

June 2, 2006

NOTICE OF OPPORTUNITY TO COMMENT

(Comments due: June 30, 2006)

(Answering comments due: July 17, 2006)

RE: ACLU Request for Investigation
Docket UT-060856

TO ALL INTERESTED PERSONS:

The American Civil Liberties Union of Washington Foundation has asked the Commission to open an investigation into possible violations of law or rule. Its letter, filed May 25, 2006, called attention to recently-publicized allegations that some telephone companies have released certain customer calling information to, and at the request of, the United States Government. In response, the Commission scheduled the request for preliminary consideration in conjunction with the May 31, 2006, Commission open meeting.

At the meeting, the commissioners heard comments from the ACLU, Verizon, AT&T, and the Public Counsel Section of the Washington State Office of the Attorney General. The Commission also received information from its senior counsel about possible legal issues associated with the request and from staff about the administrative processes available to the Commission if it decides to conduct an investigation.

The Commission decided to ask for comments from interested persons on the threshold legal and jurisdictional issues relevant to the request for investigation, and to reconvene after having the opportunity to consider the submissions. Specifically, it invites comments on the following preliminary questions:

- Does WAC 480-120-202 or any other state law or regulation prohibit a regulated telephone company or its affiliated interests from providing customer telephone calling information to the National Security Agency (NSA)?

- Does the Commission have the legal authority to compel a regulated telephone company or its affiliates to disclose whether it has provided customer calling information to the NSA?
- Does the Commission have the legal authority to compel regulated telephone companies or their affiliates to release relevant information about such allegations?
- Would an assertion of the military and state secrets privilege by the United States Government preclude the Commission from taking action against a regulated telecommunications company?
- If the Commission decides to investigate the matter raised in the ACLU's May 25, 2006, letter, which procedural options would be most appropriate? (*e.g.*, informal investigation, formal investigation, complaint).

Notice of Opportunity to Comment:

The Commission asks interested persons to respond to these questions, or others that they deem relevant to the limited topic under consideration, on the following schedule:

Opening comments: June 30, 2006

Answering comments: July 17, 2006

The Commission requests that comments be provided in electronic format to enhance public access, for ease of providing comments, to reduce the need for paper copies, and to facilitate quotations from the comments. Comments may be submitted by electronic mail to the commission's Records Center at records@wutc.wa.gov. Please include:

- The docket number of this proceeding (UT-060856).
- The commenting party's name.
- The title and date of the comment or comments.

An alternative method for submitting comments is by mailing/delivering an electronic copy on a 3 ½ inch, IBM-formatted, high density disk, in .pdf Adobe Acrobat format or in .doc MSWord 97 or later. Include all the information requested above. The Commission will post on its web site all comments that are provided in electronic format. The web site is located at <http://www.wutc.wa.gov/060856>. If you are unable to file your comments electronically or to submit them on a disk, the Commission will always accept a paper document.

Notice of Consideration:

The Commission plans to consider the comments and possible ensuing process in conjunction with its July 26, 2006, open meeting.

If you have questions, please call David Danner, Executive Director, at (360) 664-1208 or by e-mail at ddanner@wutc.wa.gov.

Sincerely,

CAROLE J. WASHBURN
Executive Secretary