

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

**COMPLAINANTS' MOTION FOR CONTINUANCE OF RESPONSE DEADLINE
TO AT&T'S MOTION FOR SUMMARY DETERMINATION**

Relief Requested

1. Complainants Sandy Judd and Tara Herivel submit this agreed request for a continuance to allow them to file a response to respondent AT&T Corp.'s Motion for Summary Determination. Specifically, complainants move to continue their response deadline to February 1, 2005.

Statement of Facts

2. By letter dated November 16, 2004, Ms. Judd and Ms. Herivel filed a complaint in this proceeding based on a primary jurisdiction referral from King County Superior Court. The respondents, AT&T and T-Netix, both filed answers to the complaint on December 15, 2004. On that same date, AT&T filed and served a

Motion for Summary Determination. Under WAC 480-07-380(2)(c), complainants' response is due within 20 days after the motion is served, which is January 4, 2005.

3. Initially, the January 4 deadline poses a logistical problem for complainants' counsel, who will be out of the country from December 21 through December 30, 2004. Meier Decl., ¶ 2. Beyond that, complainants' counsel believes that adequate preparation of a response to AT&T's Motion for Summary Determination requires, at a minimum, a certain amount and type of discovery. *Id.*, ¶ 3.

4. Counsel for complainants has conferred with counsel for AT&T. These parties have reached agreement on an appropriate continuance of the due date. AT&T has agreed not to oppose a continuance of four weeks, conditioned on agreement to the discovery discussed below, which would set the response deadline for February 1, 2005. *Id.*

5. Counsel have also conferred regarding the need for discovery during the time period leading up to the filing of complainants' response. Counsel have reached agreement on the following:

- Within a reasonably prompt time to allow complainants to review documents and prepare a response to the Motion for Summary Determination, and in advance of any depositions, AT&T will produce written discovery to complainants consisting of all documents in its possession relating to the contracts and subcontracts in effect from June 1996 to the present between the parties in this proceeding.
- Within a reasonably prompt time to allow complainants to review documents and prepare a response to the Motion for Summary Determination, and in advance of any depositions, AT&T will produce written discovery to complainants consisting of all documents in its possession sufficient to identify where

telecommunications traffic from the correctional facilities at issue in this proceeding connect to AT&T's point of presence.

- AT&T will permit up to three depositions, including a deposition of Frances Gutierrez, a deposition of someone knowledgeable about the contracts and subcontracts at issue in this proceeding, and a deposition of someone knowledgeable about the question of whether AT&T provided operator services under the contracts at issue in this proceeding. Counsel will cooperate on the scheduling of these depositions to allow them to occur sufficiently in advance of the deadline for complainants' response to the Motion for Summary Determination so as to allow for an adequate time to review the depositions and prepare the response.
- Within a reasonably prompt time to allow AT&T to review documents and in advance of any depositions of complainants, complainants will produce to AT&T all written documents in their possession relating to the inmate telephone services provided to complainants under the contracts at issue in this proceeding.
- AT&T may depose Ms. Judd and Ms. Herivel.
- If either AT&T or complainants conclude that they need additional discovery beyond that stated above, they will file a motion and attempt to show good cause for such additional discovery.

Id., ¶ 4. Complainants' counsel has contacted counsel for T-Netix regarding the proposed continuance, who has indicated that T-Netix does not oppose this motion for continuance. *Id.*, ¶ 5.

Statement of Issue

6. Whether complainants should be granted a continuance of four weeks to respond to AT&T's Motion for Summary Determination and whether discovery should be permitted on the terms agreed to by complainants and AT&T?

Evidence Relied Upon

7. Declaration of Jonathan P. Meier

Argument

8. WAC 480-07-385 permits any party to request a continuance and requires the Commission to grant such a request upon a showing of good cause and lack of prejudice. Complainants' request for a four-week extension to file its response to AT&T meets this test. Counsel for AT&T and complainants have conferred and agree that the request makes sense, both to accommodate counsel's schedule and to permit limited discovery during the period leading up to the response deadline. There is no prejudice to either party or to T-Netix. Complainants request that the four-week continuance be granted on the terms agreed to by complainants and AT&T.

DATED: December 20, 2004.

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CERTIFICATE OF SERVICE

I certify, under penalty of perjury and in accordance with the laws of the State of Washington, that on December 20, 2004, I served a copy of the foregoing document on all counsel of record in the manner shown and at the addresses listed below:

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