

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Resolution ALJ-163
Administrative Law Judge Division
September 16, 1992

R E S O L U T I O N

Adopts Procedures, Consistent with Public Utilities Code
Section 1702.1 and Rule 13.2, Designed to Streamline the
Processing of Complaints Under the Commission's Expedited
Complaint Procedure

We issue this resolution to express our support in principle for the ongoing efforts of our staff to streamline the Commission's complaint procedures and thereby to make the process of deciding formal complaints more efficient and effective for those involved. This resolution addresses current efforts to reform the Commission's Expedited Complaint Procedure (ECP).

The ECP governs complaints against any electric, gas, water, heat, or telephone company where the amount of money claimed does not exceed the jurisdictional limit of the small claims courts. Currently this jurisdictional limit is \$5,000. The provisions of Public Utilities (PU) Code Section 1702.1 and Rule 13.2 of the Commission's Rules of Practice and Procedure govern the ECP.

Between June 1, 1991 and June 17, 1992, the Commission disposed of 50 ECP cases in an average time of four months. The milestones in our typical processing of an expedited complaint are set forth below:

Action	Day
Complainant files complaint	0
Docket office serves complaint	8
Utility files answer	38
Hearings begin	68
Commission issues decision	132

The Administrative Law Judge (ALJ) Division has been exploring a variety of options designed to streamline the handling of complaints generally, and ECP cases in particular. We have concluded that it is possible to significantly shorten

the processing of expedited complaints by implementing a number of relatively simple administrative procedures. These new procedures do not require a change in the statute or the rules governing the ECP.

Among the easiest and most promising steps to shorten ECP cases are the following:

- 1) Issue the notice to answer within one business day of the filing of the complaint.
- 2) Shorten the time for the defendant to answer.
- 3) Set all ECP hearings to be held in San Francisco or Los Angeles at the time the notice to answer is issued, between 7 to 14 days after the answer is due.
- 4) Prepare ALJ draft decisions within 7 days of the ECP hearings.
- 5) Shorten internal review of draft ECP decisions.

These changes should allow the Commission to shorten the time required to process an expedited complaint from an average of 132 days to a maximum of 60 days.

The specific proposed changes in procedures are discussed below:

1. Service of the Complaint

When an expedited complaint is filed, the docket office serves a copy of the complaint on the defendant along with a notice directing the defendant to file an answer. The complaint is served approximately 4 to 7 days after the complaint is filed.

The complaint is not served immediately on the defendant because our current practice is to first refer the complaint to the Consumer Affairs Branch (CAB) for brief, informal mediation of the complaint. This is usually the second CAB involvement, the first being an informal inquiry. However, our experience has been that such mediation is rarely successful in the context of ECP cases.

We will therefore discontinue informal CAB review of expedited complaints and serve the complaint on the defendant within one business day of the filing of the complaint. The only exception will be where no prior CAB review occurred. In that

situation, the complaint will not be docketed pending a brief CAB effort to resolve the claim.

This step will shorten the ECP process by an average of 5 days.

2. Time to Answer

Rule 13 allows a defendant 30 days to file an answer. While this period may be appropriate for more complex complaints, our experience indicates that the time to answer an expedited complaint could be considerably shortened. Most answers to expedited complaints are short, terse boilerplate responses wherein the utility denies all allegations upon information and belief. Many have also been the subject of prior CAB involvement, so the utilities are already familiar with the nature of the complaint.

Rule 13 allows the Chief ALJ to require the filing of an answer within a shorter period. Therefore, we propose that the Chief ALJ routinely require answers to expedited complaints be filed within twenty days of the date the complaint is served on the defendant.

This step will shorten the ECP process by an average of 10 days.

3. Setting the Hearing

Hearings are typically set by the ALJ after the answer is filed and on average almost 30 days from the filing of the answer. The primary reason for this lag is that the ALJ attempts to find a date and location mutually convenient to the complainant, the defendant, and the ALJ. It is often difficult to find a convenient open date on the ALJ's calendar on short notice.

To reduce the time between the filing of the answer and the ECP hearing, we propose to take two steps:

First, if the complainant requests a hearing in San Francisco or Los Angeles, we will notice the hearing at the time we serve the complaint on the defendant. The hearing will be at a regularly scheduled day and time between seven and fourteen days after the answer is due. A specific ALJ will have a continuing assignment to preside at these regularly scheduled hearings. Complainant will be advised in advance of the ECP hearing dates; (for example, "Every Thursday in San Francisco, Every Friday in Los Angeles") so that when they file their

complaint, they can reasonably predict when their case will be heard.

