



Agenda Date: 6/7/10  
Agenda Item: 4A

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
Two Gateway Center  
Newark, NJ 07102  
[www.nj.gov/bpu/](http://www.nj.gov/bpu/)

TELECOMMUNICATIONS

IN THE MATTER OF THE APPLICATION OF )  
WARWICK VALLEY TELEPHONE COMPANY ) ORDER  
d/b/a WVT COMMUNICATIONS FOR APPROVAL )  
OF A PLAN FOR AN ALTERNATIVE FORM OF )  
REGULATION ) DOCKET NO. TO09010084

Martin C. Rothfelder, Rothfelder Stern on behalf of Warwick Valley Telephone Company d/b/a WVT Communications, Westfield, New Jersey

Christopher White, Deputy Public Advocate, Division of Ratepayer Advocate, Department of Public Advocate, Division of Rate Counsel, Newark, New Jersey

Cynthia L. M. Holland, Deputy Attorney General, on behalf of the Board of Public Utilities, Division of Law, Newark, New Jersey

**BY THE BOARD:**

On January 30, 2009, Warwick Valley Telephone Company d/b/a WVT Communications (WVT or Warwick) filed a request with the New Jersey Board of Public Utilities (Board) seeking approval of a proposed Plan for an Alternative Form of Regulation (PAR). WVT is a rural incumbent local exchange company serving approximately 7,000 access lines in Sussex and Passaic counties. WVT subsequently amended its filing on July 22, 2009, February 9, 2010, and April 23, 2010. Under WVT's proposal, WVT would no longer be subject to traditional utility rate base, rate of return regulation by the Board. In evaluating WVT's request, N.J.S.A. 48:2-21.18(a) requires the Board to review WVT's proposed PAR and authorizes the Board to approve the proposed PAR if the Board finds the proposed PAR: (1) will ensure the affordability of protected telephone services; (2) will produce just and reasonable rates for telecommunications services; (3) will not unduly or unreasonably prejudice or disadvantage a customer class or providers of competitive services; (4) will reduce regulatory delay and costs; (5) is in the public interest; (6) will enhance economic development in the State while maintaining affordable rates; (7) contains a comprehensive program of service quality standards, with procedures for board monitoring and review; and (8) specifically identifies the benefits to be derived from the alternative form of regulation.

## PROCEDURAL HISTORY

On January 30, 2009, WVT filed a petition for a PAR and also proposed increasing monthly basic residential service rates from the \$5.27 currently charged to \$10.65 over a period of three years and monthly basic business service rates from \$10.60 to \$20.40 over a period of three years. The petition was subsequently amended on July 22, 2009, February 9, 2010 and April 23, 2010. On February 11, 2010, J. Scott Sommerer, Director of Regulatory and Depreciation Studies at Warwick, filed a certified statement supporting Warwick's petition.

WVT's final amendment to its petition set forth new proposed rates which increase the current rate for basic residential service to \$12.80 over a period of three years; its current rate for basic business service to \$19.30 over a period of three years; allows for two free directory assistance calls for residential customers per monthly cycle with each additional call at a rate of \$1.25 per call; and \$1.25 for each directory assistance call for business customers.

WVT provided proof of publication on April 28, 2010, of the Notice of the public hearing scheduled for May 20, 2010, in the Suburban Trends and the New Jersey Herald newspapers. On May 14, 2010, Warwick notified the Board that there was an error in its Public Notice with respect to the basic residential service rate and basic business service rate currently charged. The current basic residential service rate should have been listed as \$5.27 instead of \$5.30 and the current rate for single line business service should have been listed as \$10.60 instead of \$10.20.

A public hearing was conducted on May 20, 2010, on whether the Board should approve WVT's rate flexibility request and its proposed PAR. No members of the public attended the hearing; however one written comment opposing the petition was filed with the Board's offices. In addition, Warwick representatives made a statement at the public hearing clarifying the error concerning the current rates charged that was contained in Warwick's Public Notice.

Following extensive negotiations between the Parties, an executed Stipulation and Agreement was filed with the Board by the Parties on May 24, 2010.

## THE PROPOSED WARWICK PAR

Under Warwick's proposed PAR, Warwick would no longer be subject to traditional utility rate base, rate of return regulation. In evaluating Warwick's request, the Board must consider whether the proposed PAR: (1) will ensure the affordability of protected telephone services; (2) will produce just and reasonable rates for telecommunications services; (3) will not unduly or unreasonably prejudice or disadvantage a customer class or providers of competitive services; (4) will reduce regulatory delay and costs; (5) is in the public interest; (6) will enhance economic development in the State while maintaining affordable rates; (7) contains a comprehensive program of service quality standards, with procedures for board monitoring and review; and (8) specifically identifies the benefits to be derived from the alternative form of regulation. N.J.S.A. 48:2-21.18(a). The plan, if approved, would replace rate base, rate of return regulation for Warwick.

Warwick contends that its request for a PAR is clearly in the public interest and it believes that its proposed PAR represents a balancing of WVT's need for market flexibility with a continuing commitment to provide customers with high quality, reliable telecommunications services. Warwick also argues that a level playing field is necessary for telecommunications providers to compete, and that it needs flexibility in order to provide quality service to its customers.

### **1. Adoption of the PAR Will Ensure the Affordability of Protected Telephone Services**

Warwick contends that approval of a PAR is consistent with the provisions of N.J.S.A. 48:2-21.18(a) and that similar relief has been granted to other ILECs who operate in New Jersey. WWT cites to Direct Testimony submitted by Dr. Stahir on behalf of Embarq (now known as CenturyLink) filed on December 14, 2007, and Rebuttal Testimony filed in January of 2008 in the Incumbent Competitive Local Exchange Carrier (ILEC) Reclassification and Embarq PAR Proceedings before the Board.<sup>1</sup> In addition, Warwick contends that census bureau data establishes that the U.S. and New Jersey median household income is \$52,175 and \$69,674, respectively, and the median household income in the Townships of Vernon and West Milford, where Warwick serves customers, is \$81,097 and \$91,787, respectively. This data, according to Warwick, indicates that Warwick customers put a relatively small portion of their income toward basic telephone service.

In addition, Warwick also relies on data from the Federal Communications Commission (FCC) data previously submitted to the Board in I/M/O of the Board's Investigation and Review of Local Exchange Carrier Intrastate Access Rates proceeding, BPU Dkt. No. TX08090830, to support its contention that Warwick's current rates are relatively low. Warwick submits that the residential rate data from Table 1.8 of the FCC documents show that the average single line business rate in 2007 was \$35.17, which is substantially higher than the rate currently charged by Warwick. Further, Warwick contends that the proposed rates in the Warwick PAR, as amended, support the affordability of its proposal by the fact that similar customers serviced by CenturyLink and Verizon are subject to higher rates than those proposed by Warwick. In sum, Warwick claims that the evidence in the record shows that customers of Warwick based on income statistics provided can sustain rates more akin to the national average. Warwick also explained that the Lifeline rates currently charged will not increase under the proposed plan.

### **2. Adoption of the PAR Will Produce Just and Reasonable Rates for Telecommunications Services**

Warwick argues that a PAR is justified because the Company currently experiences negative earnings on intrastate operations in New Jersey. Warwick further contends that a PAR will allow it the flexibility to respond to competition, thus ensuring just and reasonable rates. WWT Petition at 5; Statement of Scott Sommerer at 3.

