

L/dp

MAIL DATE
7/21/95

Decision 95-07-036

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Philip Ortega,

Complainant,

vs.

AT&T Communications of California,
Inc.,

Defendant.

Centro Legal de la Raza, et al.

Complainants,

vs.

AT&T Communications of California,
Inc.,

Defendant.

Case 92-08-031
(Filed August 24, 1992)

ORIGINAL

Case 92-09-009
(Filed September 8, 1992)

ORDER CORRECTING DECISION 95-06-061

In Decision (D.) 95-06-061, the Commission ordered a stay of Ordering Paragraphs 1 and 3 of D.94-11-026 in response to a petition for extension of time to comply with D.94-11-026 filed by AT&T Communications of California, Inc. (AT&T). AT&T's petition was treated as a request for a stay of D.94-11-026. Through an inadvertent error, the Commission did not consider oppositions to the request for a stay filed by Philip Ortega and Centro Legal de la Raza et al. (Complainants) and the Division of Ratepayer Advocates (DRA).

We have now considered the arguments set forth in the oppositions. For the reasons set forth below, we are not persuaded to change our decision regarding the stay. However, we

will correct D.95-06-061 to reflect the fact that oppositions were filed by Complainants and DRA.

Complainants oppose granting a stay of Ordering Paragraph 1 of D.94-11-026, which ordered AT&T to reinstate pre-July 1, 1992 rates for interLATA calls paid by coin at pay phones.¹ For the most part, we considered the points raised by Complainants before issuing D.95-06-061, even though we did not have the benefit of Complainants' opposition before us.

Complainants contend that D.94-11-026 cannot be suspended because it was effective on the date issued. Complainants rely on Public Utilities Code section 1733, which provides that an application for rehearing made 10 days or more before the effective date of an order automatically suspends the order. Complainants are correct that the filing of an application for rehearing in this case does not automatically suspend the order. However, the Commission has discretionary authority to stay an order which has become effective.

Complainants also assert that AT&T should not be excused from filing the report required by Ordering Paragraph 2 of D.94-05-026. We agree with Complainants that AT&T has not shown that it would be irreparably harmed if it were required to file the report. Therefore, we did not stay Ordering Paragraph 2.

Complainants argue that the public has been irreparably harmed since July 1, 1992 because customers have been and are continuing to pay excessive rates for interLATA coin calls. Complainants dispute AT&T's contention that AT&T's Advice Letter 349, which was filed subsequent to the advice letter at issue in this case, validated the current rates. Complainants also

1. DRA's opposition was filed in general support of Complainants' opposition to a stay and does not set forth any separate arguments.

dispute AT&T's arguments regarding the effect of D.94-05-026 on vendors of customer-owned pay telephones (COPTs).

As we stated in D.95-06-061, we have considered the potential harm to AT&T if D.94-05-026 is not stayed and the potential harm to customers if the decision is stayed. We do not now decide the validity of Advice Letter 349. However, in granting a partial stay, we have taken into account the fact that AT&T has raised an issue about the time period during which excess rates were imposed that was not specifically addressed in D.94-05-026. In addition, it appears that the Decision requires clarification regarding Operator Coin Supervision (OCS) to COPTs. For all of these reasons, a stay of the reinstatement of pre-July 1, 1992 rates is appropriate.

Therefore, IT IS ORDERED that:

1. The final sentence of the third full paragraph on page 2 of Decision 95-06-061 is corrected to read:

Complainants and DRA oppose AT&T's request for a stay.

2. The Executive Director shall serve a copy of this order on all of the parties to this proceeding.

This order is effective today.

Dated July 19, 1995, at San Francisco, California.

DANIEL Wm. FESSLER
President
P. GREGORY CONLON
JESSIE J. KNIGHT, JR.
HENRY M. DUQUE
Commissioners

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY.

Wesley Franklin

Acting Executive Director