

**768**Decision **DRAFT DECISION OF ALJ DEULLOA** (Mailed June 13, 2002)**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Marcella Beagle,

Complainant,

vs.

Pacific Bell,

Defendant.

Case 00-07-012  
(Filed July 7, 2000)

Marcella Beagle,

Complainant,

vs.

Pacific Bell,

Defendant.

Case 00-07-015  
(Filed July 7, 2000)**OPINION****Summary**

Today's decision on these complaints addresses whether: (1) funds held on deposit in complaint Case (C.) 99-03-016 were improperly distributed to Pacific Bell (Pacific); (2) Complainant Marcella Beagle's debt to Pacific is extinguished because Pacific mailed requests for payment to an erroneous address; (3) Complainant and her representative, Richard Beagle, filed frivolous

and derogatory complaints; and (4) if so, the Commission should impose sanctions for violating Rule 1 of the Commission's Rule of Practice and Procedure (Rules). We determine that the complaints should be dismissed and sanctions should be imposed on Complainant.

**Procedural History of the Present Complaints**

On July 7, 2000, Complainant filed C.00-07-012 and C.00-07-015. On August 21, 2000, Pacific filed separate answers to both complaints.

On September 5, 2000, Complainant filed a Motion To Exclude and Disregard Bell's Response on the ground that Pacific filed its answers two days late. In an Administrative Law Judge (ALJ) ruling dated October 18, 2000, the motion was denied since the 30<sup>th</sup> day for filing the answer fell on a Saturday and Pacific timely filed the first business day thereafter.<sup>1</sup>

In the October ruling, the ALJ also consolidated C.00-07-012 and C.00-07-015 and directed Complainant to file a statement addressing why the Commission should not:

- dismiss both complaints with prejudice;
- find Complainant and / or Richard Beagle in violation of Rule 1;
- impose monetary sanctions if a Rule 1 violation is found; and / or
- require Complainant and / or Richard Beagle to post a monetary deposit to cover defendant's legal expenses in any future complaints.

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<sup>1</sup> Under Rule 3.2 (Computation of Time), when a Commission rule sets a time limit for performance of an act, and the last day falls on a Saturday, Sunday, or holiday when the Commission offices are closed, the time limit is extended to include the first day thereafter.

On November 1, 2000, Complainant filed a response to the October ALJ ruling.

### **Positions of Parties**

Complainant's contentions are difficult to discern, but it is clear the Complainant is attacking the Commission's resolution of her earlier case, C.99-03-016. In C.00-07-012, Complainant appears to contend that the Commission improperly released to Pacific monies that Complainant deposited with the Commission in C.99-03-016. Pacific contends that Complainant fails to understand the procedure for releasing funds on deposit with the Commission

In C.00-07-015, Complainant appears to contend that no money is owed to Pacific because Pacific sent bills to a wrong address. Complainant also characterizes Pacific's requests for payment as extortionist, harassment and fraud. Complainant also accuses Pacific's employees of altering records and lying. Further, Complainant has accused Commission employees of being evasive and liars as well as abetting Pacific in committing criminal acts.

Pacific contends that it (1) investigated and corrected Complainant's billing address upon Complainant's request, and (2) provided Complainant with duplicate bills and time to review those bills and make payment arrangements. Pacific also contends that C.00-07-015 is unintelligible.

On October 18, 2000, the ALJ issued a ruling finding preliminarily that in light of the warnings in Decision (D.) 00-03-022,<sup>2</sup> Complainant and her representative had violated Rule 1. In response to the ALJ's ruling, Complainant

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<sup>2</sup> In D.00-03-022, which rejected Complainant's application for rehearing in C.99-03-016, the Commission warned Complainant against filing groundless, malicious complaints without any substantiating facts. See also footnote 4 below and accompanying text.

attacks the character of the ALJ<sup>3</sup> and does not address the issues raised in the October ruling.

### **Discussion**

The issue in C.00-07-012 is whether funds held on deposit were improperly distributed to Pacific in C.99-03-016. In D.99-10-051, the Commission decided C.99-03-016 in favor of Pacific.<sup>4</sup> In D.00-03-022, the Commission denied Complainant's Application For Rehearing of D.99-10-051.

