

PLEASE DOCKET

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

SECRETARY'S BUREAU
AUG 14 11:23
AUG 14 2003

Daniel Franks, EC-0431

v

Docket No. C-20030123

T-Netix, Inc.

DOCUMENT
FOLDER

PREHEARING ORDER

DOCKETED
AUG 14 2003

An initial telephonic hearing in this case is scheduled for Wednesday, October 15, 2003, at 10 00 a.m. Accordingly, the parties are hereby directed to comply with the following requirements:

1. If you intend to present any documents or exhibits for my consideration, you must send one (1) copy to the other party and three (3) copies to me one week before the hearing. Be sure that you serve me directly with a copy of any document that you file in this proceeding at the time of filing. If you send me any correspondence or documents, you must send a copy to all other parties. For your convenience, a copy of the Commission's current service list of the parties to this proceeding is enclosed with this Order.

2. If you or any proposed witness will be at a telephone number that is different than the number on the hearing notice, you must notify me of that telephone number at least one (1) week before the hearing.

3. A request for a change of the scheduled hearing date must be submitted in writing no later than five (5) days prior to the hearing. 52 Pa. Code §1.15(b). Requests for changes must be sent to me and all parties of record. Requests for continuances will only be granted for good cause. My correct address is: Louis G. Cocheres, Administrative Law Judge, Pennsylvania Public Utility Commission, P.O. Box 3265, Harrisburg, PA 17105-3265.

4. **YOU MAY LOSE THIS CASE IF YOU DO NOT TAKE PART IN THIS HEARING AND PRESENT EVIDENCE ON THE ISSUES RAISED.**

5. ALTHOUGH THIS HEARING IS BEING CONDUCTED TELEPHONICALLY FOR THE CONVENIENCE OF THE PARTIES, IT IS STILL A FORMAL HEARING AND WILL BE CONDUCTED IN ACCORDANCE WITH THE COMMISSION'S RULES OF PRACTICE AND PROCEDURE.

6. Pursuant to 52 Pa.Code §§1.21 & 1.22, you may represent yourself, if you are an individual, or you may have an attorney represent you. However, if you are a partnership, corporation, trust, association or governmental agency or subdivision, you must have an attorney represent you in this proceeding. Unless you are an attorney, you may not represent someone else.

7. The complainant bears the burden of proof in this proceeding and must show by a preponderance of the evidence that the respondent has violated the Public Utility Code or a regulation or an Order of this Commission so that the complainant is entitled to the relief requested in the Complaint.

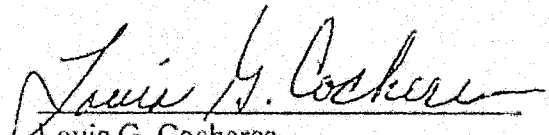
8. If you intend to subpoena witnesses for the hearing, you should review the procedures established in 52 Pa.Code §5.421. You must submit your written application to me sufficiently in advance of the hearing date so that the other parties will have the required ten (10) days' notice to answer or object, and so that you will have enough time to receive the subpoena and serve it.

9. Any party may conduct discovery to learn the factual basis of another party's position in this case. However, 52 Pa.Code §5.331(b) provides, in relevant part, that "[a] participant shall endeavor to initiate discovery as early in the proceedings as reasonably

possible." Additionally, 52 Pa.Code §5.322 provides, in relevant part, that "participants are encouraged to exchange information on an informal basis." All parties are urged to cooperate in informal information exchanges and in conducting discovery. Cooperation is preferable to disagreements, which require my participation to resolve. There are limitations on discovery (52 Pa.Code §5.361) and sanctions for abuse of the discovery process (52 Pa.Code §§5.371 & 5.372).

10. Commission policy is to encourage settlements. 52 Pa.Code §5.231(a). Therefore, you are urged to discuss informally between yourselves the possible settlement of this case at least one (1) week before the hearing. If you are unable to settle this case, you may still resolve as many questions or issues as possible during your informal discussion.

