

TAB 27

BEFORE THE
WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION

SANDY JUDD and TARA HERIVEL, *

*

Plaintiffs,

*

*

VS.

*

DOCKET NO.

*

UT-042022

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

T-NETIX, INC., *

*

Defendants. *

*

ORAL DEPOSITION OF
ALICE J. CLEMENTS
APRIL 23, 2009

ANSWERS AND DEPOSITION of ALICE J. CLEMENTS, a
witness produced on behalf of the Plaintiffs, taken in
the above styled and numbered cause on the 23rd day of
April, 2009, from 9:01 a.m. to 5:55 p.m., before Rachel
D. Chavez, a Certified Shorthand Reporter in and for the
State of Texas, taken in the offices of Bennett Weston &
Lajone, P.C., 1750 Valley View Lane, Suite 120, in the
City of Dallas, County of Dallas, State of Texas, in
accordance with the Washington Utilities and
Transportation Commission.

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1 going back? I guess one of them was -- let's step back.
2 One of the ways, if I could -- if the chips were
3 available for the period of time, obviously we could
4 pull out the chips and tell what was said; is that
5 correct?
6 A. If you could mock up a system and run it
7 through there, yes.
8 Q. Okay. And other than specifically looking at
9 the chips that were in place at the time, is there any
10 other way to determine for a specific facility what the
11 quote verbiage was at a particular time?
12 A. It wasn't -- I just don't recall it being
13 anything we tracked.
14 Q. Okay. Well, whether you can track it or not,
15 my question is, is there -- even though you didn't track
16 it, is there a way to be able to do it? Beyond just
17 actually looking at the chips and using the time.
18 A. If you listened to it and typed it in
19 somewhere.
20 Q. Okay. Other than that, historically, we're
21 going back right now, we're trying to find out what was
22 said at a given facility --
23 A. Right.
24 Q. -- at a certain period of time. With all the
25 information available to us now -- with the information

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1 that is available to us now, is there a way to do that?
2 MR. PETERS: I'll object on foundation
3 grounds. You can answer the question.
4 Q. (BY MR. YOUTZ) Go ahead.
5 A. I mean, I think the best way you could find out
6 what was going on at that site at that time is to have a
7 recorded call from that time.
8 Q. Okay. But if that's not an option, what's your
9 next option?
10 A. I really --
11 MR. PETERS: Same objection.
12 Q. (BY MR. YOUTZ) Sorry?
13 A. I think you don't have an option.
14 Q. Okay. That's what I'm trying to figure out, if
15 there was -- to your knowledge, if there was -- if
16 there's no actual recording from the time period that
17 we're looking at of the call, then --
18 A. I wish it were that easy.
19 Q. -- there's no way to determine with certainty
20 what the actual verbiage was on the rate quote; is that
21 correct?
22 A. Correct. That's -- that's what I believe, yes.
23 Q. Okay.
24 (Deposition Exhibit 42 marked.)
25 MR. YOUTZ: Off the record.

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1 (Recess for 2 minutes.)
2 Q. (BY MR. YOUTZ) Hand you what's been marked as
3 Exhibit 42. If you could take a look at that, please,
4 and let me know when you're ready.
5 A. Is there an attachment that goes with this?
6 Q. No. Not that was produced to us anyway. Where
7 are you reading the --
8 A. The first e-mail on the bottom. I'm just
9 wondering.
10 Q. Yep. Well, that may have been sent along some
11 way, but it wasn't -- I can definitely say that it
12 wasn't included in this.
13 MR. PETERS: The -- which e-mail?
14 MR. YOUTZ: She's talking about this one.
15 I was just wondering about this myself actually. Right
16 here.
17 MR. PETERS: Yeah.
18 MR. YOUTZ: Yeah, Verizon e-mail. Looked
19 like it had an attachment.
20 A. Okay.
21 Q. (BY MR. YOUTZ) Okay. Is Exhibit 42 a copy of
22 an e-mail from you to Aaron Merrick, dated August 15,
23 2000, regarding "Washington rate quote"?
24 A. Yes.
25 Q. Okay. First of all, who is J.R. Roth?

