



DEPARTMENT OF THE ARMY  
UNITED STATES ARMY LEGAL SERVICES AGENCY  
901 NORTH STUART STREET  
ARLINGTON, VIRGINIA 22203-1837

December 4, 2006

REPLY TO  
ATTENTION OF

Regulatory Law Office  
U 4170

**VIA ELECTRONIC FILING (12/4/06) & OVERNIGHT MAIL**

Commission Executive Secretary  
Washington Utilities & Transportation Commission  
P.O. Box 47250  
1300 S. Evergreen Park Drive, S.W.  
Olympia, WA 98504-7250

Subject: **DoD/FEA's Petition to Intervene**

In Re: **Docket UT-061625** – Petition of Qwest Corporation to be Regulated Under an  
Alternative Form of Regulation Pursuant to RCW 80.36.135.

To The Honorable Commission Executive Secretary:

Enclosed for filing in the above-captioned proceeding are the hard copy original and twelve (12) copies of a Petition to Intervene of the United States Department of Defense and All Other Federal Executive Agencies (collectively referred to herein as "DoD/FEA"). A Certificate of Service is appended to this filing.

Copies of this document are being sent in accord with the Certificate of Service. Inquiries to this office regarding this proceeding should be directed to the undersigned at (703) 696-1643.

Thank you for your cooperation and assistance in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen S. Melnikoff".

Stephen S. Melnikoff  
General Attorney  
Regulatory Law Office (JALS-RL)  
U.S. Army Litigation Center  
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Enclosure: Twelve (12) Copies  
CF: See Certificate of Service  
Honorable C. Robert Wallis (Email on 12/4/06)

**BEFORE THE WASHINGTON STATE  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of	)	
	)	DOCKET UT-061625
QWEST CORPORATION	)	
	)	THE UNITED STATES
To be Regulated Under an Alternative Form	)	DEPARTMENT OF DEFENSE
of Regulation Pursuant to RCW 80.36.135.	)	AND ALL OTHER FEDERAL
	)	EXECUTIVE AGENCIES'
	)	
	)	
_____	)	CERTIFICATE OF SERVICE

**CERTIFICATE OF SERVICE**

I certify that I have caused a copy of the foregoing document, together with this Certificate of Service, in Docket UT-061625 to be sent this day by electronic service (email) and postage prepaid, properly addressed, first class U.S. Mail (or private courier) to the counsel and parties named below, as indicated:

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Dated this 4th day of December 2006,  
at Arlington County, Virginia.



Stephen S. Melnikoff  
General Attorney  
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U.S. Army Legal Services Agency  
Department of the Army  
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Arlington, VA 22203-1837  
(703) 696 - 1643

(12/1/06)

**BEFORE THE WASHINGTON STATE  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of	)	
	)	DOCKET UT-061625
QWEST CORPORATION	)	
	)	THE UNITED STATES
To be Regulated Under an Alternative Form	)	DEPARTMENT OF DEFENSE
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	)	EXECUTIVE AGENCIES'
	)	
	)	PETITION TO INTERVENE

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**PETITION TO INTERVENE**

The Secretary of Defense, through duly authorized counsel, on behalf of the consumer interests of the United States Department of Defense and all other Federal Executive Agencies (collectively referred to herein as "DoD/FEA"), hereby petitions the Commission for leave to intervene in the above-captioned proceeding. This petition is filed pursuant to WAC 480-07-355.<sup>1</sup> In support of this request, the undersigned Petitioner states:

1. The name, address and telephone number of the person to whom communications should be addressed are:

Stephen S. Melnikoff, Esq.  
General Attorney  
Regulatory Law Office (JALS-RL)  
U. S. Army Litigation Center  
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<sup>1</sup> The presiding Administrative Law Judge gave DoD/FEA until December 5, 2006, to file a petition to intervene in this proceeding, in light of counsel's commitment in another proceeding. Order No. 2, Docket No. UT- 061625, paragraph 6.

2. The Federal government maintains numerous military installations and civilian Federal Executive Agency activities within the State of Washington that obtain telecommunications services from Qwest and other providers.<sup>2</sup> As such, DoD/FEA is one of the largest users of telecommunications services in the state of Washington. DoD/FEA installations, facilities and offices, ranging widely in size, are located throughout Washington, and the business telecommunications services purchased range from large complex systems to small office services.<sup>3</sup> To obtain the best available services at the lowest possible costs, DoD/FEA procures services through competitive bidding procedures whenever possible.

