BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of	)	
	)	DOCKET NO. UT- 041127
THE JOINT PETITION FOR	)	
ENFORCEMENT OF	)	**JOINT PETITION FOR**
INTERCONNECTION	)	**ENFORCEMENT OF**
AGREEMENTS WITH VERIZON	)	**ITERCONNECTION**
NORTHWEST, INC.	)	**AGREEMENTS**
(a/k/a GTE)		

Pursuant to WAC 480-07-650(1)(a) and Order No. 10,[1] Advanced TelCom, Inc. ("ATI"), AT&T Communications of the Pacific Northwest, Inc. and AT&T Local Services on behalf of TCG Seattle (collectively "AT&T"), MCImetro Access Transmission Services, LLC. ("MCI"), and United Communications, Inc., d/b/a UNICOM ("UNICOM"), collectively the Joint Petitioners[2], hereby submit this Joint Petition for Enforcement of their interconnection agreements ("ICAs") with Verizon Northwest, Inc. ("Verizon"). As grounds therefor, the Joint Petitioners state as follows:

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[1] In the Matter of the Petition for Arbitration of an Amendment to Interconnection Agreements of Verizon Northwest, Inc. with competitive Local Exchange Carriers and Commercial Mobile Radio Service Providers in Washington Pursuant to 47 U.S.C. Section 252(b), and the Triennial Review Order, Order No. 10 Granting in Part Motion for Enforcement Requiring Verizon to Maintain Status Quo, Docket No. UT-43013 (Sept. 13, 2004) at ¶ 37 (hereinafter "Order No. 10").

[2] Covad Communications Company was a party to the Motion for Enforcement in Docket No.UT 043013. Although it agrees with the views expressed in this Petition for Enforcement, it plans to soon file its own petition with the Commission addressing similar issues, and therefore has not joined as a party to this Petition.

PROCEDURAL HISTORY

1. Pursuant to 47 U.S.C. § 252, each of the Petitioners negotiated, arbitrated and otherwise entered into binding interconnection agreements with Verizon. All of the agreements require, among other things, that Verizon provide unbundled switching and combinations of unbundled network elements ("UNEs"), including the unbundled network element platform ("UNE-P"), throughout its territory to each of the Petitioners. The Washington Utilities and Transportation Commission ("WUTC" or "Commission") approved each of the agreements at issue.

2. Through an industry-wide notice dated June 8, 2004, Verizon informed each of the Joint Petitioners of its plan to replace its "existing Mount Vernon class 5 Nortel DMS-100 switch with a Nortel Succession packet switch."[3] The Notice opines that "Verizon is not required to provide unbundled packet switching" under the Federal Communications Commission's ("FCC's") Triennial Review Order ("TRO") and Verizon will therefore not provide unbundled packet switching at Mount Vernon beginning September 10, 2004.[4]

3. The Notice states further that carriers with unbundled local switching arrangements at the Mount Vernon switch must either terminate the service or convert the lines to resale. If carriers fail to succumb to Verizon's

[3] Notice of Network Change Replacement of DMS 100s with Nortel's Succession Platform in Mt. Vernon, WA, June 8, 2004, at 1 ("Notice"). This Notice is attached hereto as Exhibit A.
[4] *Id.*

demands, Verizon states that it will convert all lines to resale. The Notice threatens further that carriers with "UNE-P dependent line splitting" must submit LSRs to request "an alternative service."[5] In other words, Verizon seeks to eliminate, through its Notice, carrier access to unbundled switching, which includes all UNE combinations that include unbundled switching, e.g., UNE-P and Platform-based line splitting. In July 2004, Verizon sent a second notice to its customers regarding its replacement of the Mount Vernon switch.[6]

4. In response to Verizon's conduct, the Joint Petitioners filed a Motion for Enforcement of Order No. 5, among other things, in the open proceeding addressing Verizon's proposed amendments to its interconnection agreements in Washington, Docket No. UT-43013. Verizon filed a response to the Motion for Enforcement and the Commission held a hearing on the Motion on September 9, 2004. The Commission issued an Order on the Motion on September 13, 2004, instructing the Joint Petitioners to file a Petition for Enforcement pursuant to WAC 480-07-650.

