

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 PETITION FOR
ADMINISTRATIVE REVIEW AND
MOTION FOR STAY**

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I. INTRODUCTION

1. T-NETIX, Inc. (“T-NETIX”), respondent in this proceeding, hereby petitions the Commission pursuant to WAC 480-07-810 for administrative review of the Order of Administrative Law Judge Ann E. Rendahl, issued July 18, 2005 (“*Order*”), denying T-NETIX’s Motion for Summary Determination (“*Motion*”). The *Order* incorrectly holds that the Commission lacks the authority to address issues of standing when reviewing a complaint referred under primary jurisdiction, thus substantially diminishing the Commission’s power and responsibility to administer and adjudicate the cases brought before it. To rectify this unwarranted result, and correct several clearly erroneous conclusions of law, the Commission should vacate the *Order* and require ALJ Rendahl to rule on the substance of T-NETIX’s Motion.

II. QUESTIONS PRESENTED

- A. What is the breadth of this Commission’s jurisdiction and authority when reviewing cases presented to it under the doctrine of primary jurisdiction?
- B. Is the requirement of legal standing irrelevant when this Commission decides cases referred to it under the doctrine of primary jurisdiction?

III. CONCLUSIONS OF LAW FOR REVIEW

2. This Petition seeks Commission review of the following Conclusions of Law entered by ALJ Rendahl:

- A. **Conclusion of Law No. 2:** Complainant’s affidavits and pleadings raise questions of material fact as to the role of T-Netix and AT&T in connecting the calls in question between correctional institutions and the Complainants and identify several issues of material fact concerning AT&T’s and T-Netix’s networks and the carriers’ involvement in the calls in question.
- B. **Conclusion of Law No. 3:** The law at issue in T-Netix’s motion for summary determination is the law governing the doctrine of primary jurisdiction, not the law governing standing.
- C. **Conclusion of Law No. 5:** T-Netix is not entitled to judgment as a matter of law, as the Commission does not have primary jurisdiction in this matter to address issues of standing, but is limited to applying its statutory authority to determine whether AT&T is an operator services provider

under the Commission's rules and whether AT&T and T-Netix violated the Commission's rules governing operator services companies.

- D. **Conclusion of Law No. 6:** The Commission does not have jurisdiction in this primary jurisdiction referral to determine whether the Complainants may amend their pleadings.

IV. SUMMARY

3. Review of this Petition is required to avoid the substantial effort and expense of continuing to adjudicate a claim for which Complainants have no standing. T-NETIX's Motion, denied by ALJ Rendahl, demonstrated that Complainants do not have standing to pursue their Complaint which seeks relief for alleged violations of WAC 480-120-121 requiring audible rate disclosures on payphone calls. ALJ Rendahl rejected T-NETIX's Motion and has required the parties to continue with discovery and motions practice, reasoning that she is not empowered to dismiss the Complaint because it is based on a primary jurisdiction referral from King County Superior Court on November 9, 2000. ALJ Rendahl accordingly did not consider the substance of T-NETIX's Motion.

4. The purpose of this Petition is to raise a fundamental question regarding the Commission's authority to administer its docket: is the Commission stripped of the ability to review lack of standing when a complaint is brought in connection with a primary jurisdiction referral. Precedent in this Commission demonstrates that the answer is no. The *Order* should therefore be vacated in order that ALJ Rendahl may substantively review whether Complainants have standing to proceed.

V. EVIDENCE RELIED UPON

5. T-NETIX relies upon the following evidence in this Petition:
- a. Order Denying in Part Defendant T-NETIX, Inc.'s Motion to Dismiss First Amended Complaint – Class Action and Granting in Part and Referring to WUTC (November 9, 2000) ("*T-NETIX Referral Order*").
 - b. Order Granting AT&T Corp.'s Motion to Dismiss (November 9, 2000) ("*AT&T Referral Order*").

