

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

AT&T COMMUNICATIONS OF THE
PACIFIC NORTHWEST, INC.,

Complainant,

v.

VERIZON NORTHWEST, INC.,

Respondents.

DOCKET NO. UT-020406

COMMISSION STAFF'S
PETITION FOR
RECONSIDERATION AND
CLARIFICATION OF THE
ELEVENTH SUPPLEMENTAL
ORDER

1 The Commission Staff (Staff) respectfully requests reconsideration and clarification of the Eleventh Supplemental Order, Order Sustaining Complaint, Directing Filing of Revised Access Charge Rates, (Order), issued by the Washington Utilities and Transportation Commission (Commission) on August 12, 2003.

I. PETITION FOR RECONSIDERATION

2 Staff respectfully requests the Commission reconsider its decision to calculate Verizon's interim terminating access charge (ITAC) "on the basis of jurisdictional responsibility," and its adoption of "the FCC determination that the federal share of the universal service support should be 25% and the state share 75%." Order, ¶ 135 (citing *In the Matter of the Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 8925, ¶ 269 (1997)). For the reasons set forth below, Staff asks the Commission to reconsider the "75/25 allocation" method because it

is not consistent with the FCC's more recent decision regarding high-cost support and it may have consequences the Commission did not intend when making this determination. Staff further requests that the Commission set Verizon's ITAC at \$0.0188679, as recommended by Staff in this docket, rather than at \$0.0242846. *See* Order, ¶ 185.

A. The FCC Rejected the 75/25 Jurisdictional Allocation in its CALLS Order

3 In its Order, the Commission states that the 75/25 allocation is consistent with federal provisions, and cites to the FCC's 1997 Universal Service Order. *Id.* However, the FCC rejected the 75/25 allocation in the CALLS Order, which was issued in 2000.¹ In the CALLS Order, the FCC instead identified the interstate universal service support for each company on an individual, study-area basis. *See* CALLS Order, ¶¶ 207-10.

4 The CALLS Order formulae for distributing support rely on interstate revenue restructuring, rather than on jurisdictionally separated costs (or even unseparated costs). *Id.* at 207. Under the CALLS Order, a company that provides significant interstate services could receive a significant portion of its total support from federal sources, while a company that provides relatively less interstate services might receive

¹ *In the Matter of Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Low-Volume Long Distance Users, Federal-State Joint Board on Universal Service, Sixth Report and Order in CC Docket Nos. 96-292 and 94-1, Report and Order in CC Docket No. 99-249, Eleventh Report and Order in CC Docket NO. 96-45, 15 FCC Rcd 12,962 (2000).*

no federal interstate access support (IAS) (e.g. Qwest receives zero IAS support for its Washington study area). Therefore, the 75/25 allocation method does not comport with the formulae for IAS distribution set forth in the CALLS Order.

5 As a result of the CALLS order, the percentage of Verizon's universal service support that the company recovers as IAS may differ from that recovered by other companies. In fact, Verizon may receive a different percentage of IAS support for its GTE study areas than it receives for its Contel study areas. Therefore, the Commission's determination that 25% of total universal service support received by Verizon is federal support is not consistent with the FCC's current universal service orders.

B. The 75/25 Allocation Produces Results That Are Mathematically Incorrect

6 Staff requests the Commission reconsider its decision because the 75/25 allocation is mathematically incorrect. As Staff noted in its opening brief, the Commission has determined the total amount of support required by carriers on an *unseparated basis*. Br. at 10. That is, the amount of high-cost support a company needs is reflected as a *total* of the federal support *plus* state support. *See also* Ex. 100C, at 2-4; Ex. 104C.

7 Prior to the release of the CALLS Order, the Commission was not able to determine the exact amount of federal support a company would receive. Tr. at 801-02.

However, the Commission was able to determine the *total* amount of support a company required. *Id.* In order to account for the fact that the amount of federal support was unverifiable, the ITAC was set at an artificially high level to ensure the company received all of its required support. *Id.* at 803.

8 Upon the release of the CALLS Order, which makes federal support explicit, the Commission is now able to determine precisely the amount of federal IAS a company receives.² With this knowledge, the Commission can determine the exact amount of state universal service support the company requires. For example, if a carrier were to require a total of \$33 million in high-cost support, and the carrier received \$21 million of federal IAS, the state's share would be \$12 million, which the company could recover in whole or in part through its ITAC, or other intrastate sources. A comparison showing how the Commission's allocation method and Staff's recommendation would treat a company that required a total of \$33 million in support and received \$21 million in federal IAS looks like this:

<u>Commission 75/25 Allocation</u>		<u>Staff's Recommendation</u>	
Federal (25%):	\$21.0 million	Federal:	\$21.0 million
State (75%):	\$63.0 million	State:	\$12.0 million
Total (100%):	\$84.0 million	Total:	\$33.0 million

² For example, on August 12, 2003, Verizon submitted to the Commission a certification in Docket UT-031103 stating that in 2002 Verizon received \$21,900,306 of federal universal service high cost interstate access support for its Washington study areas.

