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BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Petition of
VERIZON NORTHWEST, INC.,
For Waiver of WAC 480-120-071(2)(a)

Docket No. UT-011439

**REPLY TESTIMONY OF
BETH KOHLER
FOR
RCC MINNESOTA, INC.**

JANUARY 7, 2002

1 Q. PLEASE STATE YOUR NAME AND EMPLOYER.

2 A. I am Beth Kohler. My employer is RCC Minnesota, Inc. ("RCC"), and my position is
3 Legal Services Director.

4 Q. HAVE YOU FILED TESTIMONY IN THIS PROCEEDING BEFORE?

5 A. Yes. I filed direct testimony on November 20, 2002 on RCC's behalf.

6 Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

7 A. I will respond to issues raised in the response testimony of Theresa A. Jensen, on behalf
8 of Qwest Corporation, the response testimony of Pamela L. Morton, on behalf of Qwest,
9 and the reply testimony of Robert B. Shirley on behalf of the staff of the Washington
10 Utilities and Transportation Commission ("WUTC").

11 Q. PLEASE SUMMARIZE YOUR TESTIMONY.

12 A. I will clarify my use of the term "carrier of last resort." I will also discuss why Qwest's
13 response testimony essentially ignores its original basis for seeking to involuntarily join
14 RCC as a party in this case. Nothing in Qwest testimony would support granting any
15 affirmative relief against RCC.

16 **REPLY TO RESPONSE TESTIMONY OF ROBERT SHIRLEY .**

17 Q. HAVE YOU REVIEWED MR. SHIRLEY'S TESTIMONY?

18 A. Yes.

19 Q. ON PAGE 1, LINES 18-20, AND PAGE 2, LINES 12 THROUGH PAGE 3, LINE 6,
20 MR. SHIRLEY RESPONDS TO YOUR TESTIMONY REGARDING "CARRIERS OF
21 LAST RESORT." HE SAYS THAT THERE ARE NO CARRIERS OF LAST RESORT
22 IN WASHINGTON. DO YOU AGREE?

23 A. Yes. In my opening testimony I did not use the term "carrier of last resort" in a technical
24 legal sense and thereby imply that the term was recognized under Washington law.
25 "Carrier of last resort" does have a technical meaning in many states and typically applies
26

1 to wireline carriers only. My discussion was simply to point out to the Commission that
2 for sound policy reasons in states with a “carrier of last resort” obligation, it does not
3 extend to wireless carriers.

4
5 Q. ON PAGE 5, LINES 1-6, MR. SHIRLEY STATES THAT RCC COULD NOT
6 RECOUP MORE THAN A SMALL AMOUNT OF THE INVESTMENT NECESSARY
7 TO SERVE THE TIMM RANCH AND TAYLOR LOCATION. DO YOU AGREE?

8 A. Yes. RCC has no means of accessing implicit subsidies available to wireline carriers for
9 line extension costs.

10 Q. ON PAGE 5, LINES 6-11, MR. SHIRLEY STATES THAT, IF THE WUTC
11 REQUIRED RCC TO BUILD FACILITIES TO SERVE THE TIMM RANCH AND
12 TAYLOR LOCATION, THEN THE WUTC WOULD DRIVE COMPANIES LIKE
13 RCC OUT OF WASHINGTON. DO YOU AGREE?

14 A. Yes. No carrier will seek ETC status if it is forced to extend service into a particular
15 location where, as here, the costs are extreme and there is no possibility of recouping
16 investment. In its ETC proceeding, RCC committed to answer all reasonable requests for
17 service. Requiring RCC to extend service to a customer that has not requested RCC's
18 service and in a location where the costs can never be recovered is not reasonable, and it
19 certainly is not a wise allocation of the relatively limited high-cost funds available to
20 RCC.

21 Q. ON PAGE 6, LINES 10-17, MR. SHIRLEY STATES THAT AN ETC IS NOT
22 REQUIRED “TO PROVIDE A SIGNAL IN EVERY SQUARE FOOT OF THE AREA
23 FOR WHICH IT HAS BEEN DESIGNATED.” DO YOU AGREE?

24 A. Yes. As Qwest witness Morton states repeatedly, the obligation is to serve an entire
25 “area,” not every location. The obligation to serve a specific location is qualified by the
26 “reasonable request” condition.

1 Q. ON PAGE 15, LINE 12 THROUGH PAGE 21, LINE 11, MR. SHIRLEY DESCRIBES
2 HOW WIRELINE COMPANIES HAVE MORE STATE AND FEDERAL SUPPORT
3 TO SERVE HIGH COST AREAS THAN WIRELESS COMPANIES DO. DO YOU
4 AGREE?

