

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

**Communications Division
Carrier Oversight & Programs**

**RESOLUTION T-17223
April 8, 2010**

R E S O L U T I O N

**RESOLUTION T-17223 AFFIRMS THE COMMUNICATION
DIVISION'S DISPOSITION OF AT&T CALIFORNIA'S ADVICE
LETTER NO. 34851 WHICH REVISES THE RATE FOR THE SAN
DIEGO UNDERGROUND SURCHARGE, AUTHORIZED BY
DECISION NO. 06-12-039.**

SUMMARY

This Resolution affirms the Communications Division's (CD) disposition of AT&T California's Advice Letter (AL) 34851. The protests of the Utility Consumers' Action Network (UCAN) and Division of Ratepayer Advocates (DRA) were denied by CD. DRA has subsequently filed a request for Commission review of disposition of AT&T's AL 34851.

BACKGROUND

On December 14, 2006, through Decision (D.) 06-12-039, the Commission authorized Pacific Bell-SBC California, doing business as AT&T California (AT&T), to impose a surcharge to recover the costs of undergrounding its aerial telephone lines in the City of San Diego.

In accordance with the decision, all local telephone services provided over AT&T lines, with the exception of those provided to Lifeline customers, are subject to this surcharge. AT&T was ordered by D.06-12-039 to submit a semi-annual report to the CD Director showing the status of the undergrounding project, items recorded in the balancing account, and surcharge calculations.

AT&T was further directed to include the fractional relationship between AT&T's and San Diego Gas & Electric's (SDG&E) construction costs associated with the lines included in the report, since AT&T's San Diego undergrounding costs shall not exceed

23% of SDG&E's costs in any particular semi-annual report. If AT&T's San Diego undergrounding costs exceed 23% of SDG&E's costs, then the Executive Director is to conduct an audit of AT&T's balancing account using either Commission staff or outside vendors. Until the undergrounding cost issues have been resolved, no changes will be made in the surcharge. The surcharge and balancing account authorization granted in D.06-12-039 expires on the date AT&T obtains full pricing freedom, which is scheduled to occur on January 1, 2011.

On February 6, 2009, AT&T submitted its semi-annual report on the San Diego underground project to the CD Director, and within the report, advised the Commission of its intention to revise the surcharge from \$0.77 to \$1.46, effective April 15, 2009. On March 16, 2009, AT&T filed AL 34851 to modify the San Diego Underground Surcharge. Two days later, on March 18, 2009, AT&T submitted its workpapers in support of its request to raise the surcharge.

On April 6, 2009, DRA protested AT&T's AL, arguing that AT&T should not be allowed to continue receiving surcharges given that it has been granted almost complete pricing freedom. In addition, DRA argued that AT&T's advice letter contains no justification for the surcharge increase and does not comply with the requirements stated in D.06-12-039, specifically AT&T's failure to show its costs do not exceed the 23% threshold established by the Commission.

On April, 6, 2009, UCAN protested AT&T's advice letter, claiming that AT&T's San Diego undergrounding costs have exceeded 23% of SDG&E's costs. Furthermore, UCAN argued that the increase to AT&T's costs is "dramatic and unjustified" and the Commission should conduct an audit of AT&T's balancing account. UCAN also claimed that AT&T's advice letter was not filed concurrent with the submission of AT&T's semi-annual report filing and that AT&T no longer has the legal basis to collect additional surcharges given that it has been granted "almost entire freedom to set its rates," per Ordering Paragraph #7 of D.08-09-042.

After review of the data originally provided by AT&T, and in supporting documents provided in responses to subsequent CD data requests dated June 9 and June 17, 2009, CD determined that AL 34851 was in compliance with the rules, as established by D.06-12-039, and AL 34851 was made effective on regular notice, July 9, 2009. The protests by DRA and UCAN were then rejected by CD by letter on July 6, 2009.

On July 16, 2009, DRA filed a timely request for Commission review of CD's disposition of AL 34851, arguing that AT&T's cost of the San Diego undergrounding project should be recovered from AT&T's retail rates and not from additional surcharges. DRA further argued that since AT&T's rates are "all but deregulated" its many rate increases on

telecommunication services other than basic rates are enough to cover the cost of the San Diego undergrounding project.

DISCUSSION

DRA contends that since AT&T's rates have been "almost completely deregulated", AT&T should not be allowed to collect additional surcharges. In DRA's original protest, dated April 6, 2009, it cited Ordering Paragraph 7 of D.06-12-039, which states:

The Surcharge and balancing account authorization granted in today's decision shall expire on the date SBC obtains full pricing freedom, currently scheduled for January 1, 2009.

However, "full" pricing flexibility will not be obtained until January 1, 2011, as stated in Ordering Paragraph 6 of D.08-09-042, which states:

Effective on and after January 1, 2011, each of the named ILECs shall be permitted to adjust stand-alone prices for residential basic service in regions not subsidized by the B-Fund, without regulatory restrictions, subject only to competitive market forces.

As for DRA's argument that the cost of the San Diego undergrounding project should not be recovered from additional surcharges, the Commission, through D.06-12-039, has authorized AT&T to collect such a surcharge for this specific purpose. Furthermore, approximately three and a half months before D.06-12-039 was issued, the Commission approved D.06-08-030, which states in its Conclusions of Law #33:

The Commission should eliminate all retail price regulations for all business services and, except as expressly ordered otherwise in this decision, all residential services.

Therefore, the Commission established the surcharge, intended specifically to recover the cost of the San Diego undergrounding project, until AT&T achieves "full" pricing flexibility. CD's disposition of AL 34851 is appropriate.

COMMENTS

In accordance with Public Utility Code 311 (g) CD provided notice on March 9, 2010 to the interested parties, informing these parties that this draft resolution is available on the Commission's website at <http://www.cpuc.ca.gov> and available for public comments. Parties may submit comments on the draft resolution within 20 days of its date of mailing.

No comments were received.

FINDINGS

1. Decision 06-12-039 permitted AT&T California (AT&T) to collect additional surcharges for undergrounding until AT&T obtains full pricing freedom. AT&T will obtain full pricing flexibility on January 1, 2011, pursuant Decision 08-09-042.
2. Because AT&T has not yet achieved "full" pricing flexibility, AT&T's Advice Letter (AL) 34851 imposing a revised San Diego Underground Surcharge is permissible.
3. On February 6, 2009, AT&T submitted its semi-annual report on the San Diego underground project to the Communications Division Director, and within the report, advised the Commission its intention to revise the surcharge for the San Diego undergrounding project.
4. On March 16, 2009, AT&T filed AL 34851 to modify the San Diego Underground Surcharge from \$0.77 to \$1.46.
5. On April 6, 2009, Division of Ratepayer Advocates protested AT&T's advice letter.
6. On April, 6, 2009, Utility Consumers' Action Network protested AT&T's advice letter.
7. The CD staff rejected the protests by DRA and UCAN on July 6, 2009.
8. The CD staff accepted AT&T's AL 34851 on July 9, 2009.
9. On July 16, 2009, DRA filed a request for a full Commission review to the CD's deposition of AT&T's AL 34851.
10. CD's disposition of AT&T AL 34851 is reasonable.

THEREFORE, IT IS ORDERED that:

1. The Communication Division's ministerial acceptance of AT&T California's Advice Letter No. 34851 is affirmed.

