

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

WASHINGTON UTILITIES AND)	
TRANSPORTATION COMMISSION,)	DOCKET UT-060962
)	
Complainant,)	COMPLAINT
)	
v.)	NOTICE OF OPPORTUNITY TO
)	ADDRESS CONFIDENTIAL
)	INFORMATION
AT&T COMMUNICATIONS OF THE)	(By June 20, 2007)
PACIFIC NORTHWEST, INC.)	
)	NOTICE OF PREHEARING
Respondent.)	CONFERENCE
)	(Set for June 22, 2007, 1:30 p.m.)
.....)	

1 The Washington Utilities and Transportation Commission (Commission), on its own motion, and through its Staff, alleges as follows:

I. INTRODUCTION

2 Telecommunications companies subject to Commission jurisdiction must properly bill customers by charging no more than the rates in their tariffs or schedules. RCW 80.36.130 provides that no telecommunications company may charge, demand, collect, or receive different compensation for any service rendered or to be rendered than the charge applicable to such service as specified in its schedule on file with the Commission and in effect at that time.

3 As alleged below, 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 schedules on file with the Commission and in effect, in violation of RCW 80.36.130.

II. BACKGROUND INFORMATION

4 In August 2005, a consumer filed a complaint with the Commission, stating that he had been improperly billed for collect calls made from pay phones at correctional facilities within the state of Washington, and did not receive a sufficient explanation of the disparate charges from AT&T. When Commission Staff found that AT&T had

improperly charged rates to all customers who accepted collect calls during portions of March, April, May, and June 2005, from the Airway Heights Correction Center in Spokane, Staff initiated a formal investigation. A copy of Staff's Investigation Report and Addendum are attached to this complaint.

- 5 In order to determine the extent of the improper rates charged, beginning on February 28, 2006, Staff issued multiple data requests to AT&T asking it to provide information about the billing of correctional facility calls, and to supply Staff with a list of customers who were improperly charged during the March through June 2005 calling period. AT&T did not provide complete responses to the data requests, stating that it no longer had these records and could not furnish them because it sold its correctional facility pay phone business to another company (Global Tel*Link Corporation, or GTL). Staff was unable to continue its investigation into the extent of the improper billing on the basis of the information that AT&T did provide.
- 6 On July 13, 2006, the Commission found that AT&T appeared to have violated statutes and rules allowing Commission staff to review the books and records of any public service company and requiring telecommunications companies to maintain records for at least three years.¹ The Commission found that AT&T is required by law to maintain records of its operations and to furnish those records to the Commission upon request and served AT&T with an Order to Produce Records. The Order stated that a Commission investigation into the books, accounts, practices, and activities of AT&T was necessary in order to carry out the duties imposed on the Commission by law. Accordingly, the Order required AT&T to produce a list of all Washington customers that were improperly billed by AT&T, or on behalf of AT&T, for correctional facility collect calls made during March, April, May, and June 2005.
- 7 On August 22, 2006, AT&T provided records of improperly billed prison collect calls. The furnished documents included GTL records subsequent to the sale of the correctional facility pay phone business to GTL in June, 2005. The records subsequent to the sale were therefore disregarded for purposes of Staff's investigation of AT&T, as described in the Addendum to Staff's Investigation Report.
- 8 AT&T, through its billing agent, Zero Plus Dialing, Inc. (ZPDI), collected charges from customers who accepted pay phone collect calls from the Airway Heights Correctional Facility and the Washington State Penitentiary. AT&T's tariff sheet with the applicable rates and charges was on file with the Commission and in effect at that time.

¹ RCW 80.04.070; WAC 480-120-349.

9 Based upon the records provided by AT&T to the Commission, Staff determined that, between March 14, 2005, and June 1, 2005, AT&T overcharged a significant number of customers who accepted collect pay phone calls from either the Airway Heights Correctional Facility or the Washington State Penitentiary.²

10 Staff completed its investigation in March 2007.

11 Under RCW 80.04.380, AT&T is subject to penalties of up to \$1,000 for each violation of RCW Title 80.

III. PARTIES

12 The Washington Utilities and Transportation Commission is an agency of the state of Washington, authorized by state law to regulate the rates, services, facilities, and practices of public service companies, including telecommunications companies, under the provisions of RCW Title 80.