### **3. Adoption of the PAR Will Not Unduly or Unreasonably Prejudice or Disadvantage a Customer Class or Providers of Competitive Services**

Warwick asserts that the proposed PAR does not unduly or unreasonably prejudice or disadvantage any customer class because its proposed PAR is similar to the Board-approved PARs for Verizon New Jersey and CenturyLink. Statement of Scott Sommerer at 3. Moreover, Warwick argues that the competitive environment ensures that providers of competitive services will not be prejudiced by the PAR.

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<sup>1</sup> I/M/O the Board Investigation Regarding the Reclassification of Incumbent Local Exchange Carrier (ILEC) Services as Competitive, BPU Dkt. No.: TX07110873 and I/M/O United Telephone Company of New Jersey d/b/a Embarq for Approval of a Plan for Alternative Regulation Dkt. No. TO08060451.

**4. Adoption of the PAR Will Reduce Regulatory Delay and Costs**

According to Warwick, the proposed PAR will reduce regulatory delay and costs, enable Warwick to introduce new services on a streamlined basis and obviate the need for time-consuming and burdensome rate case proceedings that place a strain on limited administrative resources. As a result, Warwick contends that this PAR reduces regulatory delay and lessens regulatory costs. WVT Petition at 3, Statement of Scott Sommerer at 3.

**5. Adoption of the PAR Is in the Public Interest**

According to Warwick, the PAR is in the public interest because it preserves affordable rates that are just and reasonable and does not unreasonably prejudice any class of customers or competitors. Statement of Scott Sommerer at 3-4. Furthermore, Warwick contends the PAR provides appropriate incentives to continue to invest in the Warwick system and the proposed PAR represents a balancing of the Company's need for market flexibility, a continuing commitment to customers, and high quality reliable service. WVT Petition at 4-5.

**6. Adoption of the PAR Enhances Economic Development in the State While Maintaining Affordable Rates**

Warwick maintains that the PAR will enhance economic development in New Jersey while maintaining affordable rates by facilitating increased competition among the variety of telecommunications services providers in the state. Through flexible rates that will assist Warwick's ability to operate, the PAR will spur investment in Warwick's system. Warwick also contends that its investment in its plant will provide benefits community wide to ensure efficient business and personnel use and for wholesale purchases of telecommunications service. Statement of Scott Sommerer at 4. Moreover, the PAR will enable Warwick to compete more effectively and efficiently in the marketplace, which, in turn, will promote competition and enhance economic development in the State. WVT Petition at 4.

**7. The PAR Contains a Comprehensive Program of Service Quality Standards, with Procedures for Board Monitoring and Review**

Warwick PAR contains reporting requirements to enable the Board to monitor Warwick's service quality and regulatory compliance, and Warwick commits to the same quality service that has been in place for decades. WVT Petition at 5.

**8. The PAR Specifically Identifies the Benefits to be Derived from the Alternative Form of Regulation**

Warwick contends that benefits of a PAR have been identified in its petition and subsequent amendments and asks that the Board approve its request.

**THE STIPULATION**

After several informal discussions, the Board Staff, Department of the Public Advocate, Division of Rate Counsel (Rate Counsel) and Warwick (Parties) entered into settlement negotiations in an attempt to amicably resolve the issues addressed in this matter. After extensive and intensive discussions, a Stipulation and Agreement (Stipulation) was executed by WVT, Board

Staff and Rate Counsel recommending approval of WVT's proposed PAR and approval of a schedule of rates for certain rate-regulated services.

## 1. Stipulated Facts

The Parties have agreed that the record in this matter, comprising Direct and Rebuttal Testimony of Dr. Stahir filed with the Board in BPU Docket Nos.: TX07110873 and TO08060451; various discovery responses by Warwick; Census Bureau Data for the years 2006-2008 for New Jersey, and the Townships of West Milford and Vernon; FCC average telephone rates data and a statement filed on behalf of Warwick, supports the terms and conditions of the Stipulation. The Parties further agree to the following facts:

- (1) The U.S. Department of Labor, Bureau of Labor Statistics (BLS), Consumer Price Indexes (CPI) program produces monthly data on changes in the prices paid by urban consumers for a representative basket of goods and services. The BLS website ([www.bls.gov](http://www.bls.gov)) contains a "CPI inflation calculator" that uses the average CPI for a given calendar year (representing changes in prices of all goods and services purchased for consumption by urban households), and allows users to determine what the price of a good or service would be today if its price increased by the average CPI for a given period. The CPI is a publicly available index, published by the federal government, and is the type of index contemplated for use in N.J.S.A. 48:2-21.17. The results of applying the CPI inflation calculator to certain WVT and national average rates for residential basic exchange service and business basic exchange service are set forth immediately below.
  - (a) WVT has not raised the rate for its New Jersey residential basic exchange telephone service since September of 1983. See, Order Adopting Initial Decision, BPU Dkt. No.: 831-38 (Sept. 2, 1983). WVT's rate for residential basic exchange service (including touch tone) is \$5.27 per month.
  - (b) The FCC reports that the national average monthly rate for basic exchange service (including touch tone) is \$15.03 per month (as of October 2006). If the national average price were adjusted for inflation under the Consumer Price Index Inflation Adjuster from 2006-2008, the national average price of the service would be \$16.02 per month.
  - (c) WVT's existing residential basic service rate, adjusted for inflation using the national Consumer Price Index data, as submitted in Information Request Staff-I-3 and reported on the BLS website through year 2008, would be \$11.38 per month. Adjusting the same rate for CPI data for the New York-Northern New Jersey Long Island Area, as submitted in Information Request Staff-I-3 and reported on the BLS website through year 2008, would be \$12.44 per month.
  - (d) WVT has not raised the rate for its business exchange service since September of 1983. See, Order Adopting Initial Decision, BPU Dkt. No.: 831-38 (Sept. 2, 1983). WVT's rate for business exchange service (including touch tone) is \$10.60 per month.

- (e) The FCC reports that the national average monthly rate for business exchange service (including touch tone) is \$33.54 per month (as of October 2006). If the national average price were adjusted for inflation under the Consumer Price Index Inflation Adjuster from 2006-2008, the national average price of the service would be \$35.76 per month.
- (f) WVT's existing business exchange service rate, adjusted for inflation using the national Consumer Price Index data, as submitted in Information Request Staff-I-3 and reported on the BLS website through year 2008, would be \$22.90 per month. Adjusting the same rate for CPI data for the New York-Northern New Jersey Long Island Area, as submitted in Information Request Staff-I-3 and reported on the BLS website through year 2008, would be \$25.02 per month.

(2) WVT currently does not charge for directory assistance (DA) calls.

## 2. The Terms and Conditions of the Stipulation

- (1) WVT's residential basic local exchange service, business basic local exchange service, and DA service shall remain rate regulated. Upon Board approval of the Stipulation and Agreement, approval of the PAR and upon the effective date of the appropriate tariffs, WVT shall be authorized to charge no more for these services than the authorized rate caps set forth below:
  - (a) Residential basic local exchange service: WVT shall charge no more than \$8.30 per month for the first year after the effective date of the appropriate tariffs, no more than \$10.80 per month for the second year, and no more than \$12.80 per month for the third year.
  - (b) Business basic local exchange service: WVT shall charge no more than \$13.00 per month for the first year after the effective date of the appropriate tariffs, no more than \$15.80 per month for the second year, and no more than \$19.30 per month for the third year.
  - (c) Residential DA: Callers shall receive two (2) free call(s) per monthly billing cycle. Once the monthly free call allowance has been exceeded, WVT shall charge no more than \$1.25 per chargeable DA call after the effective date of the appropriate tariffs.
  - (d) Business DA: WVT shall charge no more than \$1.25 per chargeable DA call after the effective date the appropriate tariffs.
- (2) Any increases to WVT's residential basic local exchange service are not applicable to WVT's lifeline services which remain regulated and may not be increased absent Board approval. Currently Lifeline customers pay \$3.55 per month. They would continue to pay \$3.55 under the Stipulation and Agreement.
- (3) WVT shall also continue the following social services programs in their current form and, to the extent applicable, at current rates:

