

December 20, 2010

David S. Danner
Secretary and Executive Director
c/o Washington Utilities and Transportation Commission
Records Department
1300 S. Evergreen Park Drive S.W.
Olympia, WA 98504-7250

VIA UPS NEXT DAY AIR AND E-FILE

Re: Judd and Herivel v. AT&T Communications of the Pacific
Northwest, Inc. and T-Netix, Inc.
WUTC Docket No. UT-042022

Dear Mr. Danner:

Enclosed for filing in the above-referenced docket are the original and five (5) copies of *T-Netix, Inc's Motion for Leave to Reply to Complainants' Response to Responses by AT&T and T-Netix to Bench Requests 11, 12, 13, 14, and 15.*

Electronic copies were filed with the WUTC Records Department as of this date. All Parties of Record were served as outlined on the Certificate of Service included with the document.

If you have any questions, please feel free to contact me.

Sincerely,

ATER WYNNE LLP



Susan Carpenter
Assistant to Arthur A. Butler

Enclosures

cc: Parties of Record

1103376/1/SMA/102728-0001

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. MOTION FOR
LEAVE TO REPLY TO
COMPLAINANTS' RESPONSE TO
RESPONSES BY AT&T AND
T-NETIX TO BENCH REQUESTS
11, 12, 13, 14, AND 15**

Respondent T-Netix, Inc. ("T-Netix"), pursuant to WAC 480-07-375(1)(d) and through counsel, hereby moves for leave to reply to Complainants' Response to Responses by AT&T and T-Netix to Bench Requests 11, 12, 13, 14, and 15 ("Complainants' Response"). More specifically, T-Netix seeks leave to respond to issues raised by Complainants with regard to Bench Request No. 15 and the completeness of T-Netix's response thereto.

The Commission will grant parties leave to respond for "good cause."

Washington Utilities and Transportation Commission v. Avista Corporation d/b/a Avista Utilities, Docket Nos. UE-080416, UG-080417, Order No. 4, 2008 WL 3845288 (Aug. 8, 2008). For example, leave will be granted where a party offers "additional information on which to base our decision." *In the Matter of the Petition of Qwest Corporation For an Alternative Form of Regulation Pursuant to RCW 80.36.135*, Docket No. UT-061625, Order No. 18, 2009 WL

1 - T-NETIX, INC. MOTION FOR LEAVE TO REPLY TO COMPLAINANTS'
RESPONSE TO RESPONSES BY AT&T AND T-NETIX
TO BENCH REQUESTS 11, 12, 13, 14, AND 15

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3939980 (Nov. 12, 1999). Here, T-Netix seeks leave to respond to Complainants' baseless concerns that T-Netix failed to perform an appropriate search for information responsive to Bench Request No. 15 and their suggestion that T-Netix has failed to retain necessary records.

The form of Reply is appended hereto as **Attachment A**.

DATED this 20th day of December, 2010.

T-NETIX, INC.

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2 - T-NETIX, INC. MOTION FOR LEAVE TO REPLY TO COMPLAINANTS'
RESPONSE TO RESPONSES BY AT&T AND T-NETIX
TO BENCH REQUESTS 11, 12, 13, 14, AND 15

1103345/1/AAB/102728-0001

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CERTIFICATE OF SERVICE

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

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Olympia, WA 98504-7250	<input checked="" type="checkbox"/>	Email (records@wutc.wa.gov)

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Confidentiality Status: Highly Confidential

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On Behalf Of AT&T Communications of the Pacific Northwest, Inc.

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Confidentiality Status: Confidential

3 - T-NETIX, INC. MOTION FOR LEAVE TO REPLY TO COMPLAINANTS'
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ATTACHMENT A

5 - T-NETIX, INC. MOTION FOR LEAVE TO REPLY TO COMPLAINANTS'
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RESPONSES BY AT&T AND
T-NETIX TO BENCH REQUESTS
11, 12, 13, 14, AND 15**

Respondent T-Netix, Inc. (T-Netix), through counsel, submits this Reply to Complainants' Response to Responses by AT&T and T-Netix to Bench Requests 11, 12, 13, 14, and 15 dated December 15, 2010 ("Complainants' Response"). This Reply regards Complainants' statements with regard to Bench Request No. 15 and their suggestion that T-Netix's response to that item was incomplete.

