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1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
2 COMMISSION

3	SANDY JUDD AND TARA HERIVEL,)	
)	
4	Complainants,)	
)	
5	vs.)	DOCKET NO. UT-042022
)	Volume I
6	AT&T COMMUNICATIONS OF THE)	Pages 1 - 15
	PACIFIC NORTHWEST, INC.,)	
7	AND T-NETIX, INC.,)	
)	
8	Respondents.)	

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11 A prehearing conference in the above matter
12 was held on February 16, 2005, at 9:30 a.m., at 1300
13 South Evergreen Park Drive Southwest, Olympia,
14 Washington, before Administrative Law Judge ANN E.
15 RENDAHL.

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17 The parties were present as follows:

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18 SANDY JUDD AND TARA HERIVEL, by JONATHAN P.
19 MEIER, Attorney at Law, Sirianni, Youtz, Meier &
Spoonemore, 719 Second Avenue, Suite 1100, Seattle,
Washington 98104; telephone (206) 223-0303.

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21 AT&T COMMUNICATIONS OF THE PACIFIC NORTHWEST,
22 INC., by LETTY S.D. FRIESEN, Attorney at Law, 919
23 Congress Avenue, Suite 900, Austin, Texas 78701-2444;
telephone (303) 771-3910; and CHARLES H.R. PETERS (via
bridge), Attorney at Law, Schiff, Hardin, LLP, 6600
Sears Tower, Chicago, Illinois 60606; telephone (312)
258-5500.

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Kathryn T. Wilson, CCR

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Court Reporter

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1 T-NETIX, INC, by ARTHUR A. BUTLER, Attorney
2 at Law, Ater Wynne, 601 Union Street, Suite 5450,
3 Seattle, Washington 98101; telephone (206) 623-4711;
4 and STEPHANIE A. JOYCE, Attorney at Law, Keller Drye,
5 1200 19th Street Northwest, Suite 500, Washington, D.C.
6 20036; telephone (202) 955-9600.

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1 P R O C E E D I N G S

2 JUDGE RENDAHL: Good morning. Let's be on
3 the record. I'm Ann Rendahl, the administrative law
4 judge presiding over this proceeding. We are here
5 before the Washington Utilities and Transportation
6 Commission this morning, Wednesday, February the 16th,
7 2005, for a prehearing conference in Docket No. 042022,
8 a formal complaint filed by Sandy Judd, J-u-d-d, and
9 Tara Herivel, H-e-r-i-v-e-l, against AT&T and T-Netix.

10 As I understand, the complaint was filed with
11 the Commission after the matter was referred to the
12 Commission by the King County Superior Court under the
13 doctrine of primary jurisdiction so that the Commission
14 could complete an adjudication into the matters that
15 were alleged before the King County Superior Court.

16 So the purpose of our prehearing this morning
17 is to take care of administrative details so we can get
18 this case started, including taking appearances of the
19 parties, hearing any petitions for intervention,
20 addressing whether a protective order is necessary,
21 whether the discovery rules of the Commission should be
22 invoked, and addressing a procedural schedule, in
23 particular first for AT&T's motion, and any other
24 schedule that is necessary in the proceeding.

25 So with that, let's take appearances from the

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1 parties, first beginning with the Complainant. If you
2 could for purposes here at the Commission give your
3 full address, telephone number, fax number, and e-mail,
4 that would be helpful.

5 MR. MEIER: I'm Jon Meier of Sirianni, Youtz
6 Meier and Spoonemore, representing the Complainants.
7 My address is 719 Second Avenue, Suite 1100, Seattle,
8 Washington, 98104. The telephone number is
9 (206) 223-0303. The fax number is (206) 223-0246, and
10 my e-mail is jon@sylaw.com.

11 JUDGE RENDAHL: The e-mail we have on the
12 master service list was jmeier@sylaw.com, so it's now
13 jon@sylaw.com?

14 MR. MEIER: Either one will work.

15 JUDGE RENDAHL: Aside from the addresses for
16 Ms. Herivel and Ms. Judd, is there anyone else who
17 should be receiving service for your client?

