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BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UD 13

In the Matter of)	
)	
VERIZON NORTHWEST INC.)	
)	ORDER
Petition to Price List IntraLATA Toll, Operator and Directory Services.)	

DISPOSITION: PETITION GRANTED WITH CONDITIONS FOR INTRALATA TOLL AND OPERATOR SERVICES PRICE LIST; PETITION SUSPENDED FOR FURTHER INVESTIGATION OF DIRECTORY SERVICES PRICE LIST.

On February 15, 2002, Verizon Northwest Inc. (Verizon) filed a petition asking the Public Utility Commission of Oregon to allow Verizon to price list its intraLATA toll, operator and directory assistance services pursuant to ORS 759.030(6) and (8) and OAR 860-032-0035. On March 6, 2002, a protective order was entered. *See*, Order No. 02-139. Commission Staff (Staff) and Verizon agreed to extend the review period for the petition through May 29, 2002. This petition came before the Commission at its May 28, 2002 regular public meeting.

At the public meeting, Staff presented its report, a copy of which is attached as Appendix A. The Commission adopted Staff's recommendation contained in the report.

ORDER

IT IS ORDERED that:

1. IntraLATA toll service price list petition is granted. Verizon must notify its customers and the Commission 30 days in advance of any rate increase for any customer.

2. Operator service price list petition is granted. Verizon shall not increase its current rates without Commission approval.
3. The directory services price list is suspended through September 16, 2002, for further investigation.

Made, entered, and effective _____.

Roy Hemmingway
Chairman

Lee Beyer
Commissioner

Declined to Sign.
Joan H. Smith
Commissioner

A party may request rehearing or reconsideration of this order pursuant to ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-014-0095. A copy of any such request must also be served on each party to the proceeding as provided by OAR 860-013-0070(2). A party may appeal this order to a court pursuant to applicable law.

PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: May 28, 2002

REGULAR X CONSENT EFFECTIVE DATE Upon Approval

DATE: May 16, 2002

TO: John Savage through Phil Nyegaard through Lance Ball

FROM: Jim Stanage

SUBJECT: VERIZON NORTHWEST INC.: (Docket No. UD 13 [formerly UM 1048])
Petition to price list IntraLATA Toll, Operator Services, and Directory Assistance.

SUMMARY RECOMMENDATION:

Allow the IntraLATA Toll and Operator Services portions of Verizon's price list petition, but suspend and further investigate the Directory Assistance Services portion of the petition.

DISCUSSION:

Background

Verizon Northwest, Inc., (Verizon) has petitioned to price list¹ IntraLATA Toll Services, Operator Services, and Directory Assistance Services. These services represent approximately ten percent of the company's regulated Oregon revenues. The Commission has 60 days, under ORS 759.030(7), to either determine the appropriateness of a petition to price list services or to determine that further investigation is necessary. Verizon has extended the petition's consideration period to May 29.

Verizon's petition makes reference to ORS 759.030(6) (local exchange services), ORS 759.030(8) (interexchange services), and OAR 860-032-0035 (price list petitions) and argues that its petition complies with these requirements. Under ORS 759.030(6) and (8), the Commission may authorize a telecommunications utility to price list services, if the services are "subject to competition." The statute in both (6) and (8) specifies that:

¹ If a telecommunications service is price listed, then the utility can change the rates, terms, and conditions of service upon notice to the Commission although the service is still regulated. This contrasts with *regulated services that are not price listed*, which can only be changed upon *thirty-days prior notice* to the Commission. Promotions are the only exception to the notification requirement. See ORS 759.182.

In making the determination of whether a product or service is subject to competition, the Commission shall consider:

- a) The extent to which services are available from alternative providers in the relevant market.
- b) The extent to which the services of alternative providers are functionally equivalent or substitutable at comparable rates, terms, and conditions.
- c) Existing economic or regulatory barriers to entry.
- d) Any other factors deemed relevant by the Commission.

