

BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Petition for	)	DOCKET NO. UT-043013
Arbitration of an Amendment to)	
Interconnection Agreements of	)	ORDER NO. 15
)	
VERIZON NORTHWEST INC.	)	ORDER GRANTING, IN PART,
	)	VERIZON'S MOTION FOR
with	)	RECONSIDERATION OF ORDER
	)	NO. 14; GRANTING EXTENSION
COMPETITIVE LOCAL EXCHANGE	)	OF TIME TO FILE JOINT ISSUES
CARRIERS AND COMMERCIAL	)	LIST (Now due on Wednesday,
MOBILE RADIO SERVICE	)	January 19, 2005); CANCELING
PROVIDERS IN WASHINGTON	)	REQUIREMENT TO FILE
	)	RIPENESS BRIEFS (Scheduled for
Pursuant to 47 U.S.C. Section 252(b),	)	Friday, January 21, 2005);
and the <i>Triennial Review Order</i>.	)	REQUIRING INITIAL BRIEFS
	)	(Due by Friday, March 11, 2005)
	)	AND RESPONSIVE BRIEFS (Due
	)	by April 1, 2005)
.....)	

1 **NATURE OF PROCEEDING.** This proceeding involves a petition Verizon Northwest Inc. (Verizon) filed with the Washington Utilities and Transportation Commission (Commission) requesting arbitration pursuant to 47 U.S.C. § 252(b)(1) of the Telecommunications Act of 1996, Public Law No. 104-104, 101 Stat. 56 (1996) (Act), and the Federal Communications Commission's (FCC) Triennial Review Order.¹ The petition was served on all competitive local exchange carriers (CLECs) and Commercial Mobile Radio Service (CMRS)

¹ *In the matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket Nos. 01-338, 96098, 98-147, Report and Order and Order on Remand and Further Notice of Proposed Rulemaking, FCC 03-36 (Rel. August 21, 2003) [Hereinafter "Triennial Review Order"].

providers in Washington that have entered into interconnection agreements with Verizon.

- 2 **PROCEDURAL HISTORY.** On December 15, 2004, the FCC announced in a press release new rules for unbundling network elements, noting that an order would be entered soon after. The FCC has not yet entered an order identifying or explaining the new rules, but has indicated in filings with the D.C. Circuit Court that it plans to enter an order on the new rules by the end of January 2005.
- 3 On December 16, 2004, the Arbitrator convened a prehearing conference to discuss how to proceed after Verizon and various CLECs filed conflicting issues lists. Finding that some issues presented in Verizon's amended petition for arbitration are not likely to be affected by the FCC's new unbundling rules, the Arbitrator in Order No. 13 in this proceeding bifurcated consideration of these issues, and required simultaneous initial briefs to be filed on January 5, 2005, with responsive briefs to be filed on February 4, 2005.
- 4 On December 30, 2004, a number of CLECs filed a Joint Motion for Stay of Procedural Order No. 13 and Petition for Interlocutory Review, requesting further extension of time and noting that the parties have not agreed on the issues to be briefed on January 5, 2005. Following a conference call with all parties on January 3, 2005, and after reviewing Verizon's response to the Joint Motion, the Arbitrator entered Order No. 14 granting, in part, the Joint Motion, canceling the requirement in Order No. 13 to file initial and responsive briefs on January 5, 2005, and February 4, 2005, and requiring simultaneous briefs concerning the ripeness of issues on January 21, 2005. The Order also required the parties to file a joint issues list by Friday, January 14, 2005.
- 5 On January 12, 2005, Verizon filed a Motion for Reconsideration of Order No. 14, requesting cancellation of briefings on ripeness, and a briefing schedule to address all issues in the proceeding following issuance of the FCC's order on

new unbundling rules. Verizon also requests cancellation of the deadline to file a joint issues list by January 14, 2005, and an order requiring the parties to follow the issues list established in Florida, except for the issue of batch hot cuts.

