

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of

COMCAST PHONE OF
WASHINGTON, LLC

Application for Mitigation of
Penalties or for Stay

Docket Nos. UT-031459 and UT-031626

QWEST CORPORATION'S
ANSWER TO PETITIONS FOR
ADMINISTRATIVE REVIEW

- 1 On February 5, 2004, Comcast and AT&T filed petitions for administrative review (collectively, “CLEC petitions”) requesting the Commission to reverse the ALJ’s Initial Order¹ in this consolidated proceeding. On that same date, Commission Staff petitioned the Commission to reverse the Initial Order insofar as it mitigates the Commission’s September 12, 2003 penalty against Comcast. Qwest takes no position on Staff’s petition for administrative review.
- 2 Qwest will reply, albeit only briefly, to the CLEC petitions. Rather than burdening the record by restating each of its arguments, Qwest refers the Commission to Qwest’s December 5, 2003 motion for summary determination. In summary, the Initial Order should be affirmed with regard to its interpretation of WAC 480-120-021 and -439, which unequivocally impose service quality reporting requirements on all local exchange companies – be they incumbents or competitors – that exceed the

¹ Order No. 03: Initial Order on Cross-Motions for Summary Determination (“Initial Order”).

2% access line threshold.

- 3 Neither in their initial motions for summary determination, nor in their petitions for administrative review, have the CLEC parties to this case offered any plausible interpretation of WAC 480-120-021 and -439 that differs from that supported by Qwest, Commission Staff, Public Counsel and, ultimately, the Administrative Law Judge. Any argument addressing the Legislature's intent in originally using the word "local exchange company" in statute is rendered utterly irrelevant by the fact that this Commission has had ample opportunity to revise its rules to limit the definition of Class A companies and/or its service quality reporting requirements to incumbent LECs, but has not done so. The CLEC petitions offer no new fact or legal authority that should sway the Commission to reverse the Initial Order.
- 4 Based on the foregoing and the arguments set forth in its December 5, 2003 motion for summary determination, Qwest respectfully requests the Commission to affirm the Initial Order with regard to the determination that Comcast, as a LEC with more than 2% of the access lines in Washington, is subject to the service quality reporting requirements imposed on all Class A companies under WAC 480-120-439.

DATED this _____ day of February, 2004.

QWEST

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