

**ORIGINAL**

Decision No. 80396

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company for authority, among other things, to increase its rates and charges for gas service.

(Gas)

Application No. 53118

ORDER REJECTING PETITION  
AND DENYING STAY

On December 19, 1972 the Commission issued Decision No. 80878 in the above-entitled proceeding authorizing applicant Pacific Gas and Electric Company (PG&E) to increase rates. The effective date of Decision 80878 was twelve (12) days after the date of issuance of the order.

On December 21, 1972 the following document, the body of which is reprinted in its entirety, was filed with the Commission:

"PETITION FOR STAY AND REHEARING OF DECISION NO. 80878

Comes now Sylvia M. Siegel, for herself and consumer groups listed as appearances and petitions for stay and rehearing in the above decision for the following reasons:

I.

"In accordance with the Rules of Practice of the Commission, petitions for a stay must be filed ten days before the effective date, in this case, today, in spite of the fact that petitioner has not yet received a copy of the written decision. Accordingly, we will file a brief answer to comply with the regulations and ask leave to amend at a later time for purposes of rehearing data.

## II.

"It is urgent that the Decision No. 80878 be stayed and a rehearing granted since the Commission erred in setting rates on the basis of the issues involved. Such issues as advertising costs, rate of return, operating expenses, rate spread, exploration costs, McDonald Island accounting treatment, rates for interruptibles, usage per customer and so-called 'life-line' rate are all items in error, according to our interpretation of the record.

## III.

"For the above reasons, this decision should be stayed."

With all deference to the fact that petitioner herein is not a lawyer, though she is an experienced practitioner before this Commission, and to the informality which frequently and of necessity characterizes Commission procedures (See Pub. Util. Code, §1701 and Rules of Practice and Procedure §64), the Commission concludes that the petition cannot be considered a petition for rehearing within the meaning of Sections 1731-1733 of the Public Utilities Code.

Section 1731 indicates that a party "... may apply for rehearing in respect to any matters determined in the action or proceeding and specified in the application for rehearing." The Commission may grant rehearing "... if in its judgment sufficient reason is made to appear." (Pub. Util. Code §1731.)

Section 1732 states:

"The application for a rehearing shall set forth specifically the ground or grounds on which the applicant considers the decision or order to be unlawful."

Rule 84 states:

"Petitions shall set forth specifically the grounds on which petitioner considers the order to be unlawful or erroneous."

All of these quotations indicate that the petitioner must specify wherein the Commission has committed error. Indeed, the function of an application for rehearing is to provide the Commission with an opportunity to correct an erroneous or unlawful act or result accruing from one of its decisions. It is not merely a mechanical formality to be suffered by disgruntled parties impatient to proceed to the Supreme Court. The Commission long ago stated:

"We believe that we have the right to expect that petitions for rehearing on decisions of the Railroad Commission will be filed in a spirit of helpfulness and for the purpose of aiding the Railroad Commission, by specific reference to the testimony and to the authorities bearing thereon, to determine whether or not an error has been made." City of Los Angeles, 11 CRC 588, 589 (1916).

The petition filed herein does not comport with this expectation or with any reasonable requirement of specificity, and inferentially admits this failure by suggesting that permission for leave to file an amendment will be forthcoming.

Petitioner has merely identified various issues in the proceeding and claimed they are "all items of error, according to our interpretation of the record." Why they are error is not hinted. Error cannot be equated with a result contrary to the desires of petitioner.

Were we to treat this document as a petition for rehearing it would require a denial out of hand, thus foreclosing petitioner's opportunity to raise valid objections to Decision No. 80878 in a proper manner. Instead we will consider the document to be a request for stay of the effective date of the order in Decision No. 80878, so that additional time may be had to file an application for rehearing without having the increased rates authorized by Decision No. 80878 go into effect.

An application for a stay of a Commission order is an appeal to the discretion of the Commission. In the instant petition the Commission must balance the cost of a stay to the utility and to

the ratepayers. We have found that the present rates and charges of PG&E are unjust and unreasonable for the future and that the increases authorized by Decision No. 80878 are just and reasonable. (Decision, mimeo p. 52.) Petitioner offers no justification for us to require PG&E to continue its present rates and charges, other than the bare allegation of error and a promise of some future data. This is not enough to cause us to issue a stay.

The document entitled "Petition For Stay And Rehearing Of Decision No. 80878" is insufficient to be classified as an application for rehearing pursuant to Sections 1731, et seq. of the Public Utilities Code. To the extent that petitioner, by the act of filing said document, anticipated that she was filing an application for rehearing she is disabused of that notion and the document is hereby rejected as an application for rehearing. Petitioner's right as a party to the proceeding to file a proper application for rehearing remains unfettered.

Petitioner's request for a stay of Decision No. 80878 is hereby denied. The effective date of Decision No. 80878 remains unchanged.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 25<sup>th</sup> day of DECEMBER, 1972.

Vernon L. Sturgeon  
President  
William J. Sproul, Jr.

[Signature]

Commissioners

Commissioner J. P. Vukasin, Jr., being necessarily absent, did not participate in the disposition of this proceeding.

4.

Commissioner D. W. Holmes, being necessarily absent, did not participate in the disposition of this proceeding.