Dated: July 29, 2003


Louis G. Cocheres
Administrative Law Judge



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION

BTL

Office Of Administrative Law Judge
P.O. Box 3265, Harrisburg, PA 17105-3265
July 29, 2003

IN REPLY PLEASE
REFER TO OUR FILE

In Re: C-20030123

(See letter dated 05/28/2003)

Daniel Franks EC-0431 v. T-Netix, Inc.

Billing dispute.

Telephone Hearing Notice

This is to inform you that a hearing by telephone on the above-captioned case will be held as follows:

Type: Initial
Date: Wednesday, October 15, 2003
Time: 10:00 a.m.
Presiding: Administrative Law Judge Louis G. Cocheres
P.O. Box 3265
Harrisburg, PA 17105-3265
Telephone: (717) 783-5452
Fax: (717) 787-0481

If you have not provided a current telephone number where you can be reached for participation in the hearing OR YOUR AREA CODE HAS CHANGED, then you must contact the presiding officer at least 7 days before the actual hearing and provide the necessary information.

At the above date and time, the Presiding Officer will contact the parties as follows:

Daniel Franks	*Phone Number to be provided
Andrea P. Edmond, Esquire	(703) 918-2380
Glenn B. Manishin, Esquire	" " "

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If you have any hearing exhibits to which you will refer during the hearing, 3 copies must be sent to the Administrative Law Judge and 1 copy each must be sent to every other party. All copies must be received at least 3 days before the hearing.

Attention: You may lose the case if you do not take part in this hearing and present facts on the issues raised.

Except for those individuals representing themselves, the Commission's rules require that all parties have an attorney; therefore, you should have an attorney of your choice file an entry of appearance before the scheduled hearing.

If you are a person with a disability, and you wish to attend the hearing, we may be able to make arrangements for your special needs. Please call the scheduling office at the Public Utility Commission:

- Scheduling Office: (717) 787-1399.
- AT&T Relay Service number for persons who are deaf or hearing-impaired: 1-800-654-5988.

pc: Judge Cocheres
Steve Springer, Scheduling Officer
Beth Plantz
Docket Section
Calendar File



COMMONWEALTH OF PENNSYLVANIA
 PENNSYLVANIA PUBLIC UTILITY COMMISSION
 P.O. BOX 3265, HARRISBURG, PA 17105-3265

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IN REPLY PLEASE
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July 29, 2003

Andrea P. Edmonds, Esq.
 Kelley Drye & Warren LLP
 Tysons Corner
 8000 Towers Crescent Drive
 Suite 1200
 Vienna, Virginia 22182

DOCUMENT
 FOLDER

DOCKETED
 AUG 14 2003

Re:	Case Name	Docket Number
	<u>Daniel Franks, EC-0431 v. T-Netix, Inc.,</u>	C-20030123
	<u>Robert Smith, CV-5130 v. T-Netix, Inc.,</u>	C-20030419
	<u>David D. Richardson, CX-9415 v. T-Netix, Inc.,</u>	C-20039217
	<u>Sherman Coleman, AJ-2324 v. T-Netix, Inc.,</u>	C-20039232
	<u>George Ross, EE-1993 v. T-Netix, Inc.,</u>	C-20039391
	<u>Clifford Williams, DF-4417 v. T-Netix, Inc.,</u>	C-20039494
	<u>Jermaine Palmer v. T-Netix, Inc.,</u>	C-20039546
	<u>Timothy Smith, DA-1116 v. T-Netix, Inc.,</u>	C-20039738
	<u>Susan Strandberg v. T-Netix, Inc.,</u>	C-20039780
	<u>Allen Ross, AJ-1152 v. T-Netix, Inc.,</u>	C-20039981

Dear Ms. Edmonds:

Enclosed you will find documents for all of the above captioned cases. Copies of the case specific documents have been sent to each of the Complainants for their individual cases. Examine the contents carefully; the document packages are not the same for each case.

In almost every case, there is an Order Granting Admission Pro Hac Vice and a Prehearing Order. The exceptions are, as follows: For Smith at No. C-20030419 there are no orders, only a copy of a letter recently received from Mr. Smith. For Strandberg at C-20039780 there is no Prehearing Order (a Prehearing Order was sent earlier).


A couple of the other cases require extra attention. In Allen Ross at C-20039981 I have no Answer from your client.

