



Davis Wright Tremaine LLP

ANCHORAGE BELLEVUE LOS ANGELES NEW YORK PORTLAND SAN FRANCISCO SEATTLE SHANGHAI WASHINGTON, D.C.

GREGORY J. KOPTA
DIRECT (206) 757-8079
GREGKOPTA@DWT.COM

SUITE 2200
1201 3RD AVENUE
SEATTLE, WA 98101-3045

TEL (206) 622-3150
FAX (206) 757-7700
WWW.DWT.COM

February 11, 2009

Via Email and Federal Express

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

Re: *In re Petition of WITA and TDS for a Declaratory Ruling*, Docket No. UT-083056

Dear Mr. Danner:

Comcast Phone of Washington, LLC (“Comcast”), provides the enclosed supplemental authority in support of its position in the above-referenced docket. On February 10, 2009, the D.C. Circuit Court of Appeals affirmed the Federal Communications Commission (“FCC”) decision in *Bright House Networks, Inc. v. Verizon California, Inc.*, 23 FCC Rcd 10704 (2008), which Comcast cited in its filings. Specifically, the federal court upheld the FCC’s determination that Comcast and its similarly situated affiliates are common carriers and thus telecommunications carriers for purposes of Section 222 of the Telecommunications Act of 1996, stating that, like the FCC, “we are not troubled by the fact that Bright House and Comcast-affiliated carriers are currently serving only their affiliates.” *Verizon California, Inc. v. FCC*, No. 08-1234, slip op. at 10.

Sincerely,

Davis Wright Tremaine LLP

A handwritten signature in black ink, appearing to read 'G. Kopta', written over a horizontal line.

Gregory J. Kopta

Enclosure
cc: Parties of Record