Exhibit _______ (RBS-_T)
Docket No. UT-011439
Witness: Robert B. Shirley

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Petition of **VERIZON NORTHWEST, INC.** **For waiver of WAC 480-120-071(2)(a).**	**Docket No. UT-011439**

REPLY TESTIMONY OF

Robert B. Shirley

STAFF OF
WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION

NON-CONFIDENTIAL VERSION

September 20, 2002

Q. What is your name, business address, and position?

A. My name is Robert B. Shirley. My business address is 1300 South Evergreen Park Drive Southwest, P.O. Box 47250, Olympia, Washington, 98504-7250. I am employed by the Washington Utilities and Transportation Commission as a telecommunications policy analyst.

Q. Have you previously filed testimony in this case?

A. Yes, on April 17, 2002, and on June 20, 2002.

Q. What is the purpose of your testimony?

A. This testimony is in response to Qwest witnesses Mr. Robert J. Hubbard and Ms. Theresa A. Jensen, and also in response to Verizon witness Dr. Carl R. Danner, all of whom submitted testimony on July 5, 2002.

Q. Generally, what do you state in this testimony?

A. That the Commission could find there would be benefits for customers in addition to the Timm Ranch residents if Qwest completes an extension rather than Verizon; that Qwest's stated concerns about moving the Omak exchange boundary are belied by its own actions when it discussed changing its boundaries with Verizon; that cost recovery will address whatever concern there is about moving the Omak exchange boundary; and that the Commission could reasonably find that Qwest is a better choice than Verizon to serve the Timm Ranch.

I also provide testimony on Verizon's tariff that went into effect on July 10, 2002 that will recover in one year ********* spent to construct a line extension for ********* customers at an average cost per customer $25,000 dollars greater than for the Taylors and their neighbors.

I.

Q. Based on Mr. Spinks testimony, is Mr. Hubbard's testimony about Qwest's cost to serve the Timm Ranch reasonable?

A. As Mr. Spinks has testified, Qwest's cost estimate of $738,875, is reasonable. TLS-3T, p. 1, l. 19-20. It is essentially the same as Verizon's estimate of $737,672 (this amount does not include reinforcement; see RBS-1T, p. 14, l. 31).

Q. If Qwest were to construct what it describes in its testimony, would it also benefit other customers?

A. As Mr. Spinks and Mr. Williamson state, with minimal expense Qwest could cross connect the new plant with the existing plant.

Q. Would Staff consider it reasonable if Qwest, should it build to the Timm Ranch, added a cross connection facility so that it could accommodate some line growth as well as the addition of more spare pairs in the 40 square mile area now served by plant working at near capacity?

A. Staff would consider it reasonable.

Q. Mr. Hubbard says Qwest may have to place facilities along roads that are not plowed in winter and require cross-country facilities (RJH-1T, p. 12, l. 9-13). Is this correct?

A. Mr. Hubbard apparently predicated his statement on the testimony of others and it is not clear he fully understood the previous testimony on winter road maintenance. There is a direct route from Omak to the Timm Road along Omak Lake Road. It is a significant county road that connects Omak to Nespelem, and it is plowed. It connects to the Timm Road, which is also plowed by the County, although Mr. Nelson stated in his deposition that he will sometimes do the plowing if it is clear that the County is moving slowly.[1] Or, if Qwest is going to follow the Cold Spring Road, that too is plowed from the Timentwa Road to the Warden Cut-off Road,[2] and from there to the Columbia River Road (the Omak Lake Road and Columbia River Road are the same, but the name changes depending on whether one is north or south of the Timm Road).

Mr. Hubbard also states that approximately 79,000 feet of the project will be reinforcement along the same route as the existing Qwest facilities. However, he cannot have new concerns about winter maintenance where Qwest already has facilities. (RJH-1T, p. 4, l. 13-14)

As for cross-country facilities, they are a fact of life in north central Washington,[3] but in any event it is hard to determine why Qwest would have to add cross-country facilities in order to follow Omak Lake Road to Timm Road and then to the homes on Timm Road.

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[1] See also Nelson Deposition at p. 7, l 20 to p. 8, l. 14.

II.

Q. What has Qwest stated in its testimony about changes to exchange boundaries?

A. Mr. Hubbard stated:

> The network would be far more difficult to plan if Qwest were obligated to serve unforecasted demand outside the filed service area and far less efficient than the current design. Other necessary projects would not be financed in order that this type of design could be built. In the overall design of a Network, an engineer has to have boundaries within which to design the outside plant.

