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February 7, 2005

**VIA FACSIMILE, E-MAIL, & U.S. MAIL**

Mr. Samuel J. Petrillo  
Administrative Law Judge  
Oregon Public Utility Commission  
Post Office Box 2148  
Salem, Oregon 97308-2148

Subject: NPCC v. Qwest  
Docket No. DR 26/UC 600

Dear Judge Petrillo:

On January 25, 2005, Staff filed its "Reply" to the pending cross-motions for summary judgment. Staff states that it "would be interested in hearing from the parties on why the FCC is not a more appropriate forum and reserves the right to comment on whether the Oregon Commission is the appropriate jurisdictional forum for this dispute."

Since Staff filed its brief, counsel for NPCC has spoken with counsel for Qwest to inquire whether Qwest intends to assert subject matter jurisdiction as further grounds for dismissal of NPCC's complaint. NPCC understands that Qwest does not intend to make such a jurisdictional argument. Nor has Staff raised the issue in the way that would call for or permit NPCC to file a further brief on the issue. Because Staff filed its comments contemporaneously with NPCC's reply/response brief, NPCC does not presently have a further opportunity to brief the issues. Moreover, because neither Staff nor Qwest have moved to dismiss based on lack of subject matter jurisdiction, there is not really any argument for NPCC to respond to at this time.

NPCC believes that the Commission has jurisdiction over its complaint. Apparently Qwest agrees, or it would have asserted jurisdiction as an additional grounds to support its motion to dismiss. If, however, the Commission has any doubts about its jurisdiction, certainly the parties should be afforded an opportunity to brief the issue before any action is

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taken regarding jurisdiction. However, to be clear, NPCC is only requesting supplemental briefing on jurisdiction if that is a matter of concern to the Commission.

Very truly yours,

Brooks E. Harlow

cc: Mr. Lawrence Reichman  
Mr. Jason Jones  
Ms. Frances Nichols

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HARLOW:cm  
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