

BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

AT&T COMMUNICATIONS OF THE PACIFIC NORTHWEST, INC.)	
)	
Complainant,)	Docket No. UT-020406
)	
v.)	AT&T MOTION TO COMPEL
)	VERIZON TO RESPOND TO
VERIZON NORTHWEST INC.,)	DATA REQUESTS
)	
Respondent.)	
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Pursuant to WAC 480-09-480(7), AT&T Communications of the Pacific Northwest, Inc. (“AT&T”) moves the Commission to compel Verizon Northwest, Inc. (“Verizon”) to respond to data requests.

MOTION

1. AT&T propounded its first set of data requests on Verizon in this proceeding on August 12, 2002. Verizon provided objections and responses to those requests on August 26, 2002. AT&T propounded its second set of data requests on Verizon on September 12, 2002, and Verizon provided objections and responses to those requests on September 26, 2002. A copy of the relevant AT&T requests and Verizon objections and responses is attached to this motion.

2. Verizon objected to almost all of the requests and refused to provide a response to most of them. Verizon’s objections fall into two general categories: (1) data concerning information about Verizon’s affiliates that provide toll services in Washington is not relevant; and (2) data concerning subscribership and pricing for Verizon’s toll and toll-related

services is competitively sensitive and not relevant. Neither of these objections withstands scrutiny. Counsel for AT&T and Verizon have discussed their respective positions and attempted to resolve the Parties' dispute over these data requests but have been unsuccessful.

Data Concerning Verizon Affiliates

3. Verizon has objected to requests for data about its affiliates, claiming that such information is "not relevant to the issues in this proceeding." At issue in this proceeding is the reasonableness of Verizon's switched access charges and the extent to which Verizon is engaging in a price squeeze between those charges (plus non-access toll costs) and Verizon's retail toll rates. "Verizon," however, is not simply limited to Verizon Northwest, Inc. Verizon can engage in a price squeeze by cross-subsidizing both its own and its affiliates' provision of toll services. AT&T, therefore, does not differentiate between Verizon and its affiliates with respect to which entity is actually providing the toll service, and neither should the Commission.

4. Indeed, Verizon freely admits – outside the context of this proceeding – that it integrates the operations of its affiliates to the greatest extent possible. Verizon affiliates share administrative and other services, "such as finance, human resources, legal, and accounting."¹ More significantly, Verizon pleadings filed with the FCC at least suggest that Verizon shares operating, installation, and maintenance ("OI&M") services in states like Washington where Verizon has not been required to demonstrate compliance with Section 271 of the

¹ *In re Petition of Verizon for Forbearance From The Prohibition of Sharing Operating, Installation, and Maintenance Functions*, CC Docket No. 96-149, Verizon Petition for Forbearance at 4 (July 25, 2002) (a copy of which is attached to this Motion); *see id.* at 2 ("current [FCC] rules permit all other services to be shared between the [Bell Operating Company] and the section 272 affiliate or to be provided by an affiliated central service organization").

Telecommunications Act of 1996 (“Act”).² In light of Verizon’s desires to “offer an integrated service platform using their own local and long distance facilities,”³ Verizon may be engaging in additional sharing – including billing and collection, marketing, and other retail services used in the provision of toll services. Verizon, however, does not report on the transactions between its affiliates in Washington as it has been required to do in the former Bell Atlantic states, so neither AT&T nor the Commission has access to the information needed to determine the level of integration (and direct or indirect cross-subsidization) between Verizon and its affiliates providing toll services in Washington.

5. AT&T seeks information on the types of intrastate toll services provided by Verizon and its affiliates in Washington and on the toll-related services that Verizon provides to its affiliates. As discussed in connection with each of the individual requests below, such information is crucial to AT&T’s and the Commission’s ability to evaluate the extent to which Verizon is engaging in price squeeze activities to the detriment of effective intrastate toll competition.

Data Request No. 3: Please provide copies of the most recent annual reports that Verizon NW and any of its affiliated companies that provide toll service in Washington have filed with the Commission. If new annual reports are filed with the Commission during the course of this proceeding, please provide copies of those reports.

² *See id.* The implication of Verizon’s petition to the FCC to forbear from the “burdensome and anachronistic” separations requirements for OI&M services in the context of Section 272 is that Verizon does not engage in such separations in states such as Washington that are not subject to that requirement.

³ *Id.* at 7.

6. Verizon provided a copy of the latest annual report that it filed with the Commission but refused to provide the annual reports filed by its affiliates who provide intrastate toll services. The data on these affiliates revenues and expenses is necessary for AT&T to evaluate the costs those affiliates incur, and the revenues they generate, in providing intrastate toll services so that AT&T can make its own determination of whether Verizon is cross-subsidizing, directly or indirectly, its affiliates' provisioning of toll services. Verizon does not contend that it does not possess these reports. Indeed, Verizon likely prepared the reports, which is all the more reason that Verizon should produce them in response to AT&T's request.

