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THE HONORABLE BARBARA ROTHSTEIN

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

Verizon Northwest, Inc., Bell Atlantic
Communications, Inc. d/b/a Verizon
Long Distance, NYNEX Long Distance
d/b/a Verizon Enterprise Solutions,
Verizon Select Services, Inc., and
Verizon Services Corporation,

Plaintiffs,

v.

Marilyn Showalter, Chairwoman; Patrick
Oshie and Richard Hemstad,
Commissioners, in their official
capacities as members of the Washington
Utilities and Transportation Commission,
and Washington Utilities and
Transportation Commission,

Defendants.

NO. CV02-2342R

DEFENDANTS' ANSWER TO
PLAINTIFFS' COMPLAINT

Defendants Marilyn Showalter, Patrick Oshie, and Richard Hemstad, Commissioners of
the Washington Utilities and Transportation Commission sued in their official capacities, and
Defendant Washington Utilities and Transportation Commission (collectively, "Defendants")

1 answer, and allege affirmative defenses to, the Complaint for Declaratory and Injunctive Relief
2 filed by the plaintiffs as follows:

3 **ANSWER**

4 **I. Introduction**

5 **A. Overview**

6 1. Defendants admit the allegations in paragraph 1.

7 2. Defendants admit the allegations in the first sentence in paragraph 2. The
8 Defendants further admit that some plaintiffs obtain “CPNI”, but are without sufficient
9 knowledge to admit or deny the remaining allegations, so Defendants deny them.

10 3. Defendants admit the allegation in the first sentence in paragraph 3, but are
11 without sufficient knowledge to admit or deny the remaining allegations, so Defendants deny
12 them.

13 4. Defendants admit the allegations in the first two sentences of paragraph 4, but
14 deny the allegation in the third sentence. The remainder of the paragraph sets forth
15 conclusions of law, rather than factual allegations and, therefore, no answer is required.

16 5. Paragraph 5 of the Complaint sets forth conclusions of law, rather than factual
17 allegations and, therefore, no answer is required.

18 6. Defendants admit that the Commission and the Attorney General participated in
19 various CPNI proceedings before the FCC, and urged an opt-in approach. Defendants further
20 admit that the Commission’s new rules that are being challenged take effect on January 1,
21 2003, but deny the remaining allegations in paragraph 6.

22 7. Defendants deny the allegations in paragraph 7.

23 8. Defendants deny the allegations in paragraph 8.

1 9. Defendants admit that the Plaintiffs seek preliminary and injunctive relief but
2 deny the remaining allegations in paragraph 9.

3 10. Defendants admit that plaintiffs seek the relief described in paragraph 10.

4 **B. Parties**

5 11. Defendants admit that Verizon Northwest, Inc., is registered to do business and
6 does business in the State of Washington. Defendants are without sufficient knowledge to
7 admit or deny the remaining allegations in paragraph 11, so Defendants deny them.

8 12. Defendants admit the allegations in paragraph 12.

9 13. Defendants admit the allegations in the first two sentences in paragraph 13, but
10 are without sufficient knowledge to admit or deny the remaining allegations in paragraph 13,
11 so Defendants deny the remaining allegations.

12 14. Defendants admit the allegations in the first two sentences in paragraph 14, but
13 are without sufficient knowledge to admit or deny the remaining allegations in paragraph 14,
14 so Defendants deny the remaining allegations.

15 15. Defendants admit the allegations in the first three sentences in paragraph 15, but
16 are without sufficient knowledge to admit or deny the remaining allegations in paragraph 15,
17 so Defendants deny the remaining allegations.

18 16. Defendants admit the allegations in the first sentence in paragraph 16, and that
19 VSC provides marketing and other services to the plaintiffs, but are without sufficient
20 knowledge to admit or deny the remaining allegations in paragraph 16, so Defendants deny the
21 remaining allegations.

22 17. Defendants admit the allegations in paragraph 17.

1 18. Defendants admit the allegations in paragraph 18.

2 19. Defendants admit the allegations in paragraph 19.

3 20. Defendants admit the allegations in paragraph 20.

4 **C. Jurisdiction and Venue**

5 21. Defendants admits that this Court has jurisdiction over this matter, except as
6 stated in affirmative defense number 5, *infra*.