Second, if the complainant requests a hearing in a location other than San Francisco or Los Angeles, the calendar clerk will attempt to set the matter for hearing promptly after the complaint is served on the defendant. Because of the difficult logistics involved in holding hearings in remote locales, it will not always be possible to set the hearing within 14 days of the answer, but that will be our goal.

These steps will shorten the ECP process by an average of 16 to 20 days.

4. Preparing the Draft Decision

Under our current practice, it takes an average of approximately 60 days between the ECP hearing and the time the Commission votes on the decision.

Two factors which cause the delay are not easily overcome. The Commission meets only twice a month. The agenda must be released at least 10 days before the scheduled Commission meeting. Allowing for time for preparation of the agenda and for the fact that this 10th day usually falls on a weekend means that a draft decision must be completed 14 days before the scheduled meeting. Therefore, 14 to 30 days is the minimum period between completion of a draft decision and the Commission's formal action on the complaint. If, for example, an ECP hearing is held on October 23 (the date the November 6 agenda is mailed), the earliest the decision could come before the Commission is November 23.

Two other time factors can be remedied. It may sometimes take an ALJ 30 days to prepare an ECP decision, because the ALJ must squeeze preparation of the decision into an already crowded calendar of other hearings, rulings, and decisions. To remedy this problem, the Chief ALJ plans to assign an ALJ to specialize in ECP matters. This will allow the ALJ to organize his or her time, so as to ensure time after each hearing to prepare a draft decision.

Another cause of delay in bringing a decision to the Commission agenda is the time taken to review the draft decision. A typical decision is reviewed by an Assistant Chief ALJ, the Chief ALJ, Commission Advisory and Compliance Division (CACD), (or Transportation Division), and the Assigned Commissioner. It is our experience that review by CACD (or Transportation Division) and the Assigned Commissioner adds an average of 2 to 7

days to the processing of the decision before it is placed on the agenda.

Therefore, we will eliminate routine CACD (or Transportation Division) and Assigned Commissioner review of ECP decisions. Of course, if in a particular case, CACD (or Transportation Division) or the Assigned Commissioner requests an opportunity to review the draft decision, we will certainly include them in the review.

The above post-hearing steps should reduce the ECP processing time by an average 30 days.

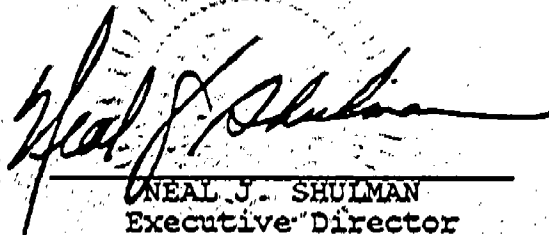
In summary, if the above-outlined administrative procedures are implemented, the time to process ECP complaint should be shortened from an average of 132 days to a maximum of 65 days. It may be necessary in the interests of achieving additional administrative efficiencies and responding to changing circumstances to vary some of the steps or target dates outlined above, and the Chief ALJ has the authority to make these changes. In addition, we will make this resolution effective in 45 days in order to allow the ALJ Division and the Public Advisor's Office to undertake necessary implementation and outreach activities.

IT IS RESOLVED that:

1. The procedures outlined above, which are designed to accelerate both the pace of bringing Expedited Complaint Procedure (ECP) cases to hearing and the time necessary to render post hearing decisions, are hereby adopted, consistent with Public Utilities Code Section 1702.1 and Rule 13.2 of the Commission's Rules of Practice and Procedure.
2. The procedures outlined above shall apply to all ECP cases filed after the effective date of the resolution.
3. The Executive Director shall serve a copy of this resolution on all Commission regulated electric, gas, water, heat, and telephone companies.

This resolution becomes effective 45 days from today.

I certify that this resolution was adopted by the Public Utilities Commission at its regular meeting on September 16, 1992. The following Commissioners approved it:


NEAL J. SHULMAN
Executive Director

DANIEL Wm. FESSLER
President
JOHN B. OHANIAN
PATRICIA M. ECKERT
NORMAN D. SHUMWAY
Commissioners