CLIENT'S COPY

I certify under penalty of perjury under the laws of the State of Washington that on August 1, 2000, I served a copy of this document on all counsel of record in the manner shown at the addresses listed on the attached *Service List*.

Signed: Theresa A. Lisch

HON. J. KATHLEEN LEARNED

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

SANDY JUDD, TARA HERIVEL and ZURAYA WRIGHT, for themselves, and on behalf of all similarly situated persons,

Plaintiffs,

v.

AMERICAN TELEPHONE AND TELEGRAPH COMPANY; GTE NORTHWEST INC.; CENTURYTEL TELEPHONE UTILITIES, INC.; NORTH-WEST TELECOMMUNICATIONS, INC., d/b/a PTI COMMUNICATIONS, INC.; U.S. WEST COMMUNICATIONS, INC.; T-NETIX, INC.,

Defendants.

NO. 00-2-17565-5 SEA

FIRST AMENDED COMPLAINT —CLASS ACTION

I. PARTIES, JURISDICTION AND VENUE

1. Plaintiff Sandy Judd is a resident of Snohomish County, Washington. She has received and paid for intrastate long-distance collect calls from Washington State prison inmates.

2. Plaintiff Tara Herivel is a resident of King County, Washington. She has received and continues to receive and pay for intrastate long-distance collect calls from Washington State prison inmates.

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3. Plaintiff Zuraya Wright is a resident of Lake Worth, Florida. She received and paid for interstate long-distance collect calls from a Washington State prison inmate before rate disclosure was first offered to her in November of 1999.

4. Jurisdiction is appropriate in this court because the defendants do business in the state of Washington, and because the amount in controversy exceeds $300.00. Venue is proper because the non-resident defendants have been served in King County, Washington.

II. NATURE OF CASE

5. Since at least 1992, the Washington State Department of Corrections has contracted with private "operator service providers," also known as "alternate operator services companies," to provide "0+" operator services on the payphones used by prison inmates incarcerated in the State of Washington. Prison inmates are required to use the "0+" operator service provider assigned by contract to the prison from which the call is placed, and may place only collect calls.

6. Since at least 1988, telecommunications companies acting as or contracting with operator service providers have been required by state law to assure appropriate disclosure of rates charged to consumers for services provided while connecting both intrastate and interstate long-distance telephone calls. However, the defendants, all telecommunications companies and operator service providers, have failed to assure appropriate disclosure of rates to the plaintiffs and others similarly situated, and continue to fail to do so for intrastate long-distance telephone calls. The defendants have provided disclosure of rates for at least some interstate calls from Washington prison inmates only since November of 1999.

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III. CLASS ACTION ALLEGATIONS

7. *Definition of Class.* The class consists of all individuals who have received or will receive one or more long-distance intrastate or interstate collect calls from one or more Washington State prison inmates since June 20, 1996, except for those individuals who have received only interstate collect calls from Washington State prison inmates after November of 1999, and to whom timely disclosure of rates was offered.

8. *Class Representatives.* Named plaintiff Sandy Judd has received and paid for intrastate long-distance collect calls from Washington State prison inmates. Named plaintiff Tara Herivel has received and continues to receive and pay for intrastate long-distance collect calls from Washington State prison inmates. Named plaintiff Zuraya Wright received and paid for interstate collect calls from a Washington State prison inmate between June 20, 1996 and November of 1999.

9. *Size of Class.* There are approximately 14,000 prison inmates currently incarcerated in the State of Washington. Inmate are generally allowed access to prison payphones during daytime hours. Every person who is or has been called by any incarcerated person since July 20, 1996 is a potential class member, including family, friends, attorneys and news organizations. The class is expected to number in the tens or hundreds of thousands and is so large that joinder of all members is impracticable.

10. *Common Questions of Law and Fact.* This action requires a determination of whether the defendants have assured appropriate rate disclosure to the class member recipients of inmate-initiated intrastate and interstate long-distance collect telephone calls as required by RCW §80.36.520 and RCW §80.36.530.