- Link-Up (non-recurring charges);
  - Directory Assistance and Directory Assistance Call Completion to residential customers with a visual or physical inability to use a directory or directory source;
  - Non-list Service to those residential customers who provide a Protective Order;
  - Non-Pub Service to those residential customers who provide a Protective Order;
  - Residential Call Trace, per call;
  - Residential Per Call Blocking;
  - Residential Per Line Blocking;
  - Residential 700/900 Blocking;
  - Residential Toll Block/Operator Screening;
  - Residential Billed Number Screening;
  - IntraLATA MTS Service to hearing impaired residence customers
  - Intra-Municipal Calling
- (4) The PAR shall remain in effect for a minimum of three years. Warwick may not change rates for any rate regulated service except as provided for under the PAR and this Stipulation. Warwick may pursue rate changes to be effective after that period via a new or revised PAR, or by rate setting under the rate base, rate of return method, or any other method the Board may find reasonable and lawful.
- (5) WVT shall abide by all provisions and obligations contained in its PAR, and all applicable statutory and regulatory obligations set forth in Title 14 of the New Jersey Administrative Code. The Stipulation shall not change WVT's service quality obligations under its PAR.

## DISCUSSION AND ANALYSIS

### I. Warwick's Proposed Plan for Alternative Regulation

Before the Board can approve a PAR, it must address the tests prescribed by N.J.S.A. 48:2-21.18(a) requiring that the Board find that the proposed plan provides all of the following: (1) that it will ensure the affordability of protected telephone services; (2) that it will produce just and reasonable rates; (3) that it will not unduly or unreasonably prejudice or disadvantage a customer class or providers of competitive services; (4) that it will reduce regulatory delay and costs; (5) that it is in the public interest; (6) that it will enhance economic development in the State while maintaining affordable rates; (7) that it contains a comprehensive program of service quality standards with procedures for Board monitoring and review; and (8) that it specifically identifies the benefits to be derived from the PAR. Each of these will be discussed below.

#### **A. Will the PAR Ensure the Affordability of Protected Telephone Services?**

After careful review of the record, the Board **FINDS** that Warwick's PAR will ensure the affordability of rates for protected telephone services as required by N.J.S.A. 48:2-21.18(a)(1). The Board considers the fact that the rates charged for protected services, which the Board found to be affordable at that time, have not been changed since 1983. The Board notes that residential basic exchange service will continue to be fully regulated by the Board under this

PAR and the proposed Stipulation, and that any potential future changes in the rates for rate regulated services will continue to be subject to Board review and approval as well as the caps contained in the Stipulation, if approved.

Further, the Board is persuaded by Warwick's assessment that the average household income in its territory is high relative to its rates for basic telephone service. Therefore, its New Jersey customers are, and under the terms of the Stipulation if approved, will continue to spend a small share of their income on telephone service. WVT Petition at 3.

In addition, the Board believes that, in assessing satisfaction of the "affordability" requirement, it is relevant to inquire into the behavior of other price indicators. Accordingly, the Board finds persuasive the fact that residential basic rates have remained unchanged since 1983, while other price indicators such as Social Security income, the Consumer Price Index, the cost of food, as well as other rates have risen steadily. Therefore, the Board **FINDS** that the rates for protected services under the proposed PAR are affordable.

**B. Will the PAR Produce Just and Reasonable Rates for Telecommunications Services?**

Having reviewed the record, the Board **FINDS** that Warwick's PAR satisfies the requirements of N.J.S.A. 48:2-21.18(a)(2) that a plan of alternative regulation produce just and reasonable rates for telecommunications services. As explained above, the rates for residential basic exchange service have not increased since 1983, and these rates were found by the Board to be just and reasonable at that time. Under this PAR, rate adjustments for regulated services will be subject to caps and will be permitted only upon notice and Board review and determination that such rates are just and reasonable. The Board therefore **FINDS** that rates under this PAR are and will remain just and reasonable.

The Board is also persuaded that Warwick's rates for rate regulated services throughout the term of the PAR will remain below national averages for those services as published by the Federal Communications Commission, and as adjusted for inflation as measured by the United States Department of Labor's Consumer Price Index. In addition, lifeline rates will remain at current levels, which the Board has already found to be just and reasonable. Furthermore, any adjustments to the affected rates must be approved by the Board. Thus, the Board retains complete authority to ensure that Warwick's rates for its rate-regulated services remain just and reasonable.

Therefore, the Board **FINDS** that Warwick has demonstrated that relevant rates under this PAR are just and reasonable and that the Board's continuing jurisdiction over any potential future requests to raise the rates of regulated telecommunications services will ensure the continuation of rates that are just and reasonable.

**C. Will the PAR Unduly or Unreasonably Prejudice or Disadvantage a Customer Class or Providers of Competitive Services?**

Based on the record, the Board **FINDS** that Warwick's PAR satisfies the statutory criterion of N.J.S.A. 48:2-21.18(a)(3), which requires that it demonstrate that the PAR does not unduly or unreasonably prejudice or disadvantage a class of customers or providers of competitive services.

The Board concurs with Warwick that the record supports a finding that adoption of the proposed PAR will level the competitive playing field between Warwick and its competitors. The Board agrees that no prejudice or disadvantage to a customer class or providers of competitive services arises when all competitors in the market are on a level playing field. Additionally, through this PAR, Warwick may adjust rates within the ranges set forth in the Stipulation and Agreement, if adopted. Thus, no prejudice or disadvantage to a customer class arises as Warwick is permitted to only adjust rates up to the stipulated rate caps or petition the Board for rate relief in the event of a catastrophic event.

Finally, the Board finds further support for the conclusion that the PAR meets the requirements of this criterion in its express requirement that, in order to be approved, the Board must find that a proposed revenue neutral rate restructure does not unduly disadvantage one class of customers over another.

**D. Will the PAR Reduce Regulatory Delay and Costs?**

The Board **FINDS** that Warwick's PAR satisfies the N.J.S.A. 48:2-21.8(a)(4) requirement that adoption of the PAR will result in reduced regulatory delay and costs. The Board recognizes that traditional rate of return regulation can be, at times, costly and inefficient, imposing significant administrative burdens that are substantially lessened by alternative regulation plans. Therefore, the Board **FINDS** that Warwick's PAR will further reduce regulatory delay and costs by (1) streamlining the introduction of new services, and (2) retaining only necessary reporting requirements.

The provisions of the PAR streamline the introduction of new services, while retaining the Board's authority to investigate and suspend, if necessary, all non-conforming aspects of any new service. The Board notes that the PAR is pro-competitive in that it reduces barriers currently undermining its ability to bring new products to market and ensures that customers are afforded the opportunity to benefit from new services without unnecessary delay.

**E. Will the PAR Enhance Economic Development in New Jersey While Maintaining Affordable Rates?**

The Board **FINDS** that with the rate flexibility permitted by the PAR, Warwick will be able to compete more efficiently in the marketplace, which will in turn promote competition and enhance economic development. The Board **FURTHER FINDS** that flexible rates will encourage Warwick to invest in its system and such investment will provide more opportunities for more efficient business and personal use and for whole purchases of telecommunications services. Moreover, the PAR does not impose earnings sharing constraints on Warwick and provides incentives to invest in the infrastructure needed to enhance its products and services. Accordingly, the Board **FINDS** that this PAR will enhance economic development while maintaining just and reasonable rates.

