

Agenda Date: January 9, 2002
Item Number: 2D

Docket: UT-011439
Company Name: Verizon Northwest Inc.

Staff: Bob Shirley, Telecommunications Analyst

Recommendation:

Commence an adjudicative proceeding to determine if Verizon Northwest Inc.'s (Verizon) petition for Waiver of WAC 480-120-071(2)(a),¹ concerning service extensions to Kay Taylor and Ike Nelson, should be granted or denied. Direct Staff to hold the pre-hearing conference on January 22, 2002, based on an agreement between Verizon and Staff to hold the hearing on less than the required notice.

Discussion:

When the Commission revised its service extension policy through adoption of WAC 480-120-071, it provided for companies to petition the Commission for a waiver of the requirement to extend service. The petition from Verizon is the first received since the rule became effective.

The petition, if granted, would waive Verizon's obligation to extend service to two locations even if the applicants for the service extension are willing to pay the direct cost of the extension.²

Staff and Verizon have different views of the facts, some of which are provided in this memo in order to assist the Commission in its decision to deny or grant the petition, or set it for an adjudicatory proceeding.

Background and Process

The petition concerns two different extensions. One was requested by Kay Taylor of Douglas County, and the other by Einar (Ike) Nelson of Okanogan County.

¹ Verizon has petitioned for a waiver of the requirements of WAC 480-120-071(2)(a) while section (7)(a) permits a waiver of (2)(b) and (7)(b) permits a waiver of (3)(a). Petition at 1 (Caption). Staff assumes Verizon is petitioning for a waiver of (2)(b) because of its references to (7)(a). See Verizon's Application for Adjudicative Proceeding, page 1, line 26. This is significant because a waiver of (2)(b) means Verizon would not have to construct the extension even if a customer offers to pay the direct cost of the extension, while a waiver of (3)(a) would mean Verizon would be obligated to construct the extension if a customer pays the direct cost.

² See note 1, above.

Taylor Extension

The Taylor request is for an extension on Hayes Road in Douglas County, extending 2.3 miles from State Highway 17 south of the Columbia River and east of Chief Joseph Dam. The Taylor extension, if constructed, would likely be served from the Bridgeport central office. Verizon states that it would have to construct a line approximately 17 miles from its switch and estimates the cost of reinforcement and extension to be \$326,305. Verizon stated in the petition that it has "received no service request or interest from anyone along Hayes road on Highway 17 leading back to Bridgeport."³

Staff has visited Hayes Road and has been contacted by other property owners who wish to have telephone service. Hayes Road is a county road. Ms. Taylor informed Staff that there has been at least one home on Hayes Road continuously from before the time when Washington was a Territory.

There appear to be a total of five residences now. In addition to the Taylors, the Nichols would like service at their trailer one-half mile from State Highway 17⁴; the Taylors would like service to a rental home they own on Hayes Road; one other homeowner has told the Taylor's they would like service; and one elderly couple has not yet been contacted by Ms. Taylor. (Verizon has informed Staff that it visited another homeowner that stated he did not want service and preferred to be a "hermit.")

The Verizon service nearest Hayes Road is approximately 4 miles to the west on State Highway 17. Staff estimates that, assuming Verizon's total estimate of \$326,000 is correct, that approximately \$200,000 can be attributed to reinforcement costs and the remainder to the extension.⁵

State Highway 17 connects Bridgeport and U.S. Highway 97 with Coulee Dam, Coulee City, Ephrata, and Moses Lake.

Process Related to Taylor Request

Kay Taylor⁶ contacted Verizon in February, 2001 and requested a service extension. Sometime in August, 2001 Verizon informed Ms. Taylor that it would

³ Petition at 2.

⁴ The Nichols contacted Staff in November and said they would like service at a fifth-wheel trailer they use several times a year on land on Hayes Road on which they intend to build a home in the next one to two years. The Nichols stated they would be willing to pay for service for the years between now and when they build their home even if Verizon will not deliver service to their trailer. Subsequently, the Nichols contacted Verizon and have informed Staff they were given a service order number.

⁵ Reinforcement costs are not permitted to be recovered as part of an extension; reinforcement costs are covered by other rate elements. See WAC 480-120-071(1), definition of "Cost of service extension."

⁶ The Verizon petition refers to Kate rather than Kay Taylor. Petition at 2.

not extend service to her. Verizon filed the petition for the waiver on October 23, 2001.

Staff traveled to Hayes Road and the Taylor residence on November 5, 2001, to examine the location and to learn about the circumstances surrounding the request for service. Staff met with Verizon on November 13, 2001 to discuss the petition and the possibility of settlement. There were discussions between then and December 17, 2001, when Verizon applied for an adjudicative proceeding. On December 21, 2001, Staff sent a proposal to Verizon for a settlement related to the Taylor request. On January 3, 2002, Verizon indicated that it believes the best course of action is for the Commission to hear and decide upon the petition.

Nelson Extension

The Nelson request is for an extension on Timm Road in Okanogan County, north of the Columbia River. It would be served by the Brewster central office.

Verizon states in its petition that the extension would be in a remote, inaccessible area that is mostly open cattle range and that "Verizon engineers observed no other residences on Timm Road."⁷ Verizon said that it received no other requests for service or "expression of interests" from anyone else, and that it would have to construct facilities for 27 miles along "an unmaintained, rocky dirt road."⁸ Verizon estimates the cost at \$808,425⁹ for reinforcement and extension.

