

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

SANDY JUDD AND TARA)	DOCKET UT-042022
HERIVEL,)	
)	
Complainant,)	ORDER 13
)	
v.)	ORDER GRANTING JOINT
)	MOTION FOR PERMISSION TO
AT&T COMMUNICATIONS OF THE)	FILE REPLY
PACIFIC NORTHWEST, INC., AND)	
T-NETIX, INC.,)	(Replies to Oppositions to Discovery
)	Motions are due Wednesday,
Respondents.)	December 24, 2008, at 12:00 p.m.)
.....)	

MEMORANDUM

1 **SYNOPSIS.** *This Order grants the Joint Motion for Permission to File Reply to the Oppositions to AT&T Communications of the Pacific Northwest, Inc.’s (AT&T) Motion to Compel T-Netix, Inc. (AT&T Motion), Sandy Judd and Tara Herivel’s (Complainants, collectively with AT&T and T-Netix, Inc., “Parties”) Motion to Compel Discovery from T-Netix, Inc. (Complainants’ Motion), and T-Netix Inc.’s Motion for a Protective Order (collectively with AT&T Motion and Complainants’ Motion, “Discovery Motions”) but only to the extent that the Parties do not repeat arguments they have already raised in the Discovery Motions or their oppositions to the Discovery Motions.*

2 **NATURE OF PROCEEDING.** Docket UT-042022 involves a formal complaint filed with the Washington Utilities and Transportation Commission (Commission) by Sandy Judd and Tara Herivel (Complainants) against AT&T Communications of the Pacific Northwest, Inc. (AT&T), and T-Netix, Inc. (collectively with AT&T, “Respondents”), requesting that the Commission resolve certain issues of fact and law under the doctrine of primary jurisdiction and referred by the Superior Court of Washington for King County.

3 **APPEARANCES.** Chris R. Youtz, Sirianni Youtz Meier & Spoonemore, Seattle,
Washington, represents Complainants (collectively with Respondents, “Parties”).
Letty Friesen, AT&T Law Department, Austin, Texas, and Charles H. R. Peters,
Schiff Hardin, LLP, Chicago, Illinois, represent AT&T. Arthur A. Butler, Ater
Wynne LLP, Seattle, Washington, Joseph S. Ferretti, Duane Morris, LLP,
Washington, D.C., and Glenn B. Manishin, Kelley Drye & Warren LLP,
Washington, D.C., represent T-Netix.

4 **PROCEDURAL HISTORY.** On November 17, 2004, Complainants filed a
formal complaint with the Commission against Respondents under the court’s
referral.¹

5 On October 2, 2008, the Commission entered Order 09 which established the
procedural schedule in this matter.

6 On October 23, 2008, the Commission entered Order 10 granting T-Netix’s Motion to
Amend the Scheduling Order and extending the procedural schedule deadlines by
approximately two weeks.

7 On November 12, 2008, the Commission entered Order 11 granting Complainants’
Motion to Amend the Scheduling Order and extending the deadline for filing motions
to compel by one week. Therefore, the motions to compel were due November 26,
2008.

8 On December 5, 2008, the Commission entered Order 12 granting the Parties’
Consent Motion to Extend Time for filing oppositions to Complainants’ Motion to
Compel Discovery from T-Netix, AT&T’s Motion to Compel T-Netix, and T-Netix’s
Motion for Protective Order (collectively, Discovery Motions). Order 12 directed
that oppositions to the Discovery Motions would be due by December 12, 2008, at
12:00 p.m.

9 **REQUEST FOR LEAVE TO FILE REPLIES.** On December 16, 2008, the Parties
filed a Joint Motion for Permission to File Reply (Joint Motion) which requested that

the Commission allow the Parties to respond to the various oppositions to the Discovery Motions.

10 Complainants assert that their reply is necessary to address T-Netix's claim that Complainants did not request rate disclosure information or emails from T-Netix.²

11 AT&T states that its reply is necessary to address T-Netix's claim that T-Netix's equipment and services are not relevant to determining which party served as the operator service provider for the institutions at issue.³

12 T-Netix posits that its reply is necessary to address issues raised by Complainants' Opposition to T-Netix's Motion for Protective Order.⁴ T-Netix lists five issues specifically relating to subjects raised by Complainants.

13 The Parties suggest that the replies each Party wishes to file would provide assistance to the Commission in resolving the Discovery Motions.⁵ None of the Parties object to the request.⁶

14 The Commission's procedural rules do not anticipate the filing of replies to oppositions to motions to compel. Under WAC 480-07-370, the Commission may allow the filing of pleadings, other than those listed in the regulation, upon written motion or on the Commission's own motion.⁷

15 Based on the Parties' assurance to the Commission that the replies will "be helpful to the Commission in resolving the underlying [Discovery Motions]," the Commission finds good cause exists to grant the Parties' Joint Motion to the extent that the Parties' replies only address those arguments the Parties have not previously asserted in the Discovery Motions or the oppositions to the Discovery Motions. The Parties must file their replies by **12:00 p.m., on Wednesday, December 24, 2008.**

¹ The procedural history in this matter is described more fully in Order 09 in this docket and is not repeated here.

² *Joint Motion for Permission to File Reply*, at 1, ¶ 2.

³ *Id.*, at 2, ¶ 3.

⁴ *Id.*, at 2, ¶ 4.

⁵ *Id.*, at 2, ¶ 5.

⁶ *Id.*

⁷ WAC 480-07-370(1).

ORDER

16 **THE COMMISSION ORDERS** That the Joint Motion for Permission to File Reply of Sandy Judd and Tara Herivel, AT&T Communications of the Pacific Northwest, Inc., and T-Netix, Inc., is granted to the extent listed above in paragraph 15. The replies shall be filed with the Commission by 12:00 p.m., December 24, 2008.

Dated at Olympia, Washington, and effective December __, 2008.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARGUERITE E. FRIEDLANDER
Administrative Law Judge