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ORIGINAL

Decision No. 58849

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
PACIFIC GAS AND ELECTRIC COMPANY for)
an order revising and reforming the)
electric service contract between)
applicant and SIERRA PACIFIC POWER)
COMPANY, dated March 4, 1948, to the)
extent necessary to enable applicant)
to charge and collect fair and)
reasonable rates for resale electric)
service supplied and to be supplied)
to Sierra Pacific Power Company under)
said contract of March 4, 1948.)
(Electric)

Application No. 34029

ORDER OF DISMISSAL

The above-mentioned contract covers sale of electric energy by the applicant to Sierra Pacific Power Company which is largely interstate in character and this Commission therefore awaited action by the Federal Power Commission before further processing the application. This matter has been under extensive litigation before the Federal Power Commission, and by letter dated August 30, 1956 the applicant has suggested that we dismiss the application.

The Commission has withheld dismissal of this application pending notification by applicant that litigation in the federal courts and before the Federal Power Commission has been completed. By letter dated July 2, 1959 applicant advises that Sierra Pacific Power Company has agreed to dismiss its restitution action (Civil No. 35591) in the United States District Court for the Northern District of California, Southern Division, and Pacific Gas and Electric Company has agreed not to petition the United States Supreme Court for a review of its Federal Power Commission rate case, which was decided adversely to it by the United States Court of Appeals for the District of Columbia Circuit (No. 14,422).

Further, applicant advises that it has paid Sierra Pacific Power Company the sum of \$1,107,385.08, which includes \$889,918.17 principal and \$217,466.91 interest; and that this amount represents a refund of excess rate payments with 6 percent interest.

Applicant now contends that exclusive jurisdiction over this contract is in the Federal Power Commission and refers to its Opinion No. 270 issued June 17, 1954. The Commission now finds and concludes that the application should be dismissed; however, in so doing, we do not thereby surrender jurisdiction over the intrastate portion of the energy covered by this contract.

Therefore, good cause appearing,

IT IS HEREBY ORDERED that Application No. 34029 be and it is dismissed without prejudice.

Dated at San Francisco, California, this 4th day of August, 1959.

Evert H. Rye
President
Matthew G. Foster
E. J. Foster
Theodore J. Jenner
Commissioners