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1 A. J.R. Roth was a -- I think he was a technician
2 for a while and I think he got promoted to be a manager
3 over a region. He was probably a region -- region
4 manager.
5 Q. So as -- as of August 2000 was he a region
6 manager, regional manager?
7 A. I'm not positive.
8 Q. Okay. Now, this e-mail chain begins with an
9 individual at Verizon. Was T-Netix doing work for
10 Verizon?
11 A. Yes.
12 Q. Okay. What work were you doing for Verizon?
13 A. We did -- we were the -- we were their vendor
14 in a bunch of correctional facilities.
15 Q. Okay. Now, did it also include work that you
16 were doing for Verizon at the facilities, at the
17 Washington Department of Corrections facilities where
18 Verizon was the LEC?
19 MR. PETERS: Just to -- you're equating
20 Verizon with GTE; is that correct?
21 MR. YOUTZ: That's correct. Yes. Thank
22 you.
23 A. Okay. So I'm sorry, what was the question?
24 Q. (BY MR. YOUTZ) The question is, was T-Netix
25 also performing services for Verizon or its predecessor

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1 GTE at the Washington Department of Corrections
2 facilities where GTE or Verizon was the LEC?
3 A. Yes, I believe so.
4 Q. Okay. And now, there's some discussion in here
5 about somebody named Dion. And, again, who is Dion
6 Borgmann? Is that --
7 A. Dion was a -- a developer engineer type person.
8 Q. He was -- he was actually involved in the
9 programming side; is that correct?
10 A. Yes, I believe so.
11 Q. Now, there's mention in here of -- that there's
12 a requirement that a customer be permitted to hear the
13 rate before actually accepting the call. Did you read
14 that section of this e-mail regarding that?
15 A. Which section was that?
16 Q. Under "Dion pointed out the following."
17 A. Okay. On the first page?
18 Q. Yes.
19 A. Okay.
20 Q. And, actually, for context, if you look at the
21 bottom of the first page, the e-mail from Sheila
22 McKinnon says, "J.R., oh, just take me out and shoot
23 me." That one.
24 A. Okay.
25 Q. Where she says, "The sequence of the

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1 announcement on the P-III does not meet the FCC or PUC
2 requirements. Both specify that instructions for
3 receiving a rate quote must precede instructions for
4 accepting the call." And then she's asking if it's
5 possible to change those. And then Mr. Roth responds.
6 Do you remember discussions on that issue?
7 A. I don't.
8 Q. Okay. Did -- I believe that we looked at a
9 change request earlier that was entered in the T-Netix
10 system to change the sequence of the announcement so
11 that the opportunity for a rate quote would be heard
12 before the customer could accept the call. Do you
13 remember that change request?
14 MR. PETERS: Objection, form. I believe it
15 mischaracterizes prior testimony.
16 A. I don't -- I don't -- I'm not sure. Was that
17 the two from Alan Schott? Was that what it was?
18 Q. Yes.
19 A. I can look it up.
20 Q. Sure. I want to make sure.
21 A. I didn't -- I don't remember specifically what
22 he said. Do you recall which page that was on?
23 Q. I'll find the page for you.
24 MR. PETERS: I believe 21.
25 Q. (BY MR. YOUTZ) Twenty-Three. Page 23 of

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1 Exhibit 34. No, that's not the right one. I'm sorry.
2 It's page 3, item CR1705.
3 A. Yes, I see that.
4 Q. "Change the output prompt to give the rate
5 quote information prior to giving the acceptance
6 message."
7 A. Right.
8 Q. And --
9 A. I see that.
10 Q. And that was requested on August 17, 2000?
11 A. Okay.
12 Q. Which appears to be two days after your e-mail.
13 A. Okay.
14 Q. Okay. So was that change ever made?
15 MR. PETERS: Objection, form. Are you
16 talking about CR1704 and 05?
17 MR. YOUTZ: No, I think I just said 1705.
18 MR. PETERS: So when you say "that change,"
19 you're talking about CR1705?
20 MR. YOUTZ: Yeah. I'll -- let me ask the
21 question straight away.
22 Q. (BY MR. YOUTZ) Was the change requested in
23 CR1705 ever made?
24 A. I don't remember. I --
25 Q. Do we have any records that would tell us

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1 whether that change was made or not, that we could go
2 look at?
3 A. Yes, you could find out if that was ever done
4 by taking a current system and seeing if you could
5 program it that way.
6 Q. A current --
7 A. A mock system.
8 Q. Oh, a current P-III?
9 A. Right.
10 Q. Okay. So we'd actually have to go set up a
11 full P-III system --
12 A. Yeah.
13 Q. -- to see if that was done?
14 A. Yeah.
15 Q. Is there any way, short of actually having to
16 recreate an entire P-III system, to figure out if that
17 change was made?
18 A. I don't think I know of an easy way to do it.
19 Q. Okay. Okay. Also on page -- the first page of
20 Exhibit 42 -- that's the e-mail.
21 A. Okay.
22 Q. Mr. Roth says, "Currently" -- there's a line
23 that begins, "Currently we press one key." Do you see
24 that?
25 A. Yes. On the first page, right?

