

Michel Singer-Nelson
Senior Attorney
Western Law and Public Policy



707 17th Street
Suite 4200
Denver, CO 80202
Telephone 303 390 6106
Fax 303 390 6333
michel.singer_nelson@mci.com

May 17, 2004

VIA OVERNIGHT & ELECTRONIC MAIL

Ms. Carole J. Washburn, Executive Secretary
Washington Utilities and Transportation Commission
1300 S. Evergreen Park Drive SW
Post Office Box 47250
Olympia, WA 98504-7250

Re: Docket No. UT-043013

Dear Ms. Washburn:

Enclosed is an original and twelve copies of MCI's Partial Opposition to Motion of Verizon to Hold Petition Abeyance. Copies have been sent out to all parties via regular and electronic mail. If there are any questions or concerns, please contact either Michel Singer Nelson 303-390-6106 or myself 303-390-6686.

Sincerely,

A handwritten signature in black ink that reads "Ragnhild Kinoshita". The signature is written in a cursive, flowing style.

Ragnhild Kinoshita

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

In the Matter of the Petition for Arbitration of an Amendment to Interconnection Agreements of)	
)	DOCKET NO. UT-043013
)	
VERIZON NORTHWEST INC.)	MCI'S PARTIAL OPPOSITION
)	TO MOTION OF VERIZON TO
with)	HOLD PETITION IN
)	ABEYANCE
)	
COMPETITIVE LOCAL EXCHANGE CARRIERS AND COMMERCIAL MOBILE RADIO SERVICE PROVIDERS IN WASHINGTON)	
)	
)	
Pursuant to 47 U.S.C. Section 252(b), and the <i>Triennial Review Order</i>.)	

MCI, Inc., ("MCI") on behalf of its regulated subsidiaries in Washington, hereby responds to the Petition of Verizon Northwest, Inc. ("Verizon") to hold this proceeding in abeyance until June 15, 2004.

1 On February 20, 2004, Verizon filed a petition for arbitration with the Washington Utilities and Transportation Commission ("WUTC" or "Commission") seeking arbitration of unresolved issues associated with its proposal to amend its interconnection agreement with MCI and other competitive local exchange carriers ("CLECs") and CMRS providers in Washington to implement changes in law resulting from the FCC's *Triennial Review Order* ("TRO"). Portions of the new FCC rules adopted in the *TRO* were vacated on March 2, 2004 by the U.S. Court of Appeals for the D.C.

Circuit in *USTA II*. Verizon now seeks to put this arbitration “on hold” while negotiations between Verizon and the CLECs with respect to the vacated and remanded portions of the *TRO* take place. These negotiations were requested by the Federal Communications Commission (“FCC”) and have been facilitated by the extension of the D.C. Circuit’s issuance of the Court’s mandate in *USTA II* until June 15, 2004.

2 MCI opposes Verizon’s request with respect to issues that are ripe for arbitration. First, as Verizon has acknowledged, several changes of law are ripe for arbitration, notwithstanding the *USTA II* decision. These changes should be incorporated into CLEC interconnection agreements as expeditiously as possible. The *USTA II* Court’s remand of some of the *TRO* rules back to the FCC and the attempt by the industry to resolve these issues in commercial negotiations does not alter the fact that other *TRO* provisions create obligations and confer rights that must and should be implemented without regard to the uncertain status of other portions of the *TRO*. For example, issues relating to the conversion of services to unbundled network elements (“UNEs”) and the commingling of access and UNE traffic are not affected by the ongoing commercial negotiations. Yet, under Verizon’s proposal, MCI and other CLECs will be denied the benefits of those new FCC rules until later than they otherwise would have on account of the extension of the *USTA II* mandate and negotiations over the future pricing of unbundled local switching for mass market customers.

3 As noted above, MCI’s opposition to Verizon’s motion pertains only to those *TRO* issues that are not impacted by the *USTA II* decision, and which can be immediately incorporated into amendments to existing interconnection agreements. With respect to those *TRO* issues that are impacted by the *USTA II* decision, including the

availability of switching (UNE-P) and transport as UNEs,¹ MCI urges the Commission not simply to hold this arbitration in abeyance, but also to order Verizon to continue to honor all of its obligations surrounding those issues in its existing interconnection agreements until all issues affecting Verizon's obligations are addressed and resolved in this global arbitration. Stated differently, the Commission should order Verizon to continue to provide switching and transport as UNEs, under existing rates, terms and conditions, until all issues surrounding Verizon's obligations are resolved by the Commission in this global arbitration.