I am enclosing a copy of Section 5.24 of the Commission regulations. 52 Pa. Code §5.24(b). Based on our brief conversation about satisfying complaints, I believe you tried to apply the rule to Timothy Smith at C-20039738. As you can see in the rule, it requires a good faith representation that Mr. Smith acknowledged his satisfaction with your client's solution. Your "Response" does not mention any acknowledgement by Mr. Smith which is an indication that he did not express his satisfaction with the remedy offered by T-Netix. Accordingly, I have simply treated the satisfaction request as a nullity.

Ms. Edmonds
July 29, 2003
Page 2

Finally, I will be sending Mr. Soriano a copy of each Order Granting Admission Pro Hac Vice to let him know that his motion was granted and that he remains the attorney of record.

Yours truly,


i Louis G. Cocheres
Administrative Law Judge

Enclosures

pc: Chief/Ditzler/Springer
File Room
Parties of Record

Utility Code. *Interstate Gas Mar-*
49 (Pa. Cmwlth. 1996).

ment of complainants).

the attorney of the com-

plaintiff against and the

subject matter—for example,

is or about to be done or

or claimed violation, of a

minister, or of a regulation

36 (relating to verifica-

or corporation subject to

1, which the complainant

shall be substantially in

ll be made to the particu-

and shall quote the perti-

35.10 (relating to form

ode, 66 Pa.C.S. §§ 309—311,

01.

January 1, 1985, 14 Pa.B. 3819,

1, amended January 24, 1997,

appears at serial pages (222431)

ion was not enough to make it

sylvania Public Utility Com-

mission that it was intended to be a formal complaint. *Schellhammer v Pennsylvania Public Utility Commission*, 629 A.2d 189 (Pa. Cmwlth. 1993).

Cross References

This section cited in 52 Pa. Code § 3.111 (relating to form and content of informal complaints); 52 Pa. Code § 30.52 (relating to commencement of complaints); 52 Pa. Code § 56.173 (relating to formal complaint procedures other than appeals from mediation decisions of the Bureau of Consumer Services); and 52 Pa. Code § 64.163 (relating to formal complaint procedures).

§ 5.23. Joinder of formal complaints.

(a) Two or more complainants may join in one complaint if they are complaining against the same respondent, and if the subject matter and relief sought is substantially the same.

(b) Subsection (a) supersedes 1 Pa. Code § 35.11 (relating to joinder of formal complaints).

Source

The provisions of this § 5.23 adopted October 12, 1984, effective January 1, 1985, 14 Pa.B. 3819

Cross References

This section cited in 52 Pa. Code § 30.52 (relating to commencement of complaints).

§ 5.24. Satisfaction of formal complaints.

(a) If the respondent satisfies a formal complaint either before or after a hearing, a statement to that effect signed by the complainant shall be filed with the Commission setting forth that the complaint has been satisfied and that the complaint is withdrawn. Except as requested by the parties, the presiding officer will not be required to render a decision upon the satisfaction of a complaint.

(b) In lieu of the statement set forth in subsection (a), the respondent may certify to the Commission that it has satisfied the complaint and that the complainant has acknowledged satisfaction to the respondent. In such case, the respondent shall serve a copy of its certification upon the complainant. Unless the complainant objects to the certification within 10 days of its filing, the complaint shall be withdrawn.

(c) Subsections (a) and (b) supersede 1 Pa. Code § 35.41 (relating to satisfaction of complaints).

Source

The provisions of this § 5.24 adopted October 12, 1984, effective January 1, 1985, 14 Pa.B. 3819

Cross References

This section cited in 52 Pa. Code § 30.52 (relating to commencement of complaints)

OALJ Hearing Report

Please Those Blocks Which Apply

Docket No.:	C-20030123		YES	NO
Case Name:	Daniel Franks EC0431 v. T-Netix, Inc.	Prehearing Held:	<input type="checkbox"/>	<input checked="" type="checkbox"/>
		Hearing Held:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
		Testimony Taken:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
		Transcript Due:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
		Hearing Concluded:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Location:	HBG	Further Hearing Needed:	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Date:	October 15, 2003	Estimated Add'l Days		
ALJ:	Louis G. Cocheres	RECORD CLOSED:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Reporting Firm:	Sargents Court Reporting	DATE:	11/5/03	
		Briefs to be Filed:	<input type="checkbox"/>	<input checked="" type="checkbox"/>
		DATE:		
		Bench Decision:	<input type="checkbox"/>	<input checked="" type="checkbox"/>
		REMARKS:		