However, neither D.99-10-051 nor D.00-03-022 ordered the release of funds held on deposit to Pacific. In complaint cases, the release of funds held on deposit follows the resolution of liability in the underlying complaint case. D.00-05-030, a half-page order, corrected this oversight and ordered the release of funds held on deposit in C.99-03-016 to Pacific. If Complainant believed that D.00-05-030 contained an error, she should have filed an application for rehearing of D.00-05-030. Instead, Complainant initiated this complaint. Complainant argues that the ALJ who drafted D.00-05-030 "violate[d] CPUC rules and her position by illegally reopening or altering the case without hearing and passing money in direct opposition of CPUC orders and rules." (See page 1 of Attachment E to C.00-07-012.) The complaint goes further to accuse the ALJ of

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<sup>3</sup> Complainant contends in her response that the ALJ "has violated CPUC rules," "bashes and threatens, seeks to intimidate and silence complainant, and rewards dishonesty, numerous criminal acts..." and that the ALJ has abetted extortion.

<sup>4</sup> In C.99-03-016, Complainant alleged various billing disputes and made broad assertions concerning fraud and harassment by Pacific. D.99-10-051 granted Pacific's motion to dismiss the allegations concerning late payment charges and allegations of discrimination. However, D.99-10-051 ordered Pacific to adjust Complainant's bill for one day that she was without service in March 1999.

violating the Commission's code of ethics and Pacific of committing criminal acts. Complainant cites no facts to support any of her allegations.

Complainant fails to understand that since the Commission found in favor of Pacific in C.99-03-016, the funds deposited by Complainant should have been released to Pacific. The oversight does not extinguish Complainant's debt to Pacific. This oversight was corrected in D.00-05-030. Thus, Complainant fails to state a cause of action in C.00-07-012.<sup>5</sup>

The issue in C.00-07-015 is whether Complainant's debt to Pacific is extinguished because Pacific mailed its request for payment to a wrong address. Complainant states that Pacific "MUST bill and account for every charge, date, number and address, before it can collect and bills must be submitted CORRECTLY to the PROPER ADDRESS, and in a TIMELY MANNER." (See page 2 of Attachment E to C.00-07-015.) (Emphasis in complaint.) Complainant cites no statute or Commission order or rule to support the proposition that the mailing of a bill to a wrong address extinguishes a debt owed. Pacific has responded to Complainant's concerns. (See Exhibit 3 to C.00-07-015. A copy of this exhibit, which is a letter from Pacific to Complainant outlining Pacific's response and bearing Complainant's annotations, is attached to today's decision.) It also appears that some funds held on deposit were not released to Pacific. It is not clear whether these funds are the same as the funds held on deposit in C.99-03-016. In Exhibit 3 to C.00-07-015, appears the handwritten remark "wrong billing = no billing = send me" money. To the extent that

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<sup>5</sup> In the October 18 ruling, the assigned ALJ identified deficiencies in the complaints and provided Complainant an opportunity to explain why the complaints should not be dismissed with prejudice.

Complainant believes that an oversight extinguishes her debt, Complainant is wrong.

The Commission on its own motion may dismiss complaints when a complaint fails to establish the facts, applicable law, and jurisdiction justifying a hearing. A hearing can be justified if the matters to be proven are understood, if there is sufficient and comprehensible indication that the allegations are based on fact, not mere conclusory accusations, and if the allegations are sustainable under some theory of law. The Commission has the inherent power to deal with sham, frivolous, or vexatious causes of action, or to dismiss filings that are not done in good faith or that are in disregard of established procedural requirements, or otherwise violative of orderly judicial administration. (Westcom Long Distance, Inc. v. Pacific Bell, 54 CPUC2d 244.) The Commission may look behind the pleadings and evasive language to ascertain the existence or absence of triable issues. (Abeloe v. Spreckels Water Company, Inc., 58 CPUC2d 613.)

In both complaints, Complainant has not made a coherent statement of facts that, if found to be true, would support a conclusion that a violation of law, Commission order or rule has occurred. We also find that both complaints are frivolous and vexatious, and should therefore be dismissed with prejudice. To the extent that Complainant has funds on deposit at the Commission in connection with C.00-07-012 and C.00-07-015, or with C.99-03-016, these funds should be distributed to Pacific because we are dismissing both current complaints with prejudice, and have resolved the prior complaint.

