

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

SANDRA JUDD, et al.,

Complainants,

v.

AT&T COMMUNICATIONS OF THE
PACIFIC NORTHWEST, INC.; and
T-NETIX, INC.,

Respondents.

DOCKET NO. UT-042022

COMPLAINANTS' RESPONSE TO
RESPONSES BY AT&T AND T-NETIX
TO BENCH REQUESTS 11, 12, 13, 14,
AND 15

A. Introduction

1. Complainants submit this response to the responses made by AT&T and T-Netix to Bench Requests 11, 12, 13, 14, and 15.

B. Response to Bench Request 11

2. AT&T was asked to produce the Department of Corrections' request for proposal and other documents that were incorporated by reference into the agreement signed between AT&T and the DOC in 1992. AT&T produced the contract itself, but claims that it does not have the documents referenced by the agreement. Earlier in these proceedings, Complainants had requested AT&T to provide these documents. AT&T also claimed then that it was unable to locate these materials. AT&T should explain why it does not have these documents in its records.

C. Response to Bench Request 12

3. Section 4 in Attachment B to Amendment No. 2 to the Agreement between the Washington Department of Corrections and AT&T dated June 16, 1995, provides, "In the event AT&T is unable to provide [Inmate Calling Service (ICS)] as of the effective date of this Agreement, as defined in Section 3 of the Agreement, then AT&T will provide its standard live operator services to connect the inmate's call to the called party until it is able to provide ICS." Bench Request 12 asks whether AT&T provided standard live operator services under that agreement to connect collect calls from inmates from June 20, 1996, through December 31, 2000.

4. Instead of simply answering "no," AT&T uses this request to argue that it has no responsibility for the P-III platform, which the parties agree provided the operator services needed to connect collect calls from inmates. The significance of Attachment B, and the likely reason for why AT&T makes this argument, is that it shows AT&T agreed that it was responsible for providing the operator services to complete collect calls from inmates. The agreement provided that AT&T was to procure an automated system to perform that task, but that if it was unable to do so, it would use live operators until the automated system was installed.

5. Counsel for AT&T (Letty S. D. Friesen, who has also appeared for AT&T in the present proceeding) acknowledged in a hearing during a different proceeding before this Commission that AT&T was principally responsible for the facilities to provide services needed to complete and make collect calls from inmates:

3 JUDGE MOSS: The single customer point you
4 make brings back to mind a question I should have

5 asked. In terms of this contract, and maybe
6 Ms. Friesen will have to answer, is there a single
7 contract with DOC for all prison facilities within the
8 state of Washington?

9 MS. FRIESEN: The contract was entered
10 into -- I forget the exact date. It's either '92 or
11 '99, and it was amended over time, but yes, it was a
12 single contract with some subcontractors underneath it,
13 but the primary party responsible for the facilities to
14 provide service to the Department of Commerce was AT&T
15 Corps.

16 JUDGE MOSS: The Department of Corrections?

17 MS. FRIESEN: Yes.

18 JUDGE MOSS: And that would be for all the
19 prisons, single contract?

20 MS. FRIESEN: Right. One single contract for
21 all the prisons that the contract enveloped, and I
22 believe that was all of the correctional facilities in
23 the state at the time.

WUTC vs. AT&T Communications of the Pacific Northwest, Inc., UT-060962, transcript of hearing, June 22, 2007, at 16 (attached to this response as Exhibit A).

D. Responses to Bench Request Number 13 and 14

6. These requests ask AT&T and T-Netix whether they billed, or had a third party bill on their behalf, any consumer for any intrastate operator services or operator-assisted calls placed from four correctional institutions between June 20, 1996 and December 31, 2000. T-Netix said it did not bill or have a third party bill on its behalf any such calls. While AT&T admits that it provided operator-assisted interLATA, intrastate service for inmate collect calls, it refuses to directly answer the question. AT&T, however, has previously admitted that it, or a third party acting on its behalf, billed consumers for inmate collect calls, including calls from the Airway Heights Correctional Facility.

7. In August, 2005, an investigation was initiated by the Commission regarding telephone bills in which a:

consumer stated he had been improperly billed for pay phone collect calls from correctional facilities within the state of Washington. The consumer stated he did not receive a sufficient explanation from AT&T concerning his inquiry into disparate charges for similar calls they received from the Airway Heights Correctional Facility in Spokane, Washington."

WUTC vs. AT&T Communications of the Pacific Northwest, Inc., UT-060962, Order 04, December 27, 2007, ¶5 (attached as Exhibit B to this response).

8. During the course of that investigation, AT&T acknowledged that it billed for calls from Airway Heights: "AT&T billed for calls through 3/28/2005 and then Zero Plus Dialing took over the billing at Airway Heights." Washington Utilities and Transportation Commission Staff Investigation Into the Business Practices of AT&T Communications of the Pacific Northwest, Inc., UT-060962, December, 2006, at 8 (attached as exhibit C to this response¹). The fact that AT&T billed consumers for calls from Airway Heights is further confirmed by the bills from Columbia Legal Services submitted with the complainants' response to Bench Request 7.

9. Further, as noted in our responses to AT&T's and T-Netix' responses to the prior bench requests, AT&T's role was not limited to handling interLATA collect calls, as AT&T suggests in its current response. In answering questions asked during the investigation of overcharges for inmate calls, AT&T stated:

¹ The report also states: "These calls are prison collect calls. AT&T used a vendor to bill these calls on our behalf." Id. at 7. We have attached only the cover page and the pages referenced in our response as much of the report addresses AT&T's failure to fully respond to discovery requests. The full report is available in the public database for docket number UT-060962.

"AT&T provides both the Local and LD at Washington DOC Center for Women. T-Netix/CBS is the service provider and billing agent." *Id.* at 8. As discussed in our previous responses, the Washington DOC Center for Women is part of a group of facilities formerly served by PTI that includes Clallam Bay, which is one of the four institutions identified in these proceedings. AT&T should produce tariffs for all of the intrastate collect inmate calls from which it received revenue, including both long-distance and local calls.

E. Response to bench request number 15

10. Bench Request 15 asked both AT&T and T-Netix whether they have any record of billing Ms. Herivel, or having a third party bill her, in connection with collect calls she received from Airway Heights. As noted above, T-Netix claims that it never billed any recipient of a collect call from an inmate from the four institutions listed and, not surprisingly, states that it did not find any record of *billing* Ms. Herivel. T-Netix also mentions its prior search based on three phone numbers, which failed to include 10 months of relevant time. It does not appear that T-Netix made any effort to update its search to include the missing time period or to perform a search using Ms. Herivel's name or address. T-Netix' response does not indicate what records it reviewed or efforts it undertook to comply with the bench request.