BENCH REQUEST NO. 15:

Do AT&T or T-Netix have any record of billing Ms. Herivel, or having a third party bill Ms. Herivel on its behalf, for operator services or an operator-assisted call in connection with any collect call placed from the Airway Heights correctional institution near Spokane and received by Ms. Herivel at her home in Seattle between August 26,

1 - T-NETIX, INC. REPLY TO COMPLAINANTS' RESPONSE TO
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1997, and January 1, 1999? If so, please provide a copy of the bill(s). If a copy of the bill is unavailable, please identify the service(s) for which Ms. Herivel was billed, the amounts billed, and the date(s) on which the billed service(s) was (or were) provided.

T-NETIX RESPONSE TO BENCH REQUEST NO. 15:

T-Netix has researched all call records in its possession and has not found any record of billing Ms. Herivel, or having a third party bill Ms. Herivel on its behalf, for operator services or an operator-assisted call in connection with any collect call placed from the Airway Heights correctional institution near Spokane and received by Ms. Herivel at her home in Seattle between August 26, 1997, and January 1, 1999. T-Netix researched all three telephone numbers that Ms. Herivel identified twice in response to discovery: (206) 652-9415; (360) 714-8119; and (360) 738-8903.

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.

T-NETIX REPLY TO COMPLAINANTS' RESPONSE TO T-NETIX REGARDING BENCH REQUEST NO. 15

Complainants state that

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' [*sic*] response does not indicate what records it reviewed or efforts it undertook to comply with the bench request.

Complainants' Response at 5.

Complainants' concerns are baseless. First, T-Netix stated in its Response that it "did not find any record of billing Ms. Herivel" because that is the question posed by

Bench Request No. 15: “Do AT&T or T-Netix have any record of billing Ms. Herivel ...?” In order to address Complainants’ response, however, T-Netix clarifies that it has no record that any call from Airway Heights to Ms. Herivel occurred at all. Complainants are correct that it is not “surprising” that T-Netix lacks any record of billing Ms. Herivel, because T-Netix never rendered bills to any recipient of any inmate call from a Washington Department of Corrections facility. *See* T-Netix Response to Bench Request No. 14.

Secondly, T-Netix was clear in its Response as to the time period it searched: “between August 26, 1997, and January 1, 1999.” This is the specific time period requested in Bench Request No. 15. T-Netix searched that entire time period. Complainants do not state that this time period is inaccurate or incomplete.

Third, T-Netix was clear in identifying “what records it reviewed.” Complainants’ Response at 5. It “researched all call records in its possession.” A call record, or call detail record (“CDR”), is a memorialization of a completed inmate call. The CDRs contain call information from which bills can be rendered. That is, T-Netix provided the resident local exchange carrier or interexchange carrier with CDRs so that they could rate the calls, calculate the amounts due, and render bills to the appropriate person. If Ms. Herivel in fact received a call from Airway Heights, the CDRs would show that call. But T-Netix found no record of any call from Airway Heights to any of the three telephone numbers at which Ms. Herivel received inmate calls. Complainants do not state that the three telephone numbers T-Netix searched are incorrect or incomplete.

Finally, T-Netix cannot “perform a search using Ms. Herivel’s name or address.” Complainants’ Response at 5. T-Netix did not have Ms. Herivel’s address during the time period at issue, because T-Netix did not render bills to Ms. Herivel, or anyone else,

for an inmate call from any Washington Department of Corrections facility. *See* T-Netix Response to Bench Request No. 14. Rather, Ms. Herivel was billed either by her local exchange carrier or by the interexchange carrier. Because T-Netix's CDRs do not contain any names or addresses, T-Netix cannot search the CDRs by name or address. Rather, T-Netix's CDRs are searchable by date, originating telephone number, and terminating telephone number.

Complainants also state that "[b]oth T-Netix and AT&T should have preserved all of the records and data regarding calls from Airway Heights." Complainants' Response at 6. Complainants' suggestion that T-Netix lacks "all of the records" is incorrect and baseless. T-Netix retained all CDRs from the facilities at issue in this case, and it searched the CDRs from Airway Heights several times. T-Netix searched all CDRs from the Airway Heights facility during the time period stated and no record of a call from Airway Heights to Ms. Herivel is in those records. AT&T likewise found no record of such a call.

DATED this 20th day of December, 2010.

T-NETIX, INC.

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