

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

OPENING BRIEF OF
COMMISSION STAFF

I. INTRODUCTION

1 Verizon Northwest, Inc. (Verizon) has filed a petition requesting the Washington Utilities and Transportation Commission (the Commission) to grant the company a waiver of the line extension requirements contained in WAC 480-120-071. Verizon has petitioned for a waiver under subsection (7)(a) of the rule, asking the Commission to find that the applicants here are “not reasonably entitled to service.” The result of granting such a waiver would be to deny as many as twelve customers residing in Central Washington the basic residential telephone service enjoyed by the overwhelming majority of Washington residents.

2 The households in question are not in any way “unusual.” The residents in question have not chosen to live in secluded or isolated locations. One of the extensions (the Hayes road extension, where the Taylors live) consists of several neighbors living just off a well-traveled state highway east of Bridgeport. The other extension (the Timm Ranch extension) consists of ranchers living in farmhouses who are engaged in large-scale agriculture: a common, productive and indeed, economically valuable pursuit quite typical of rural Washington.

3 Nor will Verizon be burdened economically by providing telephone service to these ordinary individuals. Subsection (4) of the line extension rule expressly permits companies to recover rapidly, through terminating access charges, the direct and indirect investment in the two line extensions, excluding reinforcement investment. Moreover, the Company already receives funds for investment through its local rates and additional funds to support network growth through universal service cost recovery. There is, therefore, no investment that will go unrecovered.

4 Nevertheless, Verizon asks this Commission to deny these residents *any* wireline telecommunications service whatsoever. Notably, because Verizon’s request for waiver has been brought pursuant to WAC 480-120-071(7)(a), Verizon has asked the Commission to find that these residents are not reasonably entitled to any service under RCW 80.36.090 -- regardless of whether they pay the direct cost of that service

themselves. Verizon's asserted justification for this result is the simple repetition, over and over, of the charge that these line extensions are simply "too costly" and "too burdensome" for either Verizon, or "Washington's ratepayers" to bear.

5 Verizon's argument is without merit and is unsupported by the record in this case. First, cost is but one of seven factors that the Commission may carefully evaluate under WAC 480-120-071(7)(a), together with "such other information that it may consider necessary to a proper determination," before it can decide to deny any individual telecommunications service. In this case, not only does the cost factor actually militate against Verizon, when compared to other recent line extensions that have been constructed--but each of the other factors, applied to the facts here, clearly indicate that a waiver is not warranted.

6 Second, the investment required for these extensions, on a per-customer basis, is simply not "extreme," whether viewed in light of the particular circumstances presented in these cases, or in light of several other line extensions recently built by both Verizon and Qwest. Professor Duft explains in great detail that the Timm Ranch is certainly not unique among large agricultural operations; and furthermore, that because of the very nature of cow-calf ranching, the Timm Ranch could not be well-accommodated in areas any "less remote" than that which it presently occupies. Moreover, the per-customer investment for the Hayes Road extension is, in fact, substantially less than that of line

extensions built by Verizon in Curlew and Cedar Ponds, and by Qwest in Colville and Coulee Dam.

7 Third, Verizon, in its May 2, 2002, tariff filing before the Commission, sought recovery for numerous line extensions, including Curlew and Cedar Ponds. Verizon specifically determined that there was no harm in having Washington’s ratepayers bear the cost of these line extensions through terminating access payments. The Commission agreed, because it allowed Verizon’s request for ratepayer-funded recovery to go into effect at its July 10, 2002 open meeting. Verizon cannot be now heard to claim that the present extensions are somehow “too expensive.”

8 In short, Verizon’s case seems premised almost entirely on the shock value of repeating the phrases “too costly” and “too burdensome.”¹ But the Commission must do more than simply react to Verizon’s unsupported lamentations about allegedly unrecovered high costs. The Commission must carefully evaluate all the evidence in the record bearing on line extensions. When it does so, the Commission should conclude that the ordinary citizens presented in this case are reasonably entitled, at the turn of the twenty-first century, to that most basic and necessary of services—telecommunications

¹ The Commission in Docket No. UT-961638 has addressed the factual showing necessary to relieve a company of its obligation under RCW 80.36.090. See Docket No. UT-961638, *WUTC v. US West*, Fourth Supplemental Order Rejecting Tariff Filing (January 16, 1998), at p. 22 and p. 29, Finding of Fact No. 5.

service—² under the Commission’s line extension rule, and that Verizon’s request for a waiver should be denied.

II. RELIEF SOUGHT BY COMMISSION STAFF

9 Commission Staff’s primary request for relief is that the Commission deny Verizon’s petition for a waiver of its obligation to provide service under WAC 480-120-071(2), and to find that all the applicants at both the Hayes Road and Timm Ranch locations are reasonably entitled to service under RCW 80.36.090. Staff recommends that the Commission give Verizon until September 1, 2004, to fulfill that obligation, in order to allow Verizon sufficient time to use the mechanisms set forth in subsection (5) of the rule. This section would permit Verizon to discuss with other carriers (*e.g.*, Qwest or CenturyTel) the possibility of making agreements under which each would serve customers that are located in the other’s neighboring exchange.³

10 Staff’s alternative request for relief (in the event that Verizon’s request for waiver is granted) is that the Commission determine that the evidence of record supports an adjustment to the boundary line between the Qwest and Verizon exchanges to include the Timm Ranch within the Qwest Omak exchange.

² The Commission determined as long ago as 1914 that “use of the telephone has practically become a common necessity.” Annual Report 1915, Public Service Commission of Washington, p. 7.

³ The use of subsection (5) will promote efficiency and reduce, if not eliminate, the need for future hearings concerning extensions. The transcript demonstrates that companies could cooperate to provide service under WAC 480-120-071(5). *See* Tr. 132-34, 351-55, 595-96, 664-67, and 679-82.

11 Staff does not believe that the Commission should require RCC Minnesota (RCC) to provide service to either location. The record does not demonstrate that the currently available RCC wireless service is reasonably comparable to wireline service, either as to service quality or price. The record further indicates that RCC would have to invest between \$150,000 and \$500,000, with no opportunity for recovery through terminating access charges, to install new cell towers that might be capable of providing acceptable service. Finally, no customers have requested service from RCC.

III. PROCEDURAL ISSUES

A. The Commission's Third Supplemental Order gave clear notice to Qwest, and all other parties, that the Commission might order an adjustment to the Verizon/Qwest exchange boundary, to place the Timm Ranch within the Qwest exchange. That issue has properly been brought before the Commission.

12 Qwest contended during the hearings that it did not have adequate notice that one possible outcome of the present proceedings could be a decision to alter the exchange boundary and move the Timm Ranch within Qwest's Omak exchange. This contention is plainly without merit. It is inconsistent with Staff's motion to join Qwest as a party, with the Commission's Third Supplemental Order granting that motion, and with Qwest's subsequent testimony and actions in this case. The boundary adjustment issue clearly has been brought before the Commission.

13 Staff filed its motion to join Qwest as a party on February 1, 2002. In that motion, Staff pointed to the Commission's authority to adjust exchange boundaries pursuant to

RCW 80.36.230, and stated that “based upon the facts and evidence to be presented in this case,” the Commission might determine that the Qwest/Verizon exchange boundary should be altered.

14 The Commission granted Staff’s motion in the Third Supplemental Order, issued May 31, 2002. In that order, the Commission first affirmed its authority under RCW 80.36.230 to prescribe exchange area boundaries for telecommunications companies. It then stated:

While it is not clear whether and how this authority should be invoked in this proceeding, Qwest has a significant stake in the outcome since it bears a common exchange boundary with Verizon near the Timm Ranch, its facilities are closer to the Timm Ranch than Verizon’s and Staff alleges that Qwest’s costs to extend service to the Timm Ranch would be less than Verizon’s. Thus, to protect its interests under Civil Rule 19, *supra*, Qwest is properly made a party to this proceeding.

15 The Commission continued:

In order for us to best exercise our general regulatory authority in the context of deciding issues related to provision of telephone service to remote areas of Washington *and determining whether we should alter exchange boundaries to facilitate that service* requires the formation of a complete factual record as well as legal argument from all interested persons, including Qwest.

Third Supplemental Order at 7, ¶¶ 28-29. (Italics added.)

16 The Commission made clear that whether it would exercise its authority to alter exchange boundaries in this case would depend upon the factual record developed in the case. In other words, while the Commission did not hold, at that point in the

proceedings, that it would alter the Qwest/Verizon boundary, it plainly stated that this was a possible outcome, if the facts justified a boundary change. The Commission never suggested that an additional motion or other pleading was necessary to put this issue before the Commission. The Third Supplemental Order did precisely that.

17 Furthermore, the Commission indicated that Qwest would be joined so that it could protect its interests. The line extension rule requires companies to provide service to areas within their exchange. Qwest could be required to provide service to the Timm Ranch under the rule only if the exchange boundary were adjusted to place this area within one of its exchanges. Thus, Qwest's interests clearly involve the possible adjustment of the exchange boundary, so as to make it subject to the rule regarding service to the Timm Ranch. The Commission's explanation of why Qwest has a significant stake in the outcome of the case confirms this.

18 Finally, Qwest's own testimony in this case indicates that it plainly has known from the beginning that the Commission might order a change to the Qwest/Verizon boundary. Both Mr. Hubbard's and Ms. Jensen's testimony are replete with statements about a possible boundary adjustment, and arguments as to why, in their opinion, the Commission should not alter the boundary.⁴ Qwest simply cannot now contend, having argued and litigated this issue throughout these proceedings, that it somehow never had

⁴ Ex. 61T (Hubbard) at pp. 12-14, 15-18; Ex. 50T (Jensen) at pp. 6-9, 11-12, 19-24.

any notice that the Commission might decide to order an adjustment to the Qwest/Verizon exchange boundary in this case.

