

TAB 15

HON. JEFFREY RAMSDELL
Noted for Hearing: August 26, 2005, at 10:00 a.m.
With Oral Argument

IN THE SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

SANDY JUDD, TARA HERIVEL and
ZURAYA WRIGHT, for themselves, and on
behalf of all similarly situated persons,

Plaintiffs,

v.

AMERICAN TELEPHONE AND
TELEGRAPH COMPANY; GTE
NORTHWEST INC.; CENTURYTEL
TELEPHONE UTILITIES, INC.; NORTH-
WEST TELECOMMUNICATIONS, INC.,
d/b/a PTI COMMUNICATIONS, INC.; U.S.
WEST COMMUNICATIONS, INC.; T-NETIX,
INC.,

Defendants.

NO. 00-2-17565-5 SEA

REDACTED
DECLARATION OF KENNETH L.
WILSON IN SUPPORT OF
PLAINTIFFS' RESPONSE TO
T-NETIX, INC.'S MOTION FOR
SUMMARY JUDGMENT

I, KENNETH L. WILSON, hereby declare that:

1. I have been retained as an expert by plaintiffs in the above-captioned matter. I am personally familiar with the facts set forth in this declaration. If called to testify about any of these matters, I could and would competently testify thereto.

2. I am a senior consultant and Member of Boulder Telecommunications Consultants, LLC in Boulder, Colorado. My office address is 970 11th Street, Boulder, Colorado 80302.

REDACTED
DECLARATION OF KENNETH L. WILSON - 1
Case No. 00-2-17565-5 SEA

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1 3. I received a BS in Electrical Engineering from Oklahoma State
2 University in 1972, a MS in Electrical Engineering from the University of Illinois in
3 1974, and I completed all of the coursework for a Ph.D. in Electrical Engineering at the
4 University of Illinois in 1976.

5 4. I have worked in the telecommunications industry for 25 years.
6 For fifteen of those years I worked as a Member of the Technical Staff at Bell Labs in
7 New Jersey. My work at Bell Labs included responsibilities for network and switch
8 design and performance evaluation, asset utilization planning, and business case
9 analysis. In 1995 I moved to Denver to work in the AT&T Local Services Division,
10 helping AT&T to enter the local telephony market in the U S WEST (now Qwest)
11 region.

12 5. Since the spring of 1998, I have worked as a telecommunications
13 consultant and expert. As a consultant and expert I have evaluated disputes between
14 various telecommunications companies. The technical and business issues that I
15 addressed in those cases are similar in nature to those I reviewed in this case.

16 6. I have spent approximately 50 hours reviewing material in this
17 case, analyzing information, and studying the facts surrounding the issues in question.
18 I am basing the statements made below on my review of the material that was
19 provided to me as of this time. Discovery in the Washington Utilities and
20 Transportation Commission (WUTC) docket is still in a very early stage and
21 depositions have yet to commence.

22 7. The questions referred to the WUTC by King County Superior
23 Court are whether T-Netix and/or AT&T were providing operator services on inmate
24 calls from Department of Correction (DOC) locations in the State of Washington and
25 whether they violated WUTC regulations by failing to provide required rate
26 information on each call or by contracting with entities that failed to provide this

According to T-Netix expert Alan Schott,

I have attached these pages to my declaration as Exhibits 1 through 3.

10. Exhibit 1,

11. Exhibit 2,

² Affidavit of Alan Schott in Support of T-Netix, Inc.'s Motion for Summary Determination, Highly Confidential Version, Docket No. UT-042022, June 13, 2005, pg. 1-2.

12. Exhibit 3,

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³ Schott, p. 2.

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13. the T-Netix platform is performing operator services functionality. The T-Netix platform is also providing part of the transmission path, and part of the connection for every call that the platform handles. It is making the connection to intrastate and interstate long-distance services from correctional institutions. The three diagrams (Exhibits 1-3) all show

the T-Netix platform could be handling both intraLATA and interLATA long distance calls. AT&T received intraLATA authority as an interexchange carrier in Washington in the 1995 timeframe and as such could have been carrying both interLATA and intraLATA calls from DOC locations. The T-Netix platform could also be providing operator services for the LECs in the

It has yet to be determined the exact configuration that was used, and in what time frames, at each DOC location.

