

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

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| In the Matter of the Petition of |) | DOCKET UT-061298 |
| |) | |
| VERIZON NORTHWEST, INC., |) | |
| |) | |
| For Waiver of WAC 480-120-071(2)(a) |) | |
| |) | |
| |) | |
| In the Matter of the Petition of |) | DOCKET UT-061464 |
| |) | |
| VERIZON NORTHWEST, INC., |) | ORDER 03 |
| |) | |
| For Waiver of WAC 480-120-071(2)(a) |) | INITIAL ORDER APPROVING AND |
| |) | ADOPTING SETTLEMENT |
| |) | AGREEMENT IN PART |
| |) | |

1 *Synopsis: This is an Administrative Law Judge’s Initial Order that is not effective unless approved by the Commission or allowed to become effective pursuant to the notice at the end of this Order. If this Initial Order becomes final the Commission will approve and adopt in part a Settlement Agreement between Verizon Northwest Inc., and the Commission’s Regulatory Staff.¹ The Settlement Agreement proposes that the Commission find under section 7(b) of the line extension rule, WAC 480-120-071, that Verizon is not obligated to provide service to the Bush property in Verizon’s Molson-Chesaw Exchange and should be granted a waiver, as requested in Docket UT-061298; and that Verizon will provide local exchange service under WAC 480-120-103(1) to a base station unit located in Verizon’s Tonasket Exchange enabling the Lively property to use a radio telephone to access Verizon’s local exchange service, thus obviating the need for a waiver in Docket UT-061464. By approving and adopting the parties’ agreement in part, the Commission grants the waiver requested in Docket UT-061298 and allows Verizon to withdraw its request in Docket UT-061464.*

¹ In formal proceedings, such as this case, the Commission’s regulatory staff functions as an independent party with the same rights, privileges, and responsibilities as any other party to the proceeding. There is an “*ex parte* wall” separating the Commissioners, the presiding Administrative Law Judge, and the Commissioners’ policy and accounting advisors from all parties, including Staff. RCW 34.05.455.

SUMMARY

- 2 **PROCEEDINGS:** On August 11, 2006, Verizon Northwest Inc. (Verizon), filed with the Washington Utilities and Transportation Commission (Commission) in Docket UT-061298 a petition for a waiver of, or an exemption from, the requirements of WAC 480-120-071(2)(b) with regard to extending service to five separate locations. The locations were identified by their respective owner's surnames: Bush, Platt/Hussey, Pitsker, Impero and Connan. The locations are in Verizon's Molson-Chesaw and Tonasket Exchanges.²
- 3 On September 15, 2006, Verizon filed in Docket UT-061464 another petition for a waiver of, or an exemption from, the requirements of WAC 480-120-071(2)(b) with regard to extending service to Tamalyn Lively in Verizon's Tonasket Exchange.
- 4 On December 13, 2006, the Commission entered Order 01 bifurcating the petition in Docket UT-061298 and setting only the Bush application for service in the Molson-Chesaw exchange for hearing in Docket UT-061298.
- 5 The Commission opened Docket UT-061821 to consider the applications for service for the Platt/Hussey, Pitsker, Impero and Connan locations in the Tonasket exchange. Verizon, however, filed a request on January 5, 2007, to withdraw its petition for waiver with respect to the applications that are the subject of Docket UT-061821. The presiding officer considered at prehearing and granted Verizon's request to withdraw its petition in Docket UT-061821.
- 6 Accordingly, what remains for determination in these dockets is the question whether the Commission should grant either or both of Verizon's requests for waiver of WAC 480-120-071, which would relieve Verizon from the obligation it otherwise would have to provide a line extension to the subject properties (*i.e.*, Bush in Docket UT-061298 and Lively in Docket UT-061464) in Okanogan County, Washington. The parties filed a Settlement Agreement that, if approved, would grant Verizon's request in Docket UT-061298 and give leave for Verizon to withdraw its request in Docket UT-061464.

