

1 EXPEDITE
 2 (if filing within 5 court days of hearing)
 3 Hearing is set:
 Date: December 9, 2011
 Time: 1:30 p.m.
 Judge/Calendar: Hon. Paula Casey

5
 6 IN THE SUPERIOR COURT OF WASHINGTON
 7 FOR THURSTON COUNTY

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

9 Petitioner,

10 v.

11 WASHINGTON STATE UTILITIES AND
 TRANSPORTATION COMMISSION,

12 Respondent,

13 and

14 SANDY JUDD and TARA HERIVEL

15 Intervenors,

16 and

17 T-NETIX, INC.,

Interested Party.

18 T-NETIX, INC., a Delaware corporation,

19 Petitioner,

20 v.

21 WASHINGTON STATE UTILITIES AND
 TRANSPORTATION COMMISSION,

22 Respondent.

NO. 11-2-00992-8

and

NO. 11-2-00998-7

DECLARATION OF CHRIS R. YOUTZ
 IN OPPOSITION TO PETITIONS FOR
 JUDICIAL REVIEW

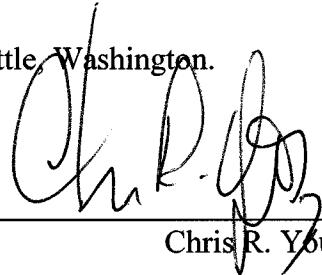
1 Chris R. Youtz declares:

2 1. I am a partner at Sirianni Youtz Spoonemore and am one of the attorneys
3 for Sandy Judd and Tara Herivel, plaintiffs in *Judd v. AT&T et al.*, King County Cause
4 No. 00-2-17565-5 SEA, and intervenors in this matter.

5 2. Attached as *Exhibit A* to this declaration are true and correct excerpts
6 from the deposition of Scott Passe taken on April 15, 2009, before the Washington Utilities and
7 Transportation Commission.

8 I declare under penalty of perjury that the foregoing is true and accurate to the
9 best of my knowledge.

10 DATED: October 31, 2011, at Seattle, Washington.

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Chris R. Youtz

Exhibit A

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BEFORE THE
WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION

**Certified
Transcript**

SANDY JUDD and TARA HERIVEL, *
*
Plaintiffs, *
*
VS. *
*
AT&T COMMUNICATIONS OF THE *
PACIFIC NORTHWEST, INC., and *
T-NETIX, INC., *
*
Defendants. *

DOCKET NO.
UT-042022 **RECEIVED**

MAY 14 2009

LAW OFFICE OF
SIBBINI VOLITZ
MEIER & SPOGNEMORE

ORAL DEPOSITION OF

SCOTT PASSE

APRIL 15, 2009

ANSWERS AND DEPOSITION of SCOTT PASSE, a witness
produced on behalf of the Defendant AT&T Communications,
taken in the above styled and numbered cause on the 15th
day of April, 2009, from 9:02 a.m. to 5:08 p.m., before
Rachel D. Chavez, a Certified Shorthand Reporter in and
for the State of Texas, taken in the offices of Bennett
Weston & Lajone, P.C., 1750 Valley View Lane, Suite 120,
in the City of Dallas, County of Dallas, State of Texas,
in accordance with the Washington Utilities and
Transportation Commission.

1 Q. Does that indicate to you that this was a call
2 flow example as of 2002?

3 A. Or perhaps earlier.

4 Q. Are you able to tell me from personal knowledge
5 whether this flow -- call flow pattern would have
6 actually been in effect say in 1999 or 2001?

7 A. No.

8 Q. Okay. This seems -- I think this is the only
9 example of one of these that we've seen. Did the
10 company over time produce similar call flowcharts?

11 A. I don't recall.

12 Q. Who would -- do you know who would have
13 prepared Exhibit 9?

14 A. I don't know who prepared the exhibit. I don't
15 really know who prepared the exhibit or the -- or the
16 call flow.

17 Q. Okay. Just to make sure, do you remember ever
18 seeing call flow examples prior to 2002?

19 A. Yes, but I don't recall the time -- the time
20 frames.

21 Q. Okay. But you did see some prior to 2002?

22 A. Yeah.

23 Q. Okay. But I take it you can't tell me whether
24 you saw them as early as 1996, or can you?

25 A. I cannot.

1 Q. If you'd take a look, please, at Exhibit 15.
2 Fifteen is -- it's an AT&T document.

3 MR. PETERS: Today's letter.

4 MR. YOUTZ: Yeah. No, that's his e-mail
5 dated February 3.

6 THE WITNESS: I've got 14 to 16. How did
7 that happen?

8 MR. PETERS: It should be one page. Do you
9 want me to look through some? The one-page yellow one I
10 know. Here it is.

11 THE WITNESS: Sorry about that.

12 MR. PETERS: Not a problem.

13 A. Okay.

14 Q. (BY MR. YOUTZ) When Mr. Peters was asking you
15 some questions about this, I think he asked you about --
16 to some extent about paragraph three. And the second
17 sentence there says, "Message currently deployed states
18 that 'You will be charged \$4.94 for the first minute'"
19 and so on.

20 A. Uh-huh.

21 Q. Now, do you have any knowledge one way or the
22 other about whether that announcement was being made
23 within the state of Washington?

24 A. I do not.

25 Q. Okay. And is it correct that even though on a

1 national basis, a P-III unit might have the capability
2 say for rate disclosure, that doesn't mean that that
3 ability will be used in all locations; is that correct?

