

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of

COMCAST PHONE OF WASHINGTON,
LLC

Application for Mitigation of Penalties or
for Stay

In the Matter of

COMCAST PHONE OF WASHINGTON,
LLC

Petition for an Interpretive and Policy
Statement or Declaratory Ruling

Docket Nos. UT-031459 and
UT-031626 (consolidated)

**PUBLIC COUNSEL ANSWER TO
PETITIONS FOR
ADMINISTRATIVE REVIEW**

I. INTRODUCTION

Public Counsel submits this answer in response to the Petitions for Administrative review filed on or about February 5, 2004 by Comcast Phone of Washington, LLC (“Comcast Phone”), AT&T Communications of the Pacific Northwest (“AT&T”), and Commission Staff. For the reasons set forth below, we recommend that the Commission deny the petitions for administrative review filed by Comcast Phone and AT&T. Public Counsel requests that the Commission grant the petition for administrative review filed by Commission Staff regarding mitigation of the penalty assessed to Comcast Phone.

II. ARGUMENT

In their petitions for administrative review, Comcast Phone and AT&T have failed to provide any new or credible arguments to support their position. Instead, they largely repeat the same arguments they made in their motions for summary determination. Rather than respond to these arguments yet again, we incorporate by reference Public Counsel's motion for summary determination and response to motions for summary determination.

With respect to the mitigation of the penalty granted in the Initial Order, Public Counsel agrees with the arguments made by Staff in their petition for administrative review. In particular, we concur with Commission Staff that "mitigation of the penalty sends a signal to regulated companies that they need take compliance issues seriously only after deadlines are missed, multiple rounds of informal discussions are had, and months of litigation are completed." Commission Staff Petition at ¶ 3.

III. CONCLUSION

In summary, for the reasons outlined above, Public Counsel respectfully requests that the Commission affirm the Initial Order with regard to the determination that the requirements of WAC 480-120-439 for Class A companies apply to Comcast Phone, as a local exchange company with more than 2% of the access lines in Washington. Public Counsel further requests that the Commission grant Commission Staff's petition for administrative review, and reverse the decision in the Initial Order to mitigate the penalty.

DATED this 17th day of February, 2004.

CHRISTINE GREGOIRE
Attorney General of Washington

ROBERT W. CROMWELL, JR.
Assistant Attorney General
Public Counsel