Data Request No. 16: For each of the last 12 months for which data is available, please provide (a) the nature and extent of billing and collection, marketing, and other retailing activities that Verizon provided to its affiliates for the provisioning of toll services in Washington and (b) the total amount that Verizon has collected from its affiliates in charges for those activities.

7. One way in which Verizon may be cross-subsidizing its affiliates' provisioning of intrastate toll services is for Verizon to provide billing and collection, marketing, and other retailing activities or services to its affiliates at no cost or at rates that are significantly less than the rates Verizon charges other carriers. The rates that Verizon charges to its affiliates for such services, moreover, provide a point of comparison with the data that Verizon has provided on the costs Verizon incurs in providing such services. All of this data thus is well within the scope of the issues in this proceeding.

Data Request No. 20: Please provide the total number of end user customers who are presubscribed to Verizon affiliates' toll services but are not Verizon local exchange customers. With

respect to these customers, please provide (a) the number of these customers located outside the geographic area in which Verizon provides local exchange service; and (b) the average number of minutes of toll calls that these customers make on a monthly basis.

8. The total number of end user customers who are presubscribed to Verizon affiliates' toll services but who are not Verizon local exchange customers is data that is relevant to determining the extent to which Verizon is cross-subsidizing its affiliates' provisioning of toll services. To the extent that few, if any, such end users exist, that data tends to support AT&T's claims that Verizon affiliates will not or cannot profitably provide service to local exchange customers of other carriers. In other words, Verizon affiliates do not provide toll services when those affiliates are not being subsidized by Verizon and must pay access charges to other carriers and incur other toll-related costs as actual out-of-pocket expenses. Such data is well within the issues in AT&T's complaint.

Data Request No. 21: Please identify all Verizon affiliates that offer toll services in Washington. Please indicate whether each such affiliate provides intraLATA or interLATA toll services.

Data Request No. 34: Reference Verizon's response to AT&T Data Requests Nos. 14 and 15. Please provide the following information:

a. All services and facilities that Verizon Long Distance, Verizon Enterprise Solutions and Verizon Select Services, Inc., obtain on a resale basis and use to provide toll service to their end user customers;

b. The rates that Verizon Long Distance, Verizon Enterprise Solutions and Verizon Select Services, Inc. pay, for those services and facilities and any terms or conditions that affect those rates (e.g., volume or term discounts);

c. Whether the company(ies) from whom Verizon Long Distance, Verizon Enterprise Solutions and Verizon Select Services, Inc., obtain those services and facilities is (are) affiliated with Verizon;

d. All services and facilities provided, or functions performed, or shared by Verizon Northwest, Inc., to/for/with Verizon Long Distance, Verizon Enterprise Solutions and Verizon Select Services, Inc., related to their provisioning of toll services, including but not limited to operating, installation, and maintenance (“OI&M”), administrative, finance, human resources, legal, and accounting services; and

e. The rates that Verizon Long Distance, Verizon Enterprise Solutions and Verizon Select Services, Inc., pay for each of the services, facilities, and functions identified in response to subsection d above, as well as any terms or conditions that affect those rates (e.g., volume or term discounts).

9. Verizon identified three affiliates that it “believes” offer toll services in Washington, but it provided no further information except that those affiliates “provide resold long distance services.” Verizon undoubtedly knows which affiliates provide toll services and the toll services that each provides, as well as the terms and conditions under which those affiliates obtain services for resale and other services, facilities, and functions – particularly if Verizon or another affiliate is the source of those services. The Commission cannot meaningfully evaluate the extent to which Verizon is cross-subsidizing its own and its affiliates’ toll services without knowing what those services are, which Verizon entity provides them, and whether Verizon directly or indirectly is subsidizing those affiliates in providing those services. AT&T is entitled to discover this information.

Data Request No. 22: Please identify the date on which Verizon or one of its affiliates began to provide interLATA toll services in Washington to customers located within the

geographic areas in which Verizon provides local exchange service.

Data Request No. 23: Please identify the date on which Verizon or one of its affiliates began to provide interLATA toll services in Washington to customers located outside the geographic areas in which Verizon provides local exchange service.

10. The dates on which Verizon or one of its affiliates began providing interLATA toll services in Washington (originating either within or outside of Verizon's local service territory) establish the dates from which the Commission needs to evaluate Verizon's practices with respect to the provisioning of intrastate, interLATA toll services. Those dates also determine the relevant time frames for determining growth and other market share information, which is relevant for determining the extent to which such growth and market shares are attributable to cross-subsidization. Verizon has identified no reasonable basis for withholding such information.

