BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Review of: Unbundled Loop and Switching Rates; the Deaveraged Zone Rate Structure; and Unbundled Network Elements, Transport and Termination (Recurring Costs)	Docket No. UT-023003
In the Matter of the Review of: Unbundled Loop and Switching Rates; the Deaveraged Zone Rate Structure; and Unbundled Network Elements, Transport and Termination (Nonrecurring Costs)	Docket No. UT-033034 RESPONSE OF VERIZON NORTHWEST INC. TO JOINT MOTION TO EXCLUDE QWEST RATE ISSUES

Pursuant to the Commission's notice dated October 27, 2003, Verizon Northwest Inc. ("Verizon NW") respectfully files this response to the Joint Motion to Exclude Qwest Rate Issues ("Motion"), filed by AT&T Communications of the Pacific Northwest, Inc., Covad Communications Company, Qwest Corporation ("Qwest"), Washington Electronic Business and Telecommunication Coalition, WorldCom, Inc., k/n/a MCI, and XO Washington, Inc. (collectively "Joint Movants") on October 24, 2003.[1]

The Joint Movants argue that the Commission should defer its review of Qwest's UNE recurring and nonrecurring rates until "after the FCC has concluded its TELRIC rulemaking." Motion at 2. Verizon NW agrees that the FCC's recent proposal to revisit the core legal standard that will govern all of the issues in these proceedings weighs strongly in favor of deferral, in order to avoid a potential waste of substantial resources by the Commission and the parties in

[1] Since Staff has proposed a "core/fringe" geographic deaveraging adjustment only for Qwest and not for Verizon NW, Verizon NW takes no position on the question of how to address that issue in these dockets.

applying a TELRIC standard that may well be changed.[2] But that concern applies no less to Verizon NW than it does to Qwest.

Indeed, the FCC's notice of proposed rulemaking suggests the very real prospect of fundamental changes in the TELRIC methodology that must be applied in these proceedings. For example, the FCC has tentatively concluded that the "TELRIC rules should more closely account for the real-world attributes of the routing and topography of an incumbent's network."[3] Moreover, while the testimony in the instant proceedings is concerned with building a "bottom-up" hypothetical network with "the costs that an efficient local exchange carrier (LEC) *would* incur,"[4] the FCC has emphasized that "the UNE pricing methodology, while forward-looking, must be representative of the real world and should not be based on the totally hypothetical costs of a most-efficient provider building a network from scratch."[5] It has also strongly suggested the need for revising some of the critical TELRIC inputs and assumptions to reflect more accurately the risks of a competitive market. These include the appropriate cost of capital,[6] depreciation expense,[7] and switch discounts.[8] The FCC has also raised a host of additional questions relating to other cost inputs for TELRIC models.[9] Application of new inputs and assumptions to TELRIC would obviously have a dramatic effect on the resulting UNE rates.

The only difference between Qwest and Verizon NW identified by Joint Movants in this

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[2] Verizon NW also agrees with the Joint Movants that the pending Commission inquiry about the scope of unbundling obligations supports deferral here. *See* Motion at 2.

[3] Notice of Proposed Rulemaking, *Review of the Commission's Rules Regarding the Pricing of Unbundled Network Elements and the Resale of Service by Incumbent Local Exchange Carriers*, WC Docket No. 03-173, FCC 03-224 ¶ 52 (rel. Sept. 15, 2003) ("*TELRIC NPRM*").

[4] Direct Testimony of Dr. Mark C. Bryant on behalf of AT&T Communications of the Pacific Northwest, Inc. and WorldCom, Inc. at 8 (filed June 26, 2003) (emphasis added).

[5] *TELRIC NPRM* ¶ 53.

[6] *Id.* ¶ 83.

[7] *Id.* ¶ 93.

[8] *Id.* ¶¶ 76-81.

