BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

AT&T COMMUNICATIONS OF THE PACIFIC NORTHWEST, INC.,	)	Docket No. UT-020406
Complainant,	)	VERIZON'S REPLY TO OPPOSITIONS TO MOTION TO CONTINUE HEARINGS, DETERMINE SCOPE AND TO FILE ADDITIONAL TESTIMONY
vs.	)	
VERIZON NORTHWEST INC.,	)	
Respondent.	)	

Staff, AT&T, and Public Counsel all oppose Verizon's motion. Their arguments, however, underscore the need to continue the hearings until the scope of this case is settled:

First, Staff claims that the issues are "well known to all parties" and are "properly framed for hearings,"[1] but this claim is belied by Staff's conflicting positions. For example, when Verizon filed its motion to dismiss last March, Staff opposed it by stating that Verizon could offer evidence of Verizon's "overall profit levels on Washington intrastate investment and services,"[2] which is precisely what Verizon did. Now, Staff criticizes the very type of evidence it advocated last spring, and argues instead that Verizon must file a general rate case if it wants a

[1] Staff's Answer in Opposition to Verizon's Motion to Continue at 2.

[2] Staff's Answer in Opposition to Verizon's Motion to Dismiss at 2.

revenue-neutral outcome. Staff did not make this argument last spring, presumably because such an argument would have *supported* Verizon's motion to dismiss. In any event, Staff's current position clearly shows that the issues are not "properly framed for hearing," as Staff suggests.[3]

AT&T's filing also raises uncertainty about the fundamental issues in this case. According to AT&T, "[w]hile evidence of Verizon's overall earnings may be germane to the issue of the reasonableness of Verizon's switched access and toll rates, this case is not, and never has been, about rate rebalancing of Verizon's intrastate services."[4] If, as AT&T states, evidence of Verizon's overall earnings "may be germane," a point Verizon agrees with, then why is rate rebalancing *not* germane? As Verizon noted in its motion to dismiss, AT&T has testified elsewhere that rate rebalancing is germane. For example, in a Pennsylvania access charge investigation, AT&T's Director of Law and Governmental Affairs testified that if an incumbent's access charges are reduced, the incumbent is entitled to recoup its lost revenues by simultaneously raising the rates of other services:

> [L]et's assume we're not in a situation where we've got any over-earnings. We're in a company that's within the regulated base, then I am supportive of revenue neutral changes for the company which would mean one of a couple of things. Either when you lower access, you at the same time receive funds from the universal service which was the example we just talked about or you could also lower access while doing some rate rebalancing in terms of raising residential rates or some other rates within the company. *In other words, we [AT&T] agree that access is an implicit subsidy going to support residential local service. And, no, you shouldn't have that taken away and reduce access independently . . . .*[5]

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[3] Public Counsel, on page 3 of its Answer, also argues that the "proper sequence" for this case is for Verizon to file a rate case if the Commission reduces its access charges. Obviously, Verizon disagrees with this Public Counsel on this fundamental issue.

[4] AT&T's Response at 3.

[5] Testimony of G. Blaine Darrah III, Director--Regulatory, AT&T Law and Government Affairs Division, Tr. 612-13, *In re Generic Investigation of Intrastate Access Charge Reform*, Docket No. I-00960066 (Pa. Pub. Util. Comm'n.) (transcript of Sept. 11, 1997) (emphasis added).

AT&T's conflicting positions, like Staff's, raise significant questions about the scope of this proceeding and thus underscore the need to continue the hearings.

Second, Staff argues that AT&T does not have the burden of proving that Verizon's intrastate earnings are "sufficient" if access charges are reduced. Verizon disagrees, for the simple reason that Verizon's overall rates and revenues are presumed by law to be "just, reasonable and sufficient" until proven otherwise.[6] Furthermore, the Commission's order in *MCI v. GTE Northwest* confirms that AT&T, not Verizon, has the burden of proof. There, the Commission explained that "[a] proposal to change a single rate raises two issues: (1) whether the proposed rates in a vacuum are okay; and (2) the relationship between the proposed rates and the other rates of the company."[7] AT&T made the proposal to change a "single rate," and therefore AT&T has the burden of proof on *all* the issues presented by this proposal, including "the relationship between the proposed rates and the other rates of the company." Again, Verizon filed testimony on this issue as a defensive measure, but it is AT&T, not Verizon, that has the burden of proof. In any event, the parties' disagreement on this fundamental point prove that the issues are not settled.

Third, Staff's position that Verizon has the burden of proof on the sufficiency of its earnings conflicts with Staff's position that Verizon should not be allowed to file surrebuttal. That is, if Verizon has the burden of proof, then it should have the opportunity to *rebut* the evidence offered by the opposing parties. Again, Verizon does not believe that it has the burden of proof, but given the dispute over this issue, and given that Verizon was forced to present what amounts to a "direct case," Verizon should have the opportunity to file rebuttal.

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[6] *See, e.g.*, In the Matter of Puget Sound Energy, Inc., Docket No. UE-990267, Fourth Supplemental Order (Nov. 1999) (utility does not bear burden of proof on earnings where utility itself does not file a rate case).

[7] Docket No. UT-970653, Second Supplemental Order at 6.

Fourth, both Staff and AT&T raise new arguments about Verizon's imputation study in their so-called "rebuttal" testimony. Indeed, Staff's direct testimony on imputation is anemic – it simply concludes that Verizon's toll rates are "very close to passing or failing depending upon the inputs used,"[8] but does not discuss any specific inputs. Staff did not present any specific criticism of Verizon's imputation study until it filed its rebuttal testimony, where it took criticized Verizon's "conversion factor." Verizon should have an opportunity to explain why Staff is wrong. Similarly, AT&T's rebuttal testimony contains new (or modified) arguments regarding Verizon's study, and Verizon should have the chance to rebut them. (As we discuss below, AT&T does not object to Verizon filing additional testimony, so long as the current schedule remains in place.) Given these facts, and given that the critical study at issue is *Verizon's* study, not Staff's or AT&T's, the Commission should permit Verizon to file surrebuttal.[9]

Finally, Verizon clarifies its request to file additional testimony. In its Response (fn. 1), AT&T states that it does not object to Verizon filing additional testimony "as contemplated in the existing schedule" but is unclear if Verizon is asking to do this. To clarify this point, if the Commission does *not* continue the hearings, then Verizon requests that it be permitted to file additional testimony on all issues. Given that the complainant itself does not oppose this request, the Commission should grant it. Verizon proposes that it be permitted to file additional testimony by the close of business on Wednesday, February 26.

In sum, Verizon should not be required to proceed to hearing on March 3 without (1) knowing the scope of the issues; (2) having complete and accurate responses to discovery

[8] Direct Testimony of Tim Zawislak at 8.

[9] Public Counsel also argues that Verizon should not be permitted to file surrebuttal. Given that Public Counsel has not bothered to file any testimony in this proceeding, its position should not be given any weight.

from AT&T and Staff; and (3) being allowed to file surrebuttal testimony. If, however, the Commission does not continue the hearings, then it should allow Verizon's to file additional testimony on all issues.

Respectfully submitted,

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