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BEFORE THE  
ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF: )  
 )  
PHILOMENA DALY )  
 )  
vs. ) No. 04-0499  
 )  
SOUTHWESTERN BELL )  
COMMUNICATIONS SERVICES, INC., )  
d/b/a SBC LONG DISTANCE. )

Chicago, Illinois  
September 20, 2004

Met pursuant to notice at 1:30 p.m.

BEFORE:

MR. JOHN RILEY, Administrative Law Judge

1 APPEARANCES:

2 MS. PHILOMENA DALY  
3 546 Illinois Road  
4 Frankfort, Illinois 60423  
5 Appearing pro se;

6 MR. JAMES HUTTENHOWER  
7 225 West Randolph Street, Suite 25-D  
8 Chicago, Illinois 60606  
9 Appearing for Illinois Bell Telephone Company;

10 MR. WILLIAM COSDEN and  
11 MS. LISA ANDREJKO  
12 5850 West Las Positas Boulevard  
13 Pleasanton, California 94588  
14 Appearing pro hac vitae for SBC Long Distance  
15 (telephonically).  
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SULLIVAN REPORTING COMPANY, by  
Julia C. White, CSR  
License No. 084-004544

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I N D E X

<u>Witnesses:</u>	<u>Direct</u>	<u>Cross</u>	<u>Re-</u> <u>direct</u>	<u>Re-</u> <u>cross</u>	<u>By</u> <u>Examiner</u>
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None.

E X H I B I T S

<u>Number</u>	<u>For Identification</u>	<u>In Evidence</u>
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None.

1           JUDGE RILEY: Pursuant to the direction of the  
2 Illinois Commerce Commission, I now call Docket  
3 04-0499; and this is a complaint by Philomena Daly  
4 versus Southwestern Bell Communications Services,  
5 Incorporated, doing business as SBC Long Distance.

6           And at this point, Ms. Daly, are you  
7 appearing without a counsel at this time?

8           MS. DALY: That's correct.

9           JUDGE RILEY: And just to advise you if, at any  
10 time, you do want to appear by counsel, you are  
11 certainly -- certainly privileged to do so.

12           Would you, state your name and address  
13 for the record, please.

14           MS. DALY: Philomena Daly, 546 Illinois Road,  
15 Frankfort, Illinois 60423.

16           JUDGE RILEY: Thank you, Mr. Huttenhower, are  
17 you entering an appearance here?

18           MR. HUTTENHOWER: I had planned on it basically  
19 because I only learned about 20 minutes ago that  
20 Ms. Daly had filed the amended complaint last week  
21 but that the complaint that was originally filed was  
22 against Illinois Bell, and so that's why I'm here.

1 JUDGE RILEY: Okay.

2 MR. HUTTENHOWER: But I will enter my  
3 appearance now so that -- and, perhaps, by the end of  
4 our meeting today, I will no longer have to be here.

5 JUDGE RILEY: Why don't we just cross the T's  
6 and dot the I's for now.

7 MR. HUTTENHOWER: Okay. James Huttenhower,  
8 H-u-t-t-e-n-h-o-w-e-r, appearing on behalf of  
9 Illinois Bell, 225 West Randolph Street, Suite 25-D,  
10 Chicago, Illinois 60606.

11 JUDGE RILEY: Thank you. And Mr. Cosden, would  
12 you enter an appearance for the record, please.

13 MR. COSDEN: Yes, appearing pro hac vitae, this  
14 is William E. Cosden. That's William, middle  
15 initial E. Cosden is C-o-s-d-e-n. I'm an attorney  
16 with Southwestern -- excuse me -- SBC Long Distance.  
17 We're located at 5850 West Las Positas Boulevard.  
18 That's L-a-s, capital P-o-s-i-t-a-s, Boulevard,  
19 Pleasanton, California, P-l-e-a-s-a-n-t-o-n,  
20 California 94588.

21 JUDGE RILEY: Thank you. And you said there  
22 was another attorney?

1           MR. COSDEN:  No there is a member of our  
2 regulatory --

3           JUDGE RILEY:  Oh, okay.

4           MR. COSDEN:  -- department here -- Lisa  
5 Andrejko.

6           JUDGE RILEY:  Okay.  I'm sorry could you spell  
7 that last name for the record.

8           MR. COSDEN:  Andrejko is A-n-d-r-e-j-k-o.

9           JUDGE RILEY:  All right.  Thank you.

10          MR. COSDEN:  Thank you.

11          JUDGE RILEY:  And now having dispensed with  
12 that, it is my understanding, Ms. Daly, from your  
13 complaint, does -- am I correct in saying that it  
14 boils down to the fact that you wanted a service  
15 changed or deleted were your local service?

