

Decision No. 78765**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

CONSUMERS ARISE NOW and Complainants)
 hereinafter Signatories hereto vs.)
 THE PACIFIC GAS AND ELECTRIC COMPANY,)
 Defendant, and SOUTHERN CALIFORNIA)
 EDISON COMPANY and SAN DIEGO GAS AND)
 ELECTRIC COMPANY, as Interested)
 Parties.)

Case No. 9204

ORDER STRIKING PORTION OF COMPLAINT,
 REQUIRING ANSWER OR SATISFACTION, AND
 DENYING CEASE AND DESIST

On March 22, 1971 complainants filed a complaint against Pacific Gas and Electric Company (PG&E), naming Southern California Edison Company and San Diego Gas and Electric Company as interested parties. The complaint alleges that PG&E and interested parties are making plans for the construction of nuclear power plants along the California coastline. The complaint further alleges that these plants will create a hazard to the public safety and environment. Included among the dangers enumerated are radioactive contamination, earthquake damage, and thermal pollution of the coastal waters. The complaint further alleges the sites could better be used for recreational purposes or wildlife refuges. The complaint concludes by asking that PG&E be ordered "to cease and desist from all activities relating to the ultimate construction of nuclear plants on or near the coastline of California, and cease and desist from such expenditures associated therewith." It further asks for a hearing within thirty days.

Pursuant to Rule 12 of the Commission's Rules of Practice and Procedure, PG&E directed a letter, dated March 31, 1971 commenting on what it considers to be defects in the complaint. These include assertions that the complaint does not conform to the Commission's

Rules of Practice and Procedure, that it pleads conclusions, that it is untrue in part, that it raises issues beyond the jurisdiction of this Commission, and that the relief sought is "impracticable" in that complainants "seek to prevent planning while at the same time seeking hearings on the very facts planning will explore and develop."

On April 2, 1971 the Commission directed a letter to complainants advising them of their right to amend, dismiss, or stand on their complaint in view of the letter of defects. In response to complainants' written requests, time to file amendments to the complaint was extended to April 29, 1971 and then May 5, 1971. As yet no amendment has been received from complainants, though a document entitled "Motion To Do Something!" was filed by complainants on May 24, 1971.

In its letter of March 31, 1971, PG&E asserted that the complaint did not comply with Rules 5 and 10 of the Commission's Rules of Practice and Procedure in that it was not verified and did not have the addresses of each complainant. The original complaint on file with the Commission shows a handwritten verification by complainant William M. Bennett. While the additional copies, including the one served on PG&E were not conformed as to this verification (see Rule 7), we find that this is sufficient compliance to accept the complaint.

Neither the original complaint nor the additional copies contain the addresses of the various complainants. However, complainants Bennett and Consumers Arise Now are well known to PG&E through participation in past proceedings of PG&E. Thus we find that failure to include the addresses of the individual complainants does not prejudice PG&E in its defense to the complaint and does not justify dismissing the complaint. Complainants will be required to furnish a complete list of their respective names and addresses prior to

any further participation in this proceeding and are admonished to follow the practices contained in the Commission's Rules of Practice and Procedure in the future. Our action on these procedural matters is restricted to the facts of this case and should not be relied on as precedent in any future proceedings.

As to PG&E's assertions that the complaint pleads conclusions and asserts matters which are not true, these are proper matters for an answer and motion to dismiss and, if repeated therein, will be considered at that time.

PG&E's contention that the complaint concerns matters not within the jurisdiction of the Commission is a proper matter for consideration at this time. To the extent that the complaint alleges that construction of nuclear facilities on or near the California coastline is an improper use of these areas, and may be hazardous to the public health, welfare, convenience and safety because of potential earthquake damage or thermal pollution, it pleads matters within the jurisdiction of this Commission. (Public Utilities Code, Sections 451, 701, 761, 762, 768, and 770; Northern Cal. Assn. v. Public Util. Com., 61 C.2d 126 (1964).)

To the extent that the complaint alleges hazards from potential radioactive contamination it raises issues which are within the purview of the Atomic Energy Commission, pursuant to the Atomic Energy Act of 1954 (42 USC 2011, et seq.), and not this Commission. Therefore, all allegations pertaining to radioactive contamination shall be stricken from the complaint (Rule 12) and shall not be permitted in any portion of this proceeding.

Because of the direct contradiction of the facts and conclusions of the complaint in PG&E's letter of defects dated March 31, 1971 and impracticability of the requested relief, as described by PG&E

in said letter, the Commission will deny the cease and desist order contained in the prayer of the complaint. PG&E will be required to answer or satisfy the complaint within ten days of the date of service of this order and the complaint herein.

CONCLUSION

The Commission concludes that:

1. There has been substantial compliance with the Rules of Practice and Procedure.
2. Complainants have stated a cause of action within the jurisdiction of the Commission and PG&E should be required to answer or satisfy the complaint.
3. Complainants' allegations with regard to radioactive contamination should be stricken.
4. Complainants' request for an immediate cease and desist order should be denied.
5. Prior to any further participation in this proceeding complainants should file a list of the respective names and addresses of complainants in the same quantity as are required of complaints.

ORDER

IT IS ORDERED that:

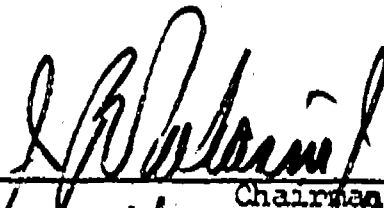
1. The allegation in the complaint relating to radioactive contamination are hereby stricken.
2. PG&E shall answer or satisfy the complaint within ten (10) days of the date of service of this order and the complaint.
3. Complainants' request for an immediate cease and desist order is denied.

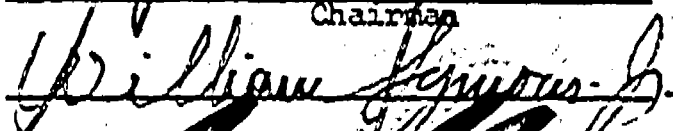
4. Before further participation in this proceeding complainants shall file a list of the respective names and addresses of the complainants in the same quantity as are required of complaints.

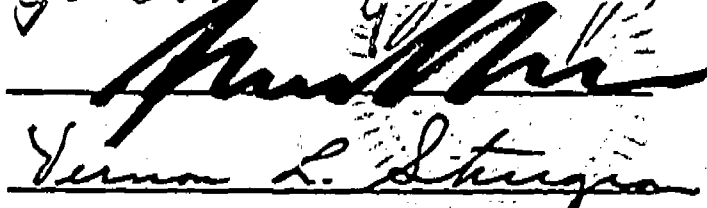
The effective date of this order shall be the date hereof.

Dated at San Diego, California, this 2nd day of

JUNE 1, 1971.


Chairman


William Henry S. Sturgis


Vernon L. Sturgis


Commissioners