

[Service date: October 20, 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 RESPONSE TO
BENCH REQUESTS NOS. 7
THROUGH 9**

REDACTED VERSION

Respondent T-Netix, Inc. ("T-Netix"), through counsel, submits this Response to Bench Request Nos. 7 through 9. Information that has been granted confidential treatment in this proceeding appears in bold.

BENCH REQUEST NO. 7:

Please identify each type of charge for, associated with, arising from, or otherwise related to the collect calls at issue in this proceeding that AT&T, T-Netix, or any other company billed, or had billed on its behalf, to end user customers who accepted those collect calls. For each such charge, please provide the following information:

- a. The company that billed or was identified as billing the charge on the customer bill;
- b. The name of the charge as reflected on the customer bill;
- c. A description of when and how that charge applied;
- d. The sections or pages of the tariff, price list, contract, or other publicly available governing documents (collectively "Tariff") in which the rates, terms, and conditions associated with the charge were set forth; and
- e. A description of the costs the charge was designed to recover.

RESPONSE TO BENCH REQUEST NO. 7:

T-Netix responds to this Bench Request by referring to documents labeled SJ 000001-000333, TH 00008-00034, and TNXWA 41923-42249, produced herewith. These documents comprise all telephone bills produced by counsel for Tara Herivel and Sandra Judd, Complainants here and Plaintiffs in the underlying civil action, for the collect calls they received during the relevant period of this case for which they can produce a record. The complaint in this case was filed in August 2000.

The telephone bills were produced in two sets, the initial set (SJ 000001-000333; TH 000008-000034) and a supplemental set (TNXWA 41923-42249). The second set of documents was produced to T-Netix without labels; T-Netix has supplied Bates labels for these documents for the Commission's ease of reference. Complainants have not designated any of these telephone bills as Confidential. Any marks or notations on the bills appeared on the documents as produced.

T-Netix responds to each subpart of this Bench Request as follows:

a. Ms. Herivel in discovery identified two correctional facilities from which she received inmate collect calls: Washington State Reformatory in Monroe; and the Airway Heights Correctional Center.

Ms. Herivel's telephone bills identify Qwest, formerly known as US West ("Qwest/US West"), as the company that billed the charges for inmate collect calls she received during the period October 10, 1999 through November 21, 2000. All of the inmate collect calls that Ms. Herivel received during this period were local calls or intraLATA calls carried by Qwest/US West. *See* TH 00008-00034 and TNXWA 41923-41947. T-Netix was not the telephone company that carried the calls, nor did it brand, rate, or bill the calls.

Ms. Judd in discovery identified two correctional facilities from which she received inmate collect calls: Washington State Reformatory in Monroe; and the McNeil Island Detention Center.

Ms. Judd's telephone bills identify Qwest/US West as the company that billed the charges for the inmate collect calls she received during the period June 12, 1994 through December 1, 1997, and from May 25, 2000 through September 17, 2000. Calls received prior to August 1996 are outside the relevant period of this case. T-Netix was not the telephone company that carried the calls, nor did it brand, rate, or bill the calls.

Ms. Judd's telephone bills identify GTE as the company who billed the charges for the collect calls she received during the period December 3, 1997 through April 30, 2000. T-Netix was not the telephone company that carried the calls, nor did it brand, rate, or bill the calls.

All of the inmate collect calls listed on these documents were local calls or intraLATA calls carried by Qwest/US West or by GTE. See SJ 000001-000333 and TNXWA 41948-42233.

Qwest/US West and GTE were dismissed from the underlying civil action by the Superior Court of King County on November 8, 2000, on the ground that they were not subject to the requirements of WAC 480-120-141 for the relevant period of this case and thus the local and intraLATA calls Qwest/US West and GTE carried could not form the basis of any injury or liability. Specifically, the version of WAC 480-120-141 that was in place from 1991 through 1999 expressly exempted all calls carried by local exchange carriers such as Qwest/US West and GTE, and, when WAC 480-120-141 was amended in 1999, Qwest/US West and GTE obtained waivers of the rule from the Commission. This dismissal was affirmed by both the Washington Court of Appeals and the Washington Supreme Court. *Judd v. AT&T*, 116 Wash. App. 761, 66 P.3d 1102 (2003), *aff'd* 152 Wn.2d 195, 95 P.3d 337 (2004). In this proceeding, which is the result of a primary jurisdiction referral from the Superior Court of King County issued on the same date as the dismissals of Qwest/US West and GTE, neither Qwest /US West nor GTE is a party.

At pages 8 and 9 of its Motion for Summary Determination filed April 21, 2005 (“Motion”), produced herewith, T-Netix supplied the Commission with a summary of the inmate collect calls represented on the bills it received from Complainants in its first production (SJ 000001-000333; TH 00008-00034). Knowledgeable T-Netix employees researched every call on those telephone bills and found that they were either local calls or intraLATA calls, and this research was verified in a sworn affidavit by Nancy Lee, who was Senior Vice President of Billing Services for T-Netix, which is also produced herewith. Complainants have never

challenged the accuracy or the completeness of this summary of their telephone bills. Ms. Herivel alleged, in the civil case after the T-Netix Motion was granted, that she received one interLATA call from an inmate, but concedes she can produce no evidence of any such call. T-Netix has no evidence of any such call.

Complainants' supplemental production of telephone bills (TNXWA 41923-42249) includes some collect calls that are not included in the Motion, but, like the calls included in the Motion, they were all carried by Qwest/US West or GTE and they all originated from the same correctional facilities and telephone numbers identified in the Motion. Accordingly, the calls are all local or intraLATA calls, and they all were carried by entities to which WAC 480-120-141 never applied. T-Netix was not the telephone company that carried the calls, nor did it brand, rate, or bill the calls.

