

January 29, 2010

**NOTICE OF BENCH REQUEST
(AT&T's filing due by Friday, February 5, 2010)**

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

The Washington Utilities and Transportation Commission (Commission) seeks information in the form of the following bench request from AT&T Communications of the Pacific Northwest, Inc., (AT&T) relating to AT&T's argument that Complainants are collaterally estopped from asserting a claim against the company pursuant to RCW 80.36.520:

BENCH REQUEST NO. 3:

AT&T filed its Amended Motion for Summary Determination (Amended Motion) on August 24, 2009, and its Reply in Support of its Amended Motion (Reply) on September 24, 2009. In its Reply, AT&T contends that Complainants have already advanced their theory that AT&T was obligated to provide rate disclosures pursuant to RCW 80.36.510. *et seq.*¹ AT&T states that Complainants brought this theory before the Superior Court of Washington for King County (Superior Court) and that the Superior Court rejected it when it granted the motions to dismiss filed by AT&T,

¹ The statute Complainants base their liability theory on for AT&T is contained in RCW 80.36.520 and states that "[t]he [Commission] shall by rule require, at a minimum, that any telecommunications company, operating as or contracting with an [operator services provider], assure appropriate disclosure to consumers of the provision and the rate, charge or fee of services provided by an [operator services provider]." Complainants argue that AT&T contracted with T-Netix such that T-Netix would provide AT&T with operator services at the correctional facilities where AT&T acted as the interexchange carrier.

T-Netix, Qwest, Verizon, and CenturyTel.² Now, according to AT&T, the doctrine of collateral estoppel prevents Complainants from re-litigating this theory before the Commission.³

AT&T has included the Superior Court's October 10, 2000, order granting the defendants' requests to dismiss, but did not produce its own motion to dismiss on which the Superior Court based its October 10, 2000, order.

Please provide a copy of AT&T's Motion to Dismiss which was the subject of the Superior Court's October 10, 2000, order.

Please respond to this Bench Request no later than Friday, **February 5, 2010**, with an original and **five (5)** copies. If you have any questions concerning this request, please contact Administrative Law Judge Marguerite E. Friedlander at 360-664-1285, or via e-mail at mfriedla@utc.wa.gov.

Sincerely,

MARGUERITE E. FRIEDLANDER
Administrative Law Judge

cc: All Parties

²AT&T's Reply, ¶ 12.

³*Id.*