- c. T-NETIX's Motion for Summary Determination, WUTC Docket No. UT-042022 (April 21, 2005) ("T-NETIX Motion").¹
- d. Affidavit of Nancy Lee, Senior Vice President of Billing Services, T-NETIX, Inc. (April 20, 2005).
- e. Complainants' Opposition to Motion for Summary Determination (May 6, 2005).
- f. T-NETIX Reply in Support of Motion for Summary Determination (May 10, 2005) ("T-NETIX Reply").
- g. AT&T Response Joining in T-NETIX's Motions for Summary Determination and to Stay Discovery (May 6, 2005) ("AT&T Joinder").
- h. Complainants' Reply to AT&T's Response Joining in T-NETIX's Motions (May 13, 2005).
- i. Declaration of Tara Herivel in Support of Complainants' Response to AT&T's Response Joining T-NETIX's Motion for Summary Determination ("Herivel Decl.") (May 11, 2005).
- j. Supplemental Affidavit of Nancy Lee (June 27, 2005) ("Lee June 27 Aff.").
- k. Transcript (June 28, 2005) ("Tr.").
- l. Order of ALJ Rendahl (July 18, 2005) ("*Order*").

VI. STANDARD OF REVIEW

6. The Order states that it must be treated as an interlocutory order. *Order* ¶ 82 (Exhibit 1). Petitions for review of interlocutory orders may be granted where "[a] review could save the commission and the parties substantial effort or expense, or some other factor is present that outweighs the costs in time and delay of exercising review." WAC 480-07-810.

7. Commission review of Interlocutory Orders is conducted *de novo*. See *WUTC v. Cougar Ridge Water System*, WUTC Docket No. UW-040367, *Order No. 3: Order Granting Petition for Interlocutory Review, Affirming in Part, and Denying in Part, Interlocutory Ore; Establishing Filing Schedule* (WUTC November 22, 2004); *In re Application No. B-079273 of Aqua Express, LLC, for a Certification of Public Convenience and Necessity to Provide Commercial Ferry Service*, WUTC Docket No. TS-040650, *Order No. 04: Order Accepting*

¹ All documents listed hereafter were filed within the WUTC proceeding, Docket No. UT-42022, unless otherwise indicated.

Staff's Petition Interlocutory Review of Order No. 02, Denying Relief Requested (WUTC June 30, 2004); *In the Matter of the Review of Unbundled Loop and Switching Rates, and Review of the Deaveraged Zone Rate Structure*, WUTC Docket No. UT-023003, *Fourteenth Supplemental Order: Denying Petition for Review of Interlocutory Order; Granting Motions to Compel* (WUTC October 14, 2003).

VII. PROCEDURAL BACKGROUND

8. This case came to the Commission via Formal Complaint on November 14, 2004, four years after Judge Kathleen Learned of the King County Superior Court stayed Complainants' action for civil damages under the Washington Consumer Protection Act, RCW § 19.86 *et seq.* ("CPA"), pending a review by the WUTC of whether AT&T and T-NETIX were subject to and violated an administrative rule governing operator services. The Court reasoned that only if AT&T and/or T-NETIX violated WAC 480-120-141 could Judd and Herivel pursue damages under the CPA.

9. In their complaint in Superior Court, Complainants Judd and Herivel named T-NETIX, AT&T Communications of the Northwest, GTE Northwest, US West and CenturyTel (formerly PTI) as defendants. Plaintiffs alleged that all defendants had violated the CPA by failing to provide rate disclosure information in connection with inmate-initiated collect calls as required by WAC 480-120-141. None of Complainants' papers in the trial court stated the origin or the number of the inmate-initiated calls for which they required relief.

10. GTE (now Verizon), US West (now Qwest) and CenturyTel were dismissed by the Superior Court with prejudice on the ground that they were exempt from WAC 480-120-141 under the express language of the rule and through long-term waivers granted by this Commission. That dismissal was upheld by the Court of Appeals and was again upheld by the Supreme Court of Washington. *Judd v. AT&T*, 116 Wash. App. 761, 66 P.3d 1102 (2003), *aff'd* 52 Wash.2d 195, 95 P.3d 337 (2004).

11. On November 9, 2000, the trial court dismissed Complainants' claims against both T-NETIX and AT&T, without prejudice, staying further proceedings pending a referral to this Commission of the question whether AT&T or T-NETIX had violated WAC 480-120-141. On November 17, 2004, after the Supreme Court affirmed dismissal of GTE, US West and CenturyTel, Complainants filed the instant Complaint to obtain a ruling on this question.

12. Respondent AT&T filed a Motion for Summary Determination in this proceeding on December 15, 2004. Briefing on that motion was suspended pending a scheduling conference, which was conducted by ALJ Rendahl on February 16, 2005. At that conference, ALJ Rendahl authorized the parties to conduct discovery, including written data requests and depositions, and established a schedule for the briefing and resolution of AT&T's motion. All parties propounded data requests on March 7, 2005. T-NETIX received Complainants' responses to its data requests on April 4, 2005.

