

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of)	DOCKET NO. UT-030614
)	
QWEST CORPORATION)	ORDER NO. 11
)	
For Competitive Classification of)	GRANTING PETITION TO
Basic Business Exchange)	INTERVENE
Telecommunications Services)	
.....)	

1 **Proceeding.** Docket No. UT-030614 involves a petition filed by Qwest Corporation (Qwest), for competitive classification of basic business exchange telecommunications services pursuant to RCW 80.36.330.

2 **Appearances.** Lisa Anderl, attorney, Seattle, represents Qwest. Jonathan C. Thompson, assistant attorney general, represents Commission Staff. Simon ffitch, assistant attorney general, represents Public Counsel Section of the Office of Attorney General. Letty S. D. Friesen, attorney, Denver, Colorado, represents AT&T Communications of the Pacific Northwest, Inc. and AT&T Local Services on behalf of TCG Seattle and TCG Oregon (AT&T). Karen J. Johnson, attorney, Beaverton, Oregon, represents Integra Telecom of Washington, Inc. (Integra). Michel Singer-Nelson, attorney, Denver, Colorado, represents WorldCom/MCI. Lisa Rackner and Arthur A. Butler, attorneys, Seattle, represent Washington Electronic Business and Telecommunications Coalition (WeBTEC). Stephen S. Melnikoff, attorney, Arlington, Virginia, represents the United States Department of Defense and all other Federal Executive Agencies (DOD/FEA). Richard H. Levin represents Advanced TelCom, Inc. (ATG).

3 **Background.** On July 17, 2003, ATG filed a Petition to Intervene in this proceeding. The petition is a late-filed petition to intervene because it was filed after the proceeding was underway. *WAC 480-09-430(1)*.

4 Qwest filed an objection to the petition on grounds that ATG failed to show good cause for late filing of the petition. Both Commission Staff and Public Counsel stated they had no objection to the granting of the petition.

- 5 **Petition to Intervene.** ATG states that it is a competitive provider of local exchange service in the State of Washington and that it provides services to small to medium business customers in several smaller cities and surrounding areas in the State. These customers are located in Qwest's service area. ATG contends that its interests would be adversely affected if Qwest's petition in this proceeding were to be granted.
- 6 ATG indicates that it purchases unbundled network elements from Qwest to provide services to ATG business customers. ATG argues that granting competitive classification to such services would harm competition in the State of Washington.
- 7 ATG identifies as its reason for filing a late Petition to Intervene that it has been in bankruptcy since May 2002. ATG did not intervene in state regulatory proceedings during that period due to financial constraints. ATG emerged from bankruptcy on May 15, 2003, at which point it became a wholly-owned, indirect subsidiary of General Electric Company. During bankruptcy, ATG went through a complete reorganization, including many personnel changes. Since emerging from bankruptcy, ATG has been working to integrate its operations with General Electric's. Also, ATG believes that it did not receive notice of this proceeding and only learned of it when counsel was researching an unrelated issue on the Commission's website on June 10, 2003.
- 8 Upon learning of this proceeding, ATG has conducted an extensive review to determine whether it should devote resources to participating in it. This is the first state regulatory proceeding in any state since it emerged from bankruptcy in which ATG has sought to intervene.
- 9 ATG states that it will take the proceeding as it finds it and will not broaden the issues in the docket beyond those already identified. ATG will also coordinate with other parties to minimize overlap and duplication of presentation.
- 10 **Qwest's opposition.** Qwest contends that ATG has not presented any facts to establish good cause for the late filing of the petition. Qwest argues that ATG's lack of awareness of the proceeding does not establish good cause because ATG did not avail itself of information on the Commission's website that was available to any interested person. That information included notice of the filing

of Qwest's petition, of the open meeting at which it was addressed, and of the notice of prehearing conference, all posted on the website.

11 Qwest contends that if ATG had acted as soon as it found out about the proceeding on June 10, 2003, it would have been only a few days late in filing a petition to intervene. The prehearing conference was convened on June 6, 2003. Instead, ATG waited five weeks to file.

12 **Decision.** WAC 480-09-430(1) states that good cause must be shown to grant late-filed petitions to intervene in proceedings before the Commission. Contrary to Qwest's arguments, ATG has shown good cause for the lateness of its filing. Bankruptcy and the reorganization required to emerge from bankruptcy may leave a company in a situation that compromises its usual efficiency of operation. ATG has a direct interest in this proceeding, agrees not to broaden the issues involved and to take the proceeding as it finds it, and agrees to coordinate with other parties to avoid duplication of evidence. ATG has shown good cause for the lateness of its petition to intervene. The petition should be granted.

ORDER

13 THE COMMISSION ORDERS That the late-filed Petition to Intervene of ATG is granted.

Dated at Olympia, Washington, and effective this 5th day of August 2003.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

THEODORA M. MACE
Administrative Law Judge

NOTICE TO PARTIES: Any objections to the provisions of this Order must be filed within ten (10) days after the date of mailing of this statement. Pursuant to WAC 480-09-460(2). Absent such objections, this Order will control further proceedings in this matter, subject to Commission review.