11. As shown by investigation regarding AT&T's billing practices for calls from Airway Heights, it appears that the call from Ms. Herivel would have been billed by AT&T or someone acting on its behalf. AT&T claims to have performed a "reasonable search" for such a billing record and claims it cannot find one. However,

AT&T claimed during the 2007 investigation that it no longer had billing records from Airway Heights available to it because it sold its inmate calling service to GTEL Holdings, Inc. See Exhibit C at 7. AT&T's response does not indicate what records it retained or the extent that it sought information from GTEL.

12. Both T-Netix and AT&T should have preserved all of the records and data regarding calls from Airway Heights. This matter was referred to the Commission from King County Superior Court. This litigation began in 2000, and the parties were obligated to preserve potential evidence from at least that date forward. See, *Silvestri v. Gen. Motors Corp.*, 271 F.3d 583, 591 (4th Cir. 2001) ("The duty to preserve material evidence arises not only during litigation but also extends to that period before the litigation when a party reasonably should know that the evidence may be relevant to anticipated litigation.") Both T-Netix and AT&T should be required to explain what records they actually reviewed and whether records regarding collect calls from inmates at Airway Heights during the 1996-2000 timeframe have been transferred or destroyed.

DATED: December 15, 2010.

SIRIANNI YOUTZ
MEIER & SPOONEMORE

Chris R. Youtz (WSBA #7786)
Richard E. Spoonemore (WSBA #21833)
Attorneys for Complainants
719 Second Avenue, Suite 1100
Seattle, WA 98104
Tel.: (206) 223-0303
Fax: (206) 223-0246

SERVICE LIST

Pursuant to WAC 480-07-150, I certify that on December 15, 2010, I served a copy of the foregoing on all counsel of record by e-mail and U.S. Mail at the below addresses:

Attorneys for AT&T

Letty S. D. Friesen
AT&T COMMUNICATIONS
OF THE PACIFIC NORTHWEST
2535 E. 40th Ave., Suite B1201
Denver, CO 80205
lsfriesen@att.com

Charles H.R. Peters
David C. Scott
Doug Snodgrass
SCHIFF HARDIN LLP
233 S. Wacker Drive, Suite 6600
Chicago, IL 60606
cpeters@schiffhardin.com
dscott@schiffhardin.com
DSnodgrass@schiffhardin.com

Attorneys for T-Netix, Inc.

Arthur A. Butler
ATER WYNNE LLP
601 Union Street, Suite 1501
Seattle, WA 98101
aab@aterwynne.com
Stephanie A. Joyce
ARENT FOX LLP
1050 Connecticut Avenue, NW
Washington, DC 20036
joyce.stephanie@arentfox.com

Pursuant to WAC 480-07-145, I further certify that on December 15, 2010, I filed MS Word and PDF versions of the listed documents by e-mail, and the original and five copies of the listed documents by overnight delivery (Federal Express or UPS), with the WUTC at the below address:

David Danner
Secretary and Executive Director
WASHINGTON STATE UTILITIES AND
TRANSPORTATION COMMISSION
1300 S. Evergreen Park Drive S.W.
P.O. Box 47250
Olympia, WA 98504-7250
records@utc.wa.gov

Pursuant to the Prehearing Conference Order 08, I further certify that on December 15, 2010, I provided a courtesy copy of the listed documents, in MS Word, to Administrative Law Judge Marguerite E. Friedlander by e-mail to mfriedla@utc.wa.gov.

DATED: December 15, 2010, at Seattle, Washington.

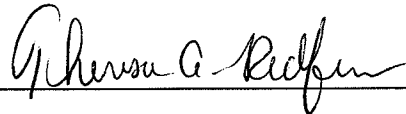


Exhibit A

0011

1 the Department a Corrections the customer here? Do
2 they lease this equipment from the company or someone
3 else, or how does that work?

4 MR. KOPTA: There is a contract between AT&T
5 and the Department of Corrections to maintain these
6 facilities on the Department of Corrections grounds,
7 and there is an arrangement with them to make those
8 phones available at certain locations and for certain
9 purposes so that inmates at the Department of
10 Corrections can make telephone calls from these
11 telephones.

12 So even though it's a rather unique
13 situation, it's almost as though you are talking about
14 IBM getting service so its employees can make telephone
15 calls. In this case, it's so the prisoners can make
16 telephone calls or visitors to the prisoners can make
17 telephone calls. So these phones are available within
18 these correctional facilities for those persons that
19 are having business or being incarcerated by the
20 Department of Corrections.

21 JUDGE MOSS: Does the Company pay for the
22 privilege of providing the service, or is the Company
23 compensated for providing the service independently of
24 the tariff charges that are levied?

25 MR. KOPTA: I'm not one hundred percent sure.

0012

1 Ms. Friesen may have some more information about that.
2 My understanding is that the Department of Corrections,
3 certainly one of the attachments to Staff's comments is
4 request for proposals, RP, so I'm assuming that there
5 is some type of compensation paid to the Department of
6 Corrections either in terms of a percentage of the
7 revenues generated from the calls or a flat fee. I
8 believe it is a percentage that are provided to the
9 Department of Corrections based on the number of calls
10 that are made from, or the revenues that are generated
11 from maintaining these telephones on the Department of
12 Corrections property. Is that correct, Ms. Friesen?

13 MS. FRIESEN: Yes, that is correct. They are
14 based on a percentage, a percentage of the revenue.

15 JUDGE MOSS: Who is paying whom?

16 MS. FRIESEN: The customers that receive the
17 collect calls pay AT&T, and then the Department of
18 Corrections receives a percentage of the revenue from
19 those calls. Now, that's true of the inmate calls. It
20 may not be true of -- we have pay phones on the
21 premises at the corrections facilities that are like
22 regular public pay phones.

23 JUDGE MOSS: So it's a pay phone situation.
24 That would be like if I went into a parking lot at a
25 7/11 and came upon a pay phone?

0013

1 MS. FRIESEN: That's correct. That is still
2 considered part of the contract with the Department,
3 but as to whether they get revenues on those particular
4 calls, I'm not sure.

5 JUDGE MOSS: Mr. Kopta, would 7/11 be a
6 customer of AT&T?

7 MR. KOPTA: If AT&T had a contract with 7/11
8 to provide a certain percentage of the revenues from
9 the calls from that phone, then yes, it would.

