BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the	)	
Continued Costing and Pricing of Unbundled	)	**Docket No. UT-003013 (Part A)**
Network Elements, Transport, Termination,	)	
and Resale	)	

VERIZON NORTHWEST INC.'S RESPONSE TO PUBLIC COUNSEL'S PETITION FOR RECONSIDERATION

Verizon Northwest Inc. ("Verizon"), by counsel, hereby submits its response to the Petition for Reconsideration filed by Public Counsel.

Public Counsel's petition simply repeats the arguments contained in its post-hearing briefs already considered by the Commission and addressed in the 13th Supplemental Order. In that order, the Commission decided the rate for the high frequency portion of the loop ("HUNE") and further ruled that it was "premature at this time to determine whether a non-zero price for the HUNE will lead to overearnings on a regular basis. The issue will instead be handled in the next docket that addresses Qwest or Verizon's earnings." 13th Supplemental Order at ¶ 56. Verizon agrees with the Commission that it is inappropriate to address this issue ***in this proceeding,*** because there is no evidence in the record to use in making such a determination.

The Commission noted that its treatment of the loop as a common cost raises an issue as to whether ILECs will be permitted to double recover a portion of the cost of a loop, and shared a concern "regarding ***possible*** windfall profits to incumbent LECs if a positive recurring price is adopted." Order at ¶ 71 (emphasis added). However, the Commission did not find—and indeed could not find based on the record of Phase A—that ILECs in fact ***would*** double recover a portion of the loop or receive windfall profits as a result of a positive price for the HUNE.

In its petition, Public Counsel attempts to portray its proposal as not being a matter of earnings regulation, but merely one of rate design reform. However, this attempted change in emphasis does not aid it. Contrary to Public Counsel's implication, Verizon's current rate design is not the product of some set arithmetic formula that neatly produces rates driven solely by a set allocation of a determined level of loop costs. Rather, rate design is a very company-specific issue, and the type of reform Public Counsel suggests would require careful and comprehensive attention on a company-specific basis. Clearly that is beyond the scope of this proceeding. Moreover, there is absolutely no evidentiary foundation for Public Counsel's assertion that a positive price for the HUNE without an immediate reduction in retail revenue violates Section 254(k) of the Telecommunications Act of 1996.

In addition, the "rebalancing" that Public Counsel suggests occur would require reliable information on the quantities of HUNE orders and revenues that a company will receive. At this point, there plainly is no such information—in this docket's record or otherwise.

Moreover, Public Counsel's concerns regarding competitive neutrality do not apply to Verizon. *See* Public Counsel Petition at 4-5. As stated at the hearing and in Verizon's post-hearing brief, Verizon does not provide any xDSL services. Its data affiliate—Verizon Advanced Data Inc.—will have to pay the same $4.00 HUNE rate as any other DLEC. *See* 13th Supplemental Order at ¶ 70. Consequently, in Verizon's case, a positive price for the HUNE is competitively neutral and will not result in Verizon granting itself any undue preference.

Lastly, the Commission should reject Public Counsel's recommendation to establish a deferral or tracking account for HUNE revenues at this time. *See* Public Counsel Petition at 5-6. Again, Public Counsel fails to add any new justification for such a mechanism beyond those contained its post-hearing briefs. Moreover, Public Counsel's proposal is founded on the plaintly

erroneous proposition that the Commission could use such data in the future to order retroactive rate reductions for Verizon. Besides the statutory and constitutional issues raised by the idea, Verizon's settlement agreement effectively precludes the Commission from taking such an action. *See* Fourth Supplemental Order (December 16, 1999), Docket Nos. UT-981367, UT-990672, and UT-991164 at 22-23. In any event, if Public Counsel were truly interested in rate design only, and not over earnings, tracking such data would be a pointless administrative burden.

In short, based on the record developed in this proceeding, the Commission has gone as far as it can on the issue of double recovery by expressing a concern and a plan for addressing that concern in future company-specific proceedings. Consequently, Public Counsel's Petition for Reconsideration should be denied.

Respectfully submitted,

VERIZON NORTHWEST INC.

By______________________________________

W. Jeffery Edwards
Jennifer L. McClellan
Hunton & Williams
951 East Byrd Street
Richmond, Virginia 23219
(804) 788-8200

Dated: February 27, 2001

CERTIFICATE OF SERVICE

I hereby certify an original and 19 copies of Verizon Northwest Inc.'s Verizon Northwest Inc.'s Response to Public Counsel's Petition for Reconsideration of the 13th Supplemental Order in Phase A of UT-003013 were sent by overnight mail and one copy sent by electronic mail to Ms. Carole J. Washburn, Executive Secretary, Washington Utilities & Transportation Commission, 1300 S. Evergreen Park Drive SW, Post Office Box 47250, Olympia, WA 98504-7250 and to the parties below by regular and electronic mail:

DATED this 27th day of February, 2001.