5 A. Yes. Some implicit subsidies have been removed from ILEC rate bases and made
6 available to competitors, however many explicit and implicit subsidies remain with
7 wireline companies and are not available to wireless carriers.

8 Q. ON PAGE 22, LINES 16-20, MR. SHIRLEY STATES THAT THE BEST POLICY IS
9 FOR THE WUTC TO “LET RCC DESIGN AND BUILD A NETWORK BASED ON
10 PRINCIPLES IT USES TO DESIGN AND BUILD NETWORKS ELSEWHERE.” DO
11 YOU AGREE?

12 A. Yes. It is in our interest, and the public's interest, to design the most efficient means of
13 deploying the high cost funding made available from the federal government. Spending
14 well over half a million dollars to construct two cell sites in this particular area will mean
15 that significant improvements elsewhere must be delayed--improvements that would have
16 a much greater benefit to Washington's public than this particular construction project. If
17 the state is willing to permit a wireline carrier to recoup its investment in about a year, as
18 Mr. Shirley suggests, that is the state's prerogative, however any suggestion that a private
19 company should be forced to make such an investment without recouping investment is
20 misguided.

21

22 **REPLY TO RESPONSE TESTIMONY OF THERESA A. JENSEN.**

23 Q. HAVE YOU REVIEWED THE RESPONSE TESTIMONY OF THERESA A. JENSEN?

24 A. Yes.

25 Q. ON PAGE 2, LINE 10 THROUGH PAGE 4, LINE 2, MS. JENSEN CLAIMS THAT
26 QWEST CAN ONLY RECOVER A SMALL PORTION OF ITS COSTS TO SERVE

1 THE TIMM RANCH THROUGH ACCESS CHARGES AND THAT IT WILL NOT
2 RECEIVE ANY FEDERAL UNIVERSAL SERVICE SUPPORT. IS THIS TRUE?

3 A. I would defer to Mr. Shirley's testimony on this point. He seems to indicate that Qwest
4 could recoup its investment in line extension costs in about a year, which seems very
5 generous. Moreover, Qwest's rate structure includes implicit universal service support
6 subsidies that are not available to RCC.

7 Q. ON PAGE 4, LINES 4-11, MS. JENSEN ATTEMPTS TO EXPLAIN YOUR
8 STATEMENT THAT SUBSIDIES AVAILABLE TO ILECS ARE DIFFERENT FROM
9 SUBSIDIES AVAILABLE TO ETCS. IS HER EXPLANATION ACCURATE?

10 A. No. Wireless carriers do not receive any federal universal service subsidies that are not
11 available to Qwest. When a customer's billing address is in Qwest's authorized service
12 area, a competitive ETC receives federal high-cost support in the same per-line amount as
13 does Qwest – no more and no less. If Qwest receives no high-cost support, then RCC
14 will likewise receive no support.

15 Q. ON PAGE 6, LINES 12-21, MS. JENSEN ARGUES THAT IT IS FAIR THAT RCC
16 CANNOT CHARGE TERMINATING ACCESS. DO YOU AGREE?

17 A. Ms. Jensen's point seems to suggest that RCC is challenging the existing access charge
18 scheme in this docket, which is not at all the case. Her testimony has no relevance to
19 whether a competitive ETC should be forced to extend service without the possibility of
20 any cost recovery. The point of my testimony was that since an ILEC can increase its
21 terminating access charges to recover line extension costs, then it is unfair to expect a
22 wireless carrier, which cannot impose such charges, to incur the same costs.

23 Q. ON PAGE 7, LINES 1-9, MS. JENSEN STATES THAT RCC CAN RECOVER
24 INFRASTRUCTURE COSTS TO SERVE THE TAYLOR LOCATION AND TIMM
25 RANCH THROUGH RATES IT CHARGES CUSTOMERS AND THE FEDERAL USF
26

1 PROGRAM. HAS MS. JENSEN FAIRLY DESCRIBED RCC'S ABILITY TO
2 RECOVER ITS COSTS?

3 A. Not at all. Her testimony is purely theoretical and ignores the realities of the highly
4 competitive wireless business. Unlike Qwest, RCC is in a competitive industry, where
5 price increases are not simply absorbed by customers who have no choice. RCC's
6 customers are free to move on, and in the face of higher prices they are likely to do so.
7 RCC has determined that this particular project is not a wise use of federal high-cost
8 support funds. Funds spent here will not be spent somewhere else. Under the federal
9 high-cost support mechanism, RCC is locked into the support paid to the incumbent – it
10 has no opportunity to submit its costs for reimbursement as do ILECs. In sum, if the
11 Commission decides to order any carrier to serve the applicants then this project should
12 be funded through the ILECs' implicit funding mechanism, rather than imposing
13 unrecoverable costs on a competitive carrier.

