

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

**AT&T'S REPLY IN SUPPORT OF
ITS MOTION TO COMPEL**

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Respondent AT&T Communications of the Pacific Northwest, Inc. ("AT&T"), by and through its attorneys, respectfully submits this Reply in Support of Its Motion to Compel.

Introduction

In its opposition to AT&T's Motion to Compel, T-Netix asserts that the specific information sought in AT&T's Data Requests "is either irrelevant to this proceeding or not within the present knowledge or possession of T-Netix." See T-Netix's Opp. at ¶ 2. T-Netix should be compelled to produce the requested documents and information.

Data Request Nos. 7, 8, 9, 10, and 21

AT&T's Data Request Nos. 7, 8, 9, and 10 asked T-Netix to identify and describe the nature, function, and purpose of all equipment and services provided by T-Netix relating to telephone service at the Washington correctional facilities at issue during the relevant period. Data Request No. 21 asked T-Netix to produce all documents relating to or identifying the call control platform and architectural variant used at each facility during the relevant period. T-Netix failed to provide any details, such as which specific equipment and services T-Netix

provided at which specific facilities during which specific time period. T-Netix also failed to describe the nature, function, and purpose of any specific equipment or services that were provided at any specific institution during any specific time period. AT&T moved to compel.

In its Opposition, T-Netix attempts to justify its failure to provide the specific information requested by stating that “[t]he equipment provided at each institution bears no relationship at all to which party, if any, served as an OSP.” See T-Netix’s Opp. at ¶ 3. T-Netix relies on the declaration of Robert Rae, in which he acknowledges that T-Netix transmits calls from Washington prisons to local exchange carriers, but states that “the number of trunks of lines, the specifications of equipment deployed, and the type of transport and/or switching connectivity to the inmate call processing platform at an institution have no bearing on the functions performed by the various entities.” See T-Netix’s Opp. at ¶ 4. While Mr. Rae’s admission alone may be sufficient to establish that T-Netix served as the OSP, his assumption about what is relevant to this proceeding is wholly misplaced.

At all relevant times, the WUTC regulations defined an OSP as “any corporation, company, partnership, or person providing a connection to intrastate or interstate long-distance or to local services from locations of call aggregators.” See WAC 480-120-021 (1999) and WAC 480-120-262(1) (current). Inherent in this definition is the notion that if a call is transferred from a location of a call aggregator, such as a prison or hotel, to a local or long distance service provider, the entity facilitating that transfer is the OSP. Nonetheless, T-Netix has refused to provide information detailing exactly what role it plays in providing that connection. These data requests inquire about the equipment, services, and processes provided by T-Netix at the relevant institutions – for example, how T-Netix’s platform and other equipment functioned at each institution for inmate-initiated calls, what services, including

operator services, T-Netix provided at each institution, and how these equipment, services, and processes relate to providing the connection of inmate-initiated calls to intrastate or interstate long-distance or to local services from locations of call aggregators.

T-Netix should not be allowed to randomly select a limited number of documents to describe the equipment and services it provided, and the processes it followed, at the relevant institutions. AT&T is entitled to obtain documents that describe in detail what T-Netix equipment does, how it does it, and what services it provides. Those documents will help AT&T explain to the Commission the role that T-Netix plays in connecting calls from the relevant prisons to a local or long distance provider. T-Netix cannot be permitted to produce only those documents that it believes might help it tell the story it wants to tell. All of the documents that provide this information should be produced.

Mr. Rae's opinion as to the meaning of "connection" and other issues is not a basis for excusing T-Netix from producing relevant documents and information. T-Netix should be compelled to produce all documents and information that specifically identify, explain, or relate to the functions of all T-Netix equipment and services provided at each specific Washington state correctional facility. This data is not only relevant, but is absolutely necessary to show that T-Netix was the OSP.

Data Request Nos. 11, 12, 18 and 19

AT&T's Data Request Nos. 11 and 12 asked T-Netix to describe the process by which rate disclosures were made to recipients of inmate-initiated calls, and any changes or revisions to that process. Data Request Nos. 18 and 19 asked T-Netix to describe the process by which intrastate, interLATA calls from the Washington correctional facilities at issue were processed from caller to call-recipient during the relevant period, and any changes or revisions made to that process. T-Netix only partially described the process by which rate disclosures were made to

recipients of inmate-initiated calls. It failed to describe fully how it made these disclosures or any changes or revisions to the process, claiming that it is unaware of any, despite the fact that regulatory requirements changed over time and documents reflect that T-Netix made changes to the process. T-Netix provided only a brief and general description of the process for intrastate, interLATA calls, and failed to state with any certainty what process actually occurred.

In its Opposition, T-Netix does not object to these requests on relevancy grounds. Instead, T-Netix explains its failure to provide specific data relating to these processes by stating that since this proceeding is more than eight years old, T-Netix “no longer has employees with significant first-hand knowledge of these matters, or documentary records beyond what have already been produced.” See T-Netix Opp. at ¶ 7.

If T-Netix has additional documents and information, it should be compelled to provide them. If it does not, as it suggests in its Opposition, then it should submit amended responses stating so on the record.

Data Request No. 15

AT&T’s Data Request No. 15 asked T-Netix to produce documents and information related to any transfers of equipment. T-Netix objects in its Opposition that this information is not relevant. See T-Netix Opp. at 4. The information is relevant because T-Netix has claimed in the past – for example, in its motion for summary determination in this proceeding – that it did not serve as the OSP; it only sold equipment to AT&T. See, e.g., T-Netix’s Mot. for Summ. Determination at ¶ 13. AT&T contends that is not true, and needs to be prepared to respond to that assertion. If T-Netix has any documents demonstrating that it sold or transferred equipment to AT&T, such as receipts, transfers of titles, or other comparable documents, it must produce them. If it has none, it should simply say so.

Dated: December 24, 2008

Respectfully submitted,

**AT&T COMMUNICATIONS OF
THE PACIFIC NORTHWEST, INC.**

By: /s/ Charles H.R. Peters

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CERTIFICATE OF SERVICE

Pursuant to WAC 480-07-150, I hereby certify that I have this day, December 24, 2008, served this document upon all parties of record by e-mail and Federal Express overnight delivery at the e-mail addresses and mailing addresses listed below:

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Pursuant to WAC 480-07-145, I further certify that I have this day, December 24, 2008, filed MS Word and PDF versions of this document by e-mail, and the original and four copies of this document by Federal Express, with the WUTC at the e-mail address and mailing address listed below:

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Pursuant to the Prehearing Conference Order 08, I further certify that I have this day, December 24, 2008, provided a courtesy copy of this document, in MS Word, to ALJ Friedlander by e-mail at the following e-mail address: mruscell@utc.wa.gov.

Dated: December 24, 2008

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