

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Application of

QWEST CORPORATION

Regarding the Sale and Transfer of Qwest  
Dex to Dex Holdings, LLC, a non-  
affiliate.

Docket No. UT-021120

PUBLIC COUNSEL'S RESPONSE  
TO COMMISSION STAFF'S  
MOTION TO REMOVE  
CONFIDENTIALITY  
DESIGNATIONS

Pursuant to the Washington Utility and Transportation Commission's (Commission) Notice of Revised Response Date for Answers to Motion to remove Confidentiality Designation the Public Counsel Section of the Washington State Attorney General's Office (Public Counsel) Responds to the Motion of Commission Staff in support of the Motion.

**I. ARGUMENT**

**A. Washington's Law and Public Policy Favors Open Public Proceedings.**

Washington law strongly favors openness in public proceedings. Open Public Meetings Act, Title 42.30 RCW; Public Records Act, RCW 42.17.250 et seq. Commission proceedings are no exception. The regulation of public utilities is inherently the public's business, not a private matter to be conducted behind closed doors and under seal. While the standard form of protective order is commonly issued in major Commission proceedings, parties are admonished to limit its use and the Commission's rules so require. WAC 480-09-015. A request for higher levels of confidentiality should be measured even more strictly against the policy of openness. The starting point is a presumption that proceedings and documents related to those proceedings will be open to the public. As a result, the mere request or assertion by a party of a desire to protect information should not end the inquiry. Such a requesting party must overcome the presumption by a sufficient showing. Public Counsel concurs in the legal and policy analysis set forth in Commission Staff's Motion.

**B. Guidance on This Issue Would Benefit All Parties and Expand The Public Record of The Proceeding.**

If the Commission Grants the Motion of Commission Staff to “de-classify” portions of Drs. Blackmon and Selwyn’s testimony the Commission should provide guidance to all parties. Such guidance could be used in reviewing all testimony filed to date as well as exhibits contemplated for use during the evidentiary hearings. Such guidance would allow for a more open and public record in this proceeding and would allow the parties to work together to hopefully resolve any similar concerns regarding other testimony and exhibits.

**II. RELIEF REQUESTED**

Public Counsel respectfully requests that the Commission grant the Motion of Commission Staff and in so doing provide guidance to all parties regarding the information which has currently been designated by any party as confidential or highly confidential that may be made public.

DATED this 17<sup>th</sup> day of April, 2003.

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Attorney General

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