

**BEFORE THE  
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

**Utilities General – Tariffs, Price Lists,  
and Contracts Chapter 480-80 WAC;  
Part B – Comprehensive Review and  
Part D – Price Lists**

**DOCKET NO. U-991301**

**COMMENTS OF VERIZON NORTHWEST INC.  
AND  
VERIZON SELECT SERVICES INC.  
ON  
PROPOSED TARIFF, PRICE LISTS, AND CONTRACT RULES**

**June 6, 2001**

## I. INTRODUCTION

Verizon Northwest Inc. and Verizon Select Services Inc. (collectively "Verizon") provide the following comments on certain of the draft rules for Chapter 480-80 Tariffs, Price Lists and Contracts that the Commission distributed by its May 9, 2001 Notice in this docket. Verizon has previously submitted comments on some of the issues raised by the draft rules and incorporates portions of those comments as noted below.

In addition to commenting on the substance of the draft rules, Verizon seeks clarification of the intent of several of the rule proposals. It requests that the Commission Staff provide this information before the June 12, 2001 workshop established by the Commission's Notice.

## II. GENERAL COMMENTS

Verizon supports the draft rules to the extent they clarify and better organize existing regulatory requirements. However, some of the draft rules would increase the burdens on telecommunications companies doing business in Washington, and would do so without any evident justification. Such a result is clearly not contemplated by the Governor's Executive Order that prompted the Commission to open this docket, and, moreover, it would be poor public policy for state agencies to promulgate such rules. They should not be adopted.

Several of the rules concern providing the Commission confidential documents and information (such as cost studies) but the draft rules do not address the confidentiality issue. Verizon assumes that the Commission does not intend to foreclose confidential treatment of the material pursuant to current practice (e.g., the company marks documents "confidential" and the Commission respects the designation unless a court orders otherwise). If the Commission intends the contrary, Verizon requests the Staff to clarify this point so it can be addressed.

### **III. COMMENTS ON SPECIFIC DRAFT RULES**

#### **Amend: 480-80-010 Application of rules. [Includes subsection (4) from Docket U-991301, effective 5/5/01]**

Some of the WAC references in Subsection (4) are incorrect. Based on the latest proposed rules, the "General Rules" end with WAC 480-80-030 and not with WAC 480-80-0X3 as noted in the proposed rule. In addition, the contract rules referenced should note WAC 480-80-3X1 through 480-80-3X5 and not just WAC 480-80-3X4.

#### **Amend: 480-80-030 Definitions.**

Parties are currently commenting in Docket UT-990146 on the definitions contained in proposed rule WAC 480-120-021. Verizon prefers that any definitions that are contained in both WAC 480-120-021 and WAC 480-80-030 be the same. The definitions for "Business Office" and "Company" in proposed rule WAC 480-120-021

differ from draft 480-80-030. Verizon requests the Commission Staff to clarify whether any difference in substance is intended for the two sets of rules.

**Amend 480-80-040: 480-80-1X1 Definition and use of tariffs.**

Subsection (1), which defines "tariff," should terminate after the word "tariff" in the second sentence. The legal pronouncements following that point have no place in a rule, let alone in the mere definition of a term. Such substantive pronouncements usurp the roles of the legislature and the courts. The proposed language is not an accurate statement of the law, as the enforceability of a tariff provision in light of statutory provisions and Commission rules and orders must be adjudicated on a case-by-case basis. In any event, the Commission should bring any such concerns to the companies' attention when it is reviewing tariff filings. This officious draft language would only serve to complicate matters and undermine the companies' ability to rely on their tariff provisions to define their relationships with their customers.

Subsection (7)(c) should allow fax filings on business days up to 4:30 p.m. Pacific time.

**New Section: 480-80-1X2 Tariff filing instructions.**

Draft subsections (b), (e), (f), (g) and (h) overlap and require more information than is reasonable as a general matter. If in a given case additional information is pertinent to the Commission's review, it may be requested from the company. Subsections (f), (g) and (h) should be deleted, and subsections (b) and (e) should be revised to read as follows:

- (b) Generally describe the tariff provisions being filed, including the affected services and the nature of new or changed provisions and rates.
- (e) If the tariff is a compliance filing, identify the proceeding (including the docket number) and the commission order pursuant to which the filing is being made.

Verizon's proposed subsection (b) will alert the Commission to the nature of the changes that are set forth in detail in the filed tariff sheets, making the Commission's draft (g) and (h) unnecessary. The rate change specifics covered by the Commission's draft (g) are unnecessary because they will be apparent in the tariff sheets. Moreover, even if the Company provided the proposed specifics, the Commission's Staff would double-check the calculations; thus there is no point in mandating that the Company include them in the transmittal letter.

