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**ORIGINAL**

October 12, 2005

**RECEIVED**

OCT 12 2005

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

VIA UPS

Mr. James J. McNulty  
Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building, 2nd Floor  
400 North Street  
Harrisburg, Pennsylvania 17120

**DOCUMENT  
FOLDER**

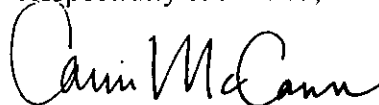
Re: Complaint Docket No. C-20055332

Dear Secretary McNulty:

Enclosed for filing in the above-referenced proceeding, please find an original and three copies of (1) a Motion for Admission Pro Hac Vice on behalf of Glenn Manishin, Andrea Edmonds, and Carrie McCann for T-NETIX, Inc. and T-NETIX Telecommunications Services, Inc. and (2) a Motion to Dismiss and Answer to Complaint of Howard Andrews, Sr.

Also enclosed is a duplicate of this filing and a self-addressed, postage prepaid envelope. Please date-stamp the duplicate and return it in the envelope provided. If you have any questions, please contact the undersigned at (202) 887-1248.

Respectfully submitted,



Carrie L. McCann  
Counsel to T-NETIX, Inc. and T-NETIX  
Telecommunications Services, Inc.

Enclosure

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**BEFORE THE  
COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

HOWARD ANDREWS, SR. (CL-9549),  
Complainant,

v.

T-NETIX, INC. and T-NETIX  
TELECOMMUNICATIONS SERVICES, INC.,  
Respondents.

Complaint Docket No. C-20055332

**DOCKETED**

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PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

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**MOTION FOR ADMISSION *PRO HAC VICE* OF  
GLENN B. MANISHIN, ANDREA P. EDMONDS  
AND CARRIE L. MCCANN**

**NOW COMES** Barbara A. Miller, a member in good standing of the Bar of the Supreme Court of Pennsylvania, on behalf of T-NETIX, Inc. and T-NETIX Telecommunications Services, Inc. ("T-NETIX"), and hereby respectfully moves for admission *pro hac vice* of T-NETIX's out-of-state counsel. In support thereof, the following is stated:

1. Rule 301 of the Pennsylvania Bar Admission Rules permits an attorney qualified to practice in the courts of another jurisdiction to be admitted to the Bar of this Commonwealth for purposes limited to a particular matter. *See* Pa. B.A.R. Rule 301.

2. Glenn B. Manishin, Andrea P. Edmonds and Carrie L. McCann, T-NETIX's out-of-state attorneys, are qualified to practice in jurisdictions which accord reciprocal privileges to members of the Bar of this Commonwealth.

3. Mr. Manishin is a partner with the law firm of Kelley Drye & Warren LLP, 8000 Towers Crescent Drive, Suite 1200, Vienna, Virginia 22182. He is a member in good standing of the Bars of California, Virginia and the District of Columbia. Mr. Manishin has not been

disbarred or suspended from the practice of law in the jurisdictions in which he is admitted, nor is he presently subject to pending disciplinary proceeding in any jurisdiction.

4. Ms. Edmonds is an associate with the law firm of Kelley Drye & Warren LLP, 8000 Towers Crescent Drive, Suite 1200, Vienna, Virginia 22182. She is a member in good standing of the Bars of the District of Columbia and the Commonwealth of Virginia. Ms. Edmonds has not been disbarred or suspended from the practice of law in any jurisdiction in which she is admitted, nor is she presently subject to pending disciplinary proceeding in any jurisdiction.

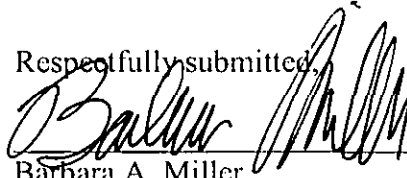
5. Ms. McCann is an associate with the law firm of Kelley Drye & Warren LLP, 1200 19th Street, N.W., Washington, D.C. 20036. She is a member in good standing of the Bar of Maryland. Ms. McCann has not been disbarred or suspended from the practice of law in the jurisdiction in which she is admitted, nor is she presently subject to pending disciplinary proceeding in any jurisdiction.

6. Mr. Manishin, Ms. Edmonds and Ms. McCann are T-NETIX's counsel in various federal and state matters, and are familiar with T-NETIX's business and the instant proceeding. Consequently, Mr. Manishin, Ms. Edmonds and Ms. McCann are best qualified to represent T-NETIX's interests in this proceeding.

7. Finally, Mr. Manishin, Ms. Edmonds and Ms. McCann possess the requisite character and fitness to represent T-NETIX in the Commonwealth for the purpose of this proceeding. They have agreed to abide by all applicable statutes and regulations governing the practice of law in Pennsylvania.

**WHEREFORE**, the undersigned movant respectfully requests that the Commission grant *pro hac vice* admission to Glenn B. Manishin, Andrea Pruitt Edmonds and Carrie L. McCann, pursuant to Rule 301 of the Pennsylvania Bar Admission Rules.

