Mailed 8/26/2005

Decision 05-08-021 August 25, 2005

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Ernest M. Espinoza, Complainant, vs. AT&T Communications of California, Inc., Defendant.	(ECP) Case 04-12-018 (Filed December 22, 2004)

OPINION DENYING RELIEF

I. Summary

Ernest M. Espinoza (Complainant) seeks a refund of $240 from AT&T Communications of California, Inc. (AT&T) for alleged improperly billed calls over a two-year period. AT&T states that Complainant's line was tested on at least five separate occasions and no trouble identified on the line that would allow calls to be made other than through normal use of a telephone on Complainant's premises. Nevertheless, on 10 separate occasions, as a goodwill gesture, AT&T passed credits totaling $87.20 to Complainant's account.

The Commission concludes that AT&T has acted reasonably and Complainant is not entitled further relief. The complaint is dismissed, and the proceeding is closed.

II. Positions of the Parties

Complainant alleges that AT&T has billed him for local toll calls that he alleges neither he nor his wife made, and that the problem has been ongoing for the past four years. Complainant requests relief of $240 for a two-year period. Complainant states that he hears other parties on his line. He further alleges that AT&T promised to credit his account for these calls, and has failed to do so.

AT&T responds that it has opened numerous trouble tickets with SBC Communications Inc. (SBC) to have them investigate the alleged trouble on Complainant's line. SBC was Complainant's local service provider prior to March 2003. Subsequent to that time, AT&T provided Complainant's local service through the purchase of unbundled elements from SBC. In both situations, AT&T would dispatch SBC to provide repair service on Complainant's line. On each occasion that AT&T opened a trouble ticket, SBC technicians have gone to Complainant's home to investigate Complainant's line. Specifically: (1) SBC investigated Complainant's line on January 26, 2004 and advised AT&T that no trouble was found on the line; (2) On February 6, 2004, SBC reported that they found no trouble on the line, though trouble was found on the buried service cable. SBC repaired the buried service cable on February 10, 2004, and the cable tested clean; (3) On March 23, 2004, SBC found a possible cable issue and on April 9, 2004, reported that the possible cable issue was repaired; (4) On August 3, 2004, SBC was dispatched and reported that no trouble was found and no cross-talk could be detected on the line; and, (5) On December 16, 2004, SBC again tested the line and found no trouble, no evidence of "sleepers" on the line (i.e., someone tapping into the line) and no evidence of a cross-line. Also, AT&T believes there may have been additional occasions where SBC tested Complainant's line and found no trouble.

Further, AT&T states that despite the fact that no trouble could be found on the line to account for the allegedly improperly billed calls, and contrary to Complainant's allegations, AT&T on 10 separate occasions has made goodwill credits total $87.20 to Complainant's account to compensate Complainant for calls he alleges were not made by him or his wife. Also, AT&T has offered to place a block on Complainant's line and to provide him with pre-paid calling cards to prevent unauthorized use. However, Complainant declined the offer.

III. Discussion

We find AT&T has acted reasonably to determine if the alleged improperly billed calls were occurring due to technical problems with Complainant's line. As stated above, on at least five separate occasions, SBC tested Complainant's line and found no trouble or at least no trouble that relates to the problems complained of. Also, AT&T has passed 10 goodwill credits to Complainant's account. There is nothing further that AT&T should be required to do. Also, Complainant has a responsibility to ensure there is no unauthorized use of his telephone and cannot expect to receive refunds every time this happens. Accordingly, Complainant's request for further refunds should be denied and the complaint dismissed.

O R D E R

Therefore, **IT IS ORDERED** that this complaint is dismissed, and the proceeding is closed.

This order is effective today.

Dated August 25, 2005, at San Francisco, California.

MICHAEL R. PEEVEY
President
GEOFFREY F. BROWN
SUSAN P. KENNEDY
DIAN M. GRUENEICH
JOHN A. BOHN
Commissioners