**F. Does the PAR Contain a Comprehensive Program of Service Quality Standards?**

The Board **FINDS** that the current service quality standards applicable to Warwick meet the requirement that its PAR contain a comprehensive program of service quality standards, with procedures for Board monitoring and review.

Warwick commits to filing service quality reports to demonstrate compliance with N.J.A.C. 14:10-1A.9-1A.11. The reporting requirements in the PAR will enable the Board to monitor and

review Warwick's services to ensure they remain of high quality. The Board agrees that the record demonstrates Warwick's compliance with the Board's service quality regulations for rate regulated services, will yield a comprehensive program of service quality standards and procedures for Board monitoring and review under the PAR.

**G. Does the PAR Specifically Identify the Benefits to be Derived?**

The Board **FINDS** that Warwick's PAR satisfies the requirement that it specifically identify the benefits to be derived from its implementation. The Board **FINDS** that the following benefits constitute specifically identifiable benefits, which separately and collectively meet the mandate of the 1992 Act and the requirements of N.J.S.A. 48:2-21.18(a).

1. Continuation of affordable rates, in particular rates for residential basic exchange service;
2. Continuation of Warwick's commitment to lifeline service;
3. Continuation of a comprehensive program of service quality standards;
4. Assurance that competitors are not disadvantaged or unduly prejudiced; and
5. Promotion of efficiency by reducing regulatory delay and increasing incentives to innovate and invest in the network.

**H. Is the PAR in the Public Interest?**

The Board **FINDS** that Warwick's PAR is in the public interest. The PAR ensures affordable and reasonable rates going forward, particularly in light of the Board's continuing oversight over any future rate changes for rate regulated services. This directly benefits the public by providing both lower-cost service and quicker implementation of new and advanced services. These benefits are real and reasonably support a finding that the PAR is in the public interest. In conclusion, the Board **FINDS** that Warwick's PAR is clearly in the public interest based on its many benefits to the State and its citizens, as discussed above, in the petition and in the Stipulation of Settlement.

**2. The Stipulation and Agreement**

After review of the record, the Board **HEREBY FINDS** that the provisions of the Stipulation are reasonable, are in the public interest and are in compliance with the law. The Stipulation provides that residential basic exchange service and single-line basic business exchange service, shall remain rate regulated, and subject to defined limits on any rate increases for the next three years. Additionally, the Stipulation continues protections for lifeline services, and continues certain social service programs at current rates and allows two free monthly DA services calls for residential customers.

**CONCLUSION**

Therefore, the Board **CONCLUDES** that Warwick's PAR satisfies the criteria set forth in N.J.S.A. 48:2-21.18 and otherwise complies with the Telecommunications Act of 1992. Accordingly, the Board **HEREBY APPROVES** the attached Plan for Alternative Regulation applicable to Warwick and **HEREBY ADOPTS** the attached Stipulation and Agreement and PAR and incorporates them in their entirety by reference herein. Also the Board **HEREBY APPROVES** the tariff pages submitted by WVT to the parties following the execution of the Stipulation and Agreement regarding DA, and basic residence and basic business services reflecting the terms and conditions contained in the Stipulation and Agreement, which become

effective with the date of this Order. The Board emphasizes that, except as expressly set forth in this PAR and associated statute, all other provisions of Title 48 and Board regulations, Orders and policies will remain applicable to Warwick.

This Order shall not be construed to limit in any manner any regulatory authority granted to the Board as to the regulation of telecommunications services in New Jersey pursuant to any local, state or federal laws, regulations, or rulings of a court of law. The Board notes that it will continue to monitor the manner in which Warwick conducts their operations subsequent to the issuance of this Order.

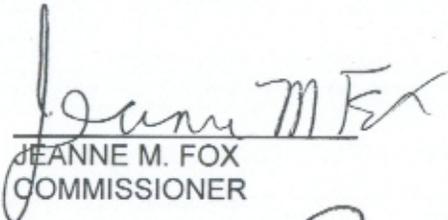
This Order shall not be construed to in any way release Warwick from any obligations that currently exist under any and all applicable Board Orders and rules currently in effect under the New Jersey Administrative Code on the effective date of this Order, or as amended going forward. Moreover, this Order shall not be construed to relieve Warwick of any obligations that exist today to respond in a timely manner to any customer complaints which are received by the Board and forwarded to them.

DATED: 6/7/10

BOARD OF PUBLIC UTILITIES  
BY:



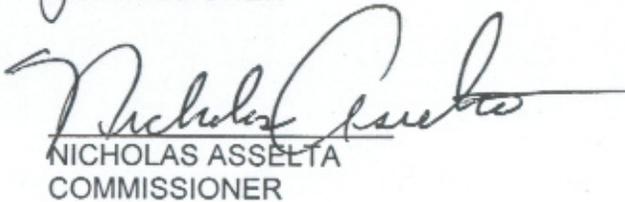
LEE A. SOLOMON  
PRESIDENT



JEANNE M. FOX  
COMMISSIONER



JOSEPH L. FIORDALISO  
COMMISSIONER

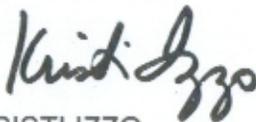


NICHOLAS ASSELTA  
COMMISSIONER



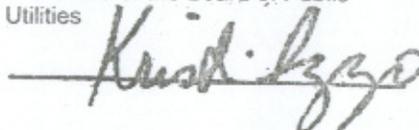
ELIZABETH RANDALL  
COMMISSIONER

ATTEST:



KRISTI IZZO  
SECRETARY

I HEREBY CERTIFY that the within  
document is a true copy of the original  
in the files of the Board of Public  
Utilities



# ROTHFELDER STERN, L.L.C.

LAW OFFICES

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May 24, 2010

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**Via Overnight Delivery**

Kristi Izzo, Secretary  
New Jersey Board of Public Utilities  
Two Gateway Center  
Newark, New Jersey 07102

**Re: In the Matter of the Application of Warwick Valley  
Telephone Company D/B/A WVT Communications for  
Approval of a Plan for an Alternative Form of  
Regulation – BPU Docket No. TO09010084**

Dear Secretary Izzo:

Enclosed are an original and ten (10) copies of the Stipulation and Agreement in the above referenced matter. An extra copy of the Stipulation and Agreement is provided with a self-addressed, postage pre-paid envelope. Please date stamp this copy as received for filing and return to us in the enclosed envelope.