1 Q. If auto prompts were used, those type of
 2 things?
 3 A. Yes. Yes. And -- and over -- unfortunately
 4 over time, that -- that wasn't kept up.
 5 Q. Is there any records kept of when voice chips
 6 would be changed?
 7 A. There -- there would likely be a HEAT ticket
 8 for those. And now, I'm -- I -- for which period would
 9 you be talking about?
 10 Q. '96 to 2000.
 11 A. I'm not exactly sure when we implemented HEAT.
 12 Q. But if -- if it was kept anywhere, it would be
 13 kept in the HEAT system?
 14 A. Yeah, I think that would be the -- yes. And
 15 I'm not sure what they used back in like the production
 16 area to track what they were shipping out and stuff,
 17 but...
 18 Q. When you're referring to the HEAT system, are
 19 you referring to Exhibit 34?
 20 A. No, I don't think -- that's -- that's -- no,
 21 this doesn't look like it was pulled from HEAT.
 22 Q. How often -- and I realize this is just
 23 generally. Can you state how often voice chips would be
 24 changed?
 25 A. I don't think there's a -- there is an average

1 or a general -- it's some a lot, some not so much.
 2 Q. But would it be correct and accurate to say
 3 that over, for example, a four-year period, it would not
 4 be an anomaly to have to change a voice chip?
 5 MR. YOUTZ: Objection, form.
 6 MR. PETERS: Yeah, it probably wasn't
 7 completely -- let me restate it.
 8 A. I --
 9 Q. (BY MR. PETERS) Would there be times when
 10 voice chips would need to be changed?
 11 A. Yes.
 12 Q. Okay. And what -- can you give us examples of
 13 when those voice chips might need to be changed?
 14 A. I do recall several examples where the -- when
 15 we would implement a site, the correctional facility
 16 would not like how we stated their name and we'd have to
 17 redo it. You know, we either said "jail" and they
 18 wanted it to say "detention center" or we mispronounced
 19 the name of the -- you know, some obscure county in
 20 some -- somewhere, or we had to add a language. You
 21 know, maybe we forgot we had to do Lakota -- Lakota
 22 Soix in South Dakota, and so we had to redo those.
 23 Q. You mentioned that when you were a site
 24 administrator one of your responsibilities was to test
 25 the system.

1 A. Yes.
 2 Q. Were voice chip ever tested? By that I mean at
 3 the facility.
 4 A. Well, when you placed the test call, you
 5 would -- parts of that -- that -- that would be your --
 6 your test of that. You know, if the voice chip didn't
 7 work, you wouldn't get prompts. And, you know, "state
 8 your name at the tone" kind of stuff.
 9 Q. Would the site administrator ever have access
 10 to the voice -- ever change a voice chip or voice code?
 11 A. Yes.
 12 Q. What types of situations would the site
 13 administrator need to physically touch the card?
 14 A. Well, we were responsible for maintaining the
 15 cards, you know, for the most part once it was
 16 installed. So if there was somebody on site that was a
 17 service administrator, they would -- if there was a card
 18 that died, we would replace a full card. If there was a
 19 chip change required, sometimes -- it really depended on
 20 the service administrator. Some of the service
 21 administrators that were hired were customer service
 22 focused and admin focused and some of them were a little
 23 more technical. And so some of them would -- you can
 24 really screw up chips if you change them wrong. You can
 25 pull them out and you can break all the legs and that

1 kind of stuff. So some did it. Some didn't.
 2 Q. But for the period of '96 to 2000 there would
 3 still be circumstances where site administrators
 4 definitely --
 5 A. Some did it. Some didn't. Yeah.
 6 Q. Would there be any records of when those site
 7 administrators would have -- actually have physical
 8 access to a chip?
 9 A. Well, when you say "physical access," I mean,
 10 they can access a chip everyday on their system. Right.
 11 Q. They physically have --
 12 A. Yeah.
 13 Q. And so that wouldn't be on a log anywhere,
 14 would it?
 15 MR. YOUTZ: Objection to form.
 16 Q. (BY MR. PETERS) Would -- strike that.
 17 Would the -- would a site administrator,
 18 every time that they physically accessed a voice chip,
 19 would that be logged somewhere?
 20 MR. YOUTZ: Objection to form. "Accessed."
 21 A. Perhaps.
 22 Q. (BY MR. PETERS) What makes you say "perhaps"?
 23 I take it from that there's some doubt or it's possible.
 24 A. Yes, it's really dependent on the person and
 25 the region and the people who managed that person. They