13. Complainants' responses demonstrated that they had not suffered cognizable injury, because all of the inmate calls of which they complained had been carried by GTE, US West or PTI – LECs that were exempt from WAC 480-120-141. Accordingly, on April 21, 2005, T-NETIX filed its Motion for Summary Determination on the ground that Complainants lacked standing to pursue their claims, and thus this proceeding should be dismissed with prejudice. T-NETIX simultaneously filed a Motion to Stay Discovery. Complainants opposed both motions on May 6, 2005. AT&T filed a Response Joining in T-NETIX's Motions for Summary Determination and to Stay Discovery on May 6, 2005, which Complainants opposed on May 13, 2005.

14. Oral argument was heard June 28, 2005, at the close of which ALJ Rendahl ruled from the bench and denied T-NETIX's Motion. The written order issued July 18, 2005. In it, ALJ Rendahl finds that "the Commission does not have jurisdiction to decide the issue of standing," *Order* ¶ 37, and that "it would be inappropriate for the Commission not to address the questions referred by the Superior Court." *Id.*

VIII. FACTUAL BACKGROUND

15. AT&T holds an exclusive contract with the Washington Department of Corrections (“DOC”) to provide intraLATA and international services to several DOC facilities. T-NETIX Motion ¶ 9 (Exhibit 2). AT&T is authorized to take on subcontractors to assist in providing services to DOC facilities. AT&T Joinder ¶ 9 (Exhibit 3). T-NETIX is a subcontractor to AT&T. T-NETIX Motion ¶ 9. T-NETIX executed a subcontract with AT&T by which it has provided software used for screening, validating and monitoring inmate calls to AT&T. *Id.*

16. GTE (now Verizon) and US West (now Qwest) are subcontractors to AT&T for the provision of local and intraLATA calls made from certain DOC facilities. Specifically, GTE contracted to serve the Twin Rivers Corrections Center, the Washington State Reformatory in Monroe, the Indian Ridge Corrections Center in Arlington, and the Special Offender Center in Monroe. T-NETIX Motion ¶ 9. US West contracted to serve the Washington Corrections Center in Shelton, the McNeil Island Penitentiary, the Washington State Penitentiary in Walla Walla, Airway Heights Correctional Center, Tacoma Pre-Release, Cedar Creek Corrections Center and the Larch Corrections Center. *Id.*

17. Prior to 1998, PTI (later known as CenturyTel) was also an AT&T subcontractor. T-NETIX Motion ¶ 10. PTI served several facilities, including the Clallam Bay Corrections Center. *Id.* In March 1998, T-NETIX assumed only the local traffic under the PTI contract. *Id.*

18. On April 4, 2005, Complainant Judd stated in verified responses to discovery that she received calls from the Washington State Reformatory in Monroe and the McNeil Island Detention Center. T-NETIX Motion ¶ 11. Complainant Herivel stated in verified responses to discovery that she received calls from the Washington State Reformatory in Monroe and the Airway Heights Correctional Center. *Id.* In addition, Complainants' phone bills show conclusively that all calls were local or intrastate, and all calls were carried by GTE, US West or PTI. T-NETIX Motion at 8-9. Complainants' discovery responses mark the first time that T-NETIX learned the origin of the calls at issue in Complainants' claim, either in court or in this Commission. *Id.*

19. The facilities identified by Complainants' discovery responses were served by GTE and US West. GTE and US West were each exempt from complying with the rate disclosure requirements with respect to calls placed by inmates, as was PTI. Under the version of WAC 480-120-141 in place from 1991 to 1999, all local exchange carriers ("LECs") were expressly exempted from these requirements. In addition, when the rule was amended in 1999 to include LECs, US West, GTE and CenturyTel (PTI's predecessor) obtained waivers of the rule from the Commission that extended through the fourth quarter of 2000. *Judd*, 66 P.3d at 769 & n.8. It was for these reasons that this Court dismissed US West, GTE and PTI from this case. *Id.* at 770.

20. Four months after the Supreme Court's decision affirming the dismissals, Complainants filed their Complaint with the Commission.

IX. REASONS FOR GRANTING THIS PETITION

A. This Commission Must Retain Authority to Review Issues of Standing In Its Proceedings [Conclusions of Law Nos. 3, 5 and 6]

WAC 480-07-810(3) Statement: Review of Conclusions of Law Nos. 3, 5 and 6 is dispositive of the issue whether the Commission retains authority to address issues of standing in its proceedings. These Conclusions of Law are material to ALJ Rendahl's *Order*.