Sincerely,



Martin C. Rothfelder

MCR/rma

Enclosures

cc: Anthony Centrella (via first class mail)  
Cynthia Holland (via first class mail)  
Christopher White, Esq. (via first class mail)  
J. Scott Sommerer (via first class mail)

**STATE OF NEW JERSEY**  
**BOARD OF PUBLIC UTILITIES**

IN THE MATTER OF THE APPLICATION :  
OF WARWICK VALLEY TELEPHONE :  
COMPANY d/b/a WVT COMMUNICATIONS : BPU Docket No. TO09010084  
FOR APPROVAL OF A PLAN FOR AN :  
ALTERNATIVE FORM OF REGULATION :

**STIPULATION AND AGREEMENT**

Pursuant to *N.J.A.C.* 14:1-8.1 and 1:1-19.1(a), the Parties (defined below in paragraph one (1)) hereby agree as follows:

**I. BACKGROUND**

- (1) The parties to the Stipulation and Agreement (“Stipulation”) are Warwick Valley Telephone Company (“WVT”); the Staff of the New Jersey Board of Public Utilities (“Staff”); and the New Jersey Division of Rate Counsel (“Rate Counsel”) (collectively, the “Parties”).
- (2) WVT is an Incumbent Local Exchange Carrier (“ILEC”) in the State of New Jersey that operates pursuant to rate-of-return regulation.
- (3) Warwick filed a petition for a proposed Plan for Alternative Regulation (“PAR”) with the Board on or about January 30, 2009 pursuant to *N.J.S.A.* 48:2-21.18, an amendment thereto on or about July 23, 2009, and a second amendment thereto on or about February 11, 2010, and a third amendment thereto on or about April 23, 2010. *N.J.S.A.* 48:2-21.18(a) provides that “[a] local exchange telecommunications company may petition the board to be regulated under an alternative form of regulation.” The board shall “review the plan and may approve the plan, or approve with modifications, if it finds, after notice and hearing, that the plan: (1) will ensure the affordability of protected telephone services; (2) will produce just and reasonable rates for telecommunications services; (3) will not unduly or unreasonably prejudice or disadvantage a customer class or providers of competitive services; (4) will reduce regulatory delay and costs; (5) is in the public interest; (6) will enhance economic development in the State while maintaining affordable rates; (7) contains a comprehensive program of service quality standards, with procedures for board monitoring and review; and (8) specifically identifies the benefits to be derived from the alternative form of regulation.”

- (4) Under an alternative form of regulation (“PAR”), rates may be based on, among other things, “the use of an index, formula, price caps or zone of rate freedom.” *N.J.S.A.* 48:2-21.17.
- (5) The U.S. Department of Labor, Bureau of Labor Statistics (“BLS”), Consumer Price Indexes (“CPI”) program produces monthly data on changes in the prices paid by urban consumers for a representative basket of goods and services. The BLS website ([www.bls.gov](http://www.bls.gov)) contains a “CPI inflation calculator” that uses the average CPI for a given calendar year (representing changes in prices of all goods and services purchased for consumption by urban households), and allows users to determine what the price of a good or service would be today if its price increased by the average CPI for a given period. The CPI is a publicly available index, published by the federal government, and is the type of index contemplated for use in *N.J.S.A.* 48:2-21.17. The results of applying the CPI inflation calculator to certain WVT and national average rates for residential basic exchange service and business basic exchange service are set forth immediately below.
- (a) WVT has not raised the rate for its New Jersey residential basic exchange telephone service since September of 1983. See, Order Adopting Initial Decision, BPU Docket No. 831-38 (September 2, 1983). WVT’s rate for residential basic exchange service (including touch tone) is \$5.27 per month.
- (b) The Federal Communications Commission reports that the national average monthly rate for basic exchange service (including touch tone) is \$15.03 per month (as of October 2006). If the national average price were adjusted for inflation under the Consumer Price Index Inflation Adjuster from 2006 to 2008, the national average price of the service would be \$16.02 per month.<sup>1</sup>
- (c) WVT’s existing residential basic service rate, adjusted for inflation using the national Consumer Price Index data, as submitted in Information request Staff-I-3 and reported on the BLS website through year 2008, would be \$11.38 per month. Adjusting the same rate for Consumer Price Index data for the New York – Northern New Jersey Long Island Area as submitted in Information request Staff-I-3 and reported on the BLS website through year 2008 would be \$12.44 per month.

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<sup>1</sup> Source: Rebuttal Testimony of Brian K. Staihr in BPU docket TX07110873, p.9, which references the Federal Communications Commission Wireless Competition Bureau publication: *Reference Book of Rates, Price Indices and Expenditures for Telephone Service*.

- (d) WVT has not raised the rate for its business exchange service since September of 1983. See, Order Adopting Initial Decision, BPU Docket No. 831-38 (September 2, 1983). WVT's current rate for business exchange service (including touch tone) is \$10.60 per month.
  - (e) The Federal Communications Commission reports that the national average monthly rate for business exchange service (including touch tone) is \$33.54 per month (as of October 2006). If the national average price were adjusted for inflation under the Consumer Price Index Inflation Adjuster from 2006 to 2008, the national average price of the service would be \$35.76 per month.<sup>2</sup>
  - (f) WVT's existing business basic rate, adjusted for inflation using the national Consumer Price Index data as submitted in Information request Staff-I-3 and reported on the BLS website through year 2008, would be \$ 22.90 per month. Adjusting the same rate for Consumer Price Index data for the New York – Northern New Jersey Long Island Area as submitted in Information request Staff-I-3 and reported on the BLS website through year 2008 would be \$25.02 per month.
- (6) WVT currently does not charge for directory assistance (“DA”) calls.
  - (7) A public hearing on this matter was held at Vernon Township Municipal Building, 21 Church Street, Vernon, NJ on May 20, 2010 at 6:00 pm EDT. Notice of said hearing appeared in the Suburban Trends on April 28, 2010 and in the New Jersey Herald on April 28, 2010. The notice of that hearing is attached as exhibit B hereto. Via letter dated May 14, 2010, Warwick advised the Board and all parties that this public notice had an error in its statement of current rates and provided the correct rates. The undersigned counsel for Warwick also provided this information in his statement at the public hearing on May 20, 2010. The current Basic Residential Service rate including touch tone is listed in the notice at \$5.30 per month, but is \$5.27 per month. The current Basic Business Service rate including touch tone is listed in the notice as \$10.20 per month, but is \$10.60 per month.

## II. STIPULATED FINDINGS

- (8) The resolution of this contested matter through the adoption of the stipulated positions set forth herein best serves the interests of judicial economy and preservation of valuable corporate, judicial and administrative resources and is, therefore, in the public interest.

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<sup>2</sup> Source: see footnote 1.

- (9) The terms and conditions covered by this Stipulation and Agreement reflect negotiated terms and conditions made by the Parties in the spirit of compromise to bring the matter to an appropriate resolution without the cost and delays of litigation.
- (10) It is a condition of this Stipulation and Agreement that the Board adopt this Stipulation and Agreement without change of further condition. Should the Board fail to adopt final orders approving this Stipulation and Agreement without changes or conditions, then this Stipulation and Agreement and WVT's PAR shall be deemed null and void and of no force and effect. The Parties agree that this Stipulation and Agreement is a negotiated agreement and represents a reasonable balance of the competing interests involved in this proceeding. The contents of this Stipulation and Agreement shall not in any way be considered, cited or used by any of the Parties as an indication of any Party's position on any related or other issue litigated in any other proceeding or forum, except to enforce the terms of this Stipulation and Agreement.
- (11) This Stipulation and Agreement is voluntary, consistent with the law, and fully dispositive of all issues regarding WVT's proposed plan of alternative regulation.
- (12) This Stipulation and Agreement contains the entire understanding of the Parties, and there are no other terms, conditions, representations or warranties that form a part hereof.
- (13) WVT's residential basic exchange service and business basic exchange service remain rate regulated services and WVT's DA service shall be a rate regulated service, unless and until the Board rules otherwise consistent with Section I of the PAR in a subsequent proceeding. The parties agree, however, that WVT should be permitted to adjust the rates for these services in accordance with the rate caps set forth in Section IV below, and that the resulting rate caps will produce rates that are affordable and just and reasonable under the standards set forth in *N.J.S.A. 48:2-21.18*.

