

**GOVERNMENT OF THE VIRGIN ISLANDS
OF THE
UNITED STATES**

Public Services Commission

IN RE:

INVESTIGATION OF THE VIRGIN ISLANDS TELEPHONE CORPORATION RATE INVESTIGATION)	Docket Nos. 626 & 628
Docket 626)	Order No. <u>54/2016</u>
And)	
INVESTIGATION OF THE VIRGIN ISLANDS TELEPHONE CORPORATION DEPRECIATION SCHEDULE)	
Docket 628)	
<i>Consolidated</i>)	

CONSENT ORDER

WHEREAS, on December 14, 2014, the Virgin Islands Public Services Commission (hereinafter "PSC" or "Commission") appointed Hearing Examiner, Ronald Belfon, Esq. in these consolidated dockets, 626 and 628; and

WHEREAS, on November 9, 10 and 12, 2015, public hearings were conducted, testimony was heard from representatives of the Virgin Islands Telephone Corporation (hereinafter "VITELCO" or "company") and its staff, the PSC Staff, and the public; and

WHEREAS, on February 22, 2016, the Commission received the Report and Recommendations of the Hearing Examiner ("Hearing Examiner Report"); and

WHEREAS, a review of the record and the Hearing Examiner Report reveals significant differences between the positions of VITELCO and PSC Staff in regard to numerous issues; and

WHEREAS, the record of this proceeding is extensive and is in full before the Commission; and

WHEREAS, at the Commission's meeting on March 15, 2016, the Commission heard from the Hearing Examiner, VITELCO, and the PSC Staff; and

WHEREAS, in Order No. 39/2016 (March 2016) the Commission ordered that this matter be continued until the next meeting of the Commission, to permit sufficient time for the Commissioners to review the record, including reports, filings and testimony in this matter prior to making a final decisions; and

WHEREAS, at the Commission's April 18, 2016 meeting VITELCO and PSC Staff reported that, while substantial progress had been made, an agreement had not yet been reached, and the Commission directed that negotiations continue for 72 hours; and

WHEREAS, VITELCO and the PSC Staff have mutually agreed to recommend a resolution of these proceedings as set forth in this Consent Order; and

WHEREAS, VITELCO and the PSC Staff consent to the following findings and conclusions:

1. The depreciation parameters in the depreciation study submitted by VITELCO dated March 30, 2015 entitled "Virgin Islands Telephone Corporation Study as of December 31, 2013" are reasonable, and VITELCO shall utilize the specific service lives, net salvage, and depreciation rates from that study on a going forward basis.
2. VITELCO presented evidence in the record that would support an increase in regulated local telephone revenues by a total of \$8.9 million, which could have resulted in an increase of 40% in local rates. If applied on a proportional basis, the local residential rate would have increased from \$21.65 to \$30.31, and the local business rate would have increased from \$58.55 to \$81.97 based on such evidence.
3. VITELCO and the PSC Staff disagree about the proposed findings of fact and conclusions of law in the Hearing Examiner Report.
4. Under 30 V.I.C. § 2, VITELCO is required to furnish telephone service at rates that are just, reasonable, and nondiscriminatory.
5. The rates set forth in Appendix 1 to this Consent Order would increase regulated local telephone rates by approximately \$2 million and would result in an average increase in local rates of approximately 9.3%, if adopted by the Commission.
6. The rates set forth in Appendix 1, which include an increase in the local residential rate from \$21.65 to \$23.00 and an increase in the local business rate from \$58.55 to \$64.00, are just, reasonable, and nondiscriminatory as required by 30 V.I.C. § 2.
7. The rates set forth in Appendix 1 shall take effect on July 1, 2016, provided that VITELCO has demonstrated satisfactory customer service quality for telephone service the four-month period from March 1, 2016 through June 30, 2016. For

