

[Service Date: April 9, 2010]

BEFORE THE
WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION

SANDY JUDD and TARA HERIVEL,

Complainants,

v.

AT&T COMMUNICATIONS OF THE
PACIFIC NORTHWEST, INC., and T-NETIX,
INC.,

Respondents.

Docket No. UT-042022

**T-NETIX, INC.'S OPPOSITION TO
AT&T'S MOTION FOR LEAVE TO
FILE A RESPONSE REGARDING
BENCH REQUEST NO. 6 OR, IN
THE ALTERNATIVE, LEAVE TO
REPLY**

Respondent T-Netix, Inc. ("T-Netix"), through counsel and pursuant to WAC 480-07-375, submits this Opposition to AT&T's Motion for Leave to File a Response Regarding Bench Request No. 6 or, in the alternative, for leave to respond to that improper submission. T-Netix notes that, contrary to the caption on AT&T's pleading, it was not "unopposed." AT&T never contacted T-Netix to seek its consent to AT&T's improper attempt to respond to Bench Request No. 6. Moreover, AT&T ignores and contradicts the very record evidence to which T-Netix expressly referred, and as such has submitted a factually incorrect "response." AT&T's submission therefore should not be accepted or, at the very least, T-Netix should be permitted to reply to AT&T's response.

1 - T-NETIX, INC.'S OPPOSITION TO AT&T'S MOTION FOR LEAVE TO
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930914/1/AAB/102728-0001

BACKGROUND

1. On March 19, 2010, Administrative Law Judge Marguerite E. Friedlander issued Bench Request No. 6 to T-Netix, Inc.
2. T-Netix timely responded to Bench Request No. 6 on April 2, 2010 (“T-Netix Response”).
3. On April 8, 2010, AT&T filed a purported “Unopposed Motion for Leave to File Its Amended Motion for Summary Determination,” alternatively styled as “Motion for Leave to File a Response Regarding Bench Request No. 6 and T-Netix’s Response Thereto.” AT&T appended its Response Regarding Bench Request No. 6 and T-Netix’s Response Thereto to that paper (“AT&T Response”).
4. AT&T did not contact or obtain consent from T-Netix to file its motion or the AT&T Response.

DISCUSSION

5. AT&T has failed to cite to any rule or authority that would permit it to respond to a Bench Request directed only to T-Netix. Providing no basis on which its response could be considered appropriate, the AT&T Response should not be accepted into the record.
6. Further, the AT&T Response to Bench Request No. 6 is factually incorrect and misleading. It and ignores record evidence that AT&T itself has submitted which expressly was incorporated in the T-Netix Response. The AT&T filing therefore should be stricken.
7. In addition, the AT&T Response goes far outside the bounds of Bench Request No. 6. The question, which AT&T actually replicated in the AT&T Response, specifically regards “local calls.” The T-Netix Response thus appropriately discusses local calls. Yet AT&T raises issues regarding intraLATA and interLATA toll calls as if to suggest that T-Netix withheld information. That suggestion is inappropriate and plainly seeks to prejudice T-Netix. Such conduct should not be permitted, and for that reason the AT&T Response should not be accepted.

8. In the alternative, at a minimum, T-Netix should be permitted to respond to the AT&T Response. AT&T has made material misstatements in the AT&T Response that must be corrected. T-Netix's proposed reply is appended hereto as Attachment 1.

CONCLUSION

9. For the reasons stated herein, T-Netix respectfully requests that the AT&T Response not be accepted into the record. In the alternative, T-Netix respectfully requests that its Reply to the AT&T Response, appended hereto as Attachment 1, be entered into the record.

DATED this 9th day of April, 2010.

T-NETIX, INC.

By: 

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CERTIFICATE OF SERVICE

I hereby certify that I have this 9th day of April, 2010, served via e-filing a true and correct copy of the foregoing, with the WUTC Records Center. The original, along with the correct number of copies (5), of the foregoing document will be delivered to the WUTC, via the method(s) noted below, properly addressed as follows:

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I hereby certify that I have this 9th day of April 2010, served a true and correct copy of the foregoing document upon parties of record, via the method(s) noted below, properly addressed as follows:

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