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March 18, 2004

By Federal Express

Ms. Carole J. Washburn  
Washington Utilities & Transportation Commission  
P.O. Box 47250  
1300 S. Evergreen Park Drive SW  
Olympia, WA 98504-7250

Re: Docket No. UT-043013; Response to Verizon Request for Extension

Dear Ms. Washburn:

Pursuant to the Notice of Opportunity to Respond to Request for Extension of Time to File Responses to Petition ("Notice") in the above-referenced docket, XO Washington, Inc. ("XO") provides the following response to the request of Verizon Northwest Inc. ("Verizon").

Verizon's proposed extension raises both procedural and substantive issues. With respect to the procedural issues, XO does not object to Verizon's proposal. The Notice properly raises the issue of how such an extension would affect the Commission's ability to resolve disputed issues within the time permitted. Verizon filed its petition well prior to March 11, 2004, the end of the arbitration window. Essentially treating Verizon's petition as having been filed on March 19 would represent only an extension of one week under the schedule established in the FCC's Triennial Review Order ("TRO"). Nevertheless, a corresponding one week extension of the time for the Commission to issue a decision would be appropriate.

The substantive issues are more complex. As Verizon's request indicates (and the Commission is well aware), the D.C. Circuit vacated portions of the TRO, subject only to a limited stay. In the wake of that determination, the Commission indefinitely postponed TRO proceedings in Docket No. UT-033044, and Qwest has withdrawn proposed revisions to its Statement of Generally Available Terms incorporating provisions of the TRO. Verizon, however, has chosen to continue to pursue its petition to arbitrate an amendment to existing interconnection agreements to incorporate the requirements of the TRO.

XO does not object to addressing TRO requirements that are not at issue in the judicial appeals or that are otherwise consistent with determinations that this Commission has made in prior proceedings. As the Commission and Qwest have previously determined, however, litigating

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disputes over TRO provisions that have been vacated by the D.C. Circuit or that are otherwise subject to additional judicial review is not the best use of limited Commission and party resources. Indeed, parties should not even be required to respond to Verizon's proposals on these issues in this proceeding.

Accordingly, XO proposes that the Commission establish a list of issues properly raised in Verizon's Petition prior to the date that responses are due. Parties could submit a list of issues by March 24, 2004, and the Commission could address the scope of this docket in the prehearing conference currently scheduled for March 29. The issues excluded from this docket could then be deferred to consideration in the Verizon SGAT proceeding, Docket No. UT-011219, subject to the results of any further judicial proceedings with respect to the TRO.

XO appreciates the opportunity to provide its views on these issues. Please contact me if you have any questions about this response.

Very truly yours,

Davis Wright Tremaine LLP

Gregory J. Kopta  
Counsel for XO Washington, Inc.

cc: Service List