

HARDY MYERS
ATTORNEY GENERAL



Exhibit 3

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August 4, 2006

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ACLU of Oregon
PO Box 40585
Portland, OR 97240

Re: Request For Consumer Protection Investigation of Telecommunications
Companies and the National Security Agency (NSA)

Dear Counsel:

We received and carefully reviewed Ms. Meyer's letter of May 24, 2006 and Mr. Dubanevich's letter of July 5, 2006. We opened an investigative file for the purpose of examining your request. As part of our consideration of your request, we obtained information about litigation in other jurisdictions. Our review convinces me that we should not initiate an investigation at this time.

The United States asserts that investigations of the kind you ask us to conduct are a "usurpation of the proper role of the Executive in the field of information that is key to national defense." PETITION BY INTERVENTOR UNITED STATES FOR INERLOCUTORY APPEAL UNDER 28 U.S.C. § 1292(B) at 14, *Hepting v. AT & T Corp., et al.*, No. 06-___ (9th Cir); USDC, Northern District of California Case No. C-06-672-VRW). We expect that the United States would interpose a similar objection to any effort that this office might make to demand records from telecommunications companies doing business in Oregon. *See, e.g., United States v. Zulima Farber, et al.*, USDC, District of New Jersey Case No. ___ (U.S. seeks injunction barring enforcement of consumer protection subpoenas issued by the New Jersey Attorney General). Until a definitive ruling is obtained by the United States from the United

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States Supreme Court, the validity of the United States' claims under the "state secrets" privilege as a bar to state consumer protection investigations will remain in doubt.

As you know, Oregon has battled in court with the United States when the state's interests required us to do so. The near certainty that your request would trigger another such confrontation is not, in and of itself, reason to defer action on your request. But the issues raised by objections of the United States to any effort that we would undertake in Oregon would be legally indistinguishable from the issues already raised in jurisdictions across the country. In addition to determining the best course for Oregon to chart on the merits of legal issues, I must also be a good steward of the public resources for litigation the Legislative Assembly has provided to the Oregon Department of Justice. Awaiting definitive conclusions about the claims made by the United States will preserve litigation resources that we otherwise would apply to other civil law enforcement functions. Nor are we aware of any reason to believe that immediate action is required to prevent the destruction of records that would be relevant to your complaint.

Accordingly, this office will hold our investigative file open pending conclusive resolution of the United States' claim that the "state secrets" privilege or other federal law precludes state consumer protection investigations of the conduct alleged in your letter.

Sincerely,



HARDY MYERS
Attorney General

AGS18253

c: Gregory M. Romano, Verizon counsel
Karen Immergut, United States Attorney for the District of Oregon
Lee Beyer, Chair, Oregon Public Utility Commission
Fred Boss, Chief Counsel, Civil Enforcement Division
Drew Lianopoulos, Attorney in Charge, Financial Fraud/Consumer Protection Section