

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 MOTION TO
STAY DISCOVERY**

1. Respondent T-NETIX, Inc. ("T-NETIX"), through counsel, hereby moves for a stay of discovery, including any further disclosure of Confidential and Highly Confidential Information, pending the determination of T-NETIX's motion for summary determination in this action.

2. As stated in T-NETIX's motion for summary determination, during the course of discovery in this case, Complainants for the first time have produced information demonstrating that they have suffered no cognizable harm in this case. All of the calls for which Complainants seek relief – inmate-initiated collect calls within the State of Washington – were local or intraLATA calls, and were carried by the resident LEC, either US West, GTE, or PTI (later known as CenturyTel). It is an undisputed fact that all of these carriers had waivers from the only rule at issue in this case – WAC 480-121-141, which governs "operator service providers." None of these carriers were required to "verbally advise the consumer how to receive a rate

quote” under that rule (*id.*) for the local and intraLATA calls that they carried, including calls placed by inmates from prison phones. Accordingly, accepting as true their allegations that they did not receive rate information when accepting inmate-initiated calls, Complainants have suffered no cognizable injury. They certainly have suffered no cognizable injury because of T-NETIX for the simple reason that T-NETIX did not carry any of the calls about which the Complainants complain. Moreover, Complainants were owed no duty by the entities that carried their inmate-initiated calls, again by virtue of the exemptions and waivers from WAC 480-120-141. And, Complainants were owed no duty by T-NETIX. Complainants thus have failed to present any claim before this Commission and therefore lack standing to pursue their claim before this Commission, warranting dismissal of this proceeding.

3. While WAC 480-07-380(d) provides that filing a motion for summary determination will not *automatically* stay any scheduled procedures, the Commission, on motion, may order a stay of any procedure. T-NETIX respectfully submits that such an order staying discovery is warranted in this case.

4. Discovery is burdensome and, particularly in this case which deals with inmate-initiated calls, can lead to the disclosure of some highly-sensitive commercial and security information. Even though there is a protective order, any disclosure and dissemination of sensitive information carries risks. There is no good reason to require the parties to continue to engage in burdensome, expensive, and potentially risky discovery pending the resolution of T-NETIX’s motion for summary determination. There is no time crunch requiring resolution of the case by a particular deadline, nor will there be any prejudice to any other party if discovery is held in abeyance pending resolution of T-NETIX’s dispositive motion.

5. For these reasons, T-NETIX requests an order staying discovery, including any further disclosure of Confidential and Highly Confidential information, pending resolution of T-NETIX’s motion for summary determination.

DATED this 21st day of April, 2005.

ATER WYNNE LLP

By  _____

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CERTIFICATE OF SERVICE

I hereby certify that I have this 21st day of April, 2005, served the true and correct original, along with the correct number of copies, of the foregoing document upon the WUTC, via the method(s) noted below, properly addressed as follows:

Carole Washburn	<input type="checkbox"/>	Hand Delivered
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Washington Utilities and Transportation Commission	<input type="checkbox"/>	Overnight Mail (UPS)
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Olympia, WA 98504-7250	<input checked="" type="checkbox"/>	Email (records@wutc.wa.gov)

I hereby certify that I have this 21st day of April, 2005, 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:

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Confidentiality Status: Highly Confidential

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Confidentiality Status: Public

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I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this 21st day of April, 2005, at Seattle, Washington.


