

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 VERIZON’S MOTION TO
INTERCONNECTION) DEFER RULING ON ITS PETITION FOR
AGREEMENTS WITH VERIZON) RECONSIDERATION
NORTHWEST, INC.

COMES Now, Tel West Communications, L.L.C. (“Tel West”) and files this *Answer to the Verizon’s Motion to Defer Ruling on its Petition for Reconsideration* (“Verizon’s Motion to Defer”).

1. Tel West opposes *Verizon’s Motion to Defer* in that Verizon seeks additional delay not because of any change in law or facts, but because it may (or may not) be able to settle with some of the parties. In the meantime, the uncertainty raised by the Commission’s continued deferral of a decision creates substantial prejudice to Tel West and the competitive local exchange carrier (“CLEC”) industry in general.

Procedural Background

2. On February 22, 2005, the Washington State Utilities and Transportation Commission (“WUTC”) served its *Order No. 3* entitled *Order Granting, In Part, AT&T, MCI, and Tel West’s petitions for Review, Modifying Pricing Requirements of Order No. 10 in Docket 04-04013; Requiring Remedies Addressing Remedies for Breach (Due by Tuesday, March 15, 2005)*.

3. In *Order No. 3*, the Commission found 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 at ¶ 65.

4. On March 4, 2005, Verizon Northwest Inc. (“Verizon”) filed a *Petition for Reconsideration of Order No. 3* (“Petition for Reconsideration”) and a *Motion to Postpone Briefing on Remedies and for Expedited Consideration Pending Decision on its Petition its Reconsideration* (the “Motion to Postpone”).

5. The *Motion to Postpone* was granted on March 11, 2005 by Order No. 4.

6. The Commission subsequently issued three Notices Deferring Action on the *Petition for Reconsideration*. The *Petition for Reconsideration* is now set for resolution on September 15, 2005, or 195 days after the *Petition for Reconsideration* was first filed. See *Commission Notice* dated September 9, 2005.

7. In its Motion for Deferral, Verizon asks the Commission not to issue an order until no earlier than March 26, 2006. *Verizon’s Motion* at ¶ 4. This is an additional 199 days of delay. If a ruling were issued on March 26, 2006, it would be 387 days since the *Motion to Postpone* was first filed.

8. The Commission has stated it is prepared to issue a ruling on September 15, 2005. See *Commission Notice* dated September 9, 2005.

Argument

9. *Verizon’s Motion to Defer* makes two arguments: (i) there is a chance of settlement between some of the parties and (ii) no party will be prejudiced. Neither argument supports continued deferral of a ruling.

10. What is more telling than the argument forwarded by Verizon, is that Verizon has offered no evidence there has been a change in law or facts since its *Petition for Reconsideration* was filed over six months ago. During that period of time, the only additional supplemental authority was filed by MCI on May 10, 2005. Since May 10, 2005, Verizon has had the opportunity to file supportive supplemental authority, if any exists. The lack thereof supports that the law and facts have not changed to support further investigation and delay.

11. In fact, in its *Motion to Defer*, Verizon does not allege that the law is currently unsettled. Instead it relies on supposition that some parties may settle.

12. Uncertainty is the bane to any industry, including the CLEC industry. As such, a representation that some parties may settle, or even withdraw from this docket as a result of mergers or acquisitions, does not support further delay. Settlement with some parties will not resolve whether Tel West and other CLECS will have access to packet switches that have been replaced by circuit switches. Not knowing will compromise and complicate network design.

13. Tel West will, therefore, be substantially prejudiced by the continued delay in the Commission issuing a ruling

PRAYER

Wherefore, Tel West requests this Commission deny in full *Verizon's Motion to Defer Ruling on its Petition for Reconsideration* and that it be awarded such other and further relief to which it may be entitled.

Dated this 13th day of September, 2005.

Respectfully submitted,

TEL WEST COMMUNICATIONS, L.L.C.

By: _____

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CERTIFICATE OF SERVICE

I hereby certify that I served *Tel West Communications LLC Verizon's Motion to Defer Ruling on its Petition for Reconsideration*, 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
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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:

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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 13th day of September, 2005.

David Mittle, NMSBA # 6597