

**BEFORE THE  
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

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VERIZON SELECT SERVICES, INC.;	)	
MCIMETRO ACCESS TRANSMISSION	)	
SERVICES, LLC; MCI	)	Docket No. UT-
COMMUNICATIONS SERVICES, INC.;	)	
TELECONNECT LONG DISTANCE	)	COMPLAINT TO REDUCE
SERVICES AND SYSTEMS CO. D/B/A	)	INTRASTATE SWITCHED
TELECOM USA; AND TTI NATIONAL,	)	ACCESS CHARGES
INC.,	)	
Complainants,	)	
	)	
v.	)	
	)	
UNITED TELEPHONE COMPANY OF	)	
THE NORTHWEST,	)	
	)	
Respondent.	)	

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**I. INTRODUCTION**

Pursuant to RCW 80.04.110 and WAC 480-07-305, Verizon Select Services, Inc., MCImetro Access Transmission Services, LLC, MCI Communications Services, Inc., Teleconnect Long Distance Services and Systems Co. d/b/a Telecom USA and TTI National, Inc. (collectively, "Verizon Access" or "Complainant") bring the following Complaint against United Telephone Company of the Northwest ("Embarq" or "Respondent"). In support of its Complaint, Verizon Access alleges as follows:

1. The addresses of the Complainants are: Verizon Select Services, Inc., 1 Verizon Way, Basking Ridge, NJ 07920; MCImetro Access Transmission Services, LLC, 22001 Loudoun County Parkway, Ashburn, VA 20147; MCI Communications Services, Inc., 22001 Loudoun County Parkway, Ashburn, VA 20147; Teleconnect Long Distance Services and

Systems Co., 22001 Loudoun County Parkway, Ashburn, VA 20147; and TTI National, Inc., 22001 Loudoun County Parkway, Ashburn, VA 20147.

2. Verizon Access is represented in this proceeding by its attorney:

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Verizon  
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3. The address of the Respondent is 902 Wasco Street, Hood River, Oregon, 97031-3105.

## II. PARTIES

4. The Complainants are authorized to do business in the state of Washington, and are classified by the Commission as competitive telecommunications companies.

5. The Respondent is an incumbent local exchange company ("ILEC"), as defined in 47 U.S.C. § 251(h), and provides local exchange and other telecommunications services in Washington.

## III. STANDING AND JURISDICTION

6. Verizon Access is authorized to make this complaint pursuant to RCW 80.04.110. Verizon Access competes with Embarq and Embarq's long distance affiliate in the provision of local and long distance telephone services in Washington. Verizon Access must utilize Embarq's network to provide service to its own end user customers within Embarq's service territory and, thus, is subject without choice to the originating and terminating intrastate switched access charges imposed by Embarq.

7. The Commission has jurisdiction over this Complaint and over Embarq pursuant to RCW 80.01.040 (general powers and duties of commission), RCW 80.04.110 (complaints), RCW 80.36.140 (rates and services fixed by commission), and RCW 80.36.186 (pricing of access to noncompetitive services).

#### **IV. SUMMARY OF COMPLAINT**

8. This complaint concerns the need to reduce Embarq's intrastate switched access charges in light of the dramatic changes in the telecommunications market that have occurred over the past several years, and in furtherance of the Commission's articulated policy favoring switched access rates that are just, reasonable, and pro-competitive. Although the intrastate access rates of two other ILECs in the state, Qwest Corporation ("Qwest") and Verizon Northwest Inc. ("Verizon NW"), have been reduced over time to levels that the Commission deems just and reasonable, other carriers have avoided similar scrutiny of their intrastate switched access rates. In particular, Embarq continues to charge, for the same functions, intrastate switched access rates substantially higher than those of Qwest and Verizon NW.

9. Embarq's intrastate switched access rates are unjust and unreasonable in violation of RCW 80.36.140. Allowing Embarq to recover such a disproportionate amount of its costs from its competitors subjects Verizon Access and other competitors to "undue or unreasonable prejudice" and places them at a "competitive disadvantage" in violation of RCW 80.36.186.

10. As discussed below, Verizon Access respectfully requests that the Commission reduce Respondent's intrastate switched access rates to levels that comply with RCW 80.36.140 and RCW 80.36.186. Verizon NW is the Washington ILEC whose intrastate switched access rates have undergone the most recent scrutiny, and the Commission has deemed its current rates just and reasonable. Verizon NW's intrastate switched access rates represent a reasonable

benchmark for a similarly sophisticated, efficient, and well-financed telephone company such as Embarq. Accordingly, the Commission should require Embarq to mirror Verizon NW's intrastate switched access rates.