Ms. Judd, in her supplemental production, also produced telephone bills branded by "Tele-Net Inmate Calling Plan" or "T-Net" that contain charges for inmate collect calls received from June 1, 2000 through August 6, 2000 (TNXWA 42234-42249). This time period overlaps with the period in which Ms. Judd received bills from Qwest/US West — May 25, 2000 through September 17, 2000. T-Netix has no knowledge of this company nor any relationship with it. The correctional facilities from which these calls were placed cannot be discerned from these supplemental telephone bills, because no originating telephone numbers or facility names are provided. Neither Tele-Net nor T-Net was named as a party to the underlying civil action or to this proceeding. Calls with the "T-Net" brand also appear on Ms. Judd's telephone bills that were produced in 2005 and are summarized at page 9 of the Motion, and they appear to have been in conjunction with Qwest/US West. These calls were local calls.

b. The only “name[s] of the charge” that T-Netix can provide are those that appear on Complainants’ telephone bills. T-Netix was not the telephone company that carried the calls, nor did it brand, rate, or bill the calls.

c. The only “description[s] of when and how” a “charge applied” that T-Netix can provide are those that appear on Complainants’ telephone bills. T-Netix was not the telephone company that carried the calls, nor did it brand, rate, or bill the calls.

d. T-Netix is not able to produce the applicable pages of the Tariff that set forth the “rates, terms, and conditions associated with” the charges on Complainants’ bills, because it was not the telephone company that carried the calls, nor did it brand, rate, or bill the calls. The applicable Tariff was that of the carriers identified on the telephone bills, and T-Netix was never in possession of those Tariffs.

e. T-Netix has no information about the “costs the charge[s]” were “designed to recover,” because it was not the telephone company that carried the calls, nor did it brand, rate, or bill the calls.

BENCH REQUEST NO. 8:

Did AT&T’s or T-Netix’s Washington price list for local exchange services that was on file with the Commission during the time period at issue in this proceeding include rates, terms, and conditions for any of the charges identified in response to Bench Request No. 7? If so, please identify the applicable price list provisions and provide a copy of the relevant pages from that price list.

RESPONSE TO BENCH REQUEST NO. 8:

T-Netix's "price list," or tariff, on file with the Commission during the time period at issue in this proceeding did not include rates, terms, and conditions for any of the charges identified in response to Bench Request No. 7, because T-Netix was not the telephone company who carried any of those calls, nor did it brand, rate, or bill those calls. The applicable Tariffs were those of the carriers identified on the telephone bills.

T-Netix is not in possession of information regarding AT&T that would enable it to answer this Bench Request on AT&T's behalf.

BENCH REQUEST NO. 9:

Please provide the prices, rates, charges, or other compensation that AT&T paid T-Netix for the equipment and/or services that T-Netix provided under the contract(s) between the companies that are part of the record in this docket. Please describe the nature (e.g., recurring and/or nonrecurring, flat fee, commission or percentage of sales or revenues, etc.) and form(s) that compensation took (e.g., lump sum payment, installment payments, per transaction fees, etc.).

RESPONSE TO BENCH REQUEST NO. 9:

The General Agreement for the Procurement of Equipment, Software, Services and Supplies Between T-Netix, Inc. and AT&T Corp. dated June 4, 1997 ("Agreement"), labeled TNXWA 00741-772 [CONFIDENTIAL] and provided herewith, sets forth the prices, terms, and conditions under which AT&T bought the T-Netix operator service platform. It states that AT&T shall "[REDACTED]" the "[REDACTED]" for a "[REDACTED]"


[REDACTED] ...” [TNXWA 00744] This price “ [REDACTED]
[REDACTED]”. [TNXWA 00744] The Agreement further states that “ [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED].” [TNXWA 00746]

Neither T-Netix nor AT&T has possession, custody, or control of an AT&T purchase order for the operator services platform described in the Agreement. It is stipulated in this proceeding, however, that T-Netix delivered the operator services platform to AT&T as required and that it was installed at the three correctional facilities from which Complainants received inmate collect calls during the relevant period of this case.

To the best of T-Netix’s knowledge, AT&T paid for the platform. No dispute between T-Netix and AT&T ever occurred as to payment for the platform.

DATED this 20th day of October, 2010.

T-NETIX, INC.

By: 

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CERTIFICATE OF SERVICE

I hereby certify that I have this 20th day of October, 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:

David Danner	<input type="checkbox"/>	Hand Delivered
Washington Utilities and Transportation	<input type="checkbox"/>	U.S. Mail (first-class, postage prepaid)
Commission	<input checked="" type="checkbox"/>	Overnight Mail (UPS)
1300 S Evergreen Park Drive SW	<input type="checkbox"/>	Facsimile (360) 586-1150
Olympia, WA 98504-7250	<input checked="" type="checkbox"/>	Email (records@wutc.wa.gov)

I hereby certify that I have this 20th day of October 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:

On Behalf Of AT&T Communications

Letty S.D. Friesen	<input type="checkbox"/>	Hand Delivered
AT&T Communications	<input type="checkbox"/>	U.S. Mail (first-class, postage prepaid)
Law Department	<input checked="" type="checkbox"/>	Overnight Mail (UPS)
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Denver CO 80205		

Confidentiality Status: Highly Confidential

On Behalf Of AT&T Communications:

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