

BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Petition of:
Douglas and Jessica Rupp; Kathie
Dunn and Chris Hall; Melinda
Inman; Verlin Jacobs; Anthony
Williams; Christine and Samuel
Inman; Robert Jacobs; and Sam
Haverkemp and Chris Portrey,
Petitioners

DOCKET NO. UT-050778

v.

Verizon Northwest, Inc.,
Respondent.

REBUTTAL TESTIMONY OF

DOUGLAS B RUPP

ON BEHALF OF
RUPP, et al

MARCH 17, 2006

TABLE OF CONTENTS

I. INTRODUCTION.....1

II. COSTS.....1

III. PERMITTING.....4

IV. ALTERNATIVES.....6

V. CONTRIBUTIONS BY PETITIONERS.....9

VI. EXCHANGE AREA BOUNDARIES.....10

VII. OBLIGATION TO SERVE.....12

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

I. INTRODUCTION

Q. PLEASE STATE YOUR NAME, POSITION, AND ADDRESS.

A. My name is Douglas B. Rupp. I am the lead petitioner and spokesman for the Skyko 2 Community in their Petition for telephone service before the Washington Utilities and Transportation Commission.

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. My purpose is to present general rebuttal of the responsive testimony offered by Verizon Northwest, Inc. I will discuss some issues of cost, permitting, alternative communication methods, Petitioners contributions, also briefly touch on exchange area boundaries, and finally present some facts about the number of residents and potential for growth along Index-Galena Road north of the Index Town bridge.

II. COSTS

Q. DR. DANNER COMPARES PETITIONER’S LINE EXTENSION WITH THE TAYLOR CASE (WUTC DOCKET NO. UT-011439), WHERE THE COMMISSION HELD THAT VERIZON DID NOT HAVE TO EXTEND SERVICE. HOW DO YOU RESPOND?

1 A. Ironically in the MCI-Verizon merger case¹, Verizon contrasted Petitioner’s line
2 extension with *Taylor* saying that our requested line extension is “in the public
3 interest”², also that “[s]ettlement of the *Rupp* case is not inconsistent with the
4 *Taylor* case”³ and that “*Taylor* is not a precedent for *Rupp*”⁴.

5
6 Regarding the factual elements of the case, Verizon argued in the merger case that
7 “In *Taylor*, the estimated cost to serve eight customers at two remote locations
8 was \$1.2 million (or \$150,000 per customer), whereas in *Rupp* the cost is only
9 \$325,000 (\$27,000 per customer)”⁵. The \$27,000 comes from dividing \$325,000
10 by the number of petitioners⁶, rather than the number of households. In order to be
11 consistent and agreeable with Verizon’s arithmetic, Petitioners will adopt
12 Verizon’s method of calculation, to wit: one petitioner has moved away and been
13 dropped but fourteen have asked to join⁷. Using Verizon’s latest construction
14 estimate of \$299,950 divided by the resulting total of 25 petitioners and
15 prospective petitioners results in a per customer cost of only \$11,998.

16
17 Verizon also argues in the merger case that “*Taylor* petitioners had alternative
18 telephone service (wireless) available to them, whereas the *Rupp* petitioners do
19 not have wireless, radio, or any other type of service and cannot obtain such
20 service ...”⁸ and “finally, the second set of petitioners in the *Taylor* case lived at

¹ In the Matter of the Joint Petition of Verizon Communications Inc., and MCI, Inc. for a Declaratory Order Disclaiming Jurisdiction Over or, in the Alternative, for Approval of, an Agreement and Plan of Merger - WUTC Docket No. UT-050814.

² See the Redacted Post Hearing Brief on behalf of Joint Petitioners in Docket No. UT-050814 (December 23, 2005) paragraph 18.

³ *Id* at 19.

⁴ *Id* at 20.

⁵ *Id* at 21.

⁶ There are currently 11 named petitioners in 7 households. Petitioner Robert Jacobs moved away and has been dropped from the Petition.

⁷ See Petitioners Motion to Add (March 17, 2006).

⁸ See the Redacted Post Hearing Brief on behalf of Joint Petitioners in Docket No. UT-050814 (December 23, 2005) paragraph 21.

