

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

WASHINGTON UTILITIES AND)	
TRANSPORTATION COMMISSION,)	DOCKET UT-090073
)	
Complainant,)	
)	ORDER 02
v.)	
)	
VERIZON NORTHWEST, INC.,)	INITIAL ORDER APPROVING
)	AND ADOPTING SETTLEMENT
Respondent.)	AGREEMENT
)	
.....)	

Synopsis: This is an Administrative Law Judge’s Initial Order that is not effective unless approved by the Commission or allowed to become effective pursuant to the notice at the end of this Order. This Order would approve and adopt the parties’ Settlement Agreement, filed on August 12, 2009, in full resolution of the issues in this proceeding. Verizon Northwest, Inc., acknowledges in the settlement certain violations of law; agrees to pay penalties of \$39,600; agrees to implement a compliance program to avoid any future, similar violations and will be subject to pay suspended penalties of up to \$39,000 if a Staff compliance investigation six months after the effective date of the parties’ Settlement Agreement shows the company is not meeting its obligations under the settlement or is not in compliance with Washington laws and rules related to the billing of city taxes and Washington Telephone Assistance Program (WTAP) rates. Verizon also agrees to pay approximately \$10,000 toward a WTAP outreach effort.

MEMORANDUM

1 **PROCEEDINGS:** The Commission brought a Complaint against Verizon Northwest, Inc. (Verizon), on findings of probable cause that the company committed various violations of statute and rules with which it is required to comply in providing telecommunications services in Washington. The specific matters of which the Commission complained are set forth fully in the Complaint, issued in this docket on March 18, 2009. Verizon filed an Answer, including affirmative defenses, on April 8, 2009.

2 The Commission convened a prehearing conference in this proceeding at Olympia, Washington on April 21, 2009, before Administrative Law Judge Dennis J. Moss. The parties had preliminary discussions off the record and agreed to initiate settlement negotiations on May 13, 2009. They requested a four month procedural schedule to allow sufficient time for such negotiations considering the availability of necessary personnel and other factors. The hearing accordingly was scheduled for August 19 and 20, 2009.

3 On August 12, 2009, Verizon and Staff filed a Settlement Agreement¹ and proposed that the Commission approve and adopt its terms in full resolution of the issues in this proceeding. The parties also filed a joint Narrative Supporting Settlement Agreement.²

4 The Commission gave notice it would conduct a hearing on the settlement as a proposed resolution of the issues and convened a hearing on August 27, 2009.

5 **PARTY REPRESENTATIVES:** Michael Fassio, Assistant Attorney General, Olympia, Washington, appeared at prehearing for the Commission's regulatory staff (Commission Staff or Staff).³ Gregory M. Romano, General Counsel Northwest Region, appeared for Verizon.

6 **DISCUSSION AND DETERMINATION:** In December 2008, Staff began a formal investigation into the business practices of Verizon to determine if the company was in compliance with Commission rules. This investigation followed two prior investigations in 2005 and 2007, and included a review of the Commission's consumer complaints received during the months of June through November 2008. In March 2009, Staff completed an Investigation Report that contained, among other things, its findings that Verizon's handling of Washington Telephone Assistance Program (WTAP) applications resulted in customers not being properly charged WTAP rates, in violation of RCW

¹ Exhibit B-1.

² Exhibit JT-1.

³ In formal proceedings, such as this, the Commission's regulatory staff functions as an independent party with the same rights, privileges, and responsibilities as other parties to the proceeding. There is an "*ex parte* wall" separating the Commissioners, the presiding Administrative Law Judge, and the Commissioners' policy and accounting advisors from all parties, including regulatory staff. RCW 34.05.455.

80.36.130.⁴ Further, the Investigation Report contained Staff's findings that Verizon did not properly investigate complaints and inquiries by customers who alleged they were improperly billed city taxes, although they lived outside city limits, and that Verizon, in fact, improperly billed city taxes to certain customers, in violation of RCW 80.36.130.