The last issue we address is whether Complainant has violated Rule 1, which provides that any person who signs a pleading or transacts business with the Commission agrees to “maintain the respect due to the Commission, members of the Commission and its Administrative Law Judges...”

In D.00-03-022, we noted that “Applicant’s behavior and filings in this proceeding would indeed support the conclusion that she is indeed a ‘vexatious litigant’ no matter how many previous filings she may have made.” Further, in D.00-03-022 we observed that:

“Application for Rehearing, together with other filings made by Ms. Beagle and her former husband, are nothing more than a long litany of groundless, malicious complaints against ALJ Vieth and Pacific. Applicant accuses the ALJ of ‘crimes,’ without any substantiating facts. She accuses ALJ Vieth of ‘suppressing evidence’ with no indication of what this evidence may have been. Likewise, Ms. Beagle accuses the ALJ of ‘intentionally mishandling justice,’ ‘bias’ and suborning perjury. Applicant cites no record evidence for any of these accusations, and a review of the record indicates that there is none.” (*Id.* at p. 4.)

Consequently, in D.00-03-022, we advised Complainant of the Code of Ethics contained in Rule 1 and cautioned Complainant that her conduct had failed to maintain respect for the ALJ in charge of that proceeding.

In C.00-07-012, Complainant calls a Pacific employee inept; states that an ALJ has improperly passed money to Pacific; and accuses the Commission of “covering [Pacific Bell’s employee’s] stupidity of errors.” C.00-07-015 makes similar derogatory statements and goes as far as to request an order for a psychological examination of a Pacific employee (page 4 of attachment G to complaint).

The October 18 ALJ ruling directed Complainant and her representative to show cause why the Commission should not impose sanctions for a violation of Rule 1. In response, Complainant persisted with character attacks on the ALJ. We find that Complainant’s and her representative’s conduct in repeatedly attacking the character of ALJs violates Rule 1. We conclude that given prior

warnings, a basis exists to temporarily bar Complainant and her representative from filing any complaints. However, we will refrain from imposing such a sanction at this time. Should Complainant and/or her representative in the future file a frivolous complaint, the Commission will consider barring Complainant and/or representative from filing future complaints.

**Comments on Draft Decision**

The draft decision of the ALJ in this matter was mailed to the parties in accordance with Pub. Util. Code § 311(g)(1) and Rule 77.7 of the Rules of Practice and Procedure. Comments were filed on \_\_\_\_\_, and reply comments were filed on \_\_\_\_\_.

**Findings of Fact**

1. C.00-07-12 and C.00-07-015 do not contain a coherent statement of facts that, if found to be true, would support a conclusion that a violation of law, Commission order or rule has occurred.
2. C.00-07-12 and C.00-07-015 are frivolous.
3. C.00-07-12 and C.00-07-015 are vexatious.
4. Marcella Beagle (Complainant) has attacked the character of Commission ALJs without any substantiating facts.
5. Richard Beagle, Complainant's representative, has attacked the character of Commission ALJs without any substantiating facts.

**Conclusions of Law**

1. Complainant has failed to state a cause of action in C.00-07-012 or C.00-07-015.
2. Complainant has violated Rule 1 of the Commission's Rules of Practice and Procedure.

3. Richard Beagle has violated Rule 1 of the Commission's Rules of Practice and Procedure.

4. All funds Complainant deposited with the Commission by Complainant and / or Richard Beagle in connection with C.99-03-016, C.00-07-012, or C.00-02-015 should be distributed to Pacific Bell.

5. If Marcella Beagle and / or Richard Beagle file a frivolous complaint in the future, the Commission will consider a ban on the filing of further complaints.

6. No hearing on C.00-07-012 or C.00-07-015 is necessary.

7. This order should be made effective immediately.

## **O R D E R**

**IT IS ORDERED** that Case (C.) 00-07-12 and C.00-07-015 are dismissed with prejudice, and all funds on deposit with the Commission in connection with these complaints or with C.99-03-016 shall be distributed to Pacific Bell.

These proceedings are closed.

This order is effective today.

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

**ATTACHMENT**