14 Q. ON PAGE 7, LINES 4-9, MS. JENSEN ALLEGES THAT RCC HAS NOT
15 DISTINGUISHED BETWEEN THE COSTS IT WOULD INCUR TO SERVE THE
16 TIMM RANCH FROM THOSE IT WOULD INCUR TO EXPAND
17 INFRASTRUCTURE ELSEWHERE IN WASHINGTON. IS MS. JENSEN
18 CORRECT?

19 A. RCC has not even begun to receive federal high-cost funding. Thus, it is not realistic to
20 expect RCC to have developed specific plans for use of the USF funds to improve
21 infrastructure in Washington.

22 Q. ON PAGE 7, LINES 10-19, MS. JENSEN ACCUSES RCC OF "CREAM SKIMMING."
23 IS THERE ANY EVIDENCE THAT RCC IS CREAM SKIMMING?

24 A. This question cannot even be considered until RCC begins receiving and spending funds.
25 Ms. Jensen's concern is misplaced in that the question is not whether RCC will serve
26 high-cost portions of its ETC service area; the question is whether RCC will spend

1 available high-cost funds lawfully. RCC has committed to do so and at this point the
2 company merely takes the position that forcing it to spend funds on this project is not an
3 efficient use of available funds, especially where more efficient cost recovery methods
4 exist for wireline carriers, as outlined by Mr. Shirley.

5 Q. ON PAGE 7, LINES 20-22, MS. JENSEN STATES THAT RCC “ANTICIPATES
6 RECEIVING A SUBSTANTIAL AMOUNT AS AN ANNUAL FEDERAL
7 UNIVERSAL SERVICE FUND SUBSIDY IN WASHINGTON.” IS THIS CORRECT?

8 A. Ms. Jensen implies that RCC will receive high-cost funding in areas served by Qwest,
9 which is inaccurate, as RCC receives no high-cost funding in such areas. While Qwest
10 receives no explicit subsidies, its rate structure includes implicit universal service support
11 subsidies which are unavailable to RCC.

12 Q. ON PAGE 8, LINES 19-23, MS. JENSEN STATES THAT IT IS “BAD PUBLIC
13 POLICY” TO REQUIRE QWEST TO SERVE THE TIMM RANCH AND TAYLOR
14 LOCATION, GIVEN THAT RCC AND VERIZON HAVE ALREADY HELD
15 THEMSELVES OUT AS “READY, WILLING AND ABLE” TO PROVIDE SERVICE
16 TO THOSE AREAS. DO YOU AGREE?

17 A. No. Neither party at issue has requested RCC's service. RCC has stated that it will meet
18 all reasonable requests for service, and has amply demonstrated that this is not a
19 reasonable request. Should the state require RCC to extend service, it will expend scarce
20 high-cost funding on a project that will pay little dividends to the public and which
21 cannot be recouped through existing mechanisms that are available to Verizon and
22 Qwest.

23 Q. ON PAGE 9, LINES 1-15, MS. JENSEN STATES THAT NO CARRIERS MUST
24 SERVE CUSTOMERS REGARDLESS OF THE COST IN WASHINGTON. IN
25 DOING SO, SHE CLAIMS TO REBUT YOUR TESTIMONY ON PAGE 4, LINES 1-6.
26 DO YOU AGREE WITH MS. JENSEN’S RESPONSE?

- 1 A. Yes. The statutory section she quotes is accurate – and it is consistent with RCC's
2 commitment in its ETC proceeding. I have never stated that this Commission can or
3 should order any carrier to serve the applicants in this case.
- 4 Q. ON PAGE 10, LINES 1-14, MS. JENSEN SUGGESTS THAT RCC IS ABANDONING
5 SERVICE COMMITMENTS IT MADE WHEN OBTAINING ITS ETC
6 DESIGNATION. DO YOU AGREE?
- 7 A. Absolutely not. As RCC has previously stated, if it were possible for RCC to recoup its
8 investment costs through the mechanisms available to Qwest and Verizon, RCC would
9 have little objection to a requirement to extend service in this circumstance. Qwest
10 largely ignores the important distinction between the obligation of an ETC to serve an
11 entire “area,” which RCC is doing, and the obligation to serve a *location*, which is
12 limited. When there are two wireline carriers that could recover the costs of extending
13 service to these locations, RCC should not be required to to make a similar investment
14 when it is the one carrier that cannot recoup its costs. RCC's commitment to respond to
15 all reasonable requests for service is in full force.
- 16 Q. ON PAGE 11, LINES 6-19, MS. JENSEN STATES THAT IT WOULD BE UNFAIR
17 TO DISMISS RCC FROM THIS CASE. DO YOU AGREE?
- 18 A. No. RCC's participation serves no purpose in this case other than to demonstrate that
19 Qwest's views on ETC obligations and responding to reasonable requests for service
20 border on absurd. Qwest initially sought to join RCC to show whether RCC could
21 provide service and whether it would be “adequate.” Further, Qwest asked the
22 Commission to consider “whether . . . exten[sion of] wireline facilities is even necessary
23 to provide service to the Timm Ranch.” Having dragged RCC into this case to answer
24 these questions, Qwest now simply ignores the answers to them. RCC has demonstrated
25 the level of service it can provide without a substantial and unrecoverable additional
26 investment. Qwest’s responsive testimony reflects its desire to be excused from

