

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

In the Matter of the Petition of)	DOCKET UT-061625
)	
QWEST CORPORATION)	ORDER 03
)	
To be Regulated Under an Alternative)	
Form of Regulation Pursuant to RCW)	PROCEDURAL ORDER
80.36.135.)	GRANTING PETITION TO
)	INTERVENE; GRANTING
)	EXTENSION OF TIME TO FILE
)	RESPONSIVE TESTIMONY
)	
)	
.....)	

MEMORANDUM

- 1 **NATURE OF PROCEEDING:** Docket UT-061625 involves a petition by Qwest Corporation to be regulated under an alternative form of regulation (“AFOR”) pursuant to RCW 80.36.135.
- 2 **PROCEDURAL BACKGROUND:** The procedural schedule in this proceeding was established by Order 02 entered in this docket on November 16, 2006.¹
- 3 **PETITION TO INTERVENE:** Order 02 granted the Department of Defense and the Federal Executive Agencies leave for a late-filed petition to intervene and that the Washington Utilities and Transportation Commission (Commission) would consider it timely if filed no later than December 5, 2006.
- 4 On December 4, 2006, the Department of Defense and Federal Executive Agencies filed its petition to intervene.
- 5 The Commission issued a notice to all parties on December 6, 2006, of the opportunity to file any objections to the granting of the Department of Defense’s petition by December 18, 2006. The Commission received no objections.

¹ A revised Appendix A to Order 02 is attached to correct a ministerial error in Mr. Melnikoff’s e-mail address.

6 **EXTENSION OF TIME:** On December 22, 2006, Public Counsel sent an informal e-mail to Judge Wallis requesting an extension of time to file responsive testimony.² Public Counsel indicates that Qwest asked them for an extension of time to answer certain data requests from December 29, 2006, to January 5, 2007. Public Counsel agreed to its request if Qwest would agree to extend the responsive testimony due date currently due January 26, 2007, to January 29, 2007. Public Counsel states that no other party has expressed an objection to the extension.

7 **COMMISSION DECISIONS:** The Commission received no objections to the Department of Defense and Federal Executive Agencies petition to intervene, and finds that they have a substantial interest in this proceeding and their participation will be in the public interest. The petition should be granted.

8 The Commission grants the request by Public Counsel for an extension of time to file responsive testimony.

ORDER

THE COMMISSION ORDERS:

9 (1) The petition to intervene filed by Department of Defense and Federal Executive Agencies is granted.

² The bright-line test that should mark the distinction between informative chatter and official action is sometimes ephemeral. Even though we do occasionally acquiesce in e-mail discussion of matters, particularly scheduling matters, that may result in orders, I believe it is necessary to have a paper document, with an appropriate signature, to support waivers of rights and formal requests for schedule changes, particularly those in which parties' significant rights (here, to the opportunity to prepare for a hearing) may be affected. It is awfully easy -- too easy -- to slip into the e-mail abyss and to forget both the picky requirements of rule and the rationales for those requirements. I believe, particularly in a significant proceeding, that the paper document affords all parties and the Commission the clearest representation of parties' intentions, the most-certainly documented representation, the best record, and the best protection, compared with informal treatment. We do not mistrust the representations of counsel, but it is possible for misunderstandings to occur and other counsel have at times remembered discussions enthusiastically. Parties are reminded that e-mails do not satisfy the filing requirements of rule. See, WAC 480-007-145(2). Here, we are entering an order in response to the request, the time line affords parties the opportunity to object to the representation and the ruling, and we find an exemption appropriate. Parties who seek exemption from the filing rule must at a minimum copy the records center to ensure that the request is filed in the docket and circulated on the internal distribution list.

- 10 (2) The request for an extension of time to file responsive testimony from January 26, 2007, to January 29, 2007 is granted.

Dated at Olympia, Washington, and effective December 28, 2006.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

C. ROBERT WALLIS
Administrative Law Judge

REVISED APPENDIX A

**PARTIES' REPRESENTATIVES
DOCKET UT-061625**

PARTY	REPRESENTATIVE	PHONE	FACSIMILE	E-MAIL
Qwest Corporation	Lisa. A. Anderl Adam L. Sherr 1600 7 th Avenue, Room 3206 Seattle, WA 98191	(206) 345-1574 (206)	(206) 343-4040	lisa.anderl@qwest.com adam.sherr@qwest.com
Public Counsel	Simon ffitich Public Counsel Section Office of Attorney General 800 Fifth Avenue, Suite 2000 Seattle, WA 98104-3188	(206) 389-2055	(206) 389-2058	simonf@atg.wa.gov
Commission Staff	Gregory Trautman Assistant Attorney General 1400 S. Evergreen Park Dr SW P.O. Box 40128 Olympia, WA 98504-0128	(360) 664-1187	(360) 586-5522	gtrautma@wutc.wa.gov
Integra Telecom, Time Warner Telecom, Covad Communications Co., and XO Communications	Gregory J. Kopta Davis Wright Tremaine LLP 2600 Century Square 1501 Fourth Avenue Seattle, WA 98101-1688	(206) 628-7692	(206) 628-7699	gregkopta@dwt.com
WeBTEC	Arthur A. Butler Ater Wynne LLP 601 Union Street, Suite 5450 Seattle, WA 98101-2327	(206) 623-4711	(206) 467-8406	aab@aterwynne.com
Northwest Public Communications Council	David L. Rice Miller Nash LLP 4400 Two Union Square 601 Union Street Seattle, WA 98101-2352	(206) 622-8484		david.rice@millernash.com

REVISED APPENDIX A				
PARTIES' REPRESENTATIVES (continued)				
DOCKET UT-061625				
PARTY	REPRESENTATIVE	PHONE	FACSIMILE	E-MAIL
The United States Department of Defense	Stephen S. Melnikoff ³ Regulatory Law Office U.S. Army Litigation Ctr. Office of the Judge Advocate General 901 N. Stuart St., Ste 700 Arlington, VA 22203-1837	(703) 696-1643	(703) 696-2960	stephen.melnikoff@hqda.army.mil
Presiding Administrative Law Judge	C. Robert Wallis 1300 S. Evergreen Park Dr SW P.O. Box 47250 Olympia, WA 98504-7250	(360) 664-1142	(360) 664-2654 (ALD fax only – do not use to file)	bwallis@wutc.wa.gov

³ Parties are ordered to serve Mr. Melnikoff pending determinations on whether his client chooses to intervene and whether the intervention is granted.