

Decision 00-03-022 March 2, 2000

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Marcella Beagle,	
	Complainant
vs.	
Pacific Bell,	
	Defendant.

Case 99-03-016
(Filed March 8, 1999)

ORDER DENYING REHEARING OF DECISION NO. 99-10-051

I. SUMMARY

On March 8, 1999, Applicant filed Case (C.) 99-03-016. The complaint contains numerous broad assertions of fraud and harassment by Pacific Bell (Pacific). Generally, as articulated by Applicant's representative, her former husband Mr. Beagle, at the Prehearing Conference, Applicant's grievances center on three allegations: (1) that Pacific has failed to reverse an improper late payment charge; (2) that Pacific has failed to provide her with compensation for two service interruptions; and (3) that Pacific has discriminated against her and harassed her, primarily by placing her on a 15-day payment schedule when she first established service.

D.99-10-051 deals with each of these allegations, beginning at page 4. With regard to the late charge of \$3.17, according to Applicant's own evidence, her check was not mailed until the day before the late charge applied, and the evidence further indicated that Pacific correctly followed its own billing procedures as provided for in its tariffs. (D.99-10-051, page 6.) As for the service interruption, the Decision found that the event was the result of confusion regarding Applicant's new address during transfer of service. The Commission

therefore directed Pacific to adjust Applicant's account to reflect the one full day she was without service. (D.99-10-051, page 7.) With regard to the complaint of discrimination because Applicant was placed on a fifteen day billing cycle when she first requested service, the Commission found that her failure to respond to Pacific's request for identification and lack of verifiable credit history justified this procedure. (D.99-10-057, page 8.) The Decision therefore granted Pacific's motion to dismiss two charges in the complaint and closed the proceeding.

II. DISCUSSION

The Applicant alleges myriad errors by the Commission and of abuse by Pacific, many of which are unintelligible. She also alleges that ALJ Veith was biased, suppressed evidence and committed undisclosed "crimes."

Applicant first argues that the Decision was based on "Bell Records" wrongly submitted and not officially a part of the record. The allegation is meritless. The Decision reflects that it was based on Pacific's motion to dismiss, together with the affidavits and declarations in support of the motion, which fully complied with Rule 45 of the Commission's Rules of Practice and Procedure. The record further reflects that, at the request of Applicant, a Prehearing Conference was conducted by telephone on June 3, 1999, at which the ALJ asked the parties to summarize their arguments and to conduct oral argument at that time. Applicant agreed to this procedure and waived the filing of a written response to Pacific's motion. (D.99-10-051, pages 2, 3.) Applicant now argues that the material in the motion was somehow wrongly received and that no hearing was held. However, she expressly agreed to this procedure at the time of the Prehearing Conference, and should not now be allowed to complain that her rights were somehow violated.

Applicant next alleges that ALJ Veith intentionally suppressed evidence offered by her in her "motions and complaints" offered on September 27, 1999. Applicant does not elaborate on what this evidence consisted of, nor how

she was prejudiced by its alleged "suppression." As such, the allegation is not in conformity with Public Utilities Code, Section 1732, which provides:

"The application for a rehearing shall set forth specifically the ground...on which the applicant considers the decision or order to be unlawful...."

The record indicates that, at the Prehearing Conference on June 3, 1999, the ALJ advised all parties after they had finished oral argument that the case would be submitted at that time and that no further hearings would be held unless she declined to grant Pacific's motion to dismiss. (RT-45.) On October 5, 1999, Applicant filed a "Motion to set aside C.P.U.C. OPINION DISMISSING COMPLAINT." This is apparently the evidence that was supposedly illegally suppressed. However, an examination of that motion only reveals the same rambling and often libelous material found in the Application for Rehearing. Further, the material was never suppressed, but was accepted for filing by the Docket Office and remains a part of the official record in this proceeding. The allegation is therefore without merit.