16          MS. DALY:  That's correct.  I want the voice  
17 taken off my local service.

18          JUDGE RILEY:  When you say -- what do you mean  
19 by "voice"?

20          MS. DALY:  Voice -- you know, when the message  
21 is left, it goes into voice if they -- if it bypasses  
22 the answer machine, it automatically goes into voice.

1           JUDGE RILEY:  Okay.  That's voicemail you're  
2 talking about?

3           MS. DALY:  Voicemail.

4           JUDGE RILEY:  Right.  Okay.

5           MS. DALY:  Yeah, and I wasn't checking my  
6 messages that were going to voice.  So I called them.  
7 Several people had told me, I called you; and I  
8 didn't get your message.  So I said it must have went  
9 into voice.  I'll have to take that off.

10          JUDGE RILEY:  Now, who was your long distance  
11 carrier at that time?

12          MS. DALY:  AT&T, and that's who I want to be  
13 with; and that's who I want to stay with.

14          JUDGE RILEY:  And you're saying that after you  
15 had made this request to delete the voicemail from  
16 your list of services --

17          MS. DALY:  Yes.

18          JUDGE RILEY:  -- you somehow ended up with SBC  
19 Long Distance --

20          MS. DALY:  That's correct.

21          JUDGE RILEY:  -- as your long distance carrier?

22          MS. DALY:  Yeah, and I specifically told two

1 people. The first person I told, I said, I do not  
2 want my long distance interfered with because they  
3 did the same thing in November. They changed me over  
4 from my long distance AT&T carrier to them, and they  
5 billed me for \$900.

6 JUDGE RILEY: Okay. Now, let's go back. Now,  
7 who did this the fir- -- this is November of last  
8 year?

9 MS. DALY: Yeah, SBC did the same thing. They  
10 did exactly what they did in May.

11 JUDGE RILEY: And how did -- how did you get it  
12 switched back to AT&T?

13 MS. DALY: I called them, and I said, I'm with  
14 AT&T and I want these charges taken off; and they  
15 took the charges off that time.

16 JUDGE RILEY: Okay. They took the charges off?

17 MS. DALY: Yeah.

18 JUDGE RILEY: Did they switch your service  
19 back?

20 MS. DALY: No, I left my local service with  
21 SBC.

22 JUDGE RILEY: No, ma'am. No, I'm talking long

1 distance strictly here.

2 MS. DALY: Yeah, long distance went back to  
3 AT&T.

4 JUDGE RILEY: Okay. It was switched back to  
5 AT&T Long Distance?

6 MS. DALY: Yeah.

7 JUDGE RILEY: Okay. And then it just --  
8 Mr. Huttenhower, does any of this concern SBC  
9 Illinois?

10 MR. HUTTENHOWER: I don't believe that it does.  
11 I'm -- when I saw Ms. Daly's original complaint that  
12 named Illinois Bell Telephone but then said that  
13 the -- that the reason for her complaint was that  
14 there were changes made to her long distance service.

15 My reaction was that that was very  
16 unlikely to be something that SBC Illinois had done  
17 but that if Ms. Daly had a claim, it would be against  
18 the SBC long distance entity.

19 JUDGE RILEY: Right.

20 MR. HUTTENHOWER: Southwestern Bell  
21 Communications, though, they may now have, I think,  
22 officially become SBC Long Distance. Mr. Cosden can

1 speak to that.

2 But in any event, I thought that it  
3 would probably be more efficient, if I could do so,  
4 to suggest that Illinois Bell be dropped and the SBC  
5 Long Distance entity be substituted in as the  
6 respondent because that would have seem that if  
7 Ms. Daly had a claim against anybody, that was who it  
8 was against.

9 JUDGE RILEY: Right.

10 MR. HUTTENHOWER: So I wrote to the Clerk's  
11 Office to make that suggestion.

12 JUDGE RILEY: Right.

13 MR. HUTTENHOWER: And then, basically, waited  
14 for the status hearing to see whether that suggestion  
15 had any viability.

16 JUDGE RILEY: Okay. Why don't the first thing  
17 that I do right now then is just take Ms. Daly's  
18 motion. She has -- you say you already filed an  
19 amended complaint --

20 MS. DALY: That's correct.

21 JUDGE RILEY: -- to reflect SBC Long Distance  
22 and not your local carrier, SBC Illinois; is that

1 correct.

