

L/ ddb

Decision 88 08 029 AUG 10 1988

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

William M. Bennett, a member of
the State Board of Equalization
a constitutional officer, and
a ratepayer (Complainants one,
et seq.)
Complainant,

Case 85-04-105
(Filed April 30, 1985)

Pacific Gas and Electric Company,
its corporate officers and directors
Fred W. Mielke, Jr., John F. Bonner,
L. W. lane, Jr., Barton W.
Shackelford, Stanley T. Skinner,
Richard H. Peterson, George A.
Maneatis, Doris F. Leonard,
Defendants One and Following.
Defendant.

ORDER MODIFYING
DECISION (D.) 88-05-064 AND
DENYING REHEARING

A petition for rehearing of D.88-05-064 has been filed by William M. Bennett. We have reviewed the allegations contained in the petition and are of the opinion that the decision should be modified in several minor respects and that rehearing should be denied.

Therefore,
IT IS HEREBY ORDERED:

1. Finding of Fact No. 4 is modified to state:

"4. The remaining issue in this case is not compatible with the ratemaking issues in A.84-06-014 and A.85-08-025."

2. The first full sentence on page 4 is modified to state:

Bennett, as the complainant, clearly has the burden of proof as the merits of the complaint. As we have previously ruled, a complainant has not only the burden of proof

but "the responsibility for diligent prosecution of the complaint" (Serv-All-Tech, Inc. v. PT&T Co., 83 CPUC 135 (1977)). We conclude that Bennett's complaint should be dismissed due to his failure to adequately pursue the instant complaint, despite repeated opportunities to do so. By failing to diligently prosecute his case, Bennett has failed to carry his burden of proving the allegations in his complaint.

3. Rehearing of D.88-05-064, as modified herein, is denied.

This order is effective today.

Dated AUG 10 1988, at San Francisco, California.

STANLEY W. HULETT
President
DONALD VIAL
FREDERICK R. DUDA
G. MITCHELL WILK
JOHN B. OHANIAN
Commissioners

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY.



Victor Weisser, Executive Director

L/SE:ddb

Decision 88 08 029 AUG 10 1988

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

William M. Bennett, a member of
the State Board of Equalization
a constitutional officer, and
a ratepayer (Complainants one,
et seq.)

Complainant,

Pacific Gas and Electric Company,
its corporate officers and directors
Fred W. Mielke, Jr., John F. Bonner
L. W. Lane, Jr., Barton W.
Shackelford, Stanley T. Skinner,
Richard H. Peterson, George A.
Maneatis, Doris F. Leonard,
Defendants One and Following.

Defendant.

Case 85-04-105
(Filed April 30, 1985)

ORDER MODIFYING
DECISION (D.) 88-05-064 AND
DENYING REHEARING

A petition for rehearing of D.88-05-064 has been filed by William M. Bennett. We have reviewed the allegations contained in the petition and are of the opinion that the decision should be modified in several minor respects and that rehearing should be denied.

Therefore,

IT IS HEREBY ORDERED:

1. Finding of Fact No. 4 is modified to state:

"4. The remaining issue in this case is not compatible with the ratemaking issues in A.84-06-014 and A.85-08-025."

2. The first full sentence on page 4 is modified to state:

Bennett, as the complainant, clearly has the burden of proof as the merits of the complaint. As we have previously ruled, a complainant has not only the burden of proof

but "the responsibility for diligent prosecution of the complaint" (Serv-All-Tech, Inc. v. PT&T Co., 83 CPUC 135 (1977)). We conclude that Bennett's complaint should be dismissed due to his failure to adequately pursue the instant complaint, despite repeated opportunities to do so. By failing to diligently prosecute his case, Bennett has failed to carry his burden of proving the allegations in his complaint.

3. Rehearing of D.88-05-064 as modified herein, is denied.

This order is effective today.

Dated AUG 10 1988, at San Francisco, California.

STANLEY W. HULETT
President

DONALD VIAL
FREDERICK R. DUDA
G. MITCHELL WILK
JOHN B. OHANIAN
Commissioners