

[Service Date January 19, 2010]

January 19, 2010

**NOTICE OF COMMISSION CHALLENGE TO ASSERTION HIGHLY
CONFIDENTIAL DESIGNATION**

**NOTICE OF INTENT TO MAKE INFORMATION PUBLIC
(Effective January 29, 2010)**

RE: Sandy Judd and Tara Herivel, Complainants, v. AT&T Communications of the Pacific Northwest, Inc., and T-Netix, Inc., Respondents, Docket UT-042022

TO ALL PARTIES:

On November 17, 2004, Sandy Judd and Tara Herivel (Complainants) filed a formal complaint with the Washington Utilities and Transportation Commission (Commission) requesting that the Commission resolve certain issues under the doctrine of primary jurisdiction and referred by the Superior Court of Washington for King County (Superior Court) including: 1) whether AT&T Communications of the Pacific Northwest, Inc. (AT&T) and T-Netix, Inc. (T-Netix) were operator service providers (OSPs), and 2) if so, whether each violated the Commission's rate disclosure regulations. On July 28, 2005, T-Netix filed a Motion for Summary Determination (Motion). In its Motion, T-Netix alleged that it was not an OSP for the inmate collect calls Complainants received and that it was not bound by the Commission's rate disclosure regulation.

In its Motion, T-Netix treated the name of its computer platform, which it employed at correctional facilities throughout the State of Washington, as highly confidential pursuant to Order No. 2, a protective order, issued March 18, 2005. On August 27, 2009, T-Netix filed its Amended Motion for Summary Determination (Amended Motion). In its Amended Motion, filed August 27, 2009, T-Netix disclosed the name of its computer platform system. Complainants filed their Memorandum in Opposition to T-Netix's Motion for Summary Determination (Complainants' Memorandum) on September 10, 2009.¹ Complainants' Memorandum also names T-Netix's computer platform in its attached exhibits. On September 11, 2009, AT&T included the platform's name in its Response to T-Netix's Amended Motion for Summary Determination. T-Netix filed its Reply in Support of Its

¹Complainants' Memorandum also addresses AT&T's Amended Motion for Summary Determination filed on August 24, 2009.

Amended Motion for Summary Determination on September 24, 2009, and again disclosed the name of its computer platform. T-Netix has not challenged the disclosure by Complainants and AT&T of the name of its computer platform system.

Order No. 02 provides in relevant parts:

Parties must scrutinize potentially highly confidential material, and strictly limit what they designate as “Highly Confidential Information” to only information that truly might compromise network security or create risk to carriers or third parties if disseminated without the protections provided in this Order.

* * *

The presiding officer may challenge a party's assertion of confidentiality by notice to all parties.

If the presiding officer determines the challenged information is not entitled to protection under this Order, the information continues to be protected under this Order for ten days thereafter to enable the producing party to seek Commission or judicial review of the determination, including a stay of the decision's effect pending further review.²

The Commission has reviewed the above-referenced documents and finds that, since T-Netix placed the name of its computer platform system in the public record, the company has waived its right to designate the name of its system as highly confidential.

THE COMMISSION GIVES NOTICE that it intends to treat the name of T-Netix's computer platform system, which the company utilized at the relevant correctional facilities in Washington, as public information no longer subject to the designation “Highly Confidential Information” under Order No. 02 as of January 29, 2010.

Sincerely,

MARGUERITE E. FRIEDLANDER
Administrative Law Judge
Presiding Officer

²*Sandy Judd and Tara Herivel, Complainants, v. AT&T Communications of the Pacific Northwest, Inc., and T-Netix, Inc., Respondents*, Order No. 02—Protective Order, ¶¶ 4, 10, and 11, Docket UT-042022 (March 18, 2005).