1 the end of a 26-mile dirt road, which would have increased Verizon’s
2 maintenance costs tremendously, whereas the *Rupp* petitioners live along a paved,
3 well-maintained road”⁹.

4

5 I submit that Verizon cannot now use the same facts to argue that the proposed
6 line extension is not in the public interest.

7

8 Q. HOW DOES THE \$11,998 AMOUNT COMPARE WITH OTHER HIGH COST
9 LINE EXTENSIONS?

10

11 A. It is less than three cases where Verizon increased its access rates in order to
12 recoup the cost of service extensions to new customers:

13

1) UT-991931: \$256,449 for 12 customers or \$21,371 per customer.

14

2) Advice No. 3036: \$1,357,853 for 34 customers or \$39,937 per customer

15

3) Advice No. 3164: \$859,283 for 58 customers or \$14,815 per customer

16

See Exhibit DBR-12.

17

18 Q. DR. DANNER ARGUES THAT “THE PROPOSED EXTENSIONS IN THIS
19 CASE ARE QUITE EXPENSIVE AND WELL ABOVE THE NORM FOR
20 WHAT VERIZON IS SPENDING IN OTHER INSTANCES ...” HOW DO
21 YOU RESPOND?

22

23 A. That might well be true, but so what? The “norm” is the average and will include
24 amounts across a range. As shown above Petitioners extension on a per customer
25 basis will not be the most costly, neither will it (obviously) be the least costly, but

⁹ *Id.*

1 it does fall within the range that Verizon has previously indicated was reasonable
2 (by the fact it performed the line extensions). To follow Dr. Danner’s argument to
3 its logical conclusion: If Verizon rejected every line extension that was “above the
4 norm” then the norm would eventually and necessarily progress to zero dollars
5 meaning there would be no new line extensions.

6

7 Q. DR DANNER MAKES NOTE OF THE LIBBY CREEK COMMUNITY AS AN
8 AREA WITH AN IMPOSSIBLY HIGH COST FOR A LINE EXTENSION.
9 HOW DO YOU RESPOND?

10

11 A. One can imagine that Dr. Danner wishes that he had chosen a different example to
12 make his point since a few days after his testimony was filed, the Commission
13 approved a line extension to Libby Creek¹⁰ with a per customer cost of \$18,675,
14 an amount considerably more than the per customer cost for the proposed Skyko 2
15 line extension.

16

17

18

III. PERMITTING

19

20 Q. MR BINNEY’S UNDERSTANDING IS THAT AN ENVIRONMENTAL
21 “DECISION MEMO” FROM THE FOREST SERVICE WOULD BE
22 REQUIRED FOR THE PORTION OF INDEX-GALENA ROAD IN
23 QUESTION. WHAT HAS YOUR RESEARCH ON THIS SUBJECT
24 REVEALED?

25

¹⁰ WUTC Docket No. UT-060222.

1 A. The easement document¹¹ mentioned in Verizon's exhibits KB-8 & 9 is for a
2 portion of Index-Galena Road in Township 28, whereas the portion of the road of
3 concern in this petition is in Township 27. The USFS Surveyor acknowledges
4 this easement document doesn't apply and that no specific easement document
5 from the USFS exists for the portion of Index-Galena Rd in question¹².
6 Snohomish County records show that Weyerhaeuser Timber Company granted
7 easements to Snohomish County in 1929¹³, for the portion of Index-Galena Rd in
8 question, with no mention of a restriction for highway use only. A thorough
9 search, at my request, by the Snohomish County Office of Public Records found
10 only Weyerhaeuser deed¹⁴ recorded for Section 10 Township 27 Range 10E for
11 land east of the river, and it gave ownership to the USFS in 1936 of certain
12 portions of the sections in question but "subject to any easements in the public for
13 any public road heretofore established or located on said premises"

14
15 Q. IF IT DOES TURN OUT THAT SOME SORT OF ENVIRONMENTAL
16 INVESTIGATION IS REQUIRED, ARE YOU AWARE OF ANY LOCAL
17 PERMITTING CONSULTANTS WHO ARE QUALIFIED TO DO THE WORK
18 AND COULD START IMMEDIATELY?