Verizon's proposed (e) covers the compliance filing aspects of the Commission's draft (e) and (f). Beyond this information - - and what is covered by Verizon's proposed (b) - - there is no reason to require that the transmittal letter go into "what is prompting the filing." As noted above, if additional information on this point will make a difference in the Commission's decision on the filing, the Commission may request it from the company.

**New Section: 480-80-1X3 Tariff content.**

Verizon assumes that draft (4)(a)(iii)'s inclusion of "Reconnection charge" in the Rules section of the tariff is intended only to cover a description of such a charge, leaving the

charge itself to be set forth in the Rate schedule section of the tariff. Verizon requests the Staff to confirm this.

Verizon requests the Staff to explain what is intended to be included in subsection (5)(a)(iii) "Availability." Does it, for example, refer to deaveraged rates? Verizon appropriately uses sections of its tariffs other than the rate sections to address the geographic areas in which services are available and the circumstances under which they may not be available (e.g., do to the nature of the pertinent central office switches).

Verizon requests the Staff to clarify the intent of subsection (5)(b)(i)(D) - Base rate area maps and subsection (5)(b)(i)(E) - Exchange area maps. Is the Commission proposing that the maps themselves be included in the Rate schedule section of tariffs? As the Commission knows, they currently are separately filed, which is administratively much more workable. As needed, service-specific tariffs cross-reference the maps.

**New Section: 480-80-1X4 Tariff format.**

With regard to subsection (4)(c), Verizon assumes it would be acceptable to continue to use "1st Revision of Sheet" instead of "First Revision of Sheet." If Staff intends the contrary, Verizon requests that it make this clear.

**Amend 480-80-070: 480-80-1X7 Tariff filings with statutory notice.**

The deadline in draft subsection (3)(b) should be 4:30 p.m. Pacific time.

**Amend 480-80-240: 480-80-1X8 Tariff filings with less than statutory notice (“LSN”).**

Verizon requests that the Staff explain the purpose of introducing the unified business identifier (“UBI”) number requirement.

Verizon also requests that the Staff explain the reason for its proposed process for marking the tariffs with the LSN and eventual effective dates. As Verizon understands the proposal, it would complicate internal administration and tariff sheet distribution.

**New Section: 480-80-1X9 Tariff filings that do not require statutory notice. [From –240]**

As a clarification, Verizon proposes that subsection (4) be expanded to read as follows:

(4) Initial tariffs of newly registered carriers.

**New Section: 480-80-1X10 Failure to provide statutory notice. [From –070]**

The following sentence should be added to the draft rule:

The commission will promptly notify the filing company in writing when a tariff is rejected for failure to provide the required notice.

The company needs to know when this occurs so it does not inadvertently treat the tariff as effective.

**Amend 480-80-250: 480-80-1X14 Tariff adoption notice.**

The draft rule makes several assumptions about the nature of changes in "ownership," "control" and company names that may not be accurate and that may not warrant the use of an "adoption notice." Also, draft subsection (2)'s use of "acquiring company" and "surviving company" is confusing.

For example, a change in the ownership of a corporation accomplished by the transfer of stock does not change the identity of the legal entity. In other words, the same telecommunications corporation will still be providing services under its same tariffs. In that circumstance, filing an adoption notice would serve no purpose. The same may be true with regard to a "transfer of operating control." On the other hand, if one company acquires the going concern operation of a telecommunications provider (that then ceases to operate), it would be appropriate for the acquiring company to use an adoption notice until it gets its own tariffs in place - - especially if the new company's name is different.

Therefore, Verizon proposes a more flexible approach, as follows:

- (1) When there is a change in the legal entity providing tariffed telecommunications services, the new entity must either;
  - (a) Put in place its own tariffs, effective with the change in the legal entity providing the services; or
  - (b) File a tariff adoption notice at least one day before the change in the legal entity providing the services.



- (2) A tariff adoption notice must contain, at a minimum, the following:  

(Name of company) adopts and makes its own in every respect all tariffs, supplements and amendments filed with the Washington Utilities and Transportation Commission by (Name of previous company) prior to (Date).
- (3) The company adopting the tariff must either:
  - (a) File to incorporate the adopted tariff into its own tariff within sixty days of the date of the filing of the adoption notice; or
  - (b) Refile the tariff under its own name within one year.
- (4) When a telecommunications company changes its legal name, it must refile its tariffs under its new name within one year.
- (5) Until a company refiles tariffs under its own name, all revisions must include:
  - (a) The prior company name, at the top of the sheet, and
  - (b) The new name at the bottom of the sheet.