7 Following the investigation, the Commission issued a Complaint and Notice of Prehearing Conference on March 18, 2009, based upon a finding of probable cause.⁵

8 Verizon admits in the Settlement Agreement that:

- With regard to 26 customers, on 425 occasions between March 2007 and March 2009, it incorrectly assessed city tax rates set forth in its tariffs filed with the Commission under RCW 80.36.100.
- On 47 occasions, it failed to assess rates associated with WTAP as set forth in its tariffs filed with the Commission under RCW 80.36.100 to customers eligible for WTAP rates.⁶

9 Verizon agrees to pay penalties totaling \$39,600 within 30 days after the effective date of the Agreement, as follows:

- \$2,600 related to incorrect assessment of city tax rates to 26 Verizon customers.
- \$37,000 related to the failure to assess rates associated with WTAP.⁷

Verizon also agrees that it will remain subject to suspended penalties totaling \$39,900 related to the incorrect assessment of city tax rates, pending a Staff compliance investigation to be conducted approximately six months from the date of this Order.⁸ Finally, Verizon agrees to pay approximately \$10,000 toward a WTAP outreach effort to be determined and directed by Staff and initiated in September 2009.⁹

⁴ See Docket UT-090073, Staff Investigation Report for Verizon Northwest Inc., Attachment 1 to Complaint and Notice of Prehearing Conference.

⁵ See Docket UT-090073, Complaint and Notice of Prehearing Conference.

⁶ See Settlement Agreement at ¶¶ 4-5.

⁷ *Id.* at ¶¶ 6-7.

⁸ *Id.* at ¶ 6.

⁹ *Id.* at ¶ 8.

10 The Commission confirmed via inquiry at hearing that Verizon previously reimbursed customers who paid taxes they were not required to pay. With respect to any future complaints or inquiries concerning misapplication of city utility tax rates, Verizon agrees to implement a process to timely investigate and, if warranted, issue additional customer credits. In conjunction with these investigations, Verizon agrees to investigate neighboring customers, and issue appropriate customer credits, if warranted.¹⁰ Verizon agrees to provide to Staff a summary of the results of these investigations for the purpose of determining compliance with the terms of the Settlement Agreement.¹¹ The settlement provides that the Commission, on Staff's recommendation following its compliance investigation, will waive suspended penalties of \$39,900 if Verizon complies with these terms.¹²

11 With respect to the WTAP billing issue, Verizon agrees to create and deploy several quality control measures designed to ensure proper handling of WTAP applications and billing of WTAP customers. These measures are detailed in the Settlement Agreement and in Attachment 1 to the agreement. Briefly, Verizon will:

- Provide regular “refresher” written communications to call center customer service representatives handling WTAP applications.¹³
- Deploy a WTAP computer screen interface unique for Washington State to be used by call center representatives handling WTAP calls.¹⁴
- Deploy an electronic routing mechanism for simpler routing of WTAP applications through Verizon for eligibility confirmation with Washington State Department of Social and Health Services.¹⁵
- Deploy a process to “sweep” its computer systems on a daily basis to ensure the prompt and proper routing of WTAP orders.¹⁶

¹⁰ *Id.* at ¶¶ 9-10.

¹¹ *Id.* at ¶ 11.

¹² *Id.* at ¶ 6.

¹³ *Id.* at ¶ 12.

¹⁴ *Id.* at ¶ 13.

¹⁵ *Id.* at ¶ 14.

- Increase by 10 percent the number of customer calls it currently monitors, with the goal of capturing more WTAP calls in their monitoring.¹⁷
- Institute a process to ensure that any call center representatives that mishandle WTAP calls are promptly coached on appropriate WTAP handling.¹⁸
- Institute a process in which its complaint handling, Lifeline, and call center teams partner and routinely interface to perform root cause and trend analysis of WTAP-related complaints, which is designed to ensure that WTAP complaints are handled properly, that Verizon complies with Commission rules and statutes, and for continuous improvement.¹⁹

In connection with these commitments, Verizon agrees to provide Staff with documentation of the processes or summaries of the results of the processes. The information provided will be used by Staff for the purposes of determining compliance with the terms of the Settlement Agreement.²⁰

- 12 Staff will conduct a compliance investigation six months following the effective date of the Settlement Agreement, for the purpose of determining Verizon's compliance with its terms and compliance with Washington laws and rules related to the billing of city taxes and WTAP rates since the effective date of the agreement.²¹ Staff will file its report with the Commission and recommend whether suspended penalties should be imposed for any noncompliance with the Settlement Agreement.²²
- 13 The Commission finds that the public interest is served by Verizon's acknowledgements that it assessed city taxes against customers who were not obligated to pay them and failed to properly assess WTAP rates to customers, in accordance with its tariffs filed with the Commission under RCW 80.36.100. The public interest is satisfied in these

¹⁶ *Id.* at ¶ 15, and Attachment 1 to Agreement.

