

Exhibit No. _____

Cross Examination Exhibit

Christian M. Dippon

WA UTC Docket UT-040788

Order No. 15

Order Approving and Adopting Proposed Settlement; Rejecting Filed Rates;
Accepting Proposed Settlement Rates

WA UTC Docket UT-040520

Order No. 3

Order Approving and Adopting Proposed Settlement

(4-12-05)

BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND	)	DOCKET NO. UT-040788
TRANSPORTATION COMMISSION,)	
	)	ORDER NO. 15
Complainant,)	
	)	ORDER APPROVING AND
v.	)	ADOPTING PROPOSED
	)	SETTLEMENT; REJECTING FILED
VERIZON NORTHWEST INC.,	)	RATES; ACCEPTING PROPOSED
	)	SETTLEMENT RATES
Respondent.)	
.....)	
)	
In the Matter of the Petition of	)	DOCKET NO. UT-040520
)	
VERIZON NORTHWEST INC.,	)	ORDER NO. 03
)	
For Approval of Revised	)	ORDER APPROVING AND
Depreciation Rates	)	ADOPTING PROPOSED
	)	SETTLEMENT
.....)	

- 1 **SYNOPSIS:** *The Commission accepts and adopts a proposed settlement among Verizon, Public Counsel, Commission Staff, AARP, WeBTEC, and the Department of Defense. In so doing, the Commission approves an increase in rates for most Verizon business and residential customers of \$2.43 per month beginning May 1, 2005, and an additional increase of \$1.47 per month beginning July 1, 2007. The settlement, which contains other provisions described in this order, resolves three dockets—the pending rate increase request in Docket No. UT-040788, Verizon’s request to alter the rate at which its depreciation is recorded for certain equipment in Docket No. UT-040520, and a complaint by AT&T against Verizon, a matter previously decided by the Commission that is now on judicial review, Docket No. UT-020406.*

- 2 **Procedural History:** Hearing was held in these matters on March 18, 2005, before Chairman Mark Sidran, Commissioners Patrick Oshie and Philip Jones, and Administrative Law Judge C. Robert Wallis at Olympia, Washington, pursuant to due and proper notice to all interested parties. The Commission convened hearings to receive comments from members of the public in Everett, Washington on March 22, 2005, and in Kennewick, Washington, on March 23, 2005.
- 3 Verizon filed supporting material in Docket No. UT-040788, along with a motion for interim rate relief, on April 30, 2004. It asked that the Commission first determine the Company's revenue requirement, then allow it to file tariffs to achieve the revenue deficiency that the Commission determined. The Commission rejected the request for bifurcation in Order No. 04 on June 23, 2004, and rejected the proposed interim rate relief in Order No. 11 on October 15, 2004.
- 4 Verizon also filed a petition in Docket No. UT-040520 on April 5, 2004, seeking to amend its depreciation schedule for certain assets. The parties and the Commission recognized that the issues in the two dockets were related, and the Commission scheduled the depreciation proceeding to follow the rate hearing, to allow consideration of the potential effect of the depreciation proceeding on rates. Recognizing that the parties have reached a settlement that resolves both proceedings, the Commission consolidates the two proceedings for purposes of this order.¹

¹ The parties' settlement also requires Verizon to dismiss its appeal of the Commission's decision in Docket No. UT-020406, a complaint proceeding brought by AT&T Communications of the Pacific Northwest ("AT&T") against Verizon. In that docket, the Commission directed Verizon to reduce the access charges paid by long distance companies by about \$30 million annually, but refused to increase Verizon's revenues without a review of the Company's intrastate operations.