3. In this proceeding, Qwest proposes to be placed under an alternative form of regulation that will relieve it of traditional regulatory oversight for virtually all business services that were not previously classified as competitive. The proceedings in which the request will be considered will involve, *inter alia*, an examination and determination of the availability of competitive telecommunications products and services in Washington. The Commission will be obligated to determine whether consumers now have the ability to obtain business services at just and reasonable rates in the absence of regulatory oversight.

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<sup>2</sup> Several major military installations are located in the state of Washington, such as Ft. Lewis, McChord and Fairchild Air Force Bases, and naval facilities around the Puget Sound area. In addition, the Federal presence also exists as numerous and widespread major facilities such as the General Services Administration Northwest/Artic Region Office, and the Department of Veterans Affairs medical and outreach facilities, and small-sized offices such as Armed Forces recruiters, Post Offices, Social Security offices, as well as Fish and Wildlife Service, National Parks, USDA Forest Service and Farm Service/Agricultural agents. Federal employment (Civilian and Active Duty Military) in Washington state exceeds 100,000 persons.

<sup>3</sup> DoD/FEA obtains a broad variety of services, and has a wide range of sizes of customer serving sites and number and kind of urban/rural locations throughout the state. DoD/FEA uses a variety of providers (incumbent and competitive local exchange carriers) and mechanisms (such as regulated tariff, ICB and competitive offerings) to acquire service.

4. The Commission's decision in those regards would directly and significantly have an impact on the consumer interests of DoD/FEA and the vitality of the competitive telecommunications environment in Washington. DoD/FEA, as a business end user of Qwest's services, has an interest in this proceeding as to the Qwest rates that it might pay directly to Qwest if regulatory oversight is removed. Unless the market is so competitive that market forces will ensure that Qwest's end-user rates are just and reasonable, DoD/FEA might incur excessive rates in the absence of price regulation. Moreover, if regulatory oversight is prematurely removed with respect to services that competing carriers must take from Qwest to provide end-user service to business customers such as DoD/FEA in a competitive bidding process, DoD/FEA will be unable to take advantage of a fully-competitive market for satisfying its telecommunications needs. Thus, DoD/FEA has an interest in ensuring that market forces are able to constrain the ability of Qwest to price excessively the services, such as private line services, that competitors require to provide a competitive offering to DoD/FEA before regulation is relaxed for such services.

5. Because DoD/FEA has a unique governmental end-user perspective<sup>4</sup> on the issues in this proceeding, given the nature and extent of its telecommunications purchases from both Qwest and its competitors, DoD/FEA's participation will assist the Commission in determining an appropriate alternative form of regulation for services that are subject to price-constraining competition. DoD/FEA generally supports alternatives to rate base/rate of return regulation when market forces are sufficient to ensure that rates will be just and reasonable. Just as DoD/FEA does not believe in the premature

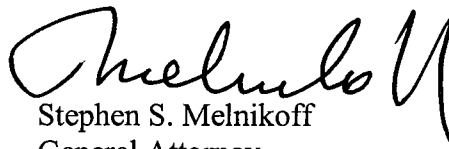
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<sup>4</sup> In the recent past, DoD/FEA has been granted intervener status by the WUTC in numerous cases such as UT-021120, UT-030614, UT-033025, UT-033044 and UT-040788, in which DoD/FEA actively participated.

relaxation of regulation for an incumbent carrier, DoD/FEA does not believe that a major provider of its services should be burdened by the costs and constraints of unnecessary asymmetric regulation in a competitive bidding situation. Such unnecessary treatment may deter that carrier's ability to timely respond to the request for proposals with a package of services and that are priced competitively.

Accordingly, DoD/FEA petitions the Commission for leave to intervene in the captioned proceeding as a party with full rights to participate in the proceeding, including the right to discovery, examine witnesses, file testimony and briefs and be heard at oral argument. A grant of this petition will not delay the proceeding or unduly affect the rights of participating parties.

Respectfully Submitted,



Stephen S. Melnikoff  
General Attorney  
Regulatory Law Office (JALS-RL)  
Office of the Judge Advocate General  
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(703) 696-1643

For  
The United States Department of Defense  
And  
All Other Federal Executive Agencies

Dated: December 4, 2006

Due Date: December 5, 2006