

**PUBLIC UTILITY COMMISSION OF OREGON  
STAFF REPORT  
PUBLIC MEETING DATE: July 24, 2001**

**REGULAR AGENDA** \_\_ **CONSENT AGENDA** **X** **EFFECTIVE DATE** **August 7, 2001**

**DATE:** July 16, 2001

**TO:** Phil Nyegaard through Lance Ball

**FROM:** David Sloan

**SUBJECT:** Verizon Northwest Inc., Advice No. SC4-01  
Special Contract for Integrated Service Digital Network (ISDN) service

**SUMMARY RECOMMENDATION:**

Staff recommends that the Commission take no action with regard to this filing. Pursuant to ORS 759.250(5), if the Commission does not act within ninety (90) days of the filing, the special contract is deemed approved.

**DISCUSSION:**

Verizon Northwest, Inc. (Company) filed Advice No. SC4-01 on May 9, 2001. Pursuant to ORS 759.250, the Commission has 90 days from the date of filing to terminate the effectiveness of a special contract. For this filing, that date is August 7, 2001. The filing will result in a net annual revenue increase of approximately \$67,000.

**Description of the services:** Integrated Services Digital Network (ISDN) is a digital architecture that provides an integrated voice/data capability to the customer premises facility, utilizing the public switched network. ISDN Basic Rate Service (ISDN/BRI) distributes voice, data, video, image and facsimile over three distinct channels on one pair of wires: one or two B (Bearer) Channels and one D (Delta) Channel.

**Description of the contract:** The filing is for the continuation of ISDN/BRI service currently being provided to this confidential customer pursuant to an existing 12-month special contract (SC3-00). However, it is treated as a new contract since ORS 759.250 (7) requires that "No contract filed under subsection (2) of this section may be automatically renewed. A contract renewal shall be treated as a new contract." The existing contract was reviewed with the Commission at the April 25, 2000, public meeting. At the public meeting the Commission took no action on Advice No. SC3-00, and pursuant

to ORS 759.250, since no action was taken within ninety (90) days of the filing date, the special contract was deemed approved.

The filing is a 12-month special contract for the Company to provide ISDN/BRI service to a confidential customer. The purpose of the special contract is to establish a rate for a high volume user of ISDN/BRI. In the contract, a price of \$64.50 per line per month is established for customers requiring a minimum of 500 ISDN/BRI lines. The volume-discounted \$64.50 monthly line rate is available to other similarly situated customers. The tariff rate for ISDN/BRI is \$78.00 per line per month.

Since this is a continuation of services already provided under special contract, there are no initial service non-recurring charges applicable. Non-recurring charges for additional lines or for future moves and changes will be per applicable tariff.

Language in the contract provides adequate assurance that other customers will not be harmed should the special contract customer terminate the contract early. Termination liability language in Exhibit A to the contract specifies that should the customer seek early termination of the special contract or early discontinuance of the service, a termination liability will be assessed, equal to 25 percent of the monthly charge times the number of months remaining in the term.

**ORS 759.250 and Staff Procedures for Reviewing Special Contracts:** ORS 759.250 allows telecommunications utilities to enter into special contracts with customers without being subject to standard tariff filing procedures under ORS 759.175. In addition, special contracts are not subject to hearings (ORS 759.180) or suspension (ORS 759.185).

ORS 759.250 outlines the requirements for Commission approval of telecommunications special contracts. First, the contract service must have limited availability, respond to a unique customer requirement, or be subject to competition. Second, prices must exceed the long-run incremental cost of providing the service.

Telecommunications utilities are required to file special contracts no later than ninety days following the effective date of the contract. Special contract SC3-00 expired on April 24, 2001. The current filing, Special Contract SC4-01, was effective on April 24, 2001. The Company filed SC4-01 on May 9, 2001, in compliance with this 90-day rule. Contracts must not exceed five years. Furthermore, the law states that the Commission shall issue an order on the filed contract within ninety (90) days of the filing. If the Commission does not act within ninety (90) days of the filing, the contract is deemed approved. Staff understands that if a telecommunications utility does not proffer sufficient evidence to support the contract under ORS 759.250, the staff may recommend that the Commission reject the contract.

Two areas of importance in assessing special contracts were identified in PUC Order No. 92-651 in docket UM 254, a generic docket to consider procedures and guidelines for special contract filings. These are the reasonableness of the contract rates and discrimination. Statutes that address these areas are ORS 759.210, classification of service and rates, and ORS 759.260, unjust discrimination.

Staff's analysis regarding conformance with ORS 759.210 is twofold. First, staff determines if a special contract rate class is developed by the telecommunications utility for one or more of the following reasons: a) the quantity of the contract service used; b) the purpose for which the contract service is used; c) whether price competition or a service alternative exists; d) the Verizon contract service being provided; e) the conditions of contract service; f) or other reasonable considerations. Second, staff determines if the special contract results in revenue sufficient to ensure just and reasonable rates for remaining customers (a "prudency review").

To determine conformance with ORS 759.260, staff determines if the special contract avoids unjust discrimination. This is basically a judgment call, which depends on the outcome of the analyses discussed in the preceding paragraph. ORS 759.260 does not restrict the Commission from subsequent scrutiny of the reasonableness of special contracts for ratemaking purposes.

**Conclusions:** Staff has investigated the filing and concludes that the contract for provision of ISDN/BRI service responds to a unique customer requirement. Other customers are adequately protected from loss should the special contract customer terminate the contract early. The contract rate exceeds the LRIC of providing the service to the customer. The contract service is available to other similarly situated customers at the same prices stated in the contract.

**STAFF RECOMMENDATIONS:**

Staff recommends that the Commission take no action with regard to this filing. Pursuant to ORS 759.250, if the Commission does not act, at the end of ninety (90) days of the filing, the special contract is deemed approved.

ORS 759.250 does not restrict the Commission from subsequent scrutiny of the reasonableness of special contracts for ratemaking purposes under ORS 759.210 and ORS 759.260. Based upon the special contracts guidelines adopted by the Commission in Order No. 92-651 in Docket No. UM 254, staff finds that this contract for the provision of ISDN/BRI service does not raise issues concerning the reasonableness of rates or unjust discrimination.