A determination by the Commission to price list a service does not diminish the primary benefits of regulation for ratepayers---i.e., protections against (1) unreasonable rates, (2) rate discrimination, and (3) abandonment of service.

Descriptions of the Three Services Proposed for Price Listing

Message Telecommunications Service (IntraLATA Toll) - Verizon's Message Telecommunications Service (MTS) applies to all calls made between exchanges *within* a Local Access and Transport Area (LATA) and is sometimes called "local long distance" service. The rates charged apply on a per minute basis and vary according to whether they are placed during peak (\$0.115) and off-peak (\$0.08) rating periods.

Operator Services - Operator Services provide live or mechanized assistance to customers in completing MTS calls and are priced on a per call basis as follows: Customer-Dialed Station-to-Station Calling Card calls (\$0.60), Operator-Handled Station-to-Station calls (\$1.00), and Operator-Handled Person-to-Person calls (\$3.00).

Directory Assistance Service (DA)- Local Directory Assistance (LDA) allows a local caller to obtain intrastate listing information, including the telephone number and directory address, for \$0.35 per call. National Directory Assistance (NDA) Service provides listing information that is located outside the customer's local Directory Assistance service area (interstate listings) and works much like LDA except the price per call is \$0.95. Directory Connect Plus (DCP) Service allows a customer calling for Directory Assistance to request the completion of local or IntraLATA calls to the telephone number that was provided to that customer on the DA call for \$0.35 per call.

Analysis

For Toll and Operator Services, Verizon has provided evidence sufficient to meet ORS 759.030 (6)(a and b) and (8)(a and b) requirements to provide evidence for the Commission to *consider* prior to making a finding that a service is subject to competition.

The company provided data to show that the total market sales levels and market shares for Toll Services are such that it can reasonably be concluded that Toll Services are subject to competition.

Verizon's petition did not provide evidence sufficient to meet statutory requirements of ORS 759.030 (8)(a) for its Operator Services, but the company has since sent a letter to staff in which it infers that the total market sales levels and market shares for Operator Services are similar to those of Toll Services, both for the most recent year as well as over the last few years. Such an assumption is probably reasonable, and therefore, staff finds that Verizon meets the statutory threshold under ORS 759.030 (8)(a) for price listing its Operator Services.

Notwithstanding, in attempting to speak to ORS 759.030 requirements for DA, the company provides some data about the extent of its own recent sales of DA, but no credible evidence of the extent of its own market share or of the overall size of the market or of its competitors' market shares. Instead of providing measurements of DA market demand for Verizon's Oregon service territory, Verizon provided outdated "forecasts" of demand for the *United States market*.²

Verizon makes reference in its petition to a number of alternative providers and shows that two competitive providers, Sprint and MCI WorldCom, charge roughly "*comparable rates*" for Toll Services as required by ORS 759.030 (8)(b). However, Verizon's data shows that its major Operator Services competitors *do not* charge comparable rates---i.e., the major competitors have much higher rates than Verizon. One major competitor, for example, charges \$4.99 for Operator-Handled Station-to-Station calls whereas Verizon charges \$1.00. In addition, from its own sources, staff is aware that Verizon's current \$0.35 per call LDA rate is a small fraction of the rates typically charged by its competitors. Thus, for DA services the company fails to provide information for the Commission to consider as required under ORS 759.030 (8)(a) pertaining to "The extent to which the services of alternative providers are available" and also fails to show that the for DA services "... are available at comparable rates, terms, and conditions," as required by ORS 759.030 (8)(b).

Although Verizon's rates for Operator Services are not available from the major competitors at comparable rates, the service can be price listed by the Commission without risk to customers, if price list status is made conditional upon the company not being allowed to raise current rates without reasonable justification.

² Verizon's petition does include several hundred pages of supporting documents, however, almost all of it covers only directory assistance service and is basically national data only---i.e., does not cover the "relevant market" (not data about customers in Verizon territory in Oregon). At one point Verizon attempts to manipulate national data into data for the relevant market, but does so through procedures that would not be considered valid or reliable under generally accepted statistical methods.

