

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UM 1431

In the Matter of

VERIZON COMMUNICATIONS INC. and  
FRONTIER COMMUNICATIONS  
CORPORATION

Joint Application for an Order Declining to Assert  
Jurisdiction, or, in the alternative, to Approve the  
Indirect Transfer of Control of VERIZON  
NORTHWEST INC.

RULING

**DISPOSITION: MOTIONS TO ADMIT COUNSEL *PRO HAC VICE*  
GRANTED AND PETITION TO INTERVENE  
GRANTED WITH CONDITIONS**

On June 22, 2009, Verizon Northwest Inc. filed a motion to admit Gregory M. Romano, a member in good standing of the Bar in the State of Washington, as counsel *pro hac vice* in this proceeding (Verizon Motion). On June 24, 2009, the International Brotherhood of Electrical Workers, Local 89 (IBEW), filed a Motion to Admit Scott J. Rubin, a member in good standing of the Bar in the Supreme Court of Pennsylvania, as counsel *pro hac vice* in this proceeding (IBEW Motion). No comments or objections were received regarding the Verizon Motion or the IBEW Motion; they each comply with the requirements set forth in UTCR 3.170; and they are granted herewith.

On June 23, 2009, pursuant to the schedule adopted at the prehearing conference, Verizon Communications Inc. (Verizon) and Frontier Communications Corporation (Frontier) (jointly, Applicants) filed an Answer to the Petition to Intervene (Answer) filed by IBEW.

On June 25, 2009, IBEW submitted its Response to Applicants' Answer to IBEW's Petition to Intervene (Response).

**Discussion.** Applicants oppose IBEW's intervention, asserting that IBEW's participation would impermissibly and unreasonably broaden the issues in the proceeding in contravention of OAR 860-012-0001. Applicants assert that IBEW will repeat the behavior demonstrated before the Washington Utilities and Transportation

Commission in Docket UT-082119, of which official notice is taken.<sup>1</sup> In that case, the WUTC found that IBEW used its participation in the case to improperly extract labor concessions from the applicants in another merger proceeding via a side agreement that prompted IBEW to withdraw from the case. The WUTC called into question the credibility of counsel and representations made that “were disingenuous at best.” Applicants also contend that IBEW has no special knowledge or expertise and that its stated interests on matters other than labor will be well-represented by other parties.<sup>2</sup>

In its Response, IBEW contends that it will address matters germane to the proceedings, and notes that its Petition to Intervene intends to specifically address “the financial fitness and capabilities of Frontier to engage in a transaction of this magnitude” and provide expert testimony on that and on the technical and managerial fitness and capabilities of Frontier. As such, IBEW claims it does not seek to broaden the issues in the proceeding, but instead to explore matters that are central to Commission consideration.<sup>3</sup> Furthermore, in IBEW’s view, the obligation of a Commission to act in the public interest goes beyond the interests of customers alone and that “utility employees are an integral part of the public interest.”<sup>4</sup>

IBEW does not try to distinguish its behavior in the above-cited WUTC case from its behavioral intentions in the instant proceeding. Rather, it states that the WUTC acted in error: lacking in understanding of the role of a private litigant and wrongly asserting that IBEW had misused the regulatory process. IBEW claims that it is the WUTC’s decision and not its own behavior that is an anomaly and that the integrity of its counsel has been wrongly impugned.<sup>5</sup>

Finally, IBEW asserts that the employees whom it represents have first hand, intimate knowledge of the operations of Verizon’s Oregon operations and thus bring special knowledge and expertise to the case, contrary to Applicants’ assertions to the contrary and will not raise labor relations issues in this proceeding.<sup>6</sup>

**Analysis and Decision.** IBEW asserts that it intends to bring forward expert testimony on matters germane to the proceeding and, for that purpose, IBEW should indeed be granted party status. I am concerned, however, about IBEW’s apparent belief that its conduct in the WUTC case was proper given its role as a private litigant. IBEW fails to recognize that the WUTC proceedings, like this one, are not a matter of private litigation. Both the WUTC and this Commission are obligated to protect the ratepayers of all utilities as well as the public interest. The use of the regulatory process by one party against another to extract concessions regarding matters exogenous to a case would constitute a serious abuse that must be guarded against.

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<sup>1</sup> See OAR 860-014-0050. Within 15 days of this ruling, any party may object to the fact noticed.

<sup>2</sup> Answer at 2-3.

<sup>3</sup> Response at 1-2.

<sup>4</sup> *Id.* at 3.

<sup>5</sup> *Id.* at 6-7.

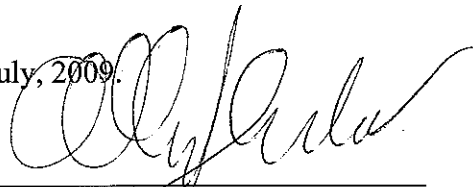
<sup>6</sup> *Id.* at 8.

I grant IBEW's petition under OAR 860-012-0001, but throughout the course of this proceeding will entertain a motion by the Applicants to terminate IBEW's participation upon a showing that IBEW has attempted to use the regulatory process to influence the Applicants in areas beyond the scope of the proceeding. IBEW will have five days from the date of such motion to respond. A finding by the Commission that IBEW has acted in a manner inconsistent with this ruling shall be grounds for its dismissal from the case.

### RULING

The Motions to admit counsel *pro hac vice* of Verizon Communications Inc. and the International Brotherhood of Electrical Workers, Local 89, are GRANTED. The International Brotherhood of Electrical Workers, Local 89, Petition to Intervene is GRANTED subject to the conditions set forth in this Ruling.

Dated at Salem, Oregon, this 2<sup>nd</sup> day of July, 2009.



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Allan J. Arlow  
Administrative Law Judge