2 MS. DALY: Yeah, that's correct.

3 JUDGE RILEY: Okay. Then I will grant -- if  
4 there is no objection, I will grant the Complainant's  
5 motion to substitute -- let me get the exact name --  
6 Southwestern Bell Communications Services,  
7 Incorporated, d/b/a SBC Long Distance in place of SBC  
8 Illinois Bell Telephone Company on the complaint. So  
9 that the actual respondent in this matter is  
10 Southwestern Bell Communications Services  
11 Incorporated, d/b/a SBC Long Distance.

12 Mr. Cosden, is there any objection to  
13 that?

14 MR. COSDEN: No, I just want to note for the  
15 record, we -- we really haven't been served in this  
16 yet. The only reason we knew about this amended  
17 complaint is that Ms. Andrejko had gone online this  
18 morning, and we -- and we saw it. So there's no  
19 objection.

20 JUDGE RILEY: Okay. So that was my next  
21 question. One of the things that I was getting to is  
22 that you are essentially flying blind in this matter.

1 You don't have a copy of the complaint or anything  
2 else, do you?

3 MR. COSDEN: I have some of the previous --  
4 previous filings were forwarded here. So I'm aware  
5 of it. We had some chance to look at it.

6 JUDGE RILEY: What deals do you -- do you have  
7 an understanding of what Ms. Daly's complaint is?

8 MR. COSDEN: Well, I think the second time that  
9 there's been some real confusion here. She signs up  
10 for plans that are -- that are -- they're bundled  
11 with local services, and they don't include  
12 international calls; and she -- this is like the  
13 second time this has happened, and we have -- and we  
14 have we have third party verifications in each  
15 instance.

16 She signs up for the plan, doesn't --  
17 apparently doesn't realize that her international  
18 calls are not covered in the plan and makes them, and  
19 they go with the default rates and run up the bills;  
20 and we previously have adjusted for at least two  
21 occasions for about a \$1,000; and now here it is.  
22 She signed up again in -- in May for a long distance

1 plan, which is for local long distance calling, not  
2 international; and these other charges have accrued.

3 JUDGE RILEY: Now, you're saying that the --  
4 that the international calls are not part of the  
5 regular long distance plan -- domestic long distance?

6 MR. COSDEN: Yes.

7 JUDGE RILEY: Okay.

8 MR. COSDEN: But this is -- this is now, at  
9 least, the second time that this has happened with --  
10 with Ms. Daly.

11 JUDGE RILEY: Ms. Daly?

12 MS. DALY: Yeah, I told them not to touch my  
13 long distance. I have AT&T at 10 cents a minute, and  
14 they're charging me 1.85, 2.80 a minute for some of  
15 the minutes.

16 I told both parties on that call that  
17 I just wanted voice changed. I did not want my long  
18 distance service touched, and they did exactly what I  
19 told them not to do.

20 JUDGE RILEY: I'm more inclined to believe that  
21 whatever signatures or whatever notations you have  
22 are the result of a mistake or misunderstanding.

1 Ms. Daly, what was the procedure? Do you remember  
2 the procedure the first time this happened and that  
3 you switched back to AT&T.

4 MS. DALY: Yeah, I want a package on my phone  
5 because I work from home. I work in medical  
6 transcription. So I work up minutes. I work eight  
7 hours a day. So I called to have that package of 100  
8 minutes -- or 100 calls.

9 So that was the package I had, and he  
10 included the voice with that package; but when I  
11 discovered that they had changed my long distance is  
12 when I called and said, you changed my long distance.  
13 I have AT&T. So they amended that. They -- they  
14 covered that bill of the \$900 that time.

15 And then I called this time again with  
16 voice. I said, I want voice taken off the local  
17 service -- the local package I have. I do not -- I  
18 don't want the voice. And so I said to do that, and  
19 they'd have to change that. And I told the third  
20 party not to touch my long distance because they did  
21 it before. So they billed me for \$900.

22 JUDGE RILEY: So apparently, Mr. Cosden, there

1 is something in there -- in the package of  
2 information that she had that apparently she signed  
3 that switched the long distance service, but it  
4 sounds like, to me, she's not understanding.

5 MR. COSDEN: We will -- yeah, our record is  
6 that -- you know, when she's saying -- what she's  
7 saying is not -- is not in the recording, but -- but  
8 we're willing to rerate this and resolve the matter  
9 for Ms. Daly. We'll sign a release in a written  
10 motion for dismissal.

