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August 27, 2004

Carole J. Washburn, Secretary
Washington Utilities and Transportation Commission
1300 S. Evergreen Park Dr. SW
P. O. Box 47250
Olympia, Washington 98504-7250

RECEIVED
AUG 27 PM 1:51
OFFICE OF THE ATTORNEY GENERAL
WASHINGTON STATE

Re: *WUTC v. Verizon Northwest Inc.*
Docket No. UT-040788

Dear Ms. Washburn:

Enclosed for filing are the original and 15 copies of the Motion to Strike Verizon NW's Response to Bench Request No. 5, or in the Alternative, for an Order Supplementing That Response, and an Order Requiring the Company to Explain Page 2, and Certificate of Service.

Very truly yours,

DONALD T. TROTTER
Senior Counsel

DTT:kl
Enclosures
cc: Parties



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WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION

Complainant,

v.

VERIZON NORTHWEST INC.,

Respondent.

DOCKET NO. UT-040788

MOTION TO STRIKE VERIZON
NW'S RESPONSE TO BENCH
REQUEST NO. 5, OR IN THE
ALTERNATIVE, FOR AN ORDER
SUPPLEMENTING THAT
RESPONSE, AND AN ORDER
REQUIRING THE COMPANY TO
EXPLAIN PAGE 2

1 This Motion is filed on behalf of Commission Staff. Staff seeks the relief
described in ¶ 17 below.

2 This Motion places into issue no particular Commission rules or statutes.

FACTS

3 In "Part 1" of Bench Request No. 5, the Commission asked Verizon NW to
provide information for Oregon and Idaho on the same basis and format shown on
the Table 1 in Dr. Vander Weide's Rebuttal Testimony, Exhibit No. 3-T at 8. TR.
358. In "Part 2" of Bench Request No. 5, the Commission asked the Company to

also produce a version of the Table using projected data to April or May 2005. TR.

374.

4 The same data Dr. Vander Weide produced in Table 1 in his rebuttal
testimony is contained in Company Exhibit No. 24 (formerly Exhibit No. ____
(NWH-10)), sponsored by Verizon NW witness Ms. Heuring.

5 On July 30, 2004, Commission Staff issued Staff Data Request No. 85,
addressed to Exhibit No. 24, and asking the Company to provide the same
information as Bench Request No. 5, "Part 1."¹

6 The Company did not supply the information requested in Staff Data
Request No. 85. Instead, the Company objected that it was not relevant, it would
not lead to relevant evidence, and it would be unduly burdensome to produce the
information:

Verizon objects to this data request because it seeks information and analysis
about jurisdictions beyond the State of Washington. As such, the data
request seeks information that is not relevant and not likely to lead to the
production of relevant information in this docket. In addition, this data
request requires analysis that is unduly burdensome. Without waiver of the
foregoing objection Verizon will identify the "other jurisdictions". They are
Oregon, Idaho, West Coast California, and Montana. See also Workpaper
NWH-10.

7 A true and correct copy of the Company's entire Response to Staff Data
Request No. 85 (which contains the request itself) is Attachment A.

¹ There is one slight difference. Staff asked for information for all other Verizon NW state
jurisdictions; Bench Request No. 5 asked only for Oregon and Idaho.

8 Unlike its response to Staff Data Request No. 85, the Company did not object to Bench Request No. 5, "Part 1" on the basis that it was not relevant, would not lead to relevant evidence, and that it would be unduly burdensome to produce the information.

9 On page 2 of its Response to Bench Request No. 5 (relating to "Part 2" of the Bench Request) the Company provided what appears to be a projection of financial results based on trending twelve months of normalized historical results. The Company did not provide any source documentation or assumptions underlying the Oregon and Idaho jurisdictional figures or the "Interstate/Nonreg/Other" figures.

10 As a result, there is no ability to determine whether the same assumptions were used in all jurisdictions or whether the same relationship between revenues and expenses exists between the various jurisdictions.

ARGUMENT

11 The Company has provided the Commission information it told Staff was irrelevant, would not lead to relevant evidence, could not be produced without undue burden, and was not produced (to Staff). When the Commission asked for the identical data ("Part 1" of Bench Request No. 5) the Company registered no objection, and willingly produced the information.

12 Once again, the Company has pursued a policy of "Ask and you shall

receive” when it comes to Bench Requests (*TR. 375:21*), but the exact opposite when it came to Staff Data Request No. 85.

13 This instance is different from the issue addressed in Order No. 07 in this docket. Here, the Company registered objections to the Staff Data Request at issue, but raised no such objections when the Commission asked for the same information. Here, there is no question but that Staff asked for new information, and the Company refused to provide it. Finally, given the time it took Verizon NW to respond to Bench Request No. 5, resolution of a Staff motion to compel a response to Data Request No. 85 would not have resulted in provision of the data in time for hearing. Filing a motion to compel is no remedy in this instance.

