

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

In the Matter of the Review of:     )   DOCKET NO. UT-023003  
Unbundled Loop and Switching     )  
Rates; the Deaveraged Zone        )  
Rate Structure; and Unbundled     )   SIXTEENTH SUPPLEMENTAL  
Network Elements, Transport,     )   ORDER ADOPTING SECURITY  
and Termination (Recurring        )   POLICY  
Costs)                                 )  
  )  
  )  
.....                                 )

**I. INTRODUCTION**

1   **Proceedings.** Docket No. UT-023003 – also referred to as the “new generic cost case” – is a generic proceeding to review recurring costs for unbundled network element (“UNE”) loop and switch rates, including the deaveraged loop zone rate structure, previously established by the Commission in other proceedings.<sup>1</sup>

2   **Background.** On September 12, 2003, Commission Staff, AT&T and MCI filed a motion to strike Verizon’s cost model in this proceeding. The moving parties raised as one of the reasons underlying the motion that their use of Verizon’s website-based cost model compromised the confidentiality of their work product in this case. As a result of argument on the motion, the Commission entered its Fifteenth Supplemental Order requiring the parties to file proposed confidentiality agreements that would protect work product confidentiality.

3   On October 24, 2003, AT&T, XO Washington, MCI, Commission Staff and Verizon indicated they had negotiated a resolution and asked that the

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<sup>1</sup> On August 5, 2003, in the Twelfth Supplemental Order in this case, the Commission bifurcated the recurring and nonrecurring cost portions of Docket No. UT-023003. The Commission will now consider nonrecurring costs in Docket No. UT-033034.

Commission adopt the VzCost Security Policy<sup>2</sup> to govern the parties' use of Verizon's website-based cost model in this case, with an extension of the protections in that policy to information provided to Verizon Help Desk personnel and system administrators.<sup>3</sup>

- 4 **Appearances.** The following parties have entered appearances in this case: Qwest Corporation ("Qwest"), by Lisa Anderl, attorney, Seattle, Washington; Verizon Northwest Inc. ("Verizon"), by Catherine Ronis, attorney, Washington, D.C.; Covad Communications Company ("Covad"), by Karen S. Frame, attorney, Denver, Colorado; AT&T of the Pacific Northwest, Inc. ("AT&T"), Pac-West, Inc. ("Pac-West"), and XO Washington, Inc. ("XO"), by Gregory J. Kopta, attorney, Seattle, Washington; MCI/WorldCom ("WorldCom") by Michel Singer-Nelson, attorney, Denver, Colorado; WeBTEC, by Arthur Butler, attorney, Seattle, Washington; Eschelon Telecom, Inc. ("Eschelon"), by Dennis Ahlers, Minneapolis, Minnesota; and Commission Staff, by Shannon Smith, Senior Assistant Attorney General.

## II. DISCUSSION AND DECISION

- 5 In its Fifteenth Supplemental Order, the Commission acknowledged the concern of the parties that their access to the Verizon cost model might raise security issues since the cost model is housed on Verizon's website. The Commission gave the moving parties and Verizon and opportunity to submit confidentiality agreements that administrators and Help Desk personnel must sign associated with their prospective oversight of the cost model.

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<sup>2</sup> The VzCost Security Policy is attached to Verizon's response to the Motion to Strike the Verizon Cost Model.

<sup>3</sup> See Attachment A to this order for a copy of the letter containing all the terms of the parties' agreed application of the VzCost Security Policy to Help Desk personnel and system administrators

- 6 The agreement negotiated by the moving parties and Verizon does not provide for a signed confidentiality agreement, but rather, requests the Commission to adopt an already existing Verizon security policy, to apply to both Verizon's website administrators and Help Desk personnel, with certain additional definitions and limitations. The definitions and limitations address where in Verizon's organization Help Desk personnel will be employed; what types of questions Help Desk personnel will be available to answer; Verizon's responsibility for ensuring that Help Desk personnel do not disclose information from external users to any other person except as permitted by the Commission or unless the external user discloses or authorizes disclosure of that information, or puts the information at issue in this proceeding.
- 7 The parties' agreement for the protection of confidentiality related to use of Verizon's cost model appears reasonable and should be adopted for purposes of this proceeding. Giving the parties greater confidence that their use of the Verizon cost model will not result in improper dissemination of their preparation for hearing in this matter will allow for creation of a better evidentiary record and a more informed Commission decision on the merits.

**ORDER**

- 8 The Commission adopts the Vz Security Policy, with the modifications requested by the parties in the attached agreement, as the security standard for purposes of this proceeding.

