

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

MOTION OF COMMISSION
STAFF TO COMPEL VERIZON
AND QWEST TO RESPOND TO
DATA REQUESTS

INTRODUCTION

Commission Staff requests the Commission to compel Verizon Northwest, Inc. to respond to Staff's Data Requests to Verizon Nos. 110 through 122.

Commission Staff further requests the Commission to compel Qwest Corporation to respond to Staff's Data Requests to Qwest Nos. 33-39. (Copies of these data requests are attached to this motion.)¹

Verizon and Qwest have both refused to respond to the respective data requests. On January 9, 2002, Verizon alleged that the data requests are "not reasonably calculated to lead to the production of relevant evidence." On

¹Counsel for Staff contacted both counsel for Qwest (direct contact) and for Verizon (leaving a phone message), in an effort to resolve the matter prior to filing this motion to compel.

January 8, 2002, Qwest similarly alleged that the data requests are “not calculated to lead to the discovery of admissible evidence.” These contentions are wholly without merit.

This proceeding concerns whether the Commission should grant Verizon’s petition for waiver of the obligation to provide line extensions to residents in central Washington, and also whether the Commission should adjust the exchange boundary so as to require Qwest to provide such line extensions.² The data requests in question are directly relevant to these issues, and the Commission should require Verizon and Qwest to respond.

DATA REQUESTS TO VERIZON NOS. 110-122

WAC 480-120-071(7)(a) and (7)(b)(ii)(A),(B) specifically state that the Commission will consider, among other factors, the total direct cost of the extension and the number of customers to be served, in determining whether to grant a waiver of the obligation to construct a line extension.

Verizon’s case is largely premised on the assertion that the Taylor and Timm Ranch extensions are so “costly and burdensome” as to justify a waiver. (Testimony of Kay Ruosch, 3/6/2002, at p. 9, Ins. 9-10.) Verizon’s witnesses make

²If the exchange boundary were adjusted, Qwest acknowledges that it “absolutely” would expect to receive a request for service from the occupants of the Timm Ranch. (Testimony of Robert J. Hubbard, 7/5/02, at p. 12, Ins. 15-21) In that case, the same issues applicable to Verizon’s waiver request (total direct cost of the extension, number of customers to be served, other factors listed in WAC 480-120-071(7)(b)(ii)) would be applicable and relevant to Qwest as well.

direct comparisons with other line extensions in their testimony, (*See id.*, p 9-10), and assert that any per-customer “subsidies” of over \$15,000-\$20,000 are difficult to justify. (Reply Testimony of Carl R. Danner, 5/15/2002, at p. 15, lns. 9-10.)

Verizon’s Amended Petition for Waiver (p. 1) alleges that the Taylor and Timm Ranch extensions would entail “prohibitive expense” and “significant . . . financial burdens.” Verizon also asserts, by making the comparisons of its choice, that the line extensions in question here are “not typical line extensions; they would be unusually long and costly ones.” (Reply Testimony of Kay Ruosch, 5/15/2002, at p. 9, lns. 16-17.)

Data Requests Nos. 112-122 all bear *directly* on the factors set forth in the line extension rule, and *directly* on Verizon’s assertions regarding what level of costs, relative to customers served, should justify a waiver. The data requests pertain to the cost and customers served for line extensions that Verizon has completed, and for which it has sought recovery from ratepayers.

Verizon here argues, on the one hand, that the Taylor and Timm Ranch extensions are “not typical.” Yet Verizon simultaneously contends that any information about other line extensions is “not relevant” to testing this assertion. This makes no sense. How can the Commission determine this question if it is not permitted to look at these line extensions in context, with reference to other line extensions that have been constructed? Verizon essentially asks the

Commission to view the present case wholly in a vacuum. The Commission should not do so.

Verizon's argument that the data requests are not relevant is premised, in addition, on an erroneous reading of the Commission's Tenth Supplemental Order in this case. (See Verizon's response to DR 112.) In that order, the Commission granted a motion to strike certain testimony of Robert B. Shirley. The Commission did so because it held that the testimony in question should have been filed at an earlier date, or that leave to file such testimony should have been sought.

The Commission did *not* hold, however, that the matters to which Mr. Shirley referred (including the May 2, 2002 tariff filing of Verizon) were irrelevant to this case. Indeed, the ALJ permitted Staff to make inquiry into these very matters when it granted Staff's prior motion to compel Verizon to respond to Data Requests Nos. 89-91. *See* Sixth Supplemental Order, 7/19/02, p. 2, para. 8.

Verizon also contends that Data Requests Nos. 110-111 are not relevant. This contention is also without merit. These two data requests pertain to discussions between Verizon and Qwest, with respect to Qwest possibly serving the Nelson (Timm Ranch) residences, and Verizon serving the area of Turtle Lake. It is directly related to the possible adjustment of exchange boundaries, one of the issues presented in this case. Furthermore, it is an issue that Verizon

directly raised in its Amended Petition for Waiver, at page 4, para. B(5). Verizon cannot now contend that the issue is irrelevant.

DATA REQUESTS TO QWEST NOS. 33-39

The data requests to Qwest concern matters similar to those raised in the data requests to Verizon—namely questions concerning other extensions begun or completed by Qwest, the cost and length of those extensions, including reinforcement costs, and the customers served by those extensions. Qwest acknowledges, as set forth above (see footnote 2) that if the Commission were to adjust the exchange boundary, Qwest would expect to receive a request for service from the occupants of the Timm Ranch. Qwest contends, in part, that it does not make “good economic” sense to require Qwest to provide a line extension in this case. Information regarding other line extensions is relevant to the question of whether Qwest should be required to provide service to the Timm Ranch in that instance, for the same reasons as it is relevant to Verizon—namely, such information provides context for the line extensions at issue in this case, rather than having the Commission view them wholly within a vacuum, as Verizon and Qwest apparently advocate. Moreover, information regarding line extensions provided by Qwest (their cost, customers served, etc.) may well also prove relevant, in providing additional context, to the question of whether Verizon should be required to provide service.

For these reasons, Verizon and Qwest should be required to respond, respectively, to Staff's Data Requests to Verizon Nos. 110-122, and to Staff's Data Requests to Qwest Nos. 33-39.

DATED this 10th day of January, 2003.

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