10 JUDGE MOSS: AT&T doesn't typically pay its
11 customers, does it?

12 MR. KOPTA: No.

13 JUDGE MOSS: If they do, I'm going to
14 subscribe.

15 MS. FRIESEN: Our contract is with the
16 Department of Corrections to provide this particular
17 service to their inmates and visitors.

18 JUDGE MOSS: I understand. Go ahead,
19 Mr. Kopta.

20 MR. KOPTA: Thank you. The third point that
21 Staff makes in their comments is basically that there
22 is no harm here to AT&T, in large part because AT&T is
23 no longer in the business of providing these telephone
24 services having sold this business to another entity,
25 and in response to that, we would just point out that

0014

1 our contract of sale with Global Tel Link, which is the
2 company we've sold the business to, we are obligated to
3 protect the information that we have in our possession
4 and also information that they provide to us.

5 Given that the records were provided to
6 Global Tel Link at the close of the sale, the records
7 that we actually provided to Staff came from Global Tel
8 Link. We had the obligation, obviously, to try and
9 provide this to the Commission, but Global Tel Link
10 actually has possession of the records, so we gave up,
11 and their understanding is that under the agreement, we
12 agreed to keep that information confidential to protect
13 the business. Whether we own it or they own it is
14 irrelevant because it is an ongoing business, and it's
15 our obligation as the party that produced the
16 information to continue to protect it even though it
17 may not be our specific information any longer.

18 JUDGE MOSS: I assume that Global Tel Link
19 understands that that's subject to this discussion we
20 are having today and that we may remove the cloak of
21 confidentiality that's been asserted under RCW
22 80.04.095.

23 MR. KOPTA: We have made them aware of that
24 and --

25 JUDGE MOSS: That they will have ten days if

0015

1 that should be the ruling, go to court and get an
2 order?

3 MR. KOPTA: That's what the statute provides.
4 They understand that we are carrying the flag at the
5 moment, and if they have a concern with that, then they
6 will have to make their recourse to the courts if they
7 feel that's appropriate, but from AT&T's perspective
8 specifically, we are concerned that this is information
9 that is gathered in the context of other services call
10 detail-type information. Business locations would be
11 exactly the sort of thing that AT&T would have, and
12 would want to make sure that that information is
13 protected from disclosure.

14 If there is a precedent from the Commission
15 that this is the type of information that's not
16 disclosed, we would have a major concern, because back
17 to my IBM example, collect calls made from IBM may be
18 aggregated and disclosed. That may be of concern to
19 our customers, and certainly, we have an obligation to
20 protect information from our customer, in that case
21 IBM, even though it's a single customer from a single
22 location and there are people making calls from that
23 location, and we are concerned that that sort of
24 information should be protected from disclosure and
25 would not want any ruling in this case to cast any

0016

1 negative light on our ability to protect that type of
2 information with respect to other customers.

3 JUDGE MOSS: The single customer point you
4 make brings back to mind a question I should have
5 asked. In terms of this contract, and maybe
6 Ms. Friesen will have to answer, is there a single
7 contract with DOC for all prison facilities within the
8 state of Washington?

9 MS. FRIESEN: The contract was entered
10 into -- I forget the exact date. It's either '92 or
11 '99, and it was amended over time, but yes, it was a
12 single contract with some subcontractors underneath it,
13 but the primary party responsible for the facilities to
14 provide service to the Department of Commerce was AT&T
15 Corps.

16 JUDGE MOSS: The Department of Corrections?

17 MS. FRIESEN: Yes.

18 JUDGE MOSS: And that would be for all the
19 prisons, single contract?

20 MS. FRIESEN: Right. One single contract for
21 all the prisons that the contract enveloped, and I
22 believe that was all of the correctional facilities in
23 the state at the time.

24 MR. KOPTA: One final point on that is that
25 to the extent that this information is CPNI, it was

0017

1 information that was gathered at the time that AT&T was
2 providing the business, and there is no time limit on
3 how long a carrier is supposed to maintain the
4 confidentiality of the CPNI, so to the extent it would
5 be considered CPNI, which we believe that it is, then
6 we are under an obligation to continue to protect that
7 information, and we had originally obtained as the
8 carrier of that customer, the Department of
9 Corrections, during that time frame.

10 The final point that Staff makes is
11 essentially their view that aggregate call volume
12 information has already been made public by the
13 Department of Corrections, and they have attached a
14 couple of exhibits to their comments, and we would just
15 point out that the information that the Department of
16 Corrections has provided is substantially different
17 than the information that Staff proposes to disclose
18 here.

19 First of all, the Department of Corrections
20 data is for all telephone calls that originate from
21 those corrections facilities, not just the collect
22 calls that are made from the inmates. The data is for
23 an entire year, not for the 30-day periods that the
24 Staff is proposing to disclose here. The data is also
25 for multiple carriers, AT&T and Qwest and/or Verizon,

0018

1 not just AT&T, so the level of aggregation of the
2 Department of Commerce information is much greater than
3 it is.

4 JUDGE MOSS: Corrections.

5 MR. KOPTA: Corrections. Ms. Friesen got me
6 all confused. That the Department of Corrections has
7 disclosed, it is far greater than that which would be
8 disclosed if the information in the Staff report were
9 publicly available. In fact, there may be an ability
10 to further disaggregate the Department of Corrections'
11 data if this specific data on a monthly call volumes
12 for collect calls were to be made publicly available.
13 It could be backed out of using the data that is
14 publicly available to further disaggregate the data
15 that is publicly available and provide additional
16 detail that certainly in our view continues to be CPNI
17 and/or information that is commercially valuable to the
18 owner of the business.

19 Those are the points that I would like to
20 make, unless Ms. Friesen has some additional points
21 that she has.

22 MS. FRIESEN: I have nothing else, thank you.

23 JUDGE MOSS: All right. Then let's hear from
24 Mr. Fassio if he wants to make any argument on this.

25 MR. FASSIO: Sure. I can piggyback a little

0019

1 bit on the last comment of Mr. Kopta on the information
2 that the Department of Corrections has made publicly
3 available. I point out that the call details do
4 actually cover the time period in question here in this
5 case, and actually are not only provided by the
6 Department of Corrections, which is potentially a
7 customer as we've heard here today, but is actually far
8 more detailed in the traffic volume that it actually
9 releases.