14. Based on the discovery, affidavits, and documents provided to date, my analysis reveals the following call flow from a prison inmate to the party they are calling,

The inmate picks up a designated inmate phone, from which only collect calls can be made.

the platform and dials a 0+ telephone number and a unique inmate identifier and passcode.

The inmate operator services

1 platform has software and hardware that control the call and provide services to the
2 inmate and the person the inmate is calling. After the dialed digits have been
3 completed, the platform screens the dialed number against a list of prohibited numbers

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5 If the
6 number dialed is not prohibited, the platform prompts the inmate to record his/her
7 name. For a valid call, the platform will seize an outbound trunk, and after receiving
8 dial tone will outpulse the destination number as a 1+ call. The LEC end office switch
9 will then route the call to either an IXC switch or to a LEC switch, depending on the
10 jurisdictional nature of the call and which carrier is the designated telecommunications
11 provider for the type of call being made. When the called party answers the telephone,
12 the platform will play a prerecorded message stating that they have a call from the
13 inmate and by playing the inmate's recording. The platform then gives the person an
14 option of accepting the call or rejecting the call

15 It is at this time that the platform should play a prerecorded rate
16 announcement and give the called party an opportunity to hear a message regarding
17 the rates associated with the call. While this interaction is proceeding, the platform
18 does not make a connection for the audio path between the inmate and the called
19 party. If the person accepts the call, the platform will complete the audio path and the
20 call proceeds, as would a normal call. If the called party rejects the call, the platform
21 disconnects the call. The platform keeps a record of the call, including the date, time,
22 originating phone number, terminating phone number, length of call and distance of
23 call. Call detail records for each call are periodically downloaded from the platform to
24 a centralized T-Netix data center where it is formatted and sent to the LEC or IXC that
25 owns the traffic.
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1 15. Historically, operator services have provided callers with the
2 ability to access special billing and call handling features that are not available with a
3 regular 1+ dialed call. Newton's Telecom Dictionary defines Operator Services as:

4 Any of a variety of telephone services which need the
5 assistance of an operator or an automated "operator" (i.e.
6 using interactive voice response technology and speech
7 recognition). Such services include collect calls, third party
8 billed calls and person-to-person calls.⁵

9 This definition is consistent with the definition provided by the WUTC:

10 Operator Service Provider (OSP) – any corporation,
11 company partnership, or person providing a connection to
12 intrastate or interstate long-distance or to local services from
13 locations of call aggregators. The term "operator services" in
14 this rule means any intrastate telecommunications service
15 provided to a call aggregator location that includes as a
16 component any automatic or live assistance to a consumer to
17 arrange for billing or completion, or both, of an intrastate
18 telephone call through a method other than (1) automatic
19 completion with billing to the telephone from which the call
20 originated, or (2) completion through an access code used by
21 the consumer with billing to an account previously
22 established by the consumer with the carrier.⁶

23 16. The T-Netix platform is performing all of the functions of the call
24 platform for correctional institutions described in paragraph 14 above. Further, the T-
25 Netix platform is providing automated operator services functions that are consistent
26 with the definitions of operator services described in paragraph 15 above. In the
configuration, the T-Netix platform performs operator services
functions on each call dialed by an inmate, whether the call is local, intraLATA or
interLATA. Specifically, the platform provides automatic assistance to a consumer to

⁵ Newton's Telecom Dictionary, 18th Edition, Harry Newton, CMP Books, 2002.

⁶ WAC 480-120-021 (1999).

1 arrange for billing and completion of an intrastate telephone call, as specified in the
2 WUTC definition of operator services.

3 17. The T-Netix platform provides part of the transmission path for
4 every telephone call made by an inmate. The T-Netix platform provides a connection
5 to intrastate and interstate long-distance providers and to local service providers from
6 all correctional facilities where the T-Netix platforms are located. Calls from inmates in
7 correctional institutions cannot be made without going through the T-Netix platform.
8 Calls are not connected, except by, and through the platform. This can be clearly seen
9 in Figure 1 provided by Mr. Schott in his Supplemental Affidavit.⁷ I have attached this
10 diagram as Exhibit 5.

11 18. The T-Netix platform regularly makes inquiries of
12 _____ is a database that includes information on all
13 phone lines for every phone in the region. Historically, operator services personnel
14 used _____ to look up phone numbers to see if the number being called was a number
15 that was approved to receive collect calls. This step is used to make sure the number
16 being called is not a pay phone or other phone type that should not receive collect calls.
17 The T-Netix Manual produced in discovery states:

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25 ⁷ Supplemental Affidavit of Alan Schott in Support of T-Netix, Inc.'s Motion for Summary
26 Determination, UT-042002, July 27, 2005.

