

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

	)	DOCKET NO. UT-040788
WASHINGTON UTILITIES AND)	
TRANSPORTATION COMMISSION,	)	ORDER NO. 03
)	
Complainant,	)	PREHEARING CONFERENCE
	)	ORDER; ESTABLISHING
v.	)	PROCEDURAL SCHEDULE
)	
VERIZON NORTHWEST INC.,	)	NOTICE OF PREHEARING
	)	CONFERENCE
Respondent.	)	(To be held August 5, 2004,
	)	at 9:30 a.m.)
)	
	)	NOTICE OF HEARING
	)	(To be held beginning
.....	)	August 10, 2004)

1 **NATURE OF PROCEEDING.** Docket No. UT-040788 relates to a filing by Verizon Northwest, Inc. (“Verizon” or “the Company”) seeking approval of “interim” tariffs with an asserted revenue effect of \$29.7 million pending resolution of the Company’s need for “permanent” rate relief. As to the latter, Verizon proposes by petition that it be decided in a proceeding undertaken without the prior filing of tariffs in a bifurcated process in which the Company’s revenue requirement would be determined prior to the filing of tariffs or the determination of spread of rates. The Company estimates its need at approximately \$240 million in annual revenues, including its request for interim rates, or a revenue increase of approximately 70%.

2 **CONFERENCE.** The Washington Utilities and Transportation Commission (Commission) convened a prehearing conference in this docket at Olympia, Washington on May 24, 2004, before Administrative Law Judge C. Robert Wallis.

3 **APPEARANCES.** Judith A. Endejan, Graham and Dunn, Seattle, WA, and Charles Carrathers, Irving, TX, represents Verizon. Arthur A. Butler, attorney, Ater Wynne LLP, Seattle, WA, represents intervenor Washington Electronic Business and Telecommunications Coalition (“WeBTEC”). John O’Rourke, Director, Spokane, WA, represents intervenor Citizens' Utility Alliance of Washington, Ronald L. Roseman, attorney, Seattle, WA, represents intervenor AARP, Brooks E. Harlow and David L. Rice, attorney's, Seattle, WA, represents intervenor Northwest Public Communications Council (NPCC), Gregory J. Kopta, attorney, Seattle, WA, represents intervenor AT&T Communications of the Pacific Northwest, Inc. (AT&T), Stephen S. Melnikoff, Office of the Judge Advocate General, Arlington, VA, represents intervenor The United States Department of Defense, Simon J. ffitch, Assistant Attorney General, Seattle, WA, represents the Public Counsel Section of the Washington Office of the Attorney General, and Donald T. Trotter and Christopher G. Swanson, Assistant Attorney's General, Olympia, Washington, represents the Commission’s regulatory staff (“Commission Staff” or “Staff”).¹ Contact information provided at the conference for the parties’ representatives is attached as Appendix A to this order.²

4 **PETITIONS FOR INTERVENTION.** The following companies, entities, or persons filed petitions to intervene or petitioned orally at the prehearing conference for intervenor status: Washington Electronic Business and Telecommunications Coalition (“WeBTEC”); Citizens' Utility Alliance of Washington; Northwest Public Communications Council (NPCC); AARP; AT&T Communications of the Pacific Northwest, Inc. (AT&T); and The United States

¹ In formal proceedings, such as this case, the Commission’s regulatory staff functions as an independent party with the same rights, privileges, and responsibilities as any other party to the proceeding. There is an “*ex parte* wall” separating the Commissioners, the presiding Administrative Law Judge, and the Commissioners’ policy and accounting advisors from all parties, including Staff. *RCW 34.05.455*.

² We also include information for Brooks Harlow and David Rice, the representatives of the Northwest Public Communications Council, or NPCC, who advised the bench before the conference that they would not be appearing in person.

Department of Defense. No party objected to any of the petitions for intervention, which were granted.

- 5 **DISCOVERY.** Discovery will be conducted pursuant to the Commission’s discovery rules, WAC 480-07-400 through 425, pursuant to the invocation of those rules in the Notice of this prehearing conference. Parties reported that discovery was beginning and that parties appeared to be working cooperatively. The Commission encourages the parties to continue to work cooperatively together. Public Counsel requested that the “standard” ten business-day deadline for responses be reduced to seven business days, recognizing the expedited nature of the request for interim relief. The request was granted, and Verizon committed to make a good-faith effort to produce answers within that time frame.
- 6 **PROTECTIVE ORDER.** The Commission entered a protective order, Order No. 02 in this docket, pursuant to RCW 34.05.446, RCW 80.04.095, WAC 480-07-420, and WAC 480-07-423 to protect the confidentiality of proprietary information. Parties stated no concerns about the protective order. Parties, especially Verizon, are reminded that the Commission considers it improper to designate a document as confidential that contains no information classified as confidential. While we recognize that it is tempting to use the designation on matters where any doubt exists, particularly in the high-volume stages of data production, it is important to the public’s confidence in the agency and its decisions that proceedings be as transparent as possible.
- 7 **MOTION FOR WAIVER OF REQUIREMENT TO FILE TARIFFS; MOTION TO BIFURCATE HEARING PROCESS.** Along with its request for interim rate relief, Verizon filed materials that it contends demonstrates a need for a general rate increase of \$240 million, or about 70%. Verizon also filed a petition for an order allowing it to commence a general rate proceeding without filing proposed tariffs, and allowing it to conduct the proceeding in two phases—first, a

