

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

AT&T Communications of the Pacific Northwest, Inc.

v.

Verizon Northwest, Inc.

DOCKET NO. UT-020406

PUBLIC COUNSEL'S ANSWER TO VERIZON'S MOTION FOR CLARIFICATION OF THE FIFTH SUPPLEMENTAL ORDER

Pursuant to the ALJ Schaer's direction at the February 24th, 2003 prehearing conference the Public Counsel Section of the Washington State Attorney General's Office (Public Counsel) files this answer to Verizon Northwest Inc.'s (Verizon) Motion for Clarification of the Fifth Supplemental Order (Motion to Clarify).

I. ANSWER

A. Relevancy of Tucek Testimony and Cost Studies.

Public Counsel sought to strike the testimony of Mr. Tucek since it was the foundation for the testimony of other Verizon witnesses addressing rate rebalancing. Verizon does not appear to be requesting reconsideration of the portion of the Fifth Supplemental Order limiting remedies in this proceeding and excluding rate rebalancing from the scope of the current proceeding. On this basis, Public Counsel does not object to the use of Mr. Tucek's testimony for the purpose of determining access charge costs and related access charge issues. If Verizon seeks to re-offer Mr. Tucek's testimony at the time of hearing next week Public Counsel will not object to the use of that testimony for the limited purposes of addressing access charge costs and changes, if any, that should be ordered in those charges.

B. Verizon Misstatement of the Fifth Supplemental Order.

Verizon appears to misstate the Order at paragraph three of Verizon’s Motion to Clarify. Public Counsel does not agree with this interpretation of the Fifth Supplemental Order and can find no basis for this assertion contained in the order. The order stated that evidence concerning rate rebalancing is not within the scope of this proceeding. Order at ¶ 35. It is Public Counsel’s position that changes to access charges are within the scope of this proceeding and are an available remedy if the Commission determines it necessary to do so based upon the evidence presented.

II. CONCLUSION

Public Counsel does not object to the consideration of Mr. Tucek’s testimony and exhibits for the limited purpose of the Commission’s analysis of Verizon’s access charges. If Verizon seeks to admit Mr. Tucek’s testimony stricken by the Fifth Supplemental Order for this purpose, and does not, in hearing or brief, seek to rebalance rates within this proceeding Public Counsel will not object to the admission of his testimony and exhibits previously stricken for this purpose.¹

\
\\
\\\
\\\\
\\

¹ This Answer does not address the surrebuttal testimony served electronically on all parties yesterday.

Public Counsel believes Verizon has misconstrued the Fifth Supplemental order as stating that that no remedies will be considered in this proceeding. It is our interpretation of the Fifth Supplemental Order that rate rebalancing remedies will not be considered in this proceeding but that reductions in access charges are a possible remedy available to the Commission in this proceeding.

DATED this 25th day of February, 2003.

CHRISTINE O. GREGOIRE
Attorney General

ROBERT W. CROMWELL, JR.
Assistant Attorney General
WSBA #24142
Public Counsel