7
8 22. Defendants admit that the WUTC issued an order adopting its new rules on
9 November 7, 2002, and that, by the terms of the order, the rules will take effect on January 1,
10 2003. Defendants admit that there is an actual controversy over which the Court has
11 jurisdiction under 28 U.S.C. §§ 2201-02. Defendants deny the remaining allegations in
12 paragraph 22.

13 23. Defendants admit the allegations in paragraph 23.

14 24. Defendants admit the allegations in paragraph 24.

15
16 **II. BACKGROUND**

17 25. Defendants are without sufficient knowledge to admit or deny the allegations in
18 paragraph 25, so Defendants deny them.

19 26. Defendants deny the allegations in the first sentence of paragraph 26.
20 Defendants are without sufficient knowledge to admit or deny the remaining allegations in
21 paragraph 26, so Defendants deny them.

22
23 27. Defendants are without sufficient knowledge to admit or deny the first sentence
24 of paragraph 27, so Defendants deny them. Defendants deny the allegations in the second
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1 sentence of paragraph 27. Defendants are without sufficient knowledge to admit or deny the
2 remaining allegations in paragraph 27, so Defendants deny them.

3 28. Defendants deny the allegations in the last sentence of paragraph 28.
4 Defendants are without sufficient knowledge to admit or deny the remaining allegations in
5 paragraph 28, so Defendants deny them.
6

7 **A. The FCC's CPNI Rules**

8 29. Paragraph 29 sets forth conclusions of law, rather than factual allegations and,
9 therefore, no answer is required.

10 30. Defendants admit that the FCC adopted rules implementing Section 222. The
11 source and validity of the FCC's authority is a conclusion of law, rather than a factual
12 allegation, and therefore, no answer is required.

13 31. Paragraph 31 sets forth conclusions of law, rather than factual allegations and,
14 therefore, no answer is required.

15 32. Paragraph 32 sets forth conclusions of law, rather than factual allegations and,
16 therefore, no answer is required.
17

18 33. Defendants admit that the FCC conducted a proceeding on CPNI and that the
19 State of Washington participated through the comments of its Attorney General. Defendants
20 deny the remaining allegations in paragraph 33.

21 34. Paragraph 34 seeks to characterize an order of the FCC. The Defendants
22 respectfully refer the Court to that order for its findings and conclusions, and deny all
23 inconsistent allegations. To the extent paragraph 34 sets forth conclusions of law, rather than
24 factual allegations, no answer is required.
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1 35. Paragraph 35 seeks to characterize an order of the FCC. The Defendants
2 respectfully refer the Court to that order for its findings and conclusions, and deny all
3 inconsistent allegations. To the extent paragraph 35 sets forth conclusions of law, rather than
4 factual allegations, no answer is required.

5 36. Paragraph 36 seeks to characterize an order of the FCC. The Defendants
6 respectfully refer the Court to that order for its findings and conclusions, and deny all
7 inconsistent allegations. To the extent paragraph 36 sets forth conclusions of law, rather than
8 factual allegations, no answer is required.

9 37. Paragraph 37 seeks to characterize an order of the FCC. The Defendants
10 respectfully refer the Court to that order for its findings and conclusions, and deny all
11 inconsistent allegations. To the extent paragraph 37 sets forth conclusions of law, rather than
12 factual allegations, no answer is required.

13 38. Paragraph 38 seeks to characterize an order of the FCC. The Defendants
14 respectfully refer the Court to that order for its findings and conclusions, and deny all
15 inconsistent allegations. To the extent paragraph 38 sets forth conclusions of law, rather than
16 factual allegations, no answer is required.

17 39. Paragraph 39 seeks to characterize an order of the FCC. The Defendants
18 respectfully refer the Court to that order for its findings and conclusions, and deny all
19 inconsistent allegations. The Defendants specifically deny that that FCC made any finding that
20 establishment sub-categories of CPNI is administratively unworkable. To the extent paragraph
21 39 sets forth conclusions of law, rather than factual allegations, no answer is required.
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25 **B. The WUTC's More Restrictive CPNI Rules**
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1 40. Defendants admit that Washington State adopted CPNI regulations. The
2 remainder of paragraph 40 sets forth conclusions of law, rather than factual allegations and,
3 therefore, no answer is required.

4 41. Defendants admit the allegations in the first three sentences of paragraph 41.
5 Defendants deny the allegations in the last two sentences of paragraph 41.

