

IN THE SUPERIOR COURT OF WASHINGTON
FOR KING COUNTY

SANDY JUDD, TARA HERIVEL, and
COLUMBIA LEGAL SERVICES, for
themselves, and on behalf of all similarly
situated persons,

Plaintiffs,

v.

AMERICAN TELEPHONE AND
TELEGRAPH COMPANY, and T-NETIX,
INC.,

Defendants.

Case No. 00-2-17565-5 SEA

**AT&T'S RESPONSE TO THE
INTERLATA AND INTRALATA
CLASSES' REVISED
MOTION FOR: (1) PRELIMINARY
APPROVAL OF SETTLEMENT
AGREEMENT WITH AT&T;
(2) PRELIMINARY APPROVAL OF
PLAN OF ALLOCATION;
(3) DIRECTIVE TO SEND NOTICE;
AND (4) SCHEDULING OF FINAL
APPROVAL HEARING**

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Dated: March 29, 2013

AT&T'S RESPONSE TO THE INTERLATA AND INTRALATA CLASSES' REVISED MOTION FOR
PRELIMINARY APPROVAL OF SETTLEMENT AGREEMENT WITH AT&T, ETC.

1 AT&T respectfully files this response to Plaintiffs' motion for preliminary approval of
2 the final settlement agreement between the InterLATA and IntraLATA Call Recipients Classes
3 and AT&T. AT&T does not oppose this motion.

4 AT&T submits this response for the sole purpose of ensuring that the Court is aware of
5 the order that was entered by Commissioner Schmidt of the Court of Appeals Division II on
6 March 21, 2013. The Order is attached hereto as Exhibit A. The Order was entered in the
7 proceeding in which Division II is reviewing the WUTC's determination that AT&T was the
8 OSP on the interLATA and intraLATA calls at issue – which affects AT&T's indemnification
9 claim against T-Netix and which is therefore very much a live controversy that is expressly not
10 resolved by the settlement between Plaintiffs and AT&T.

11 The Order concludes that the Court's February 24, 2012 Order that withdrew the primary
12 jurisdiction referral on the *other* issue that it had originally referred to the WUTC – whether the
13 rate disclosure regulations had been violated – was improper because AT&T did not obtain
14 permission from Division II under RAP 7.2(e) before it moved for withdrawal of the referral of
15 this issue. The Order states that “under RAP 7.2(a), once the notice of appeal as to the WUTC
16 Final Order was filed with [Division II], the trial courts, both in Thurston County and in King
17 County, lost authority to act while this appeal [of the WUTC Order] was pending.” On this
18 basis, Commissioner Schmidt stayed this Court's February 24, 2012 Order. (See Exhibit A.)

19 AT&T believes that the foregoing Order of Division II would only affect the litigation in
20 this Court on the question of whether the rate disclosure regulations were violated – which is an
21 issue that is mooted by the settlements. Accordingly, the Order should not prevent the Court
22 from proceeding to approve the settlements. However, out of an abundance of caution, AT&T
23 will shortly file a motion with Division II for clarification of the Order or, in the alternative,
24 modification of the Order to allow the Court to proceed with approval of the settlement.

1 DATED this March 29, 2013.

2 STOKES LAWRENCE, P.S.

3 By: _____



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DECLARATION OF SERVICE

I do hereby certify that on this 29th day of March, 2013, I caused to be served a true and correct copy of the foregoing document by the method indicated below and addressed to the following:

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I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

EXECUTED at Seattle, King County, Washington, this 29th day of March, 2013.



Jeanne M. Bauer, Practice Assistant

EXHIBIT A



Washington State Court of Appeals Division Two

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General Orders, Calendar Dates, and General Information at <http://www.courts.wa.gov/courts> **OFFICE HOURS:** 9-12, 1-4.

March 21, 2013

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CASE #: 42966-7-II

AT&T Communications, Inc., Appellant v. WA. Utilities & Transport Commission et al,
Respondents

Counsel:

On the above date, this court entered the following notation ruling:

A RULING BY COMMISSIONER SCHMIDT:

It has come to this court's attention that, subsequent to the January 2012 appeal from the Thurston County Superior Court's order on APA review of the WUTC Final Order, AT&T obtained an order in King County Superior Court that withdrew its grant of primary jurisdiction to the WUTC. But under RAP 7.2(a), once the notice of appeal as to the WUTC Final Order was filed with this court, the trial courts, both in Thurston County and in King County, lost authority to act while this appeal was pending. There is no evidence that AT&T obtained permission by motion to this court under RAP 7.2(e) for the King County Superior Court to enter its order withdrawing its grant of primary jurisdiction to the WUTC. Accordingly, that order is stayed pending future order of this court and the parties should be prepared to address that order, and the status of the King County Superior Court proceedings, at oral argument in the appeal from the Thurston County Superior Court's decision.

Very truly yours,

A handwritten signature in black ink, appearing to read "David C. Ponzoha". The signature is fluid and cursive, with a large loop at the beginning and a long horizontal stroke at the end.

David C. Ponzoha
Court Clerk