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SUPERIOR COURT OF WASHINGTON IN AND FOR KING COUNTY

SANDY JUDD, TARA HERIVEL and  
ZURAYA WRIGHT, for themselves, and on  
behalf of all similarly situated persons, ,

Plaintiffs,

v.

AMERICAN TELEPHONE AND TELEGRAPH  
COMPANY; GTE NORTHWEST INC.;  
CENTURYTEL TELEPHONE UTILITIES,  
INC.; NORTHWEST  
TELECOMMUNICATIONS, INC., d/b/a/ PTI  
COMMUNICATIONS, INC.; U.S. WEST  
COMMUNICATIONS, INC.; T-NETIX, INC.,

Defendants.

No. 00-2-17565-5 SEA

T-NETIX, INC.'S MOTION FOR  
CLARIFICATION OF ORDER

**RELIEF REQUESTED**

On September 7, 2005, this Court entered an Order Granting T-Netix' Motion for Summary Judgment (on file herein) on the basis that plaintiffs lack standing to sue where they were unable to demonstrate that they suffered any cognizable injury. T-Netix' motion papers (on file herein) asked the Court to include rescission of the WUTC referral in the relief to be awarded if T-Netix prevailed on its Motion for Summary Judgment. (T-Netix' Motion for Summary Judgment, pp.16-18; T-Netix' Reply in Support of Motion for Summary Judgment, pg.5, ll. 15). Implicit in the Order is the Court's rescission of its

T-NETIX, INC.'S MOTION FOR  
CLARIFICATION OF ORDER - 1

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1 previous primary jurisdiction referral to the WUTC, but it is not stated in the express  
2 language of the Order. Plaintiffs, however, are now disputing the status of the matter before  
3 the WUTC and have requested that the WUTC proceeding remain open, despite entry of  
4 summary judgment in favor of T-Netix. T-Netix, therefore, is compelled to request that this  
5 Court issue an Order to make clear that the relief T-NETIX sought – which plainly  
6 including rescinding the referral of the matter to the WUTC – has been granted.

### 7 DISCUSSION

8 The argument for rescinding the Court’s primary jurisdiction referral to the WUTC  
9 has already been stated in T-Netix’ motion papers. (See T-Netix’ Motion for Summary  
10 Judgment, pp.16-18). To summarize, neither Judd nor Herivel may pursue their claim  
11 before this Court because the material facts of this case demonstrate that they have no  
12 protectable interest in rate disclosures. See *Orion v. State*, 103 Wn.2d 441, 454, 693 P.2d  
13 1369, 1377 (1985). (See T-Netix’ Motion for Summary Judgment, pp.16-18). Because  
14 there is no controversy that this Court can adjudicate, dismissal is required which relieves  
15 the WUTC of its duty to comply with the Court’s primary jurisdiction referral. As such the  
16 Court should withdraw its request of the WUTC.

17 The initial referral to the WUTC was predicated on the belief that Judd’s and  
18 Herivel’s claims would go forward in this Court. With all evidence now demonstrating that  
19 these plaintiffs in fact have no viable claims, this Court has no need of the WUTC’s  
20 assistance. Accordingly, this Court does not ‘require resolution’ of any regulatory issue  
21 within the WUTC’s expertise, warranting rescission of the Court’s primary jurisdiction  
22 referral.

23 Absent this relief, the WUTC may require T-NETIX to adjudicate this matter fully,  
24 undergoing extensive written and deposition discovery, to resolve a regulatory question in a  
25 dispute that cannot be tried. Indeed, ALJ Rendahl previously has stated that she intends to  
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1 resolve the Court's referral fully, and leave it to the parties to return to this Court and ask for  
2 dismissal. T-NETIX therefore respectfully requests that this Court clarify its Order by  
3 dismissing this case and withdrawing the WUTC referral.

4 DATED this 19<sup>th</sup> day of September, 2005.

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T-NETIX, INC.'S MOTION FOR  
CLARIFICATION OF ORDER - 3

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