6 42. Defendants admit that the WUTC adopted rules on CPNI in an order issued
7 November 7, 2002 and that one Commissioner dissented (in favor of stricter rules). The
8 Defendants further admit that the WUTC provided for the repeal of its existing CPNI rules in
9 the same order, and that the new rules will go into effect on January 1, 2003. Defendants deny
10 all remaining allegations or characterizations in paragraph 42.

11 43. Paragraph 43 seeks to characterize rules and orders of the FCC and the WUTC.
12 The Defendants respectfully refer the Court to the respective rules and orders, and deny all
13 inconsistent allegations. To the extent paragraph 43 sets forth conclusions of law, rather than
14 factual allegations, no answer is required.

15 44. Paragraph 44 seeks to characterize rules of the WUTC. The Defendants
16 respectfully refer the Court to the rules, and deny all inconsistent allegations. To the extent
17 paragraph 43 sets forth conclusions of law, rather than factual allegations, no answer is
18 required.

19 45. Paragraph 45 seeks to characterize rules of the WUTC. The Defendants
20 respectfully refer the Court to the rules, and deny all inconsistent allegations. To the extent
21 paragraph 45 sets forth conclusions of law, rather than factual allegations, no answer is
22 required.

1 46. Paragraph 46 seeks to characterize rules and an order of the WUTC. The
2 Defendants respectfully refer the Court to the rules and the order adopting those rules, and
3 deny all inconsistent allegations. The Commission specifically denies that its rules “reject the
4 conclusions of both the Tenth Circuit and the FCC.” To the extent paragraph 45 sets forth
5 conclusions of law, rather than factual allegations, no answer is required. The Defendants
6 admit that their press release contained the quoted sentence but deny that that sentence
7 supports the legal conclusion with respect to which Plaintiff’s offered it. The Defendants also
8 admit that the WUTC’s rules apply to the services named at lines 23 and 24 of page 17 to the
9 extent that they are offered as intrastate services. Defendants admit that these services (except
10 “voice” which is not a separate service) would be subject to the WUTC’s rules to the extent
11 they are offered at the state level, but Defendants deny that such services necessarily carry both
12 intrastate and interstate traffic, or if they do, that the majority of such traffic is interstate.

15 47. Paragraph 47 seeks to characterize rules and an order of the WUTC. The
16 Defendants respectfully refer the Court to the rules and the order adopting those rules, and
17 deny all inconsistent allegations. To the extent paragraph 47 sets forth conclusions of law,
18 rather than factual allegations, no answer is required.

19 48. Paragraph 48 seeks to characterize rules of the FCC and the WUTC and the
20 WUTC’s adoption order. The Defendants respectfully refer the Court to the respective rules
21 and the WUTC’s order, and deny all inconsistent allegations. To the extent paragraph 43 sets
22 forth conclusions of law, rather than factual allegations, no answer is required.

24 49. All but the last sentence of paragraph 48 seeks to characterize rules of the FCC
25 and the WUTC. The Defendants respectfully refer the Court to the respective rules, and deny
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1 all inconsistent allegations. To the extent paragraph 43 sets forth conclusions of law, rather
2 than factual allegations, no answer is required. Defendants deny the last sentence of paragraph
3 49.

4 50. Defendants deny the Plaintiff's characterization that the WUTC's rules will
5 restrict *marketing*, either of interstate or intrastate services; rather, the rules will restrict use of
6 an access to information obtained in the provision of intrastate services. With that
7 qualification, the Defendants admit the remaining allegations in paragraph 50, except the
8 allegations contained in the last sentence, which the Defendants are without sufficient
9 information to admit or deny and therefore deny.

10 51. Paragraph 51 seeks to characterize rules and orders of the FCC and the WUTC.
11 The Defendants respectfully refer the Court to the respective rules and orders, and deny all
12 inconsistent allegations. To the extent paragraph 51 sets forth conclusions of law, rather than
13 factual allegations, no answer is required.

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16 **C. The WUTC's Rules Would Severely Curtail Plaintiffs Ability to Engage in**
17 **Truthful Commercial and Non-Commercial Speech.**

18 52. Defendants are without sufficient information to admit or deny the allegations
19 in paragraph 52, so Defendants deny them.