21. It is well settled that persons must have standing to bring a complaint to this Commission. *Stevens v. Rosario Utils.*, WUTC Docket No. OW-011320, 2002 WL 31730489 at * 13 (WUTC July 12, 2002) (citing *Save a Valuable Environment (SAVE) v. City of Bothell*, 89 Wash.2d 862, 576 P.2d 401, 403-404 (1978)). See also *United & Informed Citizen Advocates v. Wash. Utils. & Transp. Comm'n*, 1999 WL 713702, at * 1 (Sept. 13, 1999) ("*U&ICAN*").

22. In *Stevens*, the Commission reviewed a complaint by several property owners that Rosario Utilities, a water utility, was unlawfully discriminating against them by giving preferential treatment to its own resort property. By order of ALJ Karen Caillé, the parties briefed the issue of whether some of the property owners had standing to pursue the complaint. ALJ Caillé reviewed the parties' arguments closely, applying both the Commission's rule defining who may be an "Applicant" for relief, as well as the Supreme Court's holding in *SAVE*. She held

that the property owners indeed had standing as agents of the affected homeowners' association, regardless of whether they were direct customers of Rosario. *Stevens*, 2002 WL 31730489 at * 13. ALJ Caillé's decision – more so her *sua sponte* request for briefing on this issue – demonstrates that the Commission has the authority to determine, according to its own administrative procedure, who has standing.

23. The *U&ICAN* case further demonstrates this Commission's independent authority to address standing. There, a citizens' group had filed a complaint to the Commission that US West had unlawfully blocked three residential phone lines that had been "bridged" to provide what US West termed "Extended Area Service." 1999 WL 713702, at * 1. The presiding administrative law judge dismissed the complaint on the ground that U&ICAN did not have standing to pursue the claims of the three residents. The full Commission affirmed. Complainants were forced to file a companion complaint in Superior Court, which was itself dismissed on other grounds. *Id.* at *2.

24. The Commission must use and preserve this authority to address the standing of those who seek relief here. As an executive agency empowered by the Legislature to regulate and oversee utilities and the services they provide, the Commission has no obligation to review complaints of those to whom no remedy is owed. As even ALJ Rendahl agreed at the hearing, "[w]e do not give advisory opinions[.]" Tr. at 67:6 (Exhibit 4). Yet, as demonstrated below, her failure to address squarely substantial questions of standing and her decision to proceed to the merits of this case will result in just such an advisory opinion.

25. Contrary to Conclusions of Law Nos. 3, 5 and 6, there is no need to treat cases initiated by primary jurisdiction referral differently than any other type of complaint. As T-NETIX counsel explained, "[w]e happen to be in this Commission, but the requirement of standing doesn't go away. Justiciability doesn't go away." Tr. at 25:20-22. The Commission should not be stripped of its right to review standing, which it consistently has done in accordance with the Supreme Court's *SAVE* test, simply because a companion court action is pending. The

Order should therefore be vacated to ensure that the authority and responsibility of the Commission to ensure the standing of administrative complainants is preserved in this regard.

**B. ALJ Rendahl Erred By Refusing to Decide the Issue of Standing
[Conclusion of Law No. 2]**

WAC 480-07-810(3) Statement: Review of Conclusion of Law No. 2 is dispositive of the issue whether the Commission retains authority to address issues of standing in its proceedings. This Conclusion of Law is material to ALJ Rendahl's *Order*.

26. Analysis of ALJ Rendahl's reasoning in denying T-NETIX's Motion reveals that the denial was borne not out of analysis of standing, but rather a reluctance to decide the issue at all. As such, the parties are presently litigating substantive merits questions before that agency on behalf of persons who lack standing and to whom the Court cannot grant relief. *Hangman Ridge Training Stables, Inc. v. Safeco Title Ins. Co.*, 105 Wash.2d 778, 792, 719 P.2d 531 (1986); *Washington State Physicians Ins. & Exch. Ass'n v. Fisons Corp.*, 122 Wash.2d 299, 311-12, 858 P.2d 1054 (Wash. 1993).

