

ITEM NO. CA1

**PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: January 22, 2008**

REGULAR _____ CONSENT X EFFECTIVE DATE February 28, 2008

DATE: January 14, 2008

TO: Public Utility Commission

FROM: David Sloan

THROUGH: Lee Sparling and Dave Booth

SUBJECT: VERIZON NORTHWEST INC: (Advice No. SC07-10) Makes special contract arrangements between Verizon and Washington County for Integrated Services Digital Network-Primary Rate Interface (ISDN-PRI).

STAFF 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 (Verizon) filed Advice No. SC07-10 on November 30, 2007. The filing makes special contract arrangements between Verizon and Washington County for ISDN-PRI with direct inward dialing (DID). 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, the end of the 90-day statutory period would be February 28, 2008.

Description of the services: ISDN-PRI includes a DS1 facility, an ISDN-PRI service configuration and trunks. ISDN-PRI denotes an end-to-end digital network capable of supporting a combination of public and private network access service. ISDN-PRI operates at 1.544 Megabits per second (Mbps) and may be configured as 23 B channels only, 23 B channels and one D channel, 24 B channels only, or 23 B channels and one backup D channel. Each B channel transmits voice or data at 64 kilobits per second (Kbps). The D channel carries signaling information at 64 Kbps.

Washington County is currently receiving the contract service on a month to month basis from applicable Verizon tariffs, and there is no nonrecurring charge (NRC) associated with the transition to this special contract. For any additional services installed under this contract, the customer will be charged any applicable NRC pursuant to tariff.

Description of the contract: The filing is a 60-month special contract for ISDN-PRI, which includes an initial service period of 36 months and two optional 12 month extensions, which require 60 days written notice to the company. The contract is a volume discount Service Agreement¹ between Verizon Business Network Services Inc., acting on behalf of Verizon Northwest Inc., and Washington County. The contract is effective on receipt of regulatory approvals, which Verizon interprets as, the day the contract is reviewed by the Commission at a public meeting and either approves the contract, or takes no action.

The ISDN-PRI is provided at a monthly rate of \$436.69 and associated direct inward dialing (DID) numbers are provided at a monthly rate of \$10.00 each.² The proposed monthly rate exceeds the company's long run incremental cost of providing the service.

Charges for any other services or features required by the customer are charged at rates prescribed in the applicable tariffs. Shortfall and Termination liability language in the contract adequately protects other customers in case the confidential customer should seek early termination of the special contract.

Oregon Revised Statute (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 (90) days following the effective date of the contract. Contracts must not exceed five

¹ Customer must maintain a minimum quantity of eleven ISDN-PRI in service at all times during the term of the special contract.

² The contracted monthly rate is amended to \$404.41 for ISDN-PRI and \$15.00 each for DID numbers in Verizon's Advice No. SC07-11, which is filed concurrently with this filing.

years, and ORS 759.250 does not permit automatic contract renewals. The contract's 60-month term (including allowed extensions) is within the statutory limitation.

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; or f) 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. Staff concludes that the contract for provision of ISDN-PRI is timely filed and responds to a unique customer requirement. The contract rate exceeds the long run incremental cost of providing the service to the customer. Other customers are adequately protected from loss should the special contract customer terminate the contract early. The contract service is available to other similarly situated customers at the same prices stated in the contract. 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-PRI does not raise issues concerning the reasonableness of rates or unjust discrimination.

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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.

PROPOSED COMMISSION MOTION:

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