

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

In the Matter of the Review of:)	DOCKET NO. UT-023003
Unbundled Loop and Switching)	
Rates; the Deaveraged Zone)	TWENTY-SIXTH SUPPLEMENTAL
Rate Structure; and Unbundled)	ORDER
Network Elements, Transport,)	
and Termination (Recurring)	ORDER GRANTING VERIZON'S
Costs))	PETITION FOR RECONSIDERATION
)	AND MOTION FOR AMENDMENT;
)	DENYING REQUEST FOR
)	COMMISSION WORKPAPERS
.....)	

1 **Synopsis:** *The Commission grants Verizon's petition for reconsideration and motion for amendment of the 25th Supplemental Order and denies Verizon's request for Commission workpapers.*

2 **Background.** On February 9, 2005, the Commission entered its 24th Supplemental Order rejecting Verizon's proposed recurring rates and establishing new rates for unbundled network elements, switching, transport, and termination. The order directs Verizon to make a compliance filing ten days from the date of the order, providing the Commission with a single rate for each network element at issue. The network element rates are to be a combination of the rates derived from the Verizon and HM 5.3 Hatfield cost models, but reflecting a 60% weighting of the Verizon model results and a 40% weighting of the HM 5.3 Hatfield model results. The compliance filing was to have been made on February 22, 2005.

3 On February 16, 2005, Verizon submitted electronically a motion to extend the time for filing a petition for clarification of the 24th Supplemental Order and to extend the time for making a compliance filing pursuant to the order. Verizon

further stated that it would file a petition for reconsideration within the ten-day statutory time limit provided for such petitions, on February 22, 2005.

- 4 In its motion to extend time, Verizon requested until March 10, 2005, to file a petition for clarification of the 24th Supplemental Order and until 45 days after the Commission rules on both the petition for clarification and the petition for reconsideration to make a compliance filing. Verizon stated that AT&T and Staff have no objection to Verizon's requests.
- 5 Separate from its motion for an extension, Verizon sent a letter to the Executive Secretary of the Commission requesting that the Commission provide Verizon with the Commission's workpapers "used to create cost estimates in the 24th Supplemental Order and access to electronic versions of the same through the cost models as soon as is feasible."¹
- 6 In the 25th Supplemental Order, entered on February 18, 2005, the Commission granted Verizon's motion for an extension except for three elements related to the Federal Communications Commission's (FCC's) order adopting new unbundling rules pursuant to the Washington D.C. Circuit Court of Appeals remand of the Triennial Review Order.² The new unbundling rules address the appropriate impairment standard and whether requesting carriers are impaired without access to DS1, DS3 and dark fiber dedicated transport (dedicated transport); DS1, DS3 and dark fiber (high capacity) loops; and mass-market switching (UNE-P).³

¹ Letter from Catherine Kane Ronis, attorney, to Carole Washburn, Executive Secretary, Docket No. UT-023003, February 16, 2005.

² *In the Matter of Unbundled Access to Network Elements Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, WC Docket No. 04-313, CC Docket No. 01-338, released February 4, 2005.

³ *Id.*, ¶5.

- 7 As part of the order establishing the new unbundling rules, the FCC finds that under certain conditions, requesting carriers are not impaired with regard to UNE-P, dedicated transport and high capacity loops. For these elements the FCC establishes a rate to be charged during a transition period, after which the elements need not be unbundled. During the transition period, the FCC directs that for dedicated transport and high capacity loops, the element may be priced “at the higher of (1) 115 percent of the rate the requesting carrier paid for the ... element on June 15, 2004, or (2) 115 percent of the rate the state commission has established or establishes, if any, between June 16, 2004 and the effective date of this Order [March 11, 2005], for that...element.” *Order* at ¶¶ 145, 198.
- 8 Similarly, for UNE-P, the FCC establishes a transition period price of: “the higher of (1) the rate at which the requesting carrier leased UNE-P on June 15, 2004, plus one dollar, or (2) the rate the state public utility commission establishes, if any between June 16, 2004, and the effective date of this Order, for UNE-P plus one dollar.” *Id.*, ¶228.
- 9 In the 25th Supplemental Order, the Commission expressed concern that in light of the FCC’s March 11, 2005, termination date for state commission action on rates for UNE-P, dedicated transport and high capacity loops, it was necessary that the Commission enter an order on compliance before that date. Therefore, in the 25th Supplemental Order, the Commission required Verizon to file a petition for clarification by February 22, 2005, and to make a compliance filing on February 22, 2005 with regard to UNE-P, dedicated transport and high capacity loop elements, in order to provide the Commission sufficient time to review the filings and enter an order before March 11, 2005. The Commission otherwise granted Verizon’s request for an extension until March 10, 2005, for filing a petition for reconsideration. The Commission reserved ruling on Verizon’s request for 45 days beyond entry of Commission rulings on Verizon’s petitions for making a compliance filing.