4. By filing this global TRO arbitration, Verizon acknowledges that its obligation to provide unbundled local switching (including UNE-P), transport and other UNEs at rates consistent with Section 252(d) of the Telecommunications Act are governed by its interconnection agreements with CLECs. Verizon further acknowledges by the filing of this arbitration that its obligations in CLEC interconnection agreements continue unless and until those interconnection agreements are amended pursuant to the change of law provisions. Thus, should the *USTA II* decision become effective on June 15 or some other date, it is clear that this global arbitration, initiated by Verizon, is the appropriate proceeding to resolve all issues surrounding the impact of that decision on Verizon's obligations to provide UNEs including switching and transport under existing interconnection agreements. Until all of those issues are resolved by the Commission, Verizon should be ordered to continue to provide cost-based UNEs including switching and transport until further order of the Commission.

¹ To the extent that Verizon argues that hi-cap loop rules are vacated by *USTAI*, any changes to such rules would need to be addressed via the interconnection agreements change of law provisions and dealt with in this proceeding.

5. Moreover, even if *USTA II* takes effect on June 15, 2004 and the TRO no longer obligates Verizon to provide cost-based UNE switching and UNE-P to competitors, there would still be no flash cut to a regime in which it has no obligation to provide switching or transport as UNEs. Instead, and until the FCC adopts either interim or permanent rules, there are independent sources of authority -- interconnection agreements, merger commitments and state law -- by which Verizon would still be required to provide cost-based switching and transport.

6. Verizon suggests that the delay in this proceeding is warranted to allow the parties to conserve resources and to avoid "the distraction of simultaneous litigation." These justifications for delay are quite disingenuous. First, Verizon has to date declined to participate in open, mediated negotiations with MCI and other CLECs, so it is hard to fathom how Verizon is unable to find the resources needed to conduct this arbitration. Second, simultaneous litigation has been the rule, not the exception, since passage of the Telecommunications Act of 1996, with countless cost cases, arbitrations, section 271 proceedings, PAP dockets, and other proceedings. all going on at the same time across multiple jurisdictions. MCI is ready and able to cope with "simultaneous litigation;" Verizon's reticence to do so has, we are sure, nothing to do with the availability of resources.

7. MCI will withdraw its partial opposition to Verizon's motion if Verizon agrees to negotiate separately and file for approval of interconnection agreement amendments that give immediate effect to the conversion and commingling provisions of the proposed TRO Amendment. In the alternative, MCI will withdraw its opposition to Verizon's motion if Verizon agrees to begin charging MCI UNE loop rates for special


access circuits that are currently combined with special access multiplexers as well as future orders for such arrangements.

8. In summary, the Commission should deny Verizon's motion to hold this proceeding in abeyance with respect to issues that are not affected by *USTAI* and are ripe for arbitration. In addition, the Commission should exercise authority in this proceeding to require Verizon to continue to provide unbundled local switching and transport at existing rates, terms and conditions, as set forth in CLEC interconnection agreements. The Commission should not permit the potential vacatur of portions of the TRO affect the ability of Washington consumers to have an effective choice of local service providers.

Dated this 17th day of May 2004.

Respectfully submitted,

MCI



Michel L. Singer Nelson
707 17th Street, Suite 4200
Denver, CO 80202
303 390 6106
303 390 6333 (fax)
michel.singer_nelson@mci.com

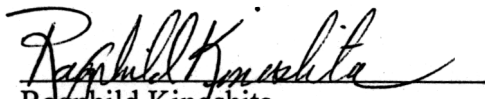
I hereby certify that I served a true and correct copy of the foregoing on the following:

Please see attached Service List

Sent by the following indicated method or methods:

- By **faxing** full, true, and correct copies thereof to the attorneys at the fax numbers shown above, which are the last known fax numbers for the attorneys' offices, on the date set forth below. The receiving fax machines were operating at the time of service and the transmissions were properly completed, according to the attached confirmation reports.
- By **mailing** full, true, and correct copies thereof in sealed, first-class postage-prepaid envelopes, addressed to the attorneys as shown above, the last-known office addresses of the attorneys, and deposited with the United States Postal Service at Seattle, Washington, on the date set forth below.
- By sending full, true, and correct copies thereof via **overnight courier** in sealed, prepaid envelopes, addressed to the attorneys as shown above, the last-known office addresses of the attorneys, on the date set forth below.
- By causing full, true and correct copies thereof to be **hand-delivered** to the attorneys at the attorneys' last-known office addresses listed above on the date set forth below.
- By **e-mailing** to the e-mail addresses as noted on the attached service list.