The Relevant Market

The statute and rules require that the Commission consider the extent to which services are available from alternate providers in the "relevant market." The relevant market is Verizon's service territory in Oregon.

The Cost Of Service and Rates

The company did not submit a cost study to show that the current rates cover their respective costs of service. Nevertheless, the current rates do cover Qwest Corporation's price floors for the same services. I would note that the Commission has not accepted Verizon's own cost study results. In docket UM 844, the Commission held that, until a Verizon (then GTE) cost docket is completed, the price floors established for Qwest would also apply to Verizon as well as to other Oregon Incumbent Local Exchange Companies (ILECs).³

The company does not propose any rate changes in this filing, and therefore, it would have no immediate revenue effect.

Economic Or Regulatory Barriers To Entry

No regulatory economic barriers to entry into the relevant market have been identified. The primary economic barriers to entry are normal startup and operating costs, including the cost of the toll service facilities. However, those economic costs are substantial.

Conclusions

Staff's analysis outlined above has led to the following conclusions:

- 1) For Toll and Operator Services, Verizon's petition provides the information necessary to make a finding that the petition services are subject to competition, although its Operator Services are not available from the major competitors at comparable rates.
- 2) Verizon's petition fails to provide information necessary to make a finding that the Directory Assistance Services is subject to competition. A further investigation

³ See Order 97-239.

could produce more complete information that could be important in making a decision concerning the petition's merit regarding DA.

- 3) Verizon's Operator Services customers would continue to be protected from unreasonable rates under price listing, if the company were constrained from increasing current Operator Services rates.
- 4) The regulatory protections against unreasonable rates, rate discrimination, and abandonment of service that customers currently enjoy would not be eliminated by the price listing of Verizon's IntraLATA Toll and Operator Services.

Commission's Decision Alternatives

The Commission has the following decision alternatives:

1. Allow the petition to go into effect---allow the unconditional price listing of all three services.
2. Allow the IntraLATA Toll Services and Operator Services portions of the petition to go into effect with conditions, but suspend and further investigate the Directory Assistance Services portion. Toll could be price listed under condition that its customers and the Commission be notified thirty days in advance of any rate increase for any customer. Operator Services customers could be protected from unreasonable rates by a constraint on rate increases.
3. Suspend and further investigate Verizon's petition for all three services.

Consequences of Decision Alternatives

The consequences of the first decision alternative could be substantial. The company could increase rates upon notice to the Commission---i.e., without prior notice. The outcome for customers would be conditional upon the Commission's findings in a formal investigation such as a rate case---if such an investigation were triggered by Verizon rate increases. One of the consequences of unconditional price listing could be that customers would pay higher rates for the three petition services during an investigation period and/or the rate increases could become permanent.^{4,5}

⁴ Verizon has given staff some indication that it may be considering rate increases for the three services addressed in its petition.

⁵ See OAR 860-032-0035(12). "The Commission may at any time order a telecommunications utility to appear before the Commission and establish that any or all of its price-listed service rates or terms and conditions are just, reasonable, nondiscriminatory, and in the public interest. After hearing, the Commission

The consequences of the second decision alternative would be that (1) Toll Services would be price listed under condition that Verizon notifies its customers and the Commission thirty days in advance of any rate increase for any customer, and (2) Operator Services customers would be protected from unreasonable rates because the company would be constrained from increasing those rates.

The consequence of the third decision alternative would be an investigation of all three services.

STAFF MOTION:

That the Commission allow the IntraLATA Toll and Operator Services portions of Verizon's price list petition with conditions, but suspend and further investigate the Directory Assistance Services portions of the petition; that the condition for IntraLATA Toll Services be that Verizon notify its customers and the Commission thirty days in advance of any rate increase for any customer; and that the condition for Operator Services be that Verizon is not allowed to increase its current rates.

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may order the telecommunications utility to change the terms and condition or rates of its price listed services. The telecommunications utility may not thereafter change any terms and conditions or rates of price listed services contrary to the terms of the Commission order without approval by the Commission."