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1 A. Yes.
2 Q. Okay. And he lists -- sets out a rate quote
3 there. Is it your understanding that that was the quote
4 that was given at the time?
5 A. For who? For -- for -- generally?
6 Q. I'm sorry, that's a fair -- that's a good
7 question. For interLATA calls.
8 A. For -- for all sites?
9 Q. Yeah.
10 A. I think that for our direct billing sites is
11 what was referenced here, from what I see, so...
12 Q. What do you mean by "direct billing sites"?
13 A. The interstate traffic that we direct billed,
14 that we -- that T-Netix would put on somebody's bill.
15 Q. Did T-Netix bill for interstate calls?
16 A. Yes.
17 Q. What cir- -- in what circumstances?
18 A. Well, in -- in -- in any contract that we had a
19 direct -- most contracts where we had the direct
20 contract with the facility.
21 MR. PETERS: Could you just read that back?
22 I was reading something and not listening. Sort of the
23 cardinal rule...
24 (Requested portion was read back.)
25 Q. (BY MR. PETERS) Do you know where else this

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1 quote would be played, from your own personal knowledge?
2 A. I think it could be played anywhere in the --
3 in the -- it looks like Digital ComBridge. I don't know
4 what platform it is either.
5 Q. Why do you say "Digital ComBridge"?
6 A. Because it says something about a release DCB
7 (1025 R1).
8 Q. I'm sorry. Where are you reading from?
9 A. In the Brian e-mail. I guess that I just
10 thought that that meant -- I don't know. I'm
11 interpreting what's on the paper here.
12 Q. Okay. But that's referring to the two
13 sentences that apparently Ms. Webb was interested in.
14 When you're talking about the Digital, the DCB, --
15 A. Yes.
16 Q. -- you're saying that "The two -- the two
17 sentences that you were interested in are not part of
18 the vox file that's in the most current release of --
19 release of the DCB," right? We don't know whether that
20 would be in the P-III platform or not?
21 A. Yeah, I don't know what platform they were
22 referring to.
23 Q. Okay. But the first two sentences that reads,
24 "The text for interstate" -- I'm sorry -- after the
25 normal greeting where it says, "The cost for this call

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1 is X dollars for the first minute and X cents for each
2 additional minute. If you do not want to accept this
3 call, please hang up now" -- that would have been in the
4 rate quote that T-Netix was playing as of June 14th,
5 2000?
6 MR. YOUTZ: Objection to form, vague.
7 A. I mean, I think that's -- that's kind of the
8 general rate quote, you know, verbiage. I don't know.
9 Q. (BY MR. PETERS) Okay. And Ms. Lee on June
10 15th, 2000 is asking for additional language to be
11 added. Do you see that?
12 A. Is that page 2?
13 Q. It's on page 2. Towards the top there's a June
14 15th letter, 11:07 a.m. e-mail.
15 A. Okay.
16 Q. She's asking for -- the language about
17 "customer assistance and collection" --
18 A. Okay.
19 Q. -- "collection or complaint procedures" --
20 A. Okay.
21 Q. -- "dial 1-888."
22 A. I see that, yes.
23 Q. And you say ultimately at the top of the first
24 page of Exhibit 48, you would think that this should be
25 added.

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1 A. Yeah, I don't know what I meant there.
2 Q. Okay. Do you recall any discussions about
3 that?
4 A. Oh, okay. So I'm reading down here.
5 Q. I'm probably not --
6 A. I mean -- I mean, I can read off of what's said
7 here. It looks like they wanted to -- Aaron asked me if
8 it should be in the October release and I said it should
9 be.
10 Q. Do you remember why you felt that way?
11 A. No.
12 Q. Do you recall any discussion that AT&T had
13 requested that number be added as -- 800 number be added
14 as well?
15 A. I know there was some 800 number wanting
16 throughout some period of the rate quote stuff to be
17 added, because I knew everybody kind of wanted to put on
18 there, "If you've got billing concerns, call X at X,"
19 but I don't know -- I don't know --
20 Q. That's the extent of your knowledge?
21 A. Yeah.
22 Q. Okay. Do you know whether or not T-Netix would
23 have had contracts with other local exchange carriers,
24 like a Qwest or Verizon?
25 A. Generally, I -- I believe we would because they

