

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

AT&T COMMUNICATIONS OF THE)	
PACIFIC NORTHWEST, INC.,)	Docket No. UT-003120
)	
Complainant,)	AT&T'S ANSWER TO QWEST'S
v.)	MOTION FOR LEAVE TO FILE A
)	REPLY
QWEST CORPORATION,)	
)	
Respondent.)	
)	

AT&T Communications of the Pacific Northwest, Inc. (“AT&T”), pursuant to WAC 480-09-420(9)(a) hereby answers/responds to “Qwest’s Motion for Leave to File A Reply.” (“Qwest’s Motion for Leave”). For reasons stated below, AT&T believes that it is inappropriate for the Washington Utilities and Transportation Commission (“WUTC”) to grant such leave at this time.

The WUTC can only grant leave to file a reply for cause. *See* WAC 480-09-420(9)(b). In Qwest’s Motion for Leave, Qwest argues that its “cause” to file a reply includes that AT&T’s answer raises “new material” requiring a response. Qwest further argues that this “new material” includes “AT&T’s expansion of emergency relief and AT&T’s failure to rebut the factual allegations in Qwest’s Motion (to Amend its Answer to Include a Cross-Complaint for Emergency Relief).” Qwest’s argument is mere subterfuge in order to gain undue tactical advantage in this proceeding.

In Qwest’s Motion for Leave, Qwest claims that AT&T’s failed to rebut the factual allegations in Qwest’s Motion to Amend its Answer to Include a Cross-Complaint for Emergency Relief (“Qwest’s Motion to Amend”). AT&T did not intend to rebut the factual allegations at the time it responded to Qwest’s Motion to Amend as it had no obligation to do so. As Qwest acknowledges, WAC 480-09-425(5) requires WUTC

approval for an amendment to a pleading. As the WUTC has not yet approved Qwest's Motion to Amend, there is no cross-complaint for AT&T to specifically rebut the factual allegations to.

Instead, as mandated in the December 28, 2000 procedural order in place in this matter, AT&T was required to file a "response to Qwest's motion to amend answer" which it did on January 11, 2001. Of course, as Qwest was seeking "emergency relief" in its Motion to Amend, AT&T commented on that aspect of the Cross-Complaint. However, keeping in mind the WUTC procedural rules, AT&T did not intend to file an answer to a Cross-Complaint when the Commission had not approved leave to file such pleading. Regardless, Qwest's misinterpretation of the WUTC Administrative Rules and the ramifications thereof cannot be the grounds for Qwest's "new material" that it proffers to file a reply.

Qwest also claims that AT&T is expanding its request for emergency relief. A careful reading of AT&T's Response to Qwest's Motion to Amend would reveal that AT&T has not changed its position regarding its request for expedited relief; AT&T believes that its Complaint in this matter requires expedited relief from this Commission. Further troubling is Qwest's averment in its attached reply that the WUTC has denied AT&T's request for expedited treatment. Nowhere in the record does it show that the Commission has made such finding.

The WUTC will only entertain the submission of a reply if there is cause. *See* WAC 480-09-420(9)(b). In this matter, Qwest's "cause" is based on misinterpretations of various pleadings as well as WUTC rules. The WUTC should not allow arguments based on Qwest's misinterpretations to equate to the cause necessary to submit a reply

brief. Accordingly, the WUTC should not grant “Qwest’s Motion for Leave to File a Reply.”

WHEREFORE, AT&T requests that the WUTC not grant “Qwest’s Motion for Leave to File a Reply.”

RESPECTFULLY submitted this 19th day of January 2001.

AT&T COMMUNICATIONS OF
THE PACIFIC NORTHWEST, INC.

By: _____
Mary B. Tribby
Steven H. Weigler
1875 Lawrence Street
Suite 1500
Denver, Colorado 80202
303-298-6957