

STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Case No. 19-3408-PET

Petition of Consolidated Communications Company of Vermont, LLC, doing business as Consolidated Communications, for extension of its current Incentive Regulation Plan until September 30, 2020	
---	--

Order entered: 01/03/2020

ORDER GRANTING REQUEST FOR EXTENSION OF INCENTIVE REGULATION PLAN

On October 9, 2019, the Vermont Public Utility Commission (“Commission”) issued an order granting a request by Consolidated Communications of Vermont Company, LLC (formerly Telephone Operating Company of Vermont, LLC) doing business as Consolidated Communications (“Consolidated”) to extend the term of its current Incentive Regulation Plan (“Plan”) approved in Docket 8337¹ until September 30, 2020. After an extension, Consolidated was given until December 13, 2019, to file a revised Incentive Regulation Plan (“Revised Plan”).

On December 11, 2019, Consolidated filed an Amended Petition for Extension of the Current Incentive Regulation Plan Until July 1, 2021. As grounds for its request, Consolidated states that an extension will allow: (1) a resolution in Case No. 18-3231-PET,² which provides an opportunity for coordination with the Vermont Department of Public Service (“Department”); and (2) the Federal Communications Commission to distribute the Rural Digital Opportunity Fund funding to support the expansion of broadband in Vermont, which “will directly bear on what modifications Consolidated may need to seek in a successor [Incentive Regulation Plan].”³

On December 13, 2019, the Department filed comments on Consolidated’s request indicating that the Department “does not oppose extending the existing IRP, provided that any such extension also preserves current rates for Basic Local Exchange Service.”⁴ Consolidated responded that it “cannot agree that the further extension of the Plan it seeks here be conditioned

¹ *Petition of Telephone Operating Company of Vermont, LLC, d/b/a FairPoint Communications, for approval of a Successor Incentive Regulation Plan*, Docket 8337, Order of 3/18/16.

² Case No. 18-3231-PET is a pending investigation into Consolidated’s service quality.

³ Consolidated, *Amended Petition for Extension of the Current Incentive Regulation Plan until July 31, 2021*, Dec. 11, 2019 at 2.

⁴ *Department of Public Service Response to Consolidated Amended Petition for Extension*, Dec. 13, 2019 at 1.

on the Commission ordering Consolidated to freeze [Basic Local Exchange Service] rates between October 3, 2020 through July 31, 2021.”⁵ Consolidated argues that it only seeks a “modest [Basic Local Exchange Service] rate increase . . . when it has determined it is financially necessary to offset the cost to Consolidated of providing [Basic Local Exchange Service] service.”⁶ Whereas, the Department contends that “preserving the status quo for customers who must pay [Basic Local Exchange Service] rates” is reasonable and in the public interest.⁷

On December 17, 2019, an email from Stephen Whitaker was filed in this case as a public comment. Regarding a “new Incentive Regulation Plan for Consolidated Communications,” Mr. Whitaker requests that “an Independent Public Advocate be appointed and the proposal be reviewed under [Section] 226a” of Title 30.⁸ Because Consolidated has filed a request for an extension of its current Plan and not a new Incentive Regulation Plan, the Commission need not address whether to appoint an independent public advocate.

After considering the request from Consolidated, and the Department’s response, we find it reasonable to grant an extension to Consolidated’s Plan until July 31, 2021.⁹ The extension maintains the benefits for customers imbedded in the current Plan, allows Consolidated to address the service quality investigation issues, allows time to ascertain Rural Digital Opportunity Fund funding for Vermont, and provides the opportunity for meaningful discussion with the Department in preparation for filing a successor plan on or before September 30, 2020.¹⁰

Pursuant to the Commission’s October 9 Order, between January 1, 2020, and September 30, 2020, Consolidated will not seek any increase in rates for Basic Local Exchange Service.

⁵ *Consolidated’s Reply in Support of Its Amended Petition for Extension of the Current Incentive Regulation Plan until July 31, 2021*, Dec. 19, 2019 at 1.

⁶ *Consolidated’s Reply in Support of Its Amended Petition for Extension of the Current Incentive Regulation Plan until July 31, 2021*, Dec. 19, 2019 at 1-2.

⁷ *Department of Public Service Response to Consolidated Amended Petition for Extension*, Dec. 13, 2019 at 1.

⁸ Stephen Whitaker, Public Comment, Dec. 16, 2019.

⁹ Consolidated has pledged to submit a successor plan for approval on or before September 30, 2020.

¹⁰ See, e.g., *Petition of Telephone Operating Company of Vermont, LLC, d/b/a FairPoint Communications, for approval of a Successor Incentive Regulation Plan*, Docket 8337, Order of 2/5/16; *id.*, Order of 12/30/14; *Joint Petition of Verizon New England Inc., d/b/a Verizon Vermont, etc.*, Docket No. 7270, Order of 12/9/10, at 2-3 (finding extension of existing regulation plan reasonable because it continues to provide customer benefit and more time is needed to resolve issues surrounding current plan); *Investigation into a Successor Incentive Regulation Plan*, Docket No. 6959, Order of 10/7/04 (approving extension).

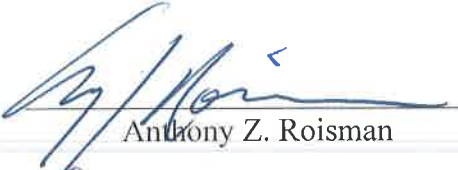
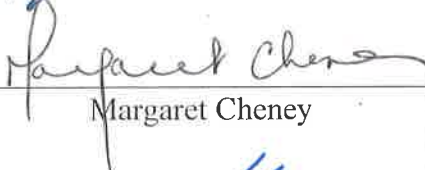

Given the terms of Consolidated's current Plan allowing Consolidated to "increase or decrease [Basic Local Exchange Service] rates at any time," and absent agreement by Consolidated to amend those terms, the Commission cannot order a Basic Local Exchange Service rate freeze in the context of a request for an extension; that order would serve to modify the current Plan, which is a request beyond the scope of what is currently before the Commission.¹¹

Thus, Consolidated's current Plan is extended until July 31, 2021. Between January 1, 2020 and September 30, 2020, Consolidated will not seek any increase in rates for Basic Local Exchange Service, but after September 30, 2020, the terms of the current Plan remain in place.

SO ORDERED.


¹¹ Section II(A) of the Plan.

Dated at Montpelier, Vermont this 3rd day of January, 2020

)	
Anthony Z. Roisman)	PUBLIC UTILITY
)	
Margaret Cheney)	COMMISSION
)	
Sarah Hofmann)	OF VERMONT

OFFICE OF THE CLERK

Filed: January 3, 2020

Attest: 
Clerk of the Commission

Notice to Readers: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Commission (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: puc.clerk@vermont.gov)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Commission within 30 days. Appeal will not stay the effect of this Order, absent further order by this Commission or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Commission within 28 days of the date of this decision and Order.

PUC Case No. 19-3408-PET - SERVICE LIST

Parties:

Sarah L. J. Aceves
Vermont Department of Public Service
112 State Street
Montpelier, VT 05620
sarah.aceves@vermont.gov

(for Vermont Department of Public Service)

Debra L. Bouffard, Esq.
Sheehey Furlong & Behm
30 Main Street, 6th Floor
P.O. Box 66
Burlington, VT 05402-0066
dbouffard@sheeheyvt.com

(for Consolidated Communications of Vermont
Company, LLC)