5. The Joint Petitioners bring this Petition for Enforcement and thereby seek a Commission order instructing Verizon to abide by its interconnection agreements. Specifically, the Joint Petitioners bring this Petition to enforce their respective contract provisions requiring that Verizon provide

[5] *Id.* at 3.
[6] Verizon July 20, 2004 letter, attached as Exhibit B (without attachments).

access to unbundled switching and combinations of UNEs that include unbundled switching, such as UNE-P and UNE-P line splitting. This Petition is *not*, as Verizon mischaracterizes it, a request that Verizon unbundle packet switching. The Petitioners do not purport to dictate how Verizon fulfills its contract obligations, but only that it fulfill them. If Verizon is not held to abide by its contracts, the contracts are meaningless in this state.

DISCUSSION

I. WAC 480-07-650(1)(a)(i)

6. Upon receiving the Verizon notice, the Joint Petitioners approached Verizon in an attempt to negotiate Verizon's switch replacement proposal and discuss the various interconnection agreement provisions at issue. Some carriers dealt individually and directly with Verizon, and others relied on Docket No. UT-043013, this Commission's open Verizon interconnection agreement arbitration docket, to voice their concerns with Verizon's discontinuance of unbundled switching at the Mount Vernon central office.

A. Advanced TelCom, Inc.

7. ATI sought to enforce its contract rights regarding this issue by filing pleadings in Docket UT-043013. In ATI's belief, as demonstrated by Verizon's vigorous resistance to the status quo motions in that docket, negotiations with Verizon on this issue would have been fruitless. At no time

since the competitive local exchange carriers ("CLECs") raised this issue, has Verizon expressed a desire to negotiate.

B. AT&T and Its TCG Affiliates

8. AT&T began negotiation with Verizon regarding this issue in relation to several California central offices wherein Verizon is engaged in identical conduct. In regard to Washington specifically, AT&T sent Verizon a letter, attached as Exhibit C-2, which reiterated to Verizon AT&T's needs and request to negotiate the matter. Verizon summarily rejected AT&T's efforts to resolve the disputes; it essentially refused to engage in any negotiations. *See* Exhibit C-3. Verizon's letter rejecting AT&T's efforts.

C. MCI, Inc.

9. MCI sought to enforce its contract rights regarding this issue by filing pleadings in Docket UT-043013. In MCI's belief, as demonstrated by Verizon's vigorous resistance to the status quo motions in that docket, negotiations with Verizon on this issue would have been fruitless. At no time since the CLECs raised this issue, has Verizon expressed a desire to negotiate.

D. United Communications, Inc., d/b/a UNICOM

10. UNICOM sought to enforce its contract rights on this issue by its participation in Docket UT-043013. In UNICOM's belief, as demonstrated by Verizon's vigorous resistance to the status quo motions in that docket,

negotiations with Verizon on this issue would have been fruitless. At no time since the CLECs raised this issue, has Verizon expressed a desire to negotiate.

II. WAC 480-07-650(1)(a)(ii)

11. Verizon, through its proposed substitution of packet switches for circuit switches, intends to cease the provision of unbundled switching and combinations of UNEs that include unbundled switching, to the Joint Petitioners. Such conduct is a blatant breach of the Joint Petitioners' interconnection agreements. While Verizon's Notice informs wholesale customers that Verizon is prepared to move the wholesale customers' end user customers to a resale platform, this offer is not an adequate substitute for switching or UNE-P nor does it cure the fundamental breach of these agreements or the harm to those CLECs whose operational support systems ("OSS") cannot accommodate the resale platform offered.

12. Verizon's interpretation of its interconnection agreements is contrary to the plain language in the agreements. Those existing agreements define "local switching" broadly enough to include packet switching used to provide traditional, narrowband voice services. The Verizon ICAs that are involved in this Petition require Verizon to offer unbundled "local switching," and combinations of UNEs that include "local switching" throughout Verizon's incumbent local exchange territory in Washington. Further, the ICAs generally

define "local switching" as providing the basic switching functions to originate, route, and terminate traffic and any signaling deployed in the switch, without exceptions for the technical functioning of the underlying switch. The following are excerpts from each of the Joint Petitioners' ICAs, where "local switching" is defined.

13. ATI's interconnection agreement requires Verizon to provide local switching without mentioning the type of switch used:

> 10.1.1 The unbundled Local Switching Element includes line side and trunk side facilities (e.g. line and trunk side Ports such as analog and ISDN line side Ports and DSL trunk side Ports) plus the features, functions, and capabilities of the switch. It consists of the line-side Port (including connection between a Loop termination and a switch line card, telephone number assignment, basic intercept, one primary directory listing, presubscription, and access to 911, operator services, and directory assistance), line and line group features (including all vertical features and line blocking options that the switch and its associated deployed switch software is capable of providing and are currently offered to Verizon's local exchange Customers), usage (including the connection of lines to lines, lines to trunks, trunks to lines, and trunks to trunks), and trunk features (including the connection between the trunk termination and a trunk card).