² Verizon filed amended petitions in Docket UT-061298 on October 27, November 30, and December 12, 2006.

7 **PARTY REPRESENTATIVES:** Jennifer Cameron-Rulkowski, Assistant Attorney General, Olympia, Washington, represents the Commission's Regulatory Staff (Staff). Thomas F. Dixon, Verizon's Assistant General Counsel Northwest Region, Denver, Colorado, represents the company. Neither of the affected property owners sought party status.

8 **COMMISSION DETERMINATIONS:** Staff and Verizon notified the Commission on March 21, 2007, that they had reached a settlement in principle. They filed their Settlement Agreement on July 6, 2007. If this Initial Order becomes final, the Commission would approve and adopt in part the parties' Settlement Agreement. The essential terms of the settlement, to the extent approved and adopted here, provide for waiver of WAC 480-120-071 with respect to the Bush property in Docket UT-061298 and withdrawal of Verizon's request for waiver as to the Lively property in Docket UT-061464. These results are determined to be in the public interest for the reasons discussed below.

MEMORANDUM

I. Background and Procedural History

9 Verizon petitioned the Commission for waivers from the requirements of WAC 480-120-071(2)(b) with regard to requests to extend service to two separate locations made by Mr. Ed Bush and Ms. Tamalyn Lively in Verizon's Molson-Chesaw and Tonasket Exchanges, respectively. In the alternative, Verizon petitioned the Commission for waivers of WAC 480-120-071(3)(a) in order to charge the applicants the direct cost to extend service. Verizon asserted that the cost to extend service to these two customer locations was unreasonable for Verizon and its other customers. In addition to the significant expense of initial construction, Verizon asserted that maintaining service to these locations would impose substantial ongoing operational difficulties and financial burdens on Verizon and its other customers because Verizon's maintenance and repair staff would have to travel greater distances and maintain miles of additional network in difficult terrain and winter snow conditions. WAC 480-120-071(7) recognizes that certain requested line extensions may pose unreasonable costs and burdens, and thus should not be undertaken.

- 10 Staff asserted that Verizon had provided insufficient information on the availability and cost of telecommunications service alternatives at each property. On this basis, Staff recommended that the Commission set each petition for hearing to evaluate whether a waiver of the line extension rule would be in the public interest.
- 11 The Commission set each matter for hearing, and subsequently the two dockets were consolidated at the prehearing conference. Verizon and Staff informed the Commission they had achieved a settlement in principle on March 21, 2007, and requested that the procedural schedule be suspended. The parties filed a Settlement Agreement on July 6, 2007. Although no testimony has been filed in this proceeding, Verizon and Staff, by their Settlement Agreement, stipulate the facts essential to the Commission's determinations in these dockets.³ Supportive evidence is provided by uncontested fact statements in the pleadings that are supported, in turn, by attachments to the pleadings including photographs, maps, and cost estimates. These matters can be resolved on the existing record, obviating the need for a live hearing.

A. The Bush Request for Service

- 12 Verizon estimates, and Staff does not dispute that extending service to the Bush property would cost \$99,720.⁴ The application for service involves only one residence.
- 13 The Bush property is located on a privately maintained dirt road in Okanogan County. The parties state in their jointly filed Narrative Supporting Settlement Agreement (Narrative) that the road leading to the Bush residence is steep and narrow, rocky in some places, rutted in others. Photographs included in Verizon's petition corroborate this description. The Narrative says that providing service would require Verizon to construct a little over two miles of new facilities, involving a significant amount of rock-sawing.
- 14 According to the parties, the road on which the Bush residence is located traverses a number of property parcels on which no residences are located. Before service could be extended to this location, it appears that Mr. Bush would have to secure easements for Verizon from the owners of these other parcels. There is no evidence that such easements have been sought. Verizon has received no service requests from the owners of these other parcels.

³ The proposed settlement is reasonably straightforward in its essential terms, can be considered on the basis of the paper record, and decided as a matter of law.