DATED 17th of May, 2004


Ragnhild Kinoshita

MASTER SERVICE LIST

As of: 05/17/04 Docket: UT-043013 Page: 1
 Name: Verizon Northwest Inc.(T075)
 Comments: In the Matter of the Petition of Verizon Northwest Inc., for Arbitration of an Amendment to Interconnection Agreements with Competitive Local Exchange Carriers and Commercial Mobile Radio Service Providers.
 Original MSL Date: 03/08/04

Status	Name and Address.....	Phone & Fax.....	Added...	By.
Pet	DIRECTOR - CONTRACT PERFORMANCE & ADMINI VERIZON WHOLESALE MARKETS 600 HIDDEN RIDGE HQEWMNOTICES IRVING TX 75038 E-mail: wmnotices@verizon.com	PH:(972)718-5988 FX:(972)719-1519	03/08/04	MS
	RICHARD POTTER VICE PRESIDENT VERIZON NORTHWEST INC PUBLIC POLICY AND EXTERNAL AFFAIRS 1800 - 41ST STREET WA0101RA EVERETT WA 98201	PH:(425)261-5006 FX:(425)261-5262	03/08/04	MS
	VICE PRESIDENT AND ASSOCIATE GENERAL COU VERIZON WHOLESALE MARKETS Representing Verizon Northwest Inc. 1320 N. COURT HOUSE ROAD FL 8 ARLINGTON VA 22201	PH: FX:(703)974-0744	03/08/04	MS
	TIMOTHY J O'CONNELL ATTORNEY STOEL RIVES Representing Verizon Northwest Inc. 600 UNIVERSITY ST. STE 3600 SEATTLE WA 98101 E-mail: tjoconnell@stoel.com	PH:(206)386-7562 FX:(206)386-7500	03/08/04	MS
PetC	AARON M PANNER KELLOG, HUBER, HANSEN, TODD & EVANS, P.L Representing Verizon Northwest Inc. 1615 M STREET NW STE 400 WASHINGTON DC 20036-3209	PH:(202)326-7900 FX:(202)326-7999	03/08/04	MS
R	PRESIDENT TEL WEST COMMUNICATIONS, LLC 3701 S. NORFOLK STREET STE 300 SEATTLE WA 98118	PH:(206)933-1119 FX:(206)933-1117	03/11/04	CT
R	GENERAL COUNSEL T-MOBILE USA INC 12990 SE 38TH ST. BELLEVUE WA 98006	PH: FX:	03/12/04	CT

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Status	Name and Address.....	Phone & Fax.....	Added...	By.
R	JOHN P ANDRIST PRESIDENT NCI DATA.COM, INC. 700 B OKOMA DRIVE OMAK WA 98841 E-mail: jandrist@ncidata.com	PH: (509) 826-0300 FX: (509) 826-9497	03/11/04	CT
R	IRINA ARMSTRONG REGULATORY CONTACT METROPOLITAN TELECOMMUNICATIONS OF WASHI 44 WALL STREET FL 14TH NEW YORK NY 10005	PH: (212) 607-2010 FX: (240) 525-1051	03/11/04	CT
R	SCOTT BEER ICG TELECOM GROUP, INC. GOVERNMENT AND EXTERNAL AFFAIRS 161 INVERNESS DRIVE WEST ENGLEWOOD CO 80112 E-mail: donna-mozina@cgcomm.com	PH: (303) 414-5906 FX: (303) 414-5817	03/12/04	CT
R	ROBERT BENSON TARIFF SUPPORT FOX COMMUNICATIONS CORP. 5210 CARILLON POINT KIRKLAND WA 98033	PH: (425) 576-6079 FX: (425) 828-7889	03/12/04	CT
R	PENNY H BEWICK NEW EDGE NETWORK, INC\D\B\A NEW EDGE NET 3000 COLUMBIA HOUSE BLVD. STE 106 VANCOUVER WA 98661 E-mail: pbewick@newedgenetworks.com	PH: (360) 906-9775 FX: (360) 737-0828	03/11/04	CT
R	LON E BLAKE DIRECTOR OF REGULATORY AFFAIRS ADVANCED TELCOM, INC. (T926)D/B/A ADVANC 3723 FAIRVIEW INDUSTRIAL DR. SE. SALEM OR 97302 E-mail: lblake@atgi.net	PH: (503) 316-4452 FX: 284-5486	03/12/04	CT
R	KIMBERLEY A BRADLEY SENIOR DIRECTOR OF REGULATORY AFFAIRS WINSTAR COMMUNICATIONS, LLC 1850 M STREET, N.W. STE 300 WASHINGTON DC 20036 E-mail: info@winstar.com	PH: (202) 367-7654 FX: (202) 659-1931	03/12/04	CT