20 53. Defendants are without sufficient information to admit or deny the allegations
21 in the first sentence of paragraph 53, so Defendants deny them. The remainder of paragraph 53
22 seeks to characterize rules of the FCC and the WUTC. The Defendants respectfully refer the
23 Court to the respective rules, and deny all inconsistent allegations. To the extent paragraph 53
24 sets forth conclusions of law, rather than factual allegations, no answer is required.
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1 54. Defendants are without sufficient information to admit or deny the allegations
2 in the first sentence of paragraph 54, so Defendants deny them. The remainder of paragraph 54
3 seeks to characterize rules of the FCC and the WUTC. The Defendants respectfully refer the
4 Court to the respective rules, and deny all inconsistent allegations. To the extent paragraph 54
5 sets forth conclusions of law, rather than factual allegations, no answer is required.
6

7 55. Defendants are without sufficient information to admit or deny the allegations
8 in the first sentence of paragraph 55, so Defendants deny them. The remainder of paragraph 55
9 seeks to characterize rules of the FCC and the WUTC. The Defendants respectfully refer the
10 Court to the respective rules, and deny all inconsistent allegations. To the extent paragraph 55
11 sets forth conclusions of law, rather than factual allegations, no answer is required.
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13 56. Defendants are without sufficient information to admit or deny the allegations
14 in the first sentence of paragraph 56, so Defendants deny them. The remainder of paragraph 56
15 seeks to characterize rules of the FCC and the WUTC. The Defendants respectfully refer the
16 Court to the respective rules, and deny all inconsistent allegations. To the extent paragraph 56
17 sets forth conclusions of law, rather than factual allegations, no answer is required.
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19 57. Defendants deny the first sentence in paragraph 57. The second sentence of
20 paragraph seeks to characterize a court opinion and an order of the FCC. The Defendants
21 respectfully refer the Court to the opinion and order, and deny all inconsistent allegations.
22 Defendants are without sufficient evidence to admit or deny the allegations in the last sentence
23 in paragraph 57, so Defendants deny them.
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25 58. Defendants are without sufficient information to admit or deny the allegations
26 in the first sentence of paragraph 58, so Defendants deny them. The second sentence of

1 paragraph 58 seeks to characterize court opinions and an FCC order. The Defendants
2 respectfully refer the Court to the opinions and the FCC's order, and deny all inconsistent
3 allegations. Defendants deny the allegations in the third sentence of paragraph 58. The fourth
4 sentence quotes a sentence from the WUTC order that speaks for itself; Defendant's deny that
5 it supports the prior statement, in support of which it is cited.
6

7 59. Defendants deny the allegations in the first two sentences of paragraph 59. The
8 remainder of paragraph 59 seeks to characterize rules of the FCC and the WUTC. The
9 Defendants respectfully refer the Court to the respective rules, and deny all inconsistent
10 allegations. To the extent paragraph 53 sets forth conclusions of law, rather than factual
11 allegations, no answer is required.
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13 60. Defendants are without sufficient information to admit or deny the allegations
14 in the first two sentences of paragraph 60, so Defendants deny them. The third sentence of
15 paragraph 60 quotes a sentence from an FCC order. Defendants respectfully refer the Court to
16 that order, and specifically deny that the quoted language is apposite to Plaintiff's allegations
17 in paragraph 60. Defendants deny the allegations in the last sentence in paragraph 60.
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19 61. Defendants are without sufficient information to admit or deny the allegations
20 in the first three sentences of paragraph 61, so Defendants deny them. Defendant's deny the
21 remaining allegations in paragraph 61.
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23 62. Defendants deny the allegations in the first sentence of paragraph 62. The
24 second sentence in paragraph 62 seeks to characterize the WUTC's rules. Defendants
25 respectfully refer the Court to the rules, and deny all inconsistent allegations. Defendants deny
26 the allegations in the third and fourth sentences of paragraph 62. Defendants admit that

1 Commissioner Hemstad’s dissent (advocating an across the board opt-in requirement) contains
2 the quoted language, but deny that the Commissioner’s remarks support the allegations for
3 which Plaintiff’s cite it.

4 63. Defendants deny the allegations in paragraph 63.

5
6 **III. CAUSES OF ACTION**

7 **Count 1 (Violation of First Amendment)**

8 64. Defendants adopt and incorporate by reference their answers to paragraphs 1-63
9 above as their answers to paragraph 64.

10 65. Paragraph 65 seeks to characterize legal precedent that speaks for itself. The
11 Defendants respectfully refer the Court to these precedents, and deny all inconsistent
12 allegations. To the extent paragraph 65 sets forth conclusions of law, rather than factual
13 allegations, no answer is required.

