

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Petition of ,

QWEST CORPORATION

For Competitive Classification of Basic  
Business Exchange Telecommunications  
Services

DOCKET NO. UT-030614

COMMISSION STAFF'S  
RESPONSE TO PETITIONS FOR  
REVIEW

1           Public Counsel and WeBTEC filed Petitions for Review of Interlocutory Orders 05, 06, and 07 on July 9, 2003. Pursuant to notices dated July 9 and 11, 2003, Commission Staff submits the following response.

**I.     Public Counsel and WeBTEC object to applying a highly confidential protective order to “non-competitors.”**

2           The provisions of the protective order in this docket protecting highly confidential information should apply to all parties, including non-competitor parties. The Commission has the discretion to determine the appropriate terms of a protective order governing disclosure of proprietary or confidential information in contested proceedings. *See* RCW 80.04.095.

3           It would be administratively difficult should certain terms of the protective order apply to some parties, but not others. The appropriate question here is whether a party should be allowed access to certain information, such as highly confidential information, based on that party's ability to abide by the terms of the protective order, not whether the protective order applies to a certain party. The protective order, including both the standard protections and the heightened protections, should apply to all parties.

**II. Public Counsel and WeBTEC object to being prohibited from reviewing the CLEC information provided under Order No. 06.**

4           Staff does not object to Public Counsel or WeBTEC having unrestricted access to the information collected from CLECs in response to Order No. 06. In taking this position, Staff does not address the merits of Public Counsel or WeBTEC's arguments. While Staff poses no objection, it would be helpful to the issue if the CLECs who are parties to the proceeding could explain the potential harm that might occur if Public Counsel and/or WeBTEC are given access to the CLEC information.

**III. Public Counsel and WeBTEC request that the Commission clarify and modify the aggregation requirement.**

5           Staff has no objection to the clarification and modification as requested by Public Counsel. Staff interprets Public Counsel's preferences regarding access to the CLEC information as follows:

1. Public Counsel would prefer first to have unrestricted access to all the data provided by the CLECs.
2. Public Counsel would prefer second to have access to raw data provided by the CLECs with the identification of the CLECs masked.
3. Public Counsel would prefer third that the aggregation be conducted according to each question posed to the CLECs.

6 WeBTEC's position seems to be consistent with that of Public Counsel.

7 To comply with the Commission's orders, Staff intends to provide the CLEC information with the identification of the CLECs masked to protect the CLECs from harm due to the release of proprietary or trade secret information, consistent with Public Counsel's second preference.

**IV. Public Counsel and WeBTEC argue that CLEC pricing information is relevant to this proceeding and should be requested.**

8 Pricing information is relevant under RCW 80.36.330(1)(c). The Commission has discretion in determining what information it will seek from non-party CLECs to implement RCW 80.36.330. *See* RCW 80.36.330(5).

9 Additional burden on the CLECs might be avoided because Qwest has provided some pricing data. *See* Confidential Attachment D to Qwest's Petition. Additionally, pricing information is public information, and parties can independently obtain it. In any event, Staff has no objection to the Commission requesting the information from the CLECs.

**V. WeBTEC argues that the highly confidential protective order is too broad and restrictive and should be modified.**

10 WeBTEC offers two objections regarding its requested modification of the highly confidential provisions of the protective order. The first objection involves the “one expert/one counsel” requirement. The second objection involves the required affidavit. Staff takes no position on either argument.

**VI. WeBTEC requests that the Commission clarify what services CLECs should include in the line counts.**

11 Staff believes that the language in paragraph 23(a) of Order No. 05 directing that “CLECs need not describe business local exchange services that are not included in the petition” is accurate. However, Staff is willing to commit to contacting the responding CLECs to determine that the line counts are accurate and excludes digital services.

DATED this 15th day of July, 2003.

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