



Mary Anne Allen
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January 4, 2006

Via Overnight Delivery

Ms. Carole J. Washburn
Executive Secretary
Washington Utilities & Transportation Commission
1300 S. Evergreen Park Dr. S.W.
P. O. Box 47250
Olympia, Washington 98504-7250

Re: Docket Nos. UT-051853

Dear Ms. Washburn:

Enclosed for filing are the original and 12 copies of AT&T's Answer, Affirmative Defenses and Counterclaims.

Very truly yours,

A handwritten signature in cursive script that reads "Mary Anne Allen".

Mary Anne Allen

cc: Service List

**BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

NORSE HOME,)	
)	
Complainant,)	Docket No. UT-051853
)	
v.)	AT&T'S ANSWER, AFFIRMATIVE
)	DEFENSES AND COUNTERCLAIMS
AT&T COMMUNICATIONS OF THE)	
PACIFIC NORTHWEST, INC.,)	
)	
Respondent.)	
<hr/>		

AT&T Communications of the Pacific Northwest, Inc. and TCG Seattle (collectively "AT&T") hereby submit the Answer, Affirmative Defenses and Counterclaims to the complaint of Norse Home Retirement Center ("Norse").

PRELIMINARY STATEMENT

In its complaint Norse essentially alleges, among other things, that it did not receive notice of AT&T's change to its Centrex-type services and rates, and as a consequence, it need not pay AT&T for services Norse consumed. Norse is mistaken. On June 4, 2004, AT&T sent Norse notice of both the change in service¹ and the change in rates. Such notice is attached hereto as **Exhibit 1**. Norse not only had ample notice; it also had ample opportunity to change its carrier rather than continue to use AT&T's service and refuse to pay. Norse should be ordered to pay its outstanding balance.

ANSWER

AT&T generally denies each and every allegation of the Complaint, except as specifically set forth herein.

¹ The service itself was not "changed," rather it was "grandfathered" as explained in the notice.

I. Factual Allegations

1. The Complaint's statements regarding Norse require no response from AT&T. AT&T admits that Norse purchased Centrex-type services from TCG Seattle in 1999, that AT&T Corp. acquired TCG Seattle and that the Centrex-type service supplied to Norse was at all times satisfactory. AT&T denies the Complaint's characterization of AT&T's bills and admits Norse has paid a monthly amount.

2. AT&T denies the allegations contained in paragraph 2 of the complaint.

3. TCG has decommissioned switches in the state of Washington and generally altered its network overtime; thus, AT&T denies any allegations suggesting "there had been no changes to the physical equipment. ..." AT&T mistakenly attributed some lines in San Francisco to Norse. When the mistake was discovered, Norse was fully re-credited for such lines; thus, AT&T further denies remaining allegations contained in paragraph 3 of the complaint.

4. AT&T admits that it conducted a thorough investigation of Norse's claims and determined that no further adjustments were warranted. AT&T denies the remaining allegations in paragraph 4 regarding AT&T's billing, rates and that a "San Francisco office" rate was applied. AT&T admits that Norse still owes AT&T money for services rendered.

5. AT&T admits that Norse discontinued its service with AT&T. Norse's remaining statements in paragraph 5 requires no response.

II. Counts – “Discussion”

6. Paragraph 1 states conclusions of law, as to which no response is required. To the extent the allegations in paragraph 1 seek to characterize Washington law and Commission rules, the law and the rules speak for themselves and no response is required. Finally, AT&T denies that Norse did not receive notice. *See* Exhibit 1.

7. The statements in paragraph 2 require no response. Nevertheless, Norse appears to have been looking at the wrong tariffs. AT&T has attached hereto as **Exhibit 2**, the relevant price sheets.

8. AT&T admits that its services and rates at all times were and are fair and reasonable. AT&T denies the balance of the allegations contained in paragraph 3.

AFFIRMATIVE DEFENSE

9. AT&T may not violate the filed-rate doctrine by charging Norse less for the same services it sells to others at the lawful rate contained in its price lists.