18 MR. MEIER: No.

19 JUDGE RENDAHL: Thank you. For AT&T?

20 MS. FRIESEN: Good morning, Your Honor.
21 Letty Friesen on behalf of AT&T Communications of the
22 Pacific Northwest, Inc. My service address is 919
23 Congress Avenue, Suite 900, Austin Texas, 78701. My
24 telephone number is (303) 298-6475. My fax number is
25 (303) 298-6301, and my e-mail address is

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1 lsfriesen@att.com.

2 At this point, Your Honor, I would like for
3 our outside counsel who is on the phone, Mr. Peters,
4 right now to, pursuant to WAC 480-07-345, enter an
5 appearance on behalf of AT&T in this matter as well.
6 Mr. Peters is a duly authorized lawyer in good standing
7 in the State of Illinois.

8 JUDGE RENDAHL: Thank you. Mr. Peters, we do
9 have you on our master service list, but if you could
10 please enter your appearance stating your full name,
11 address, telephone number, fax, and e-mail, that would
12 be helpful.

13 MR. PETERS: That's Charles Peters at Schiff,
14 Hardin LLP, 6600 Sears Tower, Chicago, Illinois, 60606.
15 My telephone in (312) 258-5500. My fax number is (312)
16 258-5600, and my e-mail is cpeters@schiffhardin.com.

17 JUDGE RENDAHL: And for the e-mail, there is
18 no space between the two words?

19 MR. PETERS: Correct.

20 JUDGE RENDAHL: Thank you very much.
21 Ms. Friesen and Mr. Peters, I have a question for you
22 about who should be on the service list. For AT&T, I
23 also have the local AT&T Law and Government Affairs
24 office in Olympia. Is that still an appropriate
25 address?

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1 MS. FRIESEN: No. Please, delete that one.

2 JUDGE RENDAHL: And I also have Ms. Laura
3 Kaster out of Bedminster, New Jersey. Is that also an
4 appropriate address?

5 MS. FRIESEN: Yes, that one is.

6 JUDGE RENDAHL: For T-Netix?

7 MR. BUTLER: Arthur A. Butler of the law firm
8 Ater Wynne, LLP, for T-Netix. My address is 601 Union
9 Street, Suite 5450, Seattle, Washington, 98101-2327;
10 telephone, (206) 623-4711; fax, (206) 467-8406, and
11 e-mail is aab@aterwynne.com, and with me for T-Netix is
12 Stephanie Joyce.

13 JUDGE RENDAHL: Ms. Joyce?

14 MS. JOYCE: Good morning, Your Honor. My
15 name is Stephanie Joyce of the law firm of Kelley,
16 Drye, and Warren, LLP. The address is 1200 19th Street
17 Northwest, Suite 500, Washington, DC, 20036. My phone
18 number is (202) 955-9600. My fax number is
19 (202) 955-9792. My e-mail is sjoyce@kelleydrye.com,
20 and I'm admitted in the states of California and DC as
21 a member in good standing.

22 JUDGE RENDAHL: Thank you very much, and for
23 counsel for T-Netix, just to clarify, I have the
24 T-Netix corporate address in Carrollton, Texas. Is
25 that an appropriate address?

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1 MS. JOYCE: It is, Your Honor.

2 JUDGE RENDAHL: Another address would be
3 Mr. or Ms. Kendall Holen (phonetic), and that's also
4 out of Carrollton. Should I just have one of those
5 addresses on here?

6 MS. JOYCE: I think the best address to use,
7 Your Honor, would be Wayne Johnson. He's the general
8 counsel, and his address is 2155 Chenault, which is
9 C-h-e-n-a-u-l-t, and that's in Carrollton at the 75006
10 zip code. Ms. Holen is no longer with the company.

11 JUDGE RENDAHL: So purposes of serving the
12 Company, serving Wayne Johnson, who you said is the
13 general counsel?

14 MS. JOYCE: Correct.

15 JUDGE RENDAHL: That would be the appropriate
16 address for serving the Company?

17 MS. JOYCE: Yes.

18 JUDGE RENDAHL: And that was 2155
19 C-h-e-n-a-u-l-t?

20 MS. JOYCE: Correct.

21 JUDGE RENDAHL: Carrollton, Texas, 75006.

22 MS. JOYCE: Correct.

23 JUDGE RENDAHL: I also have for T-Netix Glenn
24 Manishin in your office, so I would substitute you for
25 his name, or is he also to be included on this service

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1 list?

