

Agenda Date: October 23, 2002
Item Number: A4

Docket: UT-020979
Company Name: Verizon Northwest Inc.

Staff: Tani Thurston, Regulatory Analyst
Bob Shirley, Policy Analyst

Recommendation:

Deny the request of Verizon Northwest Inc., for extension of the 18-months allowed by rule to provide service to two Customers in the Company's Loomis exchange.

Background

On July 26, 2002, Verizon Northwest Inc., (Verizon) filed a request to extend its 18-month requirement to provide service to two Customers along Cecile Creek Road near Loomis in Okanogan County. WAC 480-120-071(2)(a), Extension of service, states the Company must provide service "...within eighteen months after a request is made and the customer makes the initial payment, unless the Commission extends the time on a showing of good cause."

The purpose of the 18-month period is to allow companies time to conduct engineering feasibility studies, to coordinate scheduling orders, and to manage other issues that arise in the installation process. In order to install service within the 18 months, Verizon was required to provide service on July 19, 2002, for the first customer and August 14, 2002, for the second customer. The Customers are neighbors both residing on Cecile Creek Road. Verizon scheduled construction to begin in the spring of 2002.

In its request, Verizon states the delay in provisioning service was due to a dispute between Okanogan County and the Department of Natural Resources (DNR) regarding the ownership of the road to these two Customers. The Company requested a three-month extension from the date it received the County permit unless inclement weather impacts further construction which could cause further delay of construction. The Company ultimately received the County permit the end of August 2002.

Verizon stated that on August 10, 2001, DNR contacted Verizon and advised the Company that Cecile Creek Road was private property and the Customers would need to secure private easements from DNR before Verizon would receive a permit. On April 26, 2002, DNR found cable lying at the construction site and again contacted the Company to advise the Company not to construct until it had obtained a permit. In the first part of May 2002, Verizon advised the Customers of DNR's requirement for them to obtain the easements. The Customers then researched historical property maps and contacted Okanogan County, suggesting Cecile Creek Road was a county road. The County worked with DNR to determine which agency had jurisdiction of this road. On May 30, 2002, DNR advised Verizon that DNR and the County agreed that Cecile Creek Road is a county road. In late August 2002, Verizon received the permit from Okanogan

County and proceeded with the construction along Cecile Creek Road on September 3, 2002.

On September 9, 2002, the Bureau of Land Management (BLM) stopped construction, stating the Company needs a permit from that agency. BLM advised Verizon that the Washington Department of Fish and Wildlife (DFW) may require a permit as well. The Company has filed for a permit from BLM. Department of Fish and Wildlife has advised the Company that no permit is needed from it.

Customers' Comments and Verizon's Response:

The affected Customers provided written comments in response to Verizon's request for extension of the 18-month requirement. The Customers stated they were in direct contact with the Company's Engineer during the spring and summer of 2001. Between the months of April and June 2001, the Company advised the Customers it was obtaining the needed easements and permits. Even as late as September 2001, in communicating the status of the construction project to one of the Customers, the Company did not mention the Customers' need to resolve any easement issues. The Customers were under the impression that the Company was obtaining the easements from DNR.

The Customers stated in their comments that if they had known about their responsibility to obtain the easements by December 2001, they would have been able to obtain the easements in time for the Company to start construction and complete the project within the required 18 months. The Customers stated that once the Company informed them of the situation, they were able to assist in getting the matter resolved in a few months. The Customers believe the Company was not timely in filing for the County permit in the summer of 2002, which again caused delay in initiating construction.

In the Company's response to the Customers' comments, it maintains there were miscommunications between the Company and the Customers. Verizon acknowledged it did not advise the Customers of their easement responsibilities. However, the Company states the easements were only one of many factors that impacted the Company's ability to complete this job, and that it was not a decisive factor in the need for the extension of the rule's deadline.

The Company explained that there is a history of property issues in this area and that it assumed the Customers were aware of this situation. The Company states that even if the Customers had obtained the easements from DNR in 2001, the Okanogan County permit application would still have been filed in the April/May 2002 timeframe. The Company stated that once Okanogan County and DNR resolved the property issues, the Company applied to the County for the permit and it was granted. It contends that it did not have any reason to believe that BLM or any other agency would require a permit because all property owners had relinquished control of the road to the County. The County, states Verizon, has the responsibility to ensure that no other entity has claims to the property.

Verizon also stated in its response that it started construction during the week of September 3, 2002. On September 9, the Bureau of Land Management (BLM) ordered a work stoppage, directing the Company to submit an application for a permit to cross BLM property.

Finally, the Company stated it was the government agencies that caused the need for the extension.

Discussion

This request for extension of the 18-month requirement to provide service is the first the Commission has received under the new rules. Staff does not believe Verizon has provided a sufficient argument to support a finding of good cause. Staff believes that Verizon's inactions regarding the property ownership and easement issues caused the service extension delay.

Staff believes the Company had an obligation to keep the Customers informed about ownership, easement, and land use issues in the immediate area of the extension. Verizon itself has stated that it failed to inform the Customers about DNR's statement to Verizon that Customers would need to obtain the individual utility easements. The Company knew about the requirement on August 10, 2001, but did not inform the Customers until April 2002. Staff believes the Company's lack of communication with its Customers was the cause of the delay of construction. It waited nearly eight months to inform the Customers about DNR's requirement to obtain the easements.

When the Company advised the Customers in April 2002 about the requirement to obtain the easements from DNR, the Customers researched the road ownership, determined it had been a County road for over 100 years, and brought that to the attention of the Company, DNR, and Okanogan County. If Verizon had informed the Customers in August 2001, when it first understood that DNR owned the road, the Customers needed to obtain easements from DNR, the road ownership issue could have been resolved in the winter of 2001. With the differences between DNR and Okanogan County resolved and construction underway as planned by Verizon, then BLM could have intervened in May instead of September. It is reasonable to believe that Verizon, which expects a permit soon from BLM, could have received a permit in June or July.

In May 2002, Commission Staff worked with both the Customers and the Company to determine the cause of the delay of service. Verizon first informed Staff that it did not complete construction in 2001 because of the engineering feasibility study, the winter's inclement weather, the number of ongoing service extensions and the easement issue with DNR. However, the Company later informed Staff that the sole reason it did not complete construction in 2002 was the easement issue with DNR and the County. Finally, in its request for extension of the 18 months, the Company states that the cause of the delay was the ownership dispute between the County and DNR.

Verizon informed Staff in September 2002 that it had stepped up its efforts to complete the extension to these Customers and that it had made it a high priority. Staff takes Verizon at its word, and the construction in early September is evidence of the effort. However, the Company had 18 months to complete the construction to provide service. At least as early as August 2001, it knew there were ownership and permit issues that required resolution. Some of the ownership issues appeared at that time to be ones that needed customer involvement to resolve, however Verizon did not inform the Customers for almost eight months, nearly half the time permitted for completion of an extension.

Staff believes Verizon should have made certain the Customers were fully aware of the easement issues with DNR in the summer of 2001. If the Company had communicated this to the Customers at that time, the Company would have been able to complete construction and provide service within the required 18 months. The Company did not provide any evidence to Staff that there were other issues that ultimately caused the Company's delay in completing construction. Therefore, Staff does not believe the Company proved the test of "good cause" to allow the extension of the 18-months to provide service to these two Customers.

Recommendation:

Issue an order denying the request of Verizon Northwest Inc., for an extension of the 18-months allowed by rule to provide service to two Customers in the Company's Loomis exchange.

Attachment