⁴ See Redacted Attachment C to Verizon's Petition for Waiver of WAC 480-120-071, Docket UT-061298.

15 Regarding telecommunications alternatives, the Narrative relates that two Verizon field technicians conducted satellite and cell phone tests for the Bush location on March 9, 2007.⁵ These tests reportedly confirmed that without construction⁶ of new facilities the Bush property could not be served using less expensive alternatives.

B. The Lively Request for Service

16 Verizon estimates, and Staff does not dispute that extending service to the Lively property would cost \$69,040. The application for service involves one residence.

17 The Lively property is located in Okanogan County at the end of a half-mile private road off Roundabout Road. The parties represent that the Livelys, in the past, utilized radio telephone service at their property using a base station unit located at 241A Coco Mountain Road in Tonasket and radio telephone equipment on their property. Verizon provided copper pair service to the base station unit. Rather than constructing an extension of service to the Lively property in response to the Lively's summer 2006 request for service, Verizon, under the terms of the proposed settlement, commits that it will provide flat rated, one-party, residential local exchange service under WAC 480-120-103(1) to the base station unit if the Livelys desire this service.⁷ The Narrative states that if the Livelys' radio telephone set does not work, replacement sets are available for purchase.⁸

18 Upon the Lively's assent, Verizon will connect a copper pair to the base station unit, thereby allowing the Livelys to use their radio telephone. To serve the base station unit, Verizon would charge the then-current nonrecurring charge (which is now \$43.25) for reinstallation of local exchange service and then-current monthly recurring charge (which is now \$16.90⁹) for flat-rated, one party, residential local exchange service.

⁵ See Attachment B, Verizon Report: Field Visit to Bush Location.

⁶ Verizon's technicians were unable to make any telephone calls from the portable satellite phone at the Bush location. Construction of a tower, however, might result in an angle adequate for satellite access.

⁷ See WAC 480-120-102, regarding class, type and grade of service requirements. See Settlement Agreement at Attachment 1, Verizon Report: Radio Telephone Service at Lively Location. The existing equipment includes the radio telephone set and the antenna located at the Lively house, as well as a base station unit located at 241A Coco Mountain Road. None of this equipment is owned by Verizon, nor will Verizon own or operate this equipment if the Livelys elect to use it.

⁸ Narrative ¶ 17 (citing Settlement Agreement at Attachment 1, Verizon Report: Radio Telephone Service at Lively Location).

⁹ On July 1, 2007, Verizon's rate for basic residential local exchange service increased from \$15.43 to \$16.90.

19 The parties agree that Verizon's ability to serve the Livelys using an existing base station unit located at 241A Coco Mountain Road, Tonasket, Washington, as well as an antenna and radio telephone located at the Lively house, renders unnecessary Verizon's request for a waiver of the line extension rule. Accordingly, Verizon seeks leave to withdraw its request for waiver from the line extension rules in this docket.

II. Settlement Agreement

20 The settlement would resolve all issues in the dispute. The parties agree to a waiver of the line extension rule with respect to the Bush request principally in light of the disproportionate cost to install and maintain a line extension through difficult terrain in such a remote location.

21 With respect to the Lively request, Verizon agrees that it will provide local exchange service to the Lively location using the existing radio telephone equipment if the Livelys desire such local exchange service. The parties agree that Verizon is not legally obligated to construct an extension of service to the Livelys under the line extension rule, WAC 480-120-071, in response to the Livelys' summer 2006 request for service, because Verizon can serve the applicant (the Livelys) under the application for service rule, WAC 480-120-103, by re-connecting the existing radio telephone equipment to a copper pair provided by Verizon. The settlement provides that Verizon will request permission from the Commission to withdraw its petition for waiver of the line extension rule pertaining to the Lively location following the Commission's approval of this proposed settlement. Should the Commission decline to approve the request or decide that the proposed settlement does not discharge Verizon's obligations under the line extension rule with regard to the Livelys' summer 2006 request for service, the Settlement Agreement provides that either Party may withdraw from the settlement.

