

**BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION**

AT&T COMMUNICATIONS OF THE VERIZON NORTHWEST, INC.,)	
)	DOCKET NO. UT-020406
)	
Complainant,)	WorldCom's Reply Brief
)	
v.)	
)	
NORTHWEST, INC.,)	
)	
Respondent.)	

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I. INTRODUCTION

WorldCom, Inc. and its regulated subsidiaries in Washington (collectively "WorldCom") respond to Verizon's Opening Brief as follows:

II. DISCUSSION

A. What Should Verizon's Access Charges Be and Why?

1. WorldCom agrees with AT&T's Post Hearing Brief on this issue. Verizon's access charges should be based on forward-looking economic cost. Verizon argues that the Commission should not change its access rates since they are the result of "almost twenty years of Commission policy."¹ The Commission should reject this argument.

2. Verizon's position ignores the fact that significant changes have occurred in the telecommunications industry since the Commission issued its decision in Docket

¹ Verizon's Opening Brief at page 5.

No. U-85-23. For example, the federal Telecommunications Act of 1996 was passed, which eliminates the boundaries of the local and long distance markets. Now, one carrier is able to provide both local and long distance services to an end user. Long distance carriers are not only wholesale customers of the incumbent local exchange carriers but they are also competitors. Thus, the dynamics of the supplier-customer relationship that existed twenty years ago have changed dramatically. In today's competitive marketplace, Verizon has the incentive to disadvantage its wholesale customer vis-a-vis access charges because it is competing directly with its wholesale customer for market share in both the long distance and the local markets.

3. In addition, Section 254 of the Act requires modifications to the access charge system that existed prior to the Act, requiring implicit subsidies to local exchange service be removed and made explicit.

4. Verizon also argues that its access charges comply with the Commission's Order in Docket No. UT-970235, implementing WAC 480-120-540 and therefore, they cannot be changed as a result of this complaint docket. The Commission should likewise reject this Verizon argument.

5. First, the language of WAC 480-120-540 does not preclude the Commission from evaluating the reasonableness of a carrier's originating access charge rates. As Staff argued in its brief, the rule sets forth a methodology, it does not condone excessive charges. Second, Docket No. UT-970235 was a rulemaking. Verizon's rates were not scrutinized in that docket. It was not an evaluation of any particular carrier's access rates. WorldCom concurs with Staff and AT&T on this issue, the Commission can and should evaluate Verizon's rates under all of the statutes and regulations

governing those rates. The Commission's review is not limited to whether Verizon's rates comply with WAC 480-120-540.

6. Verizon also contends that RCW 80.04.210 and WAC 480-09-220 somehow preclude an evaluation of Verizon's rates pursuant to the Commission's complaint process. Neither the statute nor the rule is exclusive. Moreover, neither otherwise prevents AT&T from seeking relief through the Commission's complaint process.

7. RCW 80.04.210 provides:

The commission may at any time, upon notice to the public service company affected, and after opportunity to be heard as provided in the case of complaints rescind, alter or amend any order or rule made, issued or promulgated by it, and any order or rule rescinding, altering or amending any prior order or rule shall, when served upon the public service company affected, have the same effect as herein provided for original orders or rules.

8. This statute merely expressly authorizes the Commission to change prior orders and rules. It does not provide an exclusive mechanism for a customer to raise concerns with the Commission about subject matters that had been discussed in a prior proceeding or rulemaking.

9. Similarly, AT&T is not precluded from seeking relief under WAC 480-09-120. This rule provides a mechanism for persons to petition the Commission for the "promulgation, amendment or repeal of any rule." AT&T's Complaint is not seeking the promulgation, amendment or repeal of any rule. Instead, it asks the Commission to reduce Verizon's switched access service rates to the sum of the cost-based prices that the Commission has established for UNEs that comprise that service and tie any future

change in switched access rates to those UNE prices.² Contrary to Verizon's argument, the Commission need not modify WAC 480-120-540 in order to provide the relief AT&T seeks.

10. In addition, nothing has occurred in more recent Commission history regarding Verizon's access rates that prevents this Commission from seriously considering the claims set forth in AT&T's Complaint. The Bell Atlantic – GTE Merger Order was issued as a result of a settlement of many disputed issues. Verizon's access rates were not fully evaluated as to their compliance with Washington law.

