

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

SUPERIOR COURT OF WASHINGTON FOR SNOHOMISH COUNTY

VERIZON NORTHWEST INC.,  
Petitioner,  
v.  
WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION,  
Respondent.

CASE NO. 03-2-10227-8  
DECLARATION OF  
GLENN BLACKMON, PH.D. IN  
SUPPORT OF THE WUTC'S  
BRIEF IN OPPOSITION TO  
VERIZON'S MOTION FOR  
SUPERSEDEAS

I, Glenn Blackmon, Ph.D., declare under penalty of perjury under the laws of the State of Washington that the foregoing statements are true and correct:

1. I am employed by the Washington Utilities and Transportation Commission (WUTC or Commission) as the assistant director for telecommunications. In this capacity I head the section within the WUTC that is responsible for the oversight of the telecommunications companies doing business in Washington. I have held this position since 1996. I hold a bachelor's degree in economics from Louisiana State University and master's and doctoral degrees in public policy from Harvard University.

1           2.       In addition to my general familiarity with the telecommunications industry in  
2 the state of Washington, I am an expert regarding the effect of access charges on consumers  
3 and competitors in the long-distance market. I have worked as an analyst, adviser, and expert  
4 witness on these issues in the WUTC's past decisions to lower access charges of both Verizon  
5 and Qwest and to implement rules reforming the structure of access charges in this state. I was  
6 an expert witness in the WUTC proceeding, Docket UT-020406, which underlies Verizon's  
7 motion.  
8

9           3.       Access charges are fees paid by long-distance companies for their use of the  
10 local telephone network to complete long-distance calls. A customer's long-distance company  
11 (e.g., AT&T or MCI) generally does not have a direct connection to the customer but instead  
12 uses the facilities of the local exchange telephone company (e.g., Verizon or Qwest) to make  
13 the connection. The long-distance company compensates the local company for this service by  
14 paying access charges. The WUTC regulates the rates for access service because there is no  
15 effective competition. In other words, there is no practical way for long-distance companies to  
16 reach retail customers without using the local telephone network. The access charges that are  
17 regulated by the WUTC are those that apply to calls originating and terminating in the state of  
18 Washington, i.e., intrastate calls.  
19

20           4.       Intrastate long-distance service is subject to effective competition in the state of  
21 Washington. Pursuant to RCW 80.36.320 and RCW 80.36.330, the WUTC has classified  
22 long-distance service as competitive. This classification has been applied not just to long-  
23 distance companies such as AT&T and MCI but also to the long-distance services of local  
24 telephone companies such as Verizon Northwest and Qwest Corporation. The effect of this  
25  
26

1 competitive classification is that the WUTC does not set or approve the rates charged by any  
2 company for long-distance services. Instead the WUTC relies on competition and customer  
3 choice to keep long-distance rates reasonable.

4  
5 5. The WUTC's order lowering Verizon's access charges will benefit the intrastate  
6 long-distance market generally, including both the consumers and business that purchase long-  
7 distance services and the competitors that provide these services. The benefits are not limited  
8 to those consumers and businesses that are local customers of Verizon Northwest, nor are they  
9 limited to those consumers and businesses that are long-distance customers of AT&T and MCI.  
10 Reducing access charges will benefit consumers and competition across the state of  
11 Washington. Conversely, the harm from Verizon's excessive access charges is currently borne  
12 by everyone who uses or provides intrastate long-distance services, including retail customers  
13 of local companies other than Verizon and long-distance companies other than the parties to  
14 WUTC proceeding.

15  
16 6. The reason lower access charges benefit the entire state (and high access  
17 charges harm the entire state) is because of the structure of the long-distance market. Access  
18 charges are the single largest cost that a long-distance company incurs in the provision of long-  
19 distance service. The level of access charges directly affects the level of long-distance charges.  
20 Moreover, as a matter of both commercial practice and federal law, long-distance companies  
21 offer their services at prices that are uniform across the state. This does not mean that every  
22 customer pays the same rate; most companies offer a variety of packages and promotions.  
23 Rather, the long-distance companies generally offer the same rates to customers regardless of  
24 which local telephone company serves the customer. For example, the local customers of  
25  
26

1 Qwest are offered the same long-distance rates and packages as the local customers of Verizon,  
2 even though Verizon charges substantially higher access charges than Qwest. Because access  
3 charges are averaged into uniform long-distance rates, Verizon's high access charges cause  
4 long-distance rates to be higher not just for the customers of Verizon itself but also for  
5 customers of other local telephone companies, in particular the customers of Qwest.  
6

7 7. The WUTC's decision to lower access charges can be expected to result in  
8 lower prices for intrastate long-distance services across the state. As costs are lowered for the  
9 long-distance companies, the companies can be expected to respond in diverse ways, such as  
10 lowering per-minute rates, enhancing long-distance calling plans, and offering additional or  
11 more significant promotional discounts. The specific mechanisms will be determined by  
12 competitive pressure among the many long-distance companies, because the WUTC does not  
13 regulate long-distance prices.  
14

15 8. If the WUTC's decision to lower access charges is stayed, one effect of the stay  
16 would be to increase uncertainty in the competitive market for long-distance services. Long-  
17 distance companies that would have quickly passed the access charge reductions through to  
18 their customers would likely delay their actions. The companies will be uncertain as to what  
19 their costs actually are, and this will discourage competition.  
20

21 9. If the WUTC's decision to lower access charges is stayed, and the court later  
22 upholds the WUTC's decision, it will be impossible to compensate those who were harmed by  
23 the stay. The benefits would have been spread across all long-distance customers in the state  
24 and would have taken a variety of forms, so it will be impossible to determine how much and  
25 what form of benefit should be refunded to each customer. Even the seemingly simple task of  
26

1 identifying who is entitled to a refund will be impossible, because the list will include many  
2 consumers and businesses that are not customers of Verizon or the long-distance companies  
3 that are parties to this proceeding. Indeed, the majority of customers harmed by a stay are not  
4 customers of Verizon.

5  
6 10. If the court grants a stay and later upholds the WUTC's decision, ordering a  
7 refund to the long-distance companies will not result in effective restitution to those were  
8 forced to pay excessive rates while the stay was in effect. A refund to the long-distance  
9 companies would be ineffective because there would be virtually no competitive pressure to  
10 pass through to retail customers a one-time refund payment. Firms in a competitive market set  
11 their prices based on their ongoing and expected future costs, and any one-time cost or benefit  
12 such as a refund payment would likely be absorbed by each competitor.

13  
14 11. A stay of the WUTC's decision also would harm competition itself, and the  
15 harm that would occur during the period of the stay could not be remedied later if t/he  
16 WUTC's decision is upheld. The WUTC concluded that Verizon's access charges hinder the  
17 ability of other companies to compete against Verizon in the intrastate long-distance business  
18 and provide an unreasonable preference to Verizon. *See Order*, ¶¶ 161-62. The harm to  
19 competition goes beyond the excess money charged by Verizon for its access services.  
20 Because Verizon does not pay those access charges, the high rates enable it to attract more  
21 long-distance customers than it otherwise would and to do so at higher long-distance rates. A  
22 subsequent refund would at best compensate a competitor for the excess cost of serving the  
23 customers it still has, but it cannot compensate the competitor for the business that it does not  
24 have due to the unreasonable preference created by Verizon.  
25  
26

1 DATED and SIGNED at Olympia, Washington on September 2, 2003.  
2  
3

4 \_\_\_\_\_  
5 GLENN BLACKMON, PH.D  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26