Applicant also complains of being termed a "vexatious litigant" in the decision, arguing that this is the first complaint she has ever filed before the Commission. However, the decision addresses this precise question at page 2, footnote 1, where it points out that Richard Beagle, former husband of Applicant, and her representative here, has filed a number of informal and formal complaints, none of which related to this proceeding. However, the decision does not specifically find Applicant to be a vexatious litigant, but simply warns her that the Commission's patience has limits. In fact, a review of 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.

The California Code of Civil Procedure, section 391(3) defines "vexatious litigant" as follows:

“(3) In any litigation while acting in propria persona, repeatedly files unmeritorious motions, pleadings, or other papers, conducts unnecessary discovery, or engages in other tactics that are frivolous or solely intended to cause unnecessary delay.”

And section 391.7(a) provides:

“(a) In addition to any other relief provided in this title, the court may, on its own motion or the motion of any party, enter a prefiling order which prohibits a vexatious litigant from filing any new litigation in the courts of this state in propria persona without first obtaining leave of the presiding judge of the court where the litigation is proposed to be filed. Disobedience of such an order by a vexatious litigant may be punished as a contempt of court.”

The Application for Rehearing, together with the other filings made by Ms. Beagle and her former husband, are nothing more than a long litany of groundless, malicious complaints against ALJ Veith and Pacific. Applicant accuses the ALJ of “crimes”, without any substantiating facts. (Application, page 5.) She accuses ALJ Veith of “suppressing evidence” with no indication of what this evidence may have been. Likewise, Ms. Beagle accuses the ALJ of “intentional mishandling of justice”, “bias” and suborning perjury. (Application, pages 3-6.) Applicant cites no record evidence for any of these accusations, and a review of the record indicates that there is none.

Rule 1 of the Commission’s Rules of Practice and Procedure provides:

“1. Rule 1) Code of Ethics.

Any person who signs a pleading or brief, enters an appearance at a hearing, or transacts business with the Commission, by such act represents that he or she is authorized to do so and agrees to comply with the laws of the State; to maintain the respect due to the Commission, members of the Commission and its

Administrative Law Judges; and never to mislead the Commission or its staff by an artifice or false statement of fact or law.”

Applicant here has failed to maintain the respect for the ALJ in charge of this proceeding as required by the above Rule. In fact, she has falsely accused her of serious infractions of duty and outright crimes, without any substantiation whatsoever. We could, therefore, find her in violation of Rule 1, supra. Should Applicant in the future make similar filings, which in the opinion of the Commission or the Chief ALJ are in violation of Rule 1, they will be summarily dismissed. We also remind Applicant of the Commission’s contempt authority pursuant to the California Constitution, Article XII, Section 6 and Public Utilities Code Section 312.

There is Commission precedent for such an order. In Victor v. Southern California Gas Co. (1984) D.88-03-080, 27 Cal. P.U.C. 2d 590, the Commission required a “vexatious litigant” to post security for reasonable expenses a utility might incur in defending against his complaint. And in Jay Mark Lavelle v. Japan Airlines (1980) 4 Cal. P.U.C. 2d 645, where a litigant referred to a Commissioner as “Ayatollah” and opposing counsel as “liar”, the Commission issued an order to show cause why the litigant should not be held in contempt.

In the present case, Applicant has gone beyond mere name-calling, and has insulted the professional and personal integrity of one of the Commission’s employees and impugned the Commission’s entire process.

IT IS THEREFORE ORDERED that:

1. Rehearing of D.99-10-051 is denied.
2. Should Applicant file further documents which, in the opinion of the Commission or the Chief Administrative Law Judge are in violation of Rule 1 of the Commission’s Rules of Practice and Procedure, the filings will be summarily dismissed.

3. This proceeding is closed

This order is effective today.

Dated March 2, 2000, at San Francisco, California.

RICHARD A. BILAS

President

HENRY M. DUQUE

JOSIAH L. NEEPER

CARL W. WOOD

LORETTA M. LYNCH

Commissioners