

Decision 89 04 088 APR 26 1989

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 the Southern California Edison)
 Company (U 338-E) for: (1) Authority)
 to Increase its Energy Cost)
 Adjustment Billing Factors, Increase)
 Its Annual Energy Rate, and Increase)
 Its Electric Revenue Adjustment)
 Billing Factor Effective June 1,)
 1988; (2) Authority to Implement)
 Modifications to its Energy Cost)
 Adjustment Clause as More)
 Specifically Set Forth in this)
 Application; (3) Authority to Revise)
 the Incremental Energy Rate, the)
 Energy Reliability Index, and)
 Avoided Cost Pricing; (4) Review)
 of the Reasonableness of Edison's)
 Operations During the Period from)
 December 1, 1986, through)
 November 30, 1987; and (5) Review)
 of the Reasonableness of Edison)
 Payments to Qualifying Facilities)
 Under Nonstandard Contracts During)
 the Period from December 1, 1984,)
 through November 30, 1987.)

Application No. 88-02-016
(Filed February 11, 1988)

ORDER DENYING REHEARING

GETTY ENERGY COMPANY and COGENERATORS OF SOUTHERN CALIFORNIA (Getty and Cogenerators) have filed applications for rehearing of Decision (D.) 89-01-047; Cogenerators have also filed an Expedited Application for Stay of D.89-01-047. We have read both applications for rehearing and note that neither applicant has alleged any errors, or otherwise provided any grounds of any kind, on which we could base a grant of rehearing.

Public Utilities Code §1732 requires that: "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 86.1 of our own Rules of Practice

and Procedure provides:

Applications for rehearing shall set forth specifically the grounds on which applicant considers the order or decision of the Commission to be unlawful or erroneous. ... The purpose of an application for rehearing is to alert the Commission to an error, so that error may be corrected expeditiously by the Commission.

Neither application sets forth any allegation of error, and in fact the applications do not ask for rehearing, but for modification to "clarify" D.89-01-047. However, the text of the applications specifies no such "ambiguity" as the applicants suggest. Rather, it merely presents again the same arguments against our order which had been made before the administrative law judge at hearing.

Since filing the applications, applicants and Edison have produced the three items which were the subject of the applications for rehearing. Thus, the applications for rehearing are moot, as is the Cogenerators' application for stay. However, even if the items had not been produced, we would have denied the applications for two reasons: First, neither application makes a case for the "clarification" which the applicants nominally request; rather, both applications seek reversal of our order in D.89-01-047, despite their inability to find any error in it. Second, as we have noted, neither application conforms to the requirements of Public Utilities Code §1732 or to our Rule 86.1.

The specific allegations of legal error required by the statute and Rule allow us to analyze our own decisions and, where appropriate, to make necessary modifications or to order a complete rehearing. The application for rehearing procedures are not to be misused to provide a second hearing, in which the applicant's previous arguments may be restated in hopes of obtaining a more favorable decision the second time around.

Neither of the applications for rehearing presented to us in this case has shown good cause to order rehearing or modification of D.89-01-047. Cogenerators' application for stay of D.89-01-047 showed no good cause to order the relief requested. In addition, all three applications are now moot. Therefore, IT IS ORDERED that:

1. Rehearing of D.89-01-047 is hereby denied.
2. Applicant's Application for Stay of D.89-01-047 is hereby denied.

This order is effective today.

Dated APR 26 1989, at San Francisco, California.

G. MITCHELL WILK
President
FREDERICK R. DUDA
STANLEY W. HULETT
JOHN B. OHANIAN
PATRICIA M. ECKERT
Commissioners

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


Victor Weisler, Executive Director

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