

Decision S9 11 061 NOV 2 2 1989

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and)
Electric Company, for authorization)
to establish a rate adjustment)
procedure for its Diablo Nuclear)
Power Plant; to increase its electric)
rates to reflect the cost of owning,)
operating, maintaining and eventually)
decommissioning unit 1 of the plant;)
and to reduce electric rates under)
its energy cost adjustment clause)
and annual energy rate to reflect)
decreased fuel expense.)

(Electric)
(U 39 E)

And Related Matter.

ORIGINAL

Application 84-06-014
(Filed June 6, 1984)

Application 85-08-025
(Filed August 12, 1985)

OPINION

The Commission's Division of Ratepayer Advocates (DRA) requests that the orders requiring the preservation of documents relating to the Diablo Canyon rate case be dissolved. Pacific Gas and Electric Company (PG&E) supports the motion. Toward Utility Rate Normalization (TURN) opposes.

On April 9, 1985 PG&E's motion was granted for an order directing the DRA and the Attorney General (AG) to preserve any and all documents in their possession that related to the Diablo Canyon rate case. A similar order had previously been issued, at the DRA's request, requiