

Decision 01-10-045

October 25, 2001

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

The Utility Consumers' Action  
Network,  
  
Complainant,

vs.

Pacific Bell (U 1001 C),  
  
Defendant.

Case 98-04-004  
(Filed April 6, 1998)

Case 98-06-003  
(Filed June 1, 1998)

Case 98-06-027  
(Filed June 8, 1998)

Case 98-06-049  
(Filed June 24, 1998)

Investigation 90-02-047  
(Filed February 23, 1990)

And Related Matters.

**ORDER STAYING ORDERING PARAGRAPH 12  
OF DECISION 01-09-058**

On October 9, 2001, the United States District Court for the Northern District of California issued a Temporary Restraining Order enjoining the CPUC “from enforcing the limits on incentive compensation set forth in the Final Opinion of the CPUC on Pacific Bell’s Marketing Practices and Strategy, dated September 20, 2001 [Decision No. 01-09-058], so far as they relate to employees covered by the NLRA.” Pacific Bell

Telephone Company v. Richard A. Bilas, et al., Temporary Restraining Order, dated October 10, 2001.

In Ordering Paragraph 12 of Decision No. 01-09-058, the Commission ordered that “Pacific Bell’s sales-volume based incentive compensation to service representatives and their immediate supervisors shall not exceed five percent of the service representatives’ or supervisors’ monthly compensation.” The Temporary Restraining Order enjoins that portion of Ordering Paragraph 12 as it applies to service representatives who are employees covered by the NLRA.

On October 17, 2001, the District Court issued a further ruling extending the Temporary Restraining Order until 5 p.m. on October 26, 2001 in order to give the Commission an opportunity to determine whether, on its own, it should stay the incentive rate compensation provision of its order pending further review by the Commission.

In consideration of the above, we hereby stay Ordering Paragraph 12 of Decision No. 01-09-058, without distinguishing between employees covered by the NLRA and their immediate supervisors. The stay of this portion of Decision No. 01-09-058 shall remain in effect until further order of the Commission.

On October 19, 2001, Pacific hand-delivered to the Commissioners an "Emergency Motion of Pacific Bell For a Stay Pending Rehearing and Judicial Review" of Decision No. 01-09-058 in its entirety, and a “Motion to Shorten Time on Emergency Motion to Stay”. Parties were served by mail, and did not receive Pacific's motions before Monday, October 22, 2001.

By this order, we deny Pacific's motion for order shortening time, and will allow parties the time for response to Pacific's motion for emergency stay as provided for in Rule 45 of our Rules of Practice and Procedure.

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Therefore, **IT IS ORDERED** that:

1. Ordering Paragraph 12 of Decision No. 01-09-058, without distinguishing between employees covered by the NLRA and their immediate supervisors, is hereby stayed.
2. The stay of this portion of Decision No. 01-09-058 shall remain in effect until further order of the Commission.
3. Pacific's motion to shorten the time by which parties may respond to Pacific's emergency motion to stay Decision No. 01-09-058 is denied.

This order is effective today.

Dated October 25, 2001 at San Francisco, California.

LORETTA M. LYNCH  
President  
HENRY M. DUQUE  
RICHARD A. BILAS  
CARL W. WOOD  
GEOFFREY F. BROWN  
Commissioners