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Status	Name and Address.....	Phone & Fax.....	Added....	By.
R	MICHAEL J BRADSHAW POWERTELNET COMMUNICATIONS, INC. PO BOX 1150 PROSSER WA 99350 E-mail: asstmanager@bentonrea.org	PH: (509) 786-2913 FX: (509) 786-2231	03/11/04	CT
R	BERNARD CHAO COVAD COMMUNICATIONS COMPANY 110 RIO ROBLES SAN JOSE CA 95134-1813 E-mail: bchao@covad.com	PH: (408) 987-1602 FX: (408) 987-1605	03/12/04	CT
R	STEVEN C CLAY PRESIDENT NEW ACCESS COMMUNICATIONS, LLC 801 NICOLLET MALL STE 350 MINNEAPOLIS MN 55042 E-mail: sclay@newaccess.cc	PH: (612) 256-0078 FX: (612) 321-9207	03/11/04	CT
R	TOM COOK COOK TELECOM, INC. 2963 KERNER BLVD. SAN RAFAEL CA 94901	PH: (415) 460-4901 FX: (415) 456-5566	03/12/04	CT
R	JOHN COONAN WASHINGTON RSA NO. 8 LIMITED PARTNERSHIP C/O INLAND CELLULAR TELEPHONE COMPANY PO BOX 171 ROSLAND WA 98941	PH: (509) 649-2211 FX: (509) 649-3300	03/12/04	CT
R	DALE CROUSE PRESIDENT PREMIERE COMMUNICATIONS SYSTEMS, INC 4509 INTERLAKE AVE. N # 110 SEATTLE WA 98103	PH: (206) 547-4097 FX:	03/11/04	CT
R	CHRIS CROWE PAC-WEST TELECOMM, INC. 1776 MARCH LANE STE 250 STOCKTON CA 95207 E-mail: ccrowe@pacwest.com	PH: (209) 926-3300 FX: (209) 926-4585	03/11/04	CT
R	MICHAEL E DAUGHTRY UNITED COMMUNICATIONS, INC., D/B/A UNICO	PH: (541) 388-8711 FX: (541) 312-6479	03/12/04	CT

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Status	Name and Address.....	Phone & Fax.....	Added....	By.
	497 SW CENTURY DR. STE 200 BEND OR 97702 E-mail: mike@ucinet.com			
R	BARBARA FILLINGER REGULATORY MANAGER IONEX COMMUNICATIONS NORTH, INC. 2020 BALTIMORE KANSAS CITY MO 64108 E-mail: bfillinger@birch.com	PH: (816) 300-3290 FX: (816) 300-3350	03/11/04	CT
R	LETTY FRIESEN ATTORNEY AT LAW AT&T COMMUNICATIONS OF THE PACIFIC NORTH 1875 LAWRENCE STREET FL 15 DENVER CO 80202 E-mail: lsfriesen@att.com	PH: (303) 298-6475 FX: (303) 298-6301	03/22/04	CT
R	RODULPH GEIST O1 COMMUNICATIONS OF WASHINGTON, LLC 770 L ST. STE 960 SACRAMENTO CA 95814	PH: FX:	03/12/04	CT
R	MR GEOFF GEORGE GENERAL MANAGER MARATHON COMMUNICATIONS, INC. 1550 N 34TH ST # 200 SEATTLE WA 98109-2904 E-mail: ageorge@marathon.net	PH: (206) 505-7177 FX: (206) 812-7283	03/11/04	CT
R	BECKY GIPSON DIRECTOR EXCEL TELECOMMUNICATIONS, INC REGULATORY AFFAIRS DEPARTMENT 1600 VICEROY DRIVE DALLAS TX 75235	PH: (214) 424-1724 FX: (214) 863-8918	03/12/04	CT
R	JOHN GLICKSMAN VICE PRESIDENT/GENERAL COUNSEL ADELPHIA BUSINESS SOLUTIONS OPERATIONS, ONE NORTH MAIN ST. COUDERSPORT PA 16915	PH: (814) 274-6222 FX: (814) 274-0655	03/12/04	CT
R	KEN GOLDSTEIN METROCALL, INC.	PH: (703) 660-6677 FX: (703) 765-4385	03/12/04	CT

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 Original MSL Date: 03/08/04

