

BEFORE THE  
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Review of:	)	
Unbundled Loop and Switching Rates;	)	Docket No. UT-023003
the Deaveraged Zone Rate Structure; and	)	
Unbundled Network Elements,	)	AT&T MOTION TO DISMISS OR
Transport and Termination	)	ALTERNATIVELY TO REQUIRE
(Recurring Costs)	)	VERIZON TO AMEND SECOND
_____	)	MOTION TO COMPEL

AT&T Communications of the Pacific Northwest, Inc. (“AT&T”), hereby moves the Commission to dismiss, or in the alternative to require Verizon Northwest, Inc. (“Verizon”) to amend, its Second Motion to Compel Discovery (“Motion”), on the grounds that Verizon has not sufficiently specified the discovery to which Verizon seeks to compel a response from AT&T, nor has Verizon addressed all of the responses AT&T provided or objections that AT&T raised to many of the data requests that apparently are at issue in Verizon’s Motion.

1. Verizon “seeks responses to data requests propounded by Verizon NW’s Fourth, Fifth and Sixth Sets of Data Requests, and supplemental responses to data requests propounded in Verizon NW’s First and Third Sets of Data Requests,” claiming that the “vast majority of AT&T/MCI’s responses and supplemental responses are incomplete and/or nonresponsive, and each of AT&T/MCI’s objections is without merit.” Motion at 1-2. Although Verizon references some individual data requests within these five sets, Verizon does not expressly limit its Motion to those requests or otherwise identify the specific data requests to which it seeks to compel AT&T to respond. Nor has Verizon provided the Commission with copies of those requests or AT&T’s responses or objections or otherwise addressed

each of the issues raised in the requests, objections, and responses.<sup>1</sup>

2. AT&T cannot meaningfully and fully respond to Verizon's Motion unless Verizon specifically identifies all of the data requests to which Verizon seeks to compel AT&T to respond. Verizon's Fourth, Fifth, and Sixth Sets of Data Requests include over 150 individual data requests, and AT&T has provided full and complete responses to most of those data requests. AT&T should not be required to expend the considerable resources required to address each and every one of these data requests – as well as to address each supplemental response AT&T has provided to Verizon's First and Third Sets of Data Requests – if Verizon is challenging only a few of those responses/objections.

3. Nor can the Commission properly evaluate Verizon's Motion without copies of the data requests and responses and/or objections that Verizon seeks to place in issue. The issue is more than administrative. If, for example, Verizon seeks to compel AT&T to respond to all 43 individual data requests contained in Verizon's Fourth Set of Data Requests, *see* Motion at 5-12, Verizon must demonstrate that Verizon is entitled to a response to *each* individual data request. With few exceptions, Verizon does not even attempt to do so. Rather, Verizon characterizes all 43 data requests as “regarding [AT&T's] own operational experience, networks, and costs.” Motion at 5. As even a cursory review of the actual data requests demonstrates, many of the requests in Verizon's Fourth Set of Data Requests request information on AT&T's business plans (Request Nos. 4-14, 4-31, 4-32, 4-33, 4-34), the number of AT&T's local customers in Verizon's service territory (Request No. 4-13), and

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<sup>1</sup> Based on Verizon's repeated citations to data request responses, Verizon appears to be

information concerning AT&T's long distance business (Request Nos. 4-12 and 4-30) – none of which bear any relationship to AT&T's local “operational experience, networks, and costs.”

4. Verizon similarly fails to provide or identify to the Commission all of the objections that AT&T raised to Verizon's Fourth Set of Data Requests or any of AT&T's responses. AT&T objected to most of these 43 data requests on multiple grounds, including that the information Verizon requests would require AT&T to create data by undertaking special studies at enormous expense. Verizon makes no effort to justify overruling this objection or to provide the Commission with any basis for using data requests to compel a party to create new data, rather than produce existing data. AT&T also responded to several of the 43 data requests in Verizon's Fourth Set of Data Requests, notwithstanding its objections, that most of AT&T's local outside plant network in Washington is constructed through infeasible rights of use (“IRU”) agreements with other carriers and that AT&T has little or none of the investment information that Verizon requests. Again, Verizon's Motion does not even acknowledge these responses, much less explain why they are insufficient.

5. As the moving party, Verizon bears the burden to demonstrate to the Commission that Verizon is entitled to data that it has requested from AT&T. By failing to identify, address, and provide to the Commission the specific individual data requests – including AT&T's objections and/or responses – to which Verizon seeks to have the Commission compel responses, Verizon has failed to make even a prima facie case that it is

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under the erroneous belief that those responses are on file with the Commission.

entitled to the relief it requests. Accordingly, the Commission should dismiss Verizon's Motion. Alternatively, the Commission should require Verizon to amend its Motion to specify and provide the Commission with the individual data requests at issue and to address each data request individually, including an explanation of why Verizon asserts that *all* of AT&T's objections should be overruled and/or why AT&T's responses are insufficient.

WHEREFORE, AT&T respectfully requests the following relief:

A. An Order from the Commission dismissing Verizon's Motion, or alternatively requiring Verizon to amend its Motion as outlined above; and

B. Such other or further relief as the Commission finds fair, just, reasonable, and sufficient.

DATED this \_\_\_\_\_ day of October, 2003.

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By \_\_\_\_\_  
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