### III. SUPPORTING MATERIALS

- (14) The following materials shall be admitted into evidence in support of this Stipulation and Agreement:
  - a. Direct testimony of Dr. Staihr filed on December 14, 2007 and Rebuttal testimony of Dr. Staihr filed January 29, 2008, BPU Docket No. TO08060451, *I/M/O United Telephone Company Of New Jersey D/B/A Embarq For Approval Of A Plan For Alternative Regulation*;

- b. Warwick responses to Staff information requests I-5, I-6, I-7 and I-11 as provided under cover letter dated July 21, 2009;
- c. Exhibit of US Census Bureau 2006-2008 American Community 3 year estimates for the State of New Jersey (two pages), West Milford, NJ (two pages), and Vernon, NJ (two pages);
- d. Exhibit RC 14 in BPU docket no. TX08090830, which consists of data compiled by the Federal Communications Commission, Wireline Competition Bureau;
- e. Table 1.8 from FCC Wireline Competition Bureau Reference Book of Rates, Price Indices and Household Expenditures for Telephone (2008), which reflects information on average local rates for single line business which is identical to certain data on residential rates included in Exhibit RC 14 in BPU docket no. TX08090830 discussed above;
- f. Statement by J. Scott Sommerer filed in this docket; and
- g. Certification of J. Scott Sommerer filed in this docket.

#### IV. SETTLEMENT TERMS AND CONDITIONS

To resolve the dispute without the expense, inconvenience, and uncertainty of further litigation and with specific acknowledgement by all Parties that the terms and conditions of the specific services covered by this Stipulation and Agreement represent terms and conditions negotiated among and between the Parties, the Parties agree to stipulate to the following:

- (15) WVT's residential basic local exchange service, business basic local exchange service, and DA service shall remain rate regulated. Upon Board approval of this Stipulation and Agreement, approval of the PAR attached hereto as exhibit A, and upon the effective date of the appropriate tariffs, WVT shall be authorized to charge no more for these services than the authorized rate caps set forth below:
  - (a) Residential basic local exchange service: WVT shall charge no more than \$8.30 per month for the first year after the effective date of the appropriate tariffs, no more than \$10.80 per month for the second year, and no more than \$12.80 per month for the third year.
  - (b) Business basic local exchange service: WVT shall charge no more than \$13.00 per month for the first year after the effective date of

the appropriate tariffs, no more than \$15.80 per month for the second year, and no more than \$19.30 per month for the third year.

- (c) Residence DA: Callers shall receive two (2) free call(s) per monthly billing cycle. Once the monthly free call allowance has been exceeded, WVT shall charge no more than \$1.25 per chargeable DA call after the effective date of the appropriate tariffs. A form of DA tariff that is acceptable to all parties is attached as exhibit C.
  - (d) Business DA: WVT shall charge no more than \$1.25 per chargeable DA call after the effective date the appropriate tariffs. A form of DA tariff that is acceptable to all parties is attached as exhibit C.
- (16) Any increases to WVT's residential basic local exchange service are not applicable to WVT's lifeline services which remain regulated and may not be increased absent Board approval. WVT will continue its outreach efforts to enroll eligible New Jersey residents in the Lifeline program.

Currently Lifeline customers pay \$3.55 per month. They would continue to pay \$3.55 under this Stipulation and Agreement.

- (17) WVT shall also continue the following social services programs in their current form and, to the extent applicable, at current rates:
- Link-Up (non-recurring charges);
  - Directory Assistance and Directory Assistance Call Completion to residential customers with a visual or physical inability to use a directory or directory source;
  - Non-list Service to those residential customers who provide a Protective Order;
  - Non-Pub Service to those residential customers who provide a Protective Order;
  - Residential Call Trace, per call;
  - Residential Per Call Blocking;
  - Residential Per Line Blocking;
  - Residential 700/900 Blocking;
  - Residential Toll Block/Operator Screening;
  - Residential Billed Number Screening;
  - IntraLATA MTS Service to hearing impaired residence customers
  - Intra-Municipal Calling
- (18) The PAR provided for herein and attached as exhibit A shall remain in effect for a minimum of three years. Warwick may not change rates for any rate regulated service except as provided for under the PAR and this

Stipulation. Warwick may pursue rate changes to be effective after that period via a new or revised PAR, or by rate setting under the rate base /rate of return method, or any other method the Board may find reasonable and lawful.

- (19) WVT shall abide by all provisions and obligations contained in its PAR, and all applicable statutory and regulatory obligations set forth in Title 14 of the New Jersey Administrative Code. This Stipulation and Agreement shall not change WVT's service quality obligations under its PAR.
- (20) In the event of a catastrophic event, such as an act of God, WVT may petition the Board for relief arising from such catastrophic event.
- (21) This Stipulation and Agreement shall be governed by the substantive law of New Jersey without regard to choice of law rules.
- (22) If any provisions of this Stipulation and Agreement are held to be invalid or unenforceable by a court of competent jurisdiction, the other provisions of this Stipulation and Agreement shall remain in full force and effect.
- (23) The entire Stipulation and Agreement has been reviewed by and is acceptable to the Parties and their counsel as to form, content and meaning. The Stipulation and Agreement was drafted jointly by the Parties; it was not drafted by any one Party and shall not be construed against any Party based on its preparation.
- (24) In the event of default or breach of any term and/or condition of this Stipulation and Agreement, the injured Party shall be entitled to file or use this Stipulation and Agreement for any purposes whatsoever, including, but not limited to, enforcing the terms and conditions thereof.
- (25) This Stipulation and Agreement may be executed in multiple counterparts, each of which shall be an original and all of which shall constitute one agreement.
- (26) Any notice to be given pursuant to this Stipulation and Agreement shall be in writing and shall be given or made by confirmed facsimile or by certified, registered or overnight mail addressed as follows or to any other address upon thirty (30) days' advance written notice to the other Parties;

To: Warwick Valley Telephone Company d/b/a WVT  
Communications  
47 Main Street  
Warwick, NY 10990  
Attn: Corporation Secretary

To: Rate Counsel  
31 Clinton Street, 11<sup>th</sup> Floor  
Newark, NJ 07101  
Attn: Christopher J. White

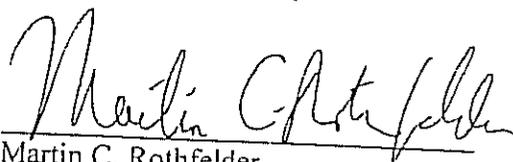
To: Board Staff  
Two Gateway Center, 8<sup>th</sup> Floor  
Newark, NJ 07102  
Attn: Anthony Centrella

To: Division of Law  
124 Halsey Street, 5<sup>th</sup> Floor  
P.O. Box 45029  
Newark, NJ 07101  
Attn: Cynthia L. M. Holland, DAG

- (27) This Stipulation and Agreement may not be amended or any part of its provisions waived, except by a writing executed by all of the Parties. This Stipulation and Agreement is the valid, legal and binding obligation of the Parties, enforceable against them in accordance with their terms.
- (28) The Parties hereby agree to be bound to this Stipulation and Agreement, and they acknowledge that they are authorized on behalf of their respective clients to execute this Stipulation and Agreement and to bind their respective clients by their signatures below.
- (29) The Parties collectively request the Board approve the Stipulation and Agreement and adopt it as a final decision and order therefore bringing all issues regarding the WVT services at issue in this proceeding to closure.

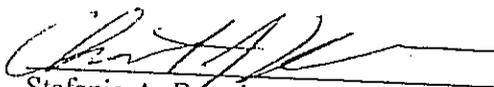
In witness whereof, and with the advice of counsel and intending to be legally bound, the Parties have executed this Stipulation and Agreement.

