

**PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT**

PUBLIC MEETING DATE: December 18, 2001

REGULAR _____ **CONSENT** X **EFFECTIVE DATE** December 19, 2001

DATE: December 6, 2001

TO: Phil Nyegaard through Lance Ball

FROM: David Sloan

SUBJECT: Verizon Northwest, Inc.: SC7-01, Special Contract for Direct Inward Outward Dialing over Digital Channel Service for a confidential customer.

STAFF RECOMMENDATION:

Staff recommends that the Commission take no action with regard to this filing. Pursuant to Oregon Revised Statute (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. SC7-01 on November 19, 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 February 15, 2002. The Company has requested expedited processing of the filing since the confidential customer has advised Verizon that it will pursue the purchase of the contracted service from competitive providers if the special contract is not approved. The special contract will be effective immediately upon approval or upon the Commission's decision to take no action on the filing.

Description of the services: The contract provides two hundred eighty eight (288) Direct Inward Outward Dialing (DIOD) bundled service channels provided on twelve (12) Digital Channel Service (DCS) T1 lines. The bundled service includes the following service elements: Per Channel Activation; DIOD Functionality; Network Access Trunk and extended area service (EAS) Calling Scope. DIOD is a central office based service that permits incoming calls to reach customer provided phones, or other equipment, without the assistance of an attendant. DIOD also allows the trunk (line) to be used to place outgoing calls. Digital Channel Service provides access transport between the customer's premises and the serving central office over a single high-capacity digital facility on a channelized basis (24 DIOD channels per DCS T1).

Description of the contract: The filing is a 36-month special contract for the Company to provide 288 DIOD bundled service channels to a confidential customer. The service is a continuation of DIOD service currently being provided pursuant to the Company's tariff to this confidential customer. The tariff rate for the required bundle of services is \$30.40 per line, or channel, per month. The contract also requires the customer to maintain, at all times during the 36-month term of the contract, the Digital Channel Service currently being provided by Verizon to the customer under applicable tariff. The purpose of the special contract is to establish a rate for a high volume user of DIOD bundled service channels, and to allow the Company to retain the confidential customer. In the contract, a price of \$21.00 per line per month is established for customers requiring a minimum of 240 DIOD bundled service channels for a 36-month period. The discounted \$21.00 monthly line, or channel, rate is available to other similarly situated customers. The high volume discount for DIOD bundled service lines is not currently available from the Company's tariff. However, if it experiences sufficient customer demand for this volume of DIOD bundled service channels the Company will make a filing pursuant to Oregon Administrative Rule (OAR) 860-022-0025 to add the high volume discount to its tariff.

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

Termination liability language in Attachment 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. This adequately protects other customers in the case the confidential customer should seek early termination of the special contract.

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 (LRIC) of providing the service.

Telecommunications utilities are required to file special contracts no later than ninety days following the effective date of the contract. The term of a special contract cannot 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: The filing is consistent with ORS 759.250 and staff procedures for reviewing special contracts. Staff has investigated the filing and concludes that the contract for provision of the high volume of 288 DIOD bundled service channels 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 term of the contract does not exceed the five-year maximum, and the contract service is available to other similarly situated customers at the same prices stated in the contract.

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 DIOD bundled service does not raise issues concerning the reasonableness of rates or unjust discrimination.

PROPOSED COMMISSION MOTION:

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.