10 Unlike the information that is currently
11 redacted, it actually provides specific call traffic
12 information by DOC site. The redacted information
13 actually does aggregate among DOC sites. It doesn't
14 distinguish which information comes from one site,
15 which information comes from the other site. The
16 Department of Corrections has provided this detailed
17 call information to prospective bidders and prospective
18 competitors in this business as part of its public
19 bidding process.

20 So I would strongly argue that there is
21 really no harm here in releasing the very limited
22 amount of redacted data that's currently in the Staff
23 investigation report because the bell has already been
24 rung. The redacted data is actually just a calculation
25 of misbilled calls, in a sense. It's not overall

0020

1 traffic volume. This information here is actually far
2 more detailed and has already been provided to the
3 public.

4 And second, I would point out that AT&T has
5 talked about its interest here in the proceeding of
6 confidentiality, and I would argue that AT&T really
7 does lack a sense of standing to assert that it would
8 be commercially harmed or there would actually be a
9 business risk to releasing this information because it
10 did leave the prison collect-calling business and sell
11 it in July of 2005, which is coming up on two years
12 ago, and G-Tel, the company that now is in the business
13 of providing this, had notice of this proceeding and
14 had initially expressed an interest in appearing here
15 today but has chosen not to participate, and they would
16 be the real party in interest that may be harmed, if at
17 all, by the release of this information.

18 JUDGE MOSS: The party out there that might
19 be harmed then, we certainly have to consider that they
20 perhaps are placing their confidence in Mr. Kopta's
21 presentation today in terms of maintaining the
22 confidentiality, which he is entitled to assert as the
23 party that's had to file this information. Indeed, I
24 believe I wrote an order making him do that, so I don't
25 think we have a standing problem here today.

0021

1 There may be at a deeper level some sort of
2 standing problem, but no matter what I rule -- let's
3 assume for a moment that I rule that this data is not
4 entitled to a cloak of confidentiality. We would
5 certainly have to afford the Company, Global whatever
6 it is that purchased the business, an opportunity under
7 the statute to get a court order telling the Commission
8 that I got it wrong. So let's move on from that.

9 MR. FASSIO: One of the other arguments that
10 AT&T has made is that this is customer-specific usage,
11 a network configuration and design information. The
12 original data that was provided in an unaggregated form
13 they did designate as CPNI, or Customer Proprietary
14 Network Information, and I won't go into the references
15 of that. You have all that material, but the federal
16 statutes have provided a clearer, more detailed
17 definition that was in the RCW here and has actually
18 separated CPNI from aggregate information.

19 And what I would propose is that this
20 information that Staff has done has been aggregated
21 from any of the CPNI that was originally submitted.
22 There is no individually identifying details of the
23 customers who received calls and also aggregated the
24 locations, and so I would argue as we stated in here
25 that it has not made the definition of CPNI. We are

0022

1 talking about very limited information. The number of
2 misbilled calls, the number of violations that Staff
3 asserts resulted from that, and the number of
4 overcharges, and we would argue that none of this is
5 CPNI.

6 As a final note, and I won't bog you down
7 with too much more argument here, is that Staff really
8 feels that the public ought to know the number of
9 violations that have been alleged in the complaint, and
10 the complaint not only has stated that there are a
11 certain number of misbilled calls but that each call
12 represents a single violation of state law.

13 Now, that may be argued, but at least at this
14 juncture in the information that has been filed, to
15 redact the number of misbilled calls would require
16 redaction of the alleged number of violations in that
17 complaint, and Staff believes that the public has a
18 right to know the extent to which the Commission has
19 alleged violations of Commission or state law.

20 This is not a matter of aggregated traffic
21 volumes. This is a matter of Staff's aggregation of
22 information that it received and an analysis that is
23 not put forth in which Staff has asserted that there
24 are no violations of state law, not very artfully put.

25 JUDGE MOSS: It happens.

1 MR. FASSIO: Basically, Staff believes that
2 to keep this information confidential, to keep the
3 specific data in here, would be a broadening of the
4 intentions of confidentiality. Parties must strictly
5 limit the amount of information they designate as
6 confidential and limit it to that information that
7 would compromise their ability to compete fairly or
8 otherwise impose a business risk. We don't believe
9 AT&T has met that standard, and we don't believe that
10 the information properly qualifies as CPNI, and we
11 believe that the information should not be designated
12 as confidential. Thank you.

13 JUDGE MOSS: Thank you. Any last word?

14 MR. KOPTA: No. I believe we've made our
15 points.

16 JUDGE MOSS: Those are capable arguments, as
17 always. I'm mindful of your concern, Mr. Kopta,
18 concerning my not drafting an order on this or saying
19 something here from the Bench today that might arguably
20 establish some principle or precedents; although I
21 hesitate to use either of those words, frankly, for
22 anything I ever say, but I'm mindful of that as I have
23 been in the context of other arguments of this nature
24 that I've heard over the years that I've been here, and
25 there are various ways to avoid that.

0024

1 One of those is to emerge victorious, which I
2 may have a comment on here in a moment, but another is
3 for you all to work something out that will accommodate
4 your client's concern over this data being disclosed
5 publicly, some form of waiver, if you will. We often
6 do that with aggregation of data. I believe there was
7 some sort of aggregation of data. You cited one of
8 those Global Telecommunications dockets that we've had
9 here ongoing for how many years, and I think in those
10 cases, there have been some accommodations made where
11 aggregations have seen the light of day, as it were.

12 Staff does have a legitimate concern with the
13 public's right to know. I notice that the state is now
14 disclosing to the third decimal the alcohol content in
15 people's blood when they are arrested, at least when
16 they are prosecutors in Thurston County.

17 MR. KOPTA: Not from personal experience, I
18 hope.

19 JUDGE MOSS: Not personal experience, I'm
20 glad to say. In any event, I think there is a pretty
21 strong interest here in public disclosure as a general
22 proposition of law in Washington state. I will comment
23 a little bit further here, and then I'm going to give
24 you all an opportunity off the record to consult with
25 your client privately before we close our business this

0025

1 afternoon.

2 I looked pretty carefully at this data and
3 the way Staff presented it in its report and so forth
4 and listened carefully to the arguments today, and
5 while there are a couple of points that frankly are not
6 entirely settled in my mind so that I would not be
7 prepared to rule from the Bench today, I am inclined to
8 remove the confidentiality claim and let you and your
9 other company, if you wish to, to take it to court, and
10 of course, we would have to abide by whatever the court
11 decided, but that's my inclination. I won't say that's
12 my ruling because there are a couple of points in here
13 concerning me.