22 Staff and Verizon also agree to file and support a joint request to stay all other pending Verizon waiver applications (specifically Docket No. UT-061925, the O'Keefe petition, and Docket UT-061926, the Cole petition) until adoption by the Commission of a new service extension rule. In addition, Staff has agreed to support a petition to be filed by Verizon to exempt Verizon from the four-week deadline set forth in WAC 480-120-103(4) by which carriers ordinarily must file petitions for waiver of WAC 480-120-071. The exemption would apply to any line extension requests received by Verizon prior to the issuance of a final Commission decision in

the line extension rulemaking, Docket UT-073014. During the rulemaking, Verizon would notify service requestors within six weeks of its decision to either extend service or await the conclusion of the rulemaking. In addition, the settlement obligates Verizon to inform the Commission of any service requests for which Verizon has decided to delay a decision. If the Commission does not approve the requested stays or the exemption, either Party may withdraw from the Settlement Agreement.

III. Discussion and Decisions

a. Bush Property

23 Under WAC 480-120-071(2)(b), telecommunications companies that file tariffs with the Commission must extend service, upon application, to occupied premises. The Commission may waive a carrier's obligation under the rule, however, if it is unreasonable for the cost of the extension of service to be borne in rates under WAC 480-120-071(4).¹⁰ To determine whether cost recovery under Section 4 of the line extension rule is reasonable, the Commission considers the following seven factors under WAC 480-120-071(7)(b)(ii):

- (A) The total direct cost of the extension.
- (B) The number of customers to be served.
- (C) The comparative price and capabilities of radio communication service or other alternatives available to customers.
- (D) Technological difficulties and physical barriers presented by the requested extensions.
- (E) The effect on the individuals and communities involved.
- (F) The effect on the public switched network.
- (G) The effect on the company.

24 In the case of the Bush request for service, it would cost Verizon close to \$100,000 to extend service to just one customer, principally due to the physical barriers presented by the requested extension. The cost and difficulty involved in constructing the

¹⁰ WAC 480-120-071(7)(b)(i).

extension plus the costs that would be incurred in maintaining service to this remote location weigh in favor of granting a waiver.

- 25 Because no one potentially affected by the presence or absence of service to the Bush property sought to participate in this proceeding as a party and none was called as a witness or affiant by the parties, we do not know other than generally what the effect of granting a waiver would be for the individuals involved. In general, the effect of granting a waiver in this instance does no more than maintain the status quo for property owners who elect to live in a remote and isolated location not served by the public switched telecommunications network.
- 26 There is no evidence of a community concern, nor is any likely given the location involved.
- 27 The effect on the public switched network is de minimis, there being only a single potential customer involved.
- 28 The effect on the company, measured in terms of the cost it would incur to install and maintain the requested line extension, is disproportionately high.
- 29 The only factor arguably weighing against granting a waiver in this instance is the absence of less expensive alternatives to a line extension. According to Verizon's field study, neither satellite nor cell phone service is available from the Bush property. Though such services might be made available, it apparently would require, at a minimum, construction of one or more towers for signal transmission.
- 30 Taking all of these factors into account, the balance weighs heavily in the direction of granting the requested waiver. The Commission concludes on the facts presented that it is unreasonable for the direct costs of the proposed extension of service to be reflected in rates permitted under WAC 480-120-071(4). Accordingly, Verizon's request for waiver should be granted.

b. Lively Property

- 31 Regarding the Livelys' request for service, Verizon apparently can serve the Livelys under WAC 480-120-103, the application for service rule, without the need for a service extension under WAC 480-120-071. In other words, the line extension rule does not apply because Verizon can serve the Lively property by simply reconnecting

a copper pair to the existing radio telephone base station. This will allow the Livelys to have local exchange service as described under WAC 480-120-102, if they elect to activate available equipment at their premises.