13 AT&T Communications of the Pacific Northwest, Inc., is a telecommunications company subject to regulation by the Commission pursuant to RCW 80.01.040.

IV. JURISDICTION

14 The Commission has jurisdiction over this matter pursuant to RCW 80.01.040, RCW 80.04.110, 80.04.160, 80.04.380, 80.04.470, RCW 80.36, and WAC 480-120.

V. CLAIMS AND CAUSES OF ACTION

15 The Commission, through its Staff, realleges the allegations contained in paragraphs 4 through 14 above.

16 AT&T's rate schedule on file with the Commission, and in effect at the time, and attached to Staff's Investigation Report as Appendix D, provides in part:

AT&T Prison Collect with Controls Service is an AT&T Long Distance Service that permits inmates to place collect calls originated over the AT&T Network from authorized telephone numbers in a

² The number of alleged overcharged customers and the total amount of the overcharges is currently alleged to be confidential information and therefore is not identified in the complaint and is redacted from the Staff's investigation report. The Commission will consider whether the information is confidential. If the information is deemed not to be confidential, the Commission will issue an amended complaint identifying the number of calls for which AT&T allegedly overcharged customers, as well as the total amount alleged to be overcharged.

Prison Administration controlled environment. The terms and conditions of interstate Prison Collect with Controls Service as described in AT&T's Tariff F.C.C. No. 27 apply to this service.³

Rates and Charges -- Operator Station Collect -- RATE PER MINUTE
\$0.59, Service Charge Per Call \$3.95.⁴

- 17 Between March 14, 2005 and June 1, 2005, AT&T failed to properly charge a significant number of customers who accepted collect pay phone calls from the Airway Heights Correctional Facility and the Washington State Penitentiary in accordance with its rate schedules on file with the Commission.

VI. REQUEST FOR RELIEF

- 18 Staff requests that the Commission find that AT&T violated Commission statutes and rules, in particular RCW 80.36.130, and that each customer call that AT&T improperly billed constitutes one violation of RCW 80.36.130.
- 19 Staff further requests that the Commission impose monetary penalties on AT&T under RCW 80.04.380 and/or other sanctions against AT&T for violations of Commission statutes and rules, including RCW 80.36.130, if the alleged violations are proven.
- 20 Staff further requests the Commission order such other or further relief as is appropriate under the circumstances.

VII. PROBABLE CAUSE

- 21 Based on a review of Staff's report on its investigation of AT&T, and all supporting documents, and consistent with RCW 80.01.060 and WAC 480-07-307, the Commission finds probable cause exists to issue this complaint.

VIII. NOTICE OF OPPORTUNITY TO ADDRESS CONFIDENTIALITY

- 22 Prior to Commission Staff requesting a probable cause determination to issue this complaint, counsel for Staff and AT&T advised the Commission of a dispute over AT&T's designation of confidential information. AT&T asserts that confidential data

³ Original Sheet 77, paragraph 49.1.

⁴ Original Sheet 77, paragraph 49.2.1.

provided to Staff remains confidential even in an aggregated form.⁵ Staff disputes AT&T's claim of confidentiality. To preserve AT&T's claim of confidentiality until after the complaint is issued and there is a proceeding pending before the Commission, the complaint does not include any information AT&T alleges to be confidential. The Commission will address the issue of confidentiality at the prehearing conference scheduled in this matter. If the information is determined not to be confidential, the Commission will issue an amended complaint including the information at issue.

- 23 **NOTICE IS GIVEN That AT&T and Staff may file with the Commission pleadings addressing the confidentiality of the aggregated information by June 20, 2007.** To allow the Commission to address the issue effectively at the prehearing conference, the Commission provides an opportunity for AT&T and Staff to explain their positions in advance, in writing.

