

Exhibit _____ (RBS-4T)
Docket No. UT-011439
Witness: Robert B. Shirley

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Petition of
VERIZON NORTHWEST, INC.
For waiver of WAC 480-120-071(2)(a).

Docket No. UT-011439

TESTIMONY OF

Robert B. Shirley

STAFF OF
WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION

June 20, 2002

1 **Q. What is your name, by whom are you employed, and what is your business**
2 **address?**

3 A. My name is Robert B. Shirley and I am employed by the Washington Utilities and
4 Transportation Commission at P.O. Box 47250, 1300 South Evergreen Park Dr.
5 S.W., Olympia, Washington, 98504-7250.

6

7 **Q. How long have you been employed by the WUTC and what work do you do?**

8 A. I have been employed with the WUTC since 1997 and work as a
9 telecommunications policy analysts and the focus of most of my work is on issues
10 related to universal telecommunications service.

11

12 **Q. What is your education and experience in telecommunications policy**
13 **analysis?**

14 A. I have a master's degree in public administration from The Evergreen State
15 College, a law degree from Seattle University School of Law, and am licensed to
16 practice law in Washington.

17 While at the Commission I have authored two Commission reports to the
18 Legislature on universal service, *Preserving and Advancing Universal Service In*
19 *a Competitive Environment*, (January, 1998), and *State Telecommunications*
20 *Policy and Federal Requirements: Promoting Competition and Reforming*
21 *Universal Service*, (November, 1998).

22 Among other dockets, I have been the lead Staff person on the following:

- 23 1. UT-970333-54 and 970356, Designation of Eligible Telecommunications
24 Carriers
- 25 2. UT-970345, Designation of United States Cellular as an Eligible
26 Telecommunications Carrier
- 27 3. UT-990975, Provision of Service to Customers in Chesaw Exchange
28 (Pontiac Ridge)
- 29 4. UT-991371, Staff Investigation of U. S. WEST Communications, Inc.
30 Line Extension Tariff
- 31 5. UT-991744, GTE Adopts Line Extension Charges from Tariff WN U-31
32 of U. S. WEST
- 33 6. UT-991878, Petition of Mr. And Mrs. W. Neil Thompson for a Boundary
34 Change
- 35 7. UT-991931, Petition of Barbara Brady, to Request a Boundary Change of
36 GTE to Include Telephone Service

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Q. What is the purpose of your testimony?

A. The purpose of my testimony is to provide the Commission with information known to Staff about the facilities Qwest has in the vicinity of the Timm Ranch and to provide additional information relevant to the issue of whether Qwest should be required to serve the Timm Ranch.

Q. What is the background to this testimony?

A. Verizon petitioned for a waiver October, 2001 of some or all of its obligations under WAC 480-120-071 with respect to a request for a service extension to the home of Einar “Ike” Nelson, who resides on the Timm Ranch in southern Okanogan County. Staff and Verizon engaged in discussions and negotiations which resulted in Staff recommending the Commission that it commence a proceeding to determine if the waiver should be granted or denied. Staff Open Meeting Memo at 1, January 9, 2002. In that memo to the Commission, Staff wrote:

Mr. Nelson, who has been a telephone technician for more than twenty years, and now works for the Qwest Corporation, showed us the end of Verizon’s facilities, which are between 19 and 20 miles from his home. Qwest’s nearest facilities are approximately 7.4 miles away. While his home is in the Bridgeport exchange of Verizon, to get to his home most of Verizon’s line would travel through Qwest’s Omak exchange. As with the Taylor extension, some of the estimated cost would be attributable to reinforcement and some of it to extension. Staff’s rough estimate for extension costs for service from Verizon would be over \$400,000 dollars and service from Qwest would be closer to \$150,000.

Staff Open meeting Memo at 4.

