

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of

THE JOINT PETITION FOR
ENFORCEMENT OF
INTERCONNECTION AGREEMENTS
WITH VERIZON NORTHWEST, INC.

DOCKET NO. UT-041127

COMMISSION STAFF'S
ANSWER TO VERIZON'S
PETITION FOR
RECONSIDERATION OF
ORDER NO. 3

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Commission Staff submits this Answer to Verizon Northwest Inc.'s (Verizon's) Petition for Reconsideration of Order No. 3. Contrary to Verizon's arguments in its Petition, the result reached by the Commission in its Order No. 3, dated February 22, 2005, is entirely consistent with FCC regulations and policy and properly concludes that Verizon's efforts to deny its competitors access to unbundled circuit switching and the unbundled network element platform (UNE-P) in the Mount Vernon exchange is in violation of the interconnection agreements governing the relationship between Verizon and its various competitors.

2 In its Order No. 3, the Commission concluded that the FCC has relieved ILECs of the obligation to unbundle packet switches only for new packet switch deployment, and not when the ILEC replaces an existing circuit switch. Conclusion of Law No. 16; ¶ 65.

3 Staff submits that another reasonable conclusion from the scant statements by the FCC (referred to in Order No. 3 at ¶¶ 64, 65) is that the FCC only intended to relieve ILECs of unbundling when the ILEC deploys a switch that actually provides a modicum of broadband services and not just narrowband circuit switching. The FCC's policy of promoting the deployment of broadband services¹ is hardly served by the deployment of a new switch that, as presently configured, does nothing more than provide the same narrowband circuit switching that was provided by the previous switch.

4 A different question would be presented if the new switch were actually used in providing broadband service along with the narrowband circuit switching functionality,² but there is no allegation that it is doing so and the only evidence

1 "[W]e decline to require unbundling on a national basis for stand-alone packet switching because it is the type of equipment used in the delivery of broadband." *In the Matter of Review of Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, Implementation of the Local Competition Provisions for the Telecommunications Act of 1996, Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket Nos. 01-338, 96098, 98-147, Report and Order and Order on Remand and Further Notice of Proposed Rulemaking, FCC 03-36 (rel. August 21, 2003)("Triennial Review Order") at ¶ 541.

2 In its February 17, 2000, Petition for Clarification to the FCC, MCI WorldCom asked the Commission, at page 3, to clarify "that packet switching must be unbundled as a network element to

specifically on point is to the contrary. Staff engineer Robert Williamson stated in his declaration at ¶¶ 18-19:

Verizon's new Nortel Succession ATM-based local switching fabric provides nothing more than narrow band voice switching capability. The new ATM switch provides no new capabilities and only provides the same capability previously provided by the Nortel DMS-100's legacy switching fabric (the basic switching function of connecting lines to lines, lines to trunks, trunks to lines, and trunks to trunks). There is no provision of broadband or advanced services nor is there any direct connection from the new switch fabric to a DSLAM. Therefore, there is no reason why Verizon should not provide unbundled access to the new Nortel Succession switch under cost based rates and the same terms and conditions as it was required to provide access to the old Nortel DMS-100 switch.

* * *

The functionality of the new Verizon ATM switch fabric is the exact same functionality that the FCC uses to define local circuit switching, which includes, "The features, functions and capabilities of the switch include the basic switching function of connecting lines to lines, lines to trunks, trunks to lines, and trunks to trunks." UNE Remand Order, ¶ 244 & n.474. An external analysis of the new switch fabric reveals that what you see is what you get, or in this case what you saw before the conversion is what you see today. The functionality that remains following the conversion to the new Mount Vernon ATM switch fabric, is the same functionality that was provided by the old legacy switch, the features, functions, and capabilities of the basic switching function of connecting lines, to lines, lines to trunks, trunks to lines and trunks to trunks.

To the extent that Verizon's customers in the Mount Vernon exchange have access to broadband service via Verizon's digital subscriber line (DSL) service, they receive that service not as a function of the Nortel Succession switch (which is bypassed by

the extent that it is used to provide narrowband or voice services." In the Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98, Petition of MCI WorldCom for Clarification, at 3 (filed Feb. 17, 2000). Here, there is no evidence that any packet switching functionality at all is being provided by the Nortel Succession switch.

broadband packet traffic), but as a function of Verizon's Digital Subscriber Line Access Module (DSLAM). *Id.* at ¶¶ 13-15. Because the DSLAM provides true packet switching, Verizon is not required to unbundle the DSLAM for its competitors.³ In the Triennial Review Order, the FCC declined to unbundled packet switches because it concluded that CLECs are "actively deploying their own packet switches, including routers and DSLAMs" Triennial Review Order at ¶ 538.

5 Verizon says the Commission's interpretation of the FCC's holdings on packet switching would defeat the incentives that the FCC intended to create by declining to unbundle ILEC packet switching. Verizon claims that under the Commission's interpretation, it would be required to maintain legacy switching equipment along side new switching equipment in order to be able to continue to provide unbundled circuit switching to CLECs. There is no evidence of this claim in the record. In fact, the evidence is all to the contrary. The Nortel Succession switch deployed by Verizon at Mount Vernon provides exactly the same circuit switching functionality as the switch it replaced.

6 As such, there is no reason, other than the alleged billing system costs, why Verizon could not continue to provide unbundled circuit switching functionality (and UNE-P) to CLECs over the new switch. There is nothing related to the switch

³ See *In the Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, Third Report and Order and Fourth Further Notice of Proposed Rulemaking, CC Docket No. 96-98, 16 F.C.C.R. 1724 (Nov. 5, 1999) ("UNE Remand Order") ¶303.

itself that would have prevented Verizon from replacing its old switch and still honoring its unbundling obligations to the CLECs.

7 It is true that, under the Commission’s interpretation, replacing the old switch would not give Verizon the added “incentive” of raising its competitors’ costs by eliminating their ability to obtain UNE-P at TELRIC-based rates instead of having to purchase services at the resale rate. It is not true, however, that the Commission’s holding would require Verizon to maintain outdated switches for the benefit of competitors.

8 The Commission should affirm its findings that an ILEC is not relieved of unbundling switching under FCC policy or under the interconnection agreements when it deploys what is allegedly a “packet switch” for the sole purpose of providing circuit switching in replacement of an existing circuit switch.

DATED this 14th day of March, 2005.

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