

BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

IN THE MATTER OF THE CONTINUED)
COSTING AND PRICING OF UNBUNDLED) DOCKET NO. UT-003013
NETWORK ELEMENTS, TRANSPORT,) PART B
TERMINATION, AND RESALE)

PART B SUPPLEMENTAL DIRECT TESTIMONY

PART B RESPONSIVE DIRECT TESTIMONY

OF

R. KIRK LEE

SENIOR MARKETING MANAGER

ON BEHALF OF

VERIZON NORTHWEST INC.

Formerly Known as GTE Northwest Incorporated

SUBJECT: UNE-P/LINE SPLITTING ARRANGEMENTS

OCTOBER 19, 2000

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I. INTRODUCTION

Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A. My name is R. Kirk Lee. My business address is 600 Hidden Ridge, Irving, Texas 75038.

Q. ARE YOU THE SAME R. KIRK LEE WHO SUBMITTED DIRECT TESTIMONY ON BEHALF OF VERIZON NORTHWEST IN PART B OF THIS PROCEEDING?

A. Yes, I am.

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. The purpose of my testimony is to: 1) present Verizon Northwest Inc.'s (“Verizon” or the “Company”) policy positions associated with UNE-P¹/line splitting arrangements, 2) respond to AT&T witness Joseph Gillan's line splitting proposal, and 3) respond to Mr. Gillan’s proposal for a UNE-P migration charge. I do not address costing and pricing issues associated with line splitting because those issues are being considered in Part C of this proceeding.²

¹ UNE-P = Unbundled Network Element Platform.
² Seventh Supplemental Order, Docket No. UT-003013, ¶ 16.

1 and port are each individually connected to the splitter via jumper wires. Under this
2 scenario, the UNE-P arrangement ceases to exist. AT&T's definition of line splitting
3 over UNE-P would require a new combination of elements, and the Eighth Circuit has
4 held that ILECs cannot be required to combine elements. In a recent order, the
5 Massachusetts Commission supported Verizon's position as well.⁴

6

7 **Q. IS VERIZON'S UNDERSTANDING OF "LINE SPLITTING" CONSISTENT**
8 **WITH THE FCC'S MOST RECENT DECISIONS?**

9 A. Yes. As AT&T is aware, as part of its order approving SBC Communication's
10 ("SBC") application to enter the inter-LATA market in Texas, the FCC rejected
11 AT&T's argument that SBC had an obligation to furnish line splitting.

12

13 **Q. IS VERIZON'S OPPOSITION TO LINE SPLITTING ANTI-COMPETITIVE**
14 **AND DISCRIMINATORY?**

15 A. No. In approving SBC's Section 271 application in Texas, the FCC considered
16 AT&T's claim of anti-competitive and discriminatory practices by SBC for not
17 allowing AT&T free-for-all access to its network. The FCC concluded:

18 "In the Line Sharing Order, the Commission unbundled the high frequency
19 portion of the loop when the incumbent LEC provides voice service, but did
20 not unbundle the low frequency portion of the loop and did not obligate
21 incumbent LECs to provide xDSL service under the circumstances AT&T
22 describes. Furthermore, as described above, the UNE-P carrier has the right to
23 engage in line splitting on its loop. As a result, a UNE-P carrier can compete

⁴ September 29, 2000: Massachusetts Department of Technology and Energy Order in the line sharing proceeding, (D.T.E. 98-57-Phase III) Pages 39-41 (Agreeing that the SBC Texas Order states that a line splitting configuration replaces a UNE-P arrangement and not that a UNE-P arrangement remains in place after the provisioning of line splitting).

1 [with SWBT's] combined voice and data offering on the same loop by
2 providing a customer with line splitting voice and data service over the UNE-
3 P in the same manner. In sum we do not find this conduct discriminatory."⁵
4

5 Verizon's position is consistent with the FCC's. Verizon cannot prevent a voice
6 CLEC from splitting its line with a data CLEC. However, as in the case of SBC,
7 Verizon has no obligation to provide line splitting in conjunction with its UNE-P
8 offering. AT&T's attempt to re-raise already settled issues should be rejected.
9

10 **III. AT&T LINE SPLITTING PROPOSAL**

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12 **Q. IS IT APPROPRIATE FOR THE COMMISSION TO ADDRESS LINE**
13 **SPLITTING ISSUES AT THIS TIME?**

14 A. No. The issue is not ripe for decision. As explained in the Part A Responsive Direct
15 Testimony of Company witness John Boshier, there are many technical and
16 operational issues to be worked out between the ILECs and CLECs before these types
17 of arrangements can be provisioned. The FCC is also re-examining this issue further
18 but has yet to make a decision. It would be premature for the Commission to act
19 without direction from the FCC, or before allowing the industry an opportunity to
20 resolve the significant operational and technical issues. In addition, it would be
21 unwise from a policy perspective to attempt to prejudge any FCC action and require
22 the development of procedures that may prove inconsistent with the FCC's ultimate

⁵ See FCC Order approving SBC's Texas Inter-LATA Application, CC Docket No. 00-65, released June 30, 2000, ¶330.