- 5 **Appearances.** The parties appeared as follows: Charles Carrathers, Verizon Northwest general counsel, Austin, Texas, and Judith Endejan, Graham and Dunn, Seattle, appeared for Verizon Northwest. Washington Electronic Business and Telecommunications Coalition (WeBTEC) appeared by Arthur A. Butler, Ater Wynne LLP, Seattle; the Department of Defense and Federal Executive Agencies appeared by Steven Melnikoff, attorney, Washington, D. C.; Citizens Utility Alliance appeared by John T. O'Rourke, Director, Spokane, Washington. Donald T. Trotter and Christopher Swanson, assistant attorneys general, Olympia, appeared for Commission Staff. Simon ffitch, assistant attorney general, Seattle, appeared for Public Counsel. MCI, Inc., appeared by Michel Singer-Nelson, attorney, Denver, Colorado. Gregory Kopta, attorney, appeared on behalf of XO Washington, Inc. and Time Warner Telecom of Washington, LLC.
- 6 **Background.** Verizon last filed a general rate case before the Commission in 1982. Since then, the Company has been involved in several dockets affecting rates, including depreciation reviews and merger proceedings. The passage of 23 years without a rate case, however, means that the Commission has not had the opportunity to review the company's operations in detail for so long that the 1982 proceeding provides no meaningful information about the Company's operations.
- 7 Many questions were raised about those operations during the AT&T complaint proceeding, during the interim phase of this proceeding, and in the prefiled testimony that the parties have provided to the record in this docket. Significant legal and accounting questions were raised about issues including the following: Verizon's allocation of revenues and costs between interstate and intrastate jurisdictions, and between the intrastate jurisdictions in which it operates; Verizon's entitlement to revenue from its directory affiliate; Verizon's

relationships with its wireless and its long-distance affiliates; and whether some revenue from services lost to those businesses should be attributed to Verizon. Verizon's capital structure for regulatory purposes and the rate of return it should be authorized the opportunity to earn were also contested.

- 8 The spread between the parties' positions was considerable—the most the Commission has seen since the 1995 proceeding in which U S West contended a need for \$205 million, Commission Staff urged that it was over-earning, and the Commission ordered a rate reduction of \$95 million.² Here, the Company contended that its rate case evidence showed the need for \$220 million, and that its need for depreciation schedule changes showed the need for an additional \$50 million. Commission Staff, on the other hand, argued in its revised, prefiled rate case testimony that the Company required a rate reduction of about \$25 million.
- 9 The parties also resolved issues in the depreciation docket. There, Verizon contended that its composite depreciation rate of 6.5% was inadequate to reflect the speed with which changing technology renders modern equipment obsolete. It asked for an increase in the rate to 9.1%.
- 10 The parties managed to bridge their differences, however, to achieve settlement. In their narrative describing the settlement, and in the comments of counsel and testimony of the witnesses at the settlement presentation hearing and public hearing sessions, they each acknowledged their dissatisfaction with some elements of the settlement. They all agreed on two points, however: the resulting rates and revenues are within the evidence of record, and the rates are fair, just, and reasonable.

² See, the 15th Supplemental Order in Docket No. UT-950200, *WUTC v. U S WEST Communications, Inc.*

- 11 In support of the proposal, the parties agreed to submit the pre-filed evidence to the record. The Commission admits exhibits 201 through 618 in UT-040788 to the record. In addition to exhibits received during the interim proceeding that relate to the general rate proceeding as well, these exhibits define the parties' litigation positions and thereby define the parameters of the parties' positions and identify the support for those positions.
- 12 **Elements of the Settlement Proposal.** The parties propose several significant elements in their settlement proposal. These elements will become effective only if accepted by the Commission and ordered into effect.
- 13 In the depreciation proceeding, under the proposed settlement the rate would increase to 6.8%, effective January 1, 2005, and increase further to 7.1% on January 1, 2007. These increases would not change rates immediately. Instead, they would increase the speed at which depreciation expense would recover the costs of the affected assets, which would affect future rate proceedings involving the Company.
- 14 The rate case proposal includes rate elements in two phases, to achieve an increase in annual revenues of \$38.65 million by July 1, 2007. The revenue would come from increases in the monthly charge for business and residential service, and from increases in one-time and recurring charges for "discretionary" services, that is, services that are not essential to basic telecommunications, such as charges for directory assistance, non-published numbers, late charges, and additional directory listings.
- 15 In addition, the parties propose three provisions to have effect until July 1, 2007. First, Verizon would be barred from seeking a rate increase (the "stay-out" provision). Second, if Verizon's intrastate rates are reduced by state action it

would be entitled to increase other rates to offset the required decrease (the “revenue neutrality” provision). Third, the parties and the Commission must decline to take any action before July 1, 2007, to review Verizon’s rates for excess earnings (the “forbearance” provision).