Status	Name and Address.....	Phone & Fax.....	Added.....	By.
	6677 RICHMOND HIGHWAY ALEXANDRIA VA 22306			
R	ROBERT T HALE PRESIDENT/CEO GRANITE TELECOMMUNICATIONS, LLC 234 COPELAND STREET QUINCY MA 02169	PH: (617) 847-1500 FX:	03/12/04	CT
R	KEN HANKS SENIOR TAX ANALYST INTERNATIONAL TELCOM, LTD. 417 - 2ND AVENUE WEST SEATTLE WA 98119 E-mail: yvette@ms.kallback.com	PH: (206) 479-2295 FX: (206) 479-3234	03/12/04	CT
R	ROBERT E HEATH VICE PRESIDENT AMERICAN FIBER NETWORK, INC. 9401 INDIAN CREEK PARKWAY STE 140 OVERLAND PARK KS 66210	PH: (913) 338-2658 FX: (913) 661-0538	03/12/04	CT
R	KARINE HELLWIG SPRINT COMMUNICATIONS COMPANY L.P. 6390 SPRING PKWY MS: KSOPHT010-Z2400 OVERLAND PARK KS 66251-2400 E-mail: glenn.harris@mail.sprint.com	PH: (541) 387-9290 FX: (541) 387-9753	03/12/04	CT
R	TRE HENDRICKS ATTORNEY AT LAW UNITED TELEPHONE COMPANY OF THE NORTHWEST 902 WASCO STREET HOOD RIVER OR 97031	PH: (541) 387-9439 FX: (541) 387-9753	03/22/04	CT
R	SCHULA HOBBS DIRECTOR OF REGULATORY AFFAIRS DSLNET COMMUNICATIONS, LLC 545 LONG WHARF DRIVE FL 5 NEW HAVEN CT 06511 E-mail: wbluemling@dsl.net	PH: (203) 782-7440 FX: (203) 624-3612	03/12/04	CT
R	WILLIAM P HUNT III VICE PRESIDENT, PUBLIC POLICY LEVEL 3 COMMUNICATIONS, LLC	PH: (720) 888-2516 FX: (720) 888-5134	03/11/04	CT

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Status Name and Address..... Phone & Fax..... Added... By.

1025 EL DORADO BLVD
BROOMFIELD CO 80021
E-mail: bill.hunt@level3.com

R KAREN JOHNSON PH:(503)748-2048 03/12/04 CT
CORPORATE REGULATORY ATTORNEY FX:(503)748-1976
INTEGRA TELECOM OF WASHINGTON, INC.
19545 N.W. VONNEUMANN DR. STE 200
BEAVERTON OR 97006
E-mail: karen.johnson@integratelecom.com

R DENNIS KELLEY PH:(503)982-5578 03/12/04 CT
DIRECTOR OF OPERATIONS (PROVISIONING) FX:(503)982-6077
1-800-RECONEX, INC. (T633)
2500 INDUSTRIAL AVENUE
HUBBARD OR 97032
E-mail: dennis.kelley@reconex.com

R REX KNOWLES PH:(801)983-1504 03/12/04 CT
XO WASHINGTON, INC. FX:(801)983-1667
1111 EAST BROADWAY
SALT LAKE CITY UT 84111

R GREGORY J KOPTA PH:(206)622-3150 03/22/04 CT
DAVIS WRIGHT TREMAINE FX:(206)628-7699
2600 CENTURY SQUARE
1501 FOURTH AVENUE
SEATTLE WA 98101-1688
E-mail: gregKopta@dwt.com

R DEANNE LAIDLER PH: 03/12/04 CT
US CELLULAR FX:
8410 W. BRYN MAWR STE 700
CHICAGO IL 60631

R TRUDY M LONGNECKER PH:(609)734-4533 03/11/04 CT
TARIFF & REGULATORY ANALYST FX:(609)734-6167
RCN TELECOM SERVICES, INC.
105 CARNEGIE CENTER
PRINCETON NJ 08540
E-mail: trudyl@epix.net

R ARTHUR L MAGEE PH:(318)671-5000 03/12/04 CT
COMPTROLLER FX:(888)913-9570
BUDGET PHONE, INC.

