

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION

In the Matter of the Development of)	
Universal Terms and Conditions for)	DOCKET NO. UT-011219
Interconnection and Network)	
Elements to be Provided by)	
)	THIRD SUPPLEMENTAL ORDER
)	
VERIZON NORTHWEST, INC.)	PREHEARING CONFERENCE ORDER
)	

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- 1 **Proceeding.** This matter involves a request that the Commission direct Verizon to provide persons requesting interconnection agreements with Verizon some generally available terms, and that the Commission review the terms for compliance with pertinent law.

- 2 **Conference.** The Commission convened a prehearing conference in this docket at Olympia, Washington on August 6, 2002, before Administrative Law Judge Theodora Mace.

- 3 **Appearances.** Jennifer L. McClellan, attorney, Richmond, Virginia, represents Verizon Northwest Inc. Gregory J. Kopta, attorney, Seattle, represents AT&T Communications of the Pacific Northwest, Inc., TCG Seattle and TCG Oregon (collectively, AT&T); Fox Communications Corp. (Fox), Time Warner Telecom of Washington, LLC (Time Warner); and XO Washington, Inc. (XO), (collectively, including AT&T, referred to as "CLECs"). Dennis D. Ahlers, attorney, Minneapolis, MN, represents Eschelon Telecom, Inc. (Eschelon). Michele Singer-Nelson, attorney, Denver, Colorado, represents WorldCom, Inc. (WorldCom). Mary M. Tennyson, Senior Assistant Attorney General, represents Washington Utilities and Transportation Commission Staff (Commission Staff). Contact information provided at the conference for the parties' representatives is attached as Appendix A to this order.

- 4 **Petitions to Intervene.** AT&T, Fox, Time Warner, XO, WorldCom and Eschelon filed or made oral petitions to intervene. The parties did not object to granting the petitions of AT&T, Fox, Time Warner, XO and World Com, except that WorldCom was required to file an appearance indicating the names of its Washington subsidiaries represented in this case. Thus, all those petitions to intervene were granted.

None appeared on behalf of Eschelon and its petition to intervene is therefore denied.

5 **Protective Order and Discovery.** Since the parties were not certain that they would need a protective order or that they would conduct discovery, they agreed to defer consideration of these matters until the time it appeared necessary to do so.

6 **Issues.** In the Second Supplemental Order scheduling this prehearing conference, the Commission set forth six issues for the parties to address during the conference. Followed by a brief summary of the parties' comments on each question is the Commission's discussion and decision on the issue.

7 (1) **What is the specific goal of the process? Is it a tariff filing, a generally available interconnection agreement, or is it a Statement of Generally Available Terms and Conditions (SGAT) as contemplated in UT-003022 and UT-003040 (Qwest's Section 271 and SGAT proceedings) or is it something analogous to an SGAT?**

8 The parties generally agreed that the goal of the process for this case would be to develop a statement of generally available terms (SGAT) for use in interconnection agreements between all interested CLECs and Verizon. Staff stated it believed the goal of the process was as set forth in the First Supplemental Order at ¶ 18: "...to establish terms and conditions, available to any party requesting interconnection, to be incorporated into interconnection agreements in the absence of a contrary agreement of the parties." Although there was discussion about whether the SGAT would be in the form of a tariff or an interconnection agreement, the parties now agree that the process should result in a form interconnection agreement.

9 **Discussion and decision.** The parties' agreements that the goal of this proceeding is the development of a form interconnection agreement for use by CLECs in negotiating interconnection agreements with Verizon is acceptable for present purposes. Any legal and policy questions related to the choice of format may be identified and determined as the matter proceeds.

10 (2) **What is the scope of this undertaking? The Commission is near completion of the Qwest 271 and SGAT proceedings that have involved considerable effort and time for review. Is this process likely to be of the same scope? If not, why not?**

11 Verizon stated the scope of the proceeding should include only "big ticket" items such as interconnection, unbundled network elements (UNEs), Resale and OSS. Verizon excluded collocation from issues to be considered because it currently has a collocation tariff on file with the Commission. Verizon also suggested that it was premature to include Linesharing and Linesplitting

issues since the FCC was expected to enter an order that addressed these items. Also, pricing terms were more appropriately considered in the pricing docket.

12 The CLECs indicated that compliance was not a concern in this docket as it had been with Qwest, so that issue did not need to be included in the scope of proceedings. However, otherwise, the CLECs argued it did not make sense to limit subject areas for this case. The CLECs pointed out that even though Verizon has a collocation tariff on file, it was adopted without consideration in a hearing before the Commission. Also, the FCC triennial review, which will consider such matters as Linesharing and Linesplitting, should be completed by year-end and thus may be able to be included in this proceeding.

13 Staff stated that all UNEs, not just “big ticket items,” should be part of this proceeding, since some of the smaller items may have large import to smaller carriers. Staff proposed that Linesharing and Linesplitting be included, but perhaps scheduled for a later workshop, or phase, of this proceeding.

14 WorldCom agreed with the CLECs and Staff that it would be better to adopt a comprehensive approach to developing an SGAT for Verizon to minimize resources and expense CLECs have to devote to interconnection agreement negotiations. WorldCom agreed that performance was not an issue in this case.