proceeding to determine its revenue deficiency, and second, a proceeding to spread rate increases to specific classes of customers. The first request would require an exemption from two provisions of WAC 480-07-510. It states that the second would require an exemption from WAC 480-07-110, -370, and -395.

8 **PROCEDURAL SCHEDULE, REQUEST FOR INTERIM RATE RELIEF.**

During the conference, Commission Staff submitted and the parties agreed upon a proposed procedural schedule for review of the request for interim rates. The Commission adopts a procedural schedule for the interim proceeding and includes pertinent dates in Appendix B, attached to this order, that is based on the parties' proposal. Please note that some adjustments were required to accommodate Commission schedules, and review the schedule carefully. The parties indicated preferred order dates; the Commission will do its best to provide timely orders but cannot commit to service of orders on specified dates because of the volume of hearings and high- priority matters, including this docket, during the period in question.

9 **HEARINGS FOR MEMBERS OF THE PUBLIC.** Public Counsel, supported by the Alliance, asked that the Commission schedule two public hearings, one in Everett and a second in eastern Washington. The Commission will continue to work with Public Counsel and other parties to explore the feasibility and the schedule of one or more hearings to receive public comment.

10 **SCHEDULE FOR BRIEFING ON MOTIONS.** The parties indicated a desire to respond to Verizon's motions for exemption from tariff filing requirements and to authorize bifurcation of the proceeding. They also asked that the schedule preserve their opportunity to make dispositive motions. The Commission establishes the schedule for such process and includes it in Appendix B.

- 11 **DOCUMENT PREPARATION AND FILING REQUIREMENTS.** Parties must file with the Commission an original plus 15 copies of all pleadings, motions, briefs, and other prefiled materials. Paper copies of these materials are required to conform to the format and publication guidelines set forth in WAC 480-07-395 and 480-07-460, and must be three-hole punched with ***oversized*** holes to allow easy handling. The Commission may require a party to refile any document that fails to conform to these standards.
- 12 All filings must be mailed to the Commission Secretary, Washington Utilities and Transportation Commission, P.O. Box 47250, 1300 S. Evergreen Park Drive, S.W. Olympia, Washington 98504-7250, or delivered by hand to the Commission Secretary at the Commission's Records Center at the Washington Utilities and Transportation Commission, 1300 S. Evergreen Park Drive, S.W., Olympia, Washington, 98504. Both the post office box and street address are required to expedite deliveries by the U.S. Postal Service. Please note that filing deadlines specify the date received, and not the date sent.
- 13 An electronic copy of all filings must be provided by e-mail delivery to <records@wutc.wa.gov>. Alternatively, Parties may furnish an electronic copy by delivering with each filing a 3.5-inch IBM-formatted high-density diskette including the filed document(s). The Commission prefers that parties furnish electronic copies in .pdf (Adobe Acrobat) format, supplemented by a separate file in MS Word 6.0 (or later), or WordPerfect 5.1 (or later) format. Parties must organize and identify electronic files as specified in WAC 480-07-140(5).
- 14 **ELECTRONIC FILING.** The parties asked that the ALJ declare all filing subject to the electronic distribution provision—i.e., that an extension of one business day be allowed if parties distribute the documents by electronic mail before the close of business on the day specified. Unfortunately, because of Commission schedule commitments and the need to decide and prepare orders, doing so is impossible. The schedule notes several filing deadlines for which the parties

may provide documents electronically under WAC 480-07-145(6) and gain an extra business day to file hard copies. **Note:** It was also necessary in accommodating schedule conflicts to require certain filings to be received in hard copy prior to the close of business. All adjustments are noted in the attached schedule, Appendix B.

- 15 Parties must submit electronic copies of documents³ to records@wutc.wa.gov, with copies to the bench and the Commission's assigned advisory staff, and file an original, plus 15 copies, of the document with the Commission by the following business day.
- 16 **NOTICE OF PREHEARING CONFERENCE.** The Commission convenes a prehearing conference in this matter, to address the marking of exhibits and any other procedural matter that the Commission or the parties may raise. **The conference will be held on Thursday, August 5, 2004, at 9:30 a.m., in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 S. Evergreen Park Drive S. W., Olympia, Washington.** This conference may be cancelled if it appears that it is not needed.
- 17 **NOTICE OF HEARING.** The Commission convenes a hearing in this matter, beginning on **Tuesday, August 10, 2004 at 9:30 a.m. in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 S. Evergreen Park Drive S. W., Olympia, Washington.** The hearing will then continue during available times as may be necessary to hear all matters required to be addressed.