27. ALJ Rendahl does not dispute that Complainants' standing is questionable. Nor does she dispute the fact that the WUTC, under its own precedent governing standing requirements, "do[es] not give advisory opinions." Tr. at 67:6. Rather, she "do[es] not feel comfortable in the Commission's role on a referral in primary jurisdiction in telling the Superior Court that this should be dismissed on that basis." Tr. at 66:20-23. She thus instructed the parties that standing "**may be a valid point to raise to the Superior Court ... and I think you are all correct that it is an important consideration for Judge Learned** in deciding what to do with this case when it comes back to her[.]" Tr. at 66:23-67:4 (emphasis added). But ALJ Rendahl denied T-NETIX's Motion on the ground that "it is not the Commission's role to dismiss this case." *Id.* at 67:4-5.

28. ALJ Rendahl reiterated this refusal in her subsequent *Order*, stating that "it would be inappropriate for the Commission not to address the questions referred by the Superior Court." *Order* ¶ 37. Her concern was that "[t]he issue of Complainants' standing to bring a complaint

before the Commission is not within the issues referred to the Commission for consideration.” *Id.* In fact, she went so far as to hold that “**the Commission does not have jurisdiction to decide the issue of standing.**” *Id.* (emphasis added). In plain terms, she refused to decide the question of standing at all.

29. ALJ Rendahl also stated in the subsequent *Order* that “Complainant’s affidavits and pleadings raise questions as to the role of T-Netix and AT&T in connecting the calls between the correctional institutions and the Complainants.” *Order* ¶ 34. These “questions,” she reasoned created disputed material facts that prevented her from dismissing the case. *Id.* This reasoning is the basis of Conclusion of Law No. 2.

30. Yet as T-NETIX had argued in its moving papers, the question of T-NETIX’s “role” is immaterial where Complainants have no injury in the first instance. T-NETIX Reply ¶ 6 (Exhibit 5). *See also* Tr. at 30:3-9. Delving into the “role” of T-NETIX and AT&T by its nature assumes that injury exists, and some entity must provide relief. As such, the question for which ALJ Rendahl demands an answer is a core merits issue, and one that no tribunal should reach when the parties before it have no justiciable claim.

31. Moreover, ALJ Rendahl’s concern over these questions is analytically no different than her reluctance to dismiss the proceeding. The “role” T-NETIX and AT&T played in the challenged inmate calls is the very question this Court referred to the WUTC:

- a. “[W]hether or not [AT&T is] considered by the agency to be an OSP under the contracts at issue herein, and if so if the regulations have been violated.” *AT&T Referral Order* (Exhibit 6).
- b. “[T]he matter is referred to the [WUTC] for further proceeding to determine if T-Netix has violated WUTC regulations.” *T-NETIX Referral Order* (Exhibit 7).

Thus, the “questions as to the role of T-NETIX and AT&T in connecting the calls” (*Order* ¶ 34) are in fact the primary jurisdiction questions. In demanding answers to them, ALJ Rendahl is merely reiterating her incorrect conclusion that “it would be inappropriate” not to answer the Court’s questions. *Id.* ¶ 37. Her decision on standing is actually not to decide.

32. T-NETIX therefore requests that the Commission vacate ALJ Rendahl's decision and remand the matter for consideration of whether Complainants have standing to proceed before the Commission.

C. T-Netix Demonstrated that Neither Judd Nor Herivel Have Standing in This Commission

33. The Commission applies a two-part test to determine whether a complainant has standing: (1) complainant must demonstrate injury, financial or otherwise ("injury in fact"); and (2) complainant must have an interest that is within the "zone of interest" of the type that the Commission regulation is designed to protect. *Stevens*, 2002 WL 31730489 at * 13. Both the injury in fact and the zone of interest are defined by the statute sought to be enforced. *See id.* In this case, these criteria are defined by WAC 480-120-141.

34. T-NETIX's Motion demonstrated in detail that neither Complainant has suffered any injury under WAC 480-120-141 and that neither Complainants are within the zone of interest of that rule. All documented calls that Complainants received – according to the years of phone bills that they produced² – were either local or intraLATA. T-NETIX Motion ¶¶ 14-23. This fact is undisputed. Tr. at 40:18-24. They were carried by either GTE, US West, or PTI. T-NETIX Motion ¶ 20.³ The rates that applied and that Complainants purport to have paid were set and collected by those three carriers. T-NETIX Reply ¶ 9. Yet GTE, US West and PTI were exempt from having to disclose those rates, first by the plain language of WAC 480-120-141 and later by the Commission's express waivers of the rule effective through December 31, 2000; the Supreme Court has upheld the validity of those waivers. *Judd*, 95 P.3d at 199.

