

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Petition of)	
)	DOCKET NO. UT-011439
)	
VERIZON NORTHWEST, INC.,)	EIGHTH SUPPLEMENTAL
)	ORDER
)	
For Waiver of WAC 480-120-071(2)(a).)	ORDER GRANTING MOTION
)	FOR PERMISSION TO FILE
)	SUPPLEMENTAL TESTIMONY
.....)	

1 **Synopsis:** *The Commission grants Commission Staff's motion for permission to file supplemental testimony of Robert B. Shirley and the declaration of Kay Taylor.*

I. INTRODUCTION

2 **Proceedings:** Docket No. UT-011439 is a petition by Verizon Northwest, Inc. (Verizon), seeking a waiver or an exemption from WAC 480-120-071 regarding extending service to two separate locations in Verizon's Bridgeport exchange in Okanogan and Douglas Counties.

3 **Appearances.** Judith Endejan, Graham & Dunn, Seattle, Washington, represents Verizon Northwest Inc. Gregory Trautman, Assistant Attorney General, Olympia, Washington, represents Staff of the Washington Utilities and Transportation Commission (Commission Staff or Staff). Robert Cromwell, Attorney, represents the Office of Public Counsel. Douglas N. Owens represents Qwest Corporation. Elizabeth Kohler, David LaFuria and Richard Busch represent RCC.

4 **Background.** On September 13, 2002, Commission Staff filed a motion requesting permission to file the supplemental testimony of Robert B. Shirley and the declaration of Kay Taylor. Mr. Shirley had previously filed testimony pertaining to Verizon's petition on April 17, 2002. Ms. Taylor is one of the individuals who filed an application for service from Verizon for which Verizon is seeking a waiver of the requirement to provide service.

5 The motion asks permission to file information describing an incident that occurred on August 19, 2002, approximately four months after Mr. Shirley filed his initial testimony. On August 19, 2002, Ms. Taylor's father-in-law suffered a heart attack while at Ms. Taylor's residence. Ms. Taylor used two different cell phone services to

try to contact 911 for emergency assistance for her father-in-law. Ultimately she contacted someone at a relative's place of work, who in turn contacted 911 on her behalf. Unfortunately, by the time assistance arrived, approximately 45 minutes after Mr. Taylor was found on the floor of the bedroom of the Taylor residence, he was pronounced dead.

6 On October 3, 2002, Verizon responded to Commission Staff's request to file the supplemental testimony and declaration, asking that the Commission deny the request, or, in the alternative, allow Verizon to file responsive testimony.

II. ARGUMENT

7 **Commission Staff.** Staff seeks to file the supplemental testimony of Mr. Shirley and the declaration of Ms. Taylor pursuant to WAC 480-09-420(8), which permits the filing of motions. Staff contends that the testimony and declaration refer to an event which took place on August 19, 2002, long after Staff filed its testimony regarding Verizon's petition for waiver on April 17, 2002 and Ms. Taylor was deposed on February 27, 2002. Thus there is no way Staff could have filed the testimony any earlier in the proceeding.

8 Staff further argues that the testimony and declaration, both of which refer to Ms. Taylor's attempts to obtain emergency help for her father-in-law by placing 911 calls through her two cell phone services, are directly relevant to the issues in this case. Staff contends that the testimony pertains to one of the factors set forth in the line extension rule at WAC 480-120-071(7)(b)(ii)(E). This portion of the rule indicates that in determining whether to grant a waiver of the requirement to provide telecommunications service, the Commission will consider "the effect on the individuals and communities involved."

9 **Verizon.** Verizon responds that the Commission should reject the testimony and declaration. Verizon contends that the Staff testimony interjects a new issue into the proceeding related to wireless 911 service. In addition, even if the Commission wished to examine wireless 911 issues in this case, it could not do so based on the Staff's proposed filing, because the filing is factually deficient. The filing contains no information about whether the wireless 911 problems reported by Ms. Taylor were aberrations or were normal for her wireless service providers; whether remedies existed for the service problems; or, how the calls were carried by other carriers' networks.

10 In the alternative, Verizon asserts that if the testimony is allowed into the record then Verizon should be allowed to respond. Verizon suggests that it be permitted to reply in testimony it is next scheduled to file on December 18, 2002.

III. DISCUSSION AND DECISION

- 11 We are persuaded that we should permit Commission Staff to file its proposed supplemental testimony with attached declaration of Ms. Taylor. WAC 480-120-071(7)(b)(ii)(C) requires the Commission to consider “the comparative prices and capabilities of radio communications service or other alternatives available to consumers” when determining whether to grant a waiver of the obligation to construct telecommunications service to an applicant. The facts surrounding the death of Ms. Taylor’s father-in-law will provide information about the capabilities of the cellular service available to Ms. Taylor.
- 12 Furthermore, as Commission Staff points out, WAC 480-120-071(7)(b)(ii)(E) requires consideration of the effect on individuals and communities if a waiver is granted. The proposed Staff testimony offers information about such effects on Ms. Taylor as an individual, as well as on her family, all of whom, presumably, are a part of the local community.
- 13 We will permit Verizon to file responsive testimony and evidence on its next scheduled filing date, December 18, 2002.

IV. ORDER

- 14 The Commission grants Staff’s Motion for Permission to File Supplemental Testimony of Robert B. Shirley and Declaration of Kay Taylor. The Commission grants Verizon the opportunity to file responsive testimony and evidence on its next scheduled filing date, December 18, 2002.

DATED at Olympia, Washington and effective this 7th day of October, 2002.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

THEODORA M. MACE
Administrative Law Judge

NOTICE TO PARTIES: Any objection to the provisions of this Order must be filed within ten (10) days after the date of mailing of this statement, pursuant to WAC 480-09-460(2). Absent such objections, this order will control further proceedings in this matter, subject to Commission review.