14 66. Paragraph 66 seeks to characterize legal precedent that speaks for itself. The
15 Defendants respectfully refer the Court to these precedents, and deny all inconsistent
16 allegations. To the extent paragraph 66 sets forth conclusions of law, rather than factual
17 allegations, no answer is required.

18 67. Paragraph 67 seeks to characterize legal precedent that speaks for itself. The
19 Defendants respectfully refer the Court to these precedents, and deny all inconsistent
20 allegations. To the extent paragraph 67 sets forth conclusions of law, rather than factual
21 allegations, no answer is required.

22 68. Paragraph 68 seeks to characterize legal precedent that speaks for itself. The
23 Defendants respectfully refer the Court to these precedents, and deny all inconsistent
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1 allegations. To the extent paragraph 68 sets forth conclusions of law, rather than factual
2 allegations, no answer is required.

3 69. Paragraph 69 seeks to characterize legal precedent that speaks for itself. The
4 Defendants respectfully refer the Court to these precedents, and deny all inconsistent
5 allegations. To the extent paragraph 69 sets forth conclusions of law, rather than factual
6 allegations, no answer is required.

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8 70. Defendants are without sufficient information to admit or deny the allegations
9 in the first sentence of paragraph 70, so Defendants deny them. The remainder of paragraph 70
10 seeks to characterize legal precedent that speaks for itself. The Defendants respectfully refer
11 the Court to these precedents, and deny all inconsistent allegations. To the extent paragraph 69
12 sets forth conclusions of law, rather than factual allegations, no answer is required.

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14 71. Defendants deny the allegations in paragraph 71.

15 72. Defendants deny the allegations in paragraph 72.

16 73. Defendants deny the allegations in paragraph 73. However, to the extent the
17 last sentence of paragraph 73 seeks to characterize a finding in an order of the FCC, the
18 Defendants respectfully refer the Court to that order, and deny all inconsistent allegations.

19 74. Defendants deny the allegations in paragraph 74.

20 75. Defendants deny the allegations in paragraph 75.

21
22 76. Defendants deny that the WUTC's rules are overbroad and that they represent a
23 content-based restriction on non-commercial speech, and that they are subject to strict scrutiny.
24 To the extent that paragraph 76 seeks to characterize the WUTC's rules, the Defendants
25 respectfully refer the Court to the rules, and deny all inconsistent allegations.
26

1 77. Defendants deny the first and sentence of paragraph 77. Defendants admit that
2 the WUTC does not regulate the use of customer information by other industries subject to its
3 jurisdiction, but denies the characterization that such regulation restricts First Amendment
4 rights, or that the comparison is at all apt. The parenthetical explanations to the citations in
5 paragraph 77 seek to characterize the cited rules. The Defendants respectfully refer the Court
6 to the rules, and deny all inconsistent allegations. The Defendants deny the allegations in the
7 sentence that begins and ends at line 25 of page 29.

9 78. Defendants deny the allegations in paragraph 78.

10 79. Defendants deny the allegations in paragraph 79.

11 **Count 2 (Violation of the Due Process Clause)**

12 80. The Defendants adopt and incorporate by reference their answers to paragraphs
13 1-79 above as their answers to paragraph 80.

14 81. Paragraph 81 seeks to characterize legal precedent that speaks for itself. The
15 Defendants respectfully refer the Court to these precedents, and deny all inconsistent
16 allegations. To the extent paragraph 81 sets forth conclusions of law, rather than factual
17 allegations, no answer is required.

18 82. Defendants deny the allegations in paragraph 82.

19 83. Defendants deny the allegations in paragraph 83.

20 84. Defendants deny the allegations in paragraph 84.

21 **Count 3 (Statutory Preemption Under 47 U.S.C. § 222)**

22 85. Defendants adopt and incorporate by reference their answers to paragraphs 1-84
23 above as their answers to paragraph 85.
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1 86. Paragraph 86 seeks to characterize legal precedent that speaks for itself. The
2 Defendants respectfully refer the Court to these precedents, and deny all inconsistent
3 allegations. To the extent paragraph 86 sets forth conclusions of law, rather than factual
4 allegations, no answer is required.