B. Verizon did not request a waiver under subsection 7(b) of the line extension rule that would permit it to charge the applicants the direct cost of the extensions, but rather, requested a waiver under subsection 7(a) that requires a determination that the applicants *themselves* are not reasonably entitled to telecommunications service. The Commission should not grant relief that would be appropriate only had Verizon made a subsection 7(b) waiver request.

19 Verizon had available to it two waiver provisions, one under WAC 480-120-071(7)(a) that requires a determination that an applicant is not reasonably entitled to telecommunications service, and the other under subsection (7)(b) that requires a determination that it is unreasonable for the direct cost of an extension to be borne by rates permitted under subsection (4) of the rule (terminating access rates). Verizon requested in its pleadings only a waiver under subsection (7)(a).

20 The distinction between the two waiver options was drawn to the attention of the Commission, and to Verizon, in the Open Meeting Memo⁵ recommending the commencement of this proceeding. The Memo states:

The petition, if granted, would waive Verizon's obligation to extend service to two locations *even if the applicants for the service extension are willing to pay the direct cost of the extension.*

Open Meeting Memo at 1 (italics added).

⁵ Open Meeting Memo, Docket No. UT-011439, January 9, 2002.

21 Subsequently, the Commission’s determination of the subject of this proceeding was made very clear in two orders--it is not whether Verizon may be granted a waiver under subsection (7)(b) to charge the direct cost of the extensions to the applicants. The Commission issued two orders that state clearly and unambiguously the purpose of the proceeding. In the Third Supplemental Order, the Commission stated:

Verizon’s waiver application requests that the company be *relieved* from providing service extensions to two different locations within its service territory.

Third Supplemental Order at 2, ¶ 5 (italics added).

22 The Commission stated the same in the Fifth Supplemental Order, again excluding any statement concerning a waiver that would permit Verizon to charge the direct cost of the extensions to the applicants under a subsection (7)(b) waiver.

Verizon’s waiver application requests that the company be *relieved* from providing service extensions to the Taylor location in Douglas County in Verizon’s Bridgeport Exchange, approximately 14 miles outside of the town of Bridgeport, and to residences on the Timm Ranch, in the portion of the Bridgeport exchange located in Okanogan County.

Fifth Supplemental Order at 2, ¶ 7 (italics added).

23 As Verizon has not requested a waiver under subsection (7)(b), Verizon should not be permitted now to argue that it seeks a determination only that the applicants be required to pay the direct cost of the extensions, or some smaller portion of that cost. Nor should such relief be granted to Verizon. Staff and the public were not put on notice

that this type of relief might be sought, and Verizon never argued in its pleadings or testimony, that the case should be resolved by requiring the customers to pay an amount that could range anywhere from the amount ordinarily required to be paid under the rule, up to the direct cost or even the full cost.⁶ The rule does not permit Verizon to be granted such relief in this case.

C. The Commission should not grant a general exemption under WAC 480-120-015 because the public and parties were not put on notice as to the basis for such an exemption, and because Verizon could have relied upon the waiver provisions of the substantive rule.

24 Verizon makes only a bare reference in its Amended Petition for Waiver to WAC 480-120-015 (Exemptions from rules). *Amended Petition for Waiver at 1, 6, and n.1.* Subsection (2) of that rule requires a petitioner to identify the rule for which an exemption is sought, “giving a *full* explanation of the reason for requesting the exemption.” WAC 480-120-015(2) (Italics added). In this case, because there are two waiver provisions in the line extension rule governing exemptions, for which substantively different Commission determinations are required, Verizon’s failure to state why one or the other, or both, existing waiver options is insufficient for its purposes is not the “full explanation of the reason for requesting the exemption” required by the rule.

⁶ Verizon witness Ms. Ruosch stated that it would help Verizon if applicants paid some of the reinforcement expense. Tr. 186. However, as shown in this brief, Verizon already receives reinforcement funds from two sources and reinforcement is not part of the cost of an extension. See WAC 480-120-071(1) (Definitions) (Cost of service extension).

25 This deficiency is amplified by the Commission’s simple restatement in the Second Supplemental Order⁷ that Verizon sought “a waiver or an exemption.” Because the Commission did not explain the need for invocation of WAC 480-120-015, neither the public nor the parties were put on notice concerning what issues or facts would warrant a WAC 480-120-015 exemption.

26 Only in a footnote to its Amended Petition does Verizon refer to the determination that must be made by the Commission if it is to grant an exemption under WAC 480-120-015. Subsection (4) of the exemption rule permits the Commission to consider, in determining whether to grant the exemption, whether application of the rule would impose “undue hardship on the requesting party, of a degree or a kind different from hardships imposed on other similarly situated persons,” and “whether the effect of applying the rule would be contrary to the purposes of the rule.” Every supposed hardship Verizon relates in its pleadings is cast in terms of whom should bear the cost – the applicants or the ratepayers.⁸ The Commission should not grant a general exemption on this basis because the line extension rule itself afforded Verizon an opportunity to

⁷ Second Supplemental Order, Prehearing Conference Order (February 13, 2002) at 1, ¶ 1.

⁸ Examples of Verizon’s focus in its Amended Petition on who should pay the price of extensions are many. “Clearly, this Commission cannot find that it is reasonable for Verizon and Washington ratepayers to pay over \$1.2 million to extend service to eight customers.” *Amended Petition at 1*. “If customers are willing to pay the full cost of getting power and other utility services in remote areas, there is no reason to provide them [the applicants] with a windfall when it comes to telephone service.” *Id. at 8*. “Therefore, Verizon believes it is incumbent upon the company to bring forward this clear case for waivers of the line extension rule in order to protect its existing customers and employees and Washington ratepayers.” *Id.* Still, Verizon did not request a waiver under subsection (7)(b) and the Commission stated many times that this case concerned the obligation to extend service and never stated that it concerned a determination that applicants should be required to pay the direct cost of the extensions.

make a case under subsection (7)(b), a case it did not plead. As Verizon could have relied on the line extension rule, so the Commission should rely upon it to the exclusion of WAC 480-120-015.⁹

IV. THE APPLICANTS

A. The Hayes Road Extension

27 A total of six households live within 2.3 miles of State Highway 17 at the Hayes Road location. To this date, three of these households have requested service. They are Kay Taylor, Wendy Schomler, and Ann Nichols. The other three households are the Briggs, the Grenagers, and the Weisburns. Tr. 126. Verizon has confirmed, however, that if it is required to provide service to this location, the line extension “would have adequate capacity for the customers on Hayes Road, which is a total of six.” Tr. 130.¹⁰ Verizon’s own actions thus corroborate the testimony of Mr. Robert Shirley, who points out that customers who originally do not request a line extension usually sign on when the opportunity actually presents itself; and that even if the current residents of a household do not, future residents very likely will. Ex. 131T (Shirley) at 17. The Hayes Road location, as Verizon recognizes, thus presents a line extension for six households, not three.

⁹ Had Verizon pleaded for a waiver under subsection (7)(b) or had Verizon given a full explanation of its reasons for seeking an exemption under WAC 480-120-015, Staff may have put on a different case. *See* Tr. at 654.

¹⁰ Verizon witness Ms. Ruosch stated that this was the case, notwithstanding the fact that Verizon has an declaration from Margaret Weisburn stating that she would not subscribe to service even if it were available. Tr. 202. This is consistent with Staff’s position that either Ms. Weisburn or a future owner of these premises will eventually order service. Ex. 131T (Shirley) at 18.

28

Verizon repeatedly characterizes the Hayes Road location as “remote.” The dictionary definition of “remote” is a location that is “far away,” “hidden,” or “secluded.” (The American Heritage Dictionary of the English Language, Fourth Edition, p. 1476.) The Taylors and their neighbors simply do not fit this definition. The six households are within 2.3 miles of State Highway 17, on which 800-1200 vehicles pass per day. The city of Bridgeport is approximately fourteen miles west of the junction; the city of Grand Coulee is approximately twenty-six miles east. Much of the area along Highway 17 from Bridgeport leading to the Hayes Road turn-off is cultivated land. Tr. 717-18.

29

During the nearly thirty years in which the Taylors have lived at their current location, their children attended public schools, Mr. Taylor has been employed by the U.S. Bureau of Reclamation, and Ms. Taylor has been part owner of a business located in Grand Coulee. Ex. 131T (Shirley) at 28-29 ; Ex. 172D (Taylor Dep.) at 5-6.

30

The Taylors are not in any way “hermits.” Rather, they are a part of the community that is centered in Grand Coulee. *Id.* Ms. Taylor can drive there faster than many people can drive between two points in downtown Seattle. Many people drive farther, for longer periods of time, between their home in Issaquah and work in Seattle. Ex. 131T (Shirley) at 38. In other words, the residents of Hayes Road are less “remote” from their work and other activities than many people in the most urban county in

Washington. As Mr. Shirley succinctly notes, the Hayes Road location is just like most of the locations already served by Verizon in Central Washington. *Id.*

B. The Timm Ranch Extension

31 The Timm Ranch consists of six homes located on a 2.4 mile-long county road (Timm Road) approximately twenty miles west of Nespelem. These homes are occupied by Einar (Ike) Nelson, Billie Timm, Robert Timm, Brad Derting, Darrell Shannon; a new home also is being constructed by Mr. Nelson, and he expects his son to move into what is now the family home upon graduation from Washington State University. Ex. 121T (Duft) at 3 ; Ex. 131T (Shirley) at 16-17; Ex. 171T (Nelson Dep.) at 14. One of the homes is about one and one-half miles from the Columbia River Road-New Omak Lake Road, which connects Omak, the county seat of Okanogan County, with Nespelem and the Colville Indian Agency, the administrative center of the Colville Indian Reservation. Ex. 700G (Map 2 of 3); *See* Wash. State Dep't of Transp., 2002-03 Official State Highway Map. The homes are equi-distant from the two governmental centers in Okanogan County. The Timm Road appears on the official Okanogan County map, and is included in software used by mapmakers when depicting county roads. Ex. 135; Ex. 700G (Map 2 of 3). It is a wide, relatively flat, only slightly winding, and well-maintained county road. Tr. 573 ; Ex. 121T (Duft) at 7. Contrary to Verizon's assertions, the Timm Ranch is not secluded; it is easily located.