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Status	Name and Address.....	Phone & Fax.....	Added....	By
	PO BOX 19360 SHREVEPORT LA 71149 E-mail: amagee@budgetphone.com			
R	DIMITRI MANDELIS PRESIDENT COMPUTERS 5*, INC., D/B/A LOCALTEL 341 GRANT RD. EAST WENATCHEE WA 98802 E-mail: Dimitri@clandt.com	PH: (509) 884-0611 FX: (509) 884-5197	03/12/04	CT
R	SAM G MAROPIS ASSOCIATE DIRECTOR - REGULATORY SBC TELECOM, INC. REGULATORY/MUNICIPAL AFFAIRS 1010 N. ST. MARY'S ROOM 13K SAN ANTONIO TX 78215 E-mail: sm3745@SBC.com	PH: (210) 246-8757 FX: (210) 246-8152	03/11/04	CT
R	PAUL MASTERS ERNEST COMMUNICATIONS, INC. 6475 JIMMY CARTER BLVD. STE 300 NORCROSS GA 30071 E-mail: pmasterrs@ernestgroup.com	PH: (770) 448-7788 FX: (770) 448-4115	03/12/04	CT
R	FELICIA MAYO POINT OF CONTACT COMM SOUTH COMPANIES, INC. REGULATORY AFFAIRS 8035 EAST R.L. THORNTON FREEWAY STE 410 DALLAS TX 75228	PH: (214) 355-7000 FX:	03/12/04	CT
R	BOB MCCOY GENERAL COUNSEL WILLIAMS LOCAL NETWORK, INC. 4100 ONE WILLIAMS CENTER TULSA OK 74172	PH: FX:	03/12/04	CT
R	REBECCA MCGREW POINT OF CONTACT CIERA NETWORK SYSTEMS, INC. 1250 WOOD BRANCH PARK DRIVE STE 600 HOUSTON TX 77079	PH: (281) 529-4600 FX: (281) 529-4650	03/12/04	CT

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Status	Name and Address.....	Phone & Fax.....	Added....	By
R	RANDALL C MEACHAM SENIOR MANAGER - GOVERNMENT AFFAIRS KMC TELECOM V, INC. 1755 N. BROWN ROAD LAWRENCEVILLE GA 30043 E-mail: rmeach@kmctelecom.com	PH: (678) 985-6258 FX: (678) 985-6213	03/11/04	CT
R	DANIEL MELDAZIS SENIOR MANAGER REGULATORY AFFAIRS FOCAL COMMUNICATIONS CORPORATION OF WASH 200 NORTH LASALLE ST. STE 1100 CHICAGO IL 60601 E-mail: dmeldazis@focal.com	PH: (312) 895-8272 FX: (312) 895-8403	03/12/04	CT
R	BECKI MERKEL COST ACCOUNTANT II MCLEODUSA TELECOMMUNICATIONS SERVICES, I 6400 C ST., SW P.O. BOX 3177 CEDAR RAPIDS IA 52405-3177 E-mail: bmerkel@mcleodusa.com	PH: (319) 790-6704 FX: (319) 790-7901	03/11/04	CT
R	ANDREW METCALFE PRESIDENT NORTHWEST TELEPHONE, INC. 1630 N. WENATCHEE AVE. STE 9 WENATCHEE WA 98801 E-mail: metcalfe@nwi.net	PH: (509) 662-5671 FX: (509) 667-8421	03/11/04	CT
R	NICOLE MIZELL REGULATORY SPECIALIST VARTEC TELECOM, INC. 1600 VICEROY DRIVE DALLAS TX 75235 E-mail: nymizell@vartec.net	PH: (214) 424-1516 FX: (214) 424-1510	03/12/04	CT
R	JILL MOUNSEY DIRECTOR-EXTERNAL AFFAIRS AT&T WIRELESS SERVICES, INC. 7277 164TH AVE. NE REDMOND WA 98052	PH: FX: (425) 580-8609	03/12/04	CT
R	CATHERINE MURRAY MANAGER, REGULATORY AFFAIRS ESCHELON TELECOM OF WASHINGTON, INC.	PH: (612) 436-1632 FX: (612) 436-6816	03/12/04	CT

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Status Name and Address..... Phone & Fax..... Added.... By.

730 SECOND AVENUE SOUTH STE 1200
 MINNEAPOLIS MN 55402

- R CARL NICKENS PH:(404)236-5544 03/12/04 CT
 SR. COUNSEL FX:(404)236-5574
 PACIFIC BELL WIRELESS NORTHWEST, LLC
 5565 GLENRIDGE CONNECTOR STE 1700
 ATLANTA GA 30346

- R WILLIAM OBERLIN PH:(248)784-2509 03/12/04 CT
 BULLSEYE TELECOM, INC. FX:(248)784-2501
 25900 GREENFIELD ROAD STE 330
 OAK PARK MI 48237
 E-mail: sloney@bullseyetelecom.com

- R JON PESNELL PH:(972)503-3388 03/11/04 CT
 CONTROLLER FX:(972)503-3385
 PREFERRED CARRIER SERVICES, INC. (T953),
 14681 MIDWAY ROAD STE 105
 ADDISON TX 75001
 E-mail: alex.valencia@phonesforall.com