Verizon states in its petition that the Nelson location is much closer to Qwest facilities than to its facilities, and that it approached Qwest about providing service to Mr. Nelson, an employee of Qwest.¹⁰

Verizon also states that the remoteness of the location and the rocky dirt road would make repair costs for an extension of this nature higher than normal.

Staff visited the Nelson home on November 5, 2001. Staff rode with Mr. Nelson from the U.S. Highway 97 and State Highway 17 junction to his home on Timm Road. We traveled a dirt road that is a county road for approximately 25 miles. Staff concluded the road is maintained because approximately ½ mile from the gate to Mr. Nelson's home we waited several minutes for the Okanogan County road grader at work maintaining Timm Road.

⁷ Petition at 3.

⁸ Id.

⁹ Verizon estimates the total cost of the two extensions, including reinforcement costs, at \$1.13 million. Petition at 1. Assuming an annual expenditure of \$3.5 Billion dollars for telecommunications equipment and services in Washington, the reinforcement and extension costs equal approximately 0.000322 percent of the annual expenditure. Verizon will recover both reinforcement and extension costs in its rates.

¹⁰ Id. at 4.

From the gate to Mr. Nelson's home, Staff could see three other homes nearby, and one other one under construction and substantially completed within twenty yards of Mr. Nelson's home. There is another home, Mr. Nelson told us, about one-quarter mile away, but not in view because of a low hill. These homes belong to relatives of Mr. Nelson and they, together, own the Timm Ranch.

The Timm Ranch where Mr. Nelson lives was started over fifty years ago. Mr. Nelson believes it is the largest ranch in Okanogan County at just over 10,000 acres, some of which are leased from the Colville Confederated Tribe, from the U.S. Bureau of Land Management, and others. The ranch maintains a herd of beef cattle that ranges from 2,000 to 3,000 head. The 10,000 acres represents approximately 15.625 square miles of land. Because of the size of the ranch, there are no homes other than those occupied by ranch owners.

Mr. Nelson, who has been a telephone technician for more than twenty years, and now works for the Qwest Corporation, showed us the end of Verizon's facilities, which are between 19 and 20 miles from his home. Qwest's nearest facilities are approximately 7.4 miles away. While his home is in the Bridgeport exchange of Verizon, to get to his home most of Verizon's line would travel through Qwest's Omak exchange. As with the Taylor extension, some of the estimated cost would be attributable to reinforcement and some of it to extension. Staff's rough estimate for extension costs for service from Verizon would be over \$400,000 dollars and service from Qwest would be closer to \$150,000.¹¹

Mr. Nelson told Staff that he made his request when he learned about the change in the service extension rule because he would like telephone service at his home and, in part, because of a service request made by residents near Turtle Lake in central Okanogan County. While those homes are located in Qwest exchange territory and it has facilities about 10 miles away, Verizon has facilities approximately one mile away. Qwest, Nelson told Staff, asked Verizon to serve the area and it declined. Mr. Nelson, in addition to desiring service to his home, thought his request might create the circumstances under which a trade of territory could be made between Qwest and Verizon, with Verizon taking the territory around Turtle Lake and Qwest taking the territory where Timm Road dips into Verizon's Bridgeport exchange.

Subsequent to filing of the Verizon petition, Mr. Nelson's neighbors, who are relatives and co-owners of the ranch, have contacted, or attempted to contact Verizon, to request service.

¹¹ This amount does not reflect any reinforcement costs. In the past, when companies have been willing to serve outside the boundaries of any company's exchange, Staff has supported reimbursement for reinforcement on the theory that the company would have not anticipated serving that particular location and would not have designed any of its facilities with that in mind. Staff has not encountered the issue of reimbursement for reinforcement in the context of a trade of territories.

Process Related to Nelson Request

Ike Nelson contacted Verizon in the Fall of 2001 and requested a service extension. Staff does not know when Verizon informed Mr. Nelson that it would not construct a service extension. Verizon filed the petition for the waiver on October 23, 2001.

As stated earlier, Staff traveled to the Nelson residence on November 5, 2001, to examine the location and to learn about the circumstances surrounding the request for service. Staff met with Verizon on November 13, 2001 to discuss the petition and the possibility of settlement. Staff requested that Verizon renew its discussion with Qwest on the possibility of a trade of territory and Verizon did so.

In December, Staff understood that the discussions between Qwest and Verizon were ongoing and it expressed a desire to bifurcate the petition and pursue the Taylor extension through adjudication if need be, but to leave the Nelson extension out of any adjudication so long as Qwest and Verizon were continuing discussions. However, when Verizon applied for an adjudicative proceeding, Verizon's application covered both the Taylor and Nelson portions of the petition. On January 3, 2002, Verizon indicated that it believes the best course of action is for the Commission to hear and decide upon the petition.

Possible Involvement of Qwest in the Proceedings

As the discussion of the Nelson extension indicates, Qwest facilities are much closer to the Nelson home than are Verizon's. For this reason, Staff may request that the Commission determine in the adjudication whether it should exercise the authority it has under RCW 80.36.230 and 80.36.240 to change the boundaries of the Qwest Omak and the Verizon Bridgeport exchanges so that the Nelson home would then be located in the territory of the company with the closer facilities.

Conclusion

Because this is the first request for a waiver under WAC 480-120-071, because there are different views of the facts between Staff and Verizon, and because whether or not any citizen is found to be not reasonably entitled to telecommunications service is an important public policy determination, Staff recommends the Commission commence an adjudicatory proceeding. Based on discussions Staff has had with Verizon, the company is willing to participate in a pre-hearing conference called on less than 20 day's notice.