32 Verizon's request for waiver with respect to the Lively property is unnecessary because the rule does not apply under the facts presented. The Commission concludes it should allow Verizon to withdraw its request for waiver in Docket UT-061464. However, the Commission does not determine that the actions Verizon offers to undertake, as described in the preceding paragraph, discharge Verizon's obligations under the line extension rule with regard to the Livelys' summer 2006 request for service.¹¹ Indeed, the suggestion that the Commission should do so is misplaced given that the underlying rationale for withdrawal of Verizon's request is that the line extension rule does not apply under the facts as they are now known to exist. If WAC 480-120-071 does not apply, as appears to be the case, it follows that there is no obligation under the line extension rule to discharge.

c. Settlement Structure

33 The parties have structured their agreement in ways that appear to be inefficient and unnecessary in terms of process. The Commission prefers to preserve the parties' and its own resources by implementing the determinations made above via this order, rather than awaiting two additional filings, as contemplated in the Settlement Agreement, and then taking further action with respect to those filings.

34 The Settlement Agreement provides that "Staff *will* recommend that the Commission find under 7(b) of the line extension rule , WAC 480-120-071, that Verizon is not obligated to provide service to the Bushes under subsection (2)(b) of the rule."¹² This appears to contemplate a separate filing of some unspecified nature in which Staff will make its recommendation to the Commission. This is neither necessary nor appropriate. The question whether Verizon is obligated under WAC 480-120-071(2)(b) to provide service to the Bush property is precisely the question before us in this adjudicatory proceeding. It is resolved by our determination here. This order grants Verizon's request for waiver. No additional filing or action is required in Docket UT-061298.

¹¹ The Settlement Agreement at ¶ 11 provides in relevant part (emphasis added): "If the Commission does not approve Verizon's request *or does not expressly find that this agreement discharges any obligation Verizon may have under WAC 480-120-071 with regard to the Livelys' summer 2006 request for service*, either Party may withdraw from this Agreement."

¹² Settlement Agreement ¶9 (emphasis added).

35 The Settlement Agreement also provides that “Verizon agrees to request permission from the Commission to withdraw the Verizon petition for waiver of WAC 480-120-071(2)(b) in Docket UT-061464 relating to the Lively property.”¹³ Again, this appears to contemplate a separate filing of some unspecified nature in which Verizon will ask leave to withdraw its request for waiver. This also is unnecessary. This order grants Verizon leave to withdraw its request. No additional filing or action is required in Docket UT-061464.

d. Matters Outside the Scope of These Proceedings

36 The preceding discussion addresses and leads to the only two determinations that are essential to resolve these dockets. The Commission approves and adopts the parties’ Settlement Agreement to that extent for the reasons discussed.

37 The Settlement Agreement, however, goes beyond these essential questions and includes agreements by Staff and Verizon to take various actions and imposes conditions on the finality of the parties’ agreement that concern matters not within the scope of these proceedings. These aspects of the Settlement Agreement cannot and should not be approved in these consolidated dockets and, in part for that reason, warrant discussion in this order.

38 The Settlement Agreement provides in paragraph 12 that:

Commission Staff and Verizon agree to file and support a joint request to stay all other pending Verizon waiver applications (specifically Docket UT-061925, the O’Keefe petition, and Docket UT-061926, the Cole petition) until adoption by the Commission of a new service extension rule. In addition, Staff agrees to support a petition to be filed by Verizon to exempt Verizon from the four week deadline set forth in WAC 480-120-103(4), by which Verizon must file petitions for waiver of WAC 480-120-071, for any line extension requests received by Verizon prior to the issuance of a final Commission decision in Docket UT-073014, the line extension rulemaking proceeding.

¹³ Settlement Agreement ¶ 11.

39 If the Commission approved and adopted that settlement term in this proceeding, that act would effectively prejudice the Commission's disposition of motions or petitions that have not yet been filed. Prejudgment of such requests potentially denies due process to persons who might be affected by Commission action; it is not a lawful act; it undermines the integrity of the Commission decision-making process. For these reasons, the Commission does not approve or adopt these settlement terms.