RJH-1T at p. 13, l. 8 – 12.

He also stated:

> From an engineering standpoint, the requirement for dedicated boundaries exists. As explained previously, boundaries are a viable part of the overall network plan.

RJH – 1T at p. 16, l. 13 – 15.

Mr. Hubbard also stated this on the subject of exchange boundaries:

> Boundaries were drawn as geographic limits on the obligation to build, and they then formed the basis for engineering decisions on how to serve those customers located within the boundary. If each customer location in the state were subjected to an analysis before

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[2] See Verizon response to Staff Data Request No. 26.

> drawing the boundary of which of two (or perhaps more) physically close companies could better or best serve that location, I do not believe that any boundary could ever have been drawn.

RJH-1T, p. 17, l. 9 – 14.

Finally, Mr. Hubbard states :

> As stated throughout my testimony, boundaries exist for a reason and that companies have designed their networks to serve customers within those boundaries. If the commission redraws the boundaries, then companies would lose any rational ability to efficiently design their networks.

RJH-1T, p. 18, l. 12-15.

Ms. Jensen also has much to say on boundaries:

> It is not in the public interest for the Commission to order a change to Qwest's boundary based on the facts in this case. If the Commission did so, it would have the effect of making all existing incumbent telecommunications company exchange boundaries meaningless with respect to how each company designs its network. In addition, it would likely stimulate requests for boundary changes based on no more than a customer's desire for a different company's rate plan.

TAJ-1T, p. 7, l. 6-12.

She also states :

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[3] See RBS-T, p. 26, l. 15-32 and p. 27, l. 1-2. See also .

> If the Commission ordered a change to Qwest's boundary based on the Staff's apparent reasoning in this case, it would greatly affect the company's ability to plan for future network demands, which would have the effect of restricting the company's control over its costs and impairing its ability to efficiently conduct its business. Each compelled exchange boundary change becomes the potential reason for yet a further change in response to future customers locating ever more remotely from Qwest's central office. Thus, the term "boundary" becomes virtually meaningless.

TAJ-1T, p. 7, l. 17 – p. 8, l. 1.

Ms. Jensen states :

> As previously stated, a decision by this Commission to change an existing exchange boundary over the objection of the affected company will invariably increase the number of waiver requests filed by other operating companies.

TAJ-1T, p. 11, l. 11-13.

Finally, in response to a question hypothesizing that Qwest's cost would be less than Verizon's to extend service to the Timm ranch, Ms. Jensen is asked if the cost difference is sufficient reason to change Qwest's exchange boundary. She replies:

> No. Cost is not the only relevant factor and as previously stated, the ramifications of such a decision will affect every telecommunications company operating in the state of Washington.

> This would constitute assumption by the Commission of the prerogatives of utilities' management to determine the areas within which they will offer service.

TAJ – 1T, p. 23, l. 1-5.

Q. Should the Commission be convinced by Qwest's statements above that as a policy matter the Commission should not use its authority to prescribe exchange boundaries?

A. The Commission should not be convinced by Qwest's statements because they are belied by its actions. Qwest itself has entered into discussions with Verizon about trading territory and changing exchange boundaries as long ago as July, 2001, three months before Verizon filed for a waiver and before Staff had ever heard of the Timm Ranch..

Its discussions concerned two different boundary changes – a swap where it appeared cheaper for Verizon to serve in one location, and cheaper for Qwest in the other because each had facilities near where the other had an obligation to serve. They discussed that each could file a boundary change.

It is also worth noting that the second largest local exchange company, Verizon, with many exchanges in Washington, apparently thinks trading territory and altering boundaries is acceptable. In fact, it stated as much in its original petition for waiver filed in October, 2001. "The Nelson location is much closer to Qwest facilities than to Verizon facilities. Verizon approached Qwest about providing service to Mr. Nelson, who happens to be an employee of Qwest.

Qwest declined to provide service to the Nelson location." Original Petition at 3, ¶ 6.

I think the actions -- ongoing discussions known to one of the highest Qwest officials in Washington, with thoughts in place about how a deal would be effectuated (each company altering its exchange boundaries) speak more loudly than testimony, especially the testimony of someone who was aware of Qwest's discussions and planning related to changing its boundaries.

