

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

SANDY JUDD, and TARA HERIVEL,

Complainants,

v.

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

Respondents.

Docket No. UT-042022

**AT&T'S RESPONSE TO
T-NETIX'S RESPONSE TO BENCH REQUEST NO. 14**

AT&T Communications of the Pacific Northwest, Inc. ("AT&T"), by its attorneys, respectfully submits this response to T-Netix's response to Bench Request Nos. 14.

In Bench Request No. 14, the Commission asked whether T-Netix billed, or whether any third party billed on T-Netix's behalf, any consumer for any intrastate operator services or operator-assisted calls placed from the relevant correctional facilities during the relevant time period. T-Netix denied that it billed any consumers for these services.

The parties have not focused any discovery on this issue because no one, to date, argued that, contrary to the language of the Commission's regulation, the OSP should turn on who *billed* for operator services or operator-assisted calls, nor was that claim considered by the ALJ. However, T-Netix's claim that it did not bill for these services, or have anyone bill on its behalf, appears to be inconsistent with the terms of Amendment 3 to AT&T's agreement with the Washington Department of Corrections. (March 16, 1993 Agreement Between State of Washington Dept. of Corrections and AT&T (Tab 20 to AT&T's Petition for Administrative Review) at 19.) Amendment 3 states that T-Netix will replace PTI as the station provider at certain prisons including Clallam Bay and:

Upon execution of this Amendment, T-Netix, Inc. shall pay to Department a monthly commission rate of Twenty-seven percent (27%) on local calls only, for the term of the Agreement, from the facilities in PTI territory

Id. It seems inconsistent that the T-Netix would have been required to pay commissions if it was not billing consumers for its services.

AT&T maintains that it is irrelevant whether any party billed for operator services or operator-assisted calls because the Commission's regulations state that the party "providing a connection," not the party who bills, is the OSP. Likewise, during discovery, all parties, as well as the ALJ, believed the identity of the billing party to be irrelevant. As a result, AT&T does not have access to the necessary facts to confirm or refute T-Netix's claim that it did not bill consumers for the services listed in Bench Request No. 14.

Dated: December 15, 2010

SUBMITTED BY:

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

By: /s/ Charles H.R. Peters

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CERTIFICATE OF SERVICE

Pursuant to WAC 480-07-150, I hereby certify that I have this day, December 15, 2010, served this document upon all parties of record by e-mail and Federal Express overnight delivery at the e-mail addresses and mailing addresses listed below:

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Pursuant to WAC 480-07-145, I further certify that I have this day, December 15, 2010, filed MS Word and PDF versions of this document by e-mail, and six copies of this document by Federal Express, with the WUTC at the e-mail address and mailing address listed below:

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Pursuant to the Prehearing Conference Order 08 and Bench Request Nos. 5 & 6, I further certify that I have this day, December 15, 2010, provided a courtesy copy of this document, in MS Word, to ALJ Friedlander by e-mail at the following e-mail address: mfriedla@utc.wa.gov.

Dated: December 15, 2010

/s/ Charles H.R. Peters
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