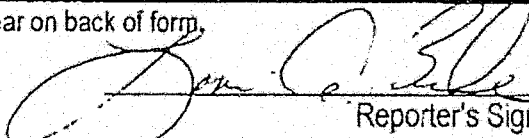
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 OFFICE OF ALJ
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 PA PUC

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PLEASE PRINT CLEARLY - Incomplete Information may result in delay of processing.

Name and Telephone Number	Address	Who are you representing?
Andrea P. Edmond, Esq. Telephone: 713-918-2300	8000 Towers Crescent Dr. Ste. 1300 Vaer City: Vienna State: Va Zip: 22182	T-Netix, Inc.
Daniel FRANKS EC-0431 Telephone:	JA-62 1600 Walter Mill Road City: Somerset State: PA Zip: 15510	PRO SE

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 SECRETARY'S BUREAU



Reporter's Signature

Note: Completion of this form does not constitute an entry of appearance, see 52 Pa. Code §§1.24 and 1.25.



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR FILE

March 19, 2004

Ross A. Buntrock, Esq.
Kelley Drye & Warren, LLP
1200 19th Street, N.W.
Suite 500
Washington, D.C. 20036

DOCUMENT

DOCKETED
APR 14 2004

Re: Daniel Franks EC-0431 v. T-Netix, Inc.
Docket No. C-20030123

Dear Mr. Buntrock:

This letter will confirm our conversation this morning about the above captioned case. Mr. Franks' enclosed letter is self-explanatory. My review of the October 15, 2003 hearing transcript demonstrated that Mr. Franks was partially correct. Mr. Comstock (the T-Netix witness) acknowledged on the record that the Company owed Mr. Franks \$16.39 for dropped calls.

Also enclosed with this letter is your copy of the transcript for the Franks case which was sent to me previously. Kindly note pages 53-54 and 58-59 where the refund is discussed. Make the refunds as soon as possible and confirm it to me in writing. I will send copies of the transcript pages to Mr. Franks with this letter.

MR. FRANKS: After you are released on parole, provide an updated address to me, so I can send my decision to you.

Yours truly,

Louis G. Cochères
Administrative Law Judge

Enclosures

pc: Mr. Franks with pages 53-54 and 58-59 only
Chief/Ditzler/Reitenbach w/o enclosures
File Room (PLEASE DOCKET) with Franks Letter and pages 53-54 and 58-59

1 you.

2 A. Sorry.

3 JUDGE COCHERES:

4 I need the address one more time.

5 A. I'm at 2155 Chenault Drive in Carrollton, Texas.

6 JUDGE COCHERES:

7 Spell Chenault?

8 A. C-H-E-N-A-U-L-T.

9 JUDGE COCHERES:

10 Thank you.

11 BY ATTORNEY EDMOND:

12 Q. Okay. In the exhibit submitted by Mr. Franks, and
13 I should go through it, it looks like exhibit number
14 five. Mr. Franks --- or Franks Exhibit Number Five.
15 Mr. Franks alleges that several calls made using his
16 prepaid service account were involuntarily
17 disconnected by T-Netix. Is this allegation correct?

18 A. From the review that I made of his call records
19 that were replaced it would appear that there may have
20 been an issue with some of the calls and that the
21 dropped calls may have indeed been happening in his
22 case.

23 Q. Okay. Do you have a value of the calls --- I'm
24 sorry, of the calls that may have been disconnected?
25 I believe he listed April 7th, 2003, and April 14th,

1 2003?

2 A. Yes. I believe --- hang on one second. He has
3 \$16.39.

4 Q. Okay. Is the company willing to reimburse, or
5 refund, Mr. Franks account for any dropped calls ---
6 or disconnected calls? I should say calls
7 involuntarily disconnected.