10. Norse’s complaint fails to state a claim upon which relief may be granted.

11. Norse’s complaint is barred because the rates at issue may not be ordered to be discriminatory.

COUNTERCLAIM

I. Jurisdiction and Venue

12. Norse, as admitted in its complaint, is a business operating in Seattle, Washington at 5311 Phinney Avenue North that purchased service from AT&T and TCG.

13. AT&T Communications of the Pacific Northwest, Inc. and TCG Seattle (collectively “AT&T”) is a competitive local exchange carrier or “CLEC” classified as

competitive company offering competitive services in Seattle, among other locations in Washington State.

14. AT&T provided Norse with intrastate services subject to the jurisdiction of this Commission.

II. Factual Allegations

15. AT&T incorporates herein its allegations contained in paragraphs 12 through 13 and attachments previously described in its Answer as Exhibits 1 and 2.

16. On April 1, 1999, Norse entered into a contract with TCG Seattle to purchase its PrimeNBX service--the Centrex-type service referenced in Norse's complaint.

17. AT&T provided the PrimeNBX service under the contract until April 1, 2004 when the contract expired and Norse continued its service on a month-to-month basis until it moved its service to Qwest on or about April 1, 2005.

18. Consistent with WAC 480-120-196, on June 4, 2004, AT&T sent Exhibit 1 to Norse notifying it that the PrimeNBX service would be grandfathered for a period of two years at which time it would be required to migrate to a different service. AT&T also informed Norse that its rates would increase in accordance with the new price list rates (attached as Exhibit 2) and the description attached to Exhibit 1.

19. On information and belief, sometime in September 2004, Norse received a bill that included the increased rates for the PrimeNBX service along with some billing for lines located in San Francisco, California. When Norse advised AT&T of the error related to the San Francisco lines, AT&T corrected the bill and re-credited Norse's account for the cost of the lines.

20. Despite AT&T's correction of the error, Norse also refused to pay in-full for the PrimeNBX service to which it subscribed. Norse continued to use the service and continued to refuse payment at the lawful price listed rates. Norse demanded that AT&T charge Norse a rate that was no longer available to other customers for the same service.

21. Norse still owes AT&T \$ 23,162.47.

III. Counts

A. Unjust Enrichment

22. AT&T incorporates herein by reference paragraphs 15 through 21.

23. Norse's continued use of AT&T's PrimeNBX service coupled with its refusal to pay the full rate has unjustly enriched Norse to the detriment of AT&T.

B. Discriminatory Conduct & Violation of the Filed-Rate Doctrine

24. AT&T incorporates herein by reference paragraphs 15 through 23.

25. Norse's refusal to pay the lawfully filed-rate for AT&T's PrimeNBX product constitutes discriminatory conduct that AT&T may not, under Washington law, yield to.

26. Norse's refusal to pay the lawfully filed-rate for AT&T's PrimeNBX product constitutes a violation of the filed-rate doctrine and a breach of AT&T's price lists and terms and conditions of service.

IV. Prayer for Relief

WHEREFORE, AT&T prays the Commission grant AT&T the following relief:

- Dismiss Norse's complaint with prejudice;
- Find that Norse has failed to pay AT&T the published, lawful rate for its PrimeNBX service;

- Find that Norse's failure to pay constitutes unjust enrichment of Norse and violates the filed-rate doctrine as well as creating an unlawful discrimination in favor of Norse;
- Grant AT&T's request for full payment from Norse with interest at the statutory rate; and
- Order such other relief as the Commission deems necessary.

Dated this 4th day of January, 2006.