14 Obviously, I'm struggling a little bit with
15 the question of who the customer is here, and I think
16 you all hashed that out for me very nicely. I'm also
17 struggling with this question in the proprietary
18 information of this typically clear definition that the
19 FCC has provided us and so forth, so I think that
20 probably gives you some information that will be
21 useful.

22 Would you like an opportunity to consult with
23 your client? You can tell me flat out that you want to
24 have my ruling and we can stop, or if you would like
25 some opportunity to perhaps talk with your client, talk

0026

1 with Staff and see if some accommodation can be
2 reached. By aggregating it as Staff has done by not
3 identifying the specific facilities but by pulling it
4 all together, it does seem to relieve a lot of concern
5 you might have in terms of the type of harm you've
6 asserted in the commercial sense. Taking that together
7 too with the request for proposals from the Department
8 of Corrections, the harm piece doesn't work too well
9 for me. That's not necessarily the decisive question,
10 but it enters the thinking as well.

11 MR. KOPTA: There are still only two
12 locations that we are talking about here.

13 JUDGE MOSS: I understand. That competitor
14 lurking around the corner wishing accounts on his
15 business doesn't know whether 90 percent is from one
16 facility and ten from the other, so you see what I mean
17 by the nature of aggregation. It does make it more
18 difficult for the alleged harm to be appreciated from
19 my perspective, at least. Shall I give you a little
20 time?

21 MR. KOPTA: I think we might as well take a
22 little time.

23 JUDGE MOSS: I'm going to go get a drink of
24 water, and I'll be in my office.

25 (Discussion off the record.)

0027

1 JUDGE MOSS: The parties have had an
2 opportunity to discuss matters off the record, and
3 Mr. Kopta, I believe, is going to report.

4 MR. KOPTA: Yes, Your Honor. We have
5 discussed things with Staff and internally each on our
6 own, and there is a proposal for a negotiated
7 resolution of this issue. AT&T doesn't want to act
8 unilaterally but wants to give Global Tel Link an
9 opportunity to weigh in if they want to, so we
10 represented to Staff that we will get back to them with
11 thumbs up or thumbs down on that proposal by close of
12 business on Wednesday of next week, and we would also
13 inform you at that time so you will know whether you
14 need to issue an order or whether you can hold off, and
15 we will obviously notify you more formally of what the
16 negotiated resolution is by the end of the week by
17 letter, if that would be acceptable to you.

18 JUDGE MOSS: That's sounds like a good result
19 and protects everyone's interest. Send me a letter and
20 I'll take it from there. Do we have any other business
21 today?

22 Unfortunately, I did not check the
23 distribution list, so I will include as part of the
24 prehearing order the requirements of the number of
25 documents that need to be filed and so on and so forth.

0028

1 I'll probably issue a single order, so I'll hold off on
2 that until we get this confidentiality thing final, one
3 way or the other. Thank you all very much. Appreciate
4 your help today.

5 (Prehearing adjourned at 2:56 p.m.)

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Exhibit B

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND)	
TRANSPORTATION COMMISSION,)	DOCKET UT-060962
)	
Complainant,)	ORDER 04
)	
v.)	
)	
AT&T COMMUNICATIONS OF THE)	INITIAL ORDER APPROVING
PACIFIC NORTHWEST, INC.)	AND ADOPTING SETTLEMENT
)	AGREEMENT
Respondent.)	
.....)	

1 *Synopsis: This is an Administrative Law Judge's Initial Order that is not effective unless approved by the Commission or allowed to become effective pursuant to the notice at the end of this Order. This Order would approve and adopt the parties' Settlement Agreement in full resolution of the issues pending in this proceeding. AT&T admits to certain statutory violations, agrees to refund charges to customers that exceeded tariff rates, and agrees to a substantial penalty. AT&T commits to being more diligent in monitoring the activities of its billing agents to protect against future violations.*

MEMORANDUM

2 **PROCEEDINGS:** This docket involves a complaint initiated by the Washington Utilities and Transportation Commission (Commission) on behalf of its staff alleging that AT&T Communications of the Pacific Northwest, Inc. (AT&T), improperly charged customers receiving collect calls from prisons in Washington State more than the amount stated in tariff schedules on file with the Commission and in effect, in violation of RCW 80.36.130.

3 **PARTY REPRESENTATIVES:** Michael Fassio, Assistant Attorney General, represents the Commission's regulatory staff (Commission Staff or Staff) as Complainant. Gregory J. Kopta, attorney, Seattle, Washington, represents Respondent AT&T.

4 **SETTLEMENT:** The parties filed a Settlement Agreement on December 14, 2007. They simultaneously filed their Joint Settlement Narrative. They ask the Commission to approve their settlement in full resolution of the issues pending in this proceeding.

I. Background.

5 Staff initiated an investigation following a consumer complaint filed in August 2005, in which the consumer stated he had been improperly billed for pay phone collect calls from correctional facilities within the state of Washington. The consumer stated he did not receive a sufficient explanation from AT&T concerning his inquiry into disparate charges for similar calls he received from the Airway Heights Correctional Facility in Spokane, Washington.

6 Staff reviewed certain billing records provided by AT&T. When Staff found that all customers who accepted collect calls during portions of March, April, May, and June 2005 from the Airway Heights Correction Center in Spokane were charged improper rates by AT&T, Staff initiated a formal investigation.

7 Staff found that AT&T, through its billing agent Zero Plus Dialing, Inc. (ZPDI), improperly billed numerous customers for collect calls from the Airway Heights Correctional Facility and the Washington State Penitentiary. Staff found AT&T in violation of RCW 80.36.130, which requires a telecommunications company to charge the rates it has on file and in effect in its published schedule.

8 In its complaint, Staff asked the Commission to find that each call AT&T improperly billed through its agent, ZPDI, constitutes a violation of RCW 80.36.130. Staff further requested the Commission to impose monetary penalties on AT&T under RCW 80.04.380 and/or other sanctions, if the alleged violations were proved.