Respectfully submitted,



Martin C. Rothfelder  
Rothfelder Stern, LLC.  
Counsel for Warwick Valley Telephone Company d/b/a  
WVT Communications

Dated: May 24, 2010



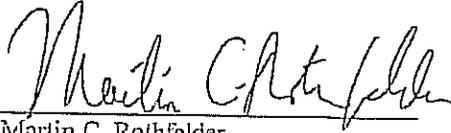
Stefanie A. Brand  
Christopher White  
New Jersey Division of Rate Counsel

Dated: 5-24, 2010

\_\_\_\_\_  
Cynthia L. M. Holland, DAG  
FOR: Paula T. Dow  
Attorney General of New Jersey  
Attorney for the Staff of the  
Board of Public Utilities

Dated: \_\_\_\_\_, 2010

Respectfully submitted,



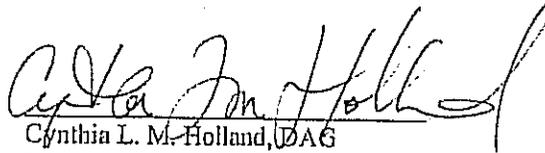
Martin C. Rothfelder  
Rothfelder Stern, LLC.  
Counsel for Warwick Valley Telephone Company d/b/a  
WVT Communications

Dated: May 24, 2010

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Stefanie A. Brand  
Christopher White  
New Jersey Division of Rate Counsel

Dated: \_\_\_\_\_, 2010



Cynthia L. M. Holland, DAG  
FOR: Paula T. Dow  
Attorney General of New Jersey  
Attorney for the Staff of the  
Board of Public Utilities

Dated: May 24, 2010

# EXHIBIT A

Exhibit A  
ALTERNATIVE REGULATION PLAN

Warwick Valley Telephone Company

INTRODUCTION

WVT in this attachment submits a proposed Plan for Alternative Regulation (“PAR”) that replaces rate base/rate of return regulation for Warwick Valley Telephone (“WVT”) Company. This proposed PAR is submitted pursuant to the New Jersey Telecommunications Act of 1992, *N.J.S.A. 48:2-21.18(a)*. This proposed PAR governs all services that are rate regulated under the Telecommunications Act of 1992, *N.J.S.A. 48:2-21.16 et seq.*<sup>1</sup>

**I. TERM AND EFFECT**

This PAR will commence upon Board approval. The terms of the PAR will remain in effect until approval of a modified Plan or a new Plan by the Board. During the term of this PAR, any changes in rates that remain rate regulated shall require Board approval.

WVT may request that services be classified as competitive during the term of this PAR. The Board’s consideration of such requests shall not be affected by this PAR. The PAR shall not be affected by the Board’s action on such a request, except that a Board finding that a service is competitive shall supersede the manner in which this PAR addresses such service.<sup>2</sup>

**II. COMMITMENTS TO INFRASTRUCTURE DEPLOYMENT, DISCOUNTED PROGRAMS, LIFELINE SERVICE**

**A. Infrastructure Deployment** – WVT has placed over \$427,000 in outside plant in service in New Jersey in 2008 alone – about \$ 62.00 per access line. About \$161,000 of this amount was part of WVT’s immediate and extraordinary response to ice storms in December 2008, which enabled the rapid recovery of service for 900+ customers. This storm produced the most damage to WVT’s service area in at least 35 years and WVT’s engineering personnel worked 17 consecutive days to repair the damage.

**B. Universal Service Fund – Schools and Libraries** – WVT transferred over \$36,000 as part of the Schools and Libraries fund to entities in New Jersey in 2008.

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<sup>1</sup> For purposes of this PAR, “rate regulated” services (described as “noncompetitive services” in Title 48) shall mean WVT services other than those (1) designated by the Board as competitive, (2) not regulated by the Board. Jurisdiction over wholesale services is governed by the Federal Act subject to FCC and state commission oversight, and these services are not subject to, or governed by this PAR.

<sup>2</sup> WVT currently has no tariffed services that are classified as competitive by a Board order.

C. **Lifeline Service** - WVT will continue to make available LifeLine service to eligible parties as set forth in the Lifeline Order issued by the Board on November 25, 1997 (Docket No. TT97080605), and the Telecommunications Act of 1996 as well as the LifeLine Order released by the FCC in April of 2004 that further expanded eligibility. LifeLine, a utility assistance program, makes telephone service more affordable to all consumers in the nation.

### III. **STREAMLINED PROCESS FOR NEW SERVICES, CHANGE PRICES OF EXISTING SERVICES, REVENUE NEUTRAL FILINGS, AND WITHDRAWAL OF SERVICES**

#### A. **Introduction of New Services**

A streamlined process to introduce new services will enable customers to benefit immediately from the capabilities of an advanced telecommunications infrastructure and competition. Board approval is required to classify any new service offering as competitive.

1. Unless the Board takes affirmative action through a deficiency letter transmitted from the Secretary of the Board, all new service offerings shall become effective on thirty (30) days notice, after filing with the Board, without the requirement for prior Board approval.
2. The filing shall include a brief description of the service and a copy of the relevant tariff pages with all terms and conditions.
3. For new services proposed as competitive offerings, the filing to classify a service as a competitive service offering will include sufficient information to show compliance with *N.J.S.A. 48 2-21.19(b)*.
4. Optional services or packages may be withdrawn on thirty (30) days' notice, provided that they were available for a minimum of sixty (60) days.
5. New services may be introduced by WVT and optional services or packages may be withdrawn by WVT on less than thirty (30) days' notice if the Board transmits a Secretarial Letter acknowledging the introduction or withdrawal of such services. As a prerequisite to the issuance of such a letter, WVT will provide information to the Board and Rate Counsel at the time of filing showing either:
  - a) there will be no material harm to customers, or
  - b) there are clear benefits to customers, or
  - c) a comparable service is already being provided by competitors

This provision cannot be used to deaverage rates and does not apply to existing protected services, to the extent that services must continue to be available on a stand alone basis.

The Board shall retain its authority to investigate and suspend, if necessary, all aspects of the service filing. The streamlined filing procedures herein do not affect WVT's authority provided under BPU rules or orders, under certain circumstances, to file certain service offerings on shorter notice.

#### **B. Rate Stability and Exogenous Events**

Consistent with the Board's orders approving alternative regulation plans, in addition to its authority under Title 48 of the New Jersey Statutes, WVT will be permitted to increase (or be required to decrease) rates for its rate regulated services if there occurs a major, unexpected extraordinary or exogenous event beyond its control, that has a material, substantial and demonstrable impact on its financial condition.<sup>3</sup> Proposed rate adjustments will be filed for the Board's approval pursuant to the requirements specified below.<sup>4</sup> The allocation of the effects of an exogenous event shall be on a total company basis between interstate and intrastate jurisdictions, and rate regulated and competitive services, subject to Board approval.

WVT will make its proposed rate adjustment filing, and will copy Rate Counsel on such filing, resulting from a significant exogenous event within 60 days of the date on which the effects of that event are known and calculated (but not more than 12 months since the occurrence of the exogenous event). Review by Rate Counsel and the Board shall conclude with the decision of the Board, in writing, as soon thereafter as possible. No proposed rate adjustment under this section shall take effect until Board approval and the Board shall retain the right to determine the appropriate rate design. Modification or rejection of a WVT proposed exogenous event rate adjustment is not grounds for terminating the Plan, or limiting WVT's obligations thereunder. As part of its filing, WVT will submit the following:

1. A description of the exogenous event and an explanation as to why the event has a material, substantial, and demonstrable impact on its financial condition;
2. data which describe and quantify the estimated financial impact to WVT; and
3. A proposed rate design to reflect the changes.