The Timm Ranch was started in 1948. Ex. 121T at 4 (Duft). Based on the census of 1940, 23.1% of the population of the country resided on farms.¹¹ Moreover, in 1945, only 46% of households—less than half the households in the country—had telephone service.¹² Thus, when the Timm Ranch was begun, starting a farm where telephone service was unavailable was not at all out of the mainstream.

The Timm Ranch residents live in farm houses, which are expressly included within the term “premises” under WAC 480-120-071(1), and hence are covered by the line extension obligations set forth in the rule. The ranch headquarters is surrounded by 7,000 deeded acres. While this may well be considered “large” when considered in isolation, Professor Duft points out that 2-3 other ranching operations in the region are as large, or larger, in acreage and/or number of livestock. In addition, there are numerous dryland farming operations elsewhere in eastern Washington that incorporate more than 10,000 acres. Ex. 121T (Duft) at 8. As Professor Duft further explains:

The Timm Ranch is comparatively large for a cow-calf operation, but it is large because of the resource base it depends on. Soil conditions, management practices, moisture, forage production capacity, economics, and environmental conditions dictate that cow-calf operations occupy large acreage. For these reasons, operations like the Timm Ranch would not, and could not, be tolerated were they to be located in densely populated areas or adjacent to metropolitan communities.

¹¹ Current Population Reports, Population Characteristics, Series P-20, No. 457, “Residents of Farms and Rural Areas: 1990,” Table 1: Farm and Nonfarm Residents, by Region, 1890-1990, p. 12.

¹² U.S. Census Bureau, Statistical Abstract of the United States: 1999; 20th Century Statistics, Table No. 1440; Selected Communications Media: 1920-1998, p. 885.

Id. at 11.

34 Nor can the Timm Ranch accurately be characterized as “remote.” The term “remote” has meaning only when viewed in comparative context. In this regard, Professor Duft notes that:

In most cases, it is economies of scale, livestock carrying capacities of accessible lands, and production efficiency that pre-ordain the size and location of a cow-calf operation like that characterized by the Timm Ranch. Society would not likely accommodate, and conditions would not likely permit, operations of this type and size to be located in areas other than those which might first appear to be “remote.” . . . [C]ow-calf operations like the Timm Ranch represent the highest and best use of land like that found north and west of Grand Coulee. Quite frankly, for the reasons noted above, and because of the very nature inherent in cow-calf ranching, the Timm Ranch could not be well accommodated in areas any “less remote” than that already occupied.

Id. at 9.

35 Furthermore, the Timm Ranch residents are not recluses living in “remote” areas outside of communities. To the contrary, they are an active part of the Okanogan County farming community and, in a larger sense, the state agricultural community. They contribute to commerce by renting pasture land from retired ranchers and from the Colville Tribal Agency. Their children attended local schools in the area, and four are now enrolled at Washington State University. *Id.* at 4, 6; Ex. 131T (Shirley) at 28.

36 In short, the Timm Ranch is “in most every way typical” of a contemporary cow-calf operation requiring large acreage and a rural location. Its farm residents fulfill a vital

role in contributing to the state’s agricultural economy. Yet, as Professor Duft observes, the Timm Ranch currently has available to it numerous public services (electrical, mail, common school, and public roads), with one notable exception—adequate communications service. Ex. 121T at 6-7, 17.

V. ARGUMENT

A. Verizon’s petition that the Commission waive the Company’s obligation to provide service under WAC 480-120-071(7)(a) asks the Commission to find that the Hayes Road and Timm Ranch applicants are “not reasonably entitled to service” under RCW 80.36.090, regardless of whether they pay *any or all* of the cost of service. In reviewing a petition for a subsection (7)(a) waiver, the Commission should not give primary weight to the cost of the extension.

37 At the outset, the Commission should begin its consideration of Verizon’s amended petition for waiver with a clear understanding of what Verizon seeks, and what it does not seek. It has *not* sought permission to charge the applicants the investment expense that it would incur to extend service. It has not sought a waiver under subsection (7)(b) of the line extension rule. Under that section, obligation to build the extension would remain, but the Company would be permitted to charge the applicant the direct cost to extend service if it is unreasonable for that cost to be borne by rates permitted under subsection (4) of the rule (terminating access charges).

38 Rather, Verizon seeks a determination under subsection (7)(a) that the Hayes Road applicants and the Timm Ranch applicants are “not reasonably entitled to service” under RCW 80.36.090, even if they paid the entire direct cost (singly or divided proportionally)

of the extension. This difference is quite significant. Not only would Verizon’s petition deny service altogether to the present applicants regardless of whether they pay any or all of the cost; moreover, a Commission decision granting Verizon’s waiver under subsection (7)(a) would also effectively deny telecommunications service to anyone who might purchase those premises in the future—persons who might be willing and able to pay their proportionate share of the direct cost for that service—or all of the cost.

39 For that reason, the “total direct cost of an extension,” standing alone, cannot be the determinative factor in granting a subsection (7)(a) waiver. Although the Commission has the authority under the line extension rule to consider seven specified factors for waivers sought under either subsection (7)(a) or (7)(b) (together with, in the case of a (7)(a) waiver request, “such other information that it may consider necessary to a proper determination”),¹³ the “total direct cost of the extension” and “the number of customers to be served” plays a far more important consideration in subsection (7)(b) waivers—something that Verizon has not sought. There, the primary issue squarely is who should bear the cost of an extension that will be built—should it be the ratepayers (whether that be Verizon’s ratepayers or customers of companies that pay terminating access) or the applicants? Verizon’s pleadings are rampant with references as to who

¹³ Note that for Subsection (7)(a) waivers, the rule states that the Commission “*may* consider those factors listed in (b)(ii)(A) through (G) of this subsection . . .” (Italics added.) By contrast, for subsection (7)(b) waivers, the rule states that the Commission “*will* consider” those same factors. (Italics added.) This distinction is significant. It clearly indicates that some factors may be given far less weight (or none at all) in a subsection (7)(a) case. As noted above, “the total direct cost of the extension” should be accorded significantly less weight where the question is whether an applicant is to be denied service altogether, regardless of willingness or ability to pay all or some of the total cost.

should bear the cost of line extensions. But that is not the issue here. The issue is, “Can the customers here be held not to be reasonably entitled to any wireline service?” Given this issue, the remaining factors set forth in the subsection should be accorded far more importance. They more directly bear on whether these customers are “reasonably entitled to service.”

B. WAC 480-120-071(7)(a) authorizes the Commission to consider seven factors in determining whether to grant a request for waiver under this subsection. For both the Hayes Road and Timm Ranch extensions, each of these factors militates against granting Verizon a waiver of its obligation to provide service.

40

WAC 480-120-171(7)(a) provides:

The commission retains the authority under RCW 80.36.090 to determine whether any applicant for service is not reasonably entitled to service and whether the local exchange company is not obligated to provide service to an applicant under subsection (2)(b) of this section. In determining the reasonable entitlement, the commission may consider those factors listed in (b)(ii)(A) through (G) of this subsection and such other information that it may consider necessary to a proper determination.¹⁴

The seven factors listed in (b)(ii)(A) through (G) are:

- (A) The total direct cost of the extension;
- (B) The number of customers to be served;
- (C) The comparative price and capabilities of radio communication service or other alternatives available to customers;
- (D) Technological difficulties and physical barriers presented by the requested extensions;
- (E) The effect on the individuals and communities involved;
- (F) The effect on the public switched network; and
- (G) The effect on the company.

¹⁴ WAC 480-120-071(2)(b) requires companies to extend service to occupied premises.

1. The total direct cost of the extensions are significantly less than suggested by Verizon’s petition for waiver.

a. Verizon’s total direct costs for the Hayes Road and Timm Ranch extensions

41 The total direct cost of the Hayes Road and Timm Ranch extensions, as well as the per-customer cost of those extensions, is far less than is suggested by Verizon’s petition for amended waiver. Verizon asserts that, “Clearly, this Commission cannot find that it is reasonable for Verizon and Washington ratepayers to pay over \$1.2 million to extend service to eight customers.” (Verizon Petition for Amended Waiver, at 1). Both Verizon’s assertions of the relevant costs, and of the number of customers that will be served by the extensions, are incorrect. The total direct cost of the two extensions is, in fact, by Verizon’s own estimates, \$902,687, and the total number of customers that could be served (*see* discussion in section V(B)(2) below) is twelve. The per-customer cost for the two extensions, thus is \$75,228—far less than what Verizon’s assertions imply.

42 The line extension rule, significantly, refers not to the total cost, but to the “total direct cost” of the extensions. This is because the “cost of service extension,” for purposes of the rule, specifically excludes reinforcement costs:

“Cost of service extension” means the direct and indirect costs of the material and labor to plan and construct the facilities, including, but not limited to, drop wire, permitting fees, rights-of-way fees, and payments to subcontractors, *and does not include the cost of reinforcement, network upgrade, or similar costs.*

WAC 480-120-071(1). (Italics added.)