Allegedly Competitively Sensitive and Irrelevant Data

11. Verizon objected to several AT&T data requests on the grounds that they require "production of competitively sensitive information not relevant to the issues in this proceeding." Verizon Responses to AT&T Data Requests Nos. 4-6 & 17-18. The Commission has issued a Protective Order designed to ensure the confidentiality of such information, and Verizon offers no explanation for why those protections are insufficient. More significantly, the information requested seeks data that is reasonably calculated to lead to the discovery of admissible evidence in this proceeding, including the number of minutes of use for Verizon's toll plans, Verizon's rates for toll billing and collection services provided to

unaffiliated carriers, and relative market share data. All of this information, as more fully discussed below, lies at the heart of the issues that AT&T has raised in its Complaint.

Accordingly, the Commission should compel Verizon to provide this data.

Data Request No. 4: Please provide Verizon's total intrastate toll minutes of use in Washington for the most recent 12-month period for which data is available.

Data Request No. 5: For the most recent 12-month period for which data is available, please provide intrastate toll minutes of use in Washington for each of the following intraLATA toll discount calling plans offered by Verizon: GTE Easy Savings Plan for Business, GTE Easy Savings Plan for Residence, GTE Easy Savings Flat Rate Plan for Business, Sensible Minute for Residence, GTE Business Value Cents, and GTE Residence Value Cents. When measured as part of a particular plan, please provide a breakdown of minutes by Peak/Off-Peak.

12. Verizon has provided AT&T with revenue and cost information, some but not all of which on a per minute of use basis. AT&T obviously cannot make its own calculations of Verizon's revenues and costs on a per minute of use basis if AT&T does not know the number of toll minutes, both in total and for each of Verizon's toll plans. The information certainly can be protected under the terms of the Protective Order, but Verizon has identified no basis on which AT&T should be denied access to this critically important information.

Data Request No. 6: Does Verizon provide Billing and Collection services to interexchange carriers ("IXCs") in Washington for toll service? If so, for the most recent 12-month period for which data is available, please provide

- a. Verizon's total revenues in Washington associated with billing and collection services, disaggregated by (1) intrastate intraLATA, (2) intrastate, and (3) interstate toll services; and

b. The total number of IXC originating access minutes of use for which billing and collection services are rendered in Washington.

13. The rates that Verizon charges other carriers for billing and collection is relevant as a point of comparison both to the costs that Verizon alleges that it incurs to provide such service and the rates that Verizon charges its affiliates for such service. The extent to which Verizon's rates to unaffiliated carriers exceeds cost tends to demonstrate whether billing and collection is effectively a monopoly service. Similarly, Verizon's provisioning of billing and collection to unaffiliated carriers at rates that are significantly higher than the rates Verizon charges its affiliates tends to demonstrate both discrimination and cross-subsidization. AT&T has requested this information in a form that will allow calculation of billing and collection on a per minute of use basis. AT&T is entitled to discover this data.

Data Request No. 17: Please provide the most recent total number of local exchange end user customers that Verizon serves in the state of Washington. Of that number, please identify (a) the number who are presubscribed to Verizon's toll services; (b) the number who are presubscribed to intraLATA toll services provided by Verizon affiliates; and (c) the number who are presubscribed to interLATA toll services provided by Verizon affiliates.

Data Request No. 18: Please provide the total number of local exchange end user customers that Verizon served in the state of Washington on January 1, 1995. Of that number, please identify (a) the number who were presubscribed to Verizon's toll services; and (b) the number who were presubscribed to toll services provided by Verizon affiliates.

14. The number of Verizon local exchange end user customers that are presubscribed (and were presubscribed prior to passage of the Act) to toll services provided by Verizon, Verizon affiliates, and unaffiliated carriers is one means of measuring historic and

current relative market shares. The extent to which Verizon and/or its affiliates enjoy monopoly shares of the toll markets in Washington tends to demonstrate that Verizon's excessive access rates and cross-subsidization of its affiliates and its own toll operations has undermined and is continuing to undermine effective competition in Washington. Again, such information is subject to protection from disclosure to persons who have not signed the Protective Order, but AT&T and its representatives who are bound by that order are entitled to the requested information.

RELIEF REQUESTED

WHEREFORE, AT&T requests the following relief:

- A. An order from the Commission compelling Verizon to provide responses to the AT&T data requests referenced in this Motion; and
- B. Such other or further relief as the Commission finds fair, just, reasonable, and sufficient.

DATED this _____ day of December, 2002.

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By _____
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