11 JUDGE RILEY: Okay. What would the release  
12 constitute? In other words --

13 MR. COSDEN: Any further claims regarding  
14 this -- this charge.

15 JUDGE RILEY: Okay. But it will -- I mean,  
16 what is the amount of the charge involved?

17 MR. COSDEN: It's 500.

18 MS. ANDREJKO: International calls, your Honor,  
19 was 500 -- or 550 plus tax. The total bill was 556.

20 JUDGE RILEY: And these were for international  
21 calls?

22 MS. DALY: Yeah, it was a week before my mother

1 died. I was in contact with my sisters that week.  
2 That's why there were so many calls.

3 JUDGE RILEY: And I want to make sure I  
4 understand what SBC Long Distance is saying is that  
5 the resolution to that -- to that 500 and some  
6 dollars would be --

7 MR. COSDEN: Approximately --

8 MS. ANDREJKO: Your Honor, we have a 10 cent  
9 rate, also, that's available. I think that's what --

10 MS. DALY: Yeah, my AT&T rate. That's what  
11 they charge me -- 10 cents a minute.

12 I'm -- I'm finished with SBC. I don't  
13 have an account with them.

14 JUDGE RILEY: Oh, AT&T -- this is about the 500  
15 and some dollars -- oh.

16 MS. DALY: I paid them the AT&T rate -- 10  
17 cents a minute.

18 MR. COSDEN: So I mean, we're willing to rerate  
19 it at -- at the 10 cents and minute.

20 MS. DALY: That's all I wanted from the  
21 beginning. That's what I wanted from the very  
22 beginning. The first call I made -- when I knew --

1           JUDGE RILEY:  It sounds like a resolution to  
2 the problem.

3           MR. COSDEN:  I would hope.

4           JUDGE RILEY:  If SBC is willing to rerate it to  
5 10 cents a minute, you're willing to pay?

6           MS. DALY:  Of course.

7           JUDGE RILEY:  How long -- any idea how long  
8 that will take?

9           MR. COSDEN:  Once we have the release signed,  
10 we can -- we can do it right away.

11          MR. ANDREJKO:  Ms. Daly, are you also with  
12 AT&T?

13          MS. DALY:  Yes, I am.  I switched everything  
14 back to AT&T because they seemed to understand.

15          MS. ANDREJKO:  It just -- it will take a little  
16 bit long to process the adjusted bill.  So we'll have  
17 the have a check issued.  That's all.

18          JUDGE RILEY:  All right.

19          MS. ANDREJKO:  What we'll be doing is we'll we  
20 rerate the international calls and the taxes  
21 associated with those charges, but there were --  
22 there was a charge on the bill because of the price

1 issue and that rated her local long distance calls.  
2 I just want to make sure that charge will still be on  
3 the bill.

4 MS. DALY: Okay.

5 MR. COSDEN: Her local long distance -- she has  
6 to understand that.

7 MS. DALY: That's fine.

8 JUDGE RILEY: Okay.

9 MR. COSDEN: This is just for the -- for the  
10 international.

11 JUDGE RILEY: Okay.

12 MR. COSDEN: All right.

13 MS. ANDREJKO: And the adjustment would be  
14 roughly about 392, and there would be taxes also  
15 adjusted. So it would be almost, you know, the  
16 majority of the bill.

17 JUDGE RILEY: Okay.

18 MR. HUTTENHOWER: Just -- even though I'm not  
19 really here anymore, just a point of clarification.  
20 Will you guys be issuing a new bill that will just  
21 show the reduced amount, or will you be sending  
22 Ms. Daly a check for, you know, \$400, roughly, but

1       then, I guess -- what -- or has she paid the charges?

2               MS. DALY:  No, I never payed this bill.  I have  
3       been paying them except --

4               MS. ANDREJKO:  We need SBC Illinois because  
5       there's a certain period of time where we can get it  
6       to post against the bill on your side of the house.

7               MR. HUTTENHOWER:  Okay.

8               MS. ANDREJKO:  And I don't know if we're  
9       outside of that time period.

10              MR. HUTTENHOWER:  So if your company will get  
11       it done, that way, you will send her a check; but,  
12       effectively, you will expect her to use that check to  
13       pay --

14              MS. ANDREJKO:  Whatever the remaining balance  
15       is, and we can contact her directly with what that  
16       adjustment would be and what the remaining balance  
17       is.