1 decision. Such results would not comport with the national framework sought by the
2 FCC in its Line Sharing Order. Even AT&T has recognized that this national
3 framework does not currently exist.⁶

4

5 Although Verizon disagrees that it should be mandated to provide UNE-P line
6 splitting arrangements, the Company has been active in exploring the technical and
7 operational issues surrounding line splitting with CLECs. Mr. Gillan is incorrect in
8 his assertion that Verizon has refused to support “line splitting”. In fact, Verizon is
9 currently involved in collaborative discussions with CLECs in New York that it hopes
10 will provide service definitions and answers for many of the issues. In the
11 collaborative effort, Verizon is examining what it would take from an operations
12 perspective to provide line splitting and is trying to determine specifically what the
13 CLECs want. This will enable Verizon to determine whether we can provide it, what
14 it would take, how long it would take, and how much it would cost. Until Verizon
15 can address these issues through the collaborative process, a definitive service product
16 proposal cannot be offered in Washington and other states. Once the issues are
17 resolved, Verizon would be willing to enter into special contracts for the provision of
18 these services, not as an unbundling or UNE-P or line sharing requirement, but as a
19 separate wholesale offering.

20

21 Expanding the scope of the Line Sharing Order to include line splitting in the context
22 of this generic proceeding could act to prevent or delay implementation of

⁶ Exhibit T-216:5, AT&T Petition at 5.
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1 enhancements to the basic line sharing product because line splitting will require
2 additional resources for internal training, order processing and enhancements to
3 Verizon's OSS. Again, Verizon is willing to sit down with the CLECs and discuss
4 line splitting issues, but it is not willing to slow down further development of line
5 sharing in order to expedite line splitting. Line sharing is an FCC requirement while
6 line splitting is not. Further refinements related to line sharing need to be worked in
7 several areas, including disconnects, migrations, suspensions and restorals. Based on
8 discussions in New York, most of the data CLECs appear to be supportive of the
9 position that line sharing is the first priority. Further, as explained in the Part A
10 testimony of Verizon witness John Boshier, allowing line splitting over UNE-P is not
11 critical to local competition. CLECs are able to combine UNEs with DSL services
12 today.⁷

13
14 **Q. CAN YOU EXPLAIN THE TECHNICAL ISSUES ASSOCIATED WITH LINE**
15 **SPLITTING IN MORE DETAIL?**

16 A. Yes. The technical issues associated with the implementation of "line splitting"
17 scenarios range from concerns regarding the wiring associated with these
18 configurations, to the methods and procedures that need to be employed for ordering,
19 repair, maintenance and billing in a multiple carrier environment. AT&T's position
20 that line splitting procedures do not need to be developed in advance gives the
21 impression that the process involves nothing more than a customer record change.
22 This is simply not the case.

⁷ Responsive Direct Testimony of John J. Boshier, Exhibit JJB-7T, pages 5-6.
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The significant issues to be resolved include: what are line splitting services, and how quickly can they be put in place in a scalable mechanized fashion? In addition, what is the business relationship between the voice provider, data provider, internet service provider, end user and ILEC? Which voice CLECs will line split with which data CLECs? Also, who will control the service (the voice provider, data provider, or both) in regards to ordering, pre-ordering, modifications, provisioning, maintenance, repair, disconnects and billing? And who will be responsible for end user customer education? It should not be Verizon because the ILEC is not involved. Due to the complexities of line splitting, each of these phases must be carefully planned in advance of rollout.

The UNE-P/line splitting scenario presented by AT&T witness Gillan would impact the work that needs to be done (e.g. billing, maintenance, etc.) and thereby drive changes in systems and procedures. In the New York collaborative discussions, the CLECs have asked for a myriad of possible configurations but have not yet defined business relationships between the parties in any detail. These issues are still ongoing in the New York collaborative discussions and should not be decided here in Washington without further examination.

Accordingly, Verizon is willing to work cooperatively with AT&T and other CLECs on these issues and has done so to date. The attached Exhibit RKL-3 is a draft document prepared by Verizon that was used for discussion purposes in the New

1 York collaborative meetings. It details proposed service descriptions for line
2 splitting, as well as the complexities of the interrelationships between the parties in
3 each scenario. This document provides further evidence that additional time is
4 needed to reach industry agreement on the outstanding issues.

