

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

In the Matter of the Petition of)	DOCKET UT-083060
)	
VERIZON NORTHWEST, INC.)	
)	ORDER 03
)	
For Commission Approval of Addition)	INITIAL ORDER GRANTING
to Non-Impaired Wire Center List)	PETITION FOR APPROVAL OF
)	ADDITION TO NON-IMPAIRED
)	WIRE CENTER LIST
)	

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1 **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 the Order. If this Initial Order becomes final, Verizon Northwest Inc.’s petition to designate an additional wire center in Washington as non-impaired would be granted. Specifically, the Halls Lake wire center would be designated as a “Tier 2” non-impaired wire center based on the number of business lines served by the wire center.*

MEMORANDUM

2 **PROCEEDING.** Docket UT-083060 involves a filing by Verizon Northwest, Inc. (Verizon) to designate an additional wire center in Washington as non-impaired.¹ If a wire center is designated as non-impaired, Competitive Local Exchange Carriers (CLECs) would not be impaired in providing telecommunications service without access to such network elements at Total Element Long Run Incremental Cost (TELRIC) rates.² Verizon proposes to designate its Halls Lake wire center in Washington as a “Tier 2” non-impaired wire center.

¹ A glossary of terms used in this Order is attached as Appendix B to the Order

² TELRIC refers to Total Element Long Run Incremental Cost, a methodology based on forward-looking long run economic cost which the FCC adopted for pricing unbundled network elements provided under Section 251 of the Telecommunications Act of 1996.

3 **APPEARANCES.** Gregory M. Romano, General Counsel, Everett, Washington, represents Verizon. Douglas Denney, Company Representative, Minneapolis, Minnesota, represents Integra Telecom and its affiliates and 360networks (USA), collectively referred to as the Joint CLECs.

4 **BACKGROUND.** In its Triennial Review Remand Order (TRRO), the Federal Communications Commission (FCC) reexamined whether competitors were impaired without access to certain unbundled network elements under Section 251(c)(3) of the Telecommunications Act of 1996 (The Act).³ The FCC concluded that it would assess whether competitors were impaired without unbundled access to high-capacity loops and inter-office transport by reviewing the number of fiber-based collocators in a wire center or the number of business lines terminating in and leaving a wire center as indicia of competition. The FCC developed three tiers to classify wire centers.⁴ The most competitive wire centers, Tier 1, have four or more fiber-based collocations or a minimum of 38,000 business lines. Tier 2 wire centers have three or more fiber-based collocations or a minimum of 24,000 business lines. Tier 3 wire centers are all wire centers not otherwise classified.⁵ The FCC concluded that if a wire center meets the foregoing criteria, CLECs would not be impaired in providing telecommunications service without access to such network elements at TELRIC rates.

5 The Washington Utilities and Transportation Commission (Commission) also addressed CLEC access to high capacity transport and loops in wire centers owned or controlled by Incumbent Local Exchange Carriers (ILECs).⁶ At the conclusion of its investigation, this Commission issued an interpretative statement and established the methodology for counting business lines, the terms governing collocation, and the

³ *In the Matter of Unbundled Access to Network Elements; Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, WC Docket 04-313, CC Docket 01-338, Order on Remand, FCC 04-290 (rel. February 4, 2005). (*Triennial Review Remand Order or TRRO*)

⁴ *Id.*

⁵ *Id.*

⁶ *In the Matter of the Investigation Concerning the Status of Competition and Impact of the FCC's Triennial Review Remand Order on the Competitive Telecommunications Environment in Washington State*, Docket UT-053025.

effective date of any designations of wire centers as non-impaired.⁷ Finally, the Commission identified the Verizon wire centers in Washington that met the FCC's non-impairment criteria and designated the Tier level for each non-impaired wire center.⁸

6 **PROCEDURAL HISTORY.** On November 18, 2008, Verizon filed with the Commission a request for approval to designate an additional wire center as non-impaired. The filing includes confidential data in support of the request. Verizon asserts that its Halls Lake wire center qualifies as a Tier 2 wire center because it serves more than 24, 000 business lines. Verizon relied on its 2007 ARMIS data, the data most recently filed with the Federal Communications Commission, to calculate the business line count. Verizon asserts that it calculated its business lines consistent with the methodology set forth in the Modified Interpretative Statement.⁹ If Verizon's petition is approved, the Halls Lake wire center would be designated as a Tier 2 non-impaired wire center.