- 16 Each of these elements raises concerns that the parties have addressed.

Commission discussion and decision

- 17 The Commission commends the parties for bridging their differences in this very difficult litigation and achieving a settlement proposal that is unopposed by any party.

- 18 This proposed settlement occurred late in the litigation process, after extensive discovery and production of information. It occurred after thorough analysis by the parties, which was described during the hearings. Settlement occurred after the parties’ testimony was filed, making clear their litigation positions. While information describing Verizon’s costs and its capital structure is not a subject of agreement among the parties, the parties’ views are contained in their presentations and are reflected in their opinions, stated at the hearings.

- 19 As a result we have confidence that the proposed rates are fair, just, and reasonable, as required by RCW 80.04.130. The record contains representations and testimony from the parties on behalf of their constituencies, Public Counsel, for residential and small business customers; AARP, for senior citizens; Commission Staff, for the public interest; the Department of Defense and Federal Executive Agencies, for large telecommunications users, and the Company, for the interests of its stockholders. All of these parties agree, after extensive analysis of the primary data, that the proposed rates are fair, just, and

reasonable. In light of the opportunity for study, the unanimity of the presentations, and the expertise of the commenting participants, we find that the testimony and representations are credible and that the proposed rates are fair, just, and reasonable.

20 Nonetheless, we have concerns about individual elements of the proposal and set them forth below along with their resolution:

- A. **Rate elements.** The settlement proposal contains three principal rate elements.
 - a. Line rates for most business and residential customers will rise by \$2.43 on May 1, 2005.
 - b. Certain other charges will also increase on May 1, 2005. These include
 - i. Late charge, to be the larger of \$2.50 or 1.5% of the unpaid bill for residential customers, and the larger of \$5 or 1.5% of the unpaid bill for business customers.
 - ii. Directory assistance rises to \$1.25 for each directory assistance call, with no such calls to be “free,” that is, included in the monthly telephone service rate.
 - iii. Charges for custom calling services, such as remote call forwarding, will rise.
 - iv. The charge for additional directory listings will rise by \$1.00, to \$1.55 per month
 - c. Some charges will decrease. Certain charges required of long distance companies to use Verizon’s facilities to complete calls to Verizon customers will be reduced, then eliminated.
 - d. Line rates for most business and residential customers will rise by an additional \$1.47 on July 1, 2007.

- 21 The proposed revenue increase comes from increases in the charge for basic service (the line charge) for most business and residential customers, and from some charges that the Commission in the past has been reluctant to increase because of the potential disparate impact upon persons with low or fixed incomes. These include substantial increases in the charges for directory assistance and for late payments.
- 22 Public Counsel and AARP acknowledge the validity of our concerns about the application of these charges, but point out that the choice lies between increasing charges for basic services that all must pay, or increasing charges for discretionary services that not all customers need. They choose increases for discretionary services, reasoning that all customers need the basic services, so all will benefit from lower monthly rates for basic service. On the other hand, not all customers call directory assistance or make late payments. It is appropriate that those who impose additional costs on the system be required to support the costs of those services through higher charges. In choosing to use the services, they contribute to company revenues.
- 23 **The late fee.** We are concerned about the proposed charge for late payments. Information of record indicates that the charge includes a minimum fee and the interest rate is higher than that imposed by other utilities we regulate. It is also the first imposition of any late charge by Verizon.
- 24 We are especially concerned about the potential impact of a minimum late fee upon persons of fixed and limited incomes. Public Counsel and AARP both stated this concern, but recommended that the Commission accept the proposed late fees in order to maintain rates for basic service at the lowest possible level. We respect the judgment of counsel in this regard and accept counsel's

representation that, in the context of this settlement, the proposed rates are fair, just, and reasonable.

