

**REDACTED HIGHLY CONFIDENTIAL PER PROTECTIVE ORDER
IN WUTC DOCKET NO. UT-042022**

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

SANDY JUDD, et al.,

Complainant,

v.

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

Respondents.

Docket No. UT-042022

NOTICE OF FILING

TO: Counsel of Record Listed on Certificate of Service

PLEASE TAKE NOTICE that on Wednesday, June 15, 2005, AT&T caused to be filed with the Executive Secretary of the Washington Utilities and Transportation Commission, AT&T's Motion for Leave to File a Response to the Supplemental Declaration of Kenneth L. Wilson in the above-referenced proceeding, a copy of which is attached hereto and served upon you.

Dated: June 15, 2005

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

By: *Letty S.D. Friesen (by DCS)*

Letty S.D. Friesen
AT&T
919 Congress Avenue, Suite 900
Austin, TX 78701-2444
(303) 298-6475
(303) 298-6301 (fax)

One of the attorneys for AT&T

**REDACTED HIGHLY CONFIDENTIAL PER PROTECTIVE ORDER
IN WUTC DOCKET NO. UT-042022**

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

SANDY JUDD, et al.,

Complainant,

v.

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

Respondents.

Docket No. UT-042022

**AT&T'S MOTION FOR LEAVE TO FILE ITS RESPONSE TO
THE SUPPLEMENTAL DECLARATION OF KENNETH L. WILSON**

1. Respondent AT&T Communications of the Pacific Northwest, Inc. ("AT&T") respectfully requests leave to file its response to the Supplemental Declaration of Kenneth L. Wilson.

2. The Supplemental Declaration of Kenneth L. Wilson in opposition to T-Netix's motion for summary adjudication, which the ALJ granted Complainants leave to file on June 2, 2005, raises several items of speculation that are inaccurate and/or misleading.

3. AT&T respectfully suggests that the attached short response to Mr. Wilson's Supplemental Declaration (Exhibit 1 hereto) will assist the ALJ in resolving T-Netix's motion for summary adjudication and requests leave to file the response.

Dated: June 15, 2005

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

By: *Letty S. D. Friesen (by DCS)*
Letty S.D. Friesen

AT&T
919 Congress Avenue, Suite 900
Austin, TX 78701-2444
(303) 298-6475
(303) 298-6301 (fax)
One of the attorneys for AT&T

EXHIBIT 1

To AT&T's Motion for Leave to File Its
Response to the Supplemental Declaration
of Kenneth L. Wilson

**REDACTED HIGHLY CONFIDENTIAL PER PROTECTIVE ORDER
IN WUTC DOCKET NO. UT-042022**

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

<p>SANDY JUDD, et al.,</p> <p style="text-align:center">Complainants,</p> <p style="text-align:center">v.</p> <p>AT&T Communication of the Pacific Northwest, Inc. and T-Netix, Inc.</p> <p style="text-align:center">Respondents</p>

Docket No. UT-042022

Oral Argument Requested

**AT&T's RESPONSE TO THE SUPPLEMENTAL
DECLARATION OF KENNETH L. WILSON**

1. Respondent AT&T Communications of the Pacific Northwest, Inc. ("AT&T") respectfully submits this response to the Supplemental Declaration of Kenneth L. Wilson ("Wilson Dec.").

2. The Supplemental Declaration of Kenneth L. Wilson no more establishes the Complainants' standing against AT&T than any of the Complainants' earlier misguided attempts. The evidence already presented in this proceeding made clear that Sandy Judd received only local and intraLATA prison calls, for which AT&T had no responsibility and which never even touched AT&T's network. See AT&T's Response Joining in T-Netix's Motions for Summary Determination and to Stay Discovery at ¶¶ 4-11. Faced with this information, the Complainants attempted to establish some standing against AT&T by claiming that Tara Herivel had received a single interLATA call from Airway Heights Correctional Center ("Airway Heights"). But even if one were to assume for purposes of this motion that she had, in fact, received that call, it would not establish that she has any standing to sue AT&T because US

West Communications, n.k.a. Qwest Communications, was responsible for connecting interLATA calls from that facility to AT&T's point of presence. See AT&T's Sur-Reply in Support of Its Response Joining in T-Netix's Motions For Summary Determination at ¶¶ 2-3. Now, in yet another attempt to revive their moribund claim, Complainants present the Supplemental Declaration of Mr. Wilson, in which Mr. Wilson speculates about two separate items.

REDACTED

3. Mr. Wilson's assertions about AT&T's operating authority to provide intraLATA service are absolutely irrelevant. Complainants cannot establish standing to sue AT&T simply because AT&T is generally certified to handle intraLATA toll calls. In order to establish standing, Complainants must demonstrate that they actually received a call that involved AT&T intraLATA toll service or that they were somehow injured by it. See *Stevens v. Rosario Utils.*, WUTC Docket No. UW-011320, Third Supp. Order at 19, 2002 WL 31730489 at *14 (Wash. U.T.C. July 12, 2002) (applying two part test of *SAVE v. City of Bothell*, 89 Wash. 2d 862, 866,

576 P.2d 401, 403-04 (1978), including requirement that plaintiff suffer “injury in fact”). The contracts between AT&T and the Washington DOC, as well as those between AT&T and the various LECs, all make clear that the LECs, not AT&T, actually provided local and intraLATA telephone service from the prisons where Complainants received calls. See AT&T’s Response Joining in T-Netix’s Motions For Summary Determination and to Stay Discovery at ¶¶ 6-9. Mr. Wilson’s speculation about AT&T’s regulatory authority does nothing to establish that the Complainants actually suffered any injury in fact as a result of anything that AT&T did.