² See chart at pages 8-9 of the T-NETIX Motion. All calls were received by November 30, 2000.

³ After close of briefing on the T-NETIX Motion, Complainant Herivel filed a Declaration alleging that she received a call to her Seattle residence from the Airway Heights Correctional Center near Spokane between October 1 and December 31, 1998. Herivel Decl. ¶ 2 (Exhibit 8). She admitted that she cannot produce a phone bill for this call. *Id.* ¶ 3. T-NETIX has no record that this call took place. Lee June 27 Aff. ¶ 3 (June 27, 2005). (Exhibit 9) *See also* Tr. at 28:1-22.

35. These LECs' exemptions from WAC 480-120-141 mean that Judd and Herivel cannot have suffered any injury as a matter of law. If they in fact did not hear rate disclosures during these calls, that result was created and blessed by the Commission. As such, Complainants have no cognizable injury to be adjudicated under the Commission's own precedent in *Stevens* and *U&ICAN*. *E.g.*, *Stevens* 2002 WL 31730489 at * 13.

36. In addition, the LEC waivers exclude Judd and Herivel from the zone of interest in WAC 480-120-141. *Stevens* 2002 WL 31730489 at * 13. That rule did not apply to the entities that carried, rated and billed Complainants' calls. The rule thus did not protect Complainants. Accordingly, they have no protected right to enforce in this proceeding, depriving them of standing to pursue their claim here any further.

37. These threshold questions were not substantively addressed by ALJ Rendahl. Rather, she held that standing "may be a valid point to raise to the Superior Court when the Commission reaches the issues that the Superior Court has asked us to raise." Tr. at 66:23-67:1. She therefore is requiring the parties to proceed with this case, though that effort may, she acknowledged, create "a waste of resources." *Order* ¶ 37.

38. T-NETIX therefore petitions the Commission for a review of ALJ Rendahl's Order and to require that she consider substantively Complainants' questionable standing in this complaint case.

X. MOTION FOR STAY

39. T-NETIX moves for a stay of further proceedings in this docket, including any discovery and further disclosure of Confidential and Highly Confidential Information, pending the determination of this Petition.

40. As stated in this Petition, 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. Therefore, Complainants lack standing to pursue their claim before this Commission, warranting dismissal of this proceeding.

41. The Commission, on motion, may order a stay or suspension of the procedural schedule for good cause. WAC 480-07-385. T-NETIX respectfully submits that such an order staying proceeding in this docket pending resolution of this Petition is warranted in this case.

42. 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 this Petition. 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 this Petition.

XI. CONCLUSION

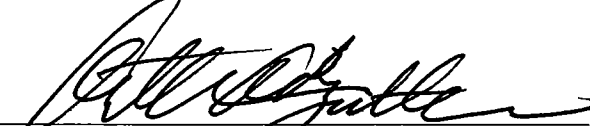
43. For all these reasons, in order to avoid further substantial effort and expense of the parties and the Commission, the Commission should: (1) find that Conclusions of Law Nos. 2, 3, 5 and 6 are incorrect as a matter of law; thus, rendering the *Order* reversible error the *Order* should be vacated and the issue of Complainants' standing remanded to ALJ Rendahl for decision; and (2) enter an order staying further proceedings in this docket, including any discovery and further disclosure of Confidential and Highly Confidential information, pending resolution of this Petition.

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DATED this 27th day of July, 2005.

ATER WYNNE LLP

By



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CERTIFICATE OF SERVICE

I hereby certify that I have this 27th day of July, 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
Executive Secretary	<input type="checkbox"/>	U.S. Mail (first-class, postage prepaid)
Washington Utilities and Transportation Commission	<input checked="" type="checkbox"/>	Overnight Mail (UPS)
1300 S Evergreen Park Drive SW	<input type="checkbox"/>	Facsimile (360) 586-1150
Olympia, WA 98504-7250	<input checked="" type="checkbox"/>	Email (records@wutc.wa.gov)

I hereby certify that I have this 27th day of July, 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:

Ms. Letty S. Friesen	<input type="checkbox"/>	Hand Delivered
AT&T Communications of the Pacific Northwest	<input checked="" type="checkbox"/>	U.S. Mail (first-class, postage prepaid)
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Confidentiality Status: Highly Confidential

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Confidentiality Status: Highly Confidential

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Confidentiality Status: Public

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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 27th day of July, 2005, at Seattle, Washington.