Respectfully submitted,



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Barbara A. Miller

Pennsylvania Bar No. 80655  
KELLEY DRYE & WARREN LLP  
1200 19th Street, N.W., Suite 500  
Washington, D.C. 20036  
(202) 955-9600 (telephone)  
(202) 955-9792 (facsimile)

**Counsel for T-NETIX, Inc.**

Dated: October 11, 2005

**BEFORE THE  
COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

HOWARD ANDREWS, SR. (CL-9549),  
Complainant,

vs.

T-NETIX, INC. and T-NETIX  
TELECOMMUNICATIONS SERVICES, INC.  
Respondents.

Complaint Docket No. C-20055332

**DOCKETED**  
OCT 18 2005

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PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

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**T-NETIX'S MOTION TO DISMISS AND ANSWER  
TO COMPLAINT OF HOWARD ANDREWS, SR.**

Pursuant to 52 Pa. Code §§ 5.101 and 5.61, T-NETIX, Inc. and T-NETIX Telecommunications Services, Inc. (collectively, "T-NETIX" or "Respondent"), by their attorneys, hereby respond to the Complaint of Howard Andrews, Sr. in the above-referenced proceeding. T-NETIX respectfully requests that the Commission issue an order dismissing the Complaint because Complainant fails to join the appropriate (and indispensable) party to the Complaint and fails to state a claim for which relief may be granted. As set forth herein, although certificated to provide interexchange resale services in Pennsylvania, T-NETIX did not at the time of the Complaint, and does not now, provide a regulated telecommunications service to inmates at the Retreat Hunlock State Correction Institution in Hunlock Creek, Pennsylvania, where the Complainant is located. Based on information provided in the Complaint, Complainant's allegations appear to involve events that occurred after the period T-NETIX ceased providing regulated telecommunications services to the Pennsylvania Department of

Corrections, including the Retreat Hunlock State Correction Institution in Hunlock Creek. Thus, allegations concerning call disconnections, Verizon's blocking policy, costs, means of reimbursement, and the inability to provide basic service do not involve T-NETIX. Moreover, to the extent Complainant has concerns about telecommunications services received and billing, Complainant fails to name an indispensable party (*i.e.*, the actual provider(s) of telecommunications services to the Retreat Hunlock State Correction Institution in Hunlock Creek) as a party to the Complaint. For these reasons, the Complaint should be dismissed with prejudice. In support thereof, T-NETIX states as follows:

**I. MOTION TO DISMISS**

T-NETIX has been a leading provider of inmate telecommunications services, serving correctional institutions throughout the United States since 1989. In Pennsylvania, T-NETIX is authorized by the Public Utility Commission to provide resold interexchange telecommunications services,<sup>1</sup> but ceased providing such services to Pennsylvania state correctional institutions in August 2003. At the present time, T-NETIX only provides ancillary security and technical support services to the Department of Corrections as a subcontractor to Verizon.

T-NETIX is not liable to Complainant for any of the alleged service deficiencies contained in the Complaint. Importantly, T-NETIX is no longer the in-state long distance service provider at the Retreat Hunlock State Correction Institution in Hunlock Creek. As noted above, at the time of the Complaint, T-NETIX did not provide any regulated telecommunications

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<sup>1</sup> The Company's Certificate of Public Convenience and Necessity ("CPCN") was granted on August 19, 1992 in Docket No. A-310118. The CPCN originally was granted to Gateway Technologies, Inc. and subsequently transferred to T-NETIX Telecommunications, Inc. as the result of a corporate reorganization. *See Letter from James J. McNulty to Lance J. M. Steinhart*, Docket No. A-310118; A-310118F0002 (dated February 1, 2001).

services to the inmates at the Retreat Hunlock State Correction Institution in Hunlock Creek. Consequently, there is no basis for allegations against T-NETIX concerning “Verizon’s blocking policy,” disconnections, reimbursements and the absence of “basic service” due to these alleged disconnections and billing issues, and no relief that can be provided to the Complainant by this Commission.

Further, Complainant’s allegations regarding the “over lay of recordings” and “costs” fail to state claims for which relief may be granted. First, the security-related announcements required and approved by the Department of Corrections are not a telecommunications service regulated by the Public Utility Commission. Administrative Law Judge Louis G. Cocheres previously dismissed allegations regarding these security announcements because he could “not conclude that these interruptions violate the Public Utility Code, the Commission regulations or a Commission Order.”<sup>2</sup> ALJ Cocheres found that “T-NETIX is not responsible for these interruptions” because the announcements are required by the DOC.<sup>3</sup> Likewise, Administrative Law Judge Wayne L. Weismandel dismissed a complaint with the same allegations regarding the announcements, stating that “the interruptions to conversations that occur on calls between an inmate and another person caused by recorded announcements are security announcements provided pursuant to a contract with the Department of Corrections.”<sup>4</sup>

Second, Complainant’s claim regarding costs is similarly unavailing. Complainant argues that “prisoner’s and their families [are] being extorted” because the “commissions” collected by the Department of Corrections. However, this claim is not within

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<sup>2</sup> *Feigley, et al. v. T-NETIX, Inc.*, C-20029138 & C-20029154, Initial Decision at 22 (Apr. 25, 2005).