II. Settlement Terms.

- 9 The Settlement Agreement includes AT&T's acknowledgment that 29,971 collect calls that originated from the Airway Heights Correctional Facility and the Washington State Penitentiary between March 14, 2005, and June 1, 2005, were incorrectly billed by its agent, ZPDI, in violation of RCW 80.36.130.¹ According to the settlement terms, this resulted in total excess charges of \$67,295.²
- 10 The settlement requires AT&T to establish a claims process to provide refunds of up to the full \$67,295 to those customers who contact AT&T and submit a verifiable claim by August 31, 2008.³ AT&T will provide notice of the claims process to potential claimants through postings at the correctional facilities, newspaper advertisements and notices.⁴ Staff will refer customers who contact the Commission regarding the claims process to AT&T. If disputes arise that AT&T is unable to resolve, AT&T will refer those customers to the Commission.⁵ AT&T agrees to complete all refunds to eligible customers no later than 60 days following the end of the customer claim period. AT&T will donate any portion of \$67,295 that has not been refunded at the conclusion of the claims process to the Offender Welfare Betterment Fund.⁶ AT&T will submit a quarterly report to the Commission describing the progress of the refunds process⁷ and a final report summarizing the refund process, and any donation.⁸
- 11 The parties agree that AT&T will pay a penalty totaling \$302,705 for its violations of RCW 80.36.130. The amount will be paid to the Commission within 30 days after the effective date of the Agreement.⁹
- 12 AT&T expressly commits in the Agreement to comply with all applicable Commission rules and statutes.¹⁰ AT&T will continue to actively monitor the billing

¹ See Settlement Agreement, at ¶ 4.

² *Id.*, at ¶ 4.

³ *Id.*, at ¶ 6.

⁴ *Id.*, at ¶ 8-10.

⁵ *Id.*, at ¶ 14.

⁶ *Id.*, at ¶ 17.

⁷ *Id.*, at ¶ 15.

⁸ *Id.*, at ¶ 16.

⁹ *Id.*, at ¶ 5.

practices of companies with whom it has a contractual relationship to provide billing services to Washington State customers, and conduct audits where appropriate.¹¹ The Agreement does not preclude the Commission from pursuing penalties for violations of Commission rules and statutes unrelated to the subject matter of the Agreement.¹²

- 13 **DISCUSSION AND DETERMINATION:** Commission Staff alleged via its Investigation Report that AT&T violated RCW 80.36.130 by improper billing of customers on 37,943 occasions. AT&T admits it violated RCW 80.36.130 by over billing customers on 29,971 occasions, and agrees to refund fully the amounts charged in excess of approved rates. The refunds provide recompense to those harmed by the over billing and ensure that neither AT&T nor its billing agent will benefit from these violations of law.
- 14 AT&T acknowledges, by accepting a substantial penalty and by express admission in the Settlement Agreement, its responsibility for the violations of law that occurred through the actions of a vendor who provided billing services to AT&T. AT&T also commits to being diligent in the future in monitoring the billing practices of companies it uses to bill customers for services. Taken together with the refunds to which AT&T agrees, these elements of the Settlement Agreement represent a reasonable compromise of the parties' positions and an overall outcome that is in the public interest.
- 15 The Settlement Agreement, if approved, means the parties and the Commission can avoid the further expense, inconvenience, uncertainty, and delay of continuing litigation. This, too, is in the public interest.
- 16 The Commission finds the proposed Settlement Agreement to be reasonable and in the public interest. The Settlement Agreement, attached to and made part of this Order by this reference, should be approved and adopted in full resolution of the issues in this proceeding.

¹⁰ *Id.*, at ¶ 18.

¹¹ *Id.*, at ¶ 19.

¹² *Id.*, at ¶ 18.

FINDINGS OF FACT

- 17 The Commission now makes and enters the following summary of facts,
incorporating by reference pertinent portions of the preceding discussion:
- 18 (1) The Washington Utilities and Transportation Commission is an agency of the
state of Washington, vested by statute with authority to regulate the rates,
rules, regulations, practices, and accounts of public service companies,
including telecommunications companies.
- 19 (2) AT&T is a “public service company” and a “telecommunications company” as
those terms are defined in RCW 80.04.010 and used in Title 80 RCW.
- 20 (3) AT&T admits to violations of RCW 80.36.130 by over billing customers on
29,971 occasions, resulting in the collection of excess charges totaling
\$67,295.

CONCLUSIONS OF LAW

- 21 Having discussed above all matters material to this decision, and having stated
detailed findings, conclusions, and the reasons therefore, the Commission now makes
the following summary conclusions of law, incorporating by reference pertinent
portions of the preceding detailed discussion:
- 22 (1) The Washington Utilities and Transportation Commission has jurisdiction over
the subject matter of, and parties to, these proceedings.
- 23 (2) AT&T should be required to refund fully all amounts it over billed
Washington customers who received collect calls from prisons located in this
state.
- 24 (3) AT&T should be required to pay penalties totaling \$302,705 for its repeated
violation of RCW 80.36.130.

- 25 (4) AT&T should be required to follow all pertinent statutes and rules and to exercise diligence in monitoring the activities of its billing agents to ensure collection of no more than the charges authorized in its approved tariff.

ORDER

THE COMMISSION ORDERS:

- 26 (1) The Parties' Settlement Agreement, appended to this Order, is approved and adopted in full resolution of the issues in this proceeding. AT&T, as provided in the Settlement Agreement, is required to make refunds, pay penalties, exercise due diligence in monitoring the activities of its billing agents, and to satisfy all other terms of the Settlement Agreement.
- 27 (2) The Commission retains jurisdiction to effectuate the terms of this Order.

DATED at Olympia, Washington and effective December 27, 2007.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

DENNIS J. MOSS
Administrative Law Judge

NOTICE TO THE PARTIES

This is an Initial Order. The action proposed in this Initial order is not yet effective. If you disagree with this Initial Order and want the Commission to consider your comments, you must take specific action within the time limits outlined below. If you agree with this Initial Order, and you would like the Order to become final before the time limits expire, you may send a letter to the Commission, waiving your right to petition for administrative review.

WAC 480-07-825(2) provides that any party to this proceeding has twenty (20) days after the entry of this Initial Order to file a *Petition for Administrative Review*. What must be included in any Petition and other requirements for a Petition are stated in WAC 480-07-825(3). WAC 480-07-825(4) states that any party may file an *Answer* to a Petition for review within (10) days after service of the Petition.

WAC 480-07-830 provides that before entry of a Final Order, any party may file a Petition to Reopen a contested proceeding to permit receipt of evidence essential to a decision, but unavailable and not reasonably discoverable at the time of hearing, or for other good and sufficient cause. No Answer to a Petition to Reopen will be accepted for filing absent express notice by the Commission calling for such an answer.

RCW 80.01.060(3), as amended in the 2006 legislative session, provides that an initial order will become final without further Commission action if no party seeks administrative review of the initial order and if the Commission fails to exercise administrative review on its own motion. You will be notified if this order becomes final.

