

Decision \_\_\_\_\_

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

Transpacific Currency Services, Inc.,	
	Complainant,
vs.	
Allegiance Telecom, Inc.,	
	Defendant.

(ECP)  
Case 04-02-002  
(Filed February 5, 2004)

**OPINION DENYING COMPLAINT**

**Summary**

This decision finds that Transpacific Currency Services, Inc. (Complainant) has presented no evidence to support its allegations. Consequently, the complaint is denied.

**Background**

Complainant alleged that Allegiance Telecom, Inc. (Allegiance)<sup>1</sup> billed Complainant in advance for monthly services in contravention of its contract. Complainant stated that it had deposited the disputed amount, \$1,076.80, with the Commission.

In its answer, Allegiance stated that it and all of its subsidiaries filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Southern District of New York on

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<sup>1</sup> Allegiance Telecom of California, Inc. filed the answer and stated that it is a certified Competitive Local Carrier in California and that Allegiance Telecom, Inc. is its ultimate corporate parent.

May 14, 2003. Consequently, Allegiance contended, the complaint should be dismissed for lack of subject matter jurisdiction and the issue pursued as a claim in the bankruptcy court. Allegiance also stated that the complaint was without merit because its California tariffs allowed it to bill in advance for monthly recurring charges.

On March 26, 2004, the assigned Administrative Law Judge (ALJ) issued a ruling finding that the issues in this proceeding are eligible for resolution pursuant to the Expedited Complaint Procedure (ECP) in Rule 13.2 of the Commission's Rules of Practice and Procedure (Rules), and reclassified the proceeding as an ECP. The hearing required by Rule 13(d) was held on Tuesday, April 20, 2004, in the Commission's San Francisco Hearing Room.

Complainant did not appear at the hearing. Allegiance appeared and presented a copy of its California Tariff No. 1, Rule 9.2.4, which stated that Allegiance would "present invoices to the customer for all other amounts due including recurring Rates and Charges, in advance of the month in which the service is provided." Allegiance also provided a copy of the "Voice Services/Integrated Services Order" form signed by Complainant. The terms and conditions attached to the order form state that "most monthly recurring and non-recurring charges are billed in advance." Allegiance also stated that the Commission's Consumer Affairs Branch had forwarded the amount on deposit to Allegiance on January 28, 2004.

### **Discussion**

Complainant bears the burden of proving the allegations in the complaint. Complainant did not appear at the hearing, and offered no evidence to support its allegations.

Allegiance presented its tariffs and contract, both of which directly dispute the allegations in the complaint.

Based on this record, we conclude that Complainant has failed to meet its burden of proof. The complaint is, therefore, denied.

**Assignment of Proceeding**

Loretta M. Lynch is the Assigned Commissioner and Maribeth A. Bushey is the assigned ALJ in this proceeding.

**O R D E R**

Therefore, **IT IS ORDERED** that:

1. The complaint is denied, and any funds on deposit with the Commission shall be forwarded to Allegiance Telecom, Inc.
2. This proceeding is closed.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California.