19
20 A. Yes. Blue Heron Services has offered their services¹⁵, of course the ultimate
21 decision is Verizon's as to whom they want to do the work. Regarding the
22 uncertain time window for the completion of the study, Petitioners realize that
23 time is of the essence but are willing to work cooperatively with Verizon on any
24 *unavoidable* delays.

¹¹ See Exhibit DBR-13 USFS Easement to Snohomish County

¹² See Exhibit DBR-14 Email from USFS Surveyor

¹³ See Exhibits DBR-15 and 16 Weyerhaeuser Timber Company Easements to Snohomish County

¹⁴ See Exhibit DBR-17 Weyerhaeuser Timber Company Deed to the United States of America

¹⁵ See Exhibits DBR-18 and DBR-19 – Emails from Blue Heron Services

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

Q. ARE SATELLITE PHONES AND SATELLITE INTERNET A VIABLE INTERIM SOLUTION DURING A POTENTIALLY LONG AND UNCERTAIN PERMITTING AND CONSTRUCTION PHASE?

A. The cost basic telephone service and dial-up internet (\$35/mo typical) with what the equivalent cost would be using satellite phones and satellite internet (\$325/mo typical)¹⁶. Petitioners suggest that the Commission may want to ask Verizon to subsidize this cost as an interim solution if extended permitting and construction phases are anticipated.

IV. ALTERNATIVES

Q. DR. DANNER ARGUES THAT “PETITIONERS HAVE WIRELESS PHONES AND PRESUMABLY SPEND TIME REGULARLY WHERE THESE PHONES WORK”. HOW DO YOU RESPOND?

A. I submit that other Petitioners have wireless phones for the same reason I do: because 1) the only alternative is to stand out in the open and (usually) in the rain at the pay telephone booth in Index (or in my case at a mouse infested former radio-telephone bunker near the end of the grid) or else 2) to make the best use of time by making calls when going into town on errands, doctors appointments, or shopping since I don’t have a home telephone.

¹⁶ See Exhibit DBR-20 Cost Comparison Wireline vs. Satellite

1 Q. MR. BINNEY SUGGESTS THAT SINCE PETITIONERS ALL HAVE CELL
2 PHONES WHICH CAN BE USED “SOME DISTANCE DOWN THE INDEX-
3 GALENA ROAD” THAT PETITIONERS ARE NOT COMPLETELY
4 WITHOUT THE ABILITY TO COMMUNICATE WITH THE REST OF THE
5 WORLD.” HOW DO YOU RESPOND?

6

7 A. I dispute Mr. Binney’s assertion that there is cell coverage in the area he suggests.
8 A few petitioners said they can *sometimes* get coverage at the Index General Store
9 which, by the way, is not on Index-Galena Rd, but most have testified that they
10 have to drive to Highway 2 and sometimes as far as the town of Gold Bar to get
11 coverage¹⁷, about 13 miles. Is Mr. Binney suggesting that merely because
12 petitioner’s own automobiles that they are somehow not deserving of home
13 telephone service?

14

15 Q. DR. DANNER CLAIMS THAT ONE OR TWO SATELLITE PHONES COULD
16 PROVIDE USEFUL ALTERNATIVE FOR EMERGENCY
17 COMMUNICATIONS. DO YOU AGREE?

18

19 A. No. There are a host of logistical problems in sharing one or two satellite phones
20 in a diverse community. Dr Danner suggests that the phones be “kept in different
21 residences or in a lock box ...” Problems that immediately come to mind:

22

1) Whoever has the phone likely won’t be the one who needs it.

23

2) Keeping track the location of a portable phone among many residents

24

3) Phone access when the custodial resident is gone.

25

4) Power supply to a roadside lock box phone

¹⁷ See Exhibit DBR-21 Responses to Verizon Data Request No 20.

1 5) Vandalism of a roadside lock box phone

2

3 There are even now between 40 and 50 residents along the two mile stretch of
4 road in question¹⁸, some with driveways hundreds of feet long, compounding
5 immensely the above enumerated problems.

