

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



FILED

03-01-11
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Pacific Bell Telephone Company d/b/a AT&T
California (U1001C),

Complainant,

vs.

VAYA Telecom, Inc. (U7122C),

Defendant.

Case No. 11-02-015

**MOTION OF PACIFIC BELL TELEPHONE COMPANY
D/B/A AT&T CALIFORNIA (U 1001 C) TO
CONSOLIDATE CASE NO. 11-02-015 WITH CASE NO. 10-12-001**

Pursuant to Rules 7.4 and 11.1 of the Commission's Rules of Practice and Procedure, Pacific Bell Telephone Company, doing business as AT&T California ("AT&T California"), hereby moves for an order to consolidate Case No. 11-02-015 with Case No. 10-12-001.

Case No. 10-12-001 involves a complaint filed by VAYA Telecom, Inc. ("Vaya") against AT&T California, on December 3, 2010, alleging that AT&T California's imposition of switched exchange access charges on certain traffic delivered to AT&T California by Vaya was unlawful, unjust and unreasonable. On January 18, 2011, Vaya amended its complaint in Case No. 10-12-001, adding a claim relating to charges on traffic that Vaya alleges is subject to only transit charges under the parties' interconnection agreement ("ICA"), but which AT&T California maintains is subject to certain switched exchange access charges. AT&T California filed its Answer and Defenses to the Amended Complaint on February 17, 2011.

Also on February 17, 2011, AT&T California filed a complaint against Vaya alleging that, since at least November of 2009, Vaya has been delivering to AT&T California interLATA traffic over Local Interconnection Trunks in violation of the parties' ICA. In its complaint, AT&T California seeks injunctive and monetary relief. The complaint has been assigned Case No. 11-02-015.

Pursuant to Rule 7.4 of the Commission's Rules of Practice and Procedure, "[p]roceedings involving related questions of law or fact may be consolidated." Commonality of factual and legal issues, judicial economy and efficiency all warrant consolidation of these two cases.

The subject matter of Case No. 10-12-001 and the subject matter of Case No. 11-02-015 substantially overlap and involve related questions of law and fact. Each case involves interpretation of the parties' ICA and AT&T California's interstate and intrastate switched access tariffs and a determination of the appropriate compensation to be paid by Vaya for interLATA traffic delivered by Vaya to AT&T California. Each case arises out of the same set of facts.

Each case is in its preliminary stages, so consolidation will not result in the waste of prior efforts or necessitate a change to an already set schedule.

Addressing both cases in a single proceeding will conserve the resources of the parties and the Commission and will be more efficient than proceeding separately.

Given the overlap in issues, consolidation will eliminate the risk of inconsistent decisions by different Administrative Law Judges.

Counsel for Vaya has represented to counsel for AT&T California that Vaya consents to consolidation of Case No. 11-02-015 with Case No. 10-12-001.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing **MOTION OF PACIFIC BELL TELEPHONE COMPANY D/B/A AT&T CALIFORNIA (U 1001 C) TO CONSOLIDATE CASE NO. 11-02-015 WITH CASE NO. 10-12-001**, filed today in **C.11-02-015**, on all persons on the attached official service, via e-mail, hand-delivery and/or first-class U.S. Mail.

Dated this 1st day of March 2011 at San Francisco, California.

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/s/

Thomas J. Selhorst

453123

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