**Amend 480-80-080: 480-80-1X16 Tariff availability to customers. [Includes -090]**

Draft subsection (2)(b) needs to speak to "mailing" not "delivery." Accomplishing actual delivery within three days is not practical.

In addition, the methods listed in draft subsection (2) should not be mutually exclusive. The companies should have the flexibility to use a combination of delivery methods.

That would make the equipment deployment mandate of draft subsection (2)(c) unnecessary, and it would properly result in subsection (4)'s notice being customized to describe the options used by the company.

The rule should also specify that it is limited to actual customers requesting copies of tariffs for services they have or are genuinely interested in ordering. Moreover, it should expressly allow the company to direct competitive carriers seeking tariff copies to a website or to the Commission. Verizon Northwest has encountered carriers seeking copies of thousands of pages of tariffs. These requests seriously disrupt the company's tariff administration personnel and attempt to shift costs and burdens onto it that should instead be born by the requesting company's market intelligence gathering budget.

**New Section: 480-80-2X1 Definition and use of price lists.**

The Commission's current price list rules are adequate and should be retained in lieu of the draft rules. See Verizon's March 2, 2001, December 12, 2000 and October 27, 2000 comments.

If this draft rule were nevertheless adopted, subsection (3) would need to be reworded to clarify that if a competitively classified company files a tariff it does not become subject to full regulation for all of its operations and service - - just for the service for which the tariff is filed.

**New Section: 480-80-2X2 Interpretation and application of price lists.**

Verizon incorporates its previous comments opposing the draft rule's attempt to usurp the legislative and judicial roles of determining the legal validity, scope and impact of price lists. The draft rule could have an enormous and costly impact on companies that use price lists. At a minimum, these sort of far-reaching proposals should be addressed in a separate docket - - not in a proceeding that should, under the Governor's Executive Order, be minimizing regulation and regulatory impacts on business.

**New Section: 480-80-2X3 Price lists format and content.**

Draft subsection (7) would be acceptable *if* draft WAC 480-80-1X2(2) were simplified as Verizon proposes above. Otherwise, the draft rule is overly burdensome and requires information that serves no useful purpose in reviewing price lists (which, according to the draft rules, the Commission does not do). In any event, Verizon requests the Staff to explain the utility and benefit of the draft mandates for price list filings.

Draft subsection (9)(c) should be changed to 4:30 p.m. Pacific time.

**New Section: 480-80-2X4 Effective date of price list filings.**

Draft subsection (1)(c) should be dropped because its reference to the date of receipt of actual notice is wholly unworkable. At a minimum, this draft rule should be held in abeyance until the Commission completes action on its proposed customer notice rules.

In addition, the draft rule should distinguish between rate increases and decreases. Clearly, rate decreases should be allowed to become effective upon filing. There is no customer benefit to delaying them as the draft rule proposes.

**New Section: 480-80-2X5 Price list availability to customers.**

As Verizon has explained in previous comments, this proposed mandate is entirely inappropriate for competitive services - - services for which, by definition, customers have choices. Website posting of tariffs may make a company's services more attractive to customers, but the market should decide; the Commission should not dictate the result.

**New Section: 480-80-3X1 Contract for service.**

Verizon requests the Staff to clarify whether this draft rule is meant to apply only to non-competitively classified services.

Draft subsection (3) should be changed to allow five business days to provide contract forms to the Commission. While one day may be doable in most cases, mandating such a short turn around in a rule would be unreasonable.

Verizon requests the Staff to explain the scope and intent of draft subsection (4).

**Amend 480-80-330: 480-80-3X2 Special contracts for telecommunications companies not classified as competitive.**

The draft rule should be amended to expand the Federal firm bid contract provisions to include firm bid contracts for any state or local government agency. The 15 day filing period in subsection (5) should be fifteen "business days."

The rule should be amended to make clear that in the case of master purchase contracts, subsequent individual orders do not constitute "contracts" that need to be separately filed with the Commission.

Draft subsection (8) unnecessarily expands the definition of "essential terms and conditions." No change should be made to the current practice.

**New Section: 480-80-3X4 Using contracts for services classified as competitive.**

Verizon assumes "services classified as competitive" means ILEC price listed services rather than services of competitively classified companies (i.e., CLECs) and asks the Staff to confirm this interpretation

Draft subsection (5) is either ambiguous or attempts to exceed the requirements of RCW 80.36.150(5). The rule should simply provide:

If a contract covers both competitive and noncompetitive services, the noncompetitive services must be separately priced.

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