- R DAVID M PIKOFF PH:(972)488-5500 03/12/04 CT
 VICE PRESIDENT FX:(972)488-8636
 DPI-TELECONNECT, L.L.C.
 2997 LBJ FREEWAY STE 225
 DALLAS TX 75234

- R HEATHER QAULEY PH:(503)970-0277 03/12/04 CT
 DIRECTOR OF PRODUCT MARKETING, TELEPHONY FX:(503)645-8436
 METSTREAM COMMUNICATIONS, INC.
 1815 NW 169TH PLACE STE 4060
 BEAVERTON OR 97006
 E-mail: heather_qualey@metstream.com

- R TERESA S REFF PH:(585)255-1427 03/12/04 CT
 SENIOR FINANCIAL ANALYST FX:(585)381-7592
 GLOBAL CROSSING LOCAL SERVICES, INC.
 REGULATOYR AFFIARS
 1080 PITTSFORD VICTOR ROAD
 PITTSFORD NY 14534
 E-mail: teresa.reff@globalcorossing.com

- R JILL SANFORD PH:(888)636-2778 03/12/04 CT
 SENIOR ATTORNEY FX:(201)531-2803

MASTER SERVICE LIST

As of: 05/17/04 Docket: UT-043013 Page: 10
 Name: Verizon Northwest Inc. (T075)
 Comments: In the Matter of the Petition of Verizon Northwest Inc., for
 Arbitration of an Amendment to Interconnection Agreements with
 Competitive Local Exchange Carriers and Commercial Mobile Radio
 Service Providers.
 Original MSL Date: 03/08/04

Status Name and Address..... Phone & Fax..... Added.... By.

ABOVENET COMMUNICATIONS, INC
 360 HAMILTON AVENUE
 WHITE PLAINS NY 10601
 E-mail: knations@mmfn.com

R THOMAS SAWATZKI PH: 03/12/04 CT
 HIGHSPEED.COM LLC FX:
 6W ROSE ST. STE 500
 WALLA WALLA WA 99362

R TIMOTHY M SEAT PH: (813) 233-4611 03/12/04 CT
 Z-TEL COMMUNICATIONS, INC. FX: (813) 233-4620
 601 S. HARBOUR ISLAND BLVD STE 220
 TAMPA FL 33602
 E-mail: tseat@z-tel.com

R MICHEL SINGER NELSON PH: (303) 390-6106 03/18/04 MS
 ATTORNEY FX: (303) 390-6333
 WORLD.COM, INC.
 707 17TH ST. STE 4200
 DENVER CO 80202
 E-mail: michel.singer_nelson@mci.com

R ELEANOR SPILLMAN PH: 03/12/04 CT
 VICE PRESIDENT OPERATIONS/CORP. COUNSEL FX:
 GOLD TEL
 16212 BOTHELL WAY SE # F-107
 MILL CREEK WA 98012

R DAVID L STARR PH: (469) 259-2068 03/12/04 CT
 DIRECTOR, REGULATORY COMPLIANCE FX: (469) 259-9122
 ALLEGIANCE TELECOM OF WASHINGTON, INC.
 9201 NORTH CENTRAL EXPRESSWAY
 DALLAS TX 75231
 E-mail: david.starr@algx.com

R RICHARD STEVENS PH: (509) 773-4472 03/12/04 CT
 PRESIDENT FX: (509) 773-6113
 CENTEL COMMUNICATIONS, INC.
 PO BOX 25
 GOLDENDALE WA 98620-0025

R LANCE TADE PH: (801) 924-6357 03/12/04 CT
 ELECTRIC LIGHTWAVE, INC FX: (801) 924-6363
 4 TRIAD CENTER STE 200

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Status Name and Address..... Phone & Fax..... Added... By.

SALT LAKE CITY UT 84180

- R MARY TAYLOR PH: (360) 705-3677 03/12/04 CT
 REGULATORY MANAGER FX: (360) 705-4177
 AT&T COMMUNICATIONS OF THE PACIFIC NORTH
 2120 CATON WAY SW STE B
 OLYMPIA WA 98502

- R MARY TAYLOR PH: (360) 705-3677 03/11/04 CT
 TCG SEATTLE FX:
 2120 CATON WAY SW STE 3
 OLYMPIA WA 98502

- R BRIAN THOMAS PH: (206) 676-8090 03/11/04 CT
 TIME WARNER TELECOM OF WASHINGTON LLC FX: (206) 676-8001
 223 TAYLOR AVENUE N.
 SEATTLE WA 98109

