

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition for)	
Arbitration of an Amendment to)	
Interconnection Agreements of)	
)	
VERIZON NORTHWEST, INC.)	DOCKET NO. UT- 043013
)	
with)	AT&T’S RESPONSE TO
)	VERIZON’S PROPOSED
COMPETITIVE LOCAL EXCHANGE)	PROCEDURAL SCHEDULE
CARRIERS AND COMMERCIAL)	
MOBILE RADIO SERVICE PROVIDERS)	
IN WASHINGTON)	
)	
Pursuant to 47 U.S.C. § 252(b), and the)	
<i>Triennial Review Order</i>)	

AT&T Communications of the Pacific Northwest, Inc. and AT&T Local Services on behalf of TCG Seattle and TCG Oregon (collectively “AT&T”) hereby submit their Response to Verizon’s Proposed Schedule. AT&T respectfully requests that the Commission reject Verizon’s proposed schedule for the reasons that follow.

RESPONSE

1. In its order on the interim rules, the Federal Communications Commission (“FCC”) stated, among other things:

We emphasize at the outset that the twelve-month transition described herein is essential to the health of the telecommunications market and the protection of consumers. While carriers can address short-term instability through negotiated modification of interconnection agreements, it appears that the change of law provisions found in carriers’ interconnection agreements vary widely. ... There is credible evidence before us that some incumbents have informed competitive LECs of their intention to initiate proceedings to curtail their UNE offerings, and that at least one BOC has announced its intention to withdraw certain UNE offerings immediately. *While such actions are permitted under the court’s holding in USTA II, they would likely have the effect of disrupting competitive provision of telecommunications services to millions of customers.*

Moreover, whether competitors and incumbents would seek resolution of disputes arising from the operation of their change of law clauses here, in federal court, in state court, or at state public utility commissions, and what standards might be used to resolve such disputes, is a matter of speculation. *What is certain, however, is that such litigation would be wasteful in light of the Commission's plan to adopt new permanent rules as soon as possible.*¹

Through its conduct in Washington prior to its offer of the proposed schedule² and through the schedule itself, Verizon's intentions are very clear: *do whatever it takes to shut down the competitor's use of unbundled network elements ("UNEs"), including and especially the platform as quickly as possible.*

2. Verizon's current proposal has the parties to this proceeding forging ahead to alter interconnection agreements based upon uncertain law, unclear TRO amendment proposals³ and interim rules, which—frankly—Verizon itself seeks to overturn.⁴ Surprisingly, Verizon does not appear to be concerned with the potential waste of resources its proposed schedule entails; other carriers, however, must concern themselves with such issues.

3. Consequently, AT&T requests that the Commission suspend further proceedings pending the outcome of the FCC's decision on its final rules. The FCC's observations cited above as well as the reasoning adopted in Order No. 8 for maintaining the *status quo* provide ample basis for ordering a temporary suspension of the

¹ *In the Matter of Unbundled Access to Network Elements Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, Order and Notice of Proposed Rulemaking, WC Docket No. 04-313 & CC Docket No. 01-338, FCC 04-179 (Rel. Aug. 20, 2004) at ¶ 17 (hereinafter "**Interim Order**") (emphasis added).

² Verizon has filed tariffs attempting to extract itself from its unbundling obligations and it has sent notices of network changes that have the effect of discontinuing its provision of unbundled switching in certain central offices, etc.

³ Verizon has offered two amendment proposals to date and states in its August 20, 2004 letter to the Commission as well as in its proposed schedule that the third amendment is on the way.

⁴ *USTA v. FCC*, Petition for Writ of Mandamus to Enforce the Mandate of this Court, Case No. 00-1012 *et al.*, (Aug. 23, 2004).

proceeding. Thus, to protect consumers and competition, the Arbitrator should reject Verizon's proposed schedule.

4. If, however, the Arbitrator feels compelled to proceed with some schedule, AT&T offers the following alternative proposal:

- (a) September 13, 2004 – Verizon files the relevant portions of interconnection agreements it believes allow it to take unilateral action based upon a change-in-law along with its arguments in support thereof (*see* Order No. 8 at 13, ¶ 38);
- (b) September 15, 2004 - Verizon files and serves its revised TRO Amendment (thereafter the parties have 60-days to negotiate);
- (c) September 30, 2004 – CLEC/CMRS respond to Verizon's allegations that their interconnection agreements allow unilateral action by Verizon;
- (d) November 15, 2004 – Arbitrator issues decision regarding the CLEC/CMRS agreements allegedly allowing Verizon unilateral action based upon a change-in-law;
- (e) November 16, 2004 - Parties file a list of issues in dispute and a list of issues that require hearing as opposed to those that can be "decided on the paper;"
- (f) November 30, 2004 – The Arbitrator holds a status conference to discuss further proceedings, including the status of Verizon's Writ of Mandamus, briefing schedules and hearing dates.

Like Verizon, AT&T also anticipates that this schedule would focus on issues other than costing and pricing. Throughout this schedule AT&T believes the *status quo* order would be in full force and effect.

CONCLUSION

At the heart of AT&T's response is a desire to proceed as efficiently and as cost effectively as possible. Not only will such procedure protect carrier and Commission resources, but importantly, it will also provide stability for Washington consumers in a

time of tremendous uncertainty in the telecommunications industry. Therefore, AT&T requests that the Arbitrator adopt AT&T's proposal as offered herein.

Respectfully submitted this 3rd day of September, 2004.

**AT&T COMMUNICATIONS OF THE
PACIFIC NORTHWEST, INC. AND
AT&T LOCAL SERVICES ON
BEHALF OF TCG SEATTLE AND
TCG OREGON**

By: _____

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