5 87. Paragraph 87 seeks to characterize Congressional intent as interpreted by an
6 FCC order. The Defendants respectfully refer the Court to the text of Section 222 and the FCC
7 order, and deny all inconsistent allegations. To the extent paragraph 87 sets forth conclusions
8 of law, rather than factual allegations, no answer is required.

9 88. Paragraph 88 seeks to characterize Congressional intent as interpreted by an
10 FCC order. The Defendants respectfully refer the Court to the text of Section 222 and the FCC
11 order, and deny all inconsistent allegations. To the extent paragraph 88 sets forth conclusions
12 of law, rather than factual allegations, no answer is required.

13 89. Paragraph 89 seeks to characterize an FCC order. The Defendants respectfully
14 refer the Court to that FCC order, and deny all inconsistent allegations.

15 90. Defendants deny the allegations in paragraph 90.

16 91. Defendants deny the allegations in paragraph 91.

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19 **Count 4 (Violation of the Commerce Clause)**

20 92. Defendants adopt and incorporate by reference their answers to paragraphs 1-91
21 above as their answers to paragraph 92.

22 93. Defendants admit that paragraph 93 accurately quotes a portion of Article I,
23 Section 8 of the United States Constitution.
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1 94. Paragraph 94 seeks to characterize legal precedent that speaks for itself. The
2 Defendants respectfully refer the Court to these precedents, and deny all inconsistent
3 allegations.

4 95. Defendants deny the allegations in paragraph 95.

5 96. Defendants deny the allegations in paragraph 96.

6
7 **Count 5 (Taking of Property Without Advancing A Legitimate State Interest)**

8 97. Defendants adopt and incorporate by reference their answers to paragraphs 1-96
9 above as their answers to paragraph 97.

10 98. Defendants deny the allegations in paragraph 98.

11 99. Defendants are without sufficient knowledge to admit or deny the allegations in
12 the first sentence and the last two sentences of paragraph 99, so Defendants deny them. The
13 second sentence sets forth a conclusion of law, rather than factual allegations and, therefore, no
14 answer is required.

15 100. Defendant are without sufficient knowledge to admit or deny the allegations in
16 paragraph 100, so Defendants deny them.

17 101. Defendants deny the allegations in paragraph 101.

18 102. Defendants deny the allegations in paragraph 102.

19 103. Defendants deny that they must make the demonstration alleged in paragraph
20 103 and further deny the allegations in that paragraph.

21 104. Paragraph 104 sets forth a conclusion of law, rather than factual allegations and,
22 therefore, no answer is required. Paragraph 104 also characterizes legal precedent that speaks
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1 for itself. The Defendants respectfully refer the Court to these precedents and deny all
2 inconsistent allegations.

3 105. Defendants deny the allegations in paragraph 105.

4 **Count 6 (Violation of Constitutional and Statutory Rights Under Color of State Law, 42**
5 **U.S.C. § 1983)**

6 106. Defendants adopt and incorporate by reference their answers to paragraphs 1-
7 105 above as their answers to paragraph 106.

8 107. Paragraph 107 sets forth a conclusion of law, rather than factual allegations and,
9 therefore, no answer is required.

10 108. Defendants deny the allegations in paragraph 108.

11 109. Defendants deny the allegations in paragraph 109.

12 **IV. PRAYER FOR RELIEF**

13 Defendants deny plaintiffs are entitled to the relief they request.

14 **AFFIRMATIVE DEFENSES**

15 1. The Complaint, in whole or in part, fails to state a claim upon which relief can
16 be granted.

17 2. The Plaintiffs have failed to join a party or parties necessary to the adjudication
18 under Federal Rule of Civil Procedure 19, namely the United States of America and the
19 Federal Communications Commission.

20 3. Plaintiffs have failed to exhaust their administrative remedies in their
21 preemption claim.

1 4. Plaintiffs are barred from including in their First Amendment claim any claim
2 relating to internal company communications about product development because those claims
3 were not raised administratively in the rule-making proceeding before the WUTC.

4 5. To the extent the complaint seeks any relief against the Washington Utilities
5 and Transportation Commission or seeks damages against the Commissioners, the action is
6 barred by the Eleventh Amendment to the United States Constitution.
7

8 DATED this 11th day of December, 2002.

9 CHRISTINE O. GREGOIRE
10 Attorney General

11 JEFFREY D. GOLTZ
12 Deputy Attorney General

13 _____
14 JONATHAN THOMPSON, WSBA No. 26375
15 Assistant Attorney General
16 (360) 664-1225