11. The Commission has also deemed Qwest's intrastate switched access rates to be just and reasonable. If the Commission is reluctant to immediately move Embarq to Verizon NW's level, requiring Embarq to mirror Qwest's intrastate switched access rates may represent a reasonable interim step.

## **V. FACTS**

### **A. Services at Issue.**

12. Switched access services are the functions that local exchange carriers ("LECs") such as Embarq provide when they complete calls that long distance telephone companies deliver to their network and when they originate calls from their end users that are delivered to long distance companies' networks.

13. Intrastate switched access services are the termination and origination services performed for intrastate toll calls. This Commission has jurisdiction over intrastate switched access services.

14. Interstate switched access services are the termination and origination services performed for interstate toll calls. The Federal Communications Commission has jurisdiction over interstate switched access services.

### **B. The History of Access Reductions in Washington.**

15. The Commission has required two local exchange carriers, Qwest and Verizon NW, to substantially reduce their intrastate switched access rates in order to comply with RCW 80.36.140 and RCW 80.36.186. First, in April 1996, the Commission ordered substantial

reductions to Qwest's switched access rates. *See* Fifteenth Supplemental Order, Docket No. UT-950200 (1996) ("Fifteenth Supplemental Order") at 112. The Commission found that: "[T]he reduction in access rates can be expected to have substantial economic benefit for residential and business customers of this state. Toll calls are a substantial portion of the total telephone bill of many customers, and this reduction will make their overall telephone service more affordable." *Id* (footnote omitted).

16. In reducing Qwest's intrastate switched access rates, the Commission recognized that it is important to abandon legacy rates that no longer serve a legitimate purpose in a competitive telecommunications industry. For example, it eliminated Qwest's Carrier Common Line Charge ("CCLC") in favor of a more rational rate structure under which "rate elements have a direct bearing on the service provided." *Id.* at 113. According to the Commission, "[t]o allow the CCLC to continue to exist is to imply, inaccurately, that local exchange services require a 'subsidy' from toll." *Id.*

17. Subsequently, the Commission required Verizon NW to substantially reduce its intrastate switched access charges, observing in 2003 that "competitive circumstances have changed radically" since Verizon NW's rates had previously been established. Eleventh Supplemental Order, Docket No. UT-020406, Order Sustaining Complaint, Directing Filing of Revised Access Charge Rates ("Eleventh Supplemental Order"), ¶ 39. The Commission determined that "we – and Verizon [NW] – must face the competitive realities of the 21<sup>st</sup> century and bring access charges more in line with current conditions." *Id.*

18. One of the contemporary realities that the Commission recognized was that efficient competition can only exist where there is a level playing field, and that excessive switched access rates distort the playing field. *Id.*, ¶ 161. The Commission therefore required Verizon

NW to mirror Qwest's rate, finding that "[r]educing access charges to the level of Qwest charges for comparable services will reduce the preference to Verizon [NW] and reduce the prejudice to interexchange carriers AT&T and WorldCom." *Id.*, ¶ 162.

19. In 2005, the Commission approved a settlement mandating additional reductions in Verizon NW's intrastate switched access rates. *See* Order No. 15 in Docket No. UT-040788 and Order No. 03 in Docket No. UT-040520 (April 12, 2005), Narrative Supporting Settlement Agreement (February 2005), 15-16 (phasing out Verizon NW's interim terminating access charge over a two year period). As a result, Verizon NW's intrastate switched access rates are now lower than Qwest's.

20. Embarq's intrastate switched access rates, however, have never been subjected to similar scrutiny. As a result, there is a substantial disparity between Embarq's intrastate switched access rates and those of Qwest and Verizon NW.

**C. Disparities Between Embarq's Switched Access Rates and Those of Other Large Telephone Companies.**

21. Because different carriers often have different rate structures, to understand the magnitude of the disparity in rates it is important to review the aggregate charges that result from applying the various switched access rate elements in the carriers' respective tariffs. Comparing their average access revenues per minute ("ARPM"), based on billings to Verizon Access, is a valid way to compare their access rates. The ARPM analysis takes into account all of the relevant access rate elements that are billed on a per-minute-of-use basis, so it provides a more "apples-to-apples" comparison than review of a single rate element. Embarq's ARPM is [REDACTED]. By way of comparison, Qwest's ARPM is [REDACTED] and Verizon NW's ARPM is [REDACTED].