14 The Company’s selective approach to providing information is unfair, and is a misuse of the process. It should not be tolerated. The minimum sanction is to strike the entire Bench Request No. 5 Response. The Commission is invited to add whatever other sanctions it deems appropriate.

15 The parties have never seen this information before (as to Idaho and Oregon on pages 1 and 2 of Bench Request No. 5). Staff has had no opportunity to conduct discovery or cross-examination of the analysis. If the Commission decides not to strike the entire Response to Bench Request No. 5, it should order the Response to be supplemented with the Company’s Response to Staff Data Request No. 13

(Attachment B). It should also require the Company to state all assumptions underlying the Response, particularly page 2, and to provide all source documents.²

16 The parties are working hard to meet today's briefing deadline. The Company has filed an inappropriate and/or unexplained response. The Commission should not permit the Company to file additional evidence that it said was irrelevant, and that it would not and could not provide it to the parties without undue burden.

RELIEF SOUGHT

17 The Commission should not admit the Response to Bench Request No. 5 into the record. If the Commission elects to consider that Response, it should order that response supplemented with the Company's Response to Staff Data Request No. 13, Attachment B. The Commission should also require the Company to state all assumptions underlying the Response, particularly page 2, and to provide all source documents. It should impose whatever other sanctions it deems appropriate in the circumstances. Staff makes this Motion without waiving any right to contest the adequacy of such additional information, should the Commission order it to be provided.

² ALJ Wallis sent an e-mail today seeking part of the information Staff is seeking in this aspect of the motion.

DATED this 27th day of August, 2004.

CHRISTINE O. GREGOIRE
Attorney General

A handwritten signature in black ink, appearing to read 'D. Trotter', is written over a horizontal line.

DONALD T. TROTTER
Senior Counsel
Washington Utilities and
Transportation Commission

ATTACHMENT A

Verizon NW Response to Data Request No. 85

Directed to Ms. Heuring:

DATA REQUEST NO. 85:

The following information was presented in Exhibit No. ____ (NWH-10):

Exhibit No. ____ (NWH-10)

	(A)	(B)	(C)	(D=C/A)
SEC Basis	Revenue	Expense	Net Operating Income	Operating Margin
Washington	678,809	605,687	73,122	11%
Other Jurisdictions	484,461	397,043	87,418	18%
Total VZ Northwest (note 1)	1,163,270	1,002,730	160,540	14%

Washington				
Others	312,816	211,066	101,750	33%
Intrastate Regulated	365,569	394,198	(28,629)	-8%
Total Washington (note 2)	678,385	605,264	73,122	11%

Please provide a further delineation of the "Other Jurisdictions" category shown in the "SEC Basis" table by separately listing each entity that comprises the "Other Jurisdictions" category and for each entity, calculate the data on the same basis as the results for Washington shown in the "Washington" table. Please provide all source information and documentation for the data presented in your response.

RESPONSE:

Verizon objects to this data request because it seeks information and analysis about jurisdictions beyond the State of Washington. As such, the data request seeks information that is not relevant and not likely to lead to the production of relevant information in this docket. In addition, this data request requires analysis that is unduly burdensome. Without waiver of the foregoing objection Verizon will identify the "other jurisdictions". They are Oregon, Idaho, West Coast California, and Montana. See also Workpaper NWH-10.

Prepared By: Jane Lee
 Date: August 3, 2004
 Witness: Nancy Heuring

ATTACHMENT B

Verizon NW Response to Data Request No. 13

Docket No. UT-040788
WUTC Staff Data Requests to Verizon Nos. 1-28
May 21, 2004

Data Request No. 13 (General)

Please provide any filing for emergency or interim rate relief or similar sort of filing Verizon Northwest Inc., has filed in any jurisdiction since 1999, other than the filing in this docket. For any WUTC docket, a reference to the docket number will suffice.

RESPONSE:

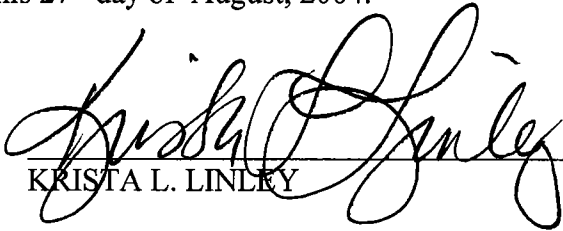
Verizon Northwest Inc. has not made any such filing in any jurisdiction since 1999.

Prepared By: Gregg Diamond
Date: May 17, 2004
Witness: Steve Banta

Docket No. UT-040788
CERTIFICATE OF SERVICE

I hereby certify that I have this day served the Motion to Strike Verizon NW's Response to Bench Request No. 5, or in the Alternative, for an Order Supplementing That Response, and an Order Requiring the Company to Explain Page 2, upon the persons and entities listed on the Service List below via e-mail and by depositing a copy in the United States mail, addressed as shown on said Service List, with first class postage prepaid.

DATED at Olympia, Washington this 27th day of August, 2004.



KRISTA L. LINLEY

Receive Confidential:

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