

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

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| WASHINGTON UTILITIES AND |) | DOCKET NO. UT-040788 |
| TRANSPORTATION COMMISSION, |) | |
| |) | |
| Complainant, |) | ORDER NO. 07 |
| |) | |
| v. |) | |
| |) | ORDER DENYING MOTION TO |
| VERIZON NORTHWEST, INC., |) | COMPEL; GRANTING MOTION |
| |) | TO STRIKE AND REQUIRING |
| Respondent. |) | SUPPLEMENT TO RESPONSES |
| |) | TO BENCH REQUESTS |
| |) | |

1 **PROCEDURAL BACKGROUND.** Docket No. UT-040788 relates to a filing by Verizon Northwest, Inc. (“Verizon” or “the Company”) seeking approval of interim and general increases in its tariffs. During a hearing on the interim portion of its request, Verizon agreed to respond with answers to certain bench requests for information. Verizon produced answers to four of the seven bench requests (Nos. 1-4) by August 20, 2004.

2 This order considers two motions that Commission Staff filed, relating to Verizon’s responses to Bench Requests Nos. 2 and 3.

Bench Request No. 2.

3 Bench Request No. 2 asked the Company to update its response to Commission Staff’s Data Request No. 276 in the general rate case, to provide an income statement and balance sheet at an intrastate level.¹ The Company’s response to

¹ *Transcript, pages 197-198 (August 10, 2004 session).*

the Staff data request which requested the same information was that the reports “are not maintained on an intrastate level.”²

4 The Company did respond to the bench request with what it represents to be information that complies with the request.

5 Commission Staff, however, believes that the response is inadequate. It filed a motion to compel a further response to the request, saying,

[T]he documents the Company supplied do not contain certain information. According to the Verizon Northwest, Inc. Washington Chart of Accounts, Verizon maintains approximately 150 separate income and expense accounts. For the income statement the Company supplied in response to Bench Request No. 2, the amounts shown are at a level that makes it difficult, if not impossible, to determine what Verizon accounts are being included and excluded.

For the balance sheet included in Verizon’s response, there are no amounts shown for numerous balance sheet accounts maintained by Verizon NW for its Washington operations. In the asset category, these include accounts for cash, accounts receivable, temporary investments, notes receivable, inventories, prepayments, investments in affiliated companies, non-regulated investments, unamortized debt issuance expense, deferred maintenance and retirements, deferred charges, and other jurisdictional assets.

6 Commission Staff argues that the Company’s response to Bench Request No. 2 is incomplete, and it asks the Commission to compel the Company to supplement

² Exhibit 144, page 6, Response to Data Request No. 276.

its response. In addition, it points out that the parties have had no opportunity for cross-examination on the document, and it urges that the complete response should not be considered until parties are assured that there is no need for cross-examination.

7 The Company responds that its response is complete; that the Staff is submitting a new request for the general rate case; and that Verizon supplied the proper level of detail. It notes that the income statement is consistent with the detail of other income statements provided to Commission Staff, and that Staff cites no authority for demanding more information. As to the balance sheet, the company states that it reported items contained in its surveillance reporting and it noted that Ms. Heuring, its witnesses on the topic, explained on the stand³ that certain items were not maintained at the intrastate level.

8 **Decision as to Bench Request No. 2.** We deny the Staff motion to compel. The Company provided the information in a form that is consistent with other presentations. The information is sufficient for this phase of the proceeding. The request does not specify the level of detail required, the response is consistent with comparable information of record, and the response therefore complies with the Commission's request.

9 Additional detail in the intrastate presentation called for in Bench Request No. 2 could have made the result more meaningful. To the extent Verizon's response lacks detail that could have supported its views in the interim phase of the proceeding, it will bear the consequences of that lack. Staff may request further detail for use in the general phase of the proceeding.

Bench Request No. 3.

- 10 Bench Request No. 3 asked the Company to provide the Company's cash flow through June 1, 2005 on a Washington intrastate basis.⁴
- 11 The Company did respond to the bench request with what it represents to be information that complies with the request. Commission Staff, however, again takes issue with the response.
- 12 Commission Staff first notes that Commission Staff Data Request No. 43 (Exhibit 130) asked the Company for the same Washington intrastate information, and the Company declined to provide it because it was unavailable. Staff goes on to note that the Company's Response to Bench Request No. 3, Attachment B-3, contains certain cash flow analysis for Washington intrastate operations. Staff argues that the response is insufficient, however, in that it does not identify any of the assumptions under which it was calculated. Staff argues that the response should be supplemented to state the assumptions under which it was calculated. Finally, Staff also argues that in adding written text to the information, the Company provided testimony in its response, and Staff asks that the text accompanying the cash flow analysis be stricken.
- 13 Verizon responds that Staff criticisms are inappropriate, because Verizon responded only that the information was not available (which is true) and that Verizon later, in response to Staff Data Request No. 78 (not admitted as an exhibit in the hearing), did supply the cash flow analysis. Finally, Verizon states that the response is complete, with the textual explanation that it added, and responsive.

³ *Transcript, pages 143-144.*

⁴ *Transcript, page 218, lines 3-5.*

14 **Decision as to Bench Request No. 2.** The Commission's request was for a cash flow analysis, which is rather straightforward. We find it unnecessary to consider explanations regarding the information provided, particularly since parties have not had the opportunity to examine a witness on the views expressed. The motion to strike the text accompanying the analysis should be granted.

15 However, we also believe that without a statement of the assumptions underlying the analysis, such factors as revenue and line count and its assumptions regarding interim rates, among others, is meaningless and without value. The Company is therefore directed to supplement its response with a list of the assumptions that the Company made in obtaining its result.

16 **Discovery disputes.**

17 Finally, we acknowledge the disagreements regarding the sufficiency of the Company's responses to data requests. We noted during the hearing that Staff has a remedy with regard to any data requests it believes to be insufficient. See, *e.g.*, WAC 480-07-425. We also note that mere non-existence of requested information is not a proper excuse for failure to produce the information. See, *e.g.* WAC 480-07-400(1)(c)(iii) and WAC 480-07-400(4). We understand the pressures of discovery in the context, particularly, during preparation for a hearing on a request for interim rates. We trust that the parties will proceed in good faith to exchange information and to resolve disputes.

ORDER

18 Commission Staff's motion to compel additional information in response to Bench Request No. 2 is denied.

19 Commission Staff's motion to strike textual information in response to Bench Request No. 3 is granted. Staff's motion to require Verizon to supplement its response to Bench Request No. 3 with a statement of all assumptions it made in preparing the response is granted.

20 **NOTICE TO PARTIES: This is an Interlocutory Order of the Commission. Administrative review may be available through a petition for review, filed within 10 days of the service of this Order pursuant to WAC 480-07-810.**

Dated at Olympia, Washington, and effective this 24th day of August, 2004.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

C. ROBERT WALLIS
Administrative Law Judge