

**PUBLIC UTILITIES COMMISSION**505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3298**FILED**05-28-13  
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May 28, 2013

Agenda ID #12156  
Adjudicatory

TO PARTIES OF RECORD IN CASE 13-01-008:

This is the proposed decision of Administrative Law Judge (ALJ) Karl J. Bemederfer. It will not appear on the Commission's agenda sooner than 30 days from the date it is mailed. The Commission may act then, or it may postpone action until later.

When the Commission acts on the proposed decision, it may adopt all or part of it as written, amend or modify it, or set it aside and prepare its own decision. Only when the Commission acts does the decision become binding on the parties.

Parties to the proceeding may file comments on the proposed decision as provided in Article 14 of the Commission's Rules of Practice and Procedure (Rules), accessible on the Commission's website at [www.cpuc.ca.gov](http://www.cpuc.ca.gov). Pursuant to Rule 14.3, opening comments shall not exceed 15 pages.

Comments must be filed pursuant to Rule 1.13 either electronically or in hard copy. Comments should be served on parties to this proceeding in accordance with Rules 1.9 and 1.10. Electronic and hard copies of comments should be sent to ALJ Bemederfer at [kjb@cpuc.ca.gov](mailto:kjb@cpuc.ca.gov) and the assigned Commissioner. The current service list for this proceeding is available on the Commission's website at [www.cpuc.ca.gov](http://www.cpuc.ca.gov).

/s/ RICHARD SMITH for  
Karen V. Clopton, Chief  
Administrative Law Judge

KVC:oma

Attachment

Decision **PROPOSED DECISION OF ALJ BEMESDERFER** (Mailed 5/28/2013)

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Donald F. Hollingsworth,

Complainant,

vs.

California American Water Company  
(U210W),

Defendant.

Case 13-01-008  
(Filed January 18, 2013)

**DECISION DISMISSING COMPLAINT**

**Summary**

The complaint is dismissed as moot and for failure to state a claim on which relief may be granted.

**Background<sup>1</sup>**

Complainant, Donald F. Hollingsworth resides at 876 Camino Concordia in Camarillo, CA. He designed and built the water delivery system in his home, consisting of pipes, valves, and faucets. Water is delivered to the house via a water system owned by Defendant, California American Water Company (CalAm). In March 2009, a water main delivering water to Mr. Hollingsworth's

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<sup>1</sup> The background information is taken from documents supplied by Complainant with his complaint. Defendant, CalAm did not challenge the accuracy of the historical record contained in those documents.

neighborhood broke. Following CalAm's repair of the main break, he began to experience incidents of so-called "water hammer" in the pipes of his home. Water hammer is a condition in which pressure irregularities in the water system cause intermittent surges in the water lines accompanied by loud banging noises in the water pipes. Mr. Hollingsworth blamed the water hammer condition on CalAm and demanded that the company eliminate the problem from his home. After several false starts and much exchange of correspondence with Mr. Hollingsworth, CalAm concluded that the condition originated in Mr. Hollingsworth's house and that it could be eliminated by installing a pressure relief valve (PRV) to reduce the water pressure in the pipes. In January 2013, CalAm voluntarily installed a PRV on the water pipe leading to Mr. Hollingsworth's house, following which the water hammering ceased. However, the PRV lowered water pressure in his pipes to a degree that Mr. Hollingsworth found unacceptable. On March 11, 2013, CalAm voluntarily installed a larger PRV that increased the water pressure in the house while continuing to eliminate the water hammer problem.

**Procedural History**

In June 2010, Mr. Hollingsworth filed an informal complaint with the Commission's Consumer Affairs Branch (CAB) seeking an order directing CalAm to eliminate the water hammer condition at no cost to Complainant. CAB rejected the informal complaint in July 2010 with the explanation that CalAm had not violated any law, rule, or order of the Commission and closed the case. In January 2013, Mr. Hollingsworth filed the present action which was initially characterized as an expedited complaint. Pursuant to a ruling by the Chief Administrative Law Judge, the proceeding was re-designated as a regular

complaint (Complaint) and a prehearing conference (PHC) was held on April 18, 2013.