IX. NOTICE OF PREHEARING CONFERENCE

- 24 **THE COMMISSION GIVES NOTICE That** it will hold a prehearing conference in this matter at **1:30 p.m., on Friday, June 22, 2007**, in Room 206, Second Floor, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington. The purpose of the prehearing conference is to consider requests for intervention, resolve scheduling matters including establishing a procedural schedule, to identify the issues in the proceeding and determine other matters to assist the Commission in resolving the matter, as listed in WAC 480-07-430. The parties will also be provided an opportunity at the prehearing conference to present argument on the issue of the confidentiality of aggregated information in Staff's investigation report.

- 25 The Commission will hear this matter under the Administrative Procedure Act (APA), particularly Part IV of RCW 34.05, relating to adjudications. The provisions of the APA that relate to this proceeding include, but are not limited to, RCW 34.05.413, RCW 34.05.431, RCW 34.05.434, RCW 34.05.440, RCW 34.05.449, and RCW 34.05.452. The Commission will also follow its procedural rules in WAC 480-07 in this proceeding.

⁵ See May 10, 2007, letter to Carole J. Washburn from Gregory J. Kopta, counsel for AT&T.

- 26 THE COMMISSION GIVES FURTHER NOTICE THAT ANY PARTY WHO FAILS TO ATTEND OR PARTICIPATE IN THE HEARING SET BY THIS NOTICE, OR ANY OTHER STAGE OF THIS PROCEEDING, MAY BE HELD IN DEFAULT IN ACCORDANCE WITH RCW 34.05.440 AND WAC 480-07-450.
- 27 If any party or witness needs an interpreter or other assistance, please fill out the form attached to this notice and return it to the Commission.
- 28 The names and mailing addresses of all parties and their known representatives are as follows:

Complainant: Washington Utilities and
Transportation Commission
1300 S. Evergreen Park Drive S.W.
PO Box 47250
Olympia, WA 98504-7250
(360) 664-1160

Representative: Michael A. Fassio
Assistant Attorney General
1400 S. Evergreen Park Drive S.W.
PO Box 40128
Olympia, WA 98504-0128
(360) 664-1192

Respondent: AT&T Communications of the
Pacific Northwest, Inc.
Letty S.D. Friesen
Senior Attorney
AT&T Enterprise Services, Inc.
2535 E. 40th Ave. Suite B-1223
Denver, CO 80205
(303) 299-5708

Representative: Gregory J. Kopta
Davis Wright Tremaine LLP
1501 4th Avenue, Suite 2600
Seattle, WA 98101
(206) 628-7692

- 29 Dennis J. Moss is appointed as the Administrative Law Judge from the Utilities and Transportation Commission's Administrative Law Division, 1300 S. Evergreen Park Drive S.W., Olympia, Washington 98504-7250, and will preside at the hearing.
- 30 Notice of any other procedural phase will be given in writing or on the record as the Commission may deem appropriate during the course of this proceeding.

DATED at Olympia, Washington, and effective May 31, 2007.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

ANN E. RENDAHL
Administrative Law Judge

Inquiries may be addressed to:

Executive Secretary
Washington Utilities and
Transportation Commission
Richard Hemstad Building
1300 S. Evergreen Park Drive S.W.
P. O. Box 47250
Olympia, WA 98504-7250
(360) 664-1160

NOTICE

PLEASE NOTE: The hearing facilities are accessible to interested people with disabilities; that smoking is prohibited; and, if limited English-speaking or hearing-impaired parties or witnesses are involved in a hearing and need an interpreter, a qualified interpreter will be appointed at no cost to the party or witness.

The information needed to provide an appropriate interpreter or other assistance should be stated below and returned to Washington Utilities and Transportation Commission, Attention: Carole J. Washburn, 1300 S. Evergreen Park Drive SW, P.O. Box 47250, Olympia, WA 98504-7250. (PLEASE SUPPLY ALL REQUESTED INFORMATION)

Docket: _____

Case Name: _____

Hearing Date: _____ Hearing Location: _____

Primary Language: _____

Hearing Impaired: (Yes)_____ (No)_____

Do you need a certified sign language interpreter?:

Visual_____ Tactile_____

Other type of assistance needed: _____

English-speaking person who can be contacted if there are questions:

Name: _____

Address: _____

Phone No.: (____)_____