8 A. Yes, we are.

9 Q. Mr. Franks also alleges that three of the numbers
10 on his calling list were placed on collect call
11 restrictions. The numbers in question are 215-684-
12 3140, 215-229-9427, and 215-229-3513. Are his
13 allegations correct?

14 A. Yes. Our investigation reveals that each of these
15 numbers were prohibited from receiving collect calls
16 from a correctional institution at that point.

17 Q. Was there a reason placed the collect call
18 restriction on the numbers in question?

19 A. Yes. In each of these instances, a restriction
20 was placed on the line due to an unbillable block.
21 This means that essentially a block was placed under
22 local service provider, who had indicated that they
23 would reject any collect call charges and would not
24 bill these services on our behalf. And when that
25 happened, when the local service provider refuses to

1 They're not all on the floor at one time. But across
2 our business, the number of agents that we've got.

3 JUDGE COCHERES:

4 So they man the phones 24/7?

5 A. There is ---. We do answer the phone. Not for
6 consumers, no. We do not have 24/7. We do have
7 extended hours, but not 24/7.

8 JUDGE COCHERES:

9 What are your hours?

10 A. I would have to check with the call center to be
11 sure, but I believe that they are 7:00 a.m. to 6:00
12 p.m. Central Standard Time.

13 JUDGE COCHERES:

14 Central Standard Time?

15 A. Yes.

16 JUDGE COCHERES:

17 And that would be because your call
18 center is located in Texas?

19 A. It is.

20 JUDGE COCHERES:

21 All right. Now, did I hear you say in
22 response to Ms. Edmonds, that you had computed the
23 amount of money owed to Mr. Franks, \$16.39?

24 A. That was the total for the calls that his claim,
25 it appears to be accurate, that those calls may have

1 been --- that were certainly short calls. That was
2 what those calls totaled to, yes.

3 JUDGE COCHERES:

4 How do you intend to accomplish the
5 refund?

6 A. We are willing to do either one of two things.
7 One is to try and credit his debit account for those
8 amounts. If that is not possible, then we can give
9 him a check cut and cut to him for those amounts.

10 JUDGE COCHERES:

11 Sadly, sir, I'm not sure, and maybe Mr.
12 Franks would know best, whether he can deposit a check
13 in his account, or whether that would be possible or
14 not. But you have ---. Do you intend to make that
15 refund without regard to how this case ends?

16 A. Yes. It is our intention to make that refund.

17 JUDGE COCHERES:

18 Okay. Is Ms. Miller a T-Netix employee?

19 A. Yes, she is.

20 JUDGE COCHERES:

21 All right. When an inmate signs up for a
22 collect --- I'm sorry, signs up for a debit card
23 account, does this have any impact on his ability to
24 make collect phone calls?

25 A. No. He's completely free to continue making

3-16-04

To: Judge Louis G. Cocheres

Re: Daniel Frank v. T-Netix Inc., (Docket No. C-20030123

Dear Judge Cocheres,

DOCKETED
MAY 04 2004

I had a "Prehearing" on 10-15-03 at 10:00 A.M. concerning my complaint against T-Netix, in which you decided to make a decision on a trial date to remedy the circumstances of my complaint. You also ordered T-Netix counsel to forward \$26.00 owed to me, due to T-Netix admittance that they owed me for call-cut offs. T-Netix never sent the money as promised. Could you reply to this notation A.S.A.P., I just made parole, so I'll be here until (on or after) April 14, 2004. I'd like to be able to call my family at least before that date.

Thanks

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FOLDER

Sincerely, RJP
Daniel Franks

CLERK'S OFFICE

DOCUMENT

5-30-04

Dear Judge Cocheres,

In response that I provide you with an address upon parole, it took awhile, but here it is;

(Layman Daniel Franks Jr.)
1851-Nth 17th Street
Phila, P.A. 19121

The heading and docket number is;

Daniel Franks -V.- T-NETIX, Inc.,
Docket No. C-20030123

I had a hearing on 10-15-03, and now I'm waiting on your decision on the matter.

Thank you

DOCKETED RECEIVED

JUN 29 2004

JUN - 7 2004

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Layman D. Franks Jr.