

**BEFORE THE WASHINGTON STATE  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of	)	DOCKET UT-053038
	)	
INTEGRA TELECOM OF	)	ORDER 04
WASHINGTON, INC.,	)	
	)	
Complainant,	)	ORDER SUSPENDING
	)	CONSIDERATION OF
v.	)	SETTLEMENT AGREEMENT;
	)	GRANTING CONTINUANCE;
VERIZON NORTHWEST, INC.,	)	SETTING PREHEARING
	)	CONFERENCE
Respondent.	)	(Set for May 23, 2006, 9:30 a.m.)
.....	)	

1 ***Synopsis:** The Commission suspends review of the parties’ proposed agreement to dismiss the proceeding pending settlement discussions, as being an inappropriate subject for “settlement.” The parties retain appropriate alternatives, including dismissal with prejudice, continuing with the litigation, or seeking continuance pending efforts to resolve the differences.*

2 **Proceeding:** Docket No. UT-053038 is a complaint filed by Integra Telecom of Washington, Inc., (Integra) against Verizon Northwest, Inc. (Verizon) under RCW 80.04.110, alleging that Verizon has violated state statutes and has breached its Interconnection Agreement with Integra.

3 **Appearances.** Jay Nusbaum, attorney, Portland, Oregon, represents Integra. David C. Lundsgaard, attorney, Graham & Dunn PC, Seattle, represents Verizon.

4 **Background.** Integra is a competitive local exchange carrier (CLEC) providing telecommunications service in Washington, including Verizon exchanges. Integra provides service to its customers under an Interconnection Agreement between GTE Northwest Incorporated and Covad Communications, adopted by Integra and approved by the Commission on April 26, 2000.<sup>1</sup>

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<sup>1</sup> Integra Complaint, ¶ 1. Under Section 252(i) of the federal Telecommunications Act of 1996 (Telecom Act), a CLEC may adopt in its entirety an interconnection agreement between two other carriers.

5 In its complaint, filed on September 2, 2005, Integra alleged Verizon violated federal and state laws when Verizon provided Integra customers with “channel banks”<sup>2</sup> that would not allow calls to Integra customers to disconnect or “hang up”, while at the same time Verizon provided properly functioning disconnect equipment to its own customers. The complainant invokes state law as one of the bases for Commission jurisdiction over the parties’ dispute.

6 The Commission convened a prehearing conference on August 10, 2005, and established a schedule of proceedings. An evidentiary hearing was scheduled for December 20, 2005 and continued, by agreement of the parties, to February 17, 2006.

7 The parties filed a Narrative Supporting Settlement Agreement and attached Settlement Agreement on January 30, 2006. The evidentiary hearing schedule was suspended pending Commission action on the Settlement Agreement.

8 **Settlement Agreement.** The Settlement Agreement provided that 1) Integra would withdraw the complaint “with prejudice” within three business days of entry of a Commission order approving the Settlement Agreement; 2) Integra and Verizon would work cooperatively to resolve the disconnect problems of three specified customers, but that if the problems were not resolved within 90 days, Integra could complain against Verizon,<sup>3</sup> and 3) The parties will work together to prevent future disconnect service problems by means of testing, personnel training and maintaining an open line of communication, and will work cooperatively to improve service.

### **Discussion and Decision.**

9 We commend the parties for their agreement to work cooperatively to resolve the technical and economic issues underlying the complaint, however, the process proposed in the Settlement Agreement is inappropriate.

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<sup>2</sup> Integra Complaint, ¶ 10; channel banks, or multiplexers, are devices that put many slow speed voice or data “conversations” onto one high-speed link and control the flow of those “conversations.” Newton’s Telecom Dictionary, 15<sup>th</sup> Expanded Edition.

<sup>3</sup> The newly-filed complaint would presumably challenge the same activities that form the basis of this complaint.

- 10 While the Settlement purports to address the merits of the complaint, it does not resolve the issues. The net effect is to continue the matter for 90-days, after which the complainant may refile the complaint if the parties have not resolved certain issues.
- 11 Washington law provides that the Commission has jurisdiction over disputes involving regulated telecommunications companies.<sup>4</sup> It encourages settlements—but requires that the agency must consider and approve any settlement.<sup>5</sup> Once a party has invoked the Commission’s jurisdiction by filing a complaint, the Commission’s rules provide that the Commission must approve the settlement terms.<sup>6</sup>
- 12 Here, the proposed “settlement” does not purport to resolve all contested issues, but merely affords time for further attempts at resolution. Despite describing the dismissal of the complaint as “with prejudice”, the Agreement allows a substantially similar complaint to be filed if the “settlement” is unsuccessful. Because the Settlement Agreement allows refileing the complaint, it is in effect a continuance.
- 13 We support the parties’ efforts to resolve their differences and their cooperative efforts to resolve the technical problems. It appears that the parties can achieve their ends through a continuance to allow the efforts at resolution that are provided for in their proposal, with a report back to determine status and perhaps to consider an amendment of the Settlement Agreement to reflect a final agreement.
- 14 To facilitate the parties’ needs, we suspend review of the Settlement Agreement, and grant a continuance to allow the research, discussions, and accommodations anticipated in the proposal. We schedule a prehearing conference at the end of that period to determine whether the parties may amend their proposed agreement to reflect a final settlement. The parties may seek an earlier conference if desired or submit a revised settlement agreement whenever they have reached a final resolution for commission review.

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<sup>4</sup> See RCW 80.04.110.

<sup>5</sup> RCW 34.05.060.

<sup>6</sup> Commission rules on settlement are set out at WAC 480-07-730 and -740. See, WAC 480-740, “The commission must determine whether a proposed settlement meets all pertinent legal and policy standards.”

**ORDER AND NOTICE OF PREHEARING CONFERENCE**

15 THE COMMISSION rejects the proposed Settlement Agreement between Integra and Verizon in this docket and grants a continuance to permit further technical discussions and negotiations.

16 **NOTICE IS GIVEN That the Commission will convene a prehearing conference to determine a continued schedule of proceedings on May 23, 2006 at 9:30 a.m. at the UTC offices, Room 108, 1300 S. Evergreen Park Drive S.W., Olympia, Washington.** Please contact Kippi Walker at 360-664-1139 or Margret Kaech at 360-664-1140 if you wish to participate in the prehearing conference by calling the Commission's conference bridge.

DATED at Olympia, Washington, and effective March 14, 2006.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

MARK. H. SIDRAN, Chairman

PATRICK J. OSHIE, Commissioner

PHILIP B. JONES, Commissioner