Therefore, under the Commission's 75/25 allocation, the company would receive more than double what it needs in universal service support. Staff respectfully argues that the Commission should not permit this result.

9 The 75/25 allocation method would produce a similarly skewed result if the allocation equation began with the assumption that the company would recover 75% of its \$33 million total requirement from intrastate sources. In the above example, 75% of \$33 million is \$24.75 million. Adding in the \$21 million of federal IAS the company received would result in the company's receipt of \$45.25 million in total high-cost support. This is 39% more support than the company requires.

C. The 75/25 Allocation Method Would Lead to Under-Recovery for Companies That Do Not Receive IAS

10 The assumption that a company will receive 25% of its high-cost support from the federal IAS would result in under-recovery for companies that do not receive IAS (such as Qwest). For example, if a company required \$20 million in universal service support, but received no IAS, then the 75/25 allocation would result in a deficit of \$5 million for that company [$\$20 \text{ million} \times 25\% = \5 million].

11 Of course, Staff does not believe the Commission would permit such a result, nor would Staff advocate for it. Nevertheless, it illustrates one of Staff's concerns with the 75/25 allocation method. Applying the 75/25 allocation will result in disparate treatment among companies.

12 Although the Commission prefaced its use of this allocation with the language
“For purposes of this proceeding,” the inclusion of this language does not alleviate
Staff’s concerns. In Staff’s view, the Commission’s rationale for applying the allocation
in this proceeding—consistency with federal provisions and the report to the
Legislature—would apply equally to other cases. *See* Order, ¶ 135. Therefore, this
decision may have implications beyond the result of this case.

D. Effect on Terminating Access Charge Policy

13 The Commission’s policy regarding terminating access charges is set forth in
WAC 480-120-540. In crafting the rule, the Commission sought to create an access
charge system that would be favorable to competition and permit companies to recover
their universal service costs. *See* Ex. 131, at 1, 5-7. In its order adopting the rule, the
Commission explained that: “The only mandated access charge rate design is on
terminating access because it is the least susceptible to competition and consumer
choice.” *Id.* at 21. The Commission’s 75/25 allocation in this docket has the potential to
upset the policy behind this rule.

14 WAC 480-120-540 requires companies to set terminating access charges in parity
with local interconnection or at total service long-run incremental cost (TSLRIC) (which
the companies can offset by increases to originating access charges). The rule also
allows companies to recover universal service support costs (as determined by the

Commission's Eleventh Supplemental Order in Docket UT-980311(a)), through an explicit rate element applied to terminating access service. *See* Ex. 131, at 7, 24.

15 Through the ITAC, the Commission permits companies to recover their universal service costs. The ITAC is an exception to the general rule that terminating access rates be based on the cost of local interconnection service or TSLRIC. WAC 480-120-540(3). The ITAC is accorded this special treatment because it is an explicit rate element designed to recover the company's universal service costs.

16 In addition, unlike the terminating access rate element, the ITAC is not based on the cost of local interconnection or the TSLRIC of providing the service. Instead, it is based on the cost of universal service. If a company recovers more revenue from the ITAC than it requires for universal service, then the company effectively shields that portion of its terminating access service from the requirements of WAC 480-120-540(1) and (2). This would produce the kind of anticompetitive result that WAC 480-120-540 was intended to alleviate. *See* Ex. T-130, at 10; Ex. 131, at 8-9.

17 Finally, allowing Verizon to recover more than its universal service costs through the ITAC results in rates that are unfair, unjust, and unreasonable. If Verizon requires additional revenue, it should not be allowed to recover that revenue from the ITAC.

II. PETITION FOR CLARIFICATION

18 Pursuant to WAC 480-09-815, Staff requests the Commission amend the Order to correct a scrivener's error that incorrectly cites "WAC 480-120-204(6)" when the citation should be to "WAC 480-80-204(6)." This error is found in paragraphs 63, 82, 84, 183, and 191, and at note 26.

19 Staff also requests correction of another scrivener's error contained in Table 1, Row 5, Column C. In the table, the Order states that Verizon Northwest Inc.'s (Verizon) current rate for End Office Switching – Premium is \$0.0158197. The current rate should be listed as \$0.0158172. This correction makes the rates set forth in Table 1 consistent with the Commission's decision to set Verizon's originating access charge at the current level, with the exceptions as noted in paragraph 110 of the Order. *See also* Table 2.

III. CONCLUSION

20 The Staff respectfully requests the Commission clarify the Order to correct the scrivener's errors identified above. The Staff also respectfully requests the Commission reconsider its decision to allocate Verizon's universal service support on the basis of the outdated 75% allocation. As set forth above, the 75/25 allocation method is not consistent with the more recent CALLS Order and it results in universal service support determinations that are mathematically incorrect. In addition, the 75/25 allocation method may have the unintended consequences of disrupting the policies behind the

ITAC. Staff requests that the Commission reconsider its decision to set Verizon's ITAC at \$0.0242846 and set Verizon's ITAC at \$0.0188679 as recommended by Staff. This would result in an ITAC rate element that is fair, just, reasonable, and sufficient.

Dated: August 22, 2003.

Respectfully submitted,

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