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May 19, 2006

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VIA MESSENGER

Carole Washburn, Executive Secretary
Washington Utilities and Transportation Commission
P. O. Box 47250
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Olympia, WA 98504

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Re: Docket No. UT-053025
VERIZON RESPONSE TO JOINT CLEC PETITION FOR ADMINISTRATIVE
REVIEW OF ORDER NO. 3

Dear Ms. Washburn:

Enclosed for filing are the original and eight copies of Verizon Response to Joint CLEC Petition for Administrative Review of Order No. 3 and Certificate of Service in the above-referenced case.

Please contact me if you have any questions. Thank you.

Very truly yours,

A handwritten signature in black ink that reads "Timothy J. O'Connell".

Timothy J. O'Connell

Enclosures
cc: Service list

of non-impaired wire centers to the FCC in March 2005.” Order No. 3 Conclusion of Law (2). In support of this conclusion, the ALJ noted accurately that “[a]pplying data from different time periods to determine the *initial* list of non-impaired wire centers, as the Joint CLECs suggest, would be inconsistent.” Order No. 3 Conclusion of Law (3) (emphasis added).

The Joint CLECs attack this logical rationale by pointing to the Verizon methodology for counting fiber-based collocators. Petition at 2. This non-sequitur misses the point. The methodology for identification of fiber-based collocators is necessarily different than determining the number of business lines served through a particular central office. Verizon had to conduct inspections to determine the former, but was able – indeed was required – to use the then-most recently available reported ARMIS data at the time to assess the latter. In fact, the FCC noted that its confidence in the accuracy of the business line calculations rested in large part because the figures were based on filed ARMIS data.² Thus, just as the ALJ decided in Order No. 3, Verizon correctly used data from the December 2003 ARMIS report because it was the most recent report on file with the FCC as of the March 11, 2005 effective date of the *TRRO*.³

Perhaps realizing the untenable nature of their position, the Joint CLECs cite desperately to a reference in a *TRRO* footnote to the FCC Report 43-08 Report Definition (“Report Definition”). Specifically, the Joint CLECs claim that because the Report Definition was issued in December 2004, the *TRRO* “obviously contemplat[ed] that 2004 (or later) ARMIS data complied consistent with the report would be used.” Petition at 3.

² See *TRRO* ¶ 105.

³ ARMIS report 43-08 is filed annually to report data for the previous calendar year; such filing is typically made on April 1st.

The only thing “obvious” from this citation is that it ignores the context in which it was offered, which was to support the FCC’s use of 2003 ARMIS data to establish business line thresholds for purposes of identifying non-impaired wire centers. *See* TRRO ¶ 105 (“BOC wire center data that we analyze in this Order is based on ARMIS 43-08 business lines.”). Thus, this citation simply highlights what the ALJ cited in Order No. 3 as a reason for use of 2003 ARMIS data: that the FCC itself “used this data to establish the non-impairment criteria and the companies used this data in providing lists of non-impaired wire centers to the FCC in March 2005.” Order No. 3 Conclusion of Law (2).

The Joint CLECs even make the baseless claim that the future non-impairment designations contemplated by the *TRRO* “would be meaningless if only 2003 data could be considered.” Petition at 3. The Joint CLECs’ straw man argument is, of course, incorrect – which is why neither Verizon nor any other ILEC of which Verizon is aware uses such a methodology. Use of 2003 ARMIS data was appropriate only for the initial wire center designation, as it was the most recent ARMIS data filed with the FCC at that time; there is no suggestion that 2003 ARMIS data be used for supplemental designations of non-impaired wire centers. In fact, Verizon supplements its initial non-impairment designations using the process described by the FCC, and utilizes the most recent ARMIS data on file with the FCC at the time of the supplemental designations. For example, when Verizon examined wire centers to add supplemental wire centers to its non-impaired list in November of 2005 (effective February 2006), it utilized the most recent ARMIS data on file with the FCC at the time, which was the 2004 ARMIS data (filed with the FCC in April 2005).

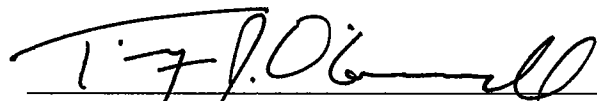
In fact, it is the Joint CLECs' suggested method that would render the ratcheted process of continued wire center designations a nullity. As Verizon explained in its response to Joint CLECs' exceptions submitted earlier in this docket, permitting the Joint CLECs to wait until this late date to challenge Verizon's original list of non-impaired wire centers submitted to the FCC on February 15, 2005, would amount to a reclassification of wire centers identified as non-impaired based on timely data at the time of identification.

Finally, the Joint CLECs cite to an order of the Michigan Public Service Commission as if it overrules the ALJ's decision in Order No. 3. Petition at 4. It does not. The ALJ determined correctly that use of 2003 ARMIS data was reasonable for Verizon's initial classification of non-impaired wire centers, and that conclusion of law is unaffected by a flawed and isolated decision of another state commission.

In sum, the Commission should reject the attempt by the Joint CLECs to repudiate the ALJ's accurate conclusion in Order No. 3 that use of 2003 ARMIS data was reasonable for implementing initial designations of non-impaired wire centers.

Dated: May 19, 2006.

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