40 The parties' Narrative says in paragraph 5 that:

Staff would like to alert the Commission that a rulemaking on the line extension rule at issue in this case cannot begin until there is a resolution of this matter because a discussion between the Commission and persons interested in revisions to the rule would result in *ex parte* communication directly relevant to the cases we seek to settle.

41 In addition, the Narrative states in paragraph 22 that:

Commission Staff's interest in this settlement is in reaching a conclusion quickly so the Commission may begin a rulemaking to address the policy issues raised by extension requests. The settlement will reduce by at least one year the time necessary to resolve these cases and make it possible to begin a rulemaking now.¹⁴

42 The Commission does not agree with the parties' assertion that the line extension rulemaking must be delayed until the conclusion of these adjudicative proceedings out of concerns over potential violations of the *ex parte* rule. The Commission routinely conducts rulemaking proceedings that touch on, over time, the full range of its statutory duties. The Commission does not find it necessary to suspend the discharge of its duty to resolve disputed matters in adjudicatory proceedings under existing rules just because it is considering new rules or revised rules. In some limited circumstances, it might be appropriate to postpone briefly the adjudication of a matter to await the imminent outcome of a rulemaking process, but this would be the rare exception. Indeed, it would border on the impossible for the Commission to

¹⁴ The basis for this calculation of time is unclear. If the procedural schedule in this proceeding had not been suspended at the parties' request to allow for this settlement process, their reply briefs would have been due on July 27, 2007. An Initial Order could reasonably have been expected within about two weeks after that date. Thus, it appears the settlement in this instance has brought this adjudicative proceeding to the Initial Order phase only a few weeks sooner than would have been the case if the matters had been fully adjudicated.

discharge efficiently its full range of responsibilities if the rationale the parties assert in their narrative was correct.

- 43 The rationale stated also appears to reflect a misunderstanding of the Commission's rule governing ex parte communication. WAC 480-07-310(1) states (emphasis added):

RCW 34.05.455 and this section govern ex parte communications. After an adjudicative proceeding begins and before a final determination, no person who has a direct or indirect interest in the outcome of the proceeding, including the commission's advocacy, investigative, or prosecutorial staff, may directly or indirectly communicate about the merits of the proceeding with the commissioners, the administrative law judge, or the commissioners' staff assistants, legal counsel, or consultants assigned to advise the commissioners in that proceeding, unless reasonable notice is given to all parties to the proceeding, so that they may participate in, or respond to, the communication.

- 44 The two assertions in the Narrative quoted above seem to assume it will be necessary in the context of a rulemaking concerning line extension rules to discuss the merits of the issues pending in these dockets. That simply is not true. Adjudicative proceedings such as the Commission has before it here are undertaken to establish facts to which existing law, including existing rules, will be applied. The facts are case specific. The governing statutes and rules are known and can be readily applied.

- 45 It is generally understood by Commission personnel and participants in rulemaking proceedings that discussions in such proceedings must not include discussions of pending cases or issues specific to pending cases. Only if that occurred would there be even a potential violation of the ex parte rule. The ex parte rule does not preclude general discussions in rulemaking proceedings of Commission policies that may change with the adoption of new rules, even when existing policies on the same subject matters are implicated in one or more pending adjudicative proceedings. This is true even if the Commissioners or a presiding Administrative Law Judge participate in the rulemaking discussions.

46 Finally, even in the unlikely event an apparent violation of the ex parte rule occurs as
a result of discussions in a rulemaking proceeding, such violations can be cured, as
provided in WAC 480-07-310(4).

