

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION

In the Matter of the Application of)	DOCKET NO. UT-021120
)	
QWEST CORPORATION)	EIGHTH SUPPLEMENTAL
)	ORDER: DENYING MOTION TO
Regarding the Sale and Transfer of)	ADMIT PREMARKED EXHIBIT
Qwest Dex to Dex Holdings, LLC, a)	NO. 408
non-affiliate)	
.....)	

1 **PROCEEDINGS:** Qwest Corporation (“Qwest”) filed its “Application Regarding Transfer and Sale of Directory Business and Notice of Possible Affiliated Interest Transaction on September 3, 2002. The Commission established a procedural schedule in its Second Supplemental Order, which was entered following a prehearing conference. All scheduled prefiled testimony dates have passed. On April 24, 2003, Staff filed a motion to strike certain portions of Qwest and Dex Holding’s prefiled rebuttal. Qwest and Dex Holding have answered and the matter is ready for decision.

2 **PARTIES:** Lisa A. Anderl, Senior Attorney, U S WEST, Inc. Seattle, Washington, represents Qwest Corporation. Brooks Harlow, Miller Nash LLP, Seattle, Washington, represents Dex Holdings, LLC. Gregory J. Kopta, Davis Wright Tremaine LLP, Seattle, Washington represents XO Washington, Inc. Arthur A. Butler and Lisa Rackner, Ater Wynne LLP, Seattle, Washington and Portland, Oregon, represent WeBTEC, f/k/a TRACER. Stephen S. Melnikoff, Department of the Army, Judge Advocate General, represents the Department of Defense and Federal Executive Agencies. Ronald Roseman, attorney, Seattle, Washington, represents the AARP. Simon ffitich and Robert Cromwell, Assistant Attorneys General, Seattle, Washington, represents the Public Counsel Section, Office of Attorney General (“Public Counsel”). Greg Trautman, Assistant Attorney General, Olympia, Washington, represents the Commission’s regulatory staff (“Commission Staff” or “Staff”).

3 **MOTION OF DEX HOLDINGS FOR POST-HEARING OFFER OF EXHIBIT:** On June 27, 2003, Dex Holdings filed a motion seeking admission of an exhibit

pre-marked for identification as Exhibit No. 408. Exhibit No. 408 was designated by Dex Holdings at prehearing as a potential cross-examination exhibit for Dr. Blackmon, one of Staff's witnesses. Dex Holdings did not offer Exhibit No. 408 at hearing, possibly due to an oversight, as suggested by Dex Holding's Motion.

MEMORANDUM

- 4 Exhibit No. 408 is Staff's response to one of Dex Holdings data requests. It examines the Staff's calculation of gain on sale allocated to Washington ratepayers that was developed in connection with settlement negotiations that led to a settlement agreement that the Commission approved by its Fourth Supplemental Order in Cause No. U-87-640-T. The data request and response thus are related to Exhibit No. 409, which is the Fourth Supplemental Order in that proceeding and certain attachments. Exhibit No. 408, however, explains certain workpapers that were tendered as part of Exhibit No. 409, but that were expressly denied admission on Staff's objection at hearing. *See colloquy at Tr. 1428-39.*
- 5 Staff filed a response to Dex Holding's Motion. Staff reiterates its prior objection and argument opposing the admission of underlying workpapers and similar documents that may have been developed in connection with the settlement in Cause No. U-87-640-T. Staff's arguments challenging relevance of the information included in Exhibit No. 408 and its concerns about potential violation of the settlement privilege are well taken. The Commission concludes that Exhibit No. 408 should not be admitted.

ORDER

- 6 The Commission denies Dex Holding's Motion to admit Exhibit No. 408.

DATED at Olympia, Washington, and effective this 2nd day of July 2003.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DENNIS J. MOSS

Administrative Law Judge