

BEFORE THE
WASHINGTON 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.)	XO RESPONSE TO VERIZON
)	MOTION TO HOLD
with)	PROCEEDING 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>)	
_____)	

XO Washington, Inc., provides the following response to the Motion of Verizon Northwest Inc. (“Verizon”) to Hold Proceeding in Abeyance Until June 15, 2004 (“Motion”). XO opposes the Motion to the extent that it includes aspects of the *Triennial Review Order*¹ that are unaffected by the current judicial appeals of that order.

DISCUSSION

1. XO has consistently taken the position that the Commission should require Verizon promptly to implement the provisions of the Federal Communications Commission’s (“FCC’s”) *Triennial Review Order*. These issues include the following:

- a. Commingling and combinations of unbundled network elements (“UNEs”) and tariffed services;
- b. Routine Network Modifications;

¹ *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, Report and Order, 18 FCC Rcd 16978 (2003).

- c. Enhanced Extended Link (“EEL”) service eligibility criteria; and
- d. Whether the Commission should require Verizon to continue to provide all UNEs that Verizon currently is providing until (a) the judicial appeal process has concluded, or (b) the Commission determines whether Verizon must provide any UNEs that are no longer required under FCC rules pursuant to other aspects of federal or state law.

XO has also proposed that Commission consideration of the remaining issues, specifically issues impacted by the ongoing judicial appeals of the *Triennial Review Order*, be deferred until the appeal process has concluded.

2. In its Motion, Verizon asks the Commission to suspend the proceedings to address *all* issues raised in and by Verizon’s petition for arbitration until June 15, 2004, when the current stay of the D.C. Circuit’s mandate in *USTA II*² will expire. The Motion ostensibly is based on the need to conserve party resources while undertaking commercial negotiations to resolve disputes over unbundled access to network elements. Whatever applicability this rationale has to the issues impacted by *USTA II*, it does not justify postponing Commission resolution of the issues that are unaffected by the D.C. Circuit’s decision.

3. Issues unaffected by *USTA II* will not even be addressed, much less resolved, by commercial negotiations. Postponing Commission resolution of these issues thus would not conserve any Commission or party resources but only would enable Verizon to prolong its refusal to implement fully effective FCC requirements. Verizon, for example, continues to refuse to permit competing local exchange companies (“CLECs”) to commingle unbundled network elements (“UNEs”) and tariffed services, requiring CLECs to maintain duplicative facilities and inefficient network configurations at

enormous cost to the CLECs and unjust enrichment to Verizon. Similarly, Verizon continues to maintain its position that it can refuse to provision UNEs if to do so would require the same routine network modifications that Verizon makes to provide the exact same facilities to end users and other customers of its tariffed services. Accordingly, granting Verizon's Motion for issues unaffected by *USTA II* would conserve only Verizon's efforts to continue to impair the development of effective local exchange competition in Verizon local service territory in Washington.

CONCLUSION

For the foregoing reasons, the Commission should deny Verizon's Motion with respect to issues that are not impacted by *USTA II*.

DATED this 18th day of May, 2004.

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By _____
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² *United States Telecom Ass'n v. FCC*, 359 F.3d 554 (D.C. Cir. 2004).