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December 13, 2005

VIA ELECTRONIC MAIL AND FEDERAL EXPRESS

Filing Center
Oregon Public Utility Commission
550 Capitol Street NE, Suite 215
Salem, OR 97301-2551

Re: ***UM 1217 Direct Testimony of Orville D. Fulp***

Dear Sir or Madam:

Enclosed are the original and five copies of the Direct Testimony of Orville D. Fulp and a Certificate of Service.

Sincerely,

Timothy J. O'Connell

TJO:vm

Enclosures

cc: Service List

Oregon
Washington
California
Utah
Idaho

Case UM 1217
Verizon Northwest, Exhibit 1
Witness: Fulp

BEFORE THE PUBLIC UTILITY COMMISSION
OF THE STATE OF OREGON

VERIZON NORTHWEST INC.

Direct Testimony
of Orville D. Fulp

November 2005

BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON

UM 1217

In the Matter of PUBLIC UTILITY COMMISSION OF OREGON Staff Investigation to Establish Requirements for Initial Designation and Recertification of Telecommunications Carriers Eligible to Receive Federal Universal Service Support

DIRECT TESTIMONY OF

ORVILLE D. FULP

ON BEHALF OF
VERIZON NORTHWEST INC.

DECEMBER 13, 2005

INTRODUCTION

Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS, EMPLOYER AND TITLE.

A. My name is Orville D. Fulp. My business address is 600 Hidden Ridge Drive, Irving, Texas 75038. I am employed by Verizon as Director-Regulatory.

Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND WORK EXPERIENCE IN THE TELECOMMUNICATIONS INDUSTRY.

A. I have a Bachelor of Arts degree in Economics from the University of California, San Diego, and a Master of Science degree in Economics from the University of Wyoming.

In 1981, I began working at the Illinois Commerce Commission in the Economics and Rates Department as Senior Economist, where I analyzed filings and testified in utility rate proceedings in the areas of pricing, cost of service, and demand analysis. In January of 1984, I transferred to the Policy Analysis and Research Division as Director of the Pricing Program. My responsibilities included developing policy concerning pricing in the telecommunications and energy fields.

In 1985, I joined Contel as Manager-Revenue Requirements/Pricing for the Company's eastern region, and was responsible for rate case activity, tariff maintenance, surveillance of regulatory activities, and pricing of local exchange, toll and access services in six states.

In 1991, I became a Manager-Access Pricing for GTE Telephone Operations, and was responsible for the development of access pricing plans and rates for interstate and intrastate purposes in 40 states. Since that time I have held various positions in GTE and Verizon involving pricing and product management and operations. In December 2001, I assumed my current position of Director – Regulatory. My current responsibilities include national public policy and pricing matters.

Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE STATE REGULATORY COMMISSIONS?

A. Yes, I have testified on national public policy and pricing matters, including several generic access charge dockets and other pricing related dockets over the last 15 years, on behalf of various Verizon telephone companies before state commissions in California, Florida, Illinois, North Carolina, South Carolina, Georgia, Alabama, Maine, Vermont, New Hampshire, Pennsylvania, Texas and Washington.

Q. WHAT IS THE PUPOSE OF YOUR TESTIMONY?

A. To address the following issues from the agreed issues list adopted by the administrative law judge in this proceeding.

Q. ISSUE I. WHAT POLICY OBJECTIVES SHOULD THE COMMISSION ATTEMPT TO ACHIEVE THROUGH THIS DOCKET?

A. Generally, Verizon believes that the Commission should recognize that all things being equal, increasing the number of Eligible Telecommunications Carriers ("ETC") in a given service area will dramatically increase the cost of the various universal service supporting high cost funds. All ETC applicants, therefore, should be able to provide evidence that they have met public interest guidelines in both non-rural and rural areas. These guidelines should include the minimum eligibility requirements called for by the Telecommunications Act; that the ETC applicant have adequate financial resources; annual ETC certifications regarding how the support will be used; and disclosure about how each new ETC designation will impact the universal service fund from which that applicant will draw.

Secondly, the Commission should continue to recognize the unique position of ETC designees that are also Incumbent Local Exchange Carriers in the given study area. As the Commission has already noted[1], extensive regulation and reporting is already required of ILEC ETCs under the Commission's rules and the statutes it implements. Order 04-355, at 16. There should be no requirement for ILECs to automatically provide the same disclosures or be subject to the same regulations as non-ILEC ETCs that are not subject to the same regulatory regime. It would serve no good purpose to impose on ILECs – and the Commission staff – the obligation to produce and review redundant reports that were intended in the first instance to only be a substitute for the extensive information the Commission already receives from and about ILECs.

