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March 22, 2004

Ms. Carole J. Washburn
Executive Secretary
Washington Utilities and Transportation Commission
1300 South Evergreen Park Drive, S.W.
Olympia, WA 98504

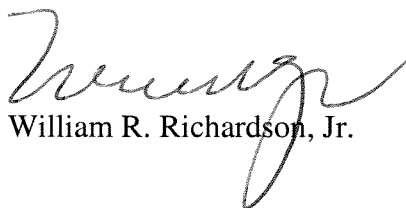
Re: **WUTC Docket No. UT-023003**

Dear Ms. Washburn:

Pursuant to the Twentieth Supplemental Order in the above-referenced proceeding, Verizon Northwest Inc. ("Verizon") hereby submits its Comments on the Issues List.

Please let me know if you have any questions.

Sincerely,



William R. Richardson, Jr.

cc: ALJ Theodora M. Mace
Counsel of Record

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION

In the Matter of the Review of)
Unbundled Loop and Switching Rates; the) DOCKET NO. UT-023003
Deaveraged Zone Rate Structure; and)
Unbundled Network Elements, Transport,)
and Termination)
)

COMMENTS OF VERIZON NORTHWEST INC. ON ISSUES LIST

Pursuant to the Twentieth Supplemental Order filed March 11, 2004, in the above-captioned docket, Verizon Northwest Inc. ("Verizon") hereby provides its comments on the Issues List appended to that order.

1) The Commission has determined that all OSS and non-recurring cost issues on this list are no longer part of this docket. In the Twelfth Supplemental Order, issued August 5, 2003, the ALJ bifurcated this proceeding and created a separate docket for these issues. *See id.* at 6. Therefore, all of the issues listed under the heading "OSS/ALL NONRECURRING COSTS" on the Issues List attached to the Twentieth Supplemental Order should be deleted from that list.

2) The rates for transfer of installed splitters should no longer be at issue in this proceeding. At the February 6, 2003 Prehearing Conference, ALJ Berg asked whether any CLECs were opposed to removing this issue from the list to be addressed in the case.¹ Only counsel for WorldCom and Covad

¹ Tr. of Feb. 6, 2003 Prehearing Conf.. at 220-21.

indicated that they would have to check with their clients before providing a definitive answer.² Soon after the Prehearing Conference, pursuant to the ALJ's instructions, both WorldCom and Covad notified Verizon that they were not opposed to omitting rates for transfer of installed splitters.

3) As described in Verizon's January 26, 2004 Supplemental Panel Testimony on Recurring Costs, several UNEs should be deleted from this list in light of the Federal Communications Commission's *Triennial Review Order*.³ These deletions are required as a result of the determination in that order that CLECs are conclusively not impaired without access to certain UNEs — determinations that remain in effect following the recent decision of the U.S. Court of Appeals for the District of Columbia Circuit in *United States Telecom Association v. FCC*.⁴ These UNEs include (a) all subloops except for copper distribution subloops and other types of distribution subloops to multi-unit premises⁵; (b) OCn loops and transport⁶; and (c) any transmission links (including dark fiber links) in the dedicated transport UNE that do not connect two Verizon central offices.⁷ Additionally, as described in Verizon's June 26, 2003 Panel Testimony, Verizon is not proposing rates for unbundled packet switching because the FCC has clarified that incumbent carriers are no longer required to

² *Id.* at 218-19.

³ Report and Order on Remand and Further Notice of Proposed Rulemaking, *Review of Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Deployment of Wireline Services Offering Advanced Telecommunications Capability*, 18 FCC Rcd 16978 (2003) ("*Triennial Review Order*").

⁴ *U.S. Telecom Ass'n v. FCC*, ___ F.3d ___, 2004 WL 374262 (D.C. Cir. Mar. 2, 2004) ("*USTA II*").

⁵ *Triennial Review Order* at 17131-32 ¶¶ 253-54.

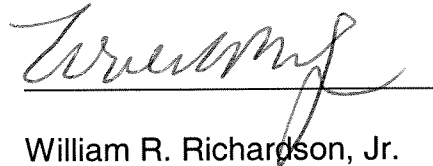
⁶ *Id.* at 17104, 17168, 17221 ¶¶ 202, 315, 389.

⁷ *Id.* at 17203 ¶ 366.

offer it⁸ — a determination that the FCC reiterated in the text of its *Triennial Review Order*, released following that panel testimony.⁹

4) In addition to these deletions, Verizon notes that the D.C. Circuit's decision in *USTA II* held that "much" of what remains of the FCC's unbundling requirements "is unlawful."¹⁰ Specifically, *USTA II* vacated the FCC's impairment findings with respect to mass-market switching, DS1 and DS3 dedicated transport, and dark fiber, subject to a stay that will expire on May 3, 2004, in the absence of a petition for rehearing.¹¹ The outcome of these proceedings will also have an effect on whether Verizon will continue to be required to offer UNE-P or shared transport as well. Moreover, the availability of the remaining UNEs on this list will be subject to the outcome of any revisions to the "impairment" test formulated by the FCC following the remand from the D.C. Circuit.¹²

Respectfully submitted,



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March 22, 2004

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⁸ Panel Testimony of Verizon Northwest Inc. on Recurring Costs (filed June 26, 2003) at 98-100.

⁹ *Triennial Review Order* at 17321 ¶ 537.

¹⁰ *USTA II*, 2004 WL 374262, at *3.

¹¹ *See id.* at *40.

¹² *Id.* at **15-17.