6

7 Q. DR. DANNER SUGGESTS THE A NEW VOIP OFFERING COULD BE
8 USED. IS IT REALLY SOMETHING NEW?

9

10 A. No. The VoIP offering from Ground Control (<http://www.groundcontrol.com>)
11 that Dr. Danner suggests is just a repackaged CrystalVoiceLive softphone¹⁹ which
12 Petitioner Rupp has had for years²⁰ and which doesn't work significantly better
13 than other VoIP offerings. Listen to Exhibit DBR-25 for the original recording of
14 a well known speech and then Exhibits DBR-26 and DBR-27 for audio after
15 being played over Vonage and CrystalVoiceLive, respectively. This will
16 demonstrate the typical outbound audio quality of call placed via VoIP over
17 satellite internet. The Vonage call is completely unintelligible. The CrystalVoice
18 call is marginally better in that the words are mostly heard but there are long
19 pauses between sentence fragments. This audio only demonstrates part of the
20 problem since it ignores the annoying effects of the high latency of a VoIP call
21 over satellite internet which can range from about 1 second up to about 10
22 seconds in extreme cases.

23

24

¹⁸ Privately owned land extends from about mile post 4 to mile post 6 on Index-Galena Rd before switching to USFS land at about mile post 6. See Exhibit DBR-22 Property Profiles

¹⁹ See Exhibit DBR-23 Email from CrystalVoice Support

²⁰ See Exhibit DBR-24 Petitioner Rupp's response to Verizon Data Request No. 10

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

V. CONTRIBUTIONS BY PETITIONERS

Q. DR. DANNER RECOMMENDS THAT, IF THE PETITION IS APPROVED, THAT PETITIONERS PAY 10 PERCENT OF THE TOTAL COST OR \$30,000 TO “DEMONSTRATE THAT THESE EXTENSIONS ARE INDEED A HIGH PRIORITY TO THEM” AND TO “PROTECT THE PUBLIC INTEREST.” HOW DO YOU RESPOND?

A. Petitioners will be required to pay an approximately \$650 line extension fee plus a hookup fee. That amount for families living on disability, social security or working at low wage jobs²¹ is a lot of money and will surely demonstrate that the extensions are a high priority. Furthermore most of these families have said that they would dig the trench from the road to their homes with a pick and shovel if necessary²². What more could Verizon possibly want for proof of their commitment? In the merger case, Verizon offered to bring the service to Petitioners homes at no extra expense.²³ I submit that the “public interest” would be served best for Verizon renew that offer if the petition is approved.

Q. DR. DANNER QUOTES A FUNDAMENTAL PRINCIPLE OF ECONOMICS THAT “PEOPLE FACE TRADEOFFS – TO GET ONE THING WE LIKE, WE USUALLY HAVE TO GIVE UP ANOTHER THING WE LIKE.” IS IT REALLY THAT SIMPLE?

²¹ See Exhibit DBR-28C Petitioner’s response to Verizon Data Request 24B
²² See Exhibit DBR-29 Petitioners response to Verizon Data Request 25
²³ See Exhibit DBR-30 Email from Verizon General Counsel Chuck Carrathers

1 A. No. Further on in that same section of the book²⁴ that Dr. Danner quotes, it also
2 says “When people are grouped into societies, they face different kinds of
3 tradeoffs.” Then: “Another tradeoff society faces is between efficiency and
4 equity. Efficiency means that society is getting the most it can form its scarce
5 resources. Equity means that the benefits of those resources are distributed fairly
6 among society’s members.” Finally: “Often, when government policies are being
7 designed, these two goals conflict.” So the tradeoffs Dr. Danner speaks about are
8 not as simple as he would have us believe.

9

10 Q. DR. DANNER SAYS THAT “PETITIONERS WERE NOT WILLING TO PAY
11 A DEPOSIT TOWARDS THE FULL COST OF CONSTRUCTION OF AN
12 EXTENSION”. IS THAT CORRECT?

13

14 A. If Dr. Danner is speaking of the \$11,040 construction estimate, his understanding
15 is not correct. Petitioners offered to pay this if it would lead to them having phone
16 service²⁵ however the amount was presented to them as the first installment of a
17 much larger amount that they could not afford. Petitioner’s position is that they
18 should not be required to pay for the construction estimate if the petition is
19 granted, but would be willing to do so out of their desperation to get service.