³ The Bench is conscious of Verizon's concern that some documents may not be available in electronic form, in which case the filing party must identify in its electronic filing that the document is not provided. Parties are encouraged to procure electronic copies whenever possible.

18 **NOTICE TO PARTIES: Any objection to the provisions of this Order must be filed within ten (10) days after the service date of this Order, pursuant to WAC 480-07-430 and WAC 480-07-810. Absent such objection, this Order will control further proceedings in this matter, subject to Commission review.**

Dated at Olympia, Washington, and effective this 26th day of May, 2004

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

C. ROBERT WALLIS
Administrative Law Judge

APPENDIX A

PARTIES' REPRESENTATIVES
DOCKET NO. UT-040788

PARTY	REPRESENTATIVE	PHONE	FACSIMILE	E-MAIL
Verizon Northwest, Inc.	Judith A. Endejan Graham & Dunn PC 2801 Alaskan Way, Suite 300 Seattle, WA 98121-1128 Co-counsel, Charles A. Carrathers	(206) 340-9694	(206) 340-9599	jendejan@grahamdunn.com
WeBTEC	Arthur A. Butler Ater Wynne LLP 601 Union St., Suite 5450 Seattle, WA 98101-2327	(206) 623-4711	(206) 467-8406	aab@aterwynne.com
Citizens' Utility Alliance of Washington	John O'Rourke, Director 212 W. 2 nd Ave., Suite 100 Spokane, WA 99201	(509) 744-3370 Ext. 247	(509) 744-3374	orourke@snapwa.org
Northwest Public Communications Council (NPCC)	Brooks E. Harlow Miller Nash LLP 4400 Two Union Square 601 Union Street Seattle, WA 98101-2352 Co-counsel David L. Rice	(206) 622-8484	(206) 622-7485	brooks.harlow@millernash.com david.rice@millernash.com
AARP	Ronald L. Roseman Attorney at Law 2011 14 th Avenue East Seattle, WA 98112	(206) 324-8792	(206) 568-0138	ronaldroseman@comcast.net
AT&T Communications of the Pacific Northwest (AT&T)	Gregory J. Kopta Davis Wright Tremaine LLP 2600 Century Square 1501 Fourth Avenue Seattle, WA 98101-1688 Co-counsel: Letty S.D. Friesen	(206) 628-7692	(206) 628-7699	gregkopta@dwt.com

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PARTY	REPRESENTATIVE	PHONE	FACSIMILE	E-MAIL
The United States Department of Defense	Stephen S. Melnikoff Regulatory Law Office U.S. Army Litigation Ctr. Office of the Judge Advocate General 901 N. Stuart St., Ste 700 Arlington, VA 22203-1837	(703) 696-1643	(703) 696-2960	stephen.melnikoff@hqda.army.mil
Public Counsel	Simon J. ffitich, Assistant Attorney General 900 Fourth Avenue, Suite 2000 Seattle, WA 98164	(206) 389-2055	(206) 389-2058	simonf@atg.wa.gov
Commission Staff	Donald T. Trotter Assistant Atty. General 1400 S. Evergreen Park Drive S.W. P.O. Box 40128 Olympia, WA 98504-0128 Co-counsel, Christopher G. Swanson	(360) 664-1189	(360) 586-5522	dtrotter@wutc.wa.gov cswanson@wutc.wa.gov

APPENDIX B
PROCEDURAL SCHEDULE
DOCKET NO. UT-040788

<u>Deadline for</u>	<u>Deadline⁴</u>
Answers to Verizon's petitions	June 2 (e-mail)
Company replies to answers to its petitions	June 9, at <u>2:00 p.m.</u>
Other parties' dispositive motions, if any	June 9 (e-mail)
Answers to any dispositive motions	June 21 (e-mail)
Replies to dispositive motions	June 28, at <u>2:00 p.m.</u>
Other parties' testimony (interim)	July 14 (e-mail)
Company rebuttal testimony (interim)	July 30
Filing of exhibits for use on cross exam.	August 4, at <u>2:00 p.m.</u>
Prehearing for marking exhibits, other procedural matters (may be cancelled)	August 5
Evidentiary hearings (interim)	August 10 - 13
Simultaneous briefs (interim)	August 27, at <u>2:00 p.m.</u>

⁴ All dates are 2004. Hard copies must be received in the Commission offices no later than the close of business on the day specified unless otherwise noted. The designation "e-mail" means that the filing will be accepted if filed by noon, one business day later, if the parties and the Commission receive the filing via electronic mail before the close of business (or other time specified), on the date specified.