22. Certain comparisons of specific rate elements can also help to demonstrate the disparity between the rates for intrastate switched access services provided by Embarq and by Qwest and Verizon NW. For example:

- a. Embarq has a Common Line Charge of \$0.01 per minute for originating traffic.<sup>1</sup> Neither Qwest nor Verizon NW assesses a Common Line Charge.
- b. Embarq's local switching rate is \$0.020740 for originating traffic and \$0.004663 for terminating traffic.<sup>2</sup> Qwest's local switching rate is \$0.014441 for originating traffic and \$0.001178 for terminating traffic.<sup>3</sup> Verizon NW's local switching rate is \$0.0158172 for originating traffic and \$0.0014151 for terminating traffic.<sup>4</sup>
- c. Embarq has an Interim USF Additive of \$0.064851.<sup>5</sup> Verizon NW does not assess any comparable charge, and Qwest's only comparable charge is its \$0.015891 Interim Universal Service Support Fund Surcharge.<sup>6</sup>
- d. Embarq charges a common transport multiplexing rate of \$0.001055 per minute.<sup>7</sup> Verizon NW does not have a comparable rate element, and Qwest's comparable rate is \$0.000198.<sup>8</sup>

23. In other words, Embarq charges substantially more than what Qwest and Verizon NW charge for the same intrastate switched access functions.

## VI. CLAIMS FOR RELIEF

24. Embarq's switched access charges violate Washington statutes and Commission precedent, and the appropriate remedy to these violations is to use Verizon NW's intrastate access rate as a benchmark.

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<sup>1</sup> See Embarq Access Tariff (WN U-9), § 3.8(A). All rates discussed herein are for premium traffic, which is traffic generated via traditional 1+ dialing. Premium traffic makes up the vast majority of interexchange voice traffic.

<sup>2</sup> *Id.*, § 6.8.3.

<sup>3</sup> Qwest Access Tariff (WN U-44), § 6.8.2 (A)(1).

<sup>4</sup> Verizon NW Access Tariff (WN U-16), § 4.6.3.

<sup>5</sup> Embarq Access Tariff (WN U-9), § 3.8(C).

<sup>6</sup> Qwest Access Tariff (WN U-44), § 6.8.2 (A)(1).

<sup>7</sup> Embarq Access Tariff (WN U-9), § 6.8.2 (C)(3).

<sup>8</sup> Qwest Access Tariff (WN U-44), § 6.8.1.

**A. Washington's Long Distance Consumers and Carriers Should Not Be Required to Continue to Subsidize Embarq In Violation of Washington Statutes and Commission Precedent.**

**(i) Violation of RCW 80.36.140.**

25. Verizon Access realleges and incorporates by reference the allegations in paragraphs 1-23.

26. As discussed above, Embarq charges substantially more than Qwest and Verizon NW for switched access service. Its intrastate switched access rates are not reasonable and violate RCW 80.36.140. Having acted to rationalize the intrastate switched access charges of other large ILECs (Qwest and Verizon NW), there is no reason for this Commission to permit Embarq to continue to charge such excessive switched access rates.<sup>9</sup>

**(ii) Violation of RCW 80.36.186.**

27. Verizon Access realleges and incorporates by reference the allegations in paragraphs 1-23.

28. In addition to being unfair and unreasonable, allowing Embarq to shift such a large portion of its costs to switched access purchasers like Verizon Access (and ultimately Verizon Access's own customers) violates RCW 80.36.186 by placing competitors such as Verizon Access at an artificial competitive disadvantage. It is well established that permitting excessive intrastate switched access rates hurts the state's economy, and the development of its telecommunications industry. That is because more efficient competition, and the associated consumer benefits, cannot be achieved as long as carriers seek to recover a disproportionate

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<sup>9</sup> Embarq has structured its switched access rates to comply or attempt to comply with WAC 480-120-540. However, compliance with that statute is irrelevant to whether a company's switched access rates violate RCW 80.36.140, RCW 80.36.186, or other Washington statutes. See Eleventh Supplemental Order, ¶¶ 30-31.



share of their costs from other carriers, rather than from their own end users.<sup>10</sup> Such irrational access rate structures “lead to inefficient and undesirable economic behavior.” *CALLS Order*, ¶ 129. Accordingly, this Commission has recognized that excessive switched access charges violate RCW 80.36.186. *See Eleventh Supplemental Order*, ¶¶ 161-62, 181.

