



RECEIVED
RECORDS MANAGEMENT

May 26, 2004

04 MAY 28 AM 9:59

Ms. Carole J. Washburn
Executive Secretary
Washington Utilities and
Transportation Commission
1300 S. Evergreen Park Drive S.W.
P.O. Box 47250
Olympia, Washington 98504-7250

Verizon Northwest Inc.
1800 – 41st Street
P.O. Box 1003
Mail Code: WA0101RA
Everett, Washington 98201
Fax: 425 261-5262

Dear Ms. Washburn:

Re: UT-043013

I am writing on behalf of Verizon Northwest (Verizon) to inform the Commission that Verizon, pursuant to its existing interconnection agreements, has sent notices to CLECs doing business in Washington about the availability of certain unbundled network elements. The notices state that, as of August 22, 2004, Verizon will no longer accept new orders for (1) unbundled Enterprise Switching, or unbundled shared transport for use with Enterprise Switching. The notices also remind CLECs of the various options available to them to continue to receive wholesale services from Verizon for their embedded base of customers as of August 22 under alternative arrangements. Copies of the notices are attached.

In the *Triennial Review Order* (“TRO”), the FCC issued new rules and regulations that, among other things, established that requesting carriers are not impaired without access to unbundled Enterprise Switching or shared transport used in connection with Enterprise Switching, and that incumbent LECs are therefore no longer required to provide access to those elements under the 1996 Act.¹ The terms of existing interconnection agreements do not require Verizon to provide access to unbundled network elements that it is not required to provide under federal law. In accordance with those provisions, Verizon has provided notice of its intent to cease providing access to the unbundled network elements described above in 90 days. Verizon will continue to accept orders for those elements until that date.

This 90-day notice period substantially exceeds the requirements of law. After the issuance of the *TRO* on August 21, 2003, carriers had seven months – until the end of March, 2004 – to discontinue their use of unbundled DS1 Enterprise Switching and associated shared transport. Verizon is extending that period even further by providing CLECs until August 22, 2004, to make alternative arrangements – five months beyond what the *TRO* provides and a full year after the *TRO* eliminated these UNEs.

Verizon has also informed carriers that they have the option to continue to receive services on a resale basis under section 251(c)(4). Verizon has further provided a framework – subject to negotiation – for commercial service arrangements. In addition, Verizon has requested that any carrier that believes that its particular interconnection agreement requires Verizon to continue to provide the unbundled network elements at issue after August 22 to inform Verizon in writing of the basis for its position.

¹ See *Triennial Review Order*, 18 FCC Rcd 16978, ¶¶ 419, 421, 451; 47 C.F.R. § 51.319(d)(3).

Ms. Carole J. Washburn, Executive Secretary
Page 2

These notices are fully consistent with Verizon's pending Petition for Arbitration in Docket No. UT-043013. The pending Petition sought to facilitate the adoption of a uniform amendment to those interconnection agreements to (1) reflect the terms of the *TRO* – including the portions of that order that impose additional obligations on Verizon – and (2) clarify the consequences of subsequent legal developments during the course of federal court review of that FCC decision. Verizon continues to believe that it is important for this Commission to resolve the legal issues that have been raised in that docket. By doing so, the Commission can minimize disputes concerning parties' obligations under existing agreements, and create a consistent and orderly process for implementing future changes in governing law. At the same time, Verizon proposed – and Judge Rendahl granted – a brief abeyance in that proceeding, until June 15, 2004, to facilitate commercial negotiations. Verizon's notices (attached) again invite such negotiations.


But the existence of that pending amendment proceeding could not and does not alter parties' current obligations under existing interconnection agreements. The enclosed contract notices do not depend in any way on the resolution of the amendment arbitration proceedings.

Verizon's action also is fully consistent with Judge Rendahl's Order No. 4 in Docket No. UT-043013. There, in paragraph 18, Judge Rendahl granted Verizon's motion for abeyance until June 15, 2004, "subject to the condition that Verizon maintains the status quo under existing interconnection agreements by continuing to offer UNEs consistent with the agreements at existing rates pending completion of the arbitration." Verizon is maintaining the status quo: it will offer UNEs precisely as required by its existing agreements.

Finally, Verizon notes that on May 20, 2004, a group of CLECs filed a motion in Docket No. UT-040313 asking the Commission to require Verizon to continue to provide mass market circuit switching, high-capacity loops and transport, and dark fiber as UNEs, even after the D.C. Circuit's decision *vacating* the FCC's rules with respect to those network elements becomes effective and Verizon is no longer required to provide those elements as UNEs. The CLECs' request is unlawful and the Commission cannot grant it. Verizon will respond to this dispositive motion in writing, as permitted by WAC 480-07-380.

In sum, Verizon's course of action is fully consistent with the terms of its interconnection agreements and with its efforts to work with the Commission and other carriers to adopt a uniform amendment to those agreements. If you have any questions, please do not hesitate to contact me at 425.261.5691.

Very truly yours,



David S. Valdez
Vice President-Public Policy and External Affairs

C: Marilyn Showalter, Chairwoman
Richard Hemstad, Commissioner
Patrick Oshie, Commissioner