

November 20, 2007

VIA E-MAIL AND FIRST CLASS MAIL

Carole Washburn
Secretary
Washington Utilities and Transportation Commission
1300 S. Evergreen Pk. Dr. S.W.
PO Box 47250
Olympia, WA 98504-7250

Re: ***Verizon Northwest Advice No. 3252***
Docket No. UT-040788

Dear Ms. Washburn:

Public Counsel submits these comments in advance of the Commission's November 28, 2007 Open Meeting. Verizon Northwest (Verizon) has filed tariff changes that would extend its Late Payment Charge (LPC) beyond the December 31, 2007 expiration date. As required by the Commission in Order No. 15 of this docket, Verizon was required to submit regular reports that measured the consequences and effect of the fee so this information could be taken into consideration before a permanent LPC tariff might be accepted.

As the Commission noted in Order No. 15, each of the parties acknowledged their dissatisfaction with some elements of the settlement.¹ This was a very contentious case, and involved difficult negotiations. In order to reach agreement, each of the parties accepted terms that they would not accept on a normal basis.² In the end, despite the inclusion of a late payment charge that we did not specifically favor, Public Counsel was willing to accept increased fees and charges on customers who the Company argued were imposing more costs on the system if it meant that, on the whole, customers would benefit from more affordable rates for basic services. Public Counsel supported the Commission's decision in Order No. 15 to study the late payment charge and reconsider it at a later date.

After two years of the late payment charge, it can be determined that the Commission's concern about the LPC was sound. Based on our review of the data collected by Verizon, Public Counsel has found that the Commission's decision to review the LPC has proved important and timely. While Public Counsel recognizes that it is appropriate for those

¹ Docket No. UT-040788, Order No. 15, ¶ 10.

² Ibid, ¶ 18.

who impose additional costs on the system to support the costs of those services through higher charges, we believe it is unlikely that most late paying customers are causing the Company to incur expenses equivalent to what Verizon is collecting through its late charge.

One glaring example of where this policy has proven problematic can be found in data provided by the Company which shows that between January and June of 2007 **[Begin Confidential] XXXX [End Confidential]** customers were assessed the LPC for amounts between \$0.01 and \$0.03.³ In the same period, **[Begin Confidential] XXXXX [End Confidential]** customers were assessed an LPC for an amount up to \$2.50—or in other words, they were assessed a penalty less than or equivalent to the amount they owed. Particularly distressing is that **[Begin Confidential] XXX [End Confidential]** WTAP customers were assessed the \$2.50 minimum LPC, which is roughly 31 percent of the price of WTAP service, for a past due amount less than or equal to the amount of the fee. The Company is certainly not expending any additional effort to recover a few cents or even a few dollars from its customers who are being charged a significant interest rate on their past due amount nonetheless.

It is important to note that Verizon does not commence any action to render immediate payment on accounts owing less than \$30 for regulated services, \$50 for non-regulated services, and/or \$25 for tolls. So, theoretically, a customer could have a past due bill for \$100 and Verizon will not expend any efforts for collection until the next billing cycle. It is questionable whether the median 30-day balance for both WTAP and non-WTAP customers charged an LPC of \$2.50, as found in Attachment C, would result in a Company-initiated collection effort for the delinquent funds, considering the various regulated, non-regulated, and toll related services that go into a customer's bill. So, one can presume that a considerable number of the consumers who are assessed a \$2.50 late payment charge do not impose any additional administrative costs on the Company aside from the expense of carrying that delinquent account.

An additional factor to consider in weighing the merits of the LPC is that the majority of customers settle their delinquent accounts within the following billing cycle, or 60 days. For example, of a total of **[Begin Confidential] XXXXX [End Confidential]** customers assessed an LPC in June 2007, **[Begin Confidential] XXXXXX [End Confidential]**, or **[Begin Confidential] XXXXXXXXXXXXXXXXXXXX [End Confidential]**, were 60 or more days overdue.⁴ Some customers who are assessed a LPC are never even counted in any of the past due categories because their payment arrives just days after the due date.

Although the majority of customers fall under the \$2.50 minimum fee, even the alternative 1.5 percent fee is disproportionately high. At 1.5 percent, Verizon's current rate is higher than most other regulated utilities in the State, as demonstrated in the official record on this docket and confirmed by Staff's evaluation (See Attachment 1 of Staff Memo). This interest rate is equivalent to 18 percent annually and is disproportionately higher than the Company's cost of capital.

³ See Attachment A.

⁴ Verizon Northwest Inc. Residential Late Payment Charge Report, Docket No. UT-040788.

RECOMMENDATIONS

In light of these problems, the Commission should re-evaluate Verizon's late payment charge and make the following changes:

1. **The Commission should eliminate the \$2.50 flat rate.** Attachment B illustrates the range of interest rates paid by customers who have a \$2.50 flat rate fee, all of which are excessive if not preposterous. Additionally, Attachment C shows that the interest rate for the average of the 2007 median 30-day past due balances for non-WTAP customers was [Begin Confidential] XXX [End Confidential] percent—or [Begin Confidential] XXX [End Confidential] percent annually. For WTAP customers with the average of the 2007 median 30-day balances, the interest rate is [Begin Confidential] XXX [End Confidential] percent, or [Begin Confidential] XX [End Confidential] percent annualized. This is unacceptable.
2. **The LPC should be based on Verizon's actual cost of capital, 0.723 percent (8.68 annually) instead of 1.5 percent (18 percent annually).** The Company's cost of capital is 8.68 percent, or .723-percent per month. A recent decision in New Mexico set a late payment fee at a rate based on the composite cost of capital prescribed in the same case and the IRS interest rate of 8 percent.⁵ This change would more accurately reflect the actual costs that Verizon faces when customers pay late.
3. **The Commission should exclude WTAP customers from the Late Payment Charge.** This will also address the Commission's concern, as stated in Order No. 15, about the effect of the LPC on WTAP customers. Many states do not permit utilities to charge their low-income customers fees related to late payments. For example, in the above referenced case in New Mexico, the New Mexico Public Regulation Commission also decided that customers who meet qualifications to receive assistance pursuant to the LIHEAP program would be exempt from the late payment fee.⁶ Evidence that Verizon is charging a late fee to WTAP customers who are already financially strapped for past due amounts as small as \$0.01 only further illustrates that this program is not best applied to low-income customers who can least afford such fees.

CONCLUSION

Verizon is a cost-based, state regulated public utility, and should not be collecting late fees that are not based on the actual expense incurred by the Company.

⁵ New Mexico Public Regulation Commission, Final Order Partially Adopting Recommended Decision, Case No. 06-00210-UT, ¶139-142.

⁶ Ibid, ¶142

The Company will argue that this change is unfair and is denying them revenue allowed in the last rate case. However, per the Commission's comments in Order No. 15,

The level of revenue, over time, has no necessary bearing on whether the rates are fair, just, or reasonable because it does not consider the effect of rising or falling costs. Because of increased efficiencies or increased costs over time, a given level of rates may or may not be fair, just and reasonable.⁷

Neither the agreement nor the Commission's decision constituted a guarantee of revenue to Verizon.⁸ At the time of its decision, the Commission stated that it had "not reached any determination about replacement of the tariff and seeks the benefit of additional information in deciding on a longer-term solution to the revenue requirements and cash flow issues presented by the residential late payment charges."⁹

Sincerely,

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cc: Paula Strain
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⁷Docket No. UT-040788, Order No. 15, ¶ 34.

⁸ Docket No. UT-040788, Order No. 17, ¶ 13.

⁹ Ibid, ¶22.