2 MR. JOYCE: He's my boss.

3 JUDGE RENDAHL: Why don't we include both of
4 you and let you all figure out that one. I also have
5 for T-Netix Sandrin Rasmussen of the Badgley-Mullins
6 Law Group in Seattle. Mr. Butler, are you taking over
7 for counsel there?

8 MR. BUTLER: Yes.

9 JUDGE RENDAHL: So we would take
10 Mr. Rasmussen off. Thank you for the clarification of
11 our service list. We just want to make sure we are not
12 serving the wrong people.

13 With that, is there any party who wishes to
14 file a petition for intervention? I'm not hearing any
15 over the bridge line or here in the room, so with that,
16 let's move on to the next issue, which is discovery.

17 Having read the parties' filings on this in
18 terms of the request for extension of time to respond
19 to AT&T's motion, I understand that discovery is an
20 issue, but at least AT&T and Complainants have worked
21 out and have agreed to discovery and that T-Netix had
22 requested that this issue be addressed in the
23 prehearing conference. So I would ask, Mr. Meier, do
24 you have any objection to invoking the discovery rule
25 in this proceeding?

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1 MR. MEIER: No, Your Honor. We would suggest
2 that it be invoked.

3 JUDGE RENDAHL: Mr. Butler and Ms. Joyce?

4 MR. BUTLER: We have no objection to invoking
5 the discovery rule, but we do have some suggestions
6 about how discovery ought to be phased and handled.

7 JUDGE RENDAHL: Why don't we address that in
8 figuring out the procedural schedule. So we will
9 invoke the discovery rule in this proceeding, and the
10 next question is I understand there is also an issue
11 AT&T raised about a protective order being issued
12 before responding to some additional discovery.

13 MS. FRIESEN: That's correct, Your Honor, and
14 we haven't yet had a chance to work that out, the
15 protective order, completely with the other parties, so
16 if we could have a minute off the record when we get to
17 that issue, that would be helpful.

18 JUDGE RENDAHL: Why don't we discuss it now.
19 Let's go off the record to discuss the protective
20 order. We will be off the record.

21 (Discussion off the record.)

22 JUDGE RENDAHL: While we were off the record,
23 we discussed the issue of the protective order. The
24 parties believe that a protective order that includes
25 both the standard protection for confidential

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1 information as well as protection for highly
2 confidential information is necessary given that there
3 is a potential that specific network location
4 information could be identified and revealed in this
5 proceeding, and the proceeding deals with prison
6 inmates, so there might be certain information that
7 could be released that should be protected.

8 So given that, the parties are working on
9 developing this two-tiered protective order based on
10 the Commission's language in other proceedings and will
11 send to me a copy via e-mail a draft that they have
12 agreed to, which I will present to the commissioners
13 and have that finalized, and I have let the parties
14 know of the commissioners' schedules so we can get that
15 issue resolved. So with that, there will be a
16 protective order entered and we will get that done as
17 quickly as we can.

18 The next issue is the procedural schedule in
19 this proceeding. There is a motion pending, and there
20 has been an extension of time, which was then canceled
21 in order to resolve the issue further here in the
22 proceeding. So right now, we need to discuss discovery
23 schedule, as I understand, and then the motion
24 schedule.

25 MR. BUTLER: Your Honor, T-Netix would

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1 propose that we proceed with discovery in two phases.
2 First, focusing on the AT&T summary judgment motion,
3 motion for summary determination, and then a second
4 phase after that motion is resolved to deal with any
5 underlying merits of the case.

6 We have not yet had a chance to talk with
7 Complainants about that, and maybe if we took a few
8 moments to go through that. We had a basic proposal
9 which we talked briefly with AT&T about about a
10 potential schedule for discovery cutoff dates, dates
11 for filing responses to the motion, discovery for any
12 reply that AT&T wanted to file, a date for that, and
13 eventually a hearing date in the proceeding as well.
14 If we could have a few moments to talk with the
15 Complainants, I think that would be helpful.