DATED at Olympia, Washington, and effective this 14<sup>th</sup> day of November, 2003.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

THEODORA M. MACE  
Administrative Law Judge

# **ATTACHMENT**

## **A**

November 14, 2003

Via Federal Express

Ms. Carole J. Washburn, Executive Secretary  
Washington Utilities & Transportation Commission  
1300 S. Evergreen Park Drive SW  
P.O. Box 47250  
Olympia, WA 98504-7250

Re: Docket No. UT-023003, New Generic Cost Docket

Dear Ms. Washburn:

The Commission's Fifteenth Supplemental Order ("Order") in the above-referenced docket requires the parties that moved to strike the Verizon Northwest, Inc. ("Verizon") cost model ("VzCost") to propose a confidentiality agreement to be signed by Verizon Help Desk personnel and administrators overseeing the model. These parties did not propose such a confidentiality agreement, but this Commission requirement appears to be intended to address concerns the parties expressed with respect to Verizon's access to other parties' access to, and use of, VzCost, including any information conveyed to Verizon personnel involved in assisting or mediating those parties' access or use.

Counsel for AT&T Communications of the Pacific Northwest, Inc., and XO Washington, Inc., in consultation with counsel for WorldCom, Inc., k/n/a MCI, Inc., and Commission Staff (collectively the "Moving Parties"), and counsel for Verizon have discussed how best to address the parties' concerns in light of the Order. While the Moving Parties continue to have concerns about VzCost, they do not believe that their concerns about the confidentiality of their access to, and use of, that model will be addressed by requiring Verizon system administrators and Help Desk personnel to execute a special confidentiality agreement. Verizon and its witnesses, not Verizon technical support personnel, should be responsible for ensuring the confidentiality of the data that other parties in this proceeding necessarily disclose in the course of accessing or attempting to access VzCost.

Accordingly, rather than propose a special confidentiality agreement, the Moving Parties propose that the Commission issue an order that includes the following provisions:

- (1) Adoption of the "VzCost Security Policy" that Verizon provided as an attachment to its response to the Moving Party's Motion to Strike as a Commission requirement in this proceeding, not simply a Verizon internal policy;

- (2) Extension of the protections in that policy to information provided to Verizon Help Desk personnel and system administrators, with the following definitions and limitations:
- (a) Help Desk personnel, including those providing the Help Desk with technical assistance (“Help Desk Personnel”) will be employed by Verizon's cost study systems group, and not by its cost study development group, which is responsible for the development of Verizon's cost studies. Help Desk Personnel will be available to answer questions limited to systems issues associated with the web-based nature of the model, such as network or browser problems, navigation through the modules within the model, and systems user errors, and not questions concerning the methodology of the cost studies contained in VzCost. Verizon will be responsible for ensuring that Help Desk Personnel do not disclose the source or content of any information revealed to them by external users to any other person, except for other Help Desk Personnel or as otherwise permitted by the Commission.
  - (b) Verizon will be responsible for ensuring that Help Desk Personnel may disclose the source and content of information revealed to them by an external user if that user, or the party sponsoring that user, discloses or authorizes disclosure of that information, or raises or otherwise puts that information at issue with the Commission in this proceeding; Provided, that the disclosure will be limited only to the persons and the extent necessary to enable Verizon to respond to, or otherwise address, that issue.
  - (c) Verizon will be responsible for ensuring that the protection provided to the source and content of information revealed to Help Desk Personnel by external users will remain in place until the close of the record in this proceeding; Provided that Verizon or its affiliates shall not reveal or otherwise use this information in any other litigation before the Commission, or any other state commission, or any court for a period of two years from the date the information is revealed to Help Desk Personnel unless the external user, the party sponsoring that user, or a party other than Verizon or its affiliates raises or otherwise puts that information at issue with the Commission, the other state commission, or the court, and Verizon or its affiliate uses that information only to the extent necessary to enable Verizon or its affiliate to respond to, or otherwise address, that issue.

- (3) Nothing in the foregoing requirements shall be deemed to prohibit Help Desk Personnel from recommending solutions to systems issues of which they become aware, whether from external users or internal Verizon users (or both), so long as in doing so the Help Desk Personnel do not reveal the source or content of any information revealed to them by external users.

Counsel for the Moving Parties have negotiated this proposal with Verizon and understand that Verizon does not object to entry of such an order.

Please contact me if you have any questions about this proposal.

Very truly yours,

Davis Wright Tremaine LLP

Gregory J. Kopta

cc: Parties of Record