

STATE OF VERMONT
PUBLIC SERVICE BOARD

Exhibit 5

Docket No. 6373

Investigation into the rates charged by Sprint Communications)
Company, L.P. for provision of telephone services to the)
Northwest State Correctional Facility in Swanton, Vermont)

Order entered: 4/13/2000

**ORDER OPENING INVESTIGATION
AND NOTICE OF HEARING**

INTRODUCTION

Today, at the request of Mr. Kirk Wool, formerly an inmate at the Northwest State Correctional Facility in Swanton, Vermont, the Vermont Public Service Board ("Board") commences an investigation in accordance with 30 V.S.A. Sections 203, 208, 209, 218, 225 and 227, into rates charged by Sprint Communications Company, L.P. ("Sprint") for inmate telephone services in the Northwest State Correctional Facility in Swanton, Vermont, pursuant to a contract with the Vermont Department of Corrections ("DOC") dated March 9, 1993.

In this proceeding, the Board will investigate whether the rates and charges paid by Kirk petitioner for inmate telephone service from May 24, 1993 through March 30, 1995 were just and reasonable for services and rates reflected in Sprint's tariff effective at that time.

BACKGROUND

On June 28, 1995, ^{Kirk}Petitioner filed a complaint with the Board alleging Sprint's rates for the provision of inmate telephone services in the Northwest State Correctional Facility were unreasonably exorbitant. The Complaint was forwarded to the Vermont Department of Public Service's Consumer Affairs Division ("DPS") for investigation on July 10, 1995. After conducting an investigation into the matter, the DPS notified ^{Kirk}Petitioner by letter dated March 11, 1996, that it was closing its investigation due to lack of DPS jurisdiction over correctional facility phone systems.

On September 10, 1998, ^{Kirk}Petitioner filed his renewed complaint directly with the Board, pursuant to 30 V.S.A. § 208, requesting the Board open an investigation into the matter.

^{Kirk's}Petitioner's renewed complaint alleges (1) Sprint was providing local exchange service without Board authorization as a local exchange carrier; (2) the "system assessment fee" charged to inmates in lieu of operator assisted station-to-station rates did not represent approved tariffed

rates or services; (3) the rates charged for inmate telephone service were unreasonable and exorbitant; and (4) the Board, not the DOC, has the legal authority to set rates and approve tariffs for telephone services in Vermont. ^{Kirk} Petitioner is seeking reimbursement for the portion of charges for telephone calls utilizing Sprint's inmate telephone system from May 24, 1993 through March 30, 1995, which he believes to be unreasonable and exorbitant.

In connection with the question as to DOC's jurisdictional authority over telephone rates charged to inmates raised by ^{Kirk} Petitioner, we note that 28 V.S.A. § 802a(b), adopted in 1996, seems to indicate the DPS has the authority to set rates for local and long distance access provided by the DOC to inmates. Therefore, in addition to the other issues raised by ^{Kirk} Petitioner and outlined above, we would like the parties to be prepared to address the issue of whether the Board has jurisdiction over the rates charged to the ^{Kirk} Petitioner during the period from May 24, 1993 through March 30, 1995 in connection with the provision of inmate telephone services. We also note that this case may be appropriate for final resolution by the Hearing Officer pursuant to 30 V.S.A. § 8(f).

ORDER

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

1. Pursuant to Title 30 of the Vermont Statutes Annotated, and in particular pursuant to Sections 203, 209, 218, and 227, an investigation is hereby instituted into the rates and charges for telephone services provided by Sprint Communications Company, L.P. to the Northwest State Correctional Facility in Swanton, Vermont, under contract with the Vermont Department of Corrections dated March 9, 1993.
2. Pursuant to 30 V.S.A. § 8, Gregg Faber, Utility Analyst, is appointed as Hearing Officer in this docket.
3. A prehearing conference will be conducted by the Hearing Officer, pursuant to 30 V.S.A. §§ 8 and 10(c), commencing at 10:00 AM, on Tuesday, May 23, 2000, at the Public Service Board Hearing Room, Third Floor, Chittenden Bank Building, 112 State Street, Montpelier, Vermont.

DATED at Montpelier, Vermont, this 13th day of April, 2000.

s/ Michael H. Dworkin

PUBLIC SERVICE

s/ Suzanne D. Rude

BOARD

s/ David C. Coen

OF VERMONT.

A true copy:

OFFICE OF THE CLERK

FILED: APRIL 13, 2000

ATTEST:

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 in writing) of any technical errors, in order that any necessary corrections may be made. (E-mail address: Clerk@psb.state.vt.us).