

**BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION**

Petition of Verizon Northwest Inc. for Arbitration of an Amendment to Interconnection Agreements with Competitive Local Exchange Carriers and Commercial Mobile Radio Service Providers in Washington Pursuant to Section 252 of the Communications Act of 1934, as Amended, and the Triennial Review Order

Docket No. UT-043013

RESPONSE OF ADVANCED TELECOM GROUP INC., COVAD COMMUNICATIONS COMPANY, AND CENTEL COMMUNICATIONS, INC. TO VERIZON'S PETITION FOR REVIEW

1 The Commission should deny Verizon's "Petition for Review of Order Requiring Verizon to Maintain Status Quo" ("Petition"). The Petition argues that the Commission's order directing Verizon to maintain the status quo while issues related to United States Telecom Association v. FCC, 359 F.3d 354 (D.C. Cir. 2004)("USTA II") are resolved was not in the public interest and beyond the Commission's authority. To the contrary, the Commission's action serves the public interest by limiting confusion and upheaval in the telecommunications markets during this interim period, and the Commission had clear authority to take this action. Disrupting the status quo would harm consumers while benefiting only Verizon. Since this Commission's duty is to protect the general public interest rather than the narrow interests of one carrier, the Commission should deny the Petition.

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**I. MAINTAINING THE STATUS QUO
SERVES THE PUBLIC INTEREST**

2 On June 15th, the Commission granted the Joint CLECs'¹ motion to maintain the status quo while legal issues related to USTA II are resolved. Order No. 5, Docket UT-043013 at 1 (2004) ("Status Quo Order"). Verizon objects to the Commission's order because it claims that there is no public interest in maintaining the status quo in Washington. Petition at 11. The truth is that there is an "overriding public interest in maintaining stability in the local telecommunications marketplace in Washington State until these matters [involving USTA II] are resolved." Id. at ¶ 54. The problem is that currently there is "momentous confusion" over the state of the law:

The momentous confusion in the state of the law under Section 251 of the Telecommunications Act since the D.C. Circuit entered its decision in USTA II likewise creates equally momentous confusion in the competitive markets in Washington state and across the country until the FCC, or the states, in the absence of FCC action, act to resolve the issues . . .

Status Quo Order at ¶ 51. This Commission and the FCC are attempting to resolve this confusion. Allowing Verizon to impose its own interpretation of the mandate of USTA II during this interim period would worsen the situation.

3 Verizon believes that its promise to provide UNEs at TELRIC rates for a limited time somehow moots the concerns of CLECs (Petition at 11), but the Commission properly rejected this argument. The Status Quo Order held that confusion over the state of the law exists "despite the assertions by various BOCs that they will not immediately raise prices or change contract terms." Id.

4 Verizon identifies no benefit to customers from ending the status quo. Instead, Verizon complains about perceived harm to itself (Petition at 11), while oblivious to the uncertainty and damage to consumers that its Petition would cause. Verizon posits that

¹ The Joint CLECs are Eschelon, Integra, Pac-West, Time Warner Telecom of Washington LLC, and XO.

the Commission's Status Quo Order hurts consumers by maintaining “synthetic competition' using UNEs” (Petition at 12), but Verizon's position conflicts with Congress' finding in the 1996 Telecommunications Act that UNEs promote competition and benefit consumers. See 47 U.S.C. § 251(c)(3). In sum, the Commission's decision to maintain the status quo advances the public interest while limiting damage from uncertainty created by USTA II.

II. THE COMMISSION HAS THE AUTHORITY TO MAINTAIN THE STATUS QUO

5 Verizon complains that this Commission lacks authority to order Verizon to maintain the status quo because doing so “override[s] the terms of interconnection agreements between Verizon and competitive carriers.” Petition at 2. Verizon's interpretation is entitled to no weight because this Commission determines the meaning of interconnection agreement terms, not Verizon:

[W]hile Verizon may interpret change in law provisions in a certain way, it may not act to limit or eliminate UNEs offered under interconnection agreements without the approval of this Commission. The Commission, not Verizon, has jurisdiction to decide the issues the parties raise, i.e., whether there is a change in law, the extent of ILEC unbundling requirements under Section 251, and the extent of state authority to establish such unbundling requirements.

Status Quo Order at ¶ 58 (emphasis added).

