

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 UNOPPOSED MOTION
FOR LEAVE TO FILE ITS
AMENDED MOTION FOR
SUMMARY DETERMINATION**

**AT&T'S UNOPPOSED MOTION FOR LEAVE TO FILE
ITS AMENDED MOTION FOR SUMMARY DETERMINATION**

Respondent AT&T Communications of the Pacific Northwest, Inc. ("AT&T"), by and through its attorneys, respectfully submits this Unopposed Motion for Leave to File its Amended Motion for Summary Determination. In support of this Motion, AT&T states the following:

1. At the outset of this proceeding, AT&T filed its Motion for Summary Determination. Since that time, the parties have taken substantial discovery. Expert discovery recently concluded in early August.

2. The discovery taken in this proceeding after AT&T filed its Motion for Summary Determination, including the expert discovery, bears on that Motion. Accordingly, in order to incorporate relevant evidence into its opening motion and allow the other parties to respond to it, AT&T submitted an Amended Motion for Summary Determination on August 24, 2004.

3. During the period between the completion of expert discovery and August 24, AT&T's lead attorney, Mr. Peters, had a second surgery on his eye, which prevented him from reading until the evening of August 23. As a result, AT&T was unable to revise, finalize, and submit its Amended Motion for Summary Determination until August 24.

4. Because the previously-established response deadline was August 27, counsel for the parties discussed the possibility of amending the briefing schedule. On August 25, ALJ Friedlander held a telephone conference with counsel. During that telephone conference, counsel alerted ALJ Friedlander that expert deposition transcripts had only recently become available and extending the briefing schedule would provide the additional benefit of making sure that briefing would include any necessary references to those transcripts. Counsel proposed the following adjusted schedule:

(a) AT&T's Amended Motion for Summary Determination, and an amended motion from T-Netix if it chooses to file one, shall be filed by **August 27, 2009**.

(b) Responses to AT&T's Amended Motion for Summary Determination and T-Netix's pending motion shall be filed by **September 10, 2009**.

(c) Replies shall be filed by **September 24, 2009**.

5. Under WAC 480-07-395, amendments to motions may be allowed on such terms as promote fair and just results. Because substantial discovery has been taken after AT&T filed its Motion for Summary Determination, AT&T respectfully suggests that allowing it to incorporate that discovery into an Amended Motion for Summary Determination will promote fair and just results in this proceeding because there will be a benefit to having relevant evidence in AT&T's opening motion, for the ALJ's and the Commission's consideration, and for the other parties to respond to such evidence if they wish. The alternative would be for AT&T to incorporate such evidence discovered after the filing of its original motion into its reply brief, which would not benefit the ALJ, the Commission, or the other parties. The same reasoning applies to T-Netix if it chooses to file an amended motion.

6. The parties' counsel have discussed this motion for leave and all parties agree to, and do not oppose, the relief requested herein.

WHEREFORE, for the reasons set forth above, in order to promote fair and just results in this proceeding, AT&T respectfully requests that the Amended Motion for Summary Determination submitted on August 24, 2009 be accepted for filing, and that the following adjusted schedule be entered:

(a) AT&T's Amended Motion for Summary Determination, and an amended motion from T-Netix if it chooses to file one, shall be filed by **August 27, 2009**.

(b) Responses to AT&T's Amended Motion for Summary Determination and T-Netix's pending motion shall be filed by **September 10, 2009**.

(c) Replies shall be filed by **September 24, 2009**.

Dated: August 27, 2009

Respectfully submitted,

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

By: /s/ David C. Scott

Charles H.R. Peters

David C. Scott

SCHIFF HARDIN, LLP

6600 Sears Tower

Chicago, IL 60606

(312) 258-5500

(312) 258-5600 (fax)

cpeters@schiffhardin.com

dscott@schiffhardin.com

CERTIFICATE OF SERVICE

Pursuant to WAC 480-07-150, I hereby certify that I have this day, August 27, 2009, 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:

Glenn B. Manishin
Joseph S. Ferretti
Duane Morris LLP
505 9th Street NW, Suite 1000
Washington, DC 20004-2166
gbmanishin@duanemorris.com
jsferretti@duanemorris.com

Arthur A. Butler
Ater Wynne LLP
601 Union Street, Suite 1501
Seattle, WA 98101-2341
aab@aterwynne.com

Chris R. Youtz
Richard E. Spoonemore
Sirianni Youtz Meier & Spoonemore
719 Second Avenue, Suite 1100
Seattle, WA 98104
cyoutz@sylaw.com
rspoonemore@sylaw.com

Pursuant to WAC 480-07-145, I further certify that I have this day, August 27, 2009, 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:

Mr. David W. Danner
Secretary and Executive Director
Washington Utilities and Transportation Commission
1300 S. Evergreen Park Drive SW
PO Box 47250
Olympia, WA 98504-7250
records@utc.wa.gov

Pursuant to the Prehearing Conference Order 08, I further certify that I have this day, August 27, 2009, provided a courtesy copy of this document, in MS Word, to ALJ Friedlander by e-mail at the following e-mail address: mfriedla@utc.wa.gov.

Dated: August 27, 2009

/s/ Tiffany R. Redding
Tiffany R. Redding