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December 31, 2009

VIA CERTIFIED MAIL
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Re: Verizon Northwest Inc.
Petition for Refund

On behalf of our client Verizon Northwest Inc. (VZNW), we respectfully request a refund of [REDACTED] in city utility tax paid by VZNW on its sales of digital subscriber line ("DSL") service during the period January 1, 2005 through June 30, 2008.

RCW 35.21.714(1) and 35A.82.060(1) prohibit cities from imposing taxes on any charges "for access to, or charges for, interstate services." The Washington Supreme Court has held that the sale of telecommunications services that are part of a taxpayer's Federal Communications Commission ("FCC") tariff are "interstate" as a matter of law and, accordingly, not subject to city taxation. *Qwest Corp. v. City of Bellevue*, 161 Wn.2d 353, 361-63, 166 P.3d 667 (2007). See also *Vonage America, Inc. v. City of Seattle*, 151 Wash.App. 1003 (2009) (describing the inclusion of services in an FCC tariff as "a point critical to the court's holding [in *Qwest*]"). During the period January 1, 2005 through March 18, 2006, VZNW's DSL services were provided under an FCC tariff and, accordingly, are not subject to city utility tax as a matter of law. See *In re GTE Telephone Operating Cos.*, GTOC Tariff No. 1, 13 F.C.C.R. 22466, 13 FCC Rcd. 22466, 1998 WL 758441 (F.C.C.), *recon.*, 17 F.C.C.R. 27409, 17 FCC Rcd. 27409, 1999 WL 98039 (F.C.C.). For periods after March 18, 2006, VZNW's DSL service remained an

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interstate service subject to FCC jurisdiction but the FCC removed tariffing requirements. *In re Verizon Telephone*, F.C.C. Dkt. No. 04-440, 2006 WL 707632 (F.C.C.) (March 20, 2006). As the court of appeals explained in *Vonage*, the prohibition on municipal taxation of interstate service includes but is not limited to federally tariffed services. *Vonage America, Inc. v. City of Seattle*, 152 Wash.App. 12, 23-24, 216 P.3d 1029 (2009) ("[T]he State's prohibition on municipal taxation of services that are interstate is not limited to those that are subject to federal tariffs.")

The City's utility tax on VZNW's DSL service is further barred RCW 35.21.717, which limits municipal taxation of internet service to "generally applicable business taxes or fees, at a rate not to exceed the rate applied to a general service classification." *Community Telecable of Seattle, Inc. v. City of Seattle*, 164 Wn.2d 35, 186 P.3d 1032 (2008).

Finally, the City's utility tax on VZNW's DSL service is preempted by the federal Internet Tax Freedom Act, Pub. L. No. 105-277, codified at 47 U.S.C. § 151 (note), as amended by the Internet Tax Nondiscrimination Act, Pub. L. 108-435.

Please contact me at (206) 359-6360 if you have any questions or need any additional information to process VZNW refund claims.

Very truly yours,



Robert L. Mahon

cc: Cindy Gonzales, Senior Tax Counsel – State and Local Tax, Verizon