

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Jerome T. Pasto,

vs.

Complainant,

Pacific Bell Telephone Company,

Defendant.

(ECP)
Case 02-10-026
(Filed October 23, 2002)

**OPINION DISMISSING CLAIM FOR REFUND
OF PAYMENT FOR LINE EXTENSION**

1. Summary

Jerome T. Pasto (Complainant), seeks a full refund of the payment he made to Pacific Bell Telephone Company (SBC Pacific Bell) for a line extension because additional customers were connected to the line extension. However, under applicable provisions of the contract and tariff rules governing this line extension, no refund is required because the additional customers were connected more than three years after service was established. The complaint is dismissed, and the proceeding is closed.

2. The Facts

Complainant paid SBC Pacific Bell \$3,013.78 to construct a line extension to provide telephone service to his new house. Service was established on December 20, 1996. Complainant was the only customer on the line extension until October 2001, when new customers were added.

3. Position of the Parties

SBC Pacific Bell states that under its tariff, Complainant would only be entitled to a prorated refund if additional lines were added to the line extension *within three years of phone service being established, i.e.*, prior to December 20, 1999. Since no additional lines were added to serve other customers until October 2001, well outside the three-year term provided by the tariff, SBC Pacific Bell contends that it has fully complied with its tariff Schedule Cal P.U.C. No. A4, and that no refund is due Complainant.

Complainant argues that under SBC Pacific Bell's May 30, 1996 quotation letter, the line extension was "for sole customer use;" therefore, SBC Pacific Bell has no right to add new customers to the line extension he paid for. According to Complainant, the quotation letter and the enclosed "Agreement Covering Minimum Period of Telephone Service Where Line Extensions are Involved,"¹ which he signed and returned with his payment, constitute the full extent of his contract. He contends that SBC Pacific Bell cannot now invoke its tariff rules since it did not provide him with a line extension contract and a copy of its tariff rules at the time he paid for the line extension.

4. Discussion

A hearing on this complaint was held in Sacramento on December 3, 2002. Although Complainant argued that SBC Pacific Bell's tariff rules do not govern this line extension, SBC Pacific Bell's quotation letter specifically references its tariff rules:

¹ Since SBC Pacific Bell provides 750 feet of line at no charge, the customer is required to sign an agreement to maintain phone service on that line extension for 36 consecutive months.

“Your location was canvassed by our engineers and it has been determined that Pacific Bell’s most feasible route from our existing facilities would consist of 2,810 feet of line extension **for sole customer use**.

In compliance with the provisions set forth in **our Tariff Schedule Cal P.U.C. No. A4** dealing with line extension charges [, you] will be given a free footage allowance of 750 feet. The remaining footage is to be billed per foot.”

Moreover, the agreement that Complainant signed states:

“In consideration of Pacific Bell extending its lines beyond its existing leads, under the provisions of its **tariffs on file with the Public Utilities Commission . . .** I agree to retain and pay all charges for such telephone service in accordance with **said tariff . . .**”

Thus, we believe Complainant had ample notice that SBC Pacific Bell’s tariff rules applied to the line extension. He could have asked for a copy of the tariff rules if needed. In any event, the quoted language effectively incorporated by reference the relevant provisions of the tariff rules.

Regarding the question of a refund, the applicable tariff states in pertinent part:

“[4.3(E)(1)] When a new applicant is secured who can be served from a completed project, **within three years from the date service was initially established for such project**, the charges for the entire project are recomputed to include the new applicant. The new applicant pays a prorate of the charge based upon the number of months (a fraction of a month is counted as a full month) remaining in the original three-year term, the time to be computed from the date service is established for the new applicant.

. . .

[4.3(F)(1)] When a project is recomputed as described in E. preceding, existing customers will be refunded a prorate of the difference between the original charges and the

recomputed charges, based on the remainder of the three-year term. Recomputation of changes due to the addition of new applicants is made on the assumption that there have been no disconnects.” (Tariff Rule Schedule Cal P.U.C. No. 4A, emphasis added.)

Therefore, in the context of the above tariff rule, the words “for sole customer use” in SBC Pacific Bell’s quotation letter, simply mean that as the sole or only customer using the line extension, the cost would not be shared with other customers. Thus, the quotation letter concludes:

“Please call our number 1-916-972-3481 if you have any questions or wish **to refer other possible customers to us** to apply for service.” (Emphasis added.)

And, contrary to Complainant’s apparent belief, customers do not acquire exclusive or ownership rights in line extensions simply because they pay part of the cost.

In summary, we conclude that SBC Pacific Bell is in full compliance with the applicable tariff rules, and the complaint should be denied.

5. Assignment of Proceeding

Geoffrey Brown is the Assigned Commissioner and Bertram Patrick is the assigned Administrative Law Judge in this proceeding.

O R D E R

Therefore, **IT IS ORDERED** that:

1. The complaint is denied.

2. This proceeding is closed.

This order is effective today.

Dated _____, at San Francisco, California.