On copy of any Petition or Answer filed must be served on each party of record with proof of service as required by WAC 480-07-150(8) and (9). An Original and (8) copies of any Petition or Answer must be filed by mail delivery to:

Attn: Carole J. Washburn, Executive Secretary
Washington Utilities and Transportation Commission
P.O. Box 47250
Olympia, WA 98504-7250

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

)	
WASHINGTON UTILITIES AND)	
TRANSPORTATION COMMISSION,)	
)	DOCKET UT-060962
Complainant,)	
)	
v.)	
)	SETTLEMENT AGREEMENT
AT&T COMMUNICATIONS OF THE)	
PACIFIC NORTHWEST, INC.,)	
)	
Respondent.)	
)	
.....)	

1 This Settlement Agreement (Agreement) is entered into by the parties to this proceeding for the purpose of resolving all issues raised in the above docket.

I. PARTIES

2 The parties to this Agreement are AT&T Communications of the Pacific Northwest ("AT&T"), and Staff of the Washington Utilities and Transportation Commission ("Staff") (collectively, "the Parties").

II. AGREEMENT

3 The Parties have reached agreement on the issues raised in this docket and wish to present their agreement for the commission's consideration and approval. The Parties therefore adopt the following Agreement, which the Parties enter into voluntarily, to resolve all matters in dispute between them or that could arise between them from the issues presented in this proceeding, and they seek to expedite the orderly disposition of this matter.

4 AT&T admits 29,971 collect calls were incorrectly billed, in violation of RCW 80.36.130. These calls originated from Airway Heights Correctional Facility and from the Washington State Penitentiary, between March 14, 2005, and June 1, 2005. The Parties agree that this resulted in total charges of \$67,295 above those shown in AT&T's tariff. AT&T admits that RCW 80.36.130 requires that telecommunications companies refrain from charging rates different than those contained in their tariffs except under certain circumstances that are not applicable here.

SETTLEMENT AGREEMENT

A. Penalties

5 The Parties agree that AT&T will pay to the commission a penalty totaling \$302,705. The amount shall be paid to the commission no more than thirty (30) days after the effective date of this Agreement.

B. Refunds and Claims Process

6 AT&T agrees to refund up to \$67,295 in total to customers who:

- a. Contact AT&T, at a toll-free number to be established by AT&T subsequent to this Agreement's execution, claiming to have received collect calls from Airway Heights Correctional Facility and the Washington State Penitentiary between March 14, 2005 to June 1, 2005, and were billed for such calls;
- b. Submit a request form for a refund (or "claim") to AT&T's Customer Service Department alleging that they were the account holder of a relevant telephone number during this period; and
- c. If the claimant's telephone number appears on the list of relevant numbers, AT&T will refund the amount to that claimant, regardless of payment history. AT&T will make refunds for the relevant numbers only once.

7 Based on available records, AT&T will determine the appropriate refund amount due to each claimant.

8 AT&T agrees to notify potential claimants of the availability and process for refunds by posting a public notice at the two correctional facilities identified herein. AT&T and Staff will collaborate to determine the contents of the notice. AT&T shall post such notice starting February 1, 2008 and the notice shall remain posted until September 1, 2008.

9 AT&T further agrees to notify potential claimants of the availability and process for refunds by placing one display ad measuring approximately 2" by 4" in the following three newspapers: Seattle Times, Spokane Spokesman Review and Tri-City Herald, and by placing "tombstone notices" in the following five newspapers: Everett Herald, Tacoma News Tribune, Vancouver Columbian, Walla Walla Union Bulletin, and Yakima Herald Republic.

10 AT&T shall determine and pay for the appropriate ads and tombstone notices. AT&T will provide Staff a reasonable opportunity to review the ads and tombstone notices in advance of publication.

11 Customers shall have from February 1, 2008 to August 31, 2008 (seven months) to submit a claim to AT&T (the "customer claim period"). Provided the customer complies with the requirements in paragraph 6, subparts (a) through (c), AT&T agrees to resolve each claim received within sixty (60) days of receipt.

- 12 AT&T agrees to complete all refunds to eligible customers no later than sixty (60) days following the end of the customer claim period.
- 13 AT&T will establish and implement the claims process, and verify customer claims. AT&T shall be responsible for any and all costs associated with providing refunds to consumers under this Agreement.
- 14 Staff agrees to promptly refer any customers who contact Staff concerning a refund claim to AT&T's toll-free number to be established. If disputes arise between customers and AT&T concerning claims that AT&T is unable to resolve, AT&T agrees to refer those customers to the commission's toll-free consumer complaint number. AT&T further agrees to refer all claimants whose claims are not resolved within sixty (60) days of receipt by AT&T to the commission.
- 15 During the customer claim period, AT&T agrees to file a quarterly report with the commission, delivering copies of the customer claim forms received to date. In addition, this report shall include the number of claims made to date as well as the number and amount of refunds issued to date, and, if necessary, a summary of any issues of concern arising from the claims process. The reports shall be an opportunity for commission Staff and AT&T to periodically evaluate the effectiveness of the refund process and to adjust the process, if needed, by subsequent agreement.
- 16 Following completion of the refunds as described in Paragraphs 6 through 15, AT&T agrees to file with the commission documentation demonstrating that AT&T has completed the refund process, as well as, if applicable, any donation made to the Offender Welfare Betterment Fund, as described in paragraph 17. The documentation shall include, at a minimum, 1) the number of claims received, 2) the number of customers receiving refunds, 3) the amount refunded, and 4) proof that AT&T donated the money not refunded to customers, if any, to the Offender Welfare Betterment Fund.

C. Public Purpose Fund

- 17 If after all refunds have been issued by AT&T the total amount of refunds is less than \$67,295, AT&T agrees to donate the difference to the Offender Welfare Betterment Account, a public use fund administered by the Washington State Department of Corrections. *See Appendix A.*

D. Future Compliance

- 18 The Parties agree that AT&T will comply with all applicable commission rules and statutes. This Agreement does not preclude the commission from pursuing penalties for violations of commission rules and statutes unrelated to the subject matter of this Agreement.
- 19 To ensure that it complies with commission rules and statutes, AT&T agrees that it will continue to actively monitor the billing practices of companies with whom it has a

SETTLEMENT AGREEMENT

contractual relationship to provide billing services in Washington State on behalf of AT&T, and conduct audits when there is reason to believe that the billing agent is not meeting its service quality requirements consistent with existing contracts.