43 When reinforcement costs are deducted as required by the rule, Verizon's cost for the Hayes Road extension is \$165,015, and its cost for the Timm Ranch extension is \$737,612. This is confirmed by Verizon's own estimates. Ex. 131T (Shirley) at 14. As further demonstrated below, the per-customer cost for these extensions is actually *less* (and, for the Hayes Road extension, significantly less) than the per-customer cost for several extensions that Verizon and Qwest have already constructed under the rule; and, in the case of Verizon, costs for which it has sought and been granted recovery, through terminating access rates, by the Commission.

b. Qwest's total direct cost for the Timm Ranch extension

44 Qwest's total costs to serve the Timm Ranch extension, according to its own estimates, is \$811,920. Ex. 114T (Spinks) at 2-3; Ex. 69T (Hubbard) at 17.¹⁵ Of this amount, Qwest indicated, in its response to Staff's June 28, 2002 Data Request No. 10, that \$376,556 was for reinforcement. Ex. 115 (showing Qwest's delineation of these costs and expressly stating: "Approximately 62% of the total cable and placing cost are associated with reinforcement.") Over six months later, however, Qwest abruptly reversed its position. On January 16, 2003, it claimed that it, in fact considers *none* of the amount to be reinforcement. Qwest's only explanation for this sudden change in position is the

¹⁵ Of this amount, \$738,875 is to serve the Nelson residence, and \$73,045 (using Verizon's estimate as a proxy for Qwest's cost) is to serve the other residences along the Timm Ranch extension. Ex. 61T (Hubbard) at 5.

assertion that “Qwest has no need to increase capacity along the route to the extreme end of the existing cable to serve existing customers,” and that it views reinforcement of the existing 11- and 6-pair cables as an “overbuilding” of the facility, “not a normal type of reinforcement.” Ex. 116.

45 As Staff witness Mr. Spinks explains, however, Qwest’s new argument is simply not persuasive. Qwest witness Mr. Hubbard now treats the Timm Ranch line extension as a “stand alone” project isolated from the rest of Qwest’s network, when in fact, the 25-pair reinforcement will ultimately be used to provide service to more than just the Timm Ranch. “It is not a matter of ‘if’ existing [Qwest] customers will benefit, only when.” Ex. 114T at 3-4.

46 Mr. Spinks points out that the facilities currently in place to serve existing Qwest customers consist of 6- and 11-pair air-core copper cable and CM-8 analog carrier systems. These systems were placed in the 1970’s and 1980’s, are now obsolete, and have not been used in new plant construction for approximately twenty years. Qwest’s predecessor, US West, has pursued aggressive replacement programs for air-core cable since the 1970’s. Furthermore, Mr. Hubbard assumes that new cable and drops will need to be placed, rather than reusing the existing air cable with new digital carrier systems, thus implicitly acknowledging that the air-core cable is problematic. *Id.* at 4.

47 Mr. Spinks, therefore, estimates that the remaining life span of the air-core cable will likely not exceed another ten years. At that point, the 25-pair cable reinforcement put into place to serve the Timm Ranch would also be available to serve current existing customers between Omak and the Timm Ranch. *Id.* at 3-4. The amount of construction that Qwest originally designated as reinforcement, thus, *is* properly designated as reinforcement. Qwest’s attempt to now dismiss it as mere “overbuilding” is simply inaccurate. The Qwest total direct cost of the Timm Ranch extension is thus, \$435,364.

c. RCC’s costs to provide reasonably comparable wireline service to the Hayes Road and Timm Ranch locations

48 RCC has provided trial service to the Hayes Road and Timm Ranch locations, using “phone cell” systems and mobile equipment. However, as more fully set forth in section V(B)(4) below, while this service meets some of the more lenient industry standards for wireless service for some (but not all) of the residences, it does not currently provide service that is reasonably comparable to wireline service.

49 In order for RCC to improve its service to the Hayes Road location, and extend its service so that it will serve all six residences at that location, RCC would have to construct one or more new cell sites (towers). Each such site would cost between \$150,000 and \$500,000 and possibly more, depending on development cost for roads and power. The total cost, if RCC needs to acquire two cell sites or repeater sites, could

exceed \$1,000,000. Ex. 91T (Huskey) at 10.¹⁶ These cost estimates include costs for site searching, land acquisition, construction, power installation, road building, and electronics. Tr. 314-15.

50 For RCC to improve its service to the Timm Ranch location, and extend its service to serve all the residences at that location, RCC would have to construct another new cell tower, at a cost of between \$250,000 and \$500,000, possibly more if power line and road construction cost are unusual. Ex. 91T (Huskey) at 12.

51 Staff believes that RCC should not be required to provide such service through cell tower construction, nor that such service at such an enormously high price should be deemed as a “reasonably comparable alternative.” As Mr. Shirley points out, wireless companies—unlike wireline companies—cannot recover their costs through terminating access charges under subsection (4) of the line extension rule, because they are prohibited by FCC rule from having an access tariff. Ex. 139T (Shirley) at 20. To require RCC to build expensive cell towers to two separate locations with no hope of even a modest return on investment will send a message to other wireless companies to stay away from Washington. Ex. 139T (Shirley) at 22. The Commission should not take this course.

¹⁶RCC witness Kyle Gruis adopted David Huskey’s testimony. See Ex. 95T.

2. The number of customers to be served at the Hayes Road and Timm Ranch locations is twelve—six at each location.

52 WAC 480-120-071(7)(a) provides that the Commission may consider “the number of customers to be served” by the line extensions at issue. Verizon erroneously understates these numbers in its amended petition for waiver. In the case of the Hayes Road extension, a total of six customers could be served. Verizon witness Ms. Ruosch agreed: “We stated that if the commissioners require Verizon to do this extension that the cable that would be placed out there would have adequate capacity for the customers on Hayes Road, which is a total of six.” Tr. 130. It is true that three of those households have not yet placed service orders, but as Mr. Shirley has testified, customers who originally do not request a line extension usually sign on when the opportunity actually presents itself; and that even if the current residents of those households do not, future residents very likely will. Ex. 131T (Shirley) at 17. The Hayes Road location thus presents a line extension for six households, not three.

53 The total number of households to be served by the Timm Ranch extension is also six. Five customers have currently placed service orders; in addition, the Nelsons have built a new home, so that their son can move into their existing home when he graduates from college, and continue to live on and operate the ranch as the third generation. Ex. 131T (Shirley) at 16; Ex 171D (Nelson Dep.) at 14.

3. The per-customer investment for the Hayes Road and Timm Ranch extensions is (a) substantially less than the per-customer investment for other extensions that both Verizon and Qwest have built under the line extension rule, and (b) substantially less than the per-customer investment for which Verizon has sought and been granted recovery under the line extension rule.

54 In its amended petition for waiver, at page 8, Verizon argues that the Commission should grant it a waiver of its obligation to provide line extensions in this docket because they allegedly are “disproportionately expensive.” Verizon repeats this assertion over and over in its testimony. This simply is not true. The fact is, the per-customer investments are well below those of other extensions that both Verizon and Qwest have built under the line extension rule.

55 Verizon witness Dr. Danner has stated, “Personally, I think it is difficult enough to justify a subsidy of \$15,000 to \$20,000 per customer to provide telephone service, especially under these circumstances.” Mr. Danner submitted this testimony on May 15, 2002. He later admitted, however, that he had not reviewed Verizon’s May 2, 2002, tariff filing with the Commission, which sought terminating access cost recovery for several line extensions (Ex. 214C), and which the Commission permitted to go into effect at its July 10, 2002 open meeting. Ex. 215 (Verizon response to Staff Data Request 116).¹⁷ Nor had Dr. Danner reviewed this tariff filing as of January 20, 2003. Had he done so, he

¹⁷ Please note that Ex. 215 was actually admitted as a composite exhibit, containing Verizon’s responses to Staff Data Requests 116 through 120 (five responses). See Tr. 173.

would have seen that Verizon has, in fact, sought and received per-customer cost recovery for extensions that far exceed the amount at issue here.

56 The last page of Exhibit 214C contains a table setting forth investment in fourteen line extensions constructed by Verizon. The “total” investment set forth on this page for all extensions is \$910,300.26. However, this is not the entire investment amount for these extensions. The ninth page of Exhibit 214C reveals that Verizon actually is recovering **XXXXXXXX** (the “Residual Investment to be Recovered through the Access Rate Element”) for the 14 extensions.¹⁸ This amount includes the incremental fully allocated investment (**XXXXXXXX**), less the revenue paid by customers (\$20,400). It does not include any reinforcement investment, because those amounts may not be recovered through terminating access. See WAC 480-120-071(1)(Definitions—“Cost of service extension”). Thus, on a pro-rata basis, Verizon’s “total” investment from the last page of the exhibit must be multiplied by a factor of approximately 1.5¹⁹ to arrive at the actual total investment which Verizon recovered through terminating access charges.

57 Returning to the last page of Exhibit 214C, Verizon constructed a line extension in the Curlew exchange to serve one person, at a total investment of about **\$XXXXXX** (\$49,101.13 x **XXX**). Verizon also constructed a line extension in the Sultan exchange (a/k/a “Cedar Ponds”) to serve nine persons, at a total investment of about **XXXXXXXX**

¹⁸ The tariff runs for one year from July, 2002. Verizon has recovered more than three-quarters of the amount while this case has been pending.

¹⁹ The percentage increase, from \$910,300.26 to **[XXXXXXXX]** is **[XXXX]**

(\$703,086.88 x **XXX**), for a per-customer investment of about **XXXXXXXX**. Just as significantly, Verizon sought—and the Commission permitted Verizon to recover, from Washington ratepayers—terminating access charges for both of these extensions.