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11. *Defendants Have Acted On Grounds Generally Applicable to the Class.* The defendants complete inmate-initiated collect telephone calls to call recipients, and have consistently failed to make proper disclosures. The defendants have acted on grounds generally applicable to the class. Certification is therefore proper under CR 23(b)(2).

12. *Questions of Law and Fact Common to the Class Predominate Over Individual Issues.* The claims of many individual class members are too small to justify filing and prosecuting the claims separately. Thus, any interest that individual members of the class may have in individually controlling the prosecution of separate actions is outweighed by the efficiency of the class action mechanism. This action can be most efficiently prosecuted as a class action in King County Superior Court, where the defendants do business. Issues as to the defendants' conduct towards members of the class predominate over questions, if any, unique to members of the class. Certification is therefore additionally proper under CR 23(b)(3).

13. *Class Counsel.* Plaintiffs have retained experienced and competent class counsel.

IV. FACTUAL BACKGROUND

14. The defendants are telecommunications companies. On March 16, 1992, all of the defendants except for T-Netix, Inc. contracted with the Washington Department of Corrections to provide operator services for inmate payphones. The parties have extended this contract through four amendments. The fourth amendment, which went into effect in March of 1999, adds T-Netix, Inc. as an operator service provider at some facilities.

15. Throughout the Class period, family members, attorneys and other persons have been unable to speak to Washington State prison inmates by

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telephone, except as recipients of operator-assisted collect calls. Recipients are billed for these calls by the operator service provider assigned by contract to the prison from which the call originates.

16. Rates for intrastate long-distance collect calls are not made available to recipients over the phone prior to the receipt of an inmate-initiated call, nor are recipients given a separate number to call in order to learn the rates charged.

17. Rates for at least some interstate calls have been made available over the phone starting sometime in November of 1999. Prior to that time, recipients of inmate-initiated interstate calls could not access rates prior to receipt of the call, and also were not provided with any information on how to obtain the applicable rates.

V. CLAIMS FOR RELIEF

FIRST CLAIM—VIOLATION OF THE WASHINGTON CONSUMER PROTECTION ACT, RCW 19.86 *et seq.*

18. Plaintiffs re-allege paragraphs 1 through 16, above.

19. The defendants' repeated violations of RCW §80.36.520 constitute per se violations of the Washington Consumer Protection Act, RCW §19.86 et seq., pursuant to RCW §80.36.530. The defendants have engaged in, and continue to engage in, unfair or deceptive acts or practices in trade or commerce in violation of the Washington State Consumer Protection Act. Such conduct affects the public interest, and has caused injury to the named plaintiffs and the plaintiffs' class.

20. Plaintiffs and the plaintiff class are entitled to damages as defined in RCW §80.36.530, and treble damages under RCW §19.86.090, along with costs of suit and attorney fees.

SECOND CLAIM—INJUNCTIVE RELIEF

21. Plaintiffs re-allege paragraphs 1 through 19, above.

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22. Plaintiffs and the plaintiff class are entitled to an injunction under RCW §19.86.090, under the common law, and under any other applicable laws, to enjoin further violations of RCW §80.36.520.

VI. DEMAND FOR RELIEF

WHEREFORE, plaintiffs request that this Court:

1. Enter judgment in favor of plaintiffs and the plaintiff class for damages in an amount to be proven at trial due to the defendants' failure to assure appropriate disclosure of rates charged under RCW §80.36 et seq. and RCW §19.86 et seq., including presumed damages under RCW §80.36.530 for each violation, and treble damages up to $10,000 to each class member for each violation;

2. Enter judgment in favor of plaintiffs and the plaintiff class, and against the defendants, enjoining the defendants from further violations of RCW §80.36.520;

3. Award plaintiffs and the plaintiff class their attorney fees; and

4. Award such other relief as is just and proper.

DATED: August 1, 2000.

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