- R WOODY TRAYLOR PH: 03/12/04 CT
 BROADBAND OFFICE COMMUNICATIONS, INC. FX:
 2900 TELESTAR CR.
 FALLS CHURCH VA 22182

- R LADONNA TRUELOCK PH: (915) 498-4944 03/12/04 CT
 DMJ COMMUNICATIONS, INC. FX: (888) 781-6246
 2525 N. GRANDVIEW STE 900
 ODESSA TX 79761
 E-mail: ltruelock@palomanet.net

- R DUDLEY UPTON PH: 03/12/04 CT
 CELLCO PARTNERSHIP FX:
 1300 I ST.NW STE 400
 WASHINGTON DC 20005

- R ROWENA VALLE PH: (702) 547-8421 03/11/04 CT
 NOS COMMUNICATIONS, INC. (T1022) FX: (702) 933-1754
 TARIFF AND REGULATORY AFFAIRS
 4380 BOULDER HIGHWAY
 LAS VEGAS NV 89121-3002
 E-mail: rvalle@nos.com

- R DICK VAN AGGELEN PH: (415) 209-7044 03/11/04 CT
 QUANTUMSHIFT COMMUNICATIONS, INC. FX: (415) 898-3817
 101 ROWLAND WAY STE 300
 NOVATO CA 94945

MASTER SERVICE LIST

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Status Name and Address..... Phone & Fax..... Added.... By.

E-mail: regulatory@quantumshift.com

R	SULTAN WEATHERSPOON WEATHERSPOON TELEPHONE, LLC 16410 NE 32ND STREET VANCOUVER WA 98682 E-mail: sultan@wttel.com	PH: (360) 882-1351 FX: (503) 471-0016	03/12/04 CT
R	RHONDA WEAVER DIRECTOR OF GOVERNMENT AFFAIRS & TELEPHO COMCAST PHONE OF WASHINGTON, LLC D/B/A C 440 YAUGER WAY SW OLYMPIA WA 98502-8153 E-mail: Rhonda_Weaver@cable.comcast.com	PH: (360) 357-1215 FX: (360) 257-1265	03/12/04 CT
R	RICK WEAVER REGULATORY CONTACT WESTGATE COMMUNICATIONS, LLC D/B/A WEAVT PO BOX 1903 BREWSTER WA 98812	PH: (509) 465-8048 FX: (509) 689-7650	03/12/04 CT
RC	KAREN SHORES MAN FRAME COVAD COMMUNICATIONS COMPANY 7901 LOWRY BLVD. DENVER CO 80320 E-mail: kframe@covad.com	PH: (720) 208-1069 FX: (720) 208-3350	03/31/04 DJ
RC	BROOKS HARLOW MILLER NASH LLC Representing Centel Communications 4400 TWO UNION SQUARE 601 UNION STREET SEATTLE WA 98101-2352 E-mail: harlow@millernash.com	PH: (206) 622-8484 FX: (206) 622-7485	03/31/04 DJ
RC	EDWARD KIRSCH SWIDLER BERLIN SHEREFF FRIEDMAN LLP 300 K STREET NW STE 300 WASHINGTON DC 20007-5116	PH: (202) 424-7877 FX:	03/17/04 CT
RC	ANDREW M KLEIN KELLEY DRYE & WARREN, LLP Representing Competitive Carrier Coaliti 1200 19TH STREET, NW STE 500 WASHINGTON DC 20036	PH: (202) 955-9600 FX: (202) 955-9792	03/31/04 DJ

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As of: 05/17/04 Docket: UT-043013 Page: 13
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Status Name and Address..... Phone & Fax..... Added... By.

RICHARD A PITT PH: (360) 707-2925 04/14/04 MS
Representing Northwest Telephone, Inc. FX: (360) 707-2925
12119 JACQUELINE DRIVE
P.O. BOX 667
BURLINGTON WA 98233
E-mail: rapitt98232@msn.com

SALLY JOHNSTON PH: (360) 664-1193 03/08/04 MS
ASSISTANT ATTORNEY GENERAL FX: (360) 586-5522
WUTC
ATTORNEY GENERAL OFFICE
Representing WUTC
STATE MAIL STOP 40128

E-mail: sjohnston@wutc.wa.gov

CP SIMON FFITCH PH: (206) 389-2055 03/08/04 MS
AAG FX: (206) 389-2058
OFFICE OF THE ATTORNEY GENERAL
PUBLIC COUNSEL
Representing Public Counsel
900 4TH AVENUE STE 2000
SEATTLE WA 98164
E-mail: simonf@atg.wa.gov