

August 25, 2006

NOTICE OF FURTHER OPPORTUNITY TO COMMENT

(Comments due: On or before the Commission's open meeting on August 30, 2006, or by September 6, 2006)

RE: ACLU Request for Investigation
Docket UT-060856

TO ALL INTERESTED PERSONS:

This docket was initiated by the Washington Utilities and Transportation Commission (Commission) in response to a letter from the American Civil Liberties Union (ACLU), asking the Commission to investigate allegations that certain telephone companies in Washington released customer propriety network information to the federal government in violation of law.

The Commission has already received prior comments and reply comments from interested persons. The Commission will take public comments in this docket at its open public meeting on Wednesday, August 30, 2006.

The Commission has a list of questions to which it would appreciate answers or comments. Members of the public are invited to respond, even if some of the questions are directed to specific persons.

The Commission would appreciate written responses to these questions on or before the open meeting on August 30, 2006. However, the Commission will accept written responses filed by September 6, 2006.

1. It is apparent from the comments received to date and from developments in other jurisdictions that if the Commission was to initiate an investigation into this matter, AT&T and Verizon will not respond to requests for information. The federal legal issues raised in this docket are pending in several federal courts. Some comments recommend that the Commission wait for the federal courts to finally resolve these issues, before proceeding further. Under this scenario, it is possible that Verizon and AT&T will raise the statute of limitations as a bar to a later Commission complaint seeking penalties for violations of Commission laws and/or rules, if any.

QUESTION NO. 1: IF THE COMMISSION DECIDES NOT TO ISSUE A COMPLAINT NOW, WILL VERIZON AND AT&T WAIVE THE STATUTE OF LIMITATIONS UNTIL THE FEDERAL COURTS FINALLY RESOLVE THE LEGAL ISSUES PRESENTED IN THIS DOCKET?

2. If, in order to toll the statute of limitations, a complaint were to be filed, that complaint must be based upon a finding of “probable cause.” *E.g.*, RCW 34.05.458, RCW 80.01.060. The facts upon which the Commission is being encouraged by some commenters to act are taken from articles in certain newspapers. The Commission is unaware of any specific facts, either in newspaper articles or from other sources showing that the calling data of any Washington customers are at issue.

QUESTION NO. 2: DOES THE INFORMATION CURRENTLY IN THE RECORD CONSTITUTE PROBABLE CAUSE THAT VERIZON OR AT&T VIOLATED WASHINGTON LAWS AND RULES?

3. If the Commission defers taking action until the federal courts resolve the pending issues, the Commission is concerned that Verizon and AT&T may not maintain information, if they have any, relevant to the allegations made in this docket. If relevant information is not preserved, the Commission may not be able to reach the merits of the allegations if and when the federal courts resolve the issues in a manner that allows the Commission to proceed.

QUESTION NO. 3: IF THE COMMISSION DECIDES NOT TO ISSUE A COMPLAINT NOW, WILL VERIZON AND AT&T AGREE TO MAINTAIN RECORDS, IF ANY, DOCUMENTING ALL INSTANCES IN WHICH THEY PROVIDED CUSTOMER PROPRIETARY NETWORK INFORMATION OF A WASHINGTON CUSTOMER TO THE FEDERAL GOVERNMENT WITHOUT A WARRANT OR OTHER LEGAL PROCESS, AND WITHOUT THE CUSTOMER’S CONSENT?

Notice of Opportunity to Comment:

The Commission asks interested persons to respond or comment on these questions on or before the Commission’s August 30, 2006 open public meeting. However, the Commission will accept responses and comments by September 6, 2006.

The Commission requests that response and comments be provided in electronic format to enhance public access, for ease of providing comments, to reduce the need for paper copies, and to facilitate quotations from the comments. Comments may be

submitted by electronic mail to the commission's Records Center at records@wutc.wa.gov. Please include:

- The docket number of this proceeding (UT-060856).
- The commenting party's name.
- The title and date of the comment or comments.

An alternative method for submitting comments is by mailing/delivering an electronic copy on a 3 ½ inch, IBM-formatted, high density disk, in .pdf Adobe Acrobat format or in .doc MSWord 97 or later. Include all the information requested above. The Commission will post on its web site all comments that are provided in electronic format. The web site is located at <http://www.wutc.wa.gov/060856>. If you are unable to file your comments electronically or to submit them on a disk, the Commission will always accept a paper document.

If you have questions, please call David Danner, Executive Director, at (360) 664-1208 or by e-mail at ddanner@wutc.wa.gov.

Sincerely,

CAROLE J. WASHBURN
Executive Secretary