¹⁷ *Id.* at ¶ 16.

¹⁸ *Id.* at ¶ 17, and Attachment 1 to Settlement Agreement.

¹⁹ *Id.* at ¶ 18, and Attachment 1 to Settlement Agreement.

²⁰ *Id.* at ¶¶ 12-18.

²¹ *Id.* at ¶¶ 19-21.

²² *Id.* at ¶ 21.

respects by Verizon's reimbursement of overpayments previously collected and the company's agreement to pay significant penalties, including suspended penalties, in the event of noncompliance with terms of the Settlement Agreement.

- 14 The public interest is additionally served by Verizon's agreement to pay \$10,000 towards a Washington Telephone Assistance Program (WTAP) educational outreach effort beginning in September 2009. WTAP is designed to help low-income households afford access to local telephone services by, among other things, allowing participants to receive a discounted rate on local telephone services. The Verizon-funded outreach effort will be targeted to reach those who may be eligible for WTAP services and will enhance public awareness of the availability of the WTAP program. The outreach program is timed to coincide with a similar, national effort called the National Telephone Discount Lifeline Awareness Week sponsored by the National Association of Regulatory Utility Commissioners.
- 15 Verizon's commitments in the Agreement with respect to training of customer service representatives and the processing of WTAP applications also promote the public interest. As detailed in Staff's Investigation Report, which led to the complaint, Staff found that the failure of Verizon to charge WTAP rates to WTAP-eligible customers was due in part to continued failures to properly and timely process WTAP applications it received. The process changes in the Settlement Agreement go beyond the changes that Verizon implemented during the compliance plan it agreed to in 2007 following Staff's previous investigation of Verizon's WTAP-related problems. The measures are intended to lead to future compliance with Commission rules and statutes concerning billing.
- 16 The company's commitments in the Settlement Agreement should ensure that Verizon investigates customer inquiries concerning assessments of city taxes in a timely manner and, when warranted, issues credits. The suspended penalties provide financial incentive for compliance, and additional accountability for noncompliance.
- 17 Importantly, the Settlement Agreement provides that Staff will conduct a special compliance investigation in six months. The documentation that Verizon commits to provide, as well as a review of any consumer complaints received subsequent to the effective date of the settlement, will help the Commission determine not only whether Verizon has complied with the terms of the Agreement, but also whether those terms

have had a positive effect on general compliance with Commission rules and statutes. This further investigation will allow Commission Staff to recommend to the Commission additional actions to address any concerns, including whether or not suspended penalties should be imposed in full or in part.

- 18 In sum, the Settlement Agreement comprehensively addresses the issues raised by the Commission's Complaint and resolves them in the public interest. Past violations have been remedied by the repayment of customers who were illegally assessed certain charges and noncompliance with Commission statutes and rules has been demonstratively acknowledged by the penalties that Verizon has agreed to pay. Suspended penalties should provide a significant incentive to Verizon to live up to its obligations concerning the billing of city taxes and proper WTAP billing going forward. For these, and all the foregoing reasons stated, the Commission finds it is in the public interest to approve and adopt the Settlement Agreement in full resolution of the issues in this proceeding. The Commission, by this reference, incorporates the Settlement Agreement into this Order as if set forth in full. The Settlement Agreement is attached as an appendix to this Order.

FINDINGS OF FACT

- 19 Having discussed above in detail the evidence received in this proceeding concerning all material matters, and having stated findings and conclusions upon issues in dispute among the parties and the reasons therefore, the Commission now makes and enters the following summary of those facts, incorporating by reference pertinent portions of the preceding detailed findings:
- 20 (1) The Washington Utilities and Transportation Commission is an agency of the State of Washington, vested by statute with authority to regulate rates, rules, regulations, practices, and accounts of public service companies, including telecommunications companies.
- 21 (2) Verizon Northwest, Inc., is a telecommunications company and a public service company as those terms are defined in statute and the Commission's rules.
- 22 (3) Verizon, with regard to 26 customers, on 425 occasions between March 2007 and March 2009, incorrectly assessed city tax rates set forth in its tariffs filed with the Commission under RCW 80.36.100.

