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September 5, 2008

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

Re: ACLU Request for Investigation, Docket Number UT-060856

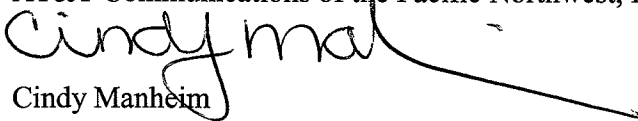
Pursuant to the Commission's Notice of Intent to Dismiss Petition and Notice of Opportunity to Comment of August 26, 2008 ("Notice"), AT&T Communications of the Pacific Northwest, Inc. ("AT&T") respectfully submits these comments that agree that dismissal of this proceeding is required by the FISA Amendments Act of 2008.

This proceeding was initiated in response to the ACLU's letter of May 23, 2006, which requested that the Commission investigate allegations that AT&T and other telephone companies had provided customer calling records to the National Security Agency in the absence of a court order or other legal authorization. *See* Letter from Kathleen Taylor and Doug Klunder to the Washington Utilities and Transportation Commission, at 1 (May 23, 2006). After receiving written comments and conducting three open meetings, the Commission opened an investigation into these allegations, ordered the telephone companies to retain certain documents, but held the proceedings in abeyance pending the resolution of questions of federal law in pending federal court litigation. *See* Order of Sept. 27, 2006.

The FISA Amendments Act of 2008 was enacted on July 10, 2008. As the Commission's Notice correctly states, section 803(a) of this Act expressly provides that States are preempted from, among other things, "investigat[ing]" whether AT&T and any other providers of electronic communications services have provided calling records or any other "form of assistance" to the National Security Agency or to any other "element" of the "intelligence community" of the United States. Section 803(d) further provides that this prohibition applies to any proceeding pending on the date of the enactment of the FISA amendments. Accordingly, because federal law now squarely prohibits the investigation that the ACLU has here sought, the Commission's order of September 27, 2006 should be vacated and this pending proceeding should now be dismissed.

Sincerely,

AT&T Communications of the Pacific Northwest, Inc.

  
Cindy Manheim  
General Attorney