16 MR. PETERS: I think we did talk about that
17 yesterday, and I don't think there is any objection to
18 the suggestion of going into discovery.

19 MR. MEIER: That's right. That makes sense
20 to us.

21 JUDGE RENDAHL: What I would suggest is we go
22 off the record for a few minutes. I just realized I
23 left my calendar in my office, so I'm going to let you
24 all discuss the schedule beyond discovery. We'll be
25 off the record.

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1 (Discussion off the record.)

2 JUDGE RENDAHL: While we were off the record,
3 the parties reached an agreed-to schedule for resolving
4 discovery for the first phase of this involving AT&T's
5 motion for summary judgment, which would be that data
6 request responses would be completed by April the 4th,
7 2005.

8 Any depositions would be completed by June
9 3rd, 2005; that answers to AT&T's motion would be filed
10 by June 30th; that AT&T will propound discovery for its
11 reply starting on July 28th, given parties' vacation
12 schedules, and that any responses to that discovery
13 would be due on August the 26th, and then AT&T will
14 endeavor to coordinate any depositions that might be
15 necessary and will participate in the earlier
16 depositions to see if it can avoid any duplicative
17 depositions, and that AT&T's reply brief will be filed
18 on September the 16th, 2005.

19 We'll schedule a tentative oral argument date
20 for September the 22nd, and after reviewing the answers
21 to AT&T's motion, I will evaluate whether I believe
22 oral argument would be useful, and we have scheduled a
23 prehearing conference for October the 11th to discuss
24 further scheduling, if necessary, at 9:30, and that's
25 on the basis that I will get an order out by Monday

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1 October the 3rd, I believe it is, and with that, I
2 think that addresses the schedule.

3 We did discuss off the record the location of
4 depositions. Parties have said they don't think it's
5 going to be an issue in terms of working that out, and
6 there is a general understanding that it's most likely
7 appropriate to have the depositions where the person is
8 located given that everyone is spread across the
9 country and that the parties will bring any disputes to
10 me, if there are any, to be resolved. Ms. Friesen?

11 MS. FRIESEN: One date that I think fell off
12 our list is the discovery cutoff for the written
13 discovery in the first phase, which I believe was
14 agreed to as March 7th.

15 JUDGE RENDAHL: Is there any problem with the
16 written discovery cutoff of March 7th? Was that
17 something the parties had agreed to?

18 MS. JOYCE: Yes.

19 JUDGE RENDAHL: So with written discovery
20 cutoff by March 7th and then the responses due by April
21 4th. I will let you all know I will be out of the
22 office from the end of March through the 12th of April,
23 so if there are any disputes that arise on discovery
24 between that point, you can always contact the
25 Commission, and Mr. Wallis, who is the director of the

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1 division, can assist you, or some other administrative
2 law judge, so just be aware I will not be in the office
3 during that period.

4 All right. Is there any other issues
5 concerning scheduling that we need to address today?
6 I'm not hearing anything. I do have a question for
7 you, Ms. Joyce, in terms of Mr. Johnson. Do you happen
8 to have his information with you? Do you know his
9 e-mail or his phone number?

10 MS. JOYCE: Yes, I do. His phone number is
11 (972) 226-1175. I'm not certain of his fax number at
12 this time, and his e-mail is wayne.johnson@t-netix.com.

13 JUDGE RENDAHL: Thank you. Is there any
14 party who wants to order a copy of the transcript?
15 Particularly Mr. Peters, is that something you would
16 want?

17 MR. PETERS: I don't think I will need that.

18 JUDGE RENDAHL: I will be issuing a
19 prehearing conference order by Friday.

20 MR. PETERS: That's fine.

21 JUDGE RENDAHL: Is there anything else we
22 need to address?

23 MS. FRIESEN: Nothing from AT&T.

24 MR. MEIER: Not that I'm aware of.

25 JUDGE RENDAHL: With that, this prehearing

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1 conference is adjourned. Thank you very much for being
2 here this morning, and I will enter a prehearing
3 conference order by the end of the week.

4 (Prehearing conference concluded at 10:20 a.m.)

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