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1 would pay us for -- you know, for filtering their calls
2 and -- and such, in some form, so I --
3 Q. Was -- who would --
4 A. You know --
5 Q. Who would have access to those contracts?
6 A. Well, today I don't think there's live or
7 active ones, so...
8 Q. You mean they're just kept electronically or --
9 A. No. Meaning -- what time frame are you
10 thinking of?
11 Q. Well, I'm talking '96 of 2000.
12 A. Okay. Yeah, I don't know where those would be.
13 Q. Okay. Who would have been involved in the
14 negotiation or -- of those contracts?
15 A. Generally, the -- the top levels of the
16 company. I -- I --
17 Q. Mr. Schopp?
18 A. Yes, probably.
19 Q. Any reason -- as you sit here right now, do you
20 have a recollection that there actually were agreements
21 in place between T-Netix and, say, GTE or Verizon during
22 the time period 1996 to 2000?
23 A. I would assume so.
24 Q. What's the basis for that assumption?
25 A. We -- we worked with them. I -- I believe we

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1 had facilities with them across the country during that
2 time frame.
3 Q. Same answers in regard to Qwest?
4 A. Well, a little weird with Qwest. Was it really
5 Qwest then?
6 Q. I can't remember when the name was changed.
7 A. I think it was post-2000. Wasn't it? Post
8 '99.
9 Q. That it became Qwest?
10 A. Anyway -- I don't remember --
11 Q. So either Qwest or U.S. West?
12 A. Yes.
13 Q. Okay.
14 MR. PETERS: Let's mark as Exhibit 53,
15 documents that are production number 36115 to 36155.
16 (Deposition Exhibit 53 marked.)
17 Q. (BY MR. PETERS) Take a look at this e-mail.
18 You appear to be sending a product overview to an Amy
19 Ingram. Do you see that?
20 A. Yes.
21 Q. Who's Amy Ingram?
22 A. She did RFPs.
23 Q. Okay. If I could just direct your attention to
24 the product overview, in particular to page 36150.
25 A. Okay.

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1 MR. YOUTZ: Sorry.
2 MR. PETERS: 36150.
3 MR. YOUTZ: I've got -- the e-mail is
4 36115, and the attachment is 36143.
5 MR. PETERS: You're -- you're right,
6 pointing that out.
7 Q. (BY MR. PETERS) Let me ask you -- I believe
8 somebody assembled this for me.
9 The overview docu- -- the P-III overview
10 document -- turn to the e-mail. It has attached to it a
11 "CPS Overview Doc," --
12 A. Okay.
13 Q. -- "DCB Overview.doc," then a "P-III
14 overview.doc." And to minimize bulk I've only attached
15 36143 through 155. As you sit here right now, do you
16 know whether or not what's -- the P-III overview that's
17 attached, is this the overview that you sent on November
18 7th, 2000?
19 A. It looks like -- like the overview that I --
20 I'm aware of.
21 Q. As you sit here right now, is there any reason
22 why you think that this isn't the overview that was
23 attached?
24 A. No.
25 Q. It appears to be?

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1 A. Correct.
2 Q. Directing your attention to page 36150.
3 A. Yes.
4 Q. There's a section that talks about "Rate
5 Quote." Do you see this?
6 A. Yes.
7 Q. Okay. And it describes the rate quote feature.
8 It says towards the end of that paragraph that "This
9 feature may also be enabled for other types of calls,
10 including local and intra" -- I'm skipping too much
11 here. It says that "This feature, the rate quote
12 feature, must be enabled for all interstate interLATA
13 calls to meet requirements of the FCC." Do you see
14 that?
15 A. Yes.
16 Q. And then it goes on to say that "The feature
17 may also be enabled for other types of calls, including
18 local and intraLATA calls. It is the responsibility of
19 the" -- well -- "it's the responsibility of the customer
20 to provide the rates and any changes to them to T-Netix
21 in a timely manner." Do you see that?
22 A. Yes.
23 Q. Do you know when this was added?
24 A. I don't.
25 MR. PETERS: Would you mark as Exhibit 54 a