- 23 (4) Verizon, on 47 occasions between March 2007 and March 2009, failed to assess rates associated with WTAP as set forth in its tariffs filed with the Commission under RCW 80.36.100 to customers eligible for WTAP rates.

CONCLUSIONS OF LAW

24 Having discussed above all matters material to this decision, and having stated detailed findings, conclusions, and the reasons therefore, the Commission now makes the following summary conclusions of law, incorporating by reference pertinent portions of the preceding detailed conclusions:

- 25 (1) The Washington Utilities and Transportation Commission has jurisdiction over the subject matter of, and parties to, these proceedings.
- 26 (2) Verizon should pay penalties totaling \$39,600 within 30 days after the effective date of this Order, as follows: (1) \$2,600 related to incorrect assessment of city tax rates to 26 Verizon customers; and (2) \$37,000 related to the failure to assess rates associated with WTAP.
- 27 (3) Verizon should remain subject to suspended penalties totaling \$39,900 related to the incorrect assessment of city tax rates pending Commission disposition following Staff's recommendation after its further investigation of Verizon's compliance six months after the date of this Order.
- 28 (4) Verizon should pay \$10,000 towards a Washington Telephone Assistance Program (WTAP) educational outreach effort beginning in September 2009, as provided in the Settlement Agreement.
- 29 (5) Staff should conduct a special compliance investigation six months after the effective date of this Order and make recommendations to the Commission, including its recommendation concerning whether suspended penalties should be paid by Verizon or waived by the Commission.
- 30 (6) The Commission should retain jurisdiction over the subject matters and the parties to this proceeding to effectuate the terms of this Order.

ORDER

THE COMMISSION ORDERS:

- 31 (1) The Settlement Agreement filed by the parties to this proceeding on August 12, 2009, which is attached to and made a part of this Order by reference is approved and adopted in full resolution of the issues in this proceeding. To the extent of any inconsistency between the body of this Order and the terms of the Settlement Agreement, the settlement terms control.
- 32 (2) Verizon must pay penalties to the Commission totaling \$39,600 within 30 days after the effective date of this Order.
- 33 (3) Verizon remains subject to suspended penalties totaling \$39,900 related to the incorrect assessment of city tax rates pending Commission disposition following Staff's recommendation after its further investigation of Verizon's compliance six months after the date of this Order.
- 34 (4) Verizon must pay \$10,000 towards a Washington Telephone Assistance Program educational outreach effort beginning in September 2009, as provided in the Settlement Agreement.
- 35 (5) The Commission retains jurisdiction to effectuate the terms of this Order.

Dated at Olympia, Washington, and effective September 1, 2009.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

DENNIS J. MOSS
Administrative Law Judge

NOTICE TO THE PARTIES:

This is an Initial Order. The action proposed in this Initial order is not yet effective. If you disagree with this Initial Order and want the Commission to consider your comments, you must take specific action within the time limits outlined below. If you agree with this Initial Order, and you would like the Order to become final before the time limits expire, you may send a letter to the Commission, waiving your right to petition for administrative review.

WAC 480-07-825(2) provides that any party to this proceeding has twenty (20) days after the entry of this Initial Order to file a *Petition for Administrative Review*. What must be included in any Petition and other requirements for a Petition are stated in WAC 480-07-825(3). WAC 480-07-825(4) states that any party may file an *Answer* to a Petition for review within (10) days after service of the Petition.

WAC 480-07-830 provides that before entry of a Final Order, any party may file a Petition to Reopen a contested proceeding to permit receipt of evidence essential to a decision, but unavailable and not reasonably discoverable at the time of hearing, or for other good and sufficient cause. No Answer to a Petition to Reopen will be accepted for filing absent express notice by the Commission calling for such an answer.

RCW 80.01.060(3), as amended in the 2006 legislative session, provides that an initial order will become final without further Commission action of no party seeks administrative review of the initial order and if the Commission fails to exercise administrative review on its own motion. You will be notified if this order becomes final.

On copy of any Petition or Answer filed must be served on each party of record with proof of service as required by WAC 480-07-150(8) and (9). An Original and (8) copies of any Petition or Answer must be filed by mail delivery to:

Attn: David W. Danner, Executive Director and Secretary
Washington Utilities and Transportation Commission
P.O. Box 47250
Olympia, WA 98504-7250

APPENDIX