10 **Petition for Reconsideration and Motion for Amendment of 25th Supplemental Order.** On February 18, 2005, Verizon filed a petition for reconsideration and motion for amendment of the 25th Supplemental Order. Verizon argued that: 1) the Commission's 24th Supplemental Order, entered on February 9, 2005, established rates for mass market switching, dedicated transport and high capacity loop elements affected by the FCC's new unbundling rules and, in so doing, triggered the FCC's transition pricing regardless of when the Commission rules on Verizon's compliance filing; 2) Verizon could not, under any circumstances, make a compliance filing regarding the three elements by February 22, 2005, because the company had still not fully reviewed the lengthy 24th Supplemental Order; 3) Verizon cannot run the HM 5.3 model as part of its compliance filing because it does not have access to TNS⁴ and other data required to make changes ordered by the Commission; and 4) Verizon has not yet received the Commission's workpapers, which it claims are necessary to enable Verizon to run and verify its compliance filing.

11 **Discussion and decision.** The Commission acknowledges Verizon's statements in its petition for reconsideration that the Commission's February 9, 2005 24th Supplemental Order established unbundled network element rates for purposes of determining transition rates for UNE-P, dedicated transport, and high capacity loops in accord with the FCC's new unbundling rules. Based on these assurances from Verizon, the Commission grants Verizon's request for an extension of time to file a petition for clarification with regard to those transition elements. As it did in the 25th Supplemental Order, the Commission will reserve ruling on the required time for compliance filing.

12 The Commission rejects Verizon's claim that it cannot run the HM 5.3 model without access to TNS data. The Commission observes that it did not make any changes involving the TNS data in its adjustments to the HM 5.3 model and

⁴ TNS stands for TaylorNelsonSofres, the company that provides preprocessing data for the Hatfield Model, HM 5.3, used in this proceeding. See 24th Supplemental Order, n. 151.

therefore access to TNS data beyond what is already included in the HM 5.3 model is not required to verify the Commission's HM 5.3 cost runs. Moreover, the Commission identified in detail in the 24th Supplemental Order all the changes it made to the HM 5.3 model (Appendix A to the order).

- 13 In addition the Commission concludes that access to Commission workpapers is not appropriate or necessary for Verizon "to run and verify its compliance filing."⁵ In prior cost proceedings, the Commission has not provided the parties "specific information regarding the manner in which the Commission altered parties' cost models to produce the results stated in the Order."⁶ Furthermore, Commission workpapers related to runs of the cost models performed by the Commission's experts in this proceeding are exempt from disclosure because they are related to a specific controversy and are not generally discoverable.⁷
- 14 The Commission provided a significant amount of information to assist the parties with verification and compliance in Appendix A to the 24th Supplemental Order. The Commission was unable to provide the same level of specificity for the Verizon model as for the HM 5.3 model because the Verizon model did not provide a file that allowed the tracking of changes to the Verizon model as the HM 5.3 model did. The Commission expressly requested Verizon to build such a function into its model in the future. Nevertheless, the Commission remains open to providing clarification to the parties pursuant to the parties' timely petitions for clarification, including processes established in Commission rules such as WAC 480-07-840, which addresses clarification of a final order by conference.

⁵ Petition for Reconsideration and Motion for Amendment, p. 3.

⁶ Docket No. UT-960369, et al, *Ninth Supplemental Order, June 5, 1998*, ¶ 86.

⁷ RCW 42.17.310(1)(i).

ORDER

15 THE COMMISSION ORDERS That Verizon's petition for reconsideration and motion to amend the 25th Supplemental Order is granted. Verizon's request for an extension until March 10, 2005, to file a petition for clarification as to all unbundled network elements at issue in this proceeding is granted. The Commission holds in abeyance a determination as to the appropriate time period after the Commission enters its orders on Verizon's petitions for clarification and reconsideration when Verizon will be required to make a compliance filing. The Commission declines to provide Verizon with workpapers documenting the Commission's cost model runs.

DATED at Olympia, Washington, and effective this 22nd day of February, 2005.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

RICHARD HEMSTAD, Commissioner

PATRICK J. OSHIE, Commissioner