

ORIGINAL

Decision No. 80250

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of
PACIFIC GAS AND ELECTRIC COMPANY for
a certificate of public convenience
and necessity under General Order
No. 131, for a 500-kv transmission
line facility from applicant's Midway
Substation to an interconnection with
Southern California Edison Company's
proposed 500-kv transmission line
to Vincent Substation.

(Electric)

In the matter of the application of
SOUTHERN CALIFORNIA EDISON COMPANY
for a certificate that the present
and future public convenience and
necessity require or will require
the construction and operation by
applicant of a section of the No. 3
500-kv transmission line between
Midway Substation and Vincent Sub-
station, together with related
appurtenances.

Application No. 52953
(Filed October 29, 1971)

Application No. 52976
(Filed November 8, 1971)

ORDER GIVING DISPOSITION
TO CERTAIN MOTIONS

The above-entitled applications are before us to determine whether the public convenience and necessity require the construction and operation of a third 500-kv transmission line between Midway and Vincent Substations. The two existing and the proposed third 500-kv lines comprise the interconnection between the PG&E and Edison systems. In reaching a decision to grant or deny the certificates of public convenience and necessity sought herein the Commission must consider all important elements of public interest affected by the proposed facilities including the antitrust implications.

In the prehearing conference held on these applications on March 27, 1972, counsel for the Northern California Power Agency (NCPA) stated as follows:

"...we seek to raise the question in this proceeding of whether the applicant, PG&E, has a different policy toward interconnection with the Northern California Power Agency than it does with Southern California Edison Company, an interconnection of its generation and transmission systems, whether that policy toward Northern California Power Agency is that it will refuse interconnection on reasonable terms and whether that policy toward Northern California Power Agency is a part of a plan to monopolize the production of power in Northern and Central California.

"If it is determined that such a policy exists, we seek to ask that it be eliminated as a condition of any certificate granted by this Commission. (Transcript page 7, lines 5 through 18)

"What we are going to say at the hearing you set is the company must adopt a policy of interconnection which is nondiscriminatory. It may not connect with Southern California Edison or someone else on reasonable terms and not connect with Northern California Power Agency on reasonable terms. (Transcript page 8, lines 25 through 30)

"It's not a position that's related to the particular facilities that are constructed here in any special respect." (Transcript page 9, lines 1 through 3)

Near the conclusion of the prehearing conference the presiding examiner commented as follows concerning the NCPA's position.

"After our sort of seesawed chart of what course to take in coming to grips with the antitrust implications and discriminatory contentions, it would appear that on balance, unless somebody makes an appropriate motion or files an appropriate document at some point, we will proceed on the basis that evidence will be adduced on those subjects, subject to whatever objections may be made during the course of the hearings." (Transcript page 24, lines 17 through 24)

On May 12, 1972 the Secretary of the Commission issued a subpoena commanding that Mr. Sibley, President of PG&E, appear for a deposition in behalf of NCPA at 9:30 a.m. on Thursday, May 18, 1972. Service of said subpoena on or about May 12, 1972 was accepted on Mr. Sibley's behalf by an attorney for PG&E, without prejudice to the right to seek to quash this subpoena or take other appropriate action. On May 16, 1972, PG&E filed concurrently a motion to postpone the deposition and a motion to quash subpoena. The postponement is sought until such time as the Commission rules on the motion to quash. On May 19, 1972, NCPA filed a motion for relief on account of refusal to obey subpoena. In this motion NCPA requests that the Commission dismiss Application No. 52953 or in lieu thereof not hold further hearings until a deposition has been taken from Mr. Sibley and grant such other and further relief as may be appropriate.

The essential question before us concerning NCPA's participation in this proceeding is what elements of that agency's position are relevant in this proceeding for certification of a specific facility. The line of demarcation which we shall draw is a simple one and one which restricts the evidence to the Midway-Vincent 500-kv transmission lines. Accordingly, evidence should be adduced to set forth clearly (a) the terms and conditions governing the transmission of energy over these lines; (b) in what way, if at all, does the construction and operation of this interconnection either violate antitrust laws or adversely affect NCPA; and (c) other matters pertinent to this interconnection.

To the extent NCPA's contemplated ambit of inquiry covers PG&E's practices and operations as they exist independently of the Midway-Vincent 500-kv interconnection, it appears to be a device to not only unduly broaden the issues, which could result in inordinate delays in the construction and operation of a facility that appears to be needed, but to seek affirmative relief prospectively which should be sought directly by formal complaint on a timely basis when a cause of action is known to exist.

Therefore, and good cause appearing,

IT IS ORDERED that:


1. The deposition of Mr. Sibley within the foregoing guidelines as to relevant issues shall be taken on or before August 31, 1972 and appropriate arrangements therefor should be made by NCPA and PG&E. ✓


2. Further hearings in these applications will be held commencing on September 20, 1972 at 10 a.m. in San Francisco before Commissioner Moran and Examiner Main. ✓


3. All motions consistent with this order are granted and those inconsistent are denied.

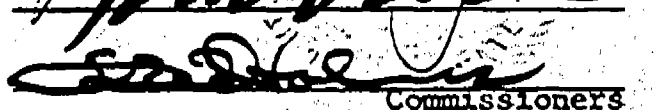
The effective date of this order shall be five days after the date hereof.

Dated at Los Angeles, California, this 18th day
of JULY, 1972.



President





Commissioners