

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

<p>AT&T Communications of the Pacific Northwest, Inc.</p> <p>v.</p> <p>Verizon Northwest, Inc.</p>	<p>DOCKET NO. UT-020406</p>
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BRIEF OF PUBLIC COUNSEL

I. INTRODUCTION

The Public Counsel Section of the Washington State Attorney General's Office (Public Counsel) takes no position regarding the specific levels of access charges to be set as a result of the complaint filed by AT&T Communications of the Northwest, Inc. (AT&T) against Verizon Northwest, Inc. (Verizon). Public Counsel limits its briefing to two issues: (1) the necessary and reasonable support provided by access charges to the local loop, and (2) the inappropriateness of any rate rebalancing in this docket.

II. DISCUSSION

A. **What Should Verizon's Access Charges Be, and Why? IXC's Must Continue to Contribute a Reasonable Share of the Costs of the Local Loop through Access Charges.**

This Commission has announced and consistently reaffirmed the general principle that all services must contribute to the cost of the local loop. The Commission has found, "The cost of the local loop, therefore, is not incremental to any one service. It is a shared cost that should be recovered in the rates, but no one service is responsible for that recovery." *Washington Utilities and Transportation Commission v. U S West Communications Inc.*, Docket No. UT-950200, Fifteenth Supplemental Order (April 11, 1996) at pp. 83-84.¹ The Commission's decision was affirmed on appeal by the Washington Supreme Court and the loop cost portion of the decision was not challenged. *U S West Communications, Inc., v. Washington Utilities and Transportation Commission*, 134 Wn.2d 74, 83, 99, 949 P.2d 1337 (1997).

The Commission has consistently held that the cost of the local loop is a shared cost which should be recovered in the rates of all the services that use the loop. *Re Costing and Pricing **** of Unbundled Network Elements, Transport, and Termination* Docket No. UT-

¹ See also Docket No. UT-941464 (Fourth Supp. Order, p. 2) and Docket No. UT-970325 (Final Order, p. 15).

003013, Thirteenth Supplemental Order, (text at notes 49, 50), (2001). (Unbundled Network Elements). In that proceeding, the Commission specifically held that the loop is a joint and common cost of providing both voice and data services, and its costs, therefore, must be allocated under §254(k) of the '96 Act. (text at section I, HUNE Pricing). See also, *In the Matter of Determining Costs for Universal Service*, Docket No. UT-980311(a), 1998, where the Commission confirmed that section 254(k) codified its 1995 position on the requirement that joint and common loop costs must be allocated for cost recovery purposes to all services that use the loop. This cost sharing approach is appropriate because the local loop is undeniably shared by several services, including interstate and intrastate toll, inter and intrastate access, basic exchange service, and “vertical services” such as call forwarding and call waiting.

When the current access charge environment was established in the Commission’s 1986 decision in Docket No. U-85-23 (17th Supp. Order, p. 20), the Commission recognized that toll carriers have a cost responsibility for the local exchange plant:

We reject the arguments presented by some of the proponents of the industry plan to the effect that toll carriers should make no contribution whatsoever to the cost of maintaining local exchange plant. . . . It is to the mutual advantage of the toll carriers, the local exchange companies and the public that the local loop be maintained, and where necessary, upgraded and expanded. To this end, toll carriers and the customers they serve should continue to be expected to make a contribution in a reasonable amount not likely to encourage substantial amounts of bypass.

The Commission has consistently applied this general principal to specific dockets dealing with access charges and toll rates. *See also* UT-970325. Public Counsel respectfully requests that the Commission continue its application of this doctrine in its determination regarding Verizon’s access charges in this docket.

B. Verizon Earnings Issues - Verizon's Earnings Should Not be Addressed in This Proceeding.

Public Counsel understands rate rebalancing was before the Commission. We raise it here only to urge the Commission to reject any effort by Verizon to establish a follow-up remedy for any reductions in access charges the Commission may order. *Fifth Supplemental Order Setting Scope of Proceeding; Ruling on Motions*, ¶ 1, February 21, 2003. The proper remedy for Verizon, assuming that its assertions are accurate, is to file a general rate case in accordance with chapter 80.36 RCW and chapter 480-80 WAC. Public Counsel strongly encourages the Commission to resolve AT&T's complaints upon its merits in this proceeding and leave it to Verizon to make the separate determination of whether the company needs to file a general rate case in Washington state.

III. CONCLUSION

Public Counsel respectfully requests that the Commission require Verizon's access charges to include local loop support in any changes which may be ordered as a result of this proceeding. Further, Public Counsel requests that the Commission resist any effort to expand remedies in this proceeding beyond those matters presented by AT&T's complaint.

DATED this 9th day of June, 2003.

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