FINDINGS OF FACT

47 Having discussed above in detail the evidence received in this proceeding concerning
all material matters, and having stated findings and conclusions upon issues in dispute
among the parties and the reasons therefore, the Commission now makes and enters
the following summary of those facts, incorporating by reference pertinent portions of
the preceding detailed findings:

- 48 (1) The Washington Utilities and Transportation Commission is an agency of the
state of Washington, vested by statute with authority to regulate rates, rules,
regulations, practices, and accounts of public service companies, including
telecommunications companies.
- 49 (2) The cost and difficulty involved in constructing and maintaining a line
extension to the Bush property, a remote location with difficult terrain, is
disproportionately high and not reasonable for recovery in rates permitted
under WAC 480-120-071(4).
- 50 (3) Verizon can provide local exchange service to the Lively property using
existing facilities, as it has done in the past, so that no line extension is
necessary to serve the property.

CONCLUSIONS OF LAW

51 Having discussed above all matters material to this decision, and having stated
detailed findings, conclusions, and the reasons therefore, the Commission now makes
the following summary conclusions of law, incorporating by reference pertinent
portions of the preceding detailed conclusions:

- 52 (1) The Washington Utilities and Transportation Commission has jurisdiction over
the subject matter of, and parties to these proceedings.
- 53 (2) It is unreasonable for the direct costs of the proposed extension of service to
the Bush property to be reflected in rates permitted under WAC 480-120-

071(4). The Commission should grant Verizon's request for waiver in Docket UT-061298.

- 54 (3) WAC 480-120-071 does not apply in the case of the Lively property because Verizon can provide local exchange service to the property without the need for a line extension. The Commission should grant Verizon leave to withdraw its request for waiver in Docket UT-061464.
- 55 (4) The Commission should retain jurisdiction to effectuate the terms of this Order.

ORDER

THE COMMISSION ORDERS THAT:

- 56 (1) Verizon Northwest Inc's request for waiver in Docket UT-061298 is granted.
- 57 (2) Verizon Northwest Inc. is given leave to withdraw its request for waiver in Docket UT-061464.
- 58 (3) The parties' Settlement Agreement is approved and adopted to the extent it supports the results stated in ordering paragraphs (1) and (2), above. In other respects, as discussed in the body of this Order, the parties' Settlement Agreement is rejected.
- 59 (4) The Commission retains jurisdiction over the subject matters and parties to this proceeding to effectuate the terms of this Order.

Dated at Olympia, Washington, and effective July 24, 2007.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

DENNIS J. MOSS
Administrative Law Judge

NOTICE TO THE PARTIES

This is an Initial Order. The action proposed in this Initial Order is not yet effective. If you disagree with this Initial Order and want the Commission to consider your comments, you must take specific action within the time limits outlined below. If you agree with this Initial Order, and you would like the Order to become final before the time limits expire, you may send a letter to the Commission, waiving your right to petition for administrative review.

WAC 480-07-825(2) provides that any party to this proceeding has twenty (20) days after the entry of this Initial Order to file a *Petition for Administrative Review*. What must be included in any Petition and other requirements for a Petition are stated in WAC 480-07-825(3). WAC 480-07-825(4) states that any party may file an *Answer* to a Petition for review within (10) days after service of the Petition.

WAC 480-07-830 provides that before entry of a Final Order any party may file a Petition To Reopen a contested proceeding to permit receipt of evidence essential to a decision, but unavailable and not reasonably discoverable at the time of hearing, or for other good and sufficient cause. No Answer to a Petition To Reopen will be accepted for filing absent express notice by the Commission calling for such answer.

RCW 81.01.060(3), as amended in the 2006 legislative session, provides that an Initial Order will become final without further Commission action if no party seeks administrative review of the Initial Order and if the Commission does not exercise administrative review on its own motion. You will be notified if this order becomes final.

One copy of any Petition or Answer filed must be served on each party of record with proof of service as required by WAC 480-07-150(8) and (9). An original and eight copies of any Petition or Answer must be filed by mail delivery to:

Attn: Carole J. Washburn, Executive Secretary
Washington Utilities and Transportation Commission
P.O. Box 47250
Olympia, Washington 98504-7250

**APPENDIX
SETTLEMENT AGREEMENT**