29. Allowing Embarq to continue to charge excessive switched access rates in violation of Washington statutes would hurt Washington’s telecommunications consumers by requiring them to subsidize Embarq through artificially inflated prices. As this Commission has found, reducing the price of a necessary input (that is, access services) to other carriers enhances efficiency in the long distance services those carriers provide, which benefits consumers. *See, e.g., Fifteenth Supplemental Order* at 112.

30. In other words, not only is it fundamentally unfair and unreasonable for Embarq to continue to recover such a disproportionate amount of its costs from its competitors, but it also violates Washington law.

**(iii) Violation of Commission Precedent.**

31. Verizon Access realleges and incorporates by reference the allegations in paragraphs 1-30.

32. As detailed above, Commission precedent is clear that switched access charges of the levels assessed by Embarq must be reduced. Smaller independent ILECs have sometimes argued that they should be permitted to avoid the substantial reductions imposed on larger carriers.

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<sup>10</sup> *See generally Access Charge Reform; Price Cap Performance Review for Local Exchange Carriers; Low-Volume Long Distance Users; Federal-State Joint Board On Universal Service*, Sixth Report and Order in CC Docket Nos. 96-262 and 94-1, Report and Order in CC Docket No. 99-249, Eleventh Report and Order in CC Docket No. 96-45, 15 FCC Rcd 12962 (May 31, 2000) (“*CALLS Order*”); *Multi-Association (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers*, Second Report & Order and Further Notice of Proposed Rulemaking in CC Docket No. 00-256, Fifteenth Report & Order in CC Docket No. 96-45, and Report & Order in CC Docket Nos. 98-77 and 98-166, 16 FCC Rcd 19613 (2001) (“*MAG Order*”); *Reform of Access Charges Imposed by Competitive Local Exchange Carriers*, Seventh Report & Order and Further Notice of Proposed Rulemaking, 16 FCC Rcd 9923 (2001) (“*CLEC Rate Cap Order*”).

However, there is no need to shy away from Commission precedent with respect to a sizable, sophisticated, and well-financed telephone company like Embarq.

33. Embarq has far more in common with other large, sophisticated telephone companies that have had their switched access charges reduced by this Commission (such as Qwest and Verizon NW) than with the smaller ILECs that sometimes seek significant subsidies from long distance carriers for universal service purposes.

34. Embarq's parent, which was spun off from Sprint Nextel in 2006, owned 6.5 million access lines at the end of 2007 and is included in the S&P 500. *See* News Release, "Embarq Reports Solid Fourth Quarter and Full-Year 2007 Results," dated February 7, 2008 (*available at* <[www2.embarq.com/companyinfo](http://www2.embarq.com/companyinfo)>). It trades on the New York Stock Exchange, reporting 2007 revenues of \$6.4 billion and operating income of \$1.5 billion. *Id.*

35. Embarq describes itself as "among the few communications service providers in many of the markets we serve that can provide a suite of services to both consumer and business customers that includes wireline voice services, nationwide long distance, high-speed Internet, wireless, consumer video entertainment services and communications equipment for business customers." *See* Embarq 2007 Annual Report at 3. According to a high-level Embarq executive, marketing that suite of products to its existing customers permits Embarq to achieve "increased average revenue per household (ARPH) and better profitability per household." *See* Movers & Shakers Interview With Harry Campbell, President Consumer Markets, Embarq (*available at* <[www2.embarq.com/companyinfo](http://www2.embarq.com/companyinfo)> ("Frost & Sullivan" link)). For example, Embarq boasts that "[s]ince we introduced our high-speed Internet access service in 1999, we have successfully grown our high-speed Internet base to almost 1.3 million subscribers at December 31, 2007,

which represents approximately 26% penetration of our capable access lines.” Embarq 2007 Annual Report at 3.

36. Thus, by its own account, Embarq is thriving, meeting competitive pressures and customer demand for ever-more innovative services. Accordingly, it is appropriate to apply to Embarq the same reasonableness standards under Washington law that have been applied to Qwest and Verizon NW. There is no justification for continuing to allow Embarq the competitive advantage of receiving disproportionately large subsidies from access charges paid by competitors.

37. Nor is there any reason to conclude that Embarq incurs any special costs for providing intrastate switched access services that justify higher rates than those charged by Qwest and Verizon NW. Embarq has reduced its own *interstate* switched access rates to levels significantly below Verizon NW’s and Qwest’s intrastate access rates.