REDACTED

In fact, as shown in T-Netix’s Motion for Summary Determination, the particular calls at issue were all handled by a LEC acting under a waiver granted by the WUTC.

5. Complainants have failed to demonstrate that they suffered any injury in fact as a result of anything that AT&T allegedly did or failed to do. AT&T simply has had no involvement with any of the calls that the Complainants allegedly received and as a result, the claims against it should be dismissed.

Dated: June 15, 2005

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

By: Letty S.D. Friesen (by DCS)

Letty S.D. Friesen
AT&T
919 Congress Avenue, Suite 900
Austin, TX 78701-2444
(303) 298-6475
(303) 298-6301 (fax)

Laura Kaster
AT&T
One AT&T Way
Room 3A213
Bedminster, NJ 07921
(908) 532-1888
(832) 213-0130 (fax)

Of Counsel:
Charles H.R. Peters
SCHIFF HARDIN, LLP
6600 Sears Tower
Chicago, IL 60606
(312) 258-5500
(312) 258-5600 (fax)

EXHIBIT A

To AT&T's Response to the Supplemental
Declaration of Kenneth L. Wilson

**BEFORE THE WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION**

SANDY JUDD, ET AL.)	
Complainant,)	
)	Docket No. UT-042022
v.)	
)	
AT&T COMMUNICATIONS OF THE)	DECLARATION IN SUPPORT
PACIFIC NORTHWEST, INC.)	OF AT&T'S REPLY
)	REGARDING T-NETIX'S
And)	MOTION FOR SUMMARY
)	DETERMINATION
T-NETIX, INC.)	
Respondents.)	

DECLARATION OF JOHN D. SCHELL, JR.

1. I, John D. Schell, Jr., subject to the penalties for perjury, hereby state as follows:
2. I am over 21 years of age and I offer this declaration based upon my personal knowledge and information.
3. I work for AT&T Corp. as a contract employee in the Local Services Access Management group in AT&T Network Services. My business address is 3033 Chain Bridge Road, Oakton, Virginia 22185. In this capacity I am presently responsible for, among other things, providing technical support and services related to AT&T's inter-connection agreements with other telecommunications companies.
4. I graduated from St. Louis University with a Bachelor of Science degree in Electrical Engineering in 1965. I joined AT&T Long Lines in 1965 as a Senior Engineer in the Engineering Department in Kansas City, Missouri. After that, I held

various line and staff positions in AT&T, including District Engineer – Transmission for the Eastern Region of AT&T, where I was responsible for providing technical expertise and guidance related to AT&T’s transmission and switching systems. When I retired from AT&T in January 1998, I was District Manager - Connectivity Network Planning and my group was responsible for developing AT&T’s local market infrastructure plans and managing AT&T’s access arrangements with local exchange carriers and competitive access providers in the Atlantic States.

5. Through my various responsibilities for AT&T I am familiar with AT&T’s network architecture and interconnection configurations in the State of Washington and elsewhere.

6. The purpose of my affidavit is to provide the Commission with some information regarding AT&T’s network connectivity related to service for the Washington Department of Corrections (“WDOC”).

7. T-Netix does not connect its operator services platform directly to AT&T switches to serve the Washington State Reformatory in Monroe; the McNeil Island Detention Center; the Airway Heights Correctional Center; or the Clallam Bay Corrections Center; in fact, T-Netix’s platform is not connected to, or integrated with, any AT&T switches serving Washington state.

Dated this 14th day of June 2005.

June 14, 2005 John R. Schmitt
Date Signed

CERTIFICATE OF FILING AND SERVICE

The undersigned, an attorney, hereby certifies that on June 15, 2005, he served the true and correct original, along with the correct number of copies, of the foregoing document upon the WUTC for filing via email and Federal Express, properly addressed as follows:

Carole Washburn
Executive Secretary
Washington Utilities and Transportation Commission
1300 S. Evergreen Park Drive SW
P.O. Box 47250
Olympia, WA 98504-7250
records@wutc.wa.gov

The undersigned, an attorney, further certifies that on June 15, 2005, he served a true and correct copy of the foregoing document upon counsel of record via email and Federal Express, properly addressed as follows:

Stephanie A. Joyce
Kelley Drye & Warren LLP
1200 19th Street NW, Suite 500
Washington, DC 20036-2423
sjoyce@kelleydrye.com

Glenn B. Manishin
Kelley Drye & Warren LLP
8000 Towers Crescent Drive, Suite 1200
Vienna, VA 22182
gmanishin@kelleydrye.com

Arthur A. Butler
Ater Wynne LLP
601 Union Street, Suite 5450
Seattle, WA 98101
aab@aterwynne.com

Jonathan P. Meier
Sirianni Youtz Meier & Spoonemore
719 Second Avenue, Suite 1100
Seattle, WA 98104
jon@sylaw.com

By email only:

Ann E. Rendahl ALJ
Washington Utilities and Transportation Commission
1300 S. Evergreen Park Drive NW
P.O. Box 47250
Olympia, WA 98504-7250
arendahl@wutc.wa.gov

Dated: June 15, 2005



David C. Scott