ATI Agreement with Verizon, § 10.1.1 (emphasis added) (Exhibit D-1).

14. Similar language is in UNICOM's Agreement:

> 10.1.1 The unbundled Local Switching Element includes line side and trunk side facilities (e.g. line and trunk side Ports such as analog and ISDN line side Ports and DSL trunk side Ports) plus the

features, functions, and capabilities of the switch. It consists of the line-side Port (including connection between a Loop termination and a switch line card, telephone number assignment, basic intercept, one primary directory listing, presubscription, and access to 911, operator services, and directory assistance), line and line group features (including all vertical features and line blocking options that the switch and its associated deployed switch software is capable of providing and are currently offered to Verizon's local exchange Customers), usage (including the connection of lines to lines, lines to trunks, trunks to lines, and trunks to trunks), and trunk features (including the connection between the trunk termination and a trunk card).

Section 10.1.1 of the Unbundled Network Element Attachment to UNICOM Interconnection Agreement with Verizon (emphasis added).

15. MCI's interconnection agreement with Verizon also does not define local switching by referring to the type of switch used:

Definition: Local Switching is the Network Element that provides the functionality required to connect the appropriate originating lines or trunks wired to the Main Distributing Frame (MDF) or Digital Signal Cross Connect (DSX) panel to a desired terminating line or trunk. Such functionality shall include all of the features, functions, and capabilities of the Verizon switch including but not limited to: line signaling and signaling software, digit reception, dialed number translations, call screening, routing, recording, call supervision, dial tone, switching, telephone number provisioning, announcements, calling features and capabilities (including call processing), CENTRANET, Automatic Call Distributor (ACD), Carrier pre-subscription (e.g., long distance carrier, intraLATA toll), Carrier Identification Code (CIC) portability capabilities, testing and other operational features inherent to the switch and switch software. Local Switching provides access to transport, signaling (ISDN User Part (ISUP) and Transaction Capabilities Application Part (TCAP), and platforms such as adjuncts, Public

> Safety Systems (911), operator services, directory services and Advanced Intelligent Network (AIN). Remote Switching Module functionality is included in the Local Switching function. The switching capabilities used will be based on the line side features they support where technically feasible.

MCImetro Access Transmission Services, LLC Interconnection Agreement with Verizon, Attachment 2, page 11, Section 47.1 (Exhibit F-1).

16. AT&T's interconnection agreement with Verizon (identified as GTE) contains the same definition of local switching as MCI's:

> Definition: Local Switching is the Network Element that provides the functionality required to connect the appropriate originating lines or trunks wired to the Main Distributing Frame (MDF) or Digital Signal Cross Connect (DSX) panel to a desired terminating line or trunk. Such functionality shall include all of the features, functions, and capabilities of the GTE switch including but not limited to: line signaling an signaling software, digit reception, dialed number translations, call screening, routing, recording, call supervision, dial tone, switching, telephone number provisioning, announcements, calling features and capabilities, CENTRANET, Automatic Call Distributor, Carrier pre-subscription, Carrier Identification Code portability capabilities, testing and other operational features inherent to the switch and switch software. Local Switching provide access to transport, signaling, and platforms such as adjuncts, Public Safety Systems, operator services, directory services and Advanced Intelligent Network. Remote Switching Module functionality is included in the Local Switching function. The switching capabilities used will be based on the line side features they support, where technically feasible.

AT&T Interconnection Agreement with Verizon, § 47.1 (emphasis added)(Exhibit C-4).

17. Under AT&T's agreement as well as MCI's, Verizon is required to offer local switching regardless of the technology employed to the wholesale customer:

> 32.1 GTE will offer the Network Elements to AT&T on an unbundled basis at rates set forth in Attachment 14.
>
> 32.9 . . . set forth below is a list of Network Elements that AT&T and GTE have identified as of the Effective Date of this Agreement and will be offered by GTE . . . . Descriptions and requirements for each Network Element identified below are set forth in Attachment 2. The Network Elements described in Attachment 2 consist of: . . . Local Switching . . . Tandem Switching . . . .

AT&T Interconnection Agreement with Verizon, § 32 and Attachment 2 (emphasis added)(Exhibit C-4); MCI Interconnection Agreement with Verizon, section 32 and Attachment 2 (emphasis added)(Exhibit F-1).

18. The provisions cited here reveal that Verizon's refusal to continue to provide traditional, narrowband voice services, wherever Verizon chooses to substitute packet switches for circuit switches is a breach of the Joint Petitioners' agreements.