15 **Discussion and decision.** The Commission finds that the parties should not limit the proceeding solely to consideration of “big ticket” items. The purpose of the proceeding is to develop as comprehensive a set of general terms and conditions as possible, to assist CLECs and Verizon in achieving interconnection agreements without the need for protracted arbitration proceedings. The more issues that can be fixed in this proceeding, the less resources need to be utilized in future proceedings.

16 **(3) What schedule seems appropriate for the docket? Given the parties’ predictions of scope, do parties ask the opportunity to present written testimony and exhibits? When should testimony be expected and what time line seems appropriate at this juncture?**

17 The parties agreed on a proposed schedule that would allow time to incorporate the FCC’s expected year-end decision on Linesharing and Linesplitting, as well as time to negotiate amongst themselves and thereby reduce the number of disputed issues the Commission would need to resolve. The schedule avoids “phases” or “workshops” which tend to stretch resources that are already very thin in light of the number of proceedings the parties are involved in throughout the country.

Verizon files model agreement	September 25, 2002
Status conference	November 13, 2002
Parties file comments re: issues in dispute	March 25, 2003
Staff to file disputed issues matrix	April 29, 2003
All parties file testimony on disputed issues	May 28, 2003
All parties file rebuttal	July 1, 2003
Prehearing Conference	July 21, 2003
Hearings	July 28 –August 8, 2003

18 **Discussion and decision.** The Commission approves this schedule as a reasonable means of accommodating the needs of the parties to conserve resources as well as to refine the issues in dispute. With one exception, the Commission approves this schedule as a reasonable means of accommodating the needs of the parties to conserve resources as well as to refine the issues in dispute. However, the Commission is concerned that scheduling a hearing during the month of August is not administratively feasible and **changes the dates reserved for evidentiary hearing to September 8-19, 2003. Correspondingly, the prehearing conference will take place on September 5, 2003.**

19 (4) **Should the parties use the Verizon New York template agreement as a starting point, as suggested by the Commission in the First Supplemental Order, ¶24, or do the parties have other suggestions for a starting point?**

20 The parties agreed that it would not be possible to use the “New York Template” as a starting point, since such a document did not exist. The parties agreed that the most appropriate starting point would be the Verizon model interconnection agreement, even though the CLECs would have preferred using the Qwest SGAT as a starting point. However, the parties recognized use of the Qwest SGAT would not properly reflect the differences between the Verizon and Qwest networks. Verizon indicated it would file the 2.3 version of the model agreement with some updates from the 2.6 version, and would fully identify the version of the agreement in a cover page accompanying the filing.

21 **Discussion and decision.** The Commission agrees that the Verizon model agreement
should form the basis for commencing this proceeding, as long as Verizon files a
complete version of the precise document it seeks to rely on.

22 **(5) Should the Commission stand by its determination that Commission Staff
participate as a party in this docket? The First Supplemental Order
contemplates that Staff will participate as a party, but the Commission
has limited advisory resources and found in Docket No. UT-003040 that
the assistance of regulatory services staff assisted it immensely in
resolving matters. Would that process be acceptable to the parties in this
docket?**

23 Staff responded that it would prefer to act in an advisory role in this
proceeding since the interests of the parties were already well represented.
However, Staff deferred to the Commission's decision on the issue.

24 Verizon voiced a concern that if Staff occupied an advisory role, Verizon
would then not know what Staff's position was on the issues in the case and
Staff would be able to take its position to the Commission without giving
Verizon a due process opportunity to examine it.

25 The CLECs did not object to Staff participating in an advisory role in this case
because it had worked well in the Qwest SGAT /271 case. WorldCom had no
opinion either way.

26 **Discussion and decision.** The Commission is sensitive to the concerns that Verizon
raises, and to the potential value to the record, to the parties' understanding of the
issues, and to the quality of the ultimate decision when staff's participation is as a
party. During consideration of the Qwest SGAT, all parties clearly and unequivocally
waived potential concerns, which is not true here. The workshop format allowed
Staff a participatory role as advisers that the hearing format proposed by parties here
does not provide. The Commission anticipates that it will have adequate independent
advisory resources when the matter is heard, contrary to its situation during the Qwest
matter. For all these reasons, the Commission reaffirms its prior determination and
asks Commission Staff to participate as a party in this docket.

27 **(7) What process issues must be resolved? What is the best way of
organizing this proceeding? Who has the burden of coming forward with
evidence, and who has the burden of proof on the issues?**

28 Verizon agreed that based on the current posture of the case, it has the burden
of initially coming forward with evidence of its proposed contract language
and a showing that the language is reasonable, competitive and should be
adopted. Competitors have the burden to show that their proposals warrant

adoption instead. The parties noted that the FCC has discussed burden of proof in its early telecommunications orders.

29 **Discussion and decision.** The Commission adopts the parties' proposed method of addressing the burden of going forward and the burden of proof.

30 **Document preparation and process issues.** Parties must file an original plus eleven (11) copies of each document filed with the Commission. Appendix B states relevant Commission rules and other directions for preparation and submission of evidence and for other process in this docket. Parties will be expected to comply with these provisions.

Dated at Olympia, Washington, and effective this _____ day of August, 2002.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

THEODORA M. MACE
Administrative Law Judge

NOTICE TO PARTIES: Any objection to the provisions of this Order must be filed within ten (10) days after the date of mailing of this statement, pursuant to WAC 480-09-460(2). Absent such objections, this prehearing conference order will control further proceedings in this matter, subject to Commission review.

APPENDIX A

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