____
Jennifer L. McClellan

*Lisa Anderl, Esq.
Qwest Corporation
1600 Seventh Avenue, Suite 3206
Seattle, WA 98191
Phone: (206) 345-1574
Fax: (206) 343-4040
landerl@uswest.com

Matthew H. Berns, Esq.
Assistant General Counsel
Focal Communications Corporation
200 N. Lasalle Street
Suite 1100
Chicago, IL 60601
Fax: (312) 895-8403
mberns@focal.com

* Arthur Butler, Esq.
Representing Rhythms NetConnections, TRACER
Ater Wynne L.L.P.
601 Union Street, Suite 5450
Seattle, WA 98101
Phone: (206) 623-4711
Fax: (206) 467-8406
aab@aterwynne.com

Simon J. ffitch, Esq.
Public Counsel Section
Office of the Attorney General
900 Fourth Avenue, Suite 2000
Seattle, WA 98164-1012
Phone: (206) 389-2055
Fax: (206) 389-2058
simonf@atg.wa.gov

*Richard Finnigan, Esq.
Representing WITA and SBC Telecom
2405 Evergreen Park Drive S.W., Suite B-3
Olympia, WA 98502
Phone: (360) 956-7001
Fax: (360) 753-6862
rickfinn@yelmtel.com

*Dr. David Gabel
Gabel Communications, Inc.
31 Stearns Street
Newton, MA 02459-2441
Fax: (617) 243-3903
davidgabel@aol.com

*Joan M. Gage
Verizon Northwest, Inc.
1800 41st Street, WA0101RA
Everett, WA 98201
Phone: (425) 261-5238
Fax: (425) 261-5262
joan.gage@verizon.com

Michael B. Hazzard, Esq.
Representing Z-Tel Communications, Inc.
Kelley Drye & Warren LLP
1200 19th Street, NW
5th Floor
Washington, DC 20036
Fax: (202) 955-9792

Marianne K. Holifield
Assistant General Counsel
McLeod USA
10021 41st Avenue NE
Seattle, WA 98125
Phone: (206) 527-2005
Fax: (206) 527-8975
Mholifield@mcleodusa.com

*Ann Hopfenbeck, Esq.
MCI Worldom, Inc.
707 17th Street, Suite 3600
Denver, CO 80202
Phone: (303) 390-6106
Fax: (303) 390-6333
ann.hopfenbeck@wcom.com

Laura Izon
Covad Communications Co.
4250 Burton Street
Santa Clara, CA 95054
Phone; (408) 844-7500
Fax: (408) 844-7501
lizon@covad.com

*Nancy Judy, AVP External Affairs
Sprint Corporation
902 Wasco Street
Hood River, OR 97031
Phone: (541) 387-9265
Fax: (541) 387-9753
nancj@sprintnw.com

*Gregory J. Kopta, Esq.
Representing ATG, ELI, New Edge Networks, and Nextlink Global Crossing
Davis Wright Tremaine
2600 Century Square1501 Fourth Avenue
Seattle, WA 98101
Phone: (206) 622-3150
Fax: (206) 4628-7699
gregkopta@dwt.com

*Michel Singer Nelson , Esq.
Law Department
1875 Lawrence Street, Suite 1405
Denver, CO 80202
Phone: (303) 298-6508
Fax: (303) 298-6301
msinger@att.com

*Shannon E. Smith, Esq.
Jeffrey D. Goltz, Esq.
Representing WUTC Staff
Office of the Attorney General
P.O. Box 40128
1400 Evergreen Park Dr., S.W.
Olympia, WA 98504-0128
Fax: (360) 586-5522

Mark P. Trinchero, Esq.
Representing McLeodUSA
Davis Wright Tremaine
1300 S.W. Fifth Avenue
Suite 2300
Portland, OR 97201
Fax: (503) 778-5299

Path: DOCSOPEN\RICHMOND\08307\56423\001705\d%x@04!.DOC
Doc #: 646606; V. 4
Doc Name: PLD Response to Public Counsel PFR
Author: McClellan, Jennifer, 08307
Typist: McClellan, Jennifer, 08307
Last Edit: 2/27/01 9:55 AM