58 Qwest also has constructed several extensions that required substantial investment since the enactment of the line extension rule in 2001. As set forth in Ex 821 (Qwest’s 2/19/03 supplemental response to Staff Data Request 36), Qwest constructed two line extensions in the Colville exchange, for one household each, for \$90,700 and \$52,654; a line extension for one household in the Coulee Dam exchange for \$80,790; a line extension for one household in the Pomeroy exchange for \$45,151; and a line extension for one household in the Omak exchange for \$28,966.²⁰

59 The per-customer investment for the Hayes Road extension, by contrast (when reinforcement costs are deducted), is only approximately \$27,500 ($\$165,015 / 6$).²¹ The per-customer investment for the Timm Ranch extension is about \$123,000 ($\$737,672 / 6$) – roughly equal to the Sultan/Cedar Ponds extension investment.

60 These comparative investment levels are critical. Verizon’s approach throughout this case has been to try to forestall any comparisons with other extensions, ostensibly on the grounds that they are “irrelevant.” But Verizon cannot have it both ways—arguing on the one hand that the line extensions here are “disproportionately expensive,” but

²⁰ None of these line extensions required any reinforcement investment.

²¹ Ex. 190C (Verizon response to Staff Data Request 44) shows four additional line extensions with per-customer investment similar to the Hayes Road extension investment (ranging from \$21,000 to \$27,000).

then asking the Commission to ignore the other line extensions that companies are building to see if this claim is true. In fact, it is not true.

61 The Hayes Road extension is well within the parameters of line extensions that both Qwest and Verizon have built, since 2001, without seeking or claiming any waiver of their obligation. The Timm Ranch extension is admittedly more expensive (roughly equal to Cedar Ponds), but it too is not abnormal in any sense when one considers that its residences are composed of farmhouses engaged in large-scale agriculture which cannot realistically be located closer to a more populated area. A waiver should be granted only in those cases in which the per-customer investments are clearly beyond the norm. These extensions simply do not meet this test for waiver.

62 Verizon now argues, however, that the Sultan/Cedar Ponds extension in particular should be disregarded because its construction predated the enactment of the line extension rule. This argument is wholly unpersuasive, however, in light of Verizon's repeated assertions, in both its pleadings and testimony, that a waiver should be granted so that "Washington's ratepayers" do not have to pay the costs associated with the Hayes Road and Timm Ranch extensions.

63 Verizon had no qualms in imposing the costs of the ~~XXXXXXX~~ Cedar Ponds line extension on Washington's ratepayers when it requested, and was permitted, to file a

tariff to recover its investment through terminating access charges.²² Although Dr. Danner at one point derides terminating access charges as “the epitome of a hidden tax,” Verizon has taken advantage of this very cost recovery mechanism for an extremely expensive line extension. The Commission also did not find that this cost was too great for the ratepayers in general to bear.

64 Furthermore, Verizon entered into an agreement with Commission Staff, in December 1999, in which it agreed to construct the Cedar Ponds extension, *at company expense* (cost recovery through terminating access charges, now available under subsection (4) of the rule, was not available at that time for extensions constructed within exchange boundaries), in exchange for Staff’s agreement to recommend that the Commission approve Verizon’s 1999 line extension tariff. Ex. 213 (Verizon’s December 3, 1999 letter to Carole Washburn.)²³ It stated that it made this agreement “to stay in the good graces of Staff[.]” Tr. 141. Verizon made an economic trade-off; it determined the lack of Commission Staff opposition to a new tariff was worth the investment in Cedar Ponds. Tr. 238-29.

65 When Verizon later saw an opportunity to spread this expense to ratepayers in May 2002, it did not hesitate to file a tariff to do so. Verizon should not now be heard to

²² Though the long-distance companies directly pay terminating access charges to the LECs, these charges ultimately may be passed through to Washington ratepayers.

²³ The 1999 line extension tariff involved issues concerning the length of free extension and pooling, and did not concern terminating access.

argue that the Commission should protect ratepayers from “unduly costly” line extensions, after Verizon has benefited from what it now claims should not be done.

4. The comparative price and capabilities of radio communication service or other alternatives available to customers.

66 WAC 480-120-071(7)(a) provides that the Commission may consider “[t]he comparative price and capabilities of radio communication service or other alternatives available to customers.” In reviewing this factor, note also that WAC 480-120-071(2)(c) requires that if cellular or other alternative service is used as a substitute for a carrier’s obligations under the rule, those services must be “reasonably comparable services at reasonably comparable prices compared to services provided through wireline distribution facilities in the area of the exchange where service has been requested.” (*See also* 47 U.S.C. § 254(b)(3), which states that consumers in all regions of the nation, including those in rural areas, should have access to services that are “reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas.”)

67 As shown in more detail below, alternative cellular service to the Hayes Road and Timm Ranch locations is either unavailable (in the case of many residents) or, if available, is not “reasonably comparable services at reasonably comparable prices.”

a. Cellular service quality and availability at the Hayes Road location

68 Kay Taylor testified that she has two cellular phone providers, Americell and

AT&T. The service she receives from Americell is not mobile; it is similar to what used to be known as a “bag phone.” She and her husband also purchase service from AT&T, mainly because it is mobile. It is also cheaper (though not inexpensive), but she cannot leave it on all the time. She has had antennae installed on her house to try to improve the service on both phones. Ex. 171T (Taylor Dep) at 20-21, 24-27.

69 However, neither cellular phone provides reliable service. People have called her at times when she was at home, but she never received the calls because her phone did not ring. Moreover, when asked in her February 27, 2002, deposition whether she used her Americell phone to call police, fire, or ambulance, she stated that it is not as reliable as a land line. There is static on the line, and even worse, the line sometimes just quits and won’t work at all. *Id.* at 22-23. Ms. Taylor’s AT&T wireless service does not work to her satisfaction either. *Id.* at 27.

70 The unfortunate consequences of Ms. Taylor’s unreliable cellular phone service became strikingly clear on August 19, 2002. As she states in her declaration, Ms. Taylor’s father-in-law- died that day of a heart attack, after she and her daughter had tried numerous times to contact 911 from both their Americell and AT&T cell phones, without success. When Ms. Taylor finally reached 911 on one cell phone, she was connected to a dispatcher in *Spokane*, who did not even know where Douglas County was located. She finally reached a Douglas County dispatcher, indirectly through a call to her husband’s

worksite, the U.S. Bureau of Reclamation, but the ambulance was not dispatched until 35 minutes after she had first attempted to contact 911. Her father-in-law died ten minutes later. Declaration of Kay Taylor, filed September 2, 2002. A wireline phone would have provided Ms. Taylor with reliable access to 911, perhaps averting the tragedy that befell her household last August. As Mr. Shirley aptly states, reliable access to local 911 is a very strong reason for denying the waiver that Verizon seeks in this case. Ex. 140T (Shirley) at 2.

71 RCC's currently available service to the Hayes location is also not a reasonable substitute for wireline service. First, the industry standard for wireless service availability is more lenient than wireline: whereas the wireline standard is to have service available 99.99% of the time, the wireless standard is to have service available at 90% of the locations 90% of the time. Ex. 91T (Huskey) at 3. The voice signal quality standard for wireless is much more subjective. As RCC's witness Mr. Huskey explained, even in areas with strong signals, the cellular service will be somewhat comparable to wireline service, but not identical. Areas with weak signals may experience distortion, static, and dropped calls. *Id.* Furthermore, there will be variations in signal levels due to outside factors, such as fading and atmospheric conditions. Tr. 297.

72 Ms. Taylor did use the RCC service on a trial basis. Ex. 308. She originally reported instances of minor equipment problems. While she did not report other

complaints to RCC during the very short time that she has had service,²⁴ (Ex. 309) Ms. Taylor most notably has not, as a result of that trial, requested RCC's service on a regular paying basis. Tr. 320-21. Nor can RCC document the last time that it communicated with the Taylors, regarding their service quality or any other matters. Tr. 298. Given the admitted deficiencies of wireless service compared to wireline, there is no basis to conclude that RCC's current wireless service to the Taylors is reasonably comparable to wireline service.

73 Furthermore, only the Taylor and Nichols residences, among those at the Hayes Road location, were able to receive any RCC signal at all. At all of the remaining residences at that location, there was "no measurable signal." Ex. 91T (Huskey) at 8. Clearly, this is not reasonably comparable service. RCC's witness Ms. Kohler concluded, "RCC could not achieve sufficient signal strength to achieve industry standards for service quality." Ex. 101T (Kohler) at 5.

b. Cellular service quality and availability at the Timm Ranch location

74 Ike Nelson testified that he has a cellular phone with service from Verizon Wireless. However, he is unable to get service at his house with this phone. Instead, he has to go clear to the end of the road, about 2 1/2 to 3 miles from his house, to pick up a signal. He may even need to do this to make an emergency call. Ex. 171D (Nelson Dep.)

²⁴The information concerning service quality to the Taylors is only for the period prior to December 19, 2003, the date RCC responded to the data requests marked as Exs. 301, 308-09, and 312.

at 23. He can't call other relatives at the ranch, even though they have Verizon Wireless cell phones, "unless you happen to be someplace where your phone worked and they're someplace where their phone worked." *Id.* at 24. They cannot use their cell phones at their homes. Tr. 638. Verizon attempted to get a cell signal at the Timm Ranch, but could not. Amended Petition for Waiver, at 6 (¶ 10).

75 Mr. Nelson's second phone option is a radio telephone hooked to his house that is connected to a radio transmitter on the back porch of a neighbor's house, about three miles across the Columbia River. *Id.*; Ex. 131T (Shirley) at 20. But this phone does not work all the time. It is susceptible to lightning strikes, and when struck, it is usually down for three months before he can get it repaired. Ex. 121T (Nelson Dep.) at 25. To check the far end of the radiophone, he must make a 140-mile round trip. And sometimes, the phone is unplugged on the other side of the river. *Id.* at 30. These two cellular "options" are in no way reasonably comparable to wireline service.

