BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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Wallace B. Roberts, Complainant vs. Cox California Telecom (U5684C) and Pacific Bell Telephone Company, dba AT&T California (U1001C), Defendant.	Case No. C. 11-01-006 (Filed January 10, 2011)

ANSWER OF COX CALIFORNIA TELCOM, LLC

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Dated: February 18, 2011

Pursuant to the California Public Utilities Commission Rules of Practice and Procedure ("Rules") Rule 4.4 and service of the complaint including Instructions to Answer, dated January 19, 2011, Cox California Telcom, L.L.C. (U 5684 C) ("Cox") submits this answer in response to the Complaint of Wallace B. Roberts ("Complaint").

I. INTRODUCTION

Complainant subscribes to certain services provided by CoxCom, Inc., an entity affiliated with Cox, and he also subscribes to local exchange service provided by AT&T. Last year, Complainant contacted the Consumers Affairs Branch ("CAB") with respect to his Caller Identification information not being blocked when contacting the customer care office of CoxCom.

In response to CAB's inquiry on behalf of Complainant, Cox submitted a timely response, which the Complainant further questioned. Cox performed a further investigation and sent a follow-up response explaining that it had tested its systems and made an adjustment such that when the Complainant utilized the Caller ID feature (by dialing *67) offered by his telephone service provider, the Complainant's Caller Identification information will not be accessible to CoxCom's IVR system when he calls into its customer care center. Therefore, Cox has already provided the Complainant the relief he is seeking.[1]

After submitting this response to CAB, Cox did not receive any further inquires from CAB or Complainant indicating that the response was not satisfactory or that the dispute was not otherwise resolved. Similarly, neither Complainant nor CAB contacted Cox seeking any additional relief or remedies. Complainant, nonetheless, filed the Complaint seeking the same relief that Cox already provided last year. As such, it is reasonable for the Commission to deny the Complaint as it does not include a cause of action to be addressed and/or relief that the Commission may grant.

[1] Regardless of Complainant subscribing to Caller ID block, CoxCom already has Complainant's telephone number as part of its records because he subscribes to its services and it maintains such information as part of his account. Stated differently, CoxCom did not obtain access to any telephone number of Complainant that CoxCom did not already have.

II. ANSWER

In response to the allegations set forth in the formal complaint form that Complainant submitted, Cox responds as follows:

1. Responding to Section C:[2] Cox admits that Complainant contacted CAB, it contacted Cox and Cox responded by remedying the problem identified by Complainant. Cox lacks sufficient information to admit or deny that (a) Complainant appealed the matter to a Consumer Affairs Manager; (b) whether Complainant has any money/deposit with the Commission; and (c) that his local exchange service is not disconnected.

2. Responding to Sections D and E: Cox lacks sufficient information to admit or deny that information that Complainant included about himself is accurate, and on that basis, denies them. Cox admits the information included about Cox in this section is accurate. On information and belief, Cox admits that the information about AT&T is accurate.

Cox further states that all communications in this proceeding should be sent to the following:

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[2] All section references hereafter are to the Complaint, unless otherwise noted.

3. Responding to Section F: Cox lacks sufficient information to admit or deny that information that Complainant included in the first two sentences, and on that basis, denies them. To the extent the allegations purport to interpret California Public Utilities Code ("PU Code") Section 2893(a) or any other law, such laws speak for themselves. To the extent this paragraph consists of allegations that include legal conclusions, no response is required.

4. Responding to Section G: Cox disagrees with that the proceeding should be categorized as a regular complaint and that a hearing is necessary as Cox has already provided the remedy that Complainant requests. More specifically, Cox has already made an adjustment to its systems such that Complainant's telephone number is blocked when he dials "*67" when calling CoxCom's customer care office. Cox disagrees that any hearing scheduled should be held in San Clemente, California.

Cox recommends a schedule that commences with Cox and Complainant engaging in Mediation prior to the scheduling of a pre-hearing conference. The outcome of the Mediation process will dictate any remaining issues to be resolved, if any, and thereby, a schedule, as applicable. Cox reserves the right to propose an alternative schedule at the pre-hearing conference that includes the filing of a Motion to Dismiss or other applicable pleadings. At this stage in the proceeding, Cox has not determined if hearings will be necessary. Cox reserves the right to request hearings or alternatively request that the matter be resolved as a matter of law.

5. Responding to Section H: Cox denies that the requested relief is necessary as the requested block has already been implemented. To the extent the allegations purport to interpret PU Code, Section 2893(a) or any other law, any applicable law speaks for itself. To the extent this paragraph consists of allegations that include legal conclusions, no response is required.

III AFFIRMATIVE DEFENSES

6. Cox states the following affirmative defenses:

   a. The Complaint fails to state a claim sufficient to state a cause of action.

   b. Cox responded to CAB's inquiry for purposes of resolving the dispute and provided the requested relief herein;

c. The Complaint is moot;

d. Cox's practices are just and reasonable;

e. The Complaint is barred, in whole or part, by waiver and estoppel.

f. Cox cannot anticipate all of the affirmative defenses that may be applicable and reserves the right to assert additional defenses.

IV. RELIEF REQUESTED

Wherefore, Cox respectfully requests that:

7. The Commission deny the Complaint as Cox provided the requested relief prior to Complainant filing this Complaint;

8. The Commission award Cox such other and further relief as Cox may be entitled to in this proceeding.

Date: February 18, 2011

Respectfully submitted,
/s

Margaret L Tobias
Attorney for Cox

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VERIFICATION

I, Douglas Garrett, Vice President, Western Region Regulatory Affairs of Cox California Telcom, LLC declare as follows:

The statements in the Answer of Cox California Telcom, LLC, dated February 18, 2011, are true of my own knowledge except as to matters which are stated therein on information and belief, and as to those matters, I believe them to be true.

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

Executed on February 18, 2011 at Emeryville, California

/s

_____

Douglas Garrett

PROOF OF SERVICE

I, Margaret L Tobias, the undersigned, hereby declare that, on February 18, 2011, I caused a copy of the foregoing:

ANSWER OF COX CALIFORNIA TELCOM, LLC DBA COX COMMUNICATIONS

in the above-captioned proceeding, to be served as follows:

[X] Via U.S. Mail and email to the assigned Administrative Law Judge

[X] Via Email Service to the parties included on the service list:

wally@wallyroberts.com
eb1642@att.com
marg@tobiaslo.com
esther.northrup@cox.com
wac@cpuc.ca.gov

Dated: February 18, 2011 at San Francisco, California.

/s

_____

Margaret L. Tobias