11. In sum, rates that may have been "just, reasonable and non-discriminatory" in 1985 may be unreasonable, unjust and/or discriminatory" today because of changes in the market, regulation or both.

12. AT&T properly brought this Complaint under RCW 80.04.110(1), which provides, in pertinent part:

PROVIDED, FURTHER, that when two or more public service corporations, . . . are engaged in competition in any locality or localities in the state, either may make complaint against the other or others that the rates, charges, rules, regulations or practices of such other or others with or in respect to which the complainant is in competition, are unreasonable, unremunerative, discriminatory, illegal, unfair or intending or tending to create or encourage the creation of monopoly, and upon such complaint or upon complaint of the commission upon its own motion, the commission shall have the power, after notice and hearings as in other cases, to, by its order, subject to appeal as in other cases, correct the abuse complained of by establishing such uniform rates, charges, rules, regulations or practices in lieu of those complained of, to be observed by all of such competing public service corporations in the locality or localities specified as shall be found reasonable, remunerative, nondiscriminatory, legal and fair or tending to prevent oppression or monopoly or to encourage competition, and upon any such hearing it shall be proper for the commission to take into consideration the rate, charges, rules, regulations and practices of the public service corporation or corporations complained of in any other locality or localities in the state.

² AT&T Complaint at page 15.

13. AT&T and Staff have presented evidence in this docket, summarized in their briefs, demonstrating that under the market and regulatory conditions existing today, Verizon's access charges are unreasonable, unjust and discriminatory, contrary to RCW 80.36.080, 80.36.180, 80.36.186 and 80.36.330. In addition, they violate 47 U.S.C. Section 254. The Commission should summarily reject Verizon's argument that its access rates cannot be evaluated and changed in this complaint proceeding.

F. If the Commission Decides That Such a Reduction is Appropriate, How Should An Access Charge Reduction Be Implemented?

14. Verizon argues that the Commission must implement a revenue-neutral approach to intrastate access charge reductions and therefore, one of three processes for reducing access rates are appropriate. As discussed previously, WorldCom disagrees that the Commission must implement a revenue-neutral approach to access reductions. WorldCom also disagrees with Verizon's proposed implementation of access reductions.

15. First, Verizon proposes that the Commission order the parties to reach a settlement. Leaving aside the issue of whether the Commission has the authority to order the parties to settle their disputes, such a process would be futile. The parties have previously attempted to settle this matter and were unsuccessful.

16. Second, Verizon suggests that the Commission reopen Docket U-85-23, take comments and establish a process for rate rebalancing in that proceeding. As discussed above as well as in AT&T's reply brief, it is unnecessary for the Commission to reopen Docket No. U-85-23 to resolve AT&T's Complaint here. In addition, doing so would only unduly delay a resolution to the problems alleged in the Complaint.

17. Finally, Verizon suggests that the Commission postpone implementation of any rate decrease and initiate a second phase to this proceeding specifically to address which rates should be increased. This, like the other two suggestions of Verizon, would only work unfairly to delay relief to AT&T and the other carriers in Washington that are subject to Verizon's unlawful intrastate access charges.

18. If the Commission finds, as it should, that AT&T and/or Staff have proved that Verizon's access charges violate state or federal law, it should not delay providing the relief requested. To delay would serve only to reward Verizon's foot-dragging and deny just and reasonable rates to Verizon's wholesale customers.

19. WorldCom joins in AT&T and Staff's proposals that the Commission reduce Verizon's intrastate access rates to acceptable levels immediately. If Verizon believes that it can justify increases to other rates as a result of access reductions, Verizon can avail itself of several options. The burden should be on Verizon, and not the Commission or the other parties, to manage Verizon's options and make whatever business decision it needs to under the circumstances presented.

III. CONCLUSION

20. In addition to the arguments raised in WorldCom's Initial Post Hearing Brief, for all of the reasons set forth in AT&T's Opening Brief and testimony, WorldCom joins in the request that the Commission reduce Verizon's intrastate access charges to forward-looking economic cost. In the alternative, based on the testimony that no cost basis exists to justify a difference in rates, WorldCom asks the Commission to take an interim step and reduce Verizon's intrastate access rates to their interstate level. Finally,

if the Commission rejects the first two options, WorldCom asks the Commission to reduce Verizon's rates as proposed by Commission Staff.

Dated this 17th day of June 2003.

Respectfully Submitted,

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