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Rebecca B. DeCook  
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STATE OF WASH.  
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COMMISSION

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October 16, 2003

Via Electronic Mail and Overnight Delivery

Ms. Carole J. Washburn  
Executive Secretary  
Washington Utilities & Transportation Commission  
1300 S. Evergreen Park Drive S.W.  
P.O. Box 47250  
Olympia, Washington 98504-7250

Re: Comments of AT&T Regarding Protective Order.  
Docket Nos. UT-033025 & UT-033044

Dear Ms. Washburn:

Pursuant to Judge Rendahl's request, please accept the follow comments of AT&T Communications of the Pacific Northeast, Inc. and AT&T Local Services on Behalf of TCG Seattle and TCG Oregon (collectively AT&T) regarding the proposed Protective Order circulated by Judge Rendahl for comment. AT&T notes that on October 10, AT&T provided Judge Rendahl and the parties with the form protective order that had agreed to by Qwest, MCI and AT&T of what AT&T believes to be a well-balanced and equitable Protective Order that could be adopted in Washington. Judge Rendahl has drawn upon many of the provisions of that document, which is helpful. However, AT&T believes that a few additional provisions contained in the submitted form protective order should be included in the Washington Protective Order. To that end, AT&T recommends that the following modifications be made to the draft Protective Order circulated by Judge Rendahl:

Paragraph No. 3. A new sentence should be added after the first sentence of Paragraph No. 3 as follows: "In addition, all notes or other materials that refer to, derive from, or otherwise contain parts of Confidential Information shall also be governed by this Order and WAC

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480-09-015 and shall be marked by the receiving party as Confidential Information.” Finally, the word “primary” in front of “exhibits” should be deleted from the third line of Paragraph No. 3 on the top of page 2, so that the sentence reads “The Commission requires the parties to delete such information from the exhibits and provide these....”

Paragraph No. 4, last sentence, should be revised by replacing the phrase “each number, customer name, or planning detail” with the defined term, “Confidential Information.” Thus the sentence should read “Confidential Information shall be provided on colored paper with references to where Confidential Information is redacted in the original document.”

Paragraph No. 7, first sentence, should be revised by inserting “or other person” after “or counsel” and before “having.”

Paragraph No. 8, third sentence (item (2)), should be revised by inserting “design, development,” after the words “is engaged in the” and before the word “sale. Thus, item (2) would read “only those employees of the party who are directly involved in this proceeding, provided that counsel for the party represents that no such employee is engaged in the design, development, sale or marketing of that party’s products or services.”

Paragraph No. 9. All references to “expert, consultant or advisor” should be revised to read “expert, consultant, advisor or employee” so as to clarify that employees must also execute the non-disclosure form attached as Exhibits B and C to the Order.

In addition, the reference to “expert’s position and responsibilities in the parenthetical contained in the second to last sentence of Paragraph No. 9 should be changed to “signatory’s position and responsibilities” given that Exhibit B will be executed by more than just experts.

Paragraph No. 15. All references to “expert, consultant or advisor” should be revised to read “expert, consultant, advisor or employee” so as to clarify that employees must also execute the non-disclosure form attached as Exhibit C. In addition, AT&T notes that a copy of “Exhibit C” as referenced in this paragraph was not included in the materials that AT&T received.

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Paragraph No. 18, second sentence, should be revised to include an exception to the prohibition on copying, so as to allow copies made for use at hearing. Thus, the second sentence should read "No additional copies will be made, EXCEPT FOR USE DURING HEARINGS AND THEN SUCH COPIES SHALL ALSO BE SUBJECT TO THE PROVISIONS OF THIS ORDER." (Additional language is in all caps.)

Paragraph No. 25, seventh line of the first sentence, remove the words "trade secret, proprietary, or other" so that the sentence reads "...in a manner which will protect its confidential nature.:"

Paragraph No. 31, second and third line of the first sentence, remove the words "trade secret, proprietary, or" so that the sentence reads "...is not of a confidential nature, any federal agency that has...."

Finally, AT&T has reviewed the language by Mr. Kopta related to small company review of confidential information and AT&T generally has no objections to that proposed language with one exception. AT&T recommends the insertion of language that would require the small company to provide the employees' job title and job responsibilities so that the producing party can adequately assess whether they have concerns with disclosing confidential information to such employee. AT&T appreciates the opportunity to comment on the draft Protective Order and hopes the foregoing comments are helpful. AT&T will be sure to advise the Commission if it has any concerns regarding the comments by other parties to the draft Order.

Very truly yours,



Rebecca B. DeCook

cc: Service List

**CERTIFICATE OF SERVICE**

Docket No. UT-033044

I hereby certify that on the date given below the original and 6 copies of Comments of AT&T Regarding Protective Order were sent by overnight delivery to:

Ms. Carole J. Washburn, Secretary  
Washington Utilities & Transportation Commission  
1300 S. Evergreen Park Drive SW  
Olympia, WA 98504-7250

On the same date, a true and correct copy was sent by regular U.S. Mail, postage prepaid, to:

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DATED this 16<sup>th</sup> day of October, 2003.

By: Adam Walczak  
Adam Walczak