20

21

VI. EXCHANGE AREA BOUNDARIES

22

23 Q. DR. DANNER SAYS THAT THE “LACK OF ANY OTHER FIXED UTILITY
24 SERVICES TO THIS LOCATION (E.G. ELECTRICITY) SPEAKS TO THAT
25 COST AND DIFFICULTY IN THIS INSTANCE”. HOW DO YOU RESPOND?

²⁴ Mankiw, N. Gregory. Principles of Economics (The Dryden Press, 1998), chapter 1

²⁵ See Exhibit DBR-31 – Douglas Rupp’s Response to Verizon Data Request 24B.

1

2 A. Petitioners believe that it is an accident of history that they don't have utilities,
3 more than cost and difficulty. Take for example the North Fork²⁶ area's sister
4 community on the South Fork a.k.a. Mt Index Riversites²⁷. That community is
5 similar in socio-economic strata, remoteness, and population. It is also surrounded
6 by USFS land, but it has both power and telephone and it doesn't even have a
7 paved road!

8

9 Q. DR DANNER AND MR BINNEY SEEM TO ARGUE THAT EXCHANGE
10 AREA BOUNDARIES SHOULD BE EITHER STAGNANT OR THAT THE
11 TELECOMS SHOULD HAVE SOLE AUTHORITY TO PROPOSE AN
12 EXPANSION. HOW DO YOU RESPOND?

13

14 A. Exchange area boundaries are always expanding. Prior to 1996 it was the
15 telecom's choice whether to serve a new area. The law was changed in 1996 and
16 the Universal Service Fund created:

17

18 The High Cost Program of the Universal Service Fund, which is
19 administered by the Universal Service Administrative Company
20 (USAC), ensures that **consumers in all regions of the Nation**
21 **have access to** and pay rates for **telecommunications services** that
22 are reasonably comparable to those services provided and rates
23 paid in urban areas.²⁸ [emphasis added]

24 This says nothing about exchange area boundaries being a barrier to Universal
25 Service and in fact implies quite the opposite.

²⁶ The "North Fork area" consists of the area north of the Index Town Bridge, a portion of which has power and telephone

²⁷ Mt Index Riversites is located in Sections 20, 28-30 Township 27 Range 10E.

²⁸ Statement about High Cost support from the Universal Service Administrative Company's website (<http://www.universalservice.org>).

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

Washington state law also expressly gives authority to the WUTC to prescribe exchange area boundaries.²⁹

Verizon would presumably like to have the authority to shrink their exchange area boundaries and relieve themselves of their obligation to serve high cost and/or high maintenance areas that have been forced upon them by historical decisions over which they had no control. I submit that letting telecoms unilaterally set their own exchange area boundaries is the first step towards letting them shrink their areas.

VII. OBLIGATION TO SEVE SMALL COMMUNITIES

Q. DR. DANNER STATES THAT THE SKYKO 2 COMMUNITY IS VERY SMALL AND USES THIS AS PART OF HIS JUSTIFICATION TO NOT PROVIDE SERVICE UNDER FEDERAL STATUTE

A. First off the definition of “very small” is subjective as well as irrelevant. 47 USC 214(e)(3) doesn’t state a minimum size and in fact the FCC interpretation of the terminology used in the statute, e.g. “portion of a community” is that no minimum size was intended by Congress.³⁰

Secondly there are approximately 29 improved lots out of 50 total lots along the section of Index-Galena Rd that would be served by the requested line

²⁹ RCW 80.36.230 & 240.
³⁰ See In the Matter of Federal-State Board on Universal Service, 14 FCC Rcd. 2,1177 (September 3, 1999) paragraph 89.

1 extension.³¹ This is a number on par with other line extensions that Verizon has
2 done.

3

4 Lastly the demographics of the North Fork Area from the end of the existing grid
5 to about mile post 10 where Index-Galena road is barricaded shows in addition to
6 the 50 lots between mile posts 4 and 6 there are about 122 lots between mile posts
7 8 and 10. Of those 122 lots, 47 are improved according to Snohomish County
8 records. That area isn't a part of this Petition, but I submit that Verizon and the
9 Commission might want to consider a larger solution than just extending the line
10 to Skyko 2 with a 25-pair cable.³²

³¹ See Exhibit DBR-22 Property Profiles

³² Exhibit KB-7 Redacted Construction Estimate