**AT&T COMMUNICATIONS OF THE
PACIFIC NORTHWEST, INC. & TCG
SEATTLE**

Letty S.D. Friesen by *mtl*
with permission

Letty S.D. Friesen
Senior Attorney
AT&T, Inc.
919 Congress Avenue
Suite 900
Austin, Texas 78701
303-299-5708



June 4, 2004

Dear Valued AT&T Customer,

AT&T is filing price lists to grandfather its Centrex-type services product line (PrimePath NBX, PrimeNBX, and Integrated PrimePath NBX Services), and change its rates for these services in the state of Washington. These changes will be effective June 18, 2004. Please see the second page of this notice for detailed rate information that will impact your service locations in GTE or Qwest territories in the state of Washington.

The table on the following page lists the new per line rates as well as the new installation charges that will apply for Centrex-type services once AT&T's new price lists take effect. Rates currently in effect are listed for your information as well. Please note, AT&T will continue contracted rates for its Centrex-type services until contract expiration. The new rates will only apply to existing customers who are on month-to-month rates today and to customers with expiring contracts.

AT&T will continue to provide you with the same quality and reliability that you enjoy today, and will honor your existing Centrex-type services contract until the expiration date. During this period, you will also be able to add, move, or change stations at your existing locations. However, at this point you may not add new locations unless specified in your existing contract.

After your contract has expired, you will be placed on a month-to-month contract at the new price list rates indicated in the chart on the following page. If your contract expires in 2004 or 2005, you will have two years from the contract expiration to migrate to a different service. If your contract expires in 2006, you will have one year from contract expiration to migrate to a different service; and if your contract expires in 2007 or beyond, you will need to migrate to a different service at contract expiration. AT&T will waive any early termination penalties if you wish to exit your contract prior to the contract expiration date.

If your contract has already expired, your service will continue on a month-to-month contract and will be priced at the new price list rates. You will have two years from the price list effective date to migrate to a different service.

Please be advised that AT&T is currently pursuing the introduction of new services which may offer an alternative to your current Centrex-type services. For example, AT&T is introducing an IP (Internet protocol) Centrex offering later this year, which will utilize VoIP capabilities to deliver quality telecommunications services to customers. Such new services may offer viable alternatives for your communications needs, once your current contract for Centrex-type services expires.

(Continued)

We thank you for your business and look forward to continuing to help you to build reliable networking solutions that meet your business objectives. If you have further questions, please call your AT&T Representative or your AT&T Customer Care Center toll-free at 1-888-227-3824 (1-800-833-6388 for TTY callers) Monday through Friday between the hours of 8:00 AM and 5:00 PM CST. AT&T TCG Services Price Lists may be viewed at <http://www.att.com/serviceguide/business> or you may request copies at no charge through your AT&T Customer Care Center.

Sincerely,

AT&T Local Service

(Attachment)

Attachment

The following rates will apply to AT&T customers with service locations in GTE or Qwest territories.

Local Territory	PrimePath NBX	PrimeNBX		Integrated PrimePath NBX
		Analog	Digital	
GTE				
Proposed Rate	\$30.00	\$28.50	\$42.50	\$25.00
* Base Rates:				
- Month-To-Month	\$23.55	N/A	N/A	N/A
- 1-Year Contract	\$21.65	49-499 Lines: \$16.40	24-499 Lines: \$16.65	\$16.65
- 2-Year Contract	\$21.20	\$16.00	ICB #	\$16.20
- 3-Year Contract	\$20.65	\$15.45		\$15.65
Qwest				
Proposed Rate	\$28.00	\$31.00	\$45.00	\$23.00
* Base Rates:				
- Month-To-Month	\$28.00	N/A	N/A	N/A
- 1-Year Contract	\$25.75	49-499 Lines: \$19.10	24-499 Lines: \$20.75	\$20.75
- 2-Year Contract	\$25.20	\$18.65	ICB #	\$20.20
- 3-Year Contract	\$25.45	\$17.40		\$19.45
Non-Recurring Installation Charge Per Line	\$300.00	\$200.00	\$250.00	\$300.00

* Base Rates represent current month-to-month price list rates.

