphone use in this state. But during and after this change in payphone regulation, the Board retains a role in protecting consumers. Therefore, the Board is opening this investigation to oversee the transition to a competitive payphone industry in Vermont to ensure that the result is in the best interest of all Vermonters. This investigation will specifically include the following:

- (1) review of payphone prices to ensure that competitive markets have developed and, if necessary, development of a petition to the FCC seeking authority to regulate payphone rates;
- (2) review of the need for public interest payphones and, if needed, development of recommendations for financing and locating public interest payphones; and
- (3) 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").

The objective of this investigation is to examine these issues through rulemaking and through proposals to the Legislature.³ However, we also recognize that as the docket develops, the need may arise to resolve some issues through contested case procedures. We invite comment from the parties on these intended procedures.

2. States are required, however, to administer and fund any such public interest payphone programs in ways that are competitively neutral and fairly and equitably compensate entities providing public interest payphones.

3. For example, the Board may propose to the 1998 Legislature that funding for public interest payphones should be provided through the Vermont Universal Service Fund.

ORDER

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

1. Pursuant to 30 V.S.A. §§ 201, 203 and 209, a generic investigation is opened to: (1) review payphone prices to ensure that competitive markets have developed and, if necessary, develop a petition to the FCC for authority to regulate payphone rates; (2) review the need for public interest payphones and, if needed, develop recommendations for financing and locating public interest payphones; and (3) review 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 telephone ("COCOTS") and customer-owned, pay telephones ("COPTS").

2. Pursuant to 30 V.S.A. § 8, Peter B. Meyer, Environmental Analyst, is appointed to serve as the Hearing Officer in this proceeding.

3. Pursuant to 30 V.S.A. § 10(c), a prehearing conference will be held on Friday, October 31, 1997, commencing at 9:30 A.M., at the Public Service Board Hearing Room, Third Floor, Chittenden Bank Building, 112 State Street, Montpelier, Vermont.

4. The Clerk of the Board shall send copies of this Order to all local exchange telephone companies in Vermont, all certificated providers of operator and public pay telephone services in the State of Vermont, and to all current applicants for certificates to provide such services.

DATED at Montpelier, Vermont, this 17th day of October, 1997.

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

OFFICE OF THE CLERK

Filed: October 17, 1997

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.