76 RCC's currently available wireless service has also not been shown to be reasonably comparable to wireline service. The same limitations on wireless service quality set forth in the discussion above regarding the Taylors (the more lenient industry standards, and the potential for distortion, static and dropped calls) apply to the Timm Ranch location as well. Moreover, RCC's signal reaches only the Nelson and Bob Timm residences; a phone cell system will not work at the other Timm Ranch residences. Ex.

91T (Huskey) at 9.

77 In the short time that the Nelsons have had RCC's service on a "trial" basis, Mr. Nelson has sometimes experienced static on his end of the line during calls. Ex. 309. Further, Mr. Nelson has been able to get sporadic cellular service at his home, but even then, it is sometimes not available for a couple days in a row; and the quality varies so that at times he has some difficulty in hearing the other caller, while some calls are dropped. Tr. 639. The Nelsons have not requested RCC's service on a regular, paying basis. Tr. 320-21. Nor can RCC document the last time it spoke with Mr. Nelson regarding the quality of his service. Tr. 298. There is no basis to conclude that wireless service is an acceptable substitute for the Nelsons, or any other of the Timm Ranch residences.

c. Comparative price of cellular phone service

78 Based on the evidence of record, the available cellular service is clearly not reasonably comparable in price to wireline service. Ms. Taylor's total telephone expenditures in 2001 was approximately \$8,000 for two telephones at home (Americell and AT&T Wireless) and two wireline phones at her Grand Coulee business. Of this amount, only one-fifth was attributable to her business phones; thus, she spent approximately \$6,400 in one year for her Americell and AT&T Wireless phones, for her residential use. Ex. 172D (Taylor Dep.) at 41-42; Ex. 131T (Shirley) at 20. One of the plans

charges \$89.00 per month for 600 minutes, and the other charges \$89.00 per month for 300 minutes. In addition, there is a charge of 40 cents per minute for additional minutes. *Id.* at 23-24, 26. Mr. Nelson testified that his Verizon Wireless service costs \$65.00 per month for two phones. Ex. 171D (Nelson Dep.) at 24.²⁵

79 There is no evidence in the record regarding the price of RCC's service, nor what services are included for what is paid. RCC claims that it is willing to provide service to "the applicants" at its "customary rates." We know, however, that this service is not comparable to wireline service, and that this service is not available at all to many of the residences. What RCC's "customary rates" are is unknown, as there was no testimony about them.

80 In short, the "comparative price and capabilities of radio communications service or other alternatives available to customers" clearly militates against granting Verizon a waiver of its obligation to extend service here.²⁶

²⁵ Because wireless service generally has per-minute charges, Mr. Nelson's expenditure for wireless service might be much greater if he did not have to travel 2 1/4 to 3 miles from his house to use his phone.

²⁶ It would be a significant change in policy for the Commission to determine that a customer is not entitled to wireline telephone service under RCW 80.36.090 based on the availability to the customer of wireless service. Even if the wireless service were not of sub-standard quality and offered at an unknown price, this would be a significant change.

The Commission has in numerous instances determined that various services should be classified as competitive under 80.36.330 due to the presence of alternative providers, but the result is merely that prices are no longer regulated. In these cases the Commission has not relieved companies of obligations under 80.36.090 based on the presence of alternative providers. In more urban areas of the state there are greater numbers of wireless competitors offering better quality wireless service, but even this level of competition has not prompted the Commission to remove price regulation, though this has been proposed elsewhere. See *In The Matter of the Application of Qwest Corporation for Deregulation of Basic Local Exchange Rates in its Boise, Nampa, Caldwell, Meridian, Twin Falls, Idaho Falls, and Pocatello Exchanges*,

5. Technological difficulties and physical barriers presented by the requested extensions.

81 WAC 480-120-071(7)(a) provides that the Commission may consider “technological difficulties and physical barriers presented by the requested extensions.” Verizon has not shown that these line extensions present any “difficulties” or “barriers” that are any different from those commonly encountered in Verizon’s exchanges throughout central Washington. This factor, thus also militates against granting Verizon a waiver of its obligation to extend service to the Hayes Road and Timm Ranch locations.

82 Verizon states that both the Hayes Road and Timm Ranch extensions would have to be constructed in areas containing dirt, sand, and basalt rock. Ex. 1T (Ruosch) at 6, 8. Yet Verizon admits that these features are all “common to the area.” *Id.* at 6. When asked by Staff whether Verizon experiences soil conditions in the Bridgeport exchange that are similar to those conditions in ten other exchanges in its Wenatchee district, Verizon simply admitted, “Yes.” Ex. 131T (Shirley) at 21.

Case NO. QWET-02-25, Notice of Application, Notice of Right to Intervene (December 17, 2002) at 1. (“Qwest’s application asserts that such competition exists from cellular telephone providers, which service is functionally equivalent, competitively priced local exchange service reasonably available to both residential and small business customers. The Application states that because wireless service is reasonably available, ‘essentially every Qwest basic local exchange customer in the seven exchanges has a multitude of local service options in addition to Qwest’s basic local exchange service.’”). <http://www.puc.state.id.us/> It is unclear how the Commission would reconcile the continued obligation to serve and regulation of prices in urban areas with a decision here that a service obligation does not exist due to wireless service.

When asked to provide additional documentation for the statement that the locations contain “extraordinary rock conditions,” Verizon responded by referring to passages from “The Geology of Washington,” a Department of Natural Resources publication. Yet these general passages merely establish that the Hayes Road and Timm Ranch locations have the same conditions that one finds throughout the Wenatchee District, in which Verizon has held itself out to serve for over fifty years, and throughout central and eastern Washington. There is no indication that these locations in particular are any “rockier” than the norm. *Id.* at 22. During cross-examination, Ms. Ruosch further admitted that the Wenatchee district includes other rocky areas, including Rocky Reach; and the Leavenworth, Cashmere, and Marblemount exchanges, all of which have significant rock climbing areas. In fact, there is rocky terrain throughout Verizon’s service territory. Tr. 131-32.

Verizon also contends that it will encounter “hazards of ingress and egress,” including wildfires, the possibility of mechanical breakdown, vehicles getting stuck on dirt or muddy roads, and wild animal or livestock activity. Yet again, when specifically asked whether the weather and soil conditions and activity are present in all Verizon’s other exchanges, Verizon simply answered, “Yes.” Ex. 131T (Shirley) at 24. Verizon further admitted on cross-examination that the problems of which Ms. Ruosch complains, such as weather (snow, windstorms, etc.) and vandalism, occur in rural and

urban areas alike. Tr. 130-31. Again, nothing differentiates the Hayes Road and Timm Ranch locations in this regard.

85 Verizon contends that it will have difficulties with maintenance in winter because of unplowed roads. Yet its own activities in placing cross-country leads belie this alleged concern. In fact, Verizon's customer nearest to Hayes Road at the Foster Creek Ranch is served by a 2.2 mile cross-country lead from the Bridgeport exchange. Ex. 131T (Shirley) at 26. Since Verizon places lines cross-country, it must maintain them winter and summer without a road, public or private, maintained or not maintained. Verizon has an unknown number of miles of cross-country lead in its Wenatchee District. As Mr. Shirley points out, if it is unacceptable to place cross country leads where, in Verizon's words, "access [and] harsh winter elements are a concern," then Verizon has already demonstrated, by placing these cross-country leads in the Bridgeport exchange, that the Bridgeport exchange is not one of those locations where that presents an unacceptable problem. *Id.* at 26-27.

86 In any event, if there were occasions where the company were unable to immediately provide maintenance or repairs because of "physical obstructions" (this might include an amount of snow that makes the job impossible or too hazardous, or a road impassable due to mud), the Commission's recent amendment to WAC 480-120-440

will address this problem.²⁷

87 Finally, Verizon contends that the extension to the Timm Ranch is particularly problematic because it would represent the only loop in its network with a twenty-three mile stretch between the Nelsons and the nearest Brewster customer. Ex. 1T (Ruosch) at 10. Verizon suggests that this is a reason for granting it a waiver. This contention is without merit. Verizon's statement does not alter the fact that there are thousands of loops in Washington between twenty miles and forty miles in length. Ex. 111T (Spinks) at 3. Verizon itself has 574 loops in excess of twenty miles. Tr. 470.

88 While it may be unusual for a loop to go twenty miles before it serves customers, that need not be the result of this case. As Commission Staff suggests in its recommendation, the Commission should require that the Timm Ranch applicants be served, but it should permit Verizon sufficient time to work with Qwest and CenturyTel to determine if efficiencies can be found for all companies if Qwest extends seven miles or CenturyTel extends approximately three and one-half miles. In any event, there is no technical reason that a twenty-mile loop cannot be built. And with respect to the revenue that will be collected from that loop, it has never been in doubt that all of North Central

²⁷ WAC 480-120-440 provides that a company must repair all out-of service interruptions within 48 hours, and must repair all other regulated service interruptions within 72 hours, "unless the company is unable to make the repair because it is physically obstructed from doing so" or because of force majeure in which case the company must make the repair as soon as practicable. The quoted portion of the rule is effective July 1, 2003. Docket No. UT-990146, Order Amending, Adopting and Repealing Rules Permanently, General Order R-507 (December 16, 2002).

Washington, except Wenatchee, is high-cost and low-revenue, so an extension to the Timm Ranch will be in that respect typical.

6. The effect on the individuals and communities involved

89 WAC 480-120-071(7)(a) provides that the Commission may consider “the effect on the individuals and communities involved.” Verizon’s approach to this issue appears to be that persons who currently do not have access to a wireline phone, but nevertheless manage as best they can without one, cannot contend that access to the phone service that the vast majority of Washington residents enjoy would really have any effect on them either as individuals, or as part of the communities in which they participate. This is simply not true.

