

**PUBLIC UTILITY COMMISSION OF OREGON  
STAFF REPORT  
PUBLIC MEETING DATE: February 2, 2010**

**REGULAR** \_\_\_\_\_ **CONSENT**  X  **EFFECTIVE DATE** \_\_\_\_\_  N/A

**DATE:** January 21, 2010

**TO:** Public Utility Commission

**FROM:** David Sloan

**THROUGH:** Lee Sparling, Bryan Conway, and Irv Emmons

**SUBJECT:** VERIZON NORTHWEST INC: (Advice No. SC09-09) Establishes special contract arrangements between Verizon and 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, at the end of 90 days after the filing the special contract is deemed approved.

**DISCUSSION:**

Verizon Northwest Inc. (Verizon) filed Advice No. SC09-09 on November 9, 2009, and replacement sheets on November 12, 2009. The filing establishes special contract arrangements between Verizon and a confidential customer for Integrated Services Digital Network – Primary Rate Interface (ISDN-PRI). 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 is February 4, 2010. Pursuant to ORS 759.250(6), the company has requested that the customer's name not be divulged.

**Description of the service:** ISDN-PRI is a digital four-wire full duplex transmission path between ISDN compatible customer premises equipment and an ISDN-equipped central office. ISDN-PRI operates at 1.544 Megabits per second (Mbps) and may be configured as 23 B channels and one D channel, 24 B channels only, or 23 B channels and one back-up D channel. Each B channel transmits voice or data at 64 kilobits per second (Kbps). The D channel carries signaling information at 64 Kbps.

**Description of the contract:** The filing is Addendum No. 8 to a multi-state Master Service Agreement entered into between Verizon and the confidential customer in September 2005. The original Master Service Agreement and Addendum Nos. 1 through 7 were not filed since those documents did not include services regulated by Oregon. Addendum No. 8 includes ISDN-PRI services for some of the confidential customer's Oregon locations and is filed as a new contract for a stated term not to exceed 5 years. The contract is effective upon provisioning by Verizon and upon receipt of any required regulatory approvals.

The contract offers the ISDN-PRI services as an Access System Measured Rate Voice with Measured Rate Data on a DS1 Switched Facility at a monthly recurring rate of \$439.78 and as an Access System Flat Rate Voice Premium Calling Service with Measured Rate Data on a DS1 Switched Facility at \$652.17. The proposed monthly rates exceed the company's long-run incremental cost of providing the services. The contract's rates, terms, and conditions are based upon the confidential customer's multi-state operation, unique network design requirements, and the customer's service mix, usage patterns and concentration. The company will give the contract prices to any similarly situated customer requesting them.

**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, the 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 90 days following the effective date of the contract. Contracts must not exceed five years, and ORS 759.250 does not permit automatic contract renewals. The contract's 5-year term is within the statutory limitation.

Furthermore, the law states that the Commission shall issue an order on the filed contract within 90 days of the filing. If the Commission does not act within 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 Commission 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, the contract services are subject to competition, and the contract responds to a unique customer requirement. The contract rates exceed the long-run incremental cost of providing the services to the customer. Other customers are adequately protected from loss should the 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.

#### **PROPOSED COMMISSION MOTION:**

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 90 days after the filing the special contract is deemed approved.