- 25 We understand the nature of the settlement process and believe that parties should have some latitude to experiment with creative solutions to difficult problems. Nonetheless, we are concerned about the potential impact of a minimum late fee upon low-income customers and the precedent that other companies may perceive from our acceptance of this fee. While we support the principle that bills should be paid when due, we must take care to avoid the impression that the Commission favors moving generally toward more aggressive collection measures.
- 26 Therefore, we accept the provision, but only as a tariff with a fixed expiration date and only with the opportunity to measure its effect. The Company should refile the tariff to expire on December 31, 2007, in order to afford time to study the tariff's operation and effect, and afford the Company ample time to consider extending the tariff.
- 27 To measure the consequences of the late fee, we require the Company to monitor the use and, to the extent possible, the effect of the fee. Beginning with baseline statistics for Washington intrastate for calendar 2004 and the first three months of 2005, the Company must track late payments that would require a late payment charge if the proposed tariff had been in effect.
- 28 The Company must also report actual application of the late payment charge for periods after the charge is authorized. It must report the number of "qualifying" late payments in absolute terms and as a proportion of total residential or business intrastate customers. It must also report the number of company-initiated disconnections for non-payment in the relevant periods. We are

interested in whether the charge reduces the number or proportion of late payments, and whether imposition of the charge increases the disconnection rate.

- 29 We also direct Commission Staff to monitor the number of inquiries and the number of informal complaints about the late payment charge, and their circumstances, beginning with May 1, 2005, the effective date of the tariff, to determine the level of consumer concern and whether the charge is being applied properly and equally.
- 30 The parties are directed to make their first reports by February 15, 2006, for 2004 and 2005,³ and on February 15, 2007, adding information for 2006, and August 15, 2007, for the first six months of 2007. The information should be presented by month, and then averaged for the year (or partial year, for periods in 2005 and 2007). If the parties experience difficulty in meeting these requirements, or if they wish to suggest other means to provide the required information, they should address their concerns to the Commission's Executive Secretary. The Commission may modify the required information, its timing, or its presentation, by letter from the Executive Secretary.
- 31 **Stay-out provision.** The Company agrees that it will not file tariffs to implement a rate increase, except in certain very limited circumstances, before July 1, 2007. The exception is when such increases may be needed for rebalancing, as set out below.
- 32 Stay-out provisions can be problematic, as evidenced by the PacifiCorp case. PacifiCorp found it necessary, because of unexpected circumstances, to seek a rate increase before the end of a stay-out period and the Commission allowed the

³ Commission Staff need not report activity prior to the effective date of the tariff.

company to do so.⁴ The 27-month stay-out provision proposed here is much shorter than the 5-year provision in the PacifiCorp matter, and Verizon's costs are not as volatile as those of an electric company. It is our present intention to accept and uphold the stay-out period. However, as noted *infra* at footnote 7, we do not believe that we can irrevocably commit the Commission to future actions.

33 **Revenue neutrality.** Under the proposed settlement, the Company is entitled to revenue neutrality, to the extent that any revenues are reduced by Commission action. If the Commission reduces any charge for any intrastate service, the Company will be entitled to an offsetting increase in revenue to maintain the level of revenue that otherwise would be provided by the rates that have been reduced or eliminated. The Company would file offsetting tariffs to achieve rebalancing, following the statutory tariff filing procedure. Commission Staff and others may ask the Commission to suspend the filing on limited bases—for example, that the tariffs would generate more than estimated or that the spread of rates among customers is improper—but not on the basis of single issue ratemaking or that the resulting Company revenues would be improperly high.

