

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

DECLARATION OF KENNETH L.
WILSON IN SUPPORT OF
COMPLAINANTS' RESPONSE TO
T-NETIX, INC.'S MOTION FOR
SUMMARY DETERMINATION

I, KENNETH L. WILSON, hereby declare that:

1. I have been retained as an expert by complainants Sandy Judd and Tara Herivel in the above-captioned matter. I am personally familiar with the facts set forth in this declaration. If called to testify about any of these matters, I could and would competently testify thereto.

2. I am a senior consultant and Member of Boulder Telecommunications Consultants, LLC in Boulder, Colorado. My office address is 970 11th Street, Boulder, Colorado 80302.

3. I received a BS in Electrical Engineering from Oklahoma State University in 1972, a MS in Electrical Engineering from the University of Illinois in 1974, and I completed all of the coursework for a Ph.D. in Electrical Engineering at the University of Illinois in 1976.

4. I have worked in the telecommunications industry for 25 years. For fifteen of those years I worked as a Member of the Technical Staff at Bell Labs in New Jersey. My work at Bell Labs included responsibilities for network design and performance evaluation, asset utilization planning, and business case analysis. In 1995 I moved to Denver to work in the AT&T Local Services Division, helping AT&T to enter the local telephony market in the U S WEST (now Qwest) region.

5. Since the spring of 1998, I have worked as a telecommunications consultant and expert. As a consultant and expert I have evaluated disputes between various telecommunications companies. The technical and business issues that I addressed in those cases are similar in nature to those I reviewed in this case.

6. I have spent approximately 20 hours reviewing material in this case, analyzing information, and studying the facts surrounding the issues in question. I am basing the statements made below on my review of the material that was given to me. I have no specific knowledge regarding the facts of this case other than that which I gleaned from the documents I reviewed. I do not possess, nor have I ever possessed any AT&T confidential information relevant to this case. I have not reviewed any confidential information from either T-Netix or AT&T in this matter, as I understand that AT&T is objecting to my services as an expert. Moreover, discovery is still in a very early stage and depositions have yet to commence. Finally, I understand that T-Netix and AT&T have both refused to participate in any further discovery while T-Netix's motion is pending.

7. Based on the discovery provided to date, my analysis reveals the following call flow from a prison inmate to the party they are calling. The inmate picks up a designated phone, from which only collect calls can be made. The inmate dials a 0+ telephone number and a unique inmate identifier and passcode. The telephone is connected to a special call processor and inmate call control platform designed to provide operator services functions. The inmate operator services platform (platform) has software and hardware that control the call and provide services to the inmate and the person the inmate is calling. After the dialed digits have been completed, the platform screens the dialed number against a list of prohibited numbers. If the number dialed is not prohibited, the platform connects the call to either a LEC switch or an IXC switch by launching a call with the same ten digit dialed number, prefixed with 1+ instead of 0+. The platform will ask the inmate to state his or her name. The call is completed to the dialed telephone by one or more LEC and/or IXC switches. The routing to the IXC may be done through the LEC or may be done directly to an IXC switch by the platform, if appropriate trunking has been provided. When the called party answers the telephone, the platform will play a prerecorded message stating that they have a call from the inmate and by playing the inmate's recording. The platform then gives the person an option of accepting the call or rejecting the call by pressing a number on the keypad of their phone. It is at this time that the platform should play a prerecorded rate announcement and give the called party an opportunity to hear a message regarding the rates associated with the call. If the person accepts the call, the call proceeds, as would a normal call. If the

called party rejects the call, the platform disconnects the call. The platform keeps a record of the call, including the date, time, originating phone number, terminating phone number, length of call and distance of call. Each carrier's switch also keeps the same type of billing record of each call.

8. Historically, operator services have provided callers with the ability to access special billing and call handling features that are not available with a regular 1+ dialed call. Newton's Telecom Dictionary defines Operator Services as:

Any of a variety of telephone services which need the assistance of an operator or an automated "operator" (i.e. using interactive voice response technology and speech recognition). Such services include collect calls, third party billed calls and person-to-person calls.¹

This definition is consistent with the definition provided by the WUTC:

Operator Service provider (OSP) – any corporation, company partnership, or person providing a connection to intrastate or interstate long-distance or to local services from locations of call aggregators. The term "operator services" in this rule means any intrastate telecommunications service provided to a call aggregator location that includes as a component any automatic or live assistance to a consumer to arrange for billing or completion, or both, of an intrastate telephone call through a method other than (1) automatic completion with billing to the telephone from which the call originated, or (2) completion through an access code used by the consumer with billing to an account previously established by the consumer with the carrier.²

9. The T-Netix platform appears to be performing all of the functions of the call platform for correctional institutions described in paragraph 7 above. Further, the

¹ Newton's Telecom Dictionary, 18th Edition, Harry Newton, CMP Books, 2002.

² WAC 480-120-021 (1999)

T-Netix platform appears to be providing automated operator services functions that are consistent with the definitions of operator services described in paragraph 8 above. The T-Netix platform performs operator services functions on each call dialed by an inmate. Specifically, the platform provides automatic assistance to a consumer to arrange for billing and completion of an intrastate telephone call, as specified in the WUTC definition of operator services.

10. The T-Netix platform provides part of the transmission path for every telephone call made by an inmate. The T-Netix platform provides connection to intrastate and interstate long-distance providers and to local service providers from all correctional facilities where the T-Netix platforms are located. Calls from inmates in correctional institutions can not be made without going through the T-Netix platform. Calls are not connected, except by the platform.

11. For DOC locations where a T-Netix platform is located, a LEC may “carry” the call—it can provide transport and switching of the calls that are sent to it from the T-Netix platform. The LEC does not appear to provide operator services functionality in locations served by T-Netix platforms. Critically, transport of a call is not associated with operator services functions.

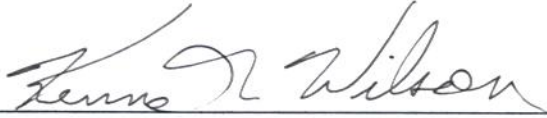
12. T-Netix should have upgraded its platforms to provide rate notification when the regulations required disclosure. T-Netix started upgrading its inmate operator services platforms in more than 1400 locations at correctional facilities across the country starting in 1999 to accept remote programming and to provide precise rate quotes. In February 2002, T-Netix asked the FCC for additional time to complete

upgrades that would allow its platforms to give precise rate quotations when connecting calls from inmates.³

13. T-Netix appears to provide platforms at all DOC locations in Washington where T-Netix provides local service. Furthermore, based on the limited number of documents I have reviewed to date, there is reason to believe that T-Netix is also providing platforms at other DOC locations in Washington. It is difficult to discern exactly where T-Netix had its platforms, as I understand that T-Netix and AT&T are now refusing to provide any discovery while T-Netix's motion is pending. This much is clear, however: All of the T-Netix platforms, no matter where they are located, are performing operator services functions as defined by the WUTC. Additional discovery is required to identify the locations of all T-Netix platforms.

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

Signed this 2nd day of May, 2005, at Boulder, Colorado.



Kenneth L. Wilson

³ T-Netix, Inc. Petition for Clarification and Waiver, FCC Docket No. 92-77 with attached Affidavit of Richard E. Cree in Support Of T-Netix Petition for Clarification and Waiver.