BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Petition of: Douglas and Jessica Rupp; et al., Petitioners, vs. Verizon Northwest Inc., Respondent.	)	DOCKET NO. UT-050778 **PETIONER'S RESPONSE TO VERIZON'S OPPOSITION TO MOTION FOR LEAVE TO RESPOND**

INTRODUCTION

Petitioners submit this Response to Verizon's Opposition to Motion for Leave to Respond. We really will be very brief.

ARGUMENT

A. Line Sizing

Petitioners recognize no telecommunications company could rise to the level of profits and success that Verizon enjoys and be anything but competent. Petitioners probably just don't understand Verizon's business model. Petitioners did not intend any personal attack as alleged by Verizon. Petitioners only intention is to give the Commission and Verizon a fair and accurate estimate of the current population of the area and a good faith accounting of the residents who wish to subscribe to telephone service, and perhaps we were a little over zealous in trying to make that point.

B. Discovery not Necessary

Verizon claims discovery is necessary to find out if petitioners have communications alternatives, their unique circumstances with respect to location, and if they would indeed subscribe to service. We address each of these issues:

Communications Alternatives: Petitioners believe that it has been well established by previous testimony that the only theoretically possible communication alternative in the area in question is satellite phone, and that alternative is not generally affordable and therefore not a reasonable alternative method.

Location Circumstances: Petitioners submit that Verizon is fully aware that the only public road in the area is Index-Galena Rd, so the location of the respective residences with respect to the public road is irrelevant. If, however, Verizon will volunteer to provide service to customer premises (homes) then Petitioners will concede that additional discovery for cost estimating purposes is necessary.

Commitment to Acquire Service: The data request responses attached to Petitioner's previous motion speak for themselves. The emails (and most of the signed statements) can be cross referenced to the aforementioned responses. The remaining signed statements are *bone fide*.

C. Facts Admitted to in Settlement

Petitioners assert the Respondent admitted two distinct facts regarding the line extension during settlement negotiations.[1] The facts admitted to are:

1) A cost per customer of $27,000
2) The extension is in the public interest

[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 - Redacted Post Hearing Brief on behalf of Joint Petitioners. Docket No. UT-050814 (December 23, 2005) paragraphs 18-21.

It is long settled law that facts admitted to during unsuccessful settlement negotiations are regarded as statements of independent facts and are admissible against the party making them. Petitioners cite *Ingraham v. Associated Oil Co., 166 Wash. 305, 313, 6 P. (2d) 645 (1932); Romano Engineering Corp. v. State, 8 Wn (2d) 670, 715, 113 P. (2d) 549 (194); Berliner v. Greenburg 37 Wn.2d 308, 317 (1950).*

CONCLUSION

Petitioners submit that notwithstanding self serving assertions or denials of what's in the public interest, the one thing that would obviously **not** be in the public interest is to go forward with an unrealistic per customer cost estimate. This is a serious matter involving the health and well-being of a significant number of people and requires a fair consideration. The Commission should allow Petitioners to argue facts not artifacts and do whatever is necessary to ensure that all facts get on the record.

DATED this 28th day of March, 2006.

By_____/Original Signed By/_____
Douglas B Rupp
Lead Petitioner
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