Q. ISSUE II(A). WHAT SPECIFIC BASIC ELIGIBILITY REQUIREMENTS SHOULD THE COMMISSION ADOPT FOR THE INITIAL CERTIFICATION OF ETCS?

A. This Commission has adequately addressed the criteria that should be evaluated in order to determine whether a carrier can be certified as an ETC, such as the Commission's ruling in the *RCC Minnesota* proceeding, Order 04-355. When those criteria are coupled with the annual reports filed by non-ILEC ETCs, no additional

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[1] *In the Matter of RCC Minnesota, Inc. Application for Designation as an Eligible Telecommunication Carrier, Pursuant to the Telecommunications Act of 1996,* UM 1083, Order No. 04-355 (June 2004)(hereinafter, "Order 04-355").

criteria are called for. There has been no showing that the criteria used by the Commission in *RCC Minnesota* produces improper results, so the Commission should be hesitant to revisit the issue.

Q. **ISSUE II(A)(1). SHOULD THE COMMISSION ADOPT ANY, OR ALL, OF THE REQUIREMENTS PROPOSED BY THE FCC IN ORDER 05-46?**

A. No, the Commission should not adopt the FCC's proposed requirements issued in Order 05-46 (the "*ETC Order*").[2] The new requirements of the *ETC Order* do not fit well in Oregon, at least not with Verizon's operations. Most of those new requirements – such as the obligations pertaining to emergency operations, consumer protection and service quality, local usage plans and equal access – are redundant of obligations that Verizon satisfies routinely as an ILEC.

Q. ISSUE II(A)(2). SHOULD THE COMMISSION ADOPT OTHER BASIC ELIGIBILITY REQUIREMENTS?

A. No. Verizon does not believe that the ETC designation process should be made more burdensome. The Commission should not create disincentives to invest in Oregon.

Q. ISSUE II(A)(3). SHOULD THE SAME REQUIREMENTS APPLY TO APPLICATIONS FOR DESIGNATIONS IN RURAL AND NON-RURAL ILEC SERVICE AREAS?

A. Yes. Other than the specific differences called for by Section 214(e), there is no reason to distinguish between rural and non-rural service areas for purposes of ETC designation. As the Commission has recognized, "despite being defined as non-rural ILEC, Qwest and Verizon serve many rural areas in Oregon." Order No. 04-355, at

[2] *In the Matter of Federal-State Joint Board on Universal Service,* CC Docket No. 96-45, FCC 05-46, Report and Order, March 17, 2005.

6. There is therefore no sound reason to treat rural service areas differently than non-rural areas.

Q. ISSUE II(A)(4). SHOULD THE SAME ELIGIBILITY REQUIREMENTS APPLY REGARDLESS OF THE TYPE OF SUPPORT (TRADITIONAL HIGH-COST, INTERSTATE ACCESS/COMMON LINE, LOW-INCOME) THAT THE ETC WILL RECEIVE?

A. Yes, assuming that the Commission was to use the same criteria as it has in Order 04-355. These criteria for designating ETCs have worked and there is no reason to add to them. In addition, under these criteria there is no reason to distinguish among applicants based upon the type of support they will receive (other than concerns of the impact of additional certifications on the size of the fund, as addressed below). If an applicant's certification is in the public interest, that determination should not depend upon the source of support, per se. Of course, if the Commission were to add additional designation factors, Verizon's position on this issue might change.

Q. ISSUES II(B) AND II(B)(1). WHAT SPECIFIC CRITERIA SHOULD THE COMMISSION ADOPT TO DETERMINE WHETHER DESIGNATION OF A COMPETITIVE ETC IS IN THE PUBLIC INTEREST, AS REQUIRED BY SECTION 214(E)(2) OF THE TELECOM ACT? SHOULD THE COMMISSION ADOPT THE CRITERIA PROPOSED BY THE FCC IN ORDER 05-46?

A. The Commission should continue to use the criteria enunciated in *RCC Minnesota*, and not simply adopt the criteria proposed by the FCC. Please see my testimony, above, regarding Issues II(A) and II(A)(1).

Q. **ISSUE II(B)(2). SHOULD THE CRITERIA DIFFER BETWEEN DESIGNATIONS IN RURAL AND NON-RURAL ILEC SERVICE AREAS?**

A. No. Please see my testimony, above, regarding Issue II(A)(3).

Q. **ISSUE II(B)(3). SHOULD THE COMMISSION REQUIRE AN ETC TO INCLUDE ENTIRE ILEC WIRE CENTERS IN ITS SERVICE AREA, REGARDLESS OF THE BOUNDARIES OF ITS LICENSED AREA?**

A. Verizon believes that an ETC should, presumptively, be required to include entire ILEC wire centers in its designated service area. The FCC reached the same conclusion, holding that "requiring a competitive ETC to serve an entire wire center will make it less likely that the competitor will relinquish its ETC designation at a later date and will best address creamskimming concerns in an administratively feasible manner." *ETC Order*, at ¶ 77.

