

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA



**FILED**

02-17-11  
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Beryl Adelman,

Complainant,

vs.

Pacific Bell Telephone Company, dba  
AT&T California (U1001C)

Defendant.

Case No. 11-01-013 (ECP)

**ANSWER OF PACIFIC BELL TELEPHONE COMPANY (U 1001 C)  
TO COMPLAINT**

Pacific Bell Telephone Company (“AT&T California”), files this Answer to the above-captioned Complaint filed with the California Public Utilities Commission (“Commission”) by Ms. Adelman (“Complainant”) on January 21, 2011, and served on AT&T California on January 28, 2011.

**I. SUMMARY OF ANSWER**

Complainant alleges that AT&T California billed Complainant unauthorized charges for international calls made to Thailand. Complainant admits that her granddaughter made international calls to three telephone numbers in Thailand, but alleges the other calls were not made. Complainant also alleges that her granddaughter should not have been able to make international calls using Complainant's telephone service because Complainant never signed up for international long distance with AT&T.

AT&T California's records show many telephone calls directly dialed from Complainant's residence to international numbers. These calls began on June 14, 2010 and ended on June 21, 2010. Evidence that a call was directly dialed is prima facie evidence of authorization of the call.<sup>1</sup>

Complainant selected AT&T Communications of California, Inc. as her long distance provider in June 1999. That long distance service allows a customer to make all types of long distance calls including domestic interLata toll calls, as well as international calls. A customer may request that AT&T place toll restriction on his or her telephone line, but that restriction would block all types of toll calls, domestic as well as international. AT&T California's records reflect no request by Complainant to have toll restriction of any type on her line. Indeed, Complainant's records reflect that many domestic toll calls were placed using her service, which could not have been done if Complainant had toll restriction on her line.

In sum, the directly dialed international calls disputed by Complainant are presumed authorized, and AT&T California's records do not indicate that Complainant requested toll restriction. Moreover, international calls are subject to the jurisdiction of the FCC. The Complaint should be dismissed.

## **II. ANSWER**

The allegations in the Complaint are set forth in an attachment to the Complaint, which is referenced in Section (F) of the Complaint. AT&T California addresses below the material allegations in the attachment.

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<sup>1</sup> Rulemaking on the Commission's Own Motion to Establish Consumer Rights and Consumer Protection Rules Applicable to All Telecommunications Utilities, Decision 10-10-034, Att. A, Section 3.

Answering the allegations in the first two sentences of paragraph (F) of the attachment, AT&T California denies the allegations in those sentences.

Answering the allegations in the third and fourth sentences of paragraph (F) of the attachment, AT&T California denies the allegations in those sentences on the basis that it lacks sufficient information or belief concerning those allegations

Answering the allegations in the fifth sentence of paragraph (F) of the attachment, AT&T California denies the allegations on the basis that it lacks sufficient information or belief concerning those allegations. AT&T California avers that its records show that all of the international calls on Ms. Beryl's July 16, 2010 AT&T telephone bill were direct dial calls. All of those calls were made to Thailand.

Answering the allegations in the sixth, seventh, eighth, and ninth sentences of paragraph (F) of the attachment, AT&T California denies the allegations on the basis that it lacks sufficient information or belief concerning those allegations.

Answering the allegations in the tenth sentence of paragraph (F) of the attachment, AT&T California denies the allegations on the basis that it lacks sufficient information or belief concerning those allegations, and avers that AT&T California's records show that all of the international calls on Ms. Beryl's July 16, 2010 AT&T telephone bill were direct dial calls.

Answering the allegations in the eleventh sentence of paragraph (F) of the attachment, AT&T California denies the allegations, and avers that AT&T California's records indicate that Complainant never requested toll blocking of any calls.

## **AFFIRMATIVE DEFENSES**

### **First Affirmative Defense**

The Complaint fails to state a claim upon which relief can be granted.

### **Second Affirmative Defense**

The Complaint is vague and fails to comply with Commission Rule of Practice and Procedure 4.2(a), which requires that “[t]he complaint shall be so drawn as to completely advise the defendant and the Commission of the facts constituting the grounds of the complaint, the injury complained of, and the exact relief which is desired.” The Complaint fails to specifically identify legally cognizable injury or relief.

### **Third Affirmative Defense**

Complainant seeks an unlawful preference not accorded to other customers, in violation of section 453(a) of the Public Utilities Code, which provides as follows:

No public utility shall, as to rates, charges, services, facilities, or in any other respect, make or grant any preference or advantage to any corporation or person or subject any corporation or person to any prejudice or disadvantage.

### **Fourth Affirmative Defense**

Certain services described in the Complaint are interstate services subject to exclusive federal jurisdiction, thus this Commission has no jurisdiction to order any relief with respect to such services.

## **III. COMMENTS ON PROCEDURAL ISSUES**

Categorization: AT&T California proposes that this proceeding be categorized as adjudicatory.

Hearings: Hearings are unnecessary because the Complaint fails to state a claim upon which relief may be granted.



**VERIFICATION**

**KENNETH P. MCNEELY**, under penalty of perjury, certifies as follows:

I am an officer, to wit, President of Pacific Bell Telephone Company, a corporation doing business in California as AT&T California, and make this verification for and on behalf of said corporation. I have read the foregoing **ANSWER OF PACIFIC BELL TELEPHONE COMPANY (U 1001 C) TO COMPLAINT**, and the contents thereof, and the facts therein stated are true to the best of my knowledge, information and belief.

Dated at San Francisco, California this 17th day of February 2011.

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/s/  
KENNETH P. MCNEELY  
President  
Pacific Bell Telephone Company, d/b/a AT&T California

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day caused a copy of the foregoing document, **“ANSWER OF PACIFIC BELL TELEPHONE COMPANY (U 1001 C) TO COMPLAINT”** in C.11-01-013 to be served by electronic mail, and/or hand delivery, to all persons in the current Service List.

Executed at San Francisco, California on the 17th day of February 2011.

/s/

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Linda Cheng  
AT&T Services, Inc.  
525 Market Street, 20<sup>th</sup> Floor  
San Francisco, CA 94105

# CALIFORNIA PUBLIC UTILITIES COMMISSION

## Service Lists

**Proceeding: C1101013 - (ECP) ADELMAN VS PAC**

**Filer: Beryl Adelman**

**List Name: LIST**

**Last changed: February 8, 2011**

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## Parties

BERYL ADELMAN  
2319 TERRACE LANE  
AGOURA, CA 91301  
FOR: BERYL ADELMAN

COMPANY,

ERIC BATONGBACAL  
EXEC DIR - REGULATORY  
PACIFIC BELL TELEPHONE COMPANY  
525 MARKET STREET, RM 1927  
SAN FRANCISCO, CA 94105  
FOR: PACIFIC BELL TELEPHONE

DBA AT&T CALIFORNIA

## State Service

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