

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



FILED

01-13-10
08:00 AM



James D. McDermott,

Complainant

vs.

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

Defendant

(ECP)

Case No. (C.) 10-01-002
(Filed January 5, 2010)

INSTRUCTIONS TO ANSWER AND HEARING NOTICE:

TO:

COMPLAINANT	DEFENDANT
James D. McDermott 44 Myrtle Circle Winters CA 95694-9043 Telephone (916) 647-7540 Email: downtoearth@gmail.com	Pacific Bell Telephone Company, dba AT&T California (U1001C) Attn: Eric Batongbacal Executive Director, Regulatory 525 Market St., Room 1944 San Francisco CA 94105 Telephone (415) 778-1299 Email: att-regulatory-ca@att.com

Pursuant to Rule 4.3 of the Commission's Rules of Practice and Procedure, this is the electronically filed Instructions to Answer and Hearing Notice from the Docket Office of the California Public Utilities Commission. The Defendant is hereby notified that the above-entitled Complaint was filed against you as defendant on **January 5, 2010**. **You are hereby directed to answer the Complaint in writing within twenty (20) days from today in compliance with Rule 4.4.** Your verified answer shall be filed electronically at <http://efile.cpuc.ca.gov/thin/cp.exe> or if in paper form, sent to the California Public Utilities Commission, Attn.: Docket Office, 505 Van Ness Avenue, San Francisco, CA 94102. **A copy must also be sent to Complainant.**

HEARING NOTICE

Complainant and defendant must appear at the hearing set before Administrative Law Judge Victor D. Ryerson on March 1, 2010, at 1:30 p.m. at the Commission Courtroom, 505 Van Ness Avenue, San Francisco CA 94102. Then and there, you must be fully prepared to present your case. Failure of the complainant to appear at the date, time and location specified or to contact the ALJ to reschedule the hearing may be grounds for the ALJ to recommend dismissal of the complaint.

NOTICE TO PARTIES:

Please acknowledge your receipt of this Notice within 24 hours of receipt by completing the enclosed **NOTICE AND ACKNOWLEDGEMENT OF RECEIPT** form and returning it either as an Attachment to an Email addressed to Martin Nakahara (mmn@cpuc.ca.gov) or George Lau (gml@cpuc.ca.gov) in the Docket Office or by mail to the Docket Office in the self-addressed envelope provided. A self-addressed envelope is provided only if you are served by First Class U.S. mail or by Certified U.S. Mail Return Receipt Requested.

It may be possible to resolve this matter through the Commission's Alternative Dispute Resolution Program. Please see the enclosed information on the ADR Program or go the ADR link on the Commission's website (www.cpuc.ca.gov/PUC/adr/).

If you have any questions regarding the hearing date, time or location, please call the Calendar Clerk at (415) 703-1203.

Dated at San Francisco, California on January 13, 2010

/s/ KAREN V. CLOPTON

KAREN V. CLOPTON

Chief Administrative Law Judge

KVC/mmn

Enclosures: As specified on the Certificate of Service attached hereto and incorporated by reference herein.

cc: ALJ Robert Barnett (2) Calendar Clerk (3) Jacqueline Dandridge (4) ALJ Docket Office (5) ALJ Process Office

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4.4. (Rule 4.4) Answers

The answer must admit or deny each material allegation in the complaint and shall set forth any new matter constituting a defense. Its purpose is to fully advise the complainant and the Commission of the nature of the defense. At least one of the defendants filing an answer must verify it, but if more than one answer is filed in response to a complaint against multiple defendants, each answer must be separately verified. (See Rule 1.11.)

The answer should also set forth any defects in the complaint which require amendment or clarification. Failure to indicate jurisdictional defects does not waive these defects and shall not prevent a motion to dismiss made thereafter.

The answer must state any comments or objections regarding the complainant's statement on the need for hearing, issues to be considered and proposed schedule. The proposed schedule shall be consistent with the categorization of the proceeding, including a deadline for resolving the proceeding within 12 months or less (adjudicatory proceeding) or 18 months or less (ratesetting or quasi-legislative proceeding). (See Article 7.)

Answers must include the full name, address, and telephone number of defendant and the defendant's attorney, if any, and indicate service on all complainants.

4.5. (Rule 4.5) Expedited Complaint Procedure

(a) This procedure is applicable to complaints against any electric, gas, water, heat, or telephone company where the amount of money claimed does not exceed the jurisdictional limit of the small claims court referenced in Pub. Util. Code § 1702.1.