Individual Case Basis

‡ To access TCG Price lists:

- Access AT&T Business Service Guide at <http://www.att.com/serviceguide/business>
- Within the banner of options, locate and select 'AT&T State & Local Offers'
- Under Intra-state Service Guides and Tariffs, select 'State Services and Rates'
- Locate and select the state of Washington within the map of the United States
- Select 'Services'
- Locate and select 'AT&T TCG Services'
- Under TCG, locate and select 'Network Services'. Scroll through the Price Sheet document to locate information relative to the Centrex-type service (PrimePath NBX, PrimeNBX, Integrated PrimePath NBX) you subscribe to.

First Revised Price Sheet 70.3

4.0 TCG NETWORK SERVICES (Cont'd)

4.2 TCG PrimeNBX (Cont'd.)

A) Description (Cont'd)

Customers may opt to utilize a Carrier Access Port Connection, which enables their Interexchange traffic to be routed between the Company's switch and the Customer's chosen Interexchange carrier via a dedicated DSO or DSL circuit. In such cases, the Customer's chosen Interexchange carrier will arrange for a DSO or DSL transport facility between its network and the Company's switch. For terminating the dedicated DSO or DSL facility at the Company's switch, the Company will charge the Customer nonrecurring and monthly recurring PrimeNBX Port charges.

PrimeNBX is not available, either under this tariff section or through any TCG Contract Tariff or contract referencing this tariff section, to new or existing Customers who did not have it on order on or before June 18, 2004. Existing term plan Customers with contracts for Prime NBX in effect or on order prior to June 18, 2004 may continue under their existing terms and conditions and may move, add or change stations at their existing locations, but may not add new locations unless otherwise specified in their contracts. Customers with contracts that expired on or before June 18, 2004 will be placed on month-to-month tariff rates upon the effective date of this tariff, subject to the termination schedule stated below. Customers with contracts that expire after June 18, 2004 will be placed on month-to-month tariff rates upon the expiration of their existing contract, unless otherwise specified in the contract, subject to (and unless otherwise provided in) the termination schedule stated below. PrimeNBX services will be terminated based on the schedule set forth below:

- 1) Customers with contracts that expired on or before June 18, 2004 will have two (2) years from June 18, 2004 to migrate to a different service, as their service will be terminated on that date.
- 2) Customers with contracts expiring in 2004 or 2005 will have two (2) years from contract expiration to migrate to a different service, as their service will be terminated on that date.
- 3) Customers with contracts expiring in 2006 will have one (1) year from contract expiration to migrate to a different service, as their service will be terminated on that date.
- 4) Customers with contracts expiring in 2007 or beyond must migrate to a different service on or before contract expiration, as their service will be terminated on contract expiration.

Early termination penalties will be waived for PrimeNBX customers wishing to terminate their PrimeNBX service and migrate to a different service prior to their contract expiration.

Issued: June 8, 2004

Effective: June 18, 2004

TCG Seattle
 By: Leslie O. Buford, Tariff Administrator
 222 W. Adams Street
 Chicago, IL 60606

4.0 TCG NETWORK SERVICES (Cont'd)

4.2 TCG PrimeNBX (Cont'd.)

Rates - The following rates are available and will be provided with P.01. grade of service. (T)

A) Qwest Territory (T)

Initial Non-Recurring Charges \$25.00
 Installation Charge, Month-to-Month (Per Line) \$250.00 (N)

Digital Monthly Recurring Charge (per line)

Lines	Mo. to Mo.	1 Year	2 Year	3 Year
24-48	45.00 (N)	24.45	23.95	23.05

B) Verizon Territory (T)

Initial Non-Recurring Charges \$25.00
 Installation Charge, Month-to-Month (Per Line) \$250.00 (N)

Digital Monthly Recurring Charge (per line)

Lines	Mo. to Mo.	1 Year	2 Year	3 Year
24-48	42.50 (N)	19.40	19.00	18.50

C) Qwest Territory (T)

Initial Non-Recurring Charges \$25.00
 Installation Charge, Month-to-Month (Per Line) \$200.00 (N)

