

Decision \_\_\_\_\_

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

Willie Haigler,

Complainant,

vs.

Consumer Cellular Incorporated (U4328C),

Defendant.

(ECP)

Case 13-04-013

(Filed April 22, 2013)

**DECISION DISMISSING COMPLAINT**

**1. Summary**

This decision dismisses the expedited complaint, which sought compensation for Overdraft and Non-sufficient Funds fees incurred after Consumer Cellular, Incorporated (Consumer Cellular) deposited check numbered 1337. The fees incurred are result of Wells Fargo Bank’s policies and requirements, not those of Consumer Cellular. Therefore, the complaint is dismissed for failure to state a claim on which relief may be granted.

**2. Factual Background**

Willie Haigler (Complainant) has been a customer of Consumer Cellular, Incorporated (Consumer Cellular) since April 17, 2011. Consumer Cellular is a utility, providing cellular service under the jurisdiction of the Commission.

On April 22, 2013, Complainant filed an expedited complaint. A hearing was held on the expedited complaint on October 10, 2013.

Complainant alleges that he sent checks on two separate occasions to pay his monthly cellular bill to Consumer Cellular. Complainant first sent check numbered 1337. After several days, Consumer Cellular did not confirm receipt of this check. Assuming the check was lost, Complainant sent a second check (numbered 1339) for the same amount. On October 11, 2012 and October 16, 2012, Consumer Cellular received checks numbered 1337 and 1339, respectively. These payments were posted to Complainant's account when they were received. On October 22, 2012, Consumer Cellular issued a reverse payment for check numbered 1337 once the check did not clear because there were insufficient funds in Complainant's bank account with Wells Fargo Bank. Due to the insufficient funds, it appears Wells Fargo Bank charged Complainant Overdraft and Non-sufficient Fund Fees for checks 1337 and 1339, totaling \$105.00. Complainant now seeks reimbursement of this amount from Consumer Cellular.

### **3. Discussion**

Complainant lacked sufficient funds to pay his bill. Consumer Cellular cannot be held responsible for the overdraft fees associated with the checks written to Consumer Cellular. The fees Complainant incurred are solely due to Wells Fargo Bank's policies and requirements. Consumer Cellular is neither obligated to, nor capable of monitoring its customers to ensure that customers have sufficient funds when making payment by check. Therefore, the Complaint is dismissed.

**4. Assignment of Proceeding**

Catherine J. K. Sandoval is the assigned Commissioner, and Darwin E. Farrar is the assigned Administrative Law Judge and the Presiding Officer in this proceeding.

**O R D E R**

**IT IS ORDERED** that:

1. The relief requested in the Expedited Complaint filed by Willie Haigler on April 22, 2013 is denied.
2. Complaint 13-04-013 is closed.

This order is effective today.

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