1 extending its lines regardless of the level of service RCC can provide “on reasonable
2 request.” Given Qwest’s position, there is no reason to keep RCC in the case.

3 Q. HAS QWEST ESTABLISHED THAT THE COMMISSION COULD ENTER ANY
4 RELIEF AGAINST RCC?

5 A. No. The Commission’s rationale for granting Qwest’s motion was as follows:

6 While the Commission recognizes the line extension rule at issue here
7 refers to obligations of wireline companies to provide services in their
8 exchange territories, the waiver provisions of the rule clearly allow the
9 Commission to consider alternative forms of service available to
10 applicants in determining whether to require wireline carriers to build
11 facilities. RCC, as a party to the case, can best provide evidence of its
12 plans and schedules for building out facilities in the areas where the
13 Taylor and Timm Ranch applicants live.

14 RCC has provided the evidence that Qwest and the Commission sought and should have
15 no further role in the case.

16 **REPLY TO RESPONSE TESTIMONY OF PAMELA L. MORTON.**

17 Q. HAVE YOU REVIEWED THE RESPONSE TESTIMONY OF PAMELA L.
18 MORTON?

19 A. Yes.

20 Q. ON PAGE 3, LINES 18 THROUGH PAGE 4, LINE 4, MS. MORTON STATES THAT
21 TECHNOLOGICAL LIMITS ON AN ETC'S ABILITY TO SERVE A PARTICULAR
22 AREA DO NOT ALTER ITS OBLIGATION TO SERVE CUSTOMERS. DO YOU
23 AGREE?

24 A. Not as she interprets the law. As stated above, RCC is prepared to respond to all
25 reasonable requests for service. But, as is also discussed above, Qwest fails to
26 distinguish the vastly different nature of the obligations to serve an area versus a
particular location within an area. The FCC quote on which she relies does not support a

1 conclusion that RCC must or should build additional cell towers to serve the locations at
2 issue in this case.

3 Q. ON PAGE 4, LINE 17, MS. MORTON SAYS THAT IT WOULD BE A
4 “DANGEROUS PRECEDENT” TO FORCE A NON-ETC CARRIER LIKE QWEST
5 TO SERVE THE TIMM RANCH AND TAYLOR LOCATION WHERE RCC AND
6 VERIZON ARE ALREADY ETCS FOR THOSE LOCATIONS. DO YOU AGREE?

7 A. If Mr. Shirley's testimony is accurate – that Qwest is eligible to recoup its line extension
8 costs within a year, then I have no idea what could be "dangerous" about such a decision.

9 Q. ON PAGE 5, LINES 1-9, MS. MORTON IMPLIES THAT RCC, AS AN ETC, MUST
10 EXPAND ITS INFRASTRUCTURE TO SERVE THE TIMM RANCH AND TAYLOR
11 LOCATION UNDER THE “STANDARD WHICH IT VOLUNTARILY ASSUMED.”
12 DO YOU AGREE?

13 A. No. As a wireless carrier, RCC is regulated by the FCC. The FCC has also defined the
14 standards governing an ETC’s obligation to serve an area, which are the same for
15 wireless and wireline carriers. RCC agrees to meet the FCC’s standards when it applied
16 with this Commission for designation as an ETC, nothing more and nothing less. The
17 FCC’s standards do not require RCC to expand its infrastructure to serve these particular
18 locations because it is not reasonable.

19 Q. ON PAGE 6, LINES 15-21, MS. MORTON STATES THAT QWEST WOULD INCUR
20 HIGHER COSTS TO SERVE THE TIMM RANCH AND TAYLOR LOCATION
21 THAN RCC WOULD. DO YOU AGREE?

22 A. It is difficult to know which company would face the highest cost based on what we
23 know now. But one thing is certain and that is that Qwest can take advantage of the line
24 extension reimbursement mechanisms and other implicit subsidies that are not available
25 to RCC. Thus, RCC’s *unrecoverable* costs are certain to be greater than Qwest’s.

26 Q. DOES THIS CONCLUDE YOUR TESTIMONY?

1 A. Yes.

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