Analog/Digital Digital Monthly Recurring Charge (per line)

Lines	Mo. to Mo.	1 Year	2 Year	3 Year
49-499	31.00 (N)	19.10	18.65	17.40

D) Verizon Territory (T)

Initial Non-Recurring Charges \$25.00
 Installation Charge, Month-to-Month (Per Line) \$200.00 (N)

Analog/Digital Digital Monthly Recurring Charge (per line)

Lines	Mo. to Mo.	1 Year	2 Year	3 Year
49-499	28.50 (N)	16.40	16.00	15.45

Issued: June 8, 2004

Effective: June 18, 2004

TCG Seattle
 By: Leslie O. Buford, Tariff Administrator
 222 W. Adams Street
 Chicago, IL 60606

4.7 TCG PrimePath NBX Service

A) Description (Cont'd)

PrimePath NBX is not available, either under this tariff section or through any TCG Contract Tariff or contract referencing this tariff section, to new or existing Customers who did not have it on order on or before June 18, 2004. Existing term plan Customers with contracts for PrimePath NBX in effect or on order prior to June 18, 2004 may continue under their existing terms and conditions and may move, add or change stations at their existing locations, but may not add new locations unless otherwise specified in their contracts. Customers with contracts that expired on or before June 18, 2004 will be placed on month-to-month tariff rates upon the effective date of this tariff, subject to the termination schedule stated below. Customers with contracts that expire after June 18, 2004 will be placed on month-to-month tariff rates upon the expiration of their existing contract, unless otherwise specified in the contract, subject to (and unless otherwise provided in) the termination schedule stated below. PrimePath NBX services will be terminated based on the schedule set forth below:

- 1) Customers with contracts that expired on or before June 18, 2004 will have two (2) years from June 18, 2004 to migrate to a different service, as their service will be terminated on that date.
- 2) Customers with contracts expiring in 2004 or 2005 will have two (2) years from contract expiration to migrate to a different service, as their service will be terminated on that date.
- 3) Customers with contracts expiring in 2006 will have one (1) year from contract expiration to migrate to a different service, as their service will be terminated on that date.
- 4) Customers with contracts expiring in 2007 or beyond must migrate to a different service on or before contract expiration, as their service will be terminated on contract expiration.

Early termination penalties will be waived for PrimePath NBX customers wishing to terminate their PrimePath NBX service and migrate to a different service prior to their contract expiration.

Issued: June 8, 2004

Effective: June 18, 2004

TCG Seattle
By: Leslie O. Buford, Tariff Administrator
222 W. Adams Street
Chicago, IL 60606

4.7 TCG PrimePath NBX Service (Cont'd.)

C) Rates

1) Monthly Recurring Charges

10-48 lines

	<u>1 Year</u>	<u>2 Years</u>
Analog Full Service	\$29.75	\$29.50
Analog Blocking Service	\$28.00	\$27.75

2) Non-Recurring Charges

Installation - per line	\$ 25.00	(T)
Service Order Charge - per order	\$ 40.00	

The above rates apply only to customers who have executed a Local Telecommunications Service Agreement or term plan (including a Contract Tariff or other serving arrangement subject to a term of service requirement)

3) Qwest Territory

Installation, Month-to-Month - per line	\$300.00	(N)
Initial Non-Recurring Charges	\$25.00	

Analog/Digital Monthly Recurring Charges

Lines	Mo. to Mo.	1 Year	2 Year	3 Year
10 - 48	\$28.00 (N)	\$25.75	\$25.20	\$24.45

4) Verizon Territory

(T)

Installation, Month-to-Month - per line	\$300.00	(N)
Initial Non-Recurring Charges	\$25.00	

Analog/Digital Monthly Recurring Charges

Lines	Mo. to Mo.	1 Year	2 Year	3 Year
10 - 48	\$30.00 (N)	\$21.65	\$21.20	\$20.65

(D)

(D)

4.0 TCG NETWORK SERVICES (continued)

4.14 Integrated Prime Service (Cont'd)

Description (Cont'd)

