

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION

Complainant,

v.

VERIZON NORTHWEST INC.,

Respondent.

DOCKET NO. UT-040788

REPLY TO VERIZON NW'S
SUPPLEMENTAL RESPONSE
TO STAFF'S MOTION TO
COMPEL

I. Background

1 Commission Staff seeks production of documents surrounding a transaction whereby Verizon is selling its Hawaii telephone operations and is including directory operations in that sale.

2 Verizon NW has never stated it *cannot* provide the information requested.¹

Rather, Verizon NW is objecting that it *will not* provide the information because: 1)

¹ In fact, Verizon NW attaches to its *Supplemental Response* a copy of the Application filed with Hawaii PUC to seek approval of the sale. Verizon NW failed to provide this document in response to Staff Data Request No. 277. This is yet another instance where the Company has improperly

the Commission cannot force it to do so because the information is not possessed by Verizon NW, or an affiliate pursuant to a contract or arrangement; and 2) the information is not relevant, and will not lead to relevant evidence.

3 The relevance objection is the scope of Verizon NW's September 28 Supplemental Response, and it is therefore the scope of this Reply by Staff.

II. **The Information Requested Is Relevant, or Will Lead to Relevant Evidence**

4 Verizon claims it "has not raised directory valuation as an issue," *Supplemental Response at 3-4*, but Verizon NW's own testimony proves the Company is wrong.

5 In its direct testimony in this case, Verizon NW witness Mr. Trimble describes one of the issues surrounding imputation: whether "an affiliate's revenues may and should be considered when *determining the appropriate compensation due the affiliated ILEC.*" *Trimble Direct Testimony, Exhibit No. ____ (DBT-1T) at 11:8-9 (emphasis supplied).*

6 "Determining the appropriate compensation due the affiliated ILEC" involves consideration of the value the ILEC (here Verizon NW) provides to the affiliate (here Verizon Directories). The Hawaii sale documents are relevant to the

provided documents or information to the Commission that it refuses to provide to Commission Staff.

value an ILEC provides to its directory affiliate because that sale packages telephone operations with directory operations.

7 In other words, the market is making an unambiguous statement that directory operations have the most value in conjunction with the telephone operations, *i.e.*, the telephone operations lend value to the directory operations. If the opposite were true, the directory business would have been sold separately.

8 Staff wants to examine the relevant transaction documents to further analyze this plainly relevant issue.

9 Verizon NW's bare assertion that events in Hawaii have no relationship to Washington is also not credible. *E.g., Supplemental Response at 5-6.* While Verizon NW is entitled to its opinion, it is certainly reasonable to conclude that evidence of this actual market transaction in Hawaii is relevant to the issue whether Verizon NW provides value to its directory affiliate in this state. It would be remarkable indeed if the state of Hawaii were the only place in the world where telephone operations provide value to directory affiliates.

III. Verizon NW's Other Arguments Effectively Concede the Relevance of the Documents Requested

10 Verizon NW also contests the proposition that the value of the directory business is enhanced by its being bundled together with the sale of the Hawaii telephone company operations. According to Verizon NW, it is "equally as, or more, plausible that the buyer placed more value on non-directory assets ..."
Supplemental Response at 6.

11 This statement by Verizon NW provides conclusive support for compelling production of the requested documents. While Verizon NW believes another explanation is "equally plausible" or "more plausible," Verizon NW's statement acknowledges it is at least "plausible" that the Hawaii transaction shows that directory operations obtain value by its association with the telephone operations. The documents requested are therefore relevant under such a "plausible" theory, and they should be produced, so that this issue can be further evaluated.

12 Verizon NW's argument reflects an attempt to allege one explanation, and then prevent the parties from evaluating what the Company concedes is a plausible, alternative explanation. That strategy should not be permitted: Verizon NW is not the "gatekeeper" of the issues.

13 This is not a "proverbial fishing expedition," as the Company thinks.
Supplemental Response at 7. Staff is requesting relevant documents relating to a

relevant issue. Verizon NW should be ordered to produce the documents requested.

DATED this 29th day of September, 2004.

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