4 A. I can't comment about that because it -- that
5 would be regulatory. In other words, we -- we would
6 have to do that universally and -- or may have had to do
7 that universally. I couldn't comment on that.

8 Q. Okay. But it's possible that certain rate
9 features might be used in one location and not the
10 other?

11 MR. PETERS: Objection, foundation.

12 MR. YOUTZ: You can go ahead and answer.

13 A. The capa- -- the device is capable of that, but
14 I can't comment on whether -- as to whether that was
15 ever done.

16 Q. (BY MR. YOUTZ) Okay. Because there might be
17 regulatory reasons for not doing that, but other than
18 for reg- -- from a hardware/software perspective, it's
19 possible for a rate disclosure provision in the P-III to
20 be working one way in one state, differently in another
21 state?

22 A. It would be possible to program it that way.

23 Q. Okay.

24 A. I guess. I mean, maybe even rethinking that, I
25 mean, it might -- it might have been a universal feature

1 once it was turned on. So I can't even state that
2 version for sure.

3 Q. Okay. And in-state -- how would you
4 differentiate if you had to give local rates and the
5 rates were different within different states?

6 A. I'm sorry?

7 Q. In other words, if say in the state of Idaho
8 the local rate was different than the state of
9 Washington for a local call.

10 MR. PETERS: You talking about from a
11 particular facility in Idaho versus --

12 Q. (BY MR. YOUTZ) If a facility in Idaho is using
13 P-III and a facility in Washington is using a P-III and
14 the rates for local calls are different in Idaho than
15 they are in Washington, would there have to be an
16 adjustment made between those two systems?

17 A. Not any chip change adjustment. You would --
18 the device would be programatically instructed to pull
19 whatever it needed to.

20 Q. Okay. And then if a state didn't require
21 disclosure of the rates for local calls, would that even
22 be necessarily switched on in that state?

23 MR. PETERS: Objection, foundation.

24 MR. YOUTZ: Go ahead.

25 A. I can't really comment about that, whether

1 we -- whether we did or didn't quote rates after -- I
2 mean, after a certain point we may have just decided to
3 quote rates universally and -- I can't comment whether
4 we did do that.

5 Q. (BY MR. YOUTZ) So you just don't know one way
6 or the other; is that fair?

7 A. Yeah.

8 Q. For all these questions that the two of us have
9 been asking, you just don't know the answer one way or
10 the other; is that correct?

11 A. Yeah.

12 MR. FERRETTI: Objection --

13 MR. PETERS: I'll object to the form of
14 that question.

15 MR. YOUTZ: He answered it.

16 Q. (BY MR. YOUTZ) And so now what I'd like you to
17 do is --

18 A. What the -- I'm sorry. What did -- what did I
19 answer to?

20 Q. Do you want to have it read back?

21 A. Yeah.

22 MR. YOUTZ: Read back my question.

23 (Requested portion was read back.)

24 A. I -- I -- no, I disagree with that. You'd have
25 to qualify what questions you're --

1 Q. (BY MR. YOUTZ) I'm sorry. As I listen to the
2 question, that was a pretty bad question.

3 In terms of the questions Mr. Peters and I
4 have been asking about what you may or may not know
5 about the actual rate announcements in the various
6 states, it's correct that you don't know what was done
7 one way or the other?

8 MR. PETERS: Objection, form.

9 MR. FERRETTI: Objection. You can answer.

10 A. I -- I don't have specific knowledge about what
11 was quoted in terms of rates.

12 Q. (BY MR. YOUTZ) Okay. Or whether even rates
13 were quoted or not; is that correct?

14 MR. FERRETTI: Objection, form.

15 A. I know that I enabled the -- provided the --
16 enabled the equipment to quote rates. How -- where it
17 was quoted and not quoted, I can't -- I have no
18 comment -- I have no knowledge, direct knowledge.

19 Q. (BY MR. YOUTZ) Okay. That's fine.

20 If you take a look back at Exhibit 15 on --
21 there's a paragraph that's the next to the last
22 paragraph that says, "AT&T is aware that correcting the
23 rate quote will require significant T-Netix -- T-Netix
24 resources" and so on.

25 There's a -- let's see. Something that --

1 A. Uh-huh.

2 Q. Do you recall that general line of questioning
3 that he asked you about?

4 A. Yes.

5 Q. Do you have any reason to believe as you sit
6 here now that the flow processor sequence was different
7 in the period of time 1996 to 2000, other than what's
8 shown on AT&T Exhibit 9?

9 MR. YOUTZ: Objection, lack of foundation.

10 A. I have no reason to believe it was any
11 different.

12 Q. (BY MR. PETERS) As you sit here right now, do
13 you believe that what's shown in AT&T Exhibit 9 does
14 accurately describe the flow process as it existed in
15 '96 to 2000?

16 MR. YOUTZ: Objection, lack of foundation.
17 Go ahead.

18 A. I can't attest to that.

19 Q. (BY MR. PETERS) And why is that?

20 A. Because I -- I can't say that all -- each one
21 of these functions was when -- each one of those
22 functions was part of the call flow.

23 Q. Do you have any recollection of any of these
24 functions being included in the call flow after 1996?

25 A. I do not.

1 Q. Do you have -- okay.

2 MR. PETERS: That's all.

3 MR. YOUTZ: That's all.

4 (Deposition concluded at 5:08 p.m.)

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