5

6 **Q. WHAT ACTION SHOULD THE COMMISSION TAKE REGARDING**
7 **AT&T'S LINE SPLITTING PROPOSAL?**

8 A. The Commission must reject AT&T's proposal based on the FCC's decisions on "line
9 splitting" issues and on the Eighth Circuit Court's analysis. The Eighth Circuit found,
10 among other things, that "[the Act] does not mandate that incumbent LECs cater to
11 every desire of every requesting carrier."⁸ Further, the Court found that a CLEC is
12 allowed to obtain unbundled access "only to an incumbent LEC's existing network -
13 not to a yet unbuilt superior one."⁹ In this instance, AT&T is demanding that Verizon
14 build a "superior" network by installing splitters on its behalf, or essentially cater to
15 AT&T's business requirements, while being fully aware that Verizon has no legal
16 obligations in the matter. Aside from seeking unfettered access to Verizon's network,
17 AT&T is attempting to use this proceeding to re-litigate settled issues of law.

18

19 **Q. IF THE COMMISSION WERE TO IMPLEMENT LINE SPLITTING AT**
20 **THIS TIME DESPITE THE FCC'S RULING, WHAT PARAMETERS**
21 **WOULD NEED TO BE CONSIDERED?**

⁸ See *Iowa Utilities Board v. FCC*, 120 F.3d 753 (8th Cir. 1997).

⁹ *Id.*

1 A. First, it should be recognized that line splitting is not a UNE and, therefore, the
2 ILEC's involvement should be minimal. This is essentially a shared line relationship
3 between two CLECs, a voice provider and a data provider. ILEC involvement should
4 be limited to processing the orders and doing the provisioning work necessary to run
5 the appropriate jumper wires. Verizon would essentially act as a facilitator between
6 the two CLECs to affect the line splitting service. The CLECs should be responsible
7 for establishing all necessary collocation arrangements and providing the splitters and
8 other equipment necessary to "split" the line. Also, the voice provider should be the
9 point of contact for facilitating line splitting on loops where voice service is provided
10 by a carrier other than Verizon. It is the voice provider that is the owner of the loop
11 and is paying for it. Verizon should not be required to enter into any 3rd party billing
12 arrangements. Finally, line splitting arrangements should only be allowable with the
13 same technologies that the FCC has declared acceptable for line sharing
14 arrangements. The attached Exhibit RKL-3, a work-in-progress draft document
15 containing various line splitting service descriptions, provides further detailed
16 information on how line splitting could be implemented under several scenarios.

17

18 **Q. SHOULD VERIZON BE REQUIRED TO PROVIDE PORT-AT-A-TIME**
19 **SPLITTERS FOR UNE-P LINES?**

20 A. No. In a UNE-P line splitting scenario, the ILEC is not a party to either the voice or
21 data service being carried over the line and, therefore, should never be required to
22 provide splitters. Further, as discussed in the Part A Rebuttal Testimony of Company
23 witness John Boshier, Verizon will not own and provide splitters under any

1 circumstances after December 15, 2000 for new orders. The FCC made it clear in its
2 Line Sharing Order that splitter ownership is a discretionary right of the ILEC, not an
3 obligation.¹⁰ Furthermore, nothing in the Act or the FCC's UNE Remand Order
4 requires ILECs to assume the expense and risk of buying splitters (or any other
5 equipment) that will benefit only the CLECs. AT&T and the other CLECs have
6 provided no compelling reasons why a CLEC cannot purchase and install its own
7 splitters in a physical collocation arrangement, or have Verizon install the CLEC-
8 purchased splitters in a virtual collocation arrangement. In recent decisions, other
9 state commissions, including those in Maryland and Massachusetts, have agreed that
10 Verizon is not required to own and provide splitters for CLEC use.¹¹

11

12

IV. UNE-P MIGRATION CHARGE

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14 **Q. IS MR. GILLAN'S PROPOSAL FOR A \$1.00 UNE-P MIGRATION CHARGE**
15 **APPROPRIATE?**

16 A. No. AT&T witness Gillan's proposal for a \$1.00 migration non-recurring charge
17 (“NRC”) is arbitrary and should be rejected. Further, it is unlawful because it is not
18 based on Verizon's costs of processing these orders. Verizon has already proposed

¹⁰ See Line Sharing Order (No. 99-355), ¶ 76, which states that "incumbent LECs **may** maintain control over the loop and splitter equipment and functions" (emphasis added).

¹¹ Oct. 6, 2000: Maryland PSC Order No. 76488 in Case No. 8842, Phase I, Covad/Rythms Arbitration. September 29, 2000: Massachusetts Department of Technology and Energy Order in the line sharing proceeding, (D.T.E. 98-57-Phase III).

1 UNE-P migration NRCs in Part B of this proceeding.¹² These charges are based on
2 Verizon's forward-looking actual costs to provide migration services for the transfer
3 of customers to a CLEC and, accordingly, should be adopted by the Commission.

4

5 **Q. DOES THIS CONCLUDE YOUR PART B SUPPLEMENTAL DIRECT AND**
6 **RESPONSIVE DIRECT TESTIMONY?**

7 **A. Yes.**

¹² Dennis Trimble Direct Testimony filed Aug. 4, 2000. Exhibit DBT-3 Page 1 of 23.

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