18              JUDGE RILEY:  Okay.  Well, then once I --

19              MR. COSDEN:  Ideally, just so everybody is  
20       clear on this, if we run into a real complication if  
21       the accounts closed out by the -- by the telephone  
22       phone company which, apparently, she has not paid the

1 bill; is that correct, Ms. Daly?

2 MS. DALY: That's correct.

3 MR. COSDEN: Which may turn out -- we'll hope  
4 we can just do this all by check, but we may issue  
5 you a check, Ms. Daly, for the amount of what the  
6 adjustment will be, which will be most of the \$500  
7 bill; and then you'll have to take that and pay the  
8 phone company the deposit and pay it back to the  
9 phone company.

10 Do you understand?

11 MS. DALY: So I will just pay -- give that  
12 check back to the phone company?

13 MR. COSDEN: Exactly to get your account with  
14 them.

15 MS. DALY: Okay. Because they bill their --  
16 for their calls, and this -- they're also billing for  
17 my calls as well as for long distance.

18 MR. COSDEN: Okay. So -- but we hope we can  
19 get it the other way where we just credit it, get the  
20 deposits posted on the account, but -- which will --  
21 which will take longer and then require her to  
22 deposit the check and make the payment.

1 JUDGE RILEY: Okay.

2 MS. DALY: Okay. Does this happen on a regular  
3 basis? I want to know? Do you -- does this happen  
4 to other people?

5 JUDGE RILEY: I don't know. If they'd have any  
6 information on that. I understand you're angry.

7 MS. DALY: And then they turn around and do  
8 something like this.

9 MR. COSDEN: Well, it's a large outfit; and  
10 I -- yeah.

11 JUDGE RILEY: There were misinterpretations to  
12 other people.

13 MS. DALY: And it's just not fair. It's  
14 dishonest.

15 JUDGE RILEY: And Mr. Cosden, once you get the  
16 release -- once all of the standing outstanding  
17 issues --

18 MR. COSDEN: Right.

19 JUDGE RILEY: -- you can.

20 MR. COSDEN: Then we will proceed with  
21 either -- if we can get the account read or whether  
22 we're chewing the check and pouring the check for

1 Ms. Daly for her to make the payments.

2 MR. HUTTENHOWER: And the other thing -- thing  
3 I think they would have intended to do is would be  
4 the joint release to dismiss so that you have  
5 something for your file?

6 MR. COSDEN: Yeah, we'll -- we'll send the  
7 documents of the release and the stipulation. It's a  
8 stipulation joint motion.

9 JUDGE RILEY: To dismiss, right.

10 MR. COSDEN: And Ms. Daly hopefully will  
11 understand that -- that stipulation and joint  
12 motion --

13 JUDGE RILEY: Right.

14 MS. DALY: Okay.

15 MR. COSDEN: -- filed.

16 JUDGE RILEY: Right. Exactly. And you filed  
17 with the Clerk's Office?

18 MR. COSDEN: Correct.

19 JUDGE RILEY: Right. Okay.

20 MR. COSDEN: Yeah, we'll -- we'll mail it to  
21 you, Ms. Daly.

22 MS. DALY: Okay.

1           MR. COSDEN: Both the release form and the  
2 joint stipulation, okay?

3           MS. DALY: Okay.

4           JUDGE RILEY: It sound like the matter has been  
5 taken care of then --

6           MR. COSDEN: Good.

7           JUDGE RILEY: -- Mr. Cosden. I very much  
8 appreciate your cooperation.

9           MR. COSDEN: Well, thank you, as well. And  
10 thanks, Jim, as well, for facilitating all of this.  
11 We -- we appreciate it.

12           JUDGE RILEY: All right. Then -- and we'll  
13 just wait for the -- for the -- to put the wheels in  
14 motion.

15           MR. COSDEN: Okay.

16           MS. DALY: Thank you.

17           JUDGE RILEY: Thank you very much.

18                       Let's push this thing back to let me  
19 continue this thing to November 18th at 10:00 a.m. --  
20 make that 11:00 a.m. to get them a chance to get  
21 there.

22                               November 18th -- 11:00 a.m. on

1 November 18th, and there shouldn't be any need to  
2 reconvene; but I haven't -- so if I have to have a  
3 continuance date, it will mollify our Clerk's Office.

4 All of the things that have to be done  
5 should be done by then, and I can close the record on  
6 November 18th at 11:00 a.m.

7 (Whereupon, the above-entitled  
8 matter was continued to  
9 November 18, 2004,  
10 at 11:00 a.m.)

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