34 This provision is also of concern. Revenue neutrality should be confined to very limited circumstances, because a Commission finding that certain rates are fair, just, and reasonable is based on the relationship between the company's costs, including its costs of capital, and its revenues, over a test period. The level of revenue, over time, has no necessary bearing on whether the rates are fair, just, or reasonable, because it does not consider the effect of rising or falling costs. Because of increased efficiencies or increased costs over time, a given level of rates may or may not be fair, just, and reasonable. This was an issue in the AT&T

⁴ See, Order No. 06 in Docket No. UE-020417, WUTC v. PacifiCorp, now on judicial review.

complaint case, Docket No. UT-020406, in which the Commission denied the Company's request for revenue neutrality.⁵

35 In the AT&T docket, the Commission had no recent measure for the level of revenues that reflected fair, just, and reasonable rates. In contrast, here the Commission accepts the level of rates generated by the proposed settlement as fair, just, and reasonable. Because the agreement is for a limited period of time, and there is no anticipated factor that would render the proposed rate level excessive, we believe that rebalancing may be accepted.⁶

36 **Forbearance.** The parties agree to forbear from taking action to decrease Verizon's revenues, and the agreement, if the Commission accepts it, would purport to bind the Commission also to forbear from taking action to reduce Verizon's revenues.

37 As previously noted, we do not believe we can irrevocably commit the Commission to future actions or inactions. As distinguished from Commission Staff, the Commission when acting in its quasi-judicial or legislative function can no more bind itself for the future than any other tribunal or legislative body can bind its successors.⁷ We envision no circumstances that would require the

⁵ The Commission was willing to consider revenue neutrality as part of a proposed settlement in the AT&T complaint, but parties withdrew the proposed settlement in that docket before the Commission could decide whether to accept it, and the matter was heard and decided on a full record.

⁶ We also acknowledge, however, that unforeseen circumstances could require action to reject a revenue neutral rate increase request, and the Commission appears to be legally limited in its ability to guarantee such action under every circumstance that may arise. *See*, footnote 7, below.

⁷ There are two bases for this conclusion. The first is that under constitutional provisions against delegation, the Commission cannot delegate to another its obligation to act in the public interest. *See, State ex rel. Everett Firefighters, Local 350 v. Johnson*, 46 Wn.2d 114, 278 P.2d 662 (1955). The Commission cannot delegate to the parties in this docket a future decision to take or refrain from action, nor can it delegate to (assume for) itself the right to bind a future commission. The second

Commission to reduce Verizon's rates. Such a proceeding would be truly unusual though we note that extreme circumstances have existed in other companies and in other industries, involving such companies as Enron, that have demanded action to protect the public.

38 Therefore, if circumstances require, the Commission retains the authority to take appropriate action.

39 With that understanding, we accept the proposed settlement.

Public comment.

40 The public comment exhibit totals about 2100 letters, principally addressed to the Company's original rate increase proposal. All but four oppose the rate increase. Some 59 citizens attended the public hearings held in Everett and Kennewick, of whom 35 testified. Most of the witnesses opposed the rate proposal. While all had notice of the original proposal to increase customer's monthly rates by nearly \$10, some had not heard of the proposed settlement. Some were skeptical of the settlement process. Some spoke of the earnings of the parent of Verizon Northwest and the earnings of the parent's chief executive officer. Others, however, supported the settlement noting the length of time since Verizon's rates had increased and Verizon's support of civic and charitable causes benefiting the communities in which Verizon operates.

principle is that the Commission has no authority to amend a statute. RCW 80.04.200 gives the Commission the authority to rehear a matter, and to exercise its discretion. RCW 80.04.210 gives the Commission the authority to change an order. If taken literally, adopting the proposed settlement would amend the statutes to deprive a future Commission of its statutory discretion and obligation to act, which is beyond the Commission's power.