Q. **ISSUE II(B)(4). WHETHER AND TO WHAT EXTENT THE COMMISSION SHOULD REQUIRE INCUMBENT LOCAL EXCHANGE CARRIERS TO DISAGGREGATE AND TARGET SUPPORT IN A DIFFERENT MANNER, AS PERMITTED BY 47 CFR SECTION 54.315(C)(5).**

A. The Commission should not require ILECs to disaggregate their support below the exchange level.

For Verizon, the Commission should bear in mind that the only Federal support the Company receives is Interstate Access and Lifeline/Link-Up reimbursement. Disaggregation is not relevant to the latter.

Beyond that, ILECs such as Verizon are not currently set up to disaggregate cost information to the wire center level, nor can they readily disaggregate revenue information to that level, either. Disaggregation would thus unduly complicate the process for both Commission Staff as well as the ILEC. Today the ILECs provide service using exchange boundaries as the market area, not on a wire center basis; the support should be based upon these same boundaries.

Q. ISSUE II(B)(5). SHOULD THE COMMISSION ADOPT AN UPPER LIMIT ON THE NUMBER OF ETCS THAT CAN BE DESIGNATED IN ANY GIVEN AREA? ANY PARTY PROPOSING ADOPTION OF AN UPPER LIMIT SHOULD EXPLAIN ITS PROPOSAL IN DETAIL, INCLUDING THE LEGAL BASIS FOR ITS POSITION.

A. Yes. The Commission should adopt a presumption that there would only be one ETC in a rural study area. This is a permissible limit so as to avoid not overly diminishing the universal service fund. This limit is clearly permitted by Section 214(e) of the Communications Act, which permits but does not require more than one ETC in a rural study area. In non-rural study areas, the Commission should adopt a presumptive limit of two ETCs. Again, this is expressly permitted by the Communications Act, which only requires that the Commission designate more than one ETC in a non-rural study area. 49 U.S.C. § 214(e)(2) The 2005 Consolidated Appropriations Act precluded adoption of single or primary line limitations – not a limitation on the number of carriers. Precluding the creation or maintenance of wholly duplicative networks based on USF support is sound public policy, at a time when USF support mechanisms are already strained. This is particularly true when such providers often have gained significant market share without the benefit, or need, of universal service support.[3]

Q. WHY DO YOU SAY THAT USF SUPPORT MECHANISMS ARE ALREADY STRAINED?

A. The growth of the high cost fund is alarming. Total high cost disbursements have grown from approximately $1.7 billion in 1999 to almost a billion dollars per quarter by the end of 2005[4]. Without effective control, the demand for high cost funding will continue to rise. Continued increases in the size of the fund may also exceed the capacity of any carrier-based contributions system to fund it, undermining the long-term sustainability of the universal service program as a whole.

Q. ISSUE III(A). WHAT SPECIFIC REQUIREMENTS SHOULD THE COMMISSION ADOPT FOR THE ANNUAL RECERTIFICATION OF ETCS?

A. For non-ILEC ETCs, the certifications called for by the Commission in Order No. 04-355 are fully adequate. As the Commission noted there, the certifications it required

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[3] Many petitioners seek ETC status in areas where they already provide service, even without universal service support. See, for example, *Joint petition for Designation as Eligible Telecommunications Carrier in the State of New York*, CC Docket No. 96-45, at 14 (May 3, 2004)(noting an increased facilities deployment by large national carriers of their own facilities along [rural highway] corridors" and that the existence of such corridors in Dobson's service area has "provided valuable revenue streams to finance costly deployment to serve rural customers outside the corridors.")

[4] Industry Analysis & Technology Div., Trends in Telephone Service, at Table 19.3 (Apr. 2005) ("Trends in Telephone Service") available at http://www.fcc.gov/Bureaus/Common_Carrier/Reports/FCC-State_Link/IAD/trend605.pdf; Federal Universal Support Mechanisms Fund Size Projections for the Fourth Quarter 2005, Appendix HC02 (rel. August 2, 2005) ("USAC 4th Quarter 2005 Projections") (projecting annualized high-cost support funding to be $3.995 billion) available at http://www.universalservice.org/overview/filings/2005/Q4/FCC%204Q2005%20Quarterly%20Demand%20Filing%20-%20Final.pdf.

in that docket were a substitute for the in-depth information the Commission regularly receives about ILECs, and there has been no suggestion by any party that the Commission does not receive sufficient information to fulfill its oversight obligations. Annual recertifications from non-ILEC ETCs along the lines called for in Order 04-355 will fully enable the Commission to remain confident that the carrier is utilizing support funds for appropriate purposes. For ILEC ETCs, extensive reporting requirements would be inappropriate for the reasons discussed in Issue III(A)(3), below.