<sup>3</sup> *Id.*

<sup>4</sup> *Dean v. T-NETIX, Inc.*, C-20054402, Initial Decision at 4 (June 13, 2005).

the jurisdiction of this Commission to adjudicate. Moreover, T-NETIX is not the service provider at the Retreat Hunlock State Correction Institution in Hunlock Creek.

## II. ANSWER

In the event T-NETIX's Motion to Dismiss is denied, T-NETIX answers the Complaint as follows:

1. With respect to Complainant's allegation concerning the overlay of recordings made during inmate calls, T-NETIX generally admits the allegation. By way of further answer, T-NETIX states that, as set forth above, the "interruptions" referenced by Complainant are security-related announcements required and approved by the Department of Corrections. These announcements are not a telecommunications service regulated by the Public Utility Commission. Instead, they are an ancillary security feature provided by T-NETIX to the Department of Corrections and are intended to warn the parties that calls are subject to monitoring and recording and that any use of custom calling features such as three-way calling and call waiting may result in calls being disconnected. Several courts have held that access to inmate phones may be reasonably restricted to meet penological goals, such as public safety.<sup>5</sup> Thus, while the Complainant may feel inconvenienced by the announcements, he must recognize that in a prison environment these measures are necessary to ensure the security of the correctional institution and the security and privacy of the public at-large.

2. With respect to allegations regarding erroneous call disconnections, Verizon's blocking policy, costs, means of reimbursement, and the inability to provide basic service, T-NETIX states that it is not the service provider at the Retreat Hunlock State Correction

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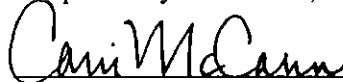
<sup>5</sup> See, e.g., *Gilday v. Dubois*, 124 F.3d 297, 293 (1st Cir. 1997); *Washington v. Reno*, 35 F.3d 1093, 1100 (6th Cir. 1994); *Benzel v. Grammer*, 869 F.2d 1105, 1008 (8th Cir.), cert. denied, 493 U.S. 895 (1989); *Carter v. O'Sullivan*, 924 F. Supp. 903, 909 (C.D. Ill. 1996); *Fillmore v. Ordonez*, 829 F. Supp. 1544, 1563-64 (D. Kan. 1993), aff'd, 17 F.3d 1436 (10th Cir. 1994).

Institution in Hunlock Creek at this time (or when the Complaint arose) and, thus, DENIES, the allegations.

**III. CONCLUSION**

Based on the foregoing, T-NETIX's Motion to Dismiss should be granted, and the Complaint should be dismissed with prejudice.

Respectfully submitted,



Glenn B. Manishin

Andrea Pruitt Edmonds

Carrie L. McCann

**KELLEY DRYE & WARREN LLP**

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Suite 500

Washington, D.C. 20036

(202) 955-9600 (telephone)

(202) 955-9792 (facsimile)

**Counsel for T-NETIX, Inc. and  
T-NETIX Telecommunications  
Services, Inc.**

Dated: October 12, 2005

CERTIFICATE OF SERVICE

I hereby certify that I have caused a copy of the foregoing documents to be sent this day by first class U.S. Mail (except as otherwise noted), postage prepaid, to the party named below:

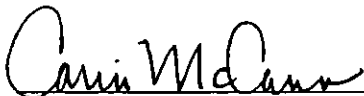
Mr. Howard Andrews, Sr. (CL-9549)  
SCI-Retreat  
660 State Route 11  
Hunlock Creek, PA 18621-3136

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OCT 12 2005

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

Dated this 12th day of October 2005 in  
Washington, D.C.



Carrie L. McCann, Associate  
KELLEY DRYE & WARREN LLP



COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
Administrative Law Judge  
P.O. BOX 3265, HARRISBURG, PA 17105-3265  
October 19, 2005

IN REPLY PLEASE  
REFER TO OUR FILE

Re: C-20055332

(SEE ATTACHED LIST)

Howard Andrews, Sr. CL-9549 v. T-Netix, Inc.

Service Dispute

Motion Judge Assignment Notice

This is to inform you that a preliminary motion was filed on the above-captioned case. This motion is being assigned to Chief Administrative Law Judge Veronica A. Smith for ruling. The Commission rule of practice at 52 Pa. Code §5.101 specifies that the person who filed the complaint has ten (10) days from the date the motion was served on you to file an answer.

If you file any pleading or document relating to this motion with the Secretary of the Commission, please provide a duplicate copy to the judge.

Procedural questions or comments should be directed to the judge at:

717-783-5452

DOCUMENT  
FOLDER

pc: Attorney Rohrbaugh  
Cherie Pyle, Scheduling Officer  
Beth Plantz  
Docket Section

DOCKETED  
OCT 21 2005