III. GENERAL PROVISIONS

- 20 The Parties agree that this Settlement Agreement is a settlement of all contested issues between them in this proceeding. The Parties understand that this Settlement Agreement is not binding unless and until accepted by the commission. The effective date of this Agreement is the date of the commission's order approving it.
- 21 The Parties agree to cooperate in submitting this Agreement promptly to the commission for acceptance. The Parties further agree to support adoption of this Agreement in proceedings before the commission through testimony or briefing. No party to this Agreement or their agents, employees, consultants, or attorneys will engage in advocacy contrary to the commission's adoption of this Agreement.
- 22 The Parties agree to 1) provide each other the right to review in advance of publication any and all announcements or news releases that the other party intends to make about the Agreement (with the right of review to include a reasonable opportunity to request changes to the text of such announcements), and 2) include in any news release or announcement a statement to the effect that Staff's recommendation to approve the Agreement is not binding on the commission itself.
- 23 The Parties have entered into this Agreement to avoid further expense, inconvenience, uncertainty, and delay of continuing litigation. The Parties recognize that this Agreement represents a compromise of the Parties' positions. As such, conduct, statements, and documents disclosed during negotiations of this Agreement shall not be admissible as evidence in this or any other proceeding, except in any proceeding to enforce the terms of this Agreement or any commission order fully adopting those terms. This Agreement shall not be construed against either party because it was the drafter of this Agreement.
- 24 The Parties have negotiated this Agreement as an integrated document to be effective upon execution and commission approval. This Agreement supersedes all prior oral and written agreements on issues addressed herein. Accordingly, the Parties recommend that the commission adopt this Agreement in its entirety.
- 25 The Parties may execute this Agreement in counterparts and, as executed, shall constitute one Agreement. Copies sent by facsimile are as effective as original documents.
- 26 The Parties shall take all actions necessary, as appropriate, to carry out this Agreement.
- 27 In the event the commission rejects all or any portion of this Agreement, each party reserves the right to withdraw from this Agreement by written notice to the other party and the

SETTLEMENT AGREEMENT

commission. Written notice must be served within ten (10) days of the order rejecting part or all of this Agreement. In such event, neither party will be bound or prejudiced by the terms of this Agreement, and either party shall be entitled to seek reconsideration of the order. Additionally, the Parties will jointly request that a prehearing conference be convened for purposes of establishing a procedural schedule to complete the case.

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION

ROBERT M. MCKENNA
Attorney General



MICHAEL A. FASSIO
Assistant Attorney General
Counsel for the Utilities and
Transportation Commission Staff

Dated: December 13, 2007



AT&T COMMUNICATIONS OF THE
PACIFIC NORTHWEST, INC.

WILLIAM M. ARCHER
Chief Marketing Officer – Business
AT&T Operations, Inc.
on behalf of AT&T Communications of the
Pacific Northwest, Inc.



Attorney for AT&T Communications of the
Pacific Northwest, Inc.

Dated: December 13, 2007

Exhibit C

**WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION
STAFF INVESTIGATION
INTO THE BUSINESS PRACTICES OF**

**AT&T Communications
of the Pacific Northwest, Inc.**

UT-060962

**Prepared by
M. Carlene Hughes
Business Practices Investigation Section
Compliance Program Coordinator
December 2006**

On September 7, 2005, commission staff noted that AT&T had agreed to provide a credit for the calls that were billed incorrectly for this customer. However, staff also noted that the credit was incorrect. When asked why the credited amounts were not issued according to the charges shown in its price list, AT&T responded that the “business group” handling this issue [credit] was using an incorrect price sheet.

September 8, 2005:

“These calls are prison collect calls. AT&T used a vendor to bill these calls on our behalf. We would not have access to the bills, since they are billed by the vendor. However, we did request that ZPDI review all the bills they sent this customer and they rereated back to the 11/04 statement. Since the change happened within the past year, there would be no need to go back 2 years. Also, the price sheet will be easier to provide if I know what facility or facilities Mr. XXX is receiving calls from. Can you ascertain that from him?

On September 9, 2005, AT&T sent a copy of its price list page for collect calls from correctional facilities effective March 2005.

A copy of the price list page is included in Appendix D.

On October 6, 2005, to get clarification on this billing issue, staff sent AT&T the following additional questions:

- 1) Who is the vendor for the prison pay phone calls?
- 2) Did ZPDI bill for all of the vendor's calls?
- 3) What were the incorrect rates the vendor charged for these calls?
- 4) Were all prison pay phone calls in Washington incorrectly charged from November 2004 forward?
- 5) When did AT&T become aware of the incorrect billing?
- 6) What was the time period that the vendor charged incorrectly for the prison pay phone calls in Washington?
- 7) What action did AT&T take when it found out the vendor had incorrectly charged for the calls?

On October 12, 2005 AT&T responded:

“AT&T sold all correctional facility holdings on June 1, 2005. Because of this, all of our vendor contacts no longer exist. We have pleaded with the new group to look at this case for us since the calls were prior to that date. We hope to have some of your answers by next week. Since there are many different vendors involved with correctional calls I may not be able to speak for all facilities, just this specific one. I will let you know when I hear more.

On October 27, 2005, AT&T responded with only partial answers to staff's questions:

1) Who is the vendor for the prison pay phone calls?

"--AT&T is LD carrier at Airway Heights and VAC is the service provider. Zero Plus Dialing is the billing agent. AT&T provides both the Local and LD at Washington DOC Center for Women. T-Netix/CBS is the service provider and billing agent."

2) Did ZPDI bill for all of the vendor's calls?

"No, AT&T billed for calls through 3/28/2005 and then Zero Plus Dialing took over the billing at Airway Heights. Correctional Billing Service (CBS), has always billed at WA DOC Center for Women."

3) What were the incorrect rates the vendor charged for these calls?

"Zero Plus Dialing charged the customer for an InterLata InterState call at \$3.95 connection fee, \$0.89/minute and a \$0.47 PCC charge for a total of \$22.22 when customer should have been charged for an InterLata IntraState call of \$3.95 and \$0.59/minute for a total of \$15.75."

4) Were all prison pay phone calls in Washington incorrectly charged from November 2004 forward?

"No."

5) When did AT&T become aware of the incorrect billing?

"In June when a PUC complaint was received. It was also corrected in June."²

6) What was the time period that the vendor charged incorrectly for the prison pay phone calls in Washington?

"April, and May."

7) What action did AT&T take when it found out the vendor had incorrectly charged for the calls?

"AT&T immediately issued a credit for the difference and corrected the problem in all systems."

² Consumer complaint 93691 was received by the commission on June 2, 2005. AT&T was notified on the same date that improper charges were being billed for correctional facility collect calls.