41 We take public comment seriously. We are keenly aware of the challenges and stresses persons of low and fixed incomes face in times of rising prices for energy and other services. We note that the participation of AARP and Public Counsel in the docket (particularly after their study of the Company's evidence and the preparation of their own presentations) lend credibility to the reasonableness of the result that they support on behalf of the citizens they represent.

42 **Conclusion.** We have considered all the evidence available to us. We conclude, with the condition relating to reports about the operation and effect of the late payment charge, and with the stated reservations about the legal limitations on our ability to foreclose future action, that the proposed tariffs are fair, just, and reasonable, and that we should adopt the proposed settlement.

43 The proposed settlement provides that, if the Commission makes a material change to the proposal in accepting it, the parties may within a specified period elect to withdraw from the agreement, in which case the process reverts to litigation of the issues.⁸ The Commission believes that neither the reporting requirement nor the acknowledgment of constitutional restrictions on the Commission's action constitute a material change.

FINDINGS OF FACT

44 Having discussed above all matters material to our decision, and having stated general findings, the Commission now makes the following summary findings of

⁸ The parties' narrative provides that if the Commission issues an order approving the Agreement with a material change, the Agreement is effective six (6) calendar days after that order is issued, if no party files a timely withdrawal from the Agreement. If the Commission makes a material change in the Agreement and a party timely withdraws, the Agreement is not effective.

fact. Those portions of the preceding discussion that include findings pertaining to the ultimate decisions of the Commission are incorporated by this reference.

- 45 (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 telephone companies. *Chapter 80.01 RCW.*
- 46 (2) Verizon Northwest, Inc. (“Verizon”) is a “public service company” and a “telecommunications company” as those terms are defined in RCW 81.04.010 and as those terms otherwise may be used in Title 80 RCW. Verizon Northwest is engaged in Washington State in the business of providing telephone service to the public for compensation.
- 47 (3) Verizon filed on July 23, 2004, certain tariff revisions that were suspended by Commission Order No. 04 in Docket No. UT-040788 entered on August 11, 2004. This filing asked for an increase in the company’s rates and charges for providing regulated intrastate telecommunications services in the state of Washington.
- 48 (4) The Commission receives in evidence the parties’ prefiled exhibits, the proposed settlement agreement and the narrative describing the settlement proposal, and Public Counsel’s exhibit No. 501, consisting of the written expressions of public sentiment that the Office of Public Counsel and the Commission received with respect to Docket No. UT-040788.
- 49 (5) The Commission finds the testimony of witnesses David Valdez and Jing Roth credible and consistent with the evidence. The Commission accepts

their testimony and the representations of counsel Charles Carrathers, Judith Endejan, Donald T. Trotter, Simon ffitch, and Ronald Roseman, that the proposed rates are fair, just, and reasonable, consistent with the requirements of RCW 80.04.130.

- 50 (6) Dockets Nos. UT-040520, a request by Verizon for a modification of its depreciation schedules, and UT-040788, Verizon's general rate case, contain related issues of law or fact and are both proposed for resolution in the parties' proposed settlement.
- 51 (7) The Commission finds the testimony of witnesses David Valdez and Jing Roth credible and consistent with the evidence, that the composite depreciation rate of 9.1% proposed by the Company is too high. The credible testimony and evidence of record demonstrate that the proposed settlement rates in Docket No. UT-040520 of 6.8% effective January 1, 2005 and 7.1% effective January 1, 2007, properly reflect the lives of the affected assets.
- 52 (8) Verizon Northwest's proposed tariffs in Docket No. UT-040788 are excessive and are not fair, just, or reasonable.

CONCLUSIONS OF LAW

- 53 Having discussed above in detail all matters material to our decision, and having stated general findings and conclusions, the Commission now makes the following summary conclusions of law. Those portions of the preceding detailed discussion that state conclusions pertaining to the ultimate decisions of the Commission are incorporated by this reference.