90 The fact that the Hayes Road and Timm Ranch residents have been able to conduct their affairs as best they can without dependable, wireline telephone service does not at all mean that they would not benefit from receiving this service. Quite to the contrary. Ms. Taylor stated that she often has her grandchildren at her home, and she is quite concerned for their safety. She needs quick and reliable access to emergency services. Ex. 172D (Taylor Dep) at 30. Ms. Taylor’s concerns about needing reliable access to emergency services and 911 are well-founded. This was borne out quite tragically when her father-in-law died of a heart attack, after it took the Taylors thirty-

five minutes (following several unsuccessful attempts) to contact 911. (See previous discussion at section V(B)(4) of this brief.)

91 Ms. Taylor said more generally that she would like “a more reliable phone I can count on.” (*Id.* at 30) She would like to be able to keep in touch with her family, and be able to call town before making a trip there. Tr. 568. She also said that she would like to be on the Internet, to have access to e-mail and to be able to look up information. Ex. 72D (Taylor Dep.) at 29-30.²⁸

92 Mr. Nelson also stated that access to wireline service would help him in both his personal and business affairs. It would give him access to the Internet, which would help him greatly. It would enable him to contact his kids who are in college more frequently. Ex. 171D (Nelson Dep.) at 25-26. Moreover, it would allow him to keep in touch with family on a consistent basis without concern about whether the phone would or would not work, and it would allow him to participate more fully in the community. He is a member of the board of trustees of a co-op. Ex. 590. He could often save time in any circumstances where he makes a call into town and learns that something is cancelled, or that store supplies that he needs aren’t available. Tr. 717.

93 Moreover, the residents here are part of the larger communities surrounding them. They are not recluses in distant, “remote” locales. As previously noted, they work

²⁸ In high-cost locations, like all others, companies are only required to provide reliable voice-grade access to the public switched telephone network. This does not prevent tens of thousands of Washingtonians from gaining access to the Internet through their telephone lines. These applicants hope to do the same if circumstances permit.

in, participate in, and communicate routinely and frequently with the communities of Bridgeport, Grand Coulee, Omak, and in the case of the Timm Ranch, with the larger agricultural community.

7. The effect on the company

94 WAC 480-120-071(a) provides that the Commission may consider “the effect on the company” in deciding whether to grant a waiver of the obligation to provide service. Verizon argues that its reinforcement costs should be considered by the Commission in making this decision. Verizon further contends that because it has not forecasted sufficient growth in the area of Hayes Road and the Timm Ranch, or has decided not to budget dollars for these extensions, it therefore has no obligation to build line extensions to residents in these areas. None of these arguments have merit.

95 Reinforcement investment should play no role in the Commission’s decision in this case. The rule clearly excludes it from the “cost of service extensions.” Furthermore, as the record indicates, Verizon has chosen to forego reinforcement in North Central Washington, and the associated investment is thus at its present level because of choices Verizon has made. Verizon should not be able to avoid its obligations to provide service to areas where residents live by simply electing not to budget or to build reinforcement in those areas.

a. Reinforcement defined

96 It is first important to define reinforcement. “Reinforcement investment occurs between the switch and the end of the existing facilities. The extension is the plant needed to reach from the end of existing facilities to the new location.” Ex 131T (Shirley) at 13. When facilities are exhausted, reinforcement must take place before there can be an extension. This is the case whether the extension will be a matter of feet or miles. It is more often the case that reinforcement must occur where there is no extension, for example when a housing development grows and second lines are purchased, or growth in access lines exhausts a switch and a larger switch must be purchased.

97 In this case, Verizon described the facilities west of the Foster Creek Ranch (the location of the facilities nearest the Taylor location) as at exhaust. Tr. at 199-200. Exhaust means in use 100%. Tr. at 200. In order to supply the Taylor location, which is east of Foster Creek Ranch, Verizon would first have to reinforce the cable for several miles to arrive at the current end of that portion of the network at Foster Creek Ranch with sufficient capacity to extend to the Taylor location on Hayes Road. It is important to understand that if the Foster Creek Ranch were to order another access line, Verizon would have to reinforce the cable for the same distance that it must reinforce it in order to serve the Taylor location. It is not the location of the Taylors’ and their neighbors that

dictates reinforcement costs, it is choices Verizon has made not to have spare capacity in its network.

b. Forecasts

98 Verizon states that it would not build in the Bridgeport area because it has a net loss in the central office. Tr. 199-200. It states that it must have some documentable demand, and that it “would never forecast and build out to the very end of the exchange when there is nothing, no demand driven to do that.” Tr. at 201. Yet Verizon replied to a discovery request that asked if the Taylor request constitutes demand, and stated that it did not represent demand: “No. Existing demand would be described as demand consistent with historical norms for this area.” Ex. 183.

99 The six homes in the Taylor location are thus caught in a circle from which they cannot break out. Their existence does not constitute demand, so it is not forecasted. Because it is not forecasted, no plans, let alone construction, will ever take place that would make spare capacity available. The result is that Verizon is in a position to tell this Commission that the required reinforcement investment will be high, so high that it warrants a determination that applicants are not reasonably entitled to service under RCW 80.36.090. The households on Hayes Road cannot even break out of this circle by actually requesting service.

c. The Commission anticipated lack of reinforcement when it adopted WAC 480-120-071.

100 The Commission addressed reinforcement costs extensively when it adopted WAC 480-120-071. It did so in the rule and in the Order Amending and Adopting Rule Permanently.²⁹

101 The adoption order provides context for concluding that reinforcement costs should not be considered in a determination that an applicant is not reasonably entitled to service. In the section labeled “What is the problem?” the Commission explained:

Applicants for service in rural areas often must pay service extension fees that are substantially higher than fees (if any) that urban customers must pay. *At the same time, the rural applicants often encounter ILECs that have not invested in new distribution plant in such locations.* The combination of these two circumstances means that some applicants for service in rural areas do not get service because it is cost prohibitive.

Order Amending and Adopting Rule Permanently, at ¶ 22. (Italics added.)

102 The Commission went on to explain that:

Service extensions can be distinguished from other network improvements and customer requested additions. *Each incumbent company is responsible for maintaining, reinforcing, and improving its network.* Authorized rates are established to provide incumbent companies the opportunity to recover the costs of such investment.

²⁹ Docket No. UT-991737, General Order No. R-474, Order Amending and Adopting Rule Permanently (December 5, 2000).

Id. at ¶ 27 (Italics added). The Commission added a footnote to this paragraph which says: “Any company that cannot meet its obligations with the amount of revenue it earns may request a rate increase.” *Id.* at n.4.

103 The Commission was even more explicit in response to a concern raised by Qwest with respect to recovery of reinforcement investment.

Qwest stated that it believes the rule should allow companies to recover the cost of reinforcement to the existing network. Qwest suggested that the rule should be permissive with respect to reinforcement costs. Response: Reinforcement costs are part of the company’s ongoing business operations, and mechanisms do exist for companies to seek rate increases to meet these business expenses.

Id. at ¶ 43.

104 In the rule itself, the Commission was careful to leave reinforcement investment out of the equation. The rule’s definition of “Cost of service extensions” expressly states that it “does not include the cost of reinforcement, network upgrade, or similar costs.” WAC 480-120-071(1). In subsection (7), the list of what may be considered is very specific: it is “The total direct cost of the extension,” not reinforcement.

105 The intention is clear: because companies already have authorized rates that support reinforcement, companies must meet their reinforcement obligations.

d. There is evidence in the record that Verizon’s failure to reinforce is widespread in North Central Washington.

106 Evidence in the record supports the conclusion that Verizon is not reinforcing its

network in its Wenatchee District. “The Code of the West” adopted by the Chelan County Board of Commissioners, states: “Telephone communications can be a problem, especially in the mountain areas of Chelan County. If you have a private line, it may be difficult to obtain *another line* for fax or computer modem uses.” (Ex. 545, ¶ 2.1) (Italics added.) The lack of second lines is a reinforcement issue, not an extension issue. The Chelan County Board of Commissioners, no doubt unfamiliar with all the distinctions found in this case, nevertheless provided evidence of the real problem—Verizon is not investing in its network in that part of the state.

107 Verizon’s chief of engineering for the area, who states that she is not the witness with knowledge of Verizon’s rates (Tr. at 155-56), nevertheless points to the same problem as the County Commissioners. She says that the cable several miles northwest of the Foster Creek Ranch, which is itself several miles from the Taylor Location, is at exhaust. Tr. at 199. She is not given the funds in her budget needed to meet reinforcement demand, as evidenced by her testimony specific to one extension, and as evidenced generally by the County Commission’s code.

108 Yet Verizon does *not* testify that it does not have the funds to afford reinforcement. If Verizon were without funds for reinforcement, it certainly would have said so. In fact, it said the opposite:

Q. Is there anywhere in your testimony where you state that Verizon has insufficient reinforcement dollars to construct the extension?

A. I think that we say we have restricted. We are all in an economic decline, and we all have to utilize our resources to the best possible opportunity we can. *I never said anywhere within the testimony that we didn't have the resources to do the job in terms of capital.*

Tr. at 169 (Italics added).

e. Verizon considers investment in reinforcement a loss for shareholders. The Commission should reject this contention.

109 While Verizon's engineering witness, Ms. Ruosch, states that the company has the resources to invest in reinforcement, its other witness claims that investing reinforcement is the same as a loss to shareholders. When asked to quantify the harm to shareholders, Dr. Danner said:

Q. Have you quantified as to the shareholders collectively?

A. Well, the shareholders lose what they are not allowed to recover from these line extensions, which is at present, as I understand it, was defined as reinforcement costs. So you can add those dollars up by going back to the particular filings and seeing how much they have not been allowed to recover.

Tr. at 235.