Staff added a footnote to that paragraph which reads as follows:

1 *This amount does not reflect any reinforcement costs. In the past,*
2 *when companies have been willing to serve outside the boundaries*
3 *of any company's exchange, Staff has supported reimbursement for*
4 *reinforcement on the theory that the company would have not*
5 *anticipated serving that particular location and would not have*
6 *designed any of its facilities with that in mind. Staff has not*
7 *encountered the issue of reimbursement for reinforcement in the*
8 *context of a trade of territories.*
9

10 Staff Open Meeting Memo at 4, n.11.

11
12 Staff went on to say in the next paragraph:

13
14 *Mr. Nelson told Staff that he made his request when he learned*
15 *about the change in the service extension rule because he would*
16 *like telephone service at his home and, in part, because of a*
17 *service request made by residents near Turtle Lake in central*
18 *Okanogan County. While those homes are located in Qwest*
19 *exchange territory and it has facilities about 10 miles away,*
20 *Verizon has facilities approximately one mile away. Qwest, Nelson*
21 *told Staff, asked Verizon to serve the area and it declined. Mr.*
22 *Nelson, in addition to desiring service to his home, thought his*
23 *request might create the circumstances under which a trade of*
24 *territory could be made between Qwest and Verizon, with Verizon*
25 *taking the territory around Turtle Lake and Qwest taking the*
26 *territory where Timm Road dips into Verizon's Bridgeport*
27 *exchange.*
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29 Id. at 4.

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31 On January 22, 2002, the Commission conducted a pre-hearing conference
32 in this matter and Verizon and Commission Staff were represented by Counsel.
33 Ms. Theresa Jensen, of Qwest, participated via telephone from the beginning of
34 the proceeding. At the pre-hearing conference, the ALJ stated that her records
35 indicated Qwest had not been formally served with notice of the proceeding.

36 Staff filed a motion on February 1, 2002 to bring Qwest into the
37 proceeding. In that Motion, Staff stated:

38
39 *Staff, therefore, files this motion requiring that Qwest be joined as*
40 *a party respondent to this proceeding, for the purpose of*
41 *determining whether RCW 80.36.230 should be invoked, and*

1 *whether Qwest should be required to provide service to the Nelson*
2 *property and other nearby properties pursuant to RCW 80.36.090*
3 *and WAC 480-180-071.*

4
5 Staff Motion to Join Qwest at 2.

6
7 Answers to the Motion were timely filed and Verizon and Staff proceeded
8 through March, April and May to file testimony in accord with the schedule
9 established as a result of the January Pre-hearing Conference.

10 On May 31, 2002, the Commission entered an order granting Staff's
11 Motion to Join Qwest and since then there has been no agreement among the
12 parties about how to proceed. At the June 17, 2002 pre-hearing conference, Staff
13 offered to file testimony first, with Qwest and Verizon each having an opportunity
14 to reply, and Staff given the opportunity to respond.

15
16 **Q. Qwest has stated that it has had no request for service from Mr. Nelson and**
17 **does not even know if he wants service from them. Is this the case?**

18 A. Not exactly. Mr. Nelson has over forty years of experience as a technician, the
19 last twenty working out of the PNB/US WEST/Qwest Omak office serving
20 exchanges all around north central Washington, including the Nespelem exchange
21 purchased from Qwest in 1994 and now operated by CenturyTel. He knows
22 where the boundaries are for Qwest, what was once GTE and now Verizon, and
23 other companies. He made his request to Verizon because his home is in the
24 Verizon Bridgeport exchange. However, it is clear from his statement to Staff
25 about the possibility of Qwest and Verizon trading territory (see quote from Staff
26 Open Meeting Memo above) that he anticipated that service might come from
27 Qwest and that was acceptable. Indeed, given his community of interest, it is

1 probably preferable. Taking all this into consideration, it is fair to say that he was
2 actually making an attempt at having Qwest be his service provider if Verizon
3 were unwilling to do so, or if the two companies found it mutually beneficial to
4 make a trade of territory.

5

6 **Q. Does Staff have a preference between Qwest and Verizon with respect to**
7 **which company provides service to Mr. Nelson?**

8 A. Not at this time because we lack important information that can only be
9 developed and provided by Qwest. Staff's primary interest concerns whether the
10 residents receive service, not whether it is from Qwest or Verizon. Staff's
11 position is that Mr. Nelson and his neighbors on the Timm Ranch are more than
12 reasonably entitled to service, as expressed at length in its Direct Testimony filed
13 on April 17.

14

15 **Q. In choosing between Qwest and Verizon, what should the Commission**
16 **consider?**

17 A. The Commission should consider any factor it believes will assist it to determine
18 what is in the public interest with respect to choosing between Qwest and
19 Verizon.