The Integrated PrimePath NBX service component is not available, either under this tariff section or through any TCG Contract Tariff or contract referencing this tariff section, to new or existing Customers who did not have it on order on or before June 18, 2004. Existing term plan Customers with contracts for Integrated PrimePath NBX in effect or on order prior to June 18, 2004 may continue under their existing terms and conditions and may move, add or change stations at their existing locations, but may not add new locations unless otherwise specified in their contracts. Customers with contracts that expired on or before June 18, 2004 will be placed on month-to-month tariff rates upon the effective date of this tariff, subject to the termination schedule stated below. Customers with contracts that expire after June 18, 2004 will be placed on month-to-month tariff rates upon the expiration of their existing contract, unless otherwise specified in the contract, subject to (and unless otherwise provided in) the termination schedule stated below. Integrated PrimePath NBX services will be terminated based on the schedule set forth below:

- 1) Customers with contracts that expired on or before June 18, 2004 will have two (2) years from June 18, 2004 to migrate to a different service, as their service will be terminated on that date.
- 2) Customers with contracts expiring in 2004 or 2005 will have two (2) years from contract expiration to migrate to a different service, as their service will be terminated on that date.
- 3) Customers with contracts expiring in 2006 will have one (1) year from contract expiration to migrate to a different service, as their service will be terminated on that date.
- 4) Customers with contracts expiring in 2007 or beyond must migrate to a different service on or before contract expiration, as their service will be terminated on contract expiration.

Early termination penalties will be waived for Integrated PrimePath NBX customers wishing to terminate their Integrated PrimePath NBX service and migrate to a different service prior to their contract expiration.

Issued: June 8, 2004

Effective: June 18, 2004

TCG Seattle
By: Leslie O. Buford, Tariff Administrator
222 W. Adams Street
Chicago, IL 60606

4.0 TCG NETWORK SERVICES (continued)

4.14.1 Integrated Prime Service and Charges (continued)

Integrated PrimePath NBX analog lines

A) Monthly Recurring Charges

Line Charges -- per line

	Mo. to Mo.	1 Year	2 Year	3 Year	
Qwest service area	\$23.00 (N)	\$20.75	\$20.20	\$19.45	
Verizon service area	\$25.00 (N)	\$16.65	\$16.20	\$15.65	(T)

B) Non-Recurring Charges Qwest Service area

Installation Charge, Month-to-Month - per line				\$200.00	(N)
Installation -- per line				\$25.00	(T)
Service Order Charge -- per order				\$40.00	

Non-Recurring Charges Verizon Service area (T)

Installation Charge, Month-to-Month - per line				\$200.00	(N)
Installation -- per line				\$25.00	(T)
Service Order Charge -- per order				\$40.00	

(D)

(D)

Issued: June 8, 2004

Effective: June 18, 2004

TCG Seattle
 By: Leslie O. Buford, Tariff Administrator
 222 W. Adams Street
 Chicago, IL 60606

CERTIFICATE OF SERVICE

Docket No. UT-051853

I hereby certify that on the date given below AT&T's Answer, Affirmative Defenses and Counterclaims was sent via electronic mail and by overnight delivery to:

Ms. Carole J. Washburn, Secretary
Washington Utilities & Transportation Commission
1300 S. Evergreen Park Drive SW
Olympia, WA 98504-7250
records@wutc.wa.gov

On the same date, a true and correct copy was sent via electronic mail to:

Bob Wallis
Washington Utilities & Transportation Commission
1300 S. Evergreen Park Drive SW
Olympia, WA 98504-7250
bwallis@wutc.wa.gov

On the same date, a true and correct copy was sent by electronic mail and U.S. Mail, postage prepaid, to:

Norse Home
5311 Phinney Avenue North
Seattle, WA 98103
Tel: (206) 781-7415
FAX: (206) 892-7575
solem@norsehome.com

DATED this 4th day of January, 2006.

By: 