purposes of this Consent Order only, "satisfactory customer service quality" means that VITELCO has met 90 percent of the company service objectives for the territory as a whole on an aggregate basis the following telephone service metrics: (1) Percent Customer Service Calls Answered in less than 20 seconds (90%); (2) Percent Repair Calls Answered in less than 20 seconds (90%); (3) Percent Repair Troubles Cleared within 24 Hours (85%); (4) Percent Repair Commitments Met (90%); (5) Repair Reports per 100 Lines (9.5); (6) Installations Completed with 5 Days (90%); and (7) Initial Service Order Commitments Met (90%). If VITELCO has not demonstrated satisfactory customer service quality for telephone service for the period from March 1, 2016 through June 30, 2016, the rates set forth in Appendix 1 shall not take effect until such time as VITELCO has demonstrated satisfactory customer service quality over any consecutive four-month period.

8. VITELCO shall engage an independent consultant to conduct a review of the company's customer service quality data collection and reporting procedures and shall provide a report to the Commission no later than November 1, 2016. Prior to engagement of the independent consultant, VITELCO shall consult with PSC staff about the appropriate scope of the independent consultant's review as shall be included in the request for proposal.
9. Consistent with 30 V.I.C. § 16 and 30 V.I. R. & Regs. § 13-31, the Commission reserves the right to inspect VITELCO's books, accounts, papers, records, and memoranda to ensure the accuracy of VITELCO's service performance data.
10. VITELCO states that it has completed the buildout of its hybrid coaxial-fiber ("HFC") network. VITELCO shall use its best efforts to complete the migration of customers to its HFC network by July 2016 on St. John and by November 2016 on St. Croix. No later than December 31, 2016, VITELCO shall file a report with the Commission that: (i) identifies any customers who have not been migrated to the HFC network; (ii) explains the reason why the migration has not been completed for those customers; and (iii) provides a reasonable plan to remediate the situation that shall be reviewed by the PSC at a PSC Meeting providing the opportunity for those affected to be heard.
11. VITELCO shall maintain and present its books for local regulatory purposes on an original cost basis and will not make any adjustments for Fair Value or Goodwill for local ratemaking purposes.
12. VITELCO shall confer in good faith with Commission staff to develop a cost allocation methodology and procedures in compliance with Part 32 and Part 64 of the rules of the Federal Communications Commission, which VITELCO and Commission staff shall present to the Commission for approval no later than September 1, 2016.

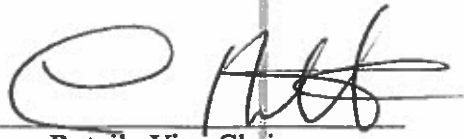
13. VITELCO shall flow through to ratepayers all current and future tax benefits, whether from the Economic Development Authority or the Research and Technology Park or any other source.
14. The findings of fact and conclusions of law in this Consent Order are supported by the record and comply with the law of the United States Virgin Islands.

NOW THEREFORE, the Commission hereby ORDERS that;

1. This Consent Order, and the findings and conclusions contained therein, are adopted and approved by the Commission;
2. The Hearing Examiner Report is not adopted or approved by the Commission, and the Hearing Examiner Report shall have no binding effect or precedential value in any future earnings investigation of VITELCO; and
3. Consistent with 30 V.I.C. § 9, VITELCO is directed to file tariffs within fourteen (14) days that comply with the requirements of this Consent Order.

So Ordered.

For the Commission



Andrew Rutnik, Vice-Chair

Dated: June 1, 2016

Respectfully submitted,

By: /s/ Boyd L. Sprehn

Boyd L. Sprehn

Law Office of John H. Benham, P.C.

P.O. Box 9260

1001 Frederiksberg Gade

St. Thomas, VI 00801

(340) 774-0673

Attorney for the Public Services Commission

By: /s/ Nathania Bates

Nathania Bates
Vice President – Legal Affairs
Innovative Companies
4006 Estate Diamond
Christiansted, VI 00820
(340) 712-5046

Bennett L. Ross
Daniel Brooks
Wiley Rein LLP
1776 K Street, N.W.
Washington, DC 20006
(202) 719-7524

*Attorneys for Virgin Islands Telephone Corp.
d/b/a Innovative Telephone*