

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

AR 464

In the Matter of)	
)	COMMENTS OF
Proposed Rule Regarding)	VERIZON NORTHWEST
Telephone Directory “Blue Pages”)	INCORPORATED
)	

Verizon does not believe a “Blue Pages” rule is either necessary or appropriate.

First, Verizon does not believe that the Oregon Public Utilities Commission can require directory publishers to include a Blue Pages section.

Much has changed since the Attorney General issued its 1988 letter opining that the PUC had the power to require every telecommunications utility that publishes a directory to include a Blue Pages section. In 2003 the Attorney General revisited his 1988 opinion and determined that the PUC has the authority to require ILECs, and directory publishers that have contractual relationships with ILECs, to publish Blue Pages. Verizon strongly disagrees with that view for the following reasons:

- Most telecommunications utilities no longer publish directories. The directories business is a competitive unregulated business; indeed, under Section 222(e) of the federal Telecommunications Act of 1996 (“the federal act”), utilities like Verizon are required to sell their subscriber listings on an “unbundled basis” and under “nondiscriminatory and reasonable rates, terms and conditions” to any person upon request “for the purpose of publishing directories in any format.” This law reflects Congress’ competitive, market-based approach to directory publishing
- Given that the directory publishing business is an unregulated, competitive business, the PUC has no jurisdiction over it, and the PUC cannot require—either directly or indirectly—that publishers include a Blue Pages section. Of course, nothing prohibits the state or local government from approaching directory publishers and negotiating the inclusion of Blue

Page listings; but the Commission cannot *require* the publication of such listings.

- Any rule requiring public utilities or directory publishers to publish Blue Pages implicates the First Amendment because it “directly affects what can and cannot be said.” *Verizon Northwest v. Showalter*, 2003 US Dist. LEXIS 14845, *10 (W.D. Wa. Aug 26,2003). Given this, if we assume that the speech is commercial in nature, the government must meet the three-prong *Central Hudson* test. See *Showalter* at *11-12. Here, there has been no such analysis. If, after months of investigation and comments, the WUTC was unable to satisfy the *Central Hudson* test for its proposed CPNI rules, then it is highly unlikely the *Central Hudson* test can be satisfied here.
- Even if the PUC had the power to regulate directory listings, it could not discriminate between companies by requiring some carriers (e.g., incumbents) to publish Blue Pages but not require other carriers or independent publishers to do the same. Section 253 of the federal Act makes clear that states must act in a *competitively neutral* fashion; a rule that imposes obligations upon some carriers but not others is, by definition, *not* competitively neutral.

Assuming, for the sake of this rulemaking, that the PUC has the ability to require publication of Blue Pages, Verizon does not believe the proposed rule is either necessary or appropriate.

- The obligation to provide Blue Pages applies only to ILECs and directory companies that have some type of contractual relationship with ILECs. Competing telecommunications carriers (be they CLECs, wireless, VOIP, etc.) and competing directory publishers face no such requirements. As stated above, Verizon believes that such a rule violates the federal act.
- There has not been any demand for such a rule by telephone customers. This issue’s primary, if not sole, proponent is Mr. Long. The PUC should not impose a rule that will dictate significant costs and responsibilities for selected providers without evidence of widespread interest in such a rule or dissatisfaction with the current system.
- In the rapidly evolving telecommunications environment, it is not appropriate to require a rule that singles out one segment of the industry and one type of technology for added regulation. Given the widespread use of the internet, mobile messaging technology and 211 services, it is impossible to predict how individuals will obtain this type of information in

the future, and placing the burden of providing this information only on ILECs is inappropriate.

- 211 Service has recently rolled out and will be expanding in the coming years. This service is much more efficient and user friendly than printed Blue Pages. 211 connects a caller to a live person, so follow-up and probing questions can be asked to ensure that suitable agency phone numbers are provided. Additionally, 211 information can be updated more frequently than printed telephone books, which are updated annually.
- Verizon has consistently stated that it would continue to publish a reasonably sized human services section as long as a reliable source of listings was available. Verizon has no interest in publishing the minutely detailed listings Mr. Long desires. However, it is not the telephone company's job, nor its expertise, to *create* the listings. Mr. Long first proposed his Blue Pages legislation in 2001. At that time Verizon stated that it would continue to publish human services listings but that a reliable source of *statewide* listings needed to be found.
 - Over the past four years, despite all of Mr. Long's advocacy and all the interest expressed by human services and government entities in having such listings, no one has taken on the task of developing those listings on a statewide basis.
 - Mr. Long has suggested "advisory committees" develop the listings. That "solution" is simply unworkable. Requiring each community to develop an advisory committee that would research and validate human service listings in a time frame that would coincide with directory publishing deadlines is unrealistic. What happens if the group loses interest, doesn't complete the work on time, etc? Is the directory publisher absolved from providing the listings? Furthermore, Verizon publishes directories in a number of communities in Oregon and many more nationwide. It is unrealistic to expect the company to shepherd the books through an advisory committees in each community to obtain accurate listings.
 - Verizon and others suggested that the Department of Human Services would be a reasonable collector for this type of information, but once the Department realized the scope of the job, they indicated they had neither the time nor the resources to take on that extra responsibility.

In the absence of any showing of widespread dissatisfaction with current "Blue Pages" listings, Verizon does not believe that it is necessary for the PUC to

impose a “solution” for a non-existent problem. Therefore, Verizon opposes the adoption of the proposed Blue Pages rule for the reasons stated above.

Dated: February 7, 2005

Verizon Northwest

By: _____
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Authorized Representative