



Davis Wright Tremaine LLP

ANCHORAGE BELLEVUE LOS ANGELES NEW YORK PORTLAND SAN FRANCISCO SEATTLE WASHINGTON, D.C. SHANGHAI

GREGORY J. KOPTA

DIRECT: (206) 628-7692
gregkopta@dwt.com

2600 CENTURY SQUARE

1501 FOURTH AVENUE
SEATTLE, WA 98101-1688

TEL (206) 622-3150

FAX (206) 628-7699
www.dwt.com

March 25, 2004

By E-Mail and Federal Express

Ms. Carole J. Washburn
Washington Utilities & Transportation Commission
P.O. Box 47250
1300 S. Evergreen Park Drive SW
Olympia, WA 98504-7250

Re: Docket No. UT-043013; Comments on Issues

Dear Ms. Washburn:

Pursuant to the Notice of Opportunity to Submit Issues List and Comments (“Notice”) in the above-referenced docket, Pac-West Telecomm, Inc. (“Pac-West”), and XO Washington, Inc. (“XO”) provide the following comments on the issues that the Commission should address in this proceeding.

The Petition for Arbitration filed by Verizon Northwest Inc. (“Verizon”) raises both procedural and substantive issues. As XO stated in its previous comments, the Commission should address the requirements in the FCC’s Triennial Review Order (“TRO”) that are not at issue in the judicial appeals or that are otherwise consistent with determinations that this Commission has made in prior proceedings. In addition, the Commission should ensure that Verizon does not take unilateral actions, particularly customer-affecting actions, pending resolution of the judicial appeals of the TRO. Accordingly, Pac-West and XO propose that the Commission address the following substantive issues in this proceeding:

1. Commingling and combinations of unbundled network elements (“UNEs”) and tariffed services;
2. Routine Network Modifications;
3. Enhanced Extended Link (“EEL”) service eligibility criteria; and
4. Whether the Commission should require Verizon to continue to provide all UNEs that Verizon currently is providing until (a) the judicial appeal process has concluded, or (b) the Commission determines whether, under Washington law, Verizon must provide any UNEs that are no longer required under federal law.

Ms. Carole J. Washburn
March 26, 2004
Page 2

The other issues raised in Verizon's Petition should be deferred to consideration in the Verizon SGAT proceeding, Docket No. UT-011219, subject to the results of any further judicial proceedings with respect to the TRO.

Many of the procedural issues are raised in Sprint's Motion to Dismiss, including whether an arbitration under Section 252 is the appropriate mechanism for addressing the substantive issues and, if so, whether all prerequisites have been satisfied. Pac-West and XO have not attempted to list the procedural issues at this time. Pac-West and XO, however, recommend that whatever procedure the Commission adopts to consider the issues in Verizon's Petition, the Commission address the issues that Pac-West and XO have listed above within time frames that are comparable to the deadlines established in the Section 252 arbitration provisions. These issues either require little more than interpretation of the TRO requirements or are time sensitive, and all of these issues should be capable of presentation to the Commission in sufficient time to permit resolution before the middle of July 2004.

Pac-West and XO appreciate the opportunity to provide their views on these issues. Please contact me if you have any questions about these comments.

Very truly yours,

Davis Wright Tremaine LLP

Gregory J. Kopta
Counsel for Pac-West Telecomm, Inc., and
XO Washington, Inc.

cc: Service List