

BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Petition of:)	
)	Docket No. UT-033044
QWEST CORPORATION)	
)	JOINT CLEC RESPONSE TO
To Initiate a Mass-Market Switching and)	QWEST PETITION TO MODIFY
Dedicated Transport Case Pursuant to the)	PROTECTIVE ORDER
Triennial Review Order)	
_____)	

Advanced TelCom, Inc., Eschelon Telecom of Washington, Inc., Integra Telecom of Washington, Inc., Global Crossing Local Services, Inc., McLeodUSA Telecommunications Services, Inc., Pac-West Telecomm, Inc., Time Warner Telecom of Washington, LLC, and XO Washington, Inc. (collectively “Joint CLECs”), provide the following response to the Petition of Qwest Corporation (“Qwest”) to Modify the Protective Order (“Petition”).

DISCUSSION

1. The Joint CLECs continue to be concerned with the extent to which CLEC highly confidential information is made available in this proceeding, and they believe that the existing protective order strikes a reasonable balance between protection and limited disclosure of such information. The Joint CLECs, however, are also sensitive to the needs of all parties to make use of internal resources and to minimize the need to engage outside experts and consultants.

2. Accordingly, the Joint CLECs would not object to increasing to five (5) the number of in-house experts to which highly confidential information can be disclosed, provided that such an expansion is applicable to all parties, not just to Qwest. The Joint CLECs, however object to modifying the protective order to permit disclosure of highly confidential information to more than five in-house experts. Qwest alleges the need to designate eight in-house experts but provides no

explanation or support for that alleged need. In light of the nature of the highly confidential information to which Qwest seeks expansive access, more than an unsupported assertion of unspecified need should be required before the Commission increases the number of in-house experts by 400 percent.

3. Qwest also contends that no party would be prejudiced if its Petition were granted because of the additional protections the Commission adopted for concealing the identities of parties providing highly confidential information. Unfortunately, these additional protections may prove illusory for many CLECs because the highly confidential information itself unavoidably reveals the identity of the disclosing CLEC, particularly when reviewed in conjunction with the nonproprietary and confidential data those CLECs have provided. In any event, highly confidential information is extremely competitively sensitive even without disclosure of the identity of the CLEC, and disclosure of this information should be made strictly on a need-to-know basis. Qwest has failed to demonstrate a legitimate need to provide access to highly confidential information to more than five of its in-house experts.

4. The Joint CLECs further observe that under a cover letter dated December 1, 2003, Qwest filed Exhibit C's for 18 in-house experts. Even under the expansive additional disclosure that Qwest seeks in its Petition, the number of in-house experts that Qwest has designated far exceeds the amount that the Commission has authorized. Accordingly, the Joint CLECs object to the entire filing. The Commission should require Qwest to withdraw that filing and resubmit Exhibit C's only for the authorized number of in-house experts entitled to have access to highly confidential information under the terms of the Commission's protective order.

CONCLUSION

5. If the Commission grants Qwest's Petition, the Commission should modify the protective order to permit each party to designate no more than five (5) in-house experts to have access to highly confidential information. Whether or not the Commission grants the Petition, the Commission should reject, or require Qwest to withdraw, Qwest's December 1, 2003, filing of Exhibit C's for Qwest in-house experts and should permit Qwest to resubmit Exhibit C's only for the Commission-authorized number of in-house experts entitled to have access to highly confidential information.

DATED this 4th day of December, 2003.

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By _____
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