6 Verizon also alleges that the Commission cannot maintain the status quo because “the Commission has no authority to adopt unbundling rules.” Petition at 8. This argument is irrelevant because the Status Quo Order did not adopt unbundling rules. It only preserved existing arrangements for a temporary period. In any event, the Commission has authority to order unbundling. Under RCW 80.36.140, the Commission has authority under “over practices and services . . . [and] the way in which services are offered, on a bundled or unbundled basis.” First Supplemental Order, Docket No. UT-941464 at 51 (1995) (emphasis added). Federal law recognizes that the

Commission may exercise this authority. 47 U.S.C. § 251(d)(3) states that the Telecommunications Act does not “preclude the enforcement of any regulation, order, or policy of a State commission that establishes access and interconnection obligations of local exchange carriers.” 47 U.S.C. § 252(e)(3) states that the Telecommunications Act does not “prohibit a State commission from establishing or enforcing other requirements of State law in its review of an agreement, including requiring compliance with intrastate telecommunications service quality standards or requirements.”

7 Finally, the Commission can order maintenance of the status quo based on its broad authority to regulate the operations of Verizon. The Commission has the authority to regulate telecommunications carriers in the public interest (RCW 80.01.040(3)) and to ensure that “[a]ll rates, tolls, contracts, charges, rules and regulations of telecommunications companies . . . [are] fair, just, reasonable and sufficient.” RCW 80.36.080. This authority is sufficient for the Commission to take the modest step of ordering Verizon to maintain the status quo.

III. THE COMMISSION SHOULD CLARIFY THAT VERIZON MAY NOT UNILATERALLY ELIMINATE UNE-P BY REPLACING CIRCUIT SWITCHES WITH PACKET SWITCHES

8 In addition to denying Verizon’s Petition for review of the Commission’s status quo mandate, the Commission should take this opportunity to clarify that Verizon also **may not** unilaterally eliminate UNE-P by replacing circuit switches with “packet switches.” The Parties raise this issue because a June 8, 2004 Notice of Network Change issued by Verizon (attached hereto as Exhibit A) notifies Washington CLECs that it will be replacing a Mount Vernon Nortel DMS-100 switch with a Nortel Succession Packet Switch. Verizon goes on to note that under the TRO, Verizon is not required to unbundle packet switching or unbundle shared transport for use with unbundled packet switching.

Thus, Verizon states that it plans to unilaterally cease provision of UNE-P services out of the Mount Vernon switch.

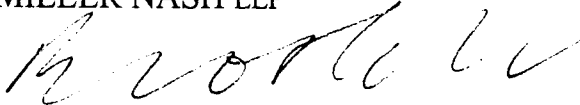
9 Verizon's attempt to eliminate unbundled switching by swapping out circuit switches in favor of packet switches is exactly the type of unilateral action that should be prohibited under the Commission's status quo order and cannot be tolerated by this Commission. Accordingly, the Commission should take this opportunity to reiterate that Verizon may not take any actions, direct or indirect, to disrupt the status quo in Washington until the Commission has resolved all issues arising out of the TRO and the USTA II decision.

IV. CONCLUSION

10 The Commission's order temporarily preserving the status quo is the most logical and least disruptive way to manage the impact of USTA II. It is beyond reasonable dispute that the Commission has authority to take that action. Because Verizon's Petition proposes relief that would disrupt competitive markets and confuse consumers to the detriment of the public interest, the Commission should deny the Petition.

Respectfully submitted this 28th day of June, 2004.

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EXHIBIT A



June 8, 2004

**Notice of Network Change
Replacement of DMS 100s with Nortel's Succession Platform in Mt. Vernon, WA**

This is to inform you of a Verizon end office replacement project in the state of Washington. Verizon will replace the existing Mount Vernon Nortel DMS-100 switch with a Nortel Succession packet switch. This will require your company to perform certain work as described below.

Network Changes

The project will replace the existing Mount Vernon class 5 Nortel DMS-100 switch with a Nortel Succession packet switch, moving the class 5 central office to another building. At the completion of the project, the existing switch will only serve a class 4 toll switching function. Verizon will use a trunk gateway to interface with the packet switch so that the existing means of interconnection will be unchanged.

This notice should provide you all of the information necessary to build direct end office trunks to the new class 5 packet switch trunk gateway. The following details will allow you to submit ASR's in a timely and accurate manner:

General Information

Existing Central Office - Mount Vernon, Washington: MTRVWAXXDS1
New Central Office - Mount Vernon, Washington: MTRVWAXFPSA
New Central Office Point Code - Mount Vernon, Washington: 240049038
Timeframe for ASR's to be submitted for new CLLI code: 9/13/04 through 10/15/04
Due dates for trunks to be established on new CLLI code: 9/24/04 through 10/29/04

Trunk Rearrangements

ASR's to disconnect and reestablish service between the old and new Mount Vernon, Washington Central Office entities should be related via the RPON (Related Purchase Order Number) field on the ASR (i.e., trunk order to trunk order and facility order). Note, Verizon will provision inter-machine trunks during the transition to ensure service continuity is maintained from the existing switch to the new switch, and carriers can initiate trunk orders on the new switch going forward consistent with generally followed procedures.