#### **C. Revenue Neutral Rate Restructuring**

Warwick is not permitted to implement revenue neutral rate adjustments unless authorized by further Order of the Board. Warwick may propose for the Board's review

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<sup>3</sup> An unexpected event is defined as an event beyond the company's control and includes, but is not limited to: changes in tax laws, accounting rules, and separations; regulatory, judicial, and legislative changes; and acts of God, nature or terrorism affecting WVT.

<sup>4</sup> This provision is not intended as a mechanism to permit routine requests for rate relief (or rate decreases).

and approval, revenue neutral rate restructurers for Warwick's rate regulated services. Such filings may be supported by currently available and prospective data as described below. Revenue neutral rate restructures will not be limited to rate restructures within service categories and shall generally not be used to geographically deaverage rates.

As part of a filing for revenue neutral rate restructure, Warwick must submit the following:

1. A description of the service(s) affected and an explanation as to why the restructure is proposed;
2. Calculations demonstrating the revenue neutral effect of the proposed restructure;
3. A description of the impact of the proposed restructure on all affected classes of customers, demonstrating that no class is unduly advantaged over another; and
4. Notice with copies of the filing, at the time of filing, shall be provided to Rate Counsel.

Modification or rejection of a Warwick proposed revenue neutral rate restructure is not grounds for terminating this PAR or limiting Warwick's obligations under this PAR.

#### **IV. CONSUMER AND COMPETITIVE SAFEGUARD**

In order to provide assurances both to the Board and WVT's customers and competitors, WVT will observe the following safeguard.

For services that that the Board classifies as competitive, WVT will file and maintain tariffs in conformance with the requirements of the Board's existing regulations governing competitive services, unless the Board does not require tariffs for particular services. The rates for competitive services may be either in the public filed tariffs or, if the Board determines that the rates are proprietary, on file with the Board and Rate Counsel. If rates for competitive services are not in WVT's public tariffs, WVT will permit interested parties to review the unpublished rates under the terms of an appropriate protective agreement, such as those currently used in cases before the Board. Changes or additions to tariffs for competitive services shall be made in accordance with the existing regulations governing competitive services.

#### **V. REPORTING REQUIREMENTS**

WVT will file consistent with Board regulations service quality reports to demonstrate compliance with the service quality rules established in *N.J.A.C.* 14:10-1A.9, 1A.10 and 1A.11, with a copy to Rate Counsel.

# EXHIBIT B

**NOTICE OF FILING & PUBLIC HEARING**

**IN THE MATTER OF THE APPLICATION OF  
WARWICK VALLEY TELEPHONE COMPANY d/b/a WVT  
COMMUNICATIONS FOR APPROVAL OF A PLAN FOR AN  
ALTERNATIVE FORM OF REGULATION**

**BPU DOCKET NO. TO09010084**

**Please Take Notice** that on January 30, 2009, Warwick Valley Telephone Company d/b/a WVT Communications (WVT) filed a request with the New Jersey Board of Public Utilities (Board) seeking approval of a proposed Plan for An Alternative Form of Regulation (PAR) and amended this filing via amendments dated July 22, 2009, February 9, 2010, and April 23, 2010. Pursuant to WVT's proposed PAR, WVT would no longer be subject to traditional utility rate base, rate of return regulation by the Board. In evaluating WVT's request, N.J.S.A. 48:2-21.18(a) requires the Board to review WVT's proposed PAR and authorizes the Board to approve the proposed PAR if the Board finds the proposed PAR: (1) will ensure the affordability of protected telephone services; (2) will produce just and reasonable rates for telecommunications services; (3) will not unduly or unreasonably prejudice or disadvantage a customer class or providers of competitive services; (4) will reduce regulatory delay and costs; (5) is in the public interest; (6) will enhance economic development in the State while maintaining affordable rates; (7) contains a comprehensive program of service quality standards, with procedures for board monitoring and review; and (8) specifically identifies the benefits to be derived from the alternative form of regulation.

**Please Take Further Notice** that WVT requests that the following services will remain rate regulated services, and will be subject to the following rate caps for the years identified:

<u>Service</u>	<u>Current Rate</u>	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
Basic Residential Service	\$5.30 (touch tone charge included)	\$8.30	\$10.80	\$12.80
Basic Business Service	\$10.20 (touch tone charge included)	\$13.00	\$15.80	\$19.30
Directory Assistance Residential	No charge	\$1.25 for calls above two calls per monthly billing cycle	\$1.25 for calls above two calls per monthly billing cycle	\$1.25 for calls above two calls per monthly billing cycle
Directory Assistance Business	No charge	\$1.25 per call	\$1.25 per call	\$1.25 per call

The request of WVT filed in the case does not request an increase in rates for Lifeline service. WVT has not had a rate increase in Basic Service since September of 1983.

**Please Take Further Notice** that the Board will hold a public hearing to gather input from the public concerning WVT's proposed PAR that is filed in the case. A public hearing has been scheduled at the following time and location:

6:00 pm May 20, 2010  
Vernon Township Municipal Center  
21 Church Street  
Vernon, NJ 07462

Any interested entity or member of the public who wishes to make a statement or comment with respect to the proposed PAR should attend the public hearing. In order to encourage full participation in this opportunity for public comment, please submit any requests for needed accommodations, including an interpreter, listening devices, or mobility assistance, 48 hours prior to the hearing, to the attention of Kristi Izzo, Secretary, Board of Public Utilities, Two Gateway Center, 8<sup>th</sup> floor, Newark, NJ 07102.

In addition, members of the public can send written comments to Kristi Izzo, Secretary of the Board at Two Gateway Center, Newark, N.J. 07102. These written comments must be received by May 21, 2010. Comments should be identified with the applicable hearing *I/M/O The Application of Warwick Valley Telephone Company d/b/a WVT Communications for Approval of a Plan for an Alternative Form of Regulation*, Docket No. TO09010084.

Further, this notice, the proposed PAR, and the list of all services affected may be inspected during regular business hours at the Board of Public Utilities, Two Gateway Center, 8<sup>th</sup> Floor, Newark, NJ 07102, and at the New Jersey Office of Warwick Valley Telephone Company, 529 County Highway No. 515, Vernon, NJ 07462.

# EXHIBIT C

Warwick Valley Telephone Company

Section 3  
Original Page No. 43

INDIVIDUAL, PARTY, STATIONS, PRIVATE BRANCH EXCHANGE SERVICE  
AND ELECTRONIC KEY SYSTEMS

M. DIRECTORY ASSISTANCE SERVICE

1. General

Directory Assistance Service is furnished upon customer request for assistance in determining telephone numbers. The regulations and rates set forth below apply when customers of Warwick Valley Telephone Company request assistance in determining telephone numbers within the same LATA designation, or for points in a contiguous Numbering Plan Area which are Local Service to any exchange in the originating Numbering Plan Area and which are requested from the Directory Assistance attendant in the originating Numbering Plan Area.

Calls to Directory Assistance, including those resulting in no number available, will be charged in accordance with the regulations and rates set in M.2 and M.3. following.

2. Rates and Regulations

a. Monthly Call Allowance

- (1) A monthly allowance of 2 direct dialed calls to Directory Assistance per monthly billing cycle is provided without charge for each customer with individual line service in residence class.
- (2) There is no monthly allowance for direct dialed calls to Directory Assistance service without charge for each customer with individual line service in business class.
- (3) In the case of multiple line accounts, the allowances and usages are combined. The call allowance is not transferable between separate accounts of the same customer, nor can the allowance be accumulated from month to month.

Issued: \_\_\_\_\_, 2010  
By: Duane W. Albro, President  
47 Main Street  
Warwick, New York 10990

Effective: \_\_\_\_\_, 2010  
Filed Pursuant to an Order of the  
Board of Public Utilities  
Docket No. TO09010084