1 is definitely an operator services function. Inquiries to
2 are not made by Private Branch Exchanges (PBXs) or other types of premises
3 equipment. The T-Netix platform makes as a normal course of its operation.

4 19. The T-Netix platform, as part of its operator services function,
5 makes voice prompts and announcements during call progress:
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10 The platform is the place where rate disclosure should have been made and is in fact
11 the only place such disclosures could have been made.

12 20. The T-Netix platform is an integral part of the billing for inmate,
13 collect calling:
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17 21. For DOC locations where a T-Netix platform is located, a LEC may
18 "carry" the call—it can provide transport and switching of the calls that are sent to it
19 from the T-Netix platform. The LEC does not provide operator services functionality
20 in locations served by T-Netix platforms. Critically, transport of a call is not associated
21 with operator services functions. Exhibit 5 (diagram provided by Mr. Schott) shows
22 the configuration that appears to be the most common at DOC locations.
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6 22. T-Netix should have upgraded its platforms to provide rate
7 notification when the regulations required disclosure. In 1999, T-Netix began
8 upgrading its inmate operator services platforms in more than 1400 locations at
9 correctional facilities across the country to accept remote programming and to provide
10 precise rate quotes. In February 2002, T-Netix asked the FCC for additional time to
11 complete upgrades that would allow its platforms to give precise rate quotations when
12 connecting calls from inmates.¹¹

13 23. T-Netix appears to provide platforms at
14
15 T-Netix admits that it has provided
16 platforms at

17 Plaintiffs have received inmate
18 calls from each of these locations. Furthermore, based on the limited number of
19 documents I have reviewed to date,

20 It is difficult to discern
21 exactly where T-Netix had its platforms as discovery is incomplete regarding this issue.
22 This much is clear, however: All of the T-Netix platforms, no matter where they are
23 located, are performing operator services functions as defined by the WUTC.

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25 ¹¹ T-Netix, Inc. Petition for Clarification and Waiver, FCC Docket No. 92-77 with attached Affidavit
26 of Richard E. Cree in Support Of T-Netix Petition for Clarification and Waiver.

1 Additional discovery is required to identify the locations and configurations of all T-
2 Netix platforms that are utilized for calling by inmates in DOC facilities.

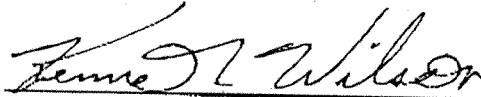
3 24. T-Netix is now taking the positions that it was merely an
4 equipment provider for operator services. However, T-Netix is much more than a
5 mere equipment provider. Based on Mr. Schott's affidavit and other documents
6 provided by T-Netix, T-Netix was responsible, at a minimum, for the following
7 functions:
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10 It is clear to me that T-Netix was providing a service, not merely
11 equipment. Part of the service they were providing was operator service. Additional
12 discovery will be needed to determine the exact roles of T-Netix and AT&T employees
13 at each DOC location so that the WUTC can determine which company (or companies)
14 were providing operator services at the various locations.

15 25. Based on my review of documents and the analysis above, I have
16 reached the following conclusions. T-Netix is providing operator services for inmate
17 calls at DOC locations where the T-Netix platform is being used. T-Netix installed,
18 provisioned and maintained their platforms and was therefore providing a service that
19 AT&T and/or other carriers purchased. AT&T, as the prime contractor for DOC
20 telecommunications was responsible for overall operations. The LEC did not have any
21 part in providing operator services for DOC locations as none of the calls were routed
22 through LEC operator services positions or through LEC-provided automated operator
23 services platforms.
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I declare under penalty of perjury and in accordance with the laws of the
State of Washington that the foregoing is true and correct.

Signed this 15th day of August, 2005, at Boulder, Colorado.



Kenneth L. Wilson

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CERTIFICATE OF SERVICE

I certify, under penalty of perjury and in accordance with the laws of the State of Washington, that on August 15, 2005, I served a copy of the foregoing document on counsel of record as indicated below:

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Dated: August 15, 2005, at Seattle, Washington.

Theresa A. Lusa

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