ASR's should carry a project id of "MTRVWAXF-TRUNKS"1 in the ASR "PROJECT" field.

Please consider this notice as a substitute for individual Trunk Group Service Requests (TGSR's) that will not be submitted separately.

SS7 Impacts

If SS7 service arrangements are provided to your company via another telecommunications provider, you must contact that provider and make arrangements for their code administrator to update the Local Exchange Routing Guide (LERG). This is a critical step to follow to ensure that your traffic will not be misrouted nor interrupted. Verizon will not make these arrangements on your company's behalf.

Unbundled Switching

In its Report and Order and Order on Remand and Further Notice of Proposed Rulemaking, CC Docket Nos. 01-338, 96-98, and 98-147, FCC 03-36, 18 FCC Rcd 16978, released on August 21, 2003 (the "Triennial Review Order"), the Federal Communications Commission promulgated rules and regulations pertaining to the availability of unbundled network elements pursuant to Section 251(c)(3) of the Communications Act of 1934 (the "Act"). Those rules and regulations, together with the other relevant provisions of the Triennial Review Order, took effect on October 2, 2003.

Under the rules adopted in the Triennial Review Order, as under prior FCC rules, Verizon is not required to provide unbundled packet switching. Verizon also is not required to provide unbundled shared transport for use with unbundled packet switching. The FCC's rules and regulations pertaining to unbundled packet switching, and the related provisions of the Triennial Review Order, were affirmed by the U.S. Court of Appeals for the D.C. Circuit on March 2, 2004.

Accordingly, Verizon will not provide unbundled packet switching at the site identified above in accordance with the provisions of the Triennial Review Order beginning September 10, 2004. The unavailability of unbundled switching at the Mount Vernon Central Office will also affect the remotes identified on Attachment 1 to this notice to the extent they rely on access to unbundled switching at the host.

If you have unbundled local circuit switching arrangements at Mount Vernon, Washington or the other impacted sites identified in Attachment 1, you must submit LSRs to establish alternative service arrangements, such as one of the many resale arrangements, for completion no later than August 27, 2004. If you prefer not to convert to an alternate arrangement, you may terminate any unbundled local circuit switching arrangements through existing disconnect processes. Any remaining unbundled local circuit switching arrangements in-service at the time of the switch conversion will be converted to resold voice service.

Note, this will affect any UNE-P dependent line splitting arrangements from the above mentioned locations as well; therefore, customers will need to submit LSR orders requesting an alternative service such as a UNE-loop to provision DSL service for completion no later than August 27, 2004.

Any questions regarding this correspondence should be directed to your Account Manager.

Attachment 1: Other UNE-P Impacted Switch Sites

Site Name	GLI
Allen	BOWWWAACRS0
Avon	MTVRWAW0114
Bacus	SWLYWAYBRS0
Bayview	BURLWAXBRS0
Bayview Airport	BURLWAW0002
Big Lake	BGLKWAXXRS0
Blanchard	EDSNWAAARS0
Burlington - Contel	BURLWAXXRS0
Burlington - GTE	BURLWAXARS1
Burlington #3	BURLWAXXRS1
Clear Lake	SWLYWAW0021
Colony Mtn	BLHMWAW0101
Conway	CNWYWAXXRS1
Cultus Mtn	SWLYWAW0011
Eaglemont	MTVRWAW0124
Fredonia	MTVRWABRRS0
Garden of Eden	SWLYWAW0031
Hickox	MTVRWAXERS0
Idle Hour	BURLWAW0001
Lk Cavanaugh	BGLKWAAARS0
Kulshan Remote	MTVRWAXDRS1
Lk McMurray	CNWYWAW0001
Milltown	CNWYWAW0011
Montborne	MTVRWAMBRL0
Northern State	SWLYWAXERS0
Padilla	EDSNWAW0001
Samish	SWLYWAXBRS0
Sedro Wooley-Contel	SWLYWAXXRS2
Sedro Wooley-GTE	SWLYWAXARS2
Silver Creek	SWLYWAW0041
Truckstop	EDSNWAW0002
United General	SWLYWAXFRS0