7 On November 25, 2008, the Commission issued a Notice of Opportunity to File Written Comments by December 30, 2008. On December 30, 2008, the Joint CLECs requested that the Commission issue a Protective Order that would allow them to review Verizon's confidential data in support of its request. The Joint CLECs also requested additional information regarding the wire center in question and indicated that they would be able to voice objection, if any, within 30 days of receiving the requested information. On January 20, 2009, Verizon filed its non-opposition to issuing a protective order, provided additional information, and agreed that it would be reasonable to allow the Joint CLECs 30 days from receipt of the requested information to file objections to the petition.

8 On January 28, 2009, the Commission entered Order 01, *Order Granting Request for Protective Order, Invoking Discovery Rules, and Establishing Deadline for Filing Objections*. In Order 01, the Commission found that the Joint CLECs should have 30

⁷Order 06, Modified Interpretative Statement entered in Docket UT-053025. (See also, *supra*, n. 6).

⁸The original non-impaired wire center list is set forth in Docket UT-053025, Order 06, Modified Interpretative Statement, Appendix 2, Table 2.

⁹ See n. 6, ¶¶ 22 – 26.

days from receipt of the requested information to file objections to the petition. The Commission required Verizon to provide notice, in the form of a letter, of the date it provided the Joint CLECs with all requested information to enable the Commission to calculate the deadline for filing objections.

9 On February 9, 2009, Verizon provided a response to the Joint CLECS's request for information. On February 27, 2009, the Commission entered a Notice of Deadline to File Objections establishing March 9, 2009, as the deadline for filing objections to Verizon's petition.¹⁰ On March 9, 2009, the Joint CLECs filed a letter stating that they had reviewed Verizon's business line count data and were unable to precisely reconcile Verizon's line count numbers. However, the discrepancy in numbers was small and would not affect Verizon's proposed Tier 2 designation of the wire center. Accordingly, the petition is unopposed.

10 **DISCUSSION AND DECISION.** The Commission has reviewed Verizon's petition for approval of an addition its non-impaired wire center list and determines that the petition should be granted.

11 In its TRRO decision, the FCC concluded that wire center with more than 24,000 business lines qualify as Tier 2 non-impaired wire centers.¹¹ This Commission further refined the methodology and procedure that ILECS must follow to designate wire centers as non-impaired. Specifically, this Commission determined that:

If Qwest and Verizon seek to designate additional wire centers as non-impaired wire centers, the companies must notify the Commission of the proposed designation and submit data consistent with the interpretations in this statement. The Commission will open a docket to consider the data and will notify interested parties of the opportunity to participate in the docket.¹²

¹⁰ The Commission received Verizon's letter on February 9, 2009, but due to a filing error, the letter was not brought to the attention of the Commission until February 24, 2009.

¹¹ See n. 3.

¹² Docket UT-053025, Appendix 2, *Modified Interpretive Statement*, ¶ 29.

- 12 The petition requests that the Halls Lake wire center be designated as non-impaired based on prior year line count data. The FCC chose business line counts as one of the wire center criteria because they “are an objective set of data that incumbent LECs already have created for other regulatory purposes,” specifically identifying ARMIS 43-08 data.¹³ The FCC did not require the use of data from any particular year. The Commission approved the use of prior year line count data to designate wire centers as non-impaired. Verizon’s filing includes the appropriate year’s data.
- 13 The Commission has reviewed the confidential data included with Verizon’s petition and concludes that the data complies with the requirements of the TRRO and follows the methodology approved by the Commission.¹⁴ Verizon used the most recently filed unadjusted ARMIS data filed with the FCC for its business line counts. A review of this recent and objective data demonstrates that Verizon has appropriately classified the Halls Lake wire center as Tier 2.
- 14 A complete list of Verizon’s non-impaired wire centers in Washington is attached to this Order as Appendix A and incorporated by this reference. Appendix A updates the initial wire center list to include the Halls Lake wire center.

FINDINGS OF FACT

- 15 Having discussed above in detail the evidence received in this proceeding concerning all material matters, and having stated findings of fact and conclusions upon issues 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:
- 16 (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.

¹³ TRRO ¶ 111.

¹⁴ Docket UT-053025. *See* n. 6.

- 17 (2) Verizon is engaged in Washington State in the business of supplying telecommunications service for hire, sale, or resale to the general public for compensation.
- 18 (3) On November 18, 2008, Verizon filed a petition to designate the Halls Lake wire center in Washington as a Tier 2, non-impaired wire center.
- 19 (4) On November 18, 2008, Verizon filed confidential data in support of its petition to designate the additional wire center in Washington as non-impaired.
- 20 (5) No competitive local exchange carrier objected to Verizon's petition. There are no other parties to this proceeding.
- 21 (6) The confidential data filed in support of the petition complies with the guidelines established by the FCC's TRRO and the methodology approved by the Commission in Docket UT-053025.