(b) No attorney at law shall represent any party other than himself or herself under the Expedited Complaint Procedure.

(c) No pleading other than a complaint and answer is necessary.

(d) A hearing without a reporter shall be held within 30 days after the answer is filed.

(e) Separately stated findings of fact and conclusions of law will not be made, but the decision may set forth a brief summary of the facts.

(f) Complaints calendared under the Expedited Complaint Procedure are exempt from the categorizing and scoping requirements of Article 7 and the requirements of Article 8 regarding communications with decisionmakers and Commissioners' advisors.

(g) The Commission or the presiding officer, when the public interest so requires, may at any time prior to the filing of a decision terminate the Expedited Complaint Procedure and recalendar the matter for hearing under the Commission's regular procedure.

(h) The parties shall have the right to file applications for rehearing pursuant to Section 1731 of the Public Utilities Code. If the Commission grants an application for rehearing, the rehearing shall be conducted under the Commission's regular hearing procedure.

(i) Decisions rendered pursuant to the Expedited Complaint Procedure shall not be considered as precedent or binding on the Commission or the courts of this state.

(END OF RULES 4.4 and 4.5)

Alternative Dispute Resolution Program (ADR)

ADR commonly describes processes, such as facilitation, negotiation, mediation, and early neutral evaluation, to help disputants resolve a conflict without a formal decision by a court or agency. When successful, ADR may achieve results that a court or agency could not order, give the parties more ownership in the result, and reduce litigation and agency costs.

Our Administrative Law Judge (ALJ) Division administers the ADR program and trained, experienced ALJs serve as neutrals in the program.

Because ADR focuses on the parties' basic interests, a dispute may be settled on terms more favorable to each of the parties. Since the process is voluntary, free, and normally confidential, parties have little "down-side" risk in trying ADR. If it results in a full settlement, ADR may save time and litigation expenses. Even if a complete settlement is not possible, agreement may be reached on some important points and this, also, may save time.

ADR can occur at any time during a formal proceeding. We encourage the early use of ADR to save the parties' time and money and to avoid unnecessary escalation of a dispute. On occasion, ADR may be available to help resolve disputes that are still informal and have yet to be filed as formal complaints. Most ADR sessions are completed in ½ to 2 days. Some ADR sessions continue over several weeks, with the parties meeting for a day or two at a time.

For additional information visit www.cpuc.ca.gov/PUC/ADR/.

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CERTIFICATE OF SERVICE

I hereby certify that pursuant to the Commission’s Rules of Practice and Procedure, I have this day served a true copy of the following documents in proceeding **Case No. (ECP) (C.) 10-01-002:**

- Instructions to Answer and Hearing Notice filed electronically January 13, 2010 that includes a copy of Commission’s Rules of Practice and Procedure Rule 4.4 and Rule 4.5 and Information on the Alternative Dispute Resolution Program (ADR); and,
- Complaint (ECP) (C.) 10-01-002 filed electronically on January 5, 2010; and,
- Notice and Acknowledgement of Receipt form,

on the persons identified below. Service was effected by transmitting the copies either by First Class U.S. Mail or by Certified U.S. Mail Return Receipt Requested or by electronic mail pursuant to Rules 1.9 and 1.10, respectively, as indicated.

Executed on January 13, 2010 at San Francisco, California.

/s/ Martin M. Nakahara

Martin M. Nakahara

Legal Analyst

California Public Utilities Commission

Telephone: (415) 703-1927/1929

<u>VIA ELECTRONIC MAIL:</u>	<u>COURTESY COPY VIA ELECTRONIC MAIL:</u>
<p>Pacific Bell Telephone Company, dba AT&T California (U1001C) Attn: Eric Batongbacal Executive Director, Regulatory Email: att-regulatory-ca@att.com</p> <p style="text-align: center;"><u>VIA REGISTERED MAIL, RETURN RECEIPT REQUESTED</u></p> <p style="text-align: center;"><u>7001 0320 0000 7657 0819</u> James D. McDermott 44 Myrtle Circle Winters CA 95694-9043</p>	<p>ALJ Robert Barnett rab@cpuc.ca.gov</p> <p>Ann Hoang, Calendar Clerk ahg@cpuc.ca.gov</p> <p>Jacqueline Dandridge jd2@cpuc.ca.gov</p> <p>ALJ Docket Office</p> <p>ALJ Process Office</p>

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