Q. Should the Commission assume the "prerogatives of utilities' management to determine the areas within which they will offer service"?

A. The Commission would not be assuming the prerogatives of utility management if it had to rely upon the authority provided by the legislature in RCW 80.36.230 to achieve the public interest. The legislature would not have enacted the statute if it believed prescribing boundaries were exclusively the prerogative of utility managers. Regulation, limited or extensive, and whether practiced by a legislature or a commission, means sharing in responsibility for actions, and the legislature left no ambiguity with the language in RCW 80.36.230.

Q. Is it in the public interest to alter the exchange boundaries at issue and provide cost recovery to Qwest rather than Verizon or RCC to serve the Timm Ranch?

A. Until testimony from RCC is provided, Staff will withhold its ultimate response to this question. If the question is only between providing cost recovery to Qwest or cost recovery to Verizon, then it would be reasonable for the Commission to conclude that for the same cost, plant and facilities placed by Qwest will have more long-term benefits for a variety of present and future customers than would facilities from Verizon. (Note that, unlike for Qwest and Verizon, the Commission has no mechanism to provide cost recovery to RCC.)

Q. Qwest states that choosing it and altering boundaries would contradict the intent of the ETC designation and associated obligation. (See TAJ-1T, p. 23, l. 5-6.) Please comment.

A. It would not be unreasonable in these circumstances, where the estimated costs are essentially equal and Verizon is an ETC for the Bridgeport exchange, to let that be a determining factor. However, ETC designations do not establish the *only* obligations under Washington law. RCW 80.36.090 establishes an obligation that applies to all telecommunications companies. If the Timm Ranch were in the Qwest Omak exchange, then Qwest's lack of ETC designation would not excuse it from any obligation it has under that statute.

Q. If an ETC were required to offer service throughout an exchange, would there be a need to even consider altering exchange boundaries?

A. If the Commission were to determine that where there is an ETC, the ETC must provide service throughout an *entire* exchange, then there would be no need to consider changing exchange boundaries. However, as long as the Commission may consider that it has the authority to relieve an ETC from the unqualified obligation to offer service throughout the area for which it is designated, then the Commission must be willing to consider boundary changes or risk the situation where, with a boundary change, company X could serve for $20,000 but the obligated ETC, facing costs of $2,000,000 is excused from its obligation. In that situation, if the home does not receive service because the Commission is unwilling to ever alter a boundary, it would be fair to suggest that the public interest would have been sacrificed to exchange boundaries, something the legislature must have thought should not be the case when it adopted RCW 80.36.230.

III.

Q. In Dr. Danner's July 5, 2002, testimony on behalf of Verizon, does Dr. Danner say the cost for Verizon to provide service is too high to justify its provision?

A. Yes, he says that the cost for Verizon to provide service is too high to justify its provision. See CRD-4T, p. 2, l. 14-16.

Q. Is there something that has occurred since Dr. Danner's July 5, 2002, testimony that the Commission should consider?

A. Yes. On July 10, 2002, the Commission permitted a Verizon tariff to go into effect that recovers over *********** dollars for a service extension for **** customers. As explained more fully below, that amount of recovery is only

******* less than the amount Verizon (or Qwest) will need to serve the Timm Ranch, and **** times the amount Verizon needs to serve the Taylor location.

Q. Please provide the details behind the ********* extension for **** customers**.

A. On May 2, 2002, Verizon filed a tariff to recover *********** for an extension built in its Sultan exchange to serve **** customers. Verizon agreed with Staff in December, 1999, that Verizon would construct the extension, which it had resisted doing, in exchange for Staff not bringing a complaint against Verizon's then existing extension tariff. (See Attachment A.) The agreement obligated Verizon to construct the extension in the Sultan exchange at no cost to customers and did not provide for any cost recovery from general ratepayers. This agreement occurred before the Commission had begun any substantive work on a new extension rule.

Subsequent to the agreement between Staff and Verizon, and only after the Commission began work on the substance of the rulemaking that lead to adoption of WAC 480-120-071 (a rule that Verizon opposed at adoption), Verizon asked Staff if it would support Verizon's recovery of the cost of the Sultan extension under the new terms of WAC 480-120-071 rather than under the terms of its tariff in place at the time the extension was requested. Under the old tariff, it would recover its investment at best over a period of decades, and possibly never; but under the new rule, it would recover its investment of ********* in one year.

