

**PUBLIC UTILITIES COMMISSION**505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3298**FILED**09-02-11  
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September 2, 2011

Agenda ID #10660  
Adjudicatory

TO PARTIES OF RECORD IN CASE 10-10-012

This is the proposed decision of Administrative Law Judge (ALJ) Katherine MacDonald. It will not appear on the Commission's agenda sooner than 30 days from the date it is mailed. The Commission may act then, or it may postpone action until later.

When the Commission acts on the proposed decision, it may adopt all or part of it as written, amend or modify it, or set it aside and prepare its own decision. Only when the Commission acts does the decision become binding on the parties.

Parties to the proceeding may file comments on the proposed decision as provided in Article 14 of the Commission's Rules of Practice and Procedure (Rules), accessible on the Commission's website at [www.cpuc.ca.gov](http://www.cpuc.ca.gov). Pursuant to Rule 14.3, opening comments shall not exceed 15 pages.

Comments must be filed pursuant to Rule 1.13 either electronically or in hard copy. Comments should be served on parties to this proceeding in accordance with Rules 1.9 and 1.10. Electronic and hard copies of comments should be sent to ALJ MacDonald at [kk3@cpuc.ca.gov](mailto:kk3@cpuc.ca.gov) and the assigned Commissioner. The current service list for this proceeding is available on the Commission's website at [www.cpuc.ca.gov](http://www.cpuc.ca.gov).

/s/ KAREN V. CLOPTON  
Karen V. Clopton, Chief  
Administrative Law Judge

KVC:gd2

Attachment

Decision **PROPOSED DECISION OF ALJ MACDONALD** (Mailed 9/2/2011))

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Ataollah Ramin, M.D., Inc. dba  
Assuta Medical Center,

Complainants,

vs.

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

Defendant.

Case 10-10-012  
(Filed October 18, 2010)

**DECISION DISMISSING COMPLAINT WITHOUT PREJUDICE**

**1. Summary**

Case 10-10-012 seeks a Commission order requiring Pacific Bell Telephone Company, doing business as AT&T California, to credit Ataollah Ramin, M.D., Inc., doing business as Assuta Medical Center, \$10,389.63 in disputed charges for services under a three-year contract between the parties. Complainant is deceased, and the family has no current plans for pursuing the complaint, so the case is dismissed without prejudice for lack of prosecution.

**2. Background**

Ataollah Rahmin, M.D., doing business as Assuta Medical Center (Complainant) filed a complaint against Pacific Bell Telephone Company, doing business as AT&T California (Defendant), on October 18, 2010. On December 10, 2010, Defendant moved to dismiss arguing that (1) the Commission

lacks jurisdiction over interstate services; (2) a significant portion of the request for relief is barred by the statute of limitations; (3) Defendant did not provide the Frame Relay Service; (4) Complainant seeks preferential rates for a tariffed service, the HiCap Circuit, which are prohibited by Section 532 of the California Public Utilities Code; and (5) the parole evidence rule, as well as the terms of the contract itself, bar the use of verbal communications to modify the written terms of the contract.

A prehearing conference (PHC) was held on February 4, 2011. After some discussion at the PHC, both parties agreed to attempt to mediate the dispute prior to briefing the legal issues or setting evidentiary hearings. A mediator was assigned to the matter and parties agreed upon a mediation date. Unfortunately, shortly before conducting the mediation, the Commission was notified of Complainant's death. The mediation was cancelled.

The assigned Administrative Law Judge (ALJ) contacted Assuta Medical Center via e-mail to ascertain whether Assuta Medical Center intended to proceed with the complaint. The business manager for Assuta Medical Center, Nat Chandra, informed the ALJ that S. Adam Ataollah, Complainant's son, determined there would be no further action taken to move this case forward at this time, in part because Mr. Ataollah's family is busy dealing with other aspects of Complainant's death.

### **3. Discussion**

Due to the death of Complainant, there has been no activity in this case since the PHC. It is further apparent that Complainant's family is dealing with Complainant's death and is unable to prosecute this matter at this time. The complaint should be dismissed without prejudice for failure to prosecute.

**4. Proceeding Category and Need for Hearing**

The Instruction to Answer filed on November 4, 2010, categorized this complaint as adjudicatory as defined in Rue 1.3(a) and anticipated that this proceeding would require evidentiary hearings. Due to the death of complainant, and the desire of his successors in interest to not pursue this complaint at this time, this complaint should be dismissed.

**5. Comments on Proposed Decision**

The proposed decision of ALJ MacDonald in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on \_\_\_\_\_, and reply comments were filed on \_\_\_\_\_ by \_\_\_\_\_.

**6. Assignment of Proceeding**

Timothy Alan Simon is the assigned Commissioner and Katherine Kwan MacDonald is the assigned ALJ in this proceeding.

**Findings of Fact**

1. Ataollah Ramin, M.D., Inc., doing business as Assuta Medical Center filed a complaint against Pacific Bell Telephone Company, doing business as AT&T California, on October 18, 2010.
2. Due to the death of the Complainant, the merits of the case have not been heard.
3. There has been no action in the case since the prehearing conference.
4. Complainant's successor in interest does not wish to pursue this matter at this time.

**Conclusions of Law**

1. The complaint should be dismissed without prejudice for failure to prosecute.
2. The complaint should be dismissed and docket closed effective immediately.

**O R D E R**

**IT IS ORDERED** that:

1. The complaint is dismissed without prejudice.
2. Complaint 10-10-012 is closed.

This order is effective today.

Dated \_\_\_\_\_, at Los Angeles, California.