- 54 (1) The Washington Utilities and Transportation Commission has jurisdiction over the subject matter of, and parties to, these proceedings. *Title 80 RCW.*
- 55 (2) The Commission should consolidate Dockets Nos. UT-040520, a request by Verizon for a modification of its depreciation schedules, and UT-040788, Verizon's general rate case, for purposes of entering a final order resolving both dockets. *WAC 480-07-320.*
- 56 (3) The rates proposed by tariff revisions filed by Verizon Northwest, Inc., on April 30, 2004, and suspended by Commission order, are not just, fair, or reasonable and should be rejected. *RCW 80.04.130.*
- 57 (4) The composite depreciation rate of 9.1% proposed in the petition of Verizon Northwest, Inc., in Docket No. UT-040520 is excessive and should be denied. The depreciation rates proposed in the parties' proposed settlement agreement of February 23, 2005, are reasonable estimates of the lives of the affected assets and are adopted.
- 58 (5) The rates offered in the substitute tariff revisions in Docket No. UT-040788, filed with the parties' proposed settlement agreement, are fair, just, and reasonable, and should be accepted for effect on May 1, 2005.
- 59 (6) Verizon and Commission Staff should be required to gather information described in the body of this order relating to the late charges authorized in this docket, and to file the information with the Commission on the schedule specified herein.
- 60 (7) The Washington State Constitution prevents the Commission from delegating authority that would foreclose it from exercising lawful

discretion in the future. The State Constitution does not allow the Commission to amend or to act in derogation of a statute granting it discretion to amend an order or to rehear a matter resolved in an adjudication. *RCW 80.04.200, RCW 80.04.210.*

- 61 (8) The Commission should accept the parties' proposed settlement agreement as the appropriate resolution of the issues in these dockets, subject to the qualifications in conclusions of law (6) and (7).

ORDER

62 THE COMMISSION ORDERS That the proposed tariff revisions filed by the Company on July 23, 2004, and suspended by prior Commission order in Docket No UT-040788, are rejected. The Commission rejects the Company's proposed depreciation schedule in its petition in Docket No. UT-040520.

63 The Commission accepts the parties' proposed settlement agreement as the Commission's resolution of the issues in these proceedings subject to the qualifications set forth in conclusions of law (6) and (7) and orders the following:

- 64 (1) The Company must refile its tariff sheet for the proposed late charge to show the termination of the rate on December 31, 2007, no later than April 13, 2005. The Company and Commission Staff must compile and report data relating to the charge and its effect, as specified in the body of this order.
- 65 (2) The Commission accepts the remaining proposed substitute tariff revisions, filed with the parties' proposed settlement on February 23, 2005, for effect on May 1, 2005.

- 66 (3) The depreciation rates proposed in the parties' proposed settlement on
February 23, 2005, are accepted for application in Docket No. UT-040520.
- 67 (4) The Company shall withdraw its request for judicial review of the
Commission's decision in Docket No. UT-020406, within five days after
the date of this order.
- 68 (5) If any party withdraws from the proposed settlement agreement on the
basis of the conditions specified by the Commission in this order, it shall
become ineffective on the sixth day following entry of this order, and the
tariffs and depreciation rates authorized herein shall not become effective
on May 1, 2005, as specified herein. In that event, the Commission will
schedule a prehearing conference to set a schedule for resuming litigation
in the respective dockets.

DATED at Olympia, Washington, and effective this 12th day of April, 2005.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARK H. SIDRAN, Chairman

PATRICK J. OSHIE, Commissioner

PHILIP B. JONES, Commissioner

DOCKET NO. UT-040788
ORDER NO. 15

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DOCKET NO. UT-040520
ORDER NO. 03

NOTICE TO PARTIES: This is a final order of the Commission. In addition to judicial review, administrative relief may be available through a petition for reconsideration, filed within 10 days of the service of this order pursuant to RCW 34.05.470 and WAC 480-07-850, or a petition for rehearing pursuant to RCW 80.04.200 or RCW 81.04.200 and WAC 480-07-870.