Notwithstanding that the agreement between Verizon and Staff did not include recovery under the as yet not adopted rule, once there was a new rule Verizon did not want to recover under its old tariff - which effectively meant it would not ever recover and the company would pay the cost unless it requested a rate increase - but instead asked for Staff's acquiescence in recovery as if the line extension had been requested and agreed to under WAC 480-120-071. There was no new quid pro quo proposed when Verizon asked for Staff's support for quick recovery through terminating access, and Verizon did not discuss with Staff the need to consider ratepayers' interests.

Q. Is Staff asking the Commission to base a decision on the Waiver based upon an agreement that was, in effect, a settlement between Verizon and Staff?

A. No, Staff is not asking the Commission to consider an agreement as a precedent. The only agreement that involved a quid pro quo was that Verizon would construct the Sultan extension if Staff did not complain against the line extension tariff filed by Verizon in November, 1999. That agreement obligated Verizon to undertake the extension under the tariff in effect in 1999, a tariff that meant the company would not recoup the cost from any revenue other than that paid by the customers to be served.

Q. Did Staff have a second agreement with Verizon?

A. No. When Verizon asked Staff if it would support recovery through terminating access, Verizon did not make an agreement with Staff; Staff simply said that it would not oppose recovery through terminating access.

If Staff had said that Verizon should recover its investment from approximately a dozen customers, that would have been consistent with the terms of the agreement. Effectively, that would have meant the company would have borne the cost of the extension because service to a dozen residences would never result in recovery.

Q. Did Verizon ask all ratepayers to pay for its obligation when it asked for a terminating access increase on May 2, 2002, to recover the cost of the Sultan extension in the span of one year?

A. Yes, Verizon asked all the ratepayers to relieve it of an obligation it had taken on in an agreement with Staff.

Q. What did Verizon say, in the Amended Petition for Waiver in this docket, with respect to ratepayers bearing the cost of extensions?

A. In its Amended Petition for Waiver, Verizon stated: "Clearly, this Commission cannot find that it is reasonable to for Verizon *and Washington ratepayers* to pay over $1.2 million to extend service to eight customers." Amended Petition at 1 (italics added).

Dr. Danner testified that the requested extensions cost "more than the service could be worth either to the subscribers in question *or to customers generally*. CRD-1T at 2, lines 17 –18 (italics added).

Dr. Danner also stated “the idea that *other customers should be forced* to pay nearly a million dollars to give wired phone service to a handful of people on their 7,000 acre cattle ranch does not seem at all fair or reasonable. CRD-3T at 1, lines 15 – 17 (italics added).

Q. What is Staff’s response to Verizon’s purported concern for ratepayers?

A. Staff’s response is that when Verizon entered into an agreement and received a thing of value in exchange for an obligation to provide service at company expense, and then later saw an opportunity to spread that expense to all ratepayers, it did not hesitate to let all ratepayers pick up the expense.

It now asks the Commission not to set a precedent in order to protect ratepayers (“Will the Commission serve as a gatekeeper to protect other customers (and the economy) from unduly costly line extension requests, or not?” CRD-3T at 1, lines 9 – 11.) after Verizon has done and benefited from just what it claims should not be done.

Q. Is it Staff’s position that the Commission should deny the Petition for Waiver because Verizon has a tariff in effect that permits it to collect ******* for an extension that serves **** customers?**

A. No; it is Staff’s position that the Commission should not make its decision under the mistaken belief that ratepayers cannot support the occasional high cost extension and that, as Dr. Danner would have you believe, the economy needs protection. Verizon demonstrated its belief that ratepayers can bear this cost for the Sultan exchange and demonstrated it does not think *********** will imperil the economy by filing a tariff to recover this amount.

Q. How does ******** for **** customers compare with $165,015 for three or more on Hayes Road and $737,672 for six or more at the Timm Ranch?**

A. For the Taylors and their neighbors on Hayes Road, the cost is approximately $55,000 per customer and in Sultan it is approximately $78,000 per customer, or $23,000 per customer less for the Taylor extension. The approximate cost for Timm Ranch is $123,000 per customer. That is more than the per-customer cost in Sultan, but as Staff has maintained all along, if the State of Washington wants large-scale agriculture as part of its economy, then that means that some who engage in it will necessarily be living and working away from densely populated areas that offer reduced per-customer cost and more revenue.

Q. Does this conclude your testimony?

A. Yes.