

Decision 12-01-026 January 12, 2012

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Beryl Adelman,

Complainant,

vs.

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

Defendant.

(ECP)

Case 11-01-013

(Filed January 21, 2011)

Mickey Schechter, for Complainant.

Beryl Adelman, Complainant.

Sherry Winbush, for Defendant.

DECISION GRANTING RELIEF IN PART

PROCEDURAL BACKGROUND

This complaint was brought under the Expedited Complaint Procedure pursuant to Rule 4.5 of the Commission's Rules of Practice and Procedure, and Public Utilities Code Section 1702.1. The complaint was filed on January 21, 2011. Defendant Pacific Bell Telephone Company dba AT&T California (AT&T) filed its answer on February 17, 2011. A duly-noticed hearing was held on June 22, 2011. The complaint arises from certain phone calls allegedly made to Thailand from the United States by a relative of the Complainant.

JURISDICTION

AT&T argues that the instant dispute does not fall within the Commission's jurisdiction because the disputed calls were international in character. However, the international character of the disputed calls alone does not render this billing dispute outside the Commission's jurisdiction. California Public Utilities Code § 2890 requires, among other things, that:

- (a) A telephone bill may only contain charges for products or services, the purchase of which the subscriber has authorized.¹

California Public Utilities Code § 2890 supports the Commission's jurisdiction over California customer *billing* disputes. A billing dispute may implicate services that are international in character; however the content of a bill falls within the Commission's jurisdiction.

In the instant dispute, the issues raised concern the content of a California customer's bill. Thus, the instant dispute falls within the Commission's jurisdiction.

DISCUSSION

The disputed international phone calls at issue were made between June 14, 2010 and June 21, 2010. AT&T billed the Complainant \$6,063.24 for the disputed international calls.

The Complainant asserts that international calling should not have been possible from her phone because she had never signed up for international long distance service with AT&T. The Complainant admits that her relative did make calls to Thailand and does not dispute some of the called numbers. However, the

¹ Cal. Pub. Util. Code § 2890(a).

Complainant alleges that AT&T charged her with a number of calls that were “false.” The Complainant testifies that some of the disputed calls were to numbers where “nobody knew anybody in the family at all” and that some of the numbers were disconnected.

AT&T denies the allegations brought by the Complainant. AT&T asserts that the Complainant selected AT&T as her long distance provider in June of 1999. AT&T further asserts that the long distance service that the Complainant signed up for allows a customer to make both domestic and international long distance calls. AT&T testifies that the Complainant failed to place a “toll restriction” on the service. AT&T states that such a “toll restriction” would have blocked both domestic and international toll calls. AT&T also asserts that many telephone calls were directly dialed from the Complainant’s residence to international numbers. AT&T argues that the fact that a given call is directly dialed serves as prima facie evidence for customer authorization.

While customers are responsible for phone calls dialed from their residences, it is also mandated that phone companies clearly communicate billing terms to their customers.² The complex factual record of this case indicates both strengths and weaknesses in the Complainant’s and AT&T’s litigation positions. Furthermore, both litigation positions are subject to potential error.³

² See Cal. Pub. Util. Code § 2890.

³ See *Pulliam v. General Telephone Company of California* (1986) 1986 Cal. PUC LEXIS 130, at *4. We further note that in order to clearly establish the verifiable facts in this matter, the parties would likely be required to expend more resources than the monetary amount in dispute.

Thus, considering the totality of the circumstances as presented by the parties, it is equitable to grant half of the relief sought by the Complainant. The Complainant shall owe AT&T the amount of \$3,031.62 for the disputed international calls.

O R D E R

IT IS ORDERED that:

1. Beryl Adelman's expedited complaint is granted in part. Ms. Adelman shall owe Pacific Bell Telephone Company dba AT&T California the amount of \$3,031.62 for the disputed international calls.

2. Case 11-01-013 is closed.

This order is effective today.

Dated January 12, 2011, at San Francisco, California.

MICHAEL R. PEEVEY
President
TIMOTHY ALAN SIMON
MICHEL PETER FLORIO
CATHERINE J.K. SANDOVAL
MARK FERRON
Commissioners