

Decision 19-02-011 February 21, 2019

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

Thomas Kenster,

Complainant,

vs.

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

Defendant.

(ECP)  
Case 18-09-006

**DECISION DISMISSING COMPLAINT  
FOR LACK OF PROSECUTION**

**Summary**

This decision dismisses Case 18-09-006 for lack of prosecution. This proceeding is closed.

**1. Procedural and Factual Background**

On September 6, 2018, Thomas Kenster (Complainant) filed this complaint against Pacific Bell Telephone Company d/b/a AT&T California (AT&T), alleging that AT&T failed to disconnect two of Complainant's telephone service accounts when requested and continues to charge Complainant for service after he requested disconnection. Complainant demanded that AT&T refund \$67.04 for service rendered after Complainant requested that service be discontinued on June 13, 2017. In addition, Complainant requests that service for the two accounts be discontinued and any charges in those accounts for the

period after June 13, 2017, including late payment charges and other pending charges for those accounts, be expunged from the accounts.

AT&T conceded that it did erroneously continue to bill Complainant for the two accounts at issue after June 13, 2017 and states that this inadvertent mistake was corrected. AT&T states that that it is not currently providing any service to Complainant, and contends that all of the accounts mentioned in the instant Complaint have a zero balance. AT&T argues that the complaint is thus moot and should be dismissed.

On October 4, 2018, the assigned Administrative Law Judge (ALJ) issued a ruling that: (1) set a prehearing conference (PHC) for Tuesday, December 4, 2018; (2) required Complainant and AT&T to meet and confer regarding the possibility of settlement or alternative dispute resolution; and (3) required each party to submit a PHC statement or joint PHC statement. The PHC was scheduled at 11:00 a.m. on Tuesday, December 4, 2018 in the Junipero Serra State Office Building at 320 West 4th Street, Suite 500 in Los Angeles, California.

AT&T timely complied with the ALJ's ruling by contacting Complainant for a meet and confer, submitting a PHC statement, and appearing at the PHC.

Complainant failed to respond to the request of AT&T to meet and confer, failed to respond to AT&T's request to submit a joint PHC statement, and failed to submit a PHC statement. Most importantly the Complainant failed to appear at the PHC and did not request to participate via phone.

On December 14, 2018, the assigned ALJ sent a letter to Complainant via United States Parcel Service and electronic service via this proceeding's service list, providing the Complainant additional opportunities to pursue his case against AT&T. The letter directed the Complainant to contact the ALJ directly

within 10 business days of the date of the December 14, 2018 letter to reschedule a prehearing conference to ensure his opportunity to be heard. The Complainant did not respond to the ALJ's letter.

## **2. Discussion**

The Complainant did not appear at the December 4, 2018 PHC, did not respond to AT&T or the ALJ as required by the procedural schedule, nor did he submit any filings as required by the ALJ. These actions and/or failure to act on the part of the Complainant demonstrates a lack of prosecution of this proceeding. Accordingly, this complaint is dismissed.

## **3. Waiver of Comment Period**

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Section 311(g)(2) of the Public Utilities Code and Rule 14.6(c)(2), the otherwise applicable 30-day period for public review and comment is waived.

## **4. Assignment of Proceeding**

Commissioner Liane M. Randolph is the assigned Commissioner and Colin Rizzo is the assigned Administrative Law Judge (ALJ) in this proceeding.

## **Findings of Fact**

1. Complainant failed to submit a Prehearing Conference Statement, as required by the ALJ's Ruling
2. Complainant failed to attend the December 4, 2018 PHC.
3. Complainant failed to respond to AT&T's request to meet and confer, and failed to respond to AT&T's request to submit a joint PHC statement.
4. Complainant failed to respond to the ALJ's Complainant failed to respond to the ALJ's December 14, 2018 letter, which provided Complainant additional opportunities to pursue his case against AT&T.

**Conclusions of Law**

1. Complainant has failed to prosecute this case.
2. It is reasonable to dismiss this complaint for lack of prosecution by Complainant.

**O R D E R**

**IT IS ORDERED** that:

1. Case 18-09-006 is dismissed for lack of prosecution.
2. Case 18-09-006 is closed.

This order is effective today.

Dated February 21, 2019, at San Francisco, California.

MICHAEL PICKER

President

LIANE M. RANDOLPH

MARTHA GUZMAN ACEVES

CLIFFORD RECHTSCHAFFEN

GENEVIEVE SHIROMA

Commissioners