Decision 16-06-017 June 9, 2016

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Gulsen Maloney, Complainant, vs. Pacific Bell Telephone Company, dba AT&T California (U1001C) Defendant.	(ECP) Case 16-01-005 (Filed January 19, 2016)

Gulsen Maloney, for herself, Complainant

Greta L. Banks, representative for, Pacific Bell Telephone Company, dba AT&T California (U1001C)

DECISION APPROVING SETTLEMENT

Complainant, Gulsen Maloney (Complainant), alleges that on or about February 11, 2015, she subscribed to U-verse service for her internet service in order to get better DSL service at a lower price. Complainant contends that she only subscribed to U-verse contingent upon the provision that Pacific Bell Telephone Company, dba AT&T California (U1001C)(AT&T) leave her landline "untouched." Complainant asserts that AT&T instead disconnected her "landline," changed her telephone number and migrated her telephone service to U-verse Voice over Internet Protocol (VoIP) against her wishes. This unauthorized change in her service, Complainant contends, also broke her two answering machines. Complainant asserts that after U-verse was installed she

was unable to turn off a blinking red light, making it difficult to know if she had messages on the answering machines. Complainant contends that she was also mischarged by AT&T during this process. Complainant then canceled U-verse and requested that AT&T restore her landline service as it was before U-verse. Complainant argues that AT&T failed to restore her landline service, that she can no longer make calls to certain telephone numbers by simply dialing the 10-digit number, and that her answering machine remains broken with blinking red lights that will not turn off. Complainant asked that her service be restored as it was prior to U-Verse, that her account balance be adjusted, and for money to replace the damaged answering machines.

AT&T admits that AT&T installed U-verse VoIP and internet services for Complainant at her request and that these services were subsequently removed. AT&T further admits that Complainant's ability to make local toll calls in the same manner as she could prior to the service conversion to VoIP changed after complainant's AT&T Residence Flat Rate Service (Flat Rate Service) was restored. AT&T believes that Complainant should seek assistance for the answering machines from the manufacturer and that the Commission lacks the jurisdiction to award property damages.

Evidence provided by both Complainant and AT&T show that prior to ordering U-verse, Complainant subscribed to Flat Rate Service and that AT&T was the designated local toll carrier. On February 11, 2015, Complainant's service was changed to VoIP service. On February 20, 2015, Complainant's service was returned to Flat Rate Service at her request. Complainant's original telephone number was restored. AT&T also issued a courtesy credit of $100.00 in February 2015.

At the hearing, AT&T explained that Complainant was unable to make certain calls, local toll, in the same manner because she had not selected AT&T as her local toll carrier. AT&T explained the various options for local toll and long distance service that it provided as well as the option to choose another provider for these services and that customers must now make an affirmative selection of their local toll and long distance carriers. After some discussion, it became apparent that Complainant had been an AT&T customer for a very long time, and did not remember ever having to select a local toll carrier. She was reluctant to choose AT&T and wanted a more detailed explanation of her options in writing. Complainant reiterated that she simply wanted her telephone service restored to the way it was before U-verse. Finally, AT&T explained that it could not fix her answering machine or reimburse Complainant for damage to the answering machine and that Complainant should contact the manufacturer for assistance.

After some discussion, parties decided to discuss settlement. The hearing was adjourned to allow parties time to reach a settlement. After reviewing Complainant's account, AT&T found that all local toll charges had been adjusted from her account through the $100 courtesy adjustment. AT&T discussed local toll calling options with the Complainant. AT&T then issued an additional $50 courtesy adjustment to Complainant's April 2016 billing statement. AT&T provided the local toll calling and domestic long distance calling options to Complainant by e-mail on April 14, 2016.

On April 19, 2016, Complainant accepted AT&T's settlement offer to resolve most of the Complainant's issues, but asked that the Commission reconsider the local toll calling issue.

After reviewing the evidence, it appears that the issue of restoring Complainant's local toll calling rests with the Complainant. AT&T cannot place itself as the carrier for local toll calling without Complainant affirmatively selecting AT&T as her local toll carrier. Complainant currently uses a free local toll calling service that requires her to dial a longer number and code to make calls. The local toll calling plan that Complainant subscribed to prior to U-verse is available from AT&T, but Complainant must affirmatively select that plan. Complainant is also free to choose another carrier to provide local toll calling should she choose to do so. Complainant is the only person who can determine the best carrier and plan for her local toll calls. Therefore, there are no longer any issues in dispute.

Pursuant to Rule 4.5(h), Complainant has the right to file an application for rehearing.

Assignment of Proceeding

Liane M. Randolph is the assigned Commissioner and Katherine Kwan MacDonald is the assigned Administrative Law Judge in this proceeding.

Waiver of Comment Period

Pursuant to Rule 14.7(b), the 30-day public review and Comment period is not applicable in expedited complaint proceedings.

IT IS ORDERED that:

1. Pacific Bell Telephone Company's (dba AT&T California) offer of settlement to Gulsen Maloney is approved.
2. All relief **not** granted in Ordering Paragraph 1 is denied.

3. Case 16-01-005 is closed.

This order is effective today.

Dated June 9, 2016, at San Francisco, California.

MICHAEL PICKER
President
MICHEL PETER FLORIO
CATHERINE J.K. SANDOVAL
CARLA J. PETERMAN
LIANE M. RANDOLPH
Commissioners