20

21 One of those factors is relative cost. Because the length of an extension
22 and its cost are closely related, Staff anticipates that Qwest's estimated costs
23 should be between one-third and one-fifth that estimated by Verizon. In its Open
24 Meeting memo, Staff estimated the costs might be \$400,000 for Verizon and

1 \$150,000 for Qwest, a ratio of 1:2.66. Staff does not view cost as the only factor
2 for consideration, and cost differential should be balanced with other
3 considerations.

4 Another factor might be maintenance. Verizon has stated that it believes
5 its ability to maintain service may be impaired because some of the road from the
6 west is not plowed in winter. Qwest may not face this circumstance. Verizon
7 provides service using cross-country aerial wires in many other places in central
8 Washington, and Staff believes that this factor, taken alone, should not warrant
9 granting a waiver. However, there may nevertheless be some measurable
10 difference between its expected maintenance ability and that of Qwest, and if
11 there is a difference, it should be considered.

12 Finally, the Commission may want to consider a non-cost factor, the
13 community of interest of Mr. Nelson and the Timm Ranch. Service from Verizon
14 means flat-rate local calling to Brewster; service from Qwest means flat-rate local
15 calling to Omak and Okanogan. Mr. Nelson's deposition demonstrates that his
16 community of interest is Omak. His wife works in Okanogan, the county seat.
17 (Nelson Dep. at 12). Professor Duft has testified based on his visit to the Timm
18 Ranch and discussions with the family that the children went to school in Omak.
19 (Duft at Page 6, line 17.) Customer choice is a part of universal service.

20

21 **Q. Staff mentioned the possibility of reimbursement of reinforcement costs for**
22 **Qwest, but not for Verizon's reinforcement costs. Why?**

23 A. Verizon has, as Staff has stated in Direct Testimony, received funds through
24 established rates, including state universal service terminating access rates, for the

1 purpose of reinforcing its network and reasonably should have considered that
2 some day it might serve the Timm Ranch. Qwest, on the other hand, has had no
3 reason in the normal course of business to plan to serve there because its current
4 Omak exchange does not include the Timm Ranch.

5

6 **Q. If the Commission were to choose Qwest, should it grant Qwest the authority**
7 **to recover through terminating access universal service rates 100% of its**
8 **reinforcement costs in addition to recovery of the direct cost associated with**
9 **the extension?**

10 A. The Commission should consider some amount up to 100%. Reinforcement may
11 have value for the entire network within the Omak exchange, so it may be that the
12 Commission should stop short of providing authority for Qwest to recover 100%
13 of reinforcement. It depends on the design of the reinforcement; if Qwest
14 proposes reinforcement that adds substantially its entire network in the Omak
15 exchange rather than that part associated with service in the southeastern portion,
16 the Commission should consider whether some of the proposed reinforcement
17 costs should be covered by the funds Qwest already receives for general network
18 reinforcement.

19

20 **Q. What is the relief Staff seeks to have the Commission grant in this**
21 **proceeding?**

22 A. Staff seeks to see that Mr. Nelson and his neighbors receive good quality
23 telephone service, something that either Qwest or Verizon can provide. Staff does
24 not believe it is asking for relief *against* a telephone company when the object of

1 the proceeding is to determine who will serve several citizens entitled to service.
2 Staff's belief that telephone companies are in the business of actually providing
3 telephone service in rural Washington has not been shaken by Qwest's reaction to
4 being considered as a provider.

5

6 **Q. Can you elaborate further?**

7 A. Verizon would like to be relieved of an obligation it has to serve customers in its
8 exchange. It does not seek that relief so energetically as to state that it would be
9 preferable to Verizon that Qwest be required to provide service, but it does ask to
10 be relieved of the obligation. Staff has only suggested that in some circumstances
11 it might be in the public interest for the Commission to consider that a boundary
12 line should not be the determining factor in a decision about provision of service.
13 The boundary line is decades old and generally runs east-west when the major
14 road runs north-south, and there is no reason to believe that it was drawn with any
15 consideration of which company could better serve that area. Staff is asking the
16 Commission to consider requiring Qwest to extend its Omak exchange boundary
17 to include the dead-end Timm Road that lies just south of its current boundary and
18 in the neighborhood of four and one-half to seven miles from Qwest's facilities.