CONCLUSIONS OF LAW

- 22 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:
- 23 (1) The Washington Utilities and Transportation Commission has jurisdiction over the subject matter of, and parties to, this proceeding. *Title 80, RCW.*
- 24 (2) Verizon is a "public service company" and a "telecommunications company", as those terms are defined in RCW 80.04.010 and as those terms otherwise are used in Title 80 RCW.
- 25 (3) The FCC's Triennial Review Remand Order finds competitive local exchange carriers are not impaired under Section 251 of the Telecommunications Act of

1996 without access to high capacity loops and transport if the wire centers serving the loops and transport meet certain criteria.

- 26 (4) The FCC established, in the Triennial Review Remand Order, the number of business lines serving a wire center as one criterion for determining whether a wire center is non-impaired for purposes of Competitive Local Exchange Carrier access to high capacity loops and transport.
- 27 (5) Verizon's petition to designate the Halls Lake wire center as a Tier 2, non-impaired wire center in Washington meets the standard in the Triennial Review Remand Order and Commission-approved methodology, and should be granted.
- 28 (6) The Commission should retain jurisdiction over the subject matter and the parties to this proceeding to effectuate the terms of this Order. *Title 80 RCW.*

ORDER

THE COMMISSION ORDERS THAT:

- 29 (1) Verizon Northwest, Inc.'s petition to designate the Halls Lake wire center as a Tier 2, non-impaired wire center in Washington is granted, as set forth in Appendix A to this Order.
- 30 (2) The Commission retains jurisdiction to effectuate the terms of this Order.

Dated at Olympia, Washington, and effective March 30, 2009.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

PATRICIA CLARK
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 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 if no party seeks administrative review of the Initial Order and if the Commission does not exercise administrative review on its own motion. You will be notified if this order becomes final.

One 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 nine 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, Washington 98504-7250

APPENDIX A

STATE	WIRE CENTER	CLI18	TIER	NO IMPAIRMENT FOR
WA	Bothel	BOTHWAXB	Tier 2	Transport
	Redmond	RDMDWAXA	Tier 1	Transport
	Halls Lake	HLLKWAXX	Tier 2	Transport

APPENDIX B

GLOSSARY

TERM	DESCRIPTION
ARMIS	Automated Reporting Management Information System. The FCC's database of telecommunication carriers' network, financial and service quality data. Carriers update the information annually on April 1.
Business line	A loop or line used for business purposes, <i>i.e.</i> , not a residential line.
CLEC	Competitive local exchange company. A company competing with an incumbent local exchange company (ILEC) for local service customers; generally subject to limited regulation.
ILEC	Incumbent local exchange company. A local exchange company in operation at the time the Act was enacted (August 1996).
Interconnection	Connection between facilities or equipment of a telecommunications carrier with a local exchange carrier's network under Section 251(c)(2).
Local exchange	A geographic area consisting of one or more central offices. (<i>Newton's Telecom Dictionary, at page 301.</i>)
Non-impaired	A term relating to whether a competing carrier has access to unbundled network elements. Under Section 251(d)(2), an ILEC must provide unbundled access to an element if failure to provide the element would impair the carrier's ability to provide service. Under the TRRO, the FCC determined that competing carriers are not impaired under Section 251(d)(2) without unbundled access to high-capacity elements at a wire center if the wire center meets certain criteria. If a wire center meets the criteria, it is designated non-impaired , meaning competitors are not allowed unbundled access to high-capacity loops and transport in the wire center.
Section 251(c)(3)	The section of the Act that requires ILECs to provide competing carriers with access to network elements on an unbundled or individual basis. The unbundled elements provided under this section are known as UNEs.

TERM	DESCRIPTION
TELRIC	Total Element Long Run Incremental Cost. A method of determining the cost, and prices for network elements using a forward-looking process, rather than the existing network of a carrier. Generally, the pricing methodology for UNEs.
TRRO	The FCC's Triennial Review Remand Order. March 2005 order entered in response to D.C. Circuit's <i>USTA II</i> decision: Eliminates local switching as a UNE as of March 11, 2006, and limits unbundling of high-capacity transport and loops.
Transport	Lines or connections used to transmit voice or data through a carrier's network. Transport media include copper wire, fiber optics, microwave, or satellite. <i>(From Newton's Telecom Dictionary, at page 815.) See dedicated transport.</i>
Unbundled	A network element that is provided by itself, not in connection with or "bundled" with another network element. A means for a carrier to request particular services from an ILEC to customize the service the carrier provides, without having to accept a package of elements and services that the carrier must take as an all or nothing option.
UNE	Unbundled network element. Generally a network element an ILEC must make available under Section 251(c)(3) of the Act.