**B. Remedy for Violations: Verizon NW’s Intrastate Switched Access Rate Is a Reasonable Benchmark for Applying Commission Standards to Embarq.**

38. Verizon Access realleges and incorporates by reference the allegations in paragraphs 1-37.

39. Ultimately, inter-carrier compensation rates at both the state and federal level should be determined by commercial negotiations in a free market because, in the long run, market-based mechanisms are the best way to produce efficient prices and promote the public interest. *CALLS Order*, ¶ 178. Until the industry can fully transition to a regime of commercially negotiated agreements, however, the Commission must ensure that access rates are set and maintained at a level that will promote consumer welfare and economic efficiency, as it did with Qwest and Verizon NW. Applying a reasonable benchmark to Embarq’s switched access rates

(to which Embarq and other carriers may choose to later negotiate deviations) would be an important step toward the ideal of negotiated intercarrier compensation.

40. Verizon NW is the Washington ILEC that has most recently undergone scrutiny of its intrastate switched access charges, and the Commission determined that Verizon NW's current intrastate switched access rates are just and reasonable. As discussed above, there is no justification for permitting Embarq to charge more than Verizon NW does when performing identical intrastate switched access services. Accordingly, Verizon NW's intrastate switched access rates represent a reasonable benchmark to apply Commission standards to Embarq.

41. If the Commission is reluctant to immediately move Embarq to Verizon NW's intrastate switched access rate, a reasonable interim solution would be to require Embarq to mirror Qwest's intrastate switched access rate. Qwest's intrastate switched access rates have also undergone significant scrutiny, and have been deemed just and reasonable by the Commission.

42. Verizon Access is not proposing that Embarq's overall revenues be reduced, but rather that its intrastate switched access rates be rationalized. To the extent it has legitimate network costs to recover, above and beyond what it would recover by charging Verizon NW's intrastate switched access rate, it can recover those costs through rates for the services it provides its own customers – just as Qwest and Verizon NW already must do. Accordingly, there is no need for the Commission to be involved in rebalancing Embarq's rates in the present proceeding – just as there was no need for rebalancing the rates of Verizon NW or Qwest in the access charge proceedings that reduced their intrastate switched access rates. *See, e.g.,* Eleventh Supplemental Order, ¶¶ 174-75, 187 (finding Verizon NW is not entitled to rebalancing as a

matter of law and that it can initiate a separate proceeding to seek rebalancing if it believes rebalancing is necessary and appropriate).<sup>11</sup>

43. Nor is it necessary for this Commission to initiate a cost case before adopting Verizon NW's or Qwest's rate as a reasonable benchmark for intrastate switched access rates. As the FCC observed when it declined to conduct any cost proceedings before ordering the CALLS rates, the public interest is better served by immediate access rate reductions to reasonable levels than trying to precisely determine costs through time-consuming, complex, expensive and archaic regulatory cost proceedings. *See CALLS Order*, ¶¶ 178, 84. The public interest is best served by promptly reducing Embarq's switched access rates to levels that comply with RCW 80.36.140 and RCW 80.36.186. Applying a reasonable benchmark to Embarq is particularly appropriate here given that the benchmark Verizon Access proposes is above Embarq's *interstate* switched access rate and therefore above its costs for providing intrastate switched access functions.

## VII. PRAYER FOR RELIEF

44. For the reasons set forth above, Verizon Access respectfully requests that the Commission enter an order:

(i) capping Embarq's intrastate switched access rates (including its Common Line Charge and Interim USF Additive) at the level of Verizon NW's switched access rates, or, alternatively, at Qwest's level; and

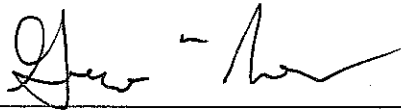
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<sup>11</sup> There is no reason to assume that reductions in switched access rates would cause Embarq to seek local rate increases. Embarq may not need increases in local rates in order to continue to receive a healthy return on equity. Moreover, Embarq has made clear that it may not seek rate rebalancing in the wake of access charge reductions because "competitive market forces may limit the amount of revenue recoverable from basic local rate increases." Embarq 2007 Annual Report at 16. On the other hand, competition in the long distance market ensures that long distance consumers *do* benefit from reductions in switched access rates. *See, e.g.*, Fifteenth Supplemental Order at 112.

(ii) granting such other or further relief as the Commission deems appropriate.

Respectfully submitted on July 25, 2008

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