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MAIL DATE
10/30/96

Decision 96-10-078

October 25, 1996

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Pacific Bell (U 1001 C)

Complainant,

v.

AT&T Communications of California, Inc.)
(U 5002 C),

Defendant.

ORIGINAL

C.96-06-030

ORDER DENYING REHEARING OF D.96-07-060 AND
MOTION TO STAY D.96-07-060

In 1994, we granted AT&T Communications of California, Inc. (AT&T-C) permission to take back its billing and collection functions from local exchange carriers (LECs), provided that AT&T-C first met certain conditions. One of those conditions required AT&T-C to give its customers 60 days' notice prior to taking back any such functions. Our order required that the notice be reviewed and approved by the Public Advisor's office prior to being mailed to customers. (Re AT&T Communications of California, Inc., 54 CPUC 2d 411 (1994) (D.94-05-021).)

On June 20, 1996 Pacific Bell (Pacific) filed a complaint alleging that AT&T-C violated our order by taking back billing and collection functions without giving customers the required 60 days' notice, and by failing to submit a notice to the Public Advisor's office for approval prior to mailing to customers.

In resolving that complaint, in D.96-06-030 we found that AT&T-C had violated our order in D.94-05-021, supra, and we issued a preliminary injunction. The injunction ordered AT&T-C to comply with the requirements of D.94-05-021 and to stop

representing to any customers that Pacific is unwilling or unable to provide single billing to both AT&T-C and itself. Finally, we ordered AT&T-C to immediately send a corrective letter, reviewed and approved by the Commission's Public Advisor's office, to all customers who have agreed to the take back, advising them that AT&T-C violated our order, that Pacific is willing to provide single billing to customers and that customers have 60 days from the receipt of the letter to request single billing service from Pacific.

On July 23, 1996 AT&T-C filed an Application for Rehearing of D.96-07-060 and Motion for a Stay of the Implementation of the Injunction Order. AT&T-C argued that it should not have to notify its customers that it violated the law because it will cause irreparable harm to AT&T-C's reputation and goodwill. Further AT&T-C argued that we erroneously ordered that customers have a right to forever be billed by Pacific for AT&T-C's long distance service.

On July 29, 1996 Pacific filed a response to AT&T-C's Application for Rehearing. Pacific asserted we did not find that customers have a right to forever be billed by Pacific for AT&T-C long distance service but rather that when we ordered AT&T-C to give affected customers an option to return to single billing, we were trying to correct the wrong perpetrated by AT&T-C when it violated the requirements of D.94-05-021. Pacific agreed that our order was not attempting to set a new standard for future billing changes. As to the issue of whether AT&T-C would be harmed if customers know the truth about its illegal activity, Pacific asserted that AT&T-C should be accountable for its decision to ignore customer safeguards prescribed by us. Moreover, Pacific asserts that AT&T-C's customers should be told the truth by AT&T-C about its illegal actions.

AT&T-C's Application for Rehearing is without merit. In D.96-07-060 we quite clearly found that AT&T-C had violated our requirements for notifying customers of changes in billing practices. We then imposed a moderate solution of having AT&T-C

inform affected customers of what had happened and then giving the customers the option of returning to a single bill with Pacific. Single billing is an option that AT&T-C currently offers its customers (AT&T-C's Application for Rehearing, pg. 4). Once this has occurred, nothing in the our order would prevent AT&T-C from transferring the billing of customers back to AT&T-C once it followed the proper procedures.

The real heart of AT&T-C's complaint is that it does not want to notify its customers that it has acted in an illegal manner. However, we are certainly within our rights to order it to make such an acknowledgement. AT&T-C raises no legal issues to counter this conclusion.

Conclusion

For all the foregoing reasons, Applicant's application for rehearing and motion to stay should be denied because they fail to raise legal error. We have reviewed all other allegations in the application for rehearing and motion to stay D.96-07-060 and believe that there are no other grounds for granting the rehearing & motion to stay as set forth. Having fully considered the issues raised, AT&T-C's application for rehearing of D.96-07-060 & motion to stay D.96-07-060 are denied.

Therefore, **IT IS HEREBY ORDERED** that rehearing of D.96-07-060 & motion to stay D.96-07-060 are hereby denied.

This order is effective today.

Dated October 25, 1996, at Sacramento, California.

P. GREGORY CONLON
President
JESSIE J. KNIGHT, JR.
HENRY M. DUQUE
JOSIAH L. NEEPER
Commissioners

Commissioner Daniel Wm. Fessler,
being necessarily absent, did not
participate.