6 **APPEARANCES.** Timothy J. O'Connell, Stoel Rives, LLP, Seattle, Washington, and Scott Angstreich, Kellogg, Huber, Hansen, Todd & Evans, P.L.L.C., Washington, D.C. represent Verizon. Edward W. Kirsch, Swidler Berlin, Shereff Friedman, LLP, Washington, D.C., represents Focal Communications Corporation of Washington and McLeodUSA Telecommunications Services, Inc. (collectively the Competitive Carrier Coalition). Letty S.D. Friesen, AT&T Law Department, Denver, Colorado, and Michelle Bourianof, Austin, Texas, represent AT&T Communications of the Pacific Northwest, Inc. and AT&T Local Services on behalf of TCG Seattle (collectively AT&T). Brooks E. Harlow and David Rice, Miller Nash LLP, Seattle, Washington, represent Advanced TelCom, Inc., BullsEye Telecom Inc., Covad Communications Company, and KMC Telecom V, Inc. (collectively the Competitive Carrier Coalition). Karen S. Frame, Senior Counsel, Denver, Colorado, represents Covad. William E. Hendricks, III, Hood River, Oregon, represents Sprint Communications Company, LLP. Michel Singer-Nelson, Senior Attorney, Denver, Colorado, represents WorldCom, Inc. and its subsidiaries in Washington (n/k/a MCI, Inc.). Gregory J. Kopta, Davis Wright Tremaine, LLP, Seattle, Washington, represents XO Washington, Inc., Pac-West Telecomm, Inc., and Integra Telecom of Washington, Inc.

7 **MOTION FOR RECONSIDERATION.** Verizon requests reconsideration of the decision to require ripeness briefs, considering that the briefs on ripeness would be due at the same time as the FCC is expected to enter its order on new unbundling rules. Verizon asserts that the FCC order will moot questions of ripeness and requests that the parties brief all issues after the FCC enters its order. Verizon proposes a schedule of filing simultaneous initial briefs on Friday, March 11, 2005, with simultaneous responsive briefs due on Friday, April 1, 2005.

8 Verizon requests the Arbitrator admonish the CLECs to not engage in any delaying tactics concerning the issues list due January 14, 2005. Verizon also requests cancellation of the deadline to file a joint issues list by today, January 14, 2005. Verizon asserts it has worked in good faith to develop a joint issues list, and that the CLECs have not, identifying issues in this state differently from agreed to issues in other states. Verizon also asserts that the CLECs have continually sought to delay any action in the proceeding. Verizon asserts that any requiring any “agreed” action by the parties, such as a joint issues list, will not be fruitful, and requests that the Arbitrator direct the parties to follow the issues list agreed to in Florida, except for the batch hot cut issue, when filing briefs in March and April.

9 On January 14, 2005, counsel for Verizon reported that Verizon and other parties were discussing the issues list and requested an extension of time until Wednesday, January 19, 2005, to file a joint issues list in the proceeding.

10 *Discussion and Decision.* The requirement in Order No. 13 to bifurcate issues and in Order No. 14 to require briefing on ripeness to determine which issues to bifurcate were intended to move along a proceeding that, as Verizon has noted, has been pending at the Commission for nearly a year. Given that Verizon now proposes to defer briefing on all issues in the proceeding until after the FCC’s order on new unbundling rules, there is no need to bifurcate the issues and require briefs on ripeness. It is likely, as Verizon notes, that briefs on ripeness would become moot after the issuance of the FCC’s order by the end of January. The Arbitrator does not seek to impose requirements that are a waste of the parties’ or the Commission’s resources.

11 In order to proceed to a determination in this proceeding in the most efficient manner, Verizon’s request to cancel the requirement to file briefs on ripeness of issues, and establish a procedural schedule for filing simultaneous initial and

responsive briefs is granted. **Simultaneous initial briefs on the issues identified in the joint issues list must be filed with the Commission by Friday, March 11, 2005, and simultaneous responsive briefs must be filed with the Commission by Friday, April 1, 2005.** The Arbitrator's Report and Decision in this matter will be entered by May 16, 2005.

12 Verizon's oral request for an extension of time until Wednesday, January 19, 2005, to file a joint issues list is granted. Verizon's request that the Arbitrator require parties to brief the issues identified on the Florida issues list is now moot, and is denied. Although the Arbitrator recognizes the difficulties in reaching agreement on the issues in the proceeding, the Arbitrator continues to encourage the parties to jointly identify the issues in the proceeding. Any briefing in the proceeding will be more orderly and understandable if the parties agree on the issues and identification of the issues.

13 **NOTICE TO PARTIES: Any objection to the provisions of this Order must be filed within ten (10) days after the service date of this Order, pursuant to WAC 480-07-810. Absent such objection, this Order will control further proceedings in this matter, subject to Commission review.**

Dated at Olympia, Washington, and effective this 14th day of January, 2005.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

ANN E. RENDAHL
Administrative Law Judge