

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of) DOCKET NO. UT- 041127
)
THE JOINT PETITION FOR) TEL WEST COMMUNICATIONS, L.L.C.
ENFORCEMENT OF) ANSWER TO THE PETITION OF
INTERCONNECTION) VERIZON FOR RECONSIDERATION OF
AGREEMENTS WITH VERIZON) ORDER NO. 3
NORTHWEST, INC.

COMES Now, Tel West Communications, L.L.C. (“Tel West”) and files this *Answer to the Petition of Respondent Verizon Northwest Inc. (“Verizon”) for Reconsideration of Order No. 03 (“Verizon’s Petition”)*.

1. In Order No. 3, the Washington Utilities and Transportation Commission (“WUTC” or “Commission”) found, in part, after extensive briefing by all the parties, including Verizon, that Verizon’s reliance on past rulings by the Federal Communication Commission (“FCC”):

Provide[s] an insufficient basis for the rash notion that ILECs may replace existing circuit switches with new technology to avoid existing unbundling obligations. We believe the FCC would have stated such an important policy decision in more than a few sentences and a footnote.

Order No. 3, ¶ 65.

2. *Verizon’s Petition* is, for the most part, a reiteration the same few sentences and footnote from prior FCC orders that the WUTC has previously found to be an insufficient basis for granting the relief Verizon is again seeking. As such, it should be denied.

3. The ultimate issue herein is whether Verizon must honor its interconnection agreements. Order No. 3, ¶ 127; Finding of Fact, ¶ 17. It is telling, therefore, that *Verizon’s Petition* is brought pursuant to WAC 480-07-850, “Rehearing of a final order

by petition,” *Verizons Petition*, ¶ 1. Since the ultimate issue is adherence to the contractual terms of interconnection agreements, the correct provision of the Washington Administrative Code is WAC 480-07-650, “Petitions for enforcement of telecommunications company interconnection agreements.” Though neither section of the WAC provides a legal basis by which to judge a petition for reconsideration, see WAC 480-07-850 and WAC 480-07-650(C), Verizon’s citation to WAC 480-07-850 does highlight a fundamental flaw in Verizon’s arguments that it fails to address a critical finding contained in Order No. 3: honoring interconnection agreements.

4. Because of the Commission’s correct finding that the issue of whether ILECS may replace existing circuit switches with new technology to avoid existing unbundling obligations is too important policy decision to be decided by relying on a few sentences and a footnote in various FCC orders, the Commission must also find that Verizon’s references to partial footnotes contained the *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, Order on Remand, CC Docket 01-338, WC Docket No. 04-313, Order on Remand, ¶ 220 n. 598 (rel. Feb. 4, 2005) (“Remand Order”) is also inadequate. See *Verizon’s Petition*, ¶ 25 (partially citing *Remand Order*, ¶ 220, n. 598, but not including portion of the footnote wherein the FCC emphasized it was addressing *competitive LEC’s*, and not ILECs, incentives to deploy facilities (emphasis in original)); *Id.*, ¶ 18, n. 49 (partially quoting footnote but failing to address that forbearance from unbundling is with regard to *broadband elements* (emphasis in original)).

5. The *Remand Order*, without appendixes, is 137 pages. Yet, there is no unequivocal holding by the FCC to support *Verizon’s Petition*.

6. For the reasons stated above and by the Commission in Order No. 3, Order No. 3 does not conflict with federal law; hence, all of Verizon's other argument are without merit.

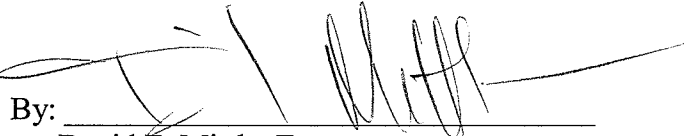
PRAYER

Wherefore, Tel West requests this Commission deny in full the *Petition of Verizon for Reconsideration of Order No. 3* and that it be awarded such other and further relief to which it may be entitled.

Dated this 14th day of March, 2005.

Respectfully submitted,

TEL WEST COMMUNICATIONS, L.L.C.

By: 

David E. Mittle, Esq.
Law Office of David E. Mittle
208 Maynard
Santa Fe, NM 87501
(505) 982-4021 (voice)
dmittle@att.net
New Mexico Bar # 6597

CERTIFICATE OF SERVICE

I hereby certify that I served *Tel West Communications LLC Answer to the Petition of Verizon for Reconsideration of Order No. 3* was served, with the correct number of copies, on the following by e-mail at records@wutc.wa.gov and by overnight delivery.

Carole Washburn, Executive Secretary
Washington Utilities & Transportation Commission
1300 S. Evergreen Park Drive SW
Olympia, WA 98503-7250

I further certify that I served a true and correct copy of the foregoing document on the following parties by e-mail and U.S. Mail:

Timothy J. O'Connell
Stoel Rives
600 University St., Ste 3600
Seattle, WA 98108
tjoconnell@stoel.com
jhridge@stoel.com

Michel Singer Nelson, Esq.
Senior Attorney
MCI
707 – 17th Street, Suite 4200
Denver, Colorado 80202
michael.singer_nelson@mci.com

Letty S.D. Frisen
Senior Attorney
AT&T Communications of the Pacific Northwest, Inc.
919 Congress Ave., Suite 900
Austin, TX 78701-2444
lsfriesen@att.com

Brooks E. Harlow, Esq.
Miller Nash LLP
4400 Two Union Square
601 Union Street
Seattle, Washington 98101-2352
brooks.harlow@millernash.com

Jonathan Thompson
Assistant Attorney General
1400 S. Evergreen Park Dr. SW
P.O. Box 40128
Olympia, WA 98504-0128
jthomps@wutc.wa.gov

Charles H. Carrathers III
Vice President & General Counsel
Verizon Northwest
600 Hidden Ridge
Mail Code HQE02H45
Irving, TX 75015-2092
Chuck.carrathers@verizon.com

Ann E. Rendahl
Administrative Law Judge
1300 S. Evergreen Park Drive SW
P.O. Box 47250
Olympia, WA 98504-0128
arendahl@wutc.wa.gov

Said copies were served by placing them in sealed envelopes addressed to said party's/attorneys' last know addresses as shown and deposited in the United States Mail, and that the postage thereon was prepaid and also via electronic mail to the addresses indicated.

DATED this 14th day of March, 2005.



David Mittle, NMSBA # 6597