[9] *See id.* ¶¶ 62-75, 109-130.

regard is that, in the context of seeking interLATA relief under section 271, Qwest voluntarily agreed to reduce certain of its UNE rates. That is a distinction of no legal significance. As the FCC has repeatedly recognized in its 271 orders, the filing of new lower proposed rates in such cases "is not evidence that currently effective rates are not TELRIC compliant."[10] Indeed, as the FCC has recently noted in its TELRIC NPRM, in section 271 cases it has never been required to address the question of whether "applying the TELRIC rules results in rates that are inappropriately low."[11]

Moreover, as the Commission has long noted, the object of these proceedings is not to achieve lower rates for CLECs.[12] It is to establish rates that accurately replicate those that would exist in a competitive market, in accordance with FCC guidelines that are now in the process of being revisited. It is only through ensuring "accurate price signals" that the Commission can promote "healthy competition," because "[p]rices set too low would send the wrong signal to the market and could harm the development of competition in the long run."[13] Indeed, this is one of the principal concerns that has led the FCC to initiate its review of the existing TELRIC methodology.[14]

Nor is there any basis advanced by Joint Movants for concluding that Verizon NW's current rates are inconsistent with existing TELRIC standards. Those rates were established by

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10 Memorandum Opinion and Order, *Joint Application by BellSouth Corporation, BellSouth Telecommunications, Inc. And BellSouth Long Distance, Inc. For Provision of In-Region, InterLATA Services in Georgia and Louisiana*, 17 FCC Rcd 9018, 9064 ¶ 89 n.307 (2002).

11 *TELRIC NPRM* ¶ 28.

12 Thirty-first Supplemental Order in WUTC Docket No. UT-960369 et al., ¶ 24 (Dec. 15, 2000).

13 *Id.*

14 *See TELRIC NPRM* ¶ 39; *see also* Petition for Expedited Forbearance of the Verizon Telephone Companies, FCC WC Docket No. 03-157, at 6-7 (filed July 1, 2003) ("why overbuild if one can lease it more cheaply than one can build it? We strongly suspect that the success of the UNE-P resale will adversely affect the incentive for facilities-based competition") (quoting Scott Cleland of the Legg Mason Precursor Group).

the Commission in Docket No. UT-960369 after extensive hearings, and must be presumed to be valid. As the U.S. Court of Appeals for the D.C. Circuit has recognized in its review of the FCC's section 271 orders, "the prospect of future modification makes [current] rates no less TELRIC-compliant."[15] Indeed, if anything Verizon NW's current rates are already lower than TELRIC requires. For example, as set forth in its direct testimony filed on June 26, 2003, the competitive cost of capital required by the FCC under existing TELRIC standards requires an increase from the present rate of 9.76% to a rate of 15.98%.[16] TELRIC also requires substantial revisions to the depreciation expenses used in calculating Verizon NW's existing UNE, since the existing lives do not fully account for subsequent competitive and technological developments.[17]

In any event, the Commission concluded just last year that "[h]earing the cost cases of both Verizon and Qwest together is beneficial because, just as in past cost proceedings, we rely on comparisons of their costs to evaluate the reasonableness of each company's proposed costs."[18] The Commission has frequently taken advantage of such comparisons. Given the prospect of a wholly new legal standard that will govern these proceedings, there is thus even more compelling justification for deferring consideration of Verizon NW's UNE rates in order to adhere to this established principle.

For the foregoing reasons, the Commission should defer further consideration of the UNE recurring and nonrecurring rates for both Qwest and Verizon NW, until conclusion of the FCC's TELRIC rulemaking.

Respectfully submitted,

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15 *AT&T Corp. v. FCC*, 220 F.3d 607, 617 (D.C. Cir. 2000).

16 *See* Direct Testimony of Dr. James H. Vander Weide on Behalf of Verizon Northwest Inc.: Cost of Capital at 63 (filed June 26, 2003).

17 *See* Direct Testimony of Allen E. Sovereign on Behalf of Verizon Northwest Inc.: Depreciation at 6 (filed June 26, 2003).

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[18] Fourth Supplemental Order in WUTC Docket No. UT-023003, at 5 (Nov. 8, 2002).