19. The Federal Communications Commission's ("FCC") definition of local switching is consistent with the ICAs' definitions and supports the Joint Petitioners' argument that the incumbent carriers have an obligation to provide

the functionality of traditional, narrowband voice service regardless of the type of technology used.

> 433. We define local circuit switching to encompass line-side and trunk-side facilities, plus the features, functions, and capabilities of the switch. 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. In addition, we conclude that the features functions and capabilities of the local circuit switching UNE also include the same basis capabilities that are available to the incumbent LEC's customers, such as telephone, number, directory listing, dial tone, signaling, and access to 911, and, in the cases described below, operator services and directory assistance. The end office switching element includes all vertical features that the switch is capable of providing, including customer calling, CLASS features, and Centrex, as well as any technically feasible customized routing functions. Thus when a request carriers purchase the unbundled local switching element, it obtains all switching features in a single element on a per-line basis. A requesting carrier will deploy individual vertical features on its customers' lines by designating, via an electronic ordering interface, features which the incumbent LEC must activate for particular customer lines. [7]

20. Verizon has *not* argued that it is not technically feasible to provide UNE-P over packet switches, simply that it believes that the law, including the *TRO*, does not require Verizon to unbundle packet switching. *The Joint Petitioners are not asking Verizon to unbundle packet switching.* Rather, they are simply asking Verizon to honor its contractual obligations to enable the Joint

[7] *In re Review of Section 251 Unbundling Obligation of Incumbent Local Exchange Carriers, et al.*, cc Docket Nos. 01-338, 96-98 & 98-147, Report and Order and Order on Remand (August 21, 2003) (*TRO*) at para. 433 (citations omitted); 47 C.F.R. Section 51.319(c)(1).

Petitioners to provide traditional, narrowband voice services using unbundled switching in the area served by the Mount Vernon switch.

21. Verizon's position ignores that the FCC's decision in the *TRO* not to unbundled packet switching was limited to the functionality of packet switching used to provide broadband services:

> 541. Finally, because packet switching is used in the provision of broadband services, our decision not to unbundle stand-alone packet switching is also guided by the goals of, and our obligations under, section 706 of the Act. In order to ensure that both incumbent LECs and competitive LECs retain sufficient incentives to invest in and deploy broadband infrastructure, such as packet switches, we find that requiring no unbundling best serves our statutorily-required goal. Thus, we 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.[8]

22. Verizon testified in the September 9, 2004 hearing in Docket No. UT 043013 that it intended to provide traditional, narrowband voice service to its own end users served by the Mount Vernon switch using the new packet switch.[9] The Joint Petitioners request that Verizon allow them to do the same.

23. Examining contract language and facts similar to those involved in this proceeding, an administrative law judge in a California Public Utilities Commission proceeding brought by AT&T against Verizon, found a likelihood of

[8] *TRO* at ¶ 541 (*citations omitted and emphasis added*).
[9] Tr. at p. 298 (attached as Exhibit G).

success on the merits on AT&T's claim that "Verizon may not unilaterally discontinue AT&T's access to the local switching and common transport elements of the UNE-P pursuant to the interconnection agreements."[10]

24. Verizon's unilateral conduct is a breach of its obligations under the above-described provisions. The Joint Petitioners ask that the Commission order Verizon to provide the unbundled network elements under the agreements cited above.

III. WAC 480-07-650(1)(a)(iii)

25. Attached to this Petition are Affidavits from company representatives of each of the Joint Petitioners setting forth facts to support this Petition, as well as descriptions of the harm caused to the parties as a result of Verizon's breach of its interconnection agreements.[11]

REQUEST FOR RELIEF

26. Verizon's elimination of CLEC access to unbundled elements violates the terms of the interconnection agreements.

27. As a result of that breach, the Joint Petitioners ask the Commission to order Verizon to:

[10] *Assigned Commissioner and Administrative Law Judge's Ruling on AT&T's Emergency Motion for Order Maintaining the Status Quo Pending Resolution of the Complaint,* AT&T Communications v. Verizon California, Inc., Case 04-08-026 (September 15, 2004) at p. 32 (attached as Exhibit H).
[11] See Exhibits C-F.

(1) Honor the terms of its existing interconnection agreements with Joint Petitioners, which require the provision of unbundled switching throughout Verizon's local territory in Washington, including Verizon's Mount Vernon switch;

(2) Such other and further relief as the Commission deems appropriate under the circumstances.

Respectfully submitted this 17th day of September, 2004.

MCI

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