Defendant, CalAm filed a timely answer (Answer) in which it asked the Commission to dismiss the Complaint on multiple grounds.

### **Discussion**

In the Answer and again at the PHC, CalAm made the following representations, none of which has been disputed by Complainant:

- (1) On January 31, 2013, although it was not required by its tariff to do so, CalAm installed a pressure relief valve (PRV) immediately prior to Mr. Hollingsworth's meter to regulate the pressure coming into Mr. Hollingsworth's plumbing system;
- (2) In a letter dated February 10, 2013, Mr. Hollingsworth stated that after installation of the PRV the water hammer stopped; and
- (3) On March 11, 2013, CalAm replaced the PRV installed on January 31st with a larger PRV to improve the volume of water flowing to Mr. Hollingsworth's plumbing system.

At the PHC, Mr. Hollingsworth admitted that CalAm's installation of the PRV had eliminated the water hammer problem. Accordingly we dismiss the Complaint on two grounds: (a) it is moot because the company's voluntary action has eliminated the problem complained of; and (b) it fails to state a claim on which relief may be granted.

With regard to the second ground of dismissal, we note that we may only hear a complaint if it alleges "any act or thing done or omitted to be done by any public utility ... in violation or claimed to be in violation, of any provision of law or of any order or rule of the commission." Pub. Util. Code § 1702.

The Commission's CAB, in its letter rejecting Mr. Hollingsworth's informal complaint, correctly noted that it did not allege a violation of a Commission tariff, rule, or order. In order to be cognizable here, the Complaint has to allege that CalAm violated either an ordinance of the City of Camarillo, a state statute other than the Public Utilities Code, a provision of the Public Utilities Code, or an order or rule of the Commission. Since it makes none of these allegations, the Complaint fails to state a claim on which relief may be granted and must be dismissed.

### **Categorization and Need for Hearings**

On February 13, 2013 pursuant to Rule 4.5(g), this proceeding was converted from an expedited complaint proceeding to a regular complaint proceeding. It was preliminarily characterized as adjudicatory and it was preliminarily determined that hearings are required. We affirm the categorization but in view of the dismissal of the Complaint we change the hearing determination to "not required".

### **Comments on Proposed Decision**

The proposed decision of the Administrative Law Judge (ALJ) in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on \_\_\_\_\_, and reply comments were filed on \_\_\_\_\_ by \_\_\_\_\_.

### **Assignment of Proceeding**

Catherine J.K. Sandoval is the assigned Commissioner and Karl J. Bemesderfer is the assigned ALJ in this proceeding.

**Findings of Fact**

1. Complainant, Mr. Hollingsworth began to experience water hammer problems at his home at 876 Camino Concordia in Camarillo, CA in March 2009.

2. From March 2009 to the present, Mr. Hollingsworth has engaged in informal efforts to persuade CalAm to modify its water delivery system to eliminate the water hammer problem.

3. Mr. Hollingsworth filed an informal complaint with the Commission's CAB in June 2010.

4. The CAB dismissed the informal complaint for failure to state a claim on which relief could be granted in July 2010 and closed its file on this matter.

5. CalAm installed a pressure relief valve at Complainant's home in January 2013.

6. Following installation of the pressure relief valve, the water hammer problem was eliminated.

7. In March 2013, CalAm replaced the pressure relief valve installed in January 2013 with a larger one.

**Conclusions of Law**

1. The installation of the pressure relief valve has mooted the Complaint.

2. The Complaint fails to allege a violation of any law or any rule or order of the Commission.

3. The Complaint should be dismissed.

**O R D E R**

**IT IS ORDERED** that:

1. The Complaint is dismissed.
2. Hearings are not required.
3. Case 13-01-008 is closed.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California.