Q. ISSUE III(A)(1). SHOULD THE COMMISSION ADOPT ANY, OR ALL, OF THE FCC REPORTING REQUIREMENTS PROPOSED IN ORDER 05-46?

A. No. Again, there has been no suggestion that the certifications previously required by this Commission are inadequate.

Q. ISSUE III(A)(2)SHOULD THE COMMISSION ADOPT OTHER REPORTING REQUIREMENTS?

A. No. Again, in the absence of any demonstration that the previously called for annual reports were inadequate, there is no demonstrated need to make an ETC certification more burdensome.

Q. ISSUE III(A)(3). SHOULD THE SAME REPORTING REQUIREMENTS APPLY TO ALL TYPES OF ETCS – ILEC ETCS AND COMPETITIVE ETCS?

A. No. This Commission has already recognized that the reporting requirements for competitive ETCs are in lieu of the elaborate reports that ILEC supply to the Commission routinely:

> In addition, we conclude that ETCs, particularly wireless carriers, should be subject to vigorous annual recertification reporting requirements. ILEC designated as ETCs currently file extensive reports with the Commission as part of their regulated incumbent status. While we do not require ETCs to file similar reports, we do require that they file the reports as recommended by Staff, and as listed in the ordering clauses, by July 15 of each year that they seek recertification, beginning in 2005.

Order No. 04-355, at 16. Verizon is, indeed, subject to regular reporting to the Commission by virtue of its regulated telecommunications operations. In fact, a sampling of the statutory informational filings Verizon is required to supply the Commission would include ORS 759.120 (accounts); 759.130 (annual balance sheets); 759.175 (rates and regulations); 759.250 (contracts); 759.315 (issuance of stocks, bonds, etc.); 759.385 (contracts with other utilities for construction); 759.390 (affiliated interests service agreements). The provisions of the Oregon Administrative Rules requiring Verizon to supply the Commission with additional information are simply too numerous to cite, but it is worth noting that the requirements for reporting on service standards are detailed and express, OAR 860-023-0055, and an entire Division (27) of Chapter 860, OAR, is devoted to the service quality, financial, and other reports ILECs such as Verizon are required to file. Verizon is not proposing in this proceeding that any of those reporting obligations be lessened – but there is no reason that those obligations be ignored in the ETC recertification process. Requiring Verizon to file reports covering some subset of the multitude of information that it already provides the Commission is nothing other than make-work, presumably in the interests of "symmetry." However, as a matter of law and logic, there is no sound reason to treat two carriers similarly, when they are not similarly situated.

Q. ISSUE III(A)(4). SHOULD THE SAME REPORTING REQUIREMENTS APPLY REGARDLESS OF THE TYPE OF SUPPORT (TRADITIONAL HIGH-COST, INTERSTATE ACCESS/COMMON LINE, LOW INCOME) RECEIVED BY THE ETC?

A. No. Verizon only receives IAS and Lifeline/Link-Up support; it does not receive federal high cost-type support. IAS and Lifeline/Link-Up support is simply revenue to the Company that helps defray its overall costs of operating the already built out network that provides basic telephone service. It would be inappropriate to require extensive reporting of construction budgets, service area details and so on of Verizon in order to allow the Commission to certify to the FCC that the Company is using the support for its intended purpose. On the other hand, it may be reasonable to require companies that receive the traditional high cost support to provide additional information as a basis for the Commission to make its certification to the FCC – especially non-ILEC ETCs that have not fully built out their networks to provide adequate service throughout their designated areas. This is clear when the FCC's rationale for calling for such reporting is required. The FCC explained that it desired such reporting to "further the Commission's goal of ensuring that ETCs satisfy their obligation under Section 214(e) of the Act to provide supported services throughout their designated service area." *ETC Order*, ¶ 70. Information sufficient to demonstrate that the non-ILEC ETC is using its high cost support for the intended purposes within the specific study area – such as construction budgets – would thus be an appropriate requirement for non-ILEC ETCs.

Q. DOES THAT CONCLUDE YOUR TESTIMONY?

A. Yes.

CERTIFICATE OF SERVICE

I certify that on December 13, 2005, I served the foregoing upon the parties hereto by sending a true, exact and full copy by regular mail, postage prepaid and by electronic mail to:

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