110 Verizon's position, in comparison to what the Commission stated in Docket No. UT-961638, *WUTC v. US West*, Fourth Supplemental Order Rejecting Tariff Filing

(January 16, 1998),³⁰ and what it stated when adopting the rule at issue in this case, is startling indeed. Its position is that dollars already in its possession, provided by ratepayers for reinforcement, represent shareholders' money that is lost if it is invested.

111 In Docket No. UT-961638, the Commission rejected the US West tariff because it would have permitted the company to “limit or [a]llocate the use of existing facilities...when necessary because of lack of facilities....” Docket No. UT-961638, Fourth Supplemental Order, at 2. The Commission rejected the tariff because it expects companies to invest in networks and be prepared to serve existing and forecasted demand. The Commission stated that US West enjoys “protection against significant adverse financial results under rate-of-return regulation” and the opportunity to fully recover investment in all network resources, and as a result has an “obligation to serve customers in its tariffed service territory.” *Id.* at 24. Verizon now stands in the same position as US West did then. Yet Verizon's view is it should take reinforcement dollars that it receives through rate-of-return regulation and put them in the shareholders' pockets rather than meet the Commission's expectation to serve within its tariffed service territory. The Commission should reject this approach.

³⁰ Verizon's predecessor, GTE, was also a party in Docket No. UT-961638.

f. The Commission has faced disinvestments previously, and has refused to permit the reasonable entitlement to service to be compromised based on unfounded claims of economic burden.

112 Verizon's admission concerning its ability to invest capital, and its characterization of investing in reinforcement as a "loss" to shareholders, are very important in light of what the Commission said in its decision in Docket No. UT-961638. Staff believes that this is the only Commission case that addresses RCW 80.36.090 and the obligation to serve in relation to a company's assertion that to invest would create an economic burden.

113 In that case, the Commission addressed a filing by US West in which it proposed a tariff that would have permitted the company to deny service when facilities were not available, and to make them available only "where 'the Company has an existing plan to add additional capacity in the near future or where it makes business sense to do so.'" *Id.*, Fourth Supplemental Order, at 3. The Commission rejected the tariff in part because, "The Company has been unable to offer any factual bases for its assertions that its obligation to serve imposes a severe and unique economic burden." *Id.* at 22.³¹ Now, just as then, Verizon has not said-- because it cannot say-- that it lacks the reinforcement funds *already provided to it by ratepayers.*

³¹ This point was emphasized through inclusion of Finding of Fact Number 5 (Fourth Supplemental Order at 29). Commission Staff believes that to sustain Verizon's case that it faces an economic burden that warrants being excused from the obligation to serve found in RCW 80.36.090, there must also be a finding of fact that Verizon has offered a factual basis for its assertions that its obligation to serve imposes an unreasonable economic burden on the company.

In addition to reinforcement dollars that are included in local service rates, Verizon also receives additional funds to support growth in high-cost locations. It has not said-- and cannot say-- that it does not receive state universal service funds that include a “fill factor,” the purpose of which is identified in a prior Commission order: “so that the level of spare capacity was enough to meet current demand *while allowing for growth.*” Docket No. UT-980311(a), Tenth Supplemental Order, p. 64, ¶ 257 (italics added).

g. Verizon receives support based on the locations of the applicants’ homes.

Not only does Verizon receive a level of support that permits it to fund growth in its network, in unrebutted testimony Commission Staff has established that Verizon receives money specifically for extending service to the Taylor and Timm locations.

Q. So, Verizon has been collecting money for just such growth as these requested extensions represent?

A. Yes. There is even more to it than that. In the model that generated the \$33 million per year that Verizon has been collecting, inhabited households were included in the models. Because both the Taylor home and neighboring homes, and Timm Ranch homes were occupied in 1998 (and many years before that), the model that generated the amount that Verizon could recover in explicit support anticipated constructing extensions to these very homes. See Tenth Supplemental Order, UT-980311(a), pp. 26-28, ¶¶ 79-91.

Ex. 131T (Shirley) at 14.³²

116 The difference between the circumstances which resulted in the Commission's decision in Docket No. UT-961638 and this case is that the former concerned whether a company must invest in its network through reinforcement to serve its applicants for service generally, while this case concerns a specific set of applicants. The conclusion, however, should be no different when a company has received funds to invest in reinforcement, sufficient funds are available to it, and it has received universal service dollars for the purpose of extending to the very applicants' homes with which this case is concerned.

8. The effect on the public switched network

117 “Effect on the public switched network” is not defined in the rule. Verizon suggests that it means effects such maintaining new plant and equipment and the effect on budgeting for reinforcement and maintenance. Commission Staff suggests that its meaning may be more accurately inferred from recourse to Part 68 of Title 47 CFR. Those rules concern attachments to the network that that may cause harm because of incompatibility of terminal equipment with network equipment and operations. *See also*

³² Verizon's only “response” to this testimony was to claim that the result of Docket No. UT-980311 was only to divide existing access revenue into two categories. Ex. 32T (Danner) at 17-20. Even if that were the case, the amount decided upon for the universal service category includes sufficient funds to support growth – that is the result of using the fill factor. Additionally, even if funds were only divided into two categories, the amount placed in the universal service category was based on a model that included the actual homes at issue in this case. To claim that because a model was used somehow negates the fact that Verizon is given money as stated in the Tenth Supplemental Order in Docket No. UT-980311 is nothing more than a collateral attack on that order.

WAC 480-120-061(1) and, effective July 1, 2003, WAC 480-120-061(1)(a). Nevertheless, in testimony Commission Staff addressed supposed effects on the public switched network from reallocation of capital budgets; maintenance; and effects of winter weather. Ex. 131T (Shirley) at 23-28.

118 Verizon alleges that extending service to the Hayes Road and Timm Ranch locations will have the adverse affect of using money that would otherwise be expended on its network. As addressed in the section on reinforcement, Verizon has testified that it has the capital necessary to construct the extensions. Commission Staff has pointed out that Verizon can collect half the necessary funds before it even begins construction. See WAC 480-120-071(4)(b)(i). Commission Staff has also pointed out that Verizon may recover such things as cost of money. Ex 131T (Shirley) at 24; Ex. 214C (See “cost of money” on page 2 of this exhibit).

119 To the extent Verizon is concerned about reduced investment elsewhere in its network, there is evidence that it may already be doing that (*see* above discussion concerning the Code of the West, Ex. 545), and that its reason for not investing in its existing customers and network is that it believes that the money it receives in rates for reinforcement is actually the property of the shareholders who suffer a “loss” when that money is invested in Verizon’s current network. Tr. 235.

120 Verizon has claimed that maintenance costs will increase if it builds the

extensions. It is correct, but not because of anything to do with these applicants or their location. Anywhere Verizon invests in new plant and equipment, it increases its maintenance needs. There is no question that it will not receive from a dozen customers the funds necessary to maintain the new plant and equipment, but that is true in every North Central Washington exchange but Wenatchee. The approximately 1,000 customers of the Bridgeport exchange today do not provide the funds to pay for maintenance, that is why Verizon receives state and federal high-cost support. Even if the equivalent of these extensions were built in Bridgeport or Brewster, the monthly payments of customers would not be sufficient to pay for the maintenance. Verizon nevertheless will receive sufficient support to provide necessary maintenance, and if it cannot it has recourse to the Commission. Docket No. UT-991937, In the Matter of Adopting WAC 480-120-071 Relating to Service Extensions, Order Amending and Adopting Rule Permanently, n.4 at p. 5.

121 Verizon also raised concerns about winter weather. Verizon serves north central Washington and it experiences winter weather and it manages in the same circumstances presented by these extensions. Indeed, given that neither of these extensions involves adding cross-country lead, these two extensions present less winter weather concerns than many of its existing routes. Ex. 131T (Shirley) at 26-27.

122 In summary, there is no adverse affect on the public switched network. There are

only the normal results of adding plant and equipment. Verizon's arguments to the contrary are without merit.

VI. CONCLUSION

123 Verizon has presented the Commission with not one, but two cases, each with its own set of applicants and its own circumstances. One (the Hayes Road extension) is clearly within the bounds of the general scope of extensions that are common to north central Washington today. The other (the Timm Ranch extension) presents greater investment needs than usual but also presents circumstances, as documented in detail by Professor Duft, that demonstrate why Congress, the Legislature and this Commission have determined that some services will not be based on cost. Each of these cases fits readily within the scope of the Commission's line extension rule, and in neither case is there justification for granting Verizon a waiver, pursuant to subsection 7(a), of its obligation to provide service to these applicants.

124 Commission Staff requests that the Commission deny Verizon's petition for a waiver of its obligation to provide service under WAC 480-120-071(2), and to find that all the applicants at both the Hayes Road and Timm Ranch locations are reasonably entitled to service under the rule. Staff recommends that the Commission give Verizon until September 1, 2004, to fulfill that obligation, in order to allow Verizon sufficient time to use the mechanisms set forth in subsection (5) of the rule. This section would permit

Verizon to discuss with other carriers (e.g., Qwest or CenturyTel) the possibility of making agreements under which each would serve customers that are located in the other's neighboring exchange. The companies clearly have the capability to cooperate in this fashion, and the Commission should issue a decision that permits Verizon and other companies to take advantage of this opportunity. Ratepayers will not be well served if companies do not, in exchange for the continuing protections offered them under rate-of-return regulation, cooperate among themselves to provide service, nor if companies are permitted to view reinforcement dollars as belonging to shareholders, rather than amounts to be invested on behalf of ratepayers.

125 In short, the Commission should grant the relief requested by the Staff, and deny Verizon's request for a waiver of its obligation to serve. This result is consistent with state and federal law and prior Commission decisions, and will best serve the telecommunications companies, customers and ratepayers of Washington.

DATED this 6th day of March, 2003.

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