19

20 **Q. Does Staff have any documents that relate to its answers to the two previous**
21 **questions?**

22 A. No. Staff has some knowledge based on statements by Ike Nelson and testimony
23 of Verizon that Qwest may have plant and equipment approximately 7.2 miles or
24 4.5 miles from the Nelson home and that Verizon's nearest plant and equipment

1 may be 20 miles or more from the Nelson home. Qwest can supply the actual
2 answer with respect to its plant and equipment and estimated cost to serve.

3

4 **Q. What alternatives did Staff consider before moving that Qwest be joined as a**
5 **party?**

6 A. Staff considered whether this was a situation that warranted consideration of
7 moving an exchange boundary. Staff has not yet definitively concluded that a
8 change of boundary is warranted, but it did conclude that the potential difference
9 in the distance to serve of 4.5 miles to 20 or more miles likely indicated a
10 substantial cost differential, and that a change of boundary is therefore worth
11 considering.

12

13 **Q. Who on Staff has knowledge of the statements made in the last two**
14 **questions?**

15 A. Bob Shirley, telecommunications policy analyst, and Tani Thurston, consumer
16 affairs specialist, traveled to the Nelson home on November 5, 2001. On that trip,
17 Mr. Shirley and Ms. Thurston traveled with Ike Nelson in his truck from the
18 junction of U.S. Highway 97 and SR 17, just east of Brewster, and back. Mr.
19 Nelson drove to a point on the Columbia River Rd. which he said was the location
20 where Qwest facilities crossed the road and were nearest to his home. Based on
21 the odometer in his truck, these facilities are 7.2 miles from his driveway.

22 Staff considered this information sufficiently reliable to ask the question in
23 its Open Meeting memo whether Qwest should be included in the proceeding,
24 because Mr. Nelson identified himself as having worked as an outside plant

1 technician for Qwest and its predecessors in the central Washington area for 20
2 years.

3
4 **Q. Has Staff ever sought to have a boundary changed before?**

5 A. Yes, in the Thompson case (which was discussed in Staff's Motion to Join Qwest
6 and discussed by Qwest in its answer, and by the Commission in its ruling on the
7 Motion). The circumstances there were somewhat different, but in some respects
8 similar. In addition to noting possible differences in cost of service between
9 CenturyTel and Qwest, Staff's position was that Qwest had already provided
10 service beyond the boundary indicated on the exchange map. Therefore, Qwest
11 had held itself out to serve in the area beyond the boundary indicated on the
12 exchange map. Staff's position was that the boundary line should be changed to
13 reflect the circumstances.

14
15 **Q. Does Staff believe that having Qwest provide service in this instance will
16 preserve or advance universal service?**

17 A. Staff believes that universal service will be advanced and preserved by having the
18 Commission consider both Qwest's and Verizon's relative costs if it were chosen
19 to provide service to Mr. Nelson and the others at Timm Ranch. Because
20 universal service is supported service, cost is an important factor; other factors
21 discussed above are the ability to maintain the line, community of interest, and
22 customer choice.

23

1 **Q. Will every carrier that provides intrastate service contribute on an equitable**
2 **and nondiscriminatory basis to defray the cost of providing service to Mr.**
3 **Nelson if Qwest is required to provide the service?**

4 A. Under Washington law, providing reimbursement through terminating access is
5 an equitable and nondiscriminatory way to support service. Every carrier, in
6 proportion to long distance minutes carried, will contribute proportionally to
7 defray the cost. The regime the FCC has in place for national universal service
8 may be more equitable and more nondiscriminatory. Because Verizon receives,
9 or soon will receive, so-called Interstate Access Support (see Docket No. UT-
10 023031), and Qwest will not, that may be a factor for the Commission to consider.

11

12 **Q. Does Staff have any evidence that Qwest or its predecessors have held**
13 **themselves out to serve the Timm Ranch in the past?**

14 A. Staff has no knowledge that Qwest or its predecessors have held themselves out to
15 serve the Timm Ranch.

16

17 **Q. Is Staff aware of other locations where it may be more expensive for a**
18 **regulated telephone exchange provider to serve a potential customer in its**
19 **exchange as compared with the cost for another company to provide service?**

20 A. Staff repeats what it quoted earlier from the Open Meeting Memo:

21 *Mr. Nelson told Staff that he made his request when he learned*
22 *about the change in the service extension rule because he would*
23 *like telephone service at his home and, in part, because of a*
24 *service request made by residents near Turtle Lake in central*
25 *Okanogan County. While those homes are located in Qwest*
26 *exchange territory and it has facilities about 10 miles away,*
27 *Verizon has facilities approximately one mile away. Qwest, Nelson*

1 *told Staff, asked Verizon to serve the area and it declined. Mr.*
2 *Nelson, in addition to desiring service to his home, thought his*
3 *request might create the circumstances under which a trade of*
4 *territory could be made between Qwest and Verizon, with Verizon*
5 *taking the territory around Turtle Lake and Qwest taking the*
6 *territory where Timm Road dips into Verizon's Bridgeport*
7 *exchange.*

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9 Staff Open Meeting Memo at 4.

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11 Staff also recalls that in discussion at an Open Meeting prior to adoption of the
12 revisions to the service extension rule in WAC 480-120-071, Ms. Jensen of Qwest
13 discussed how companies used to trade areas prior to enactment of the federal
14 Telecommunications Act of 1996, but that was not the case anymore. This leads
15 Staff to wonder if, in addition to the location mentioned in the quoted paragraph,
16 there may be other locations.

17
18 **Q. Does Staff have in its possession studies of the economic impact that a policy**
19 **of assigning the task of extending facilities across exchange boundaries would**
20 **have on regulated telephone companies?**

21 A. Staff has no such studies in its possession. Because most any circumstance that
22 would be similar to the Timm Ranch is likely to be in a location supported by
23 universal service dollars, the question becomes which company receives the
24 support for providing the service. When the Commission was considering
25 changes to WAC 480-120-071, it did so believing that total telecommunications
26 expenditure in Washington on an annual basis was between \$3.5 and \$3.67 billion
27 dollars. Under that assumption, the impact of providing \$150,000 to one
28 company or \$700,000 to another company would not be great, but the difference

1 might warrant choosing to use the Commission's authority to prescribe exchange
2 boundaries under RCW 80.36.230.

3

4 **Q. Could the Commission change Qwest's boundary and require it to serve Mr.**
5 **Nelson and his neighbors on the Timm Ranch while Verizon is still an ETC**
6 **for that area?**

7 A. Staff does not believe there is any impediment to having an ETC and a non-ETC
8 in the same location. If necessary, the Commission could alter the designations
9 for both companies.

10

11 **Q. Do you have any more testimony at this time?**

12 A. Only to repeat that Staff believes the Commission has wisely chosen to include
13 Qwest in the proceeding so that it can weigh factors related to both Qwest and
14 Verizon and reach a decision that is in the public interest. Staff believes that
15 Qwest can also do the following to assist the Commission:

- 16 1. Locate the Timm Road on a map and send engineering Staff to investigate
17 the distances from its plant that crosses the Columbia River Rd. to the
18 several houses on Timm Road;
- 19 2. Determine the amount and cost of feeder, distribution, and loop plant
20 necessary to serve the several homes and provide testimony and include
21 the work papers with the testimony (that will save the Commission and all
22 parties the time necessary to ask for them);
- 23 3. Determine any other costs it might incur, document them, and provide the
24 documentation and testimony at the same time; and
- 25 4. Provide any other information about its ability to serve the area that it
26 thinks would influence the Commission.
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1 **Q. Do you have any attachments?**

2 A. Yes. Attached is a copy of the portion of the Okanogan County Map purchased
3 by Staff from the Public Works office in Okanogan. Exhibit ____ (RBS-5). It
4 includes a notation of where Mr. Nelson lives, in Township 30, range 28.

5 Also included is a copy of Verizon Exhibit No. ____ (KR-4) which is a
6 map labeled “Timm Ranch Svc. Extension Job.” That map shows the Nelson
7 home as two sections – about 2 miles – away from the Qwest-Verizon boundary.

8 Finally, Staff has attached a copy of a Washington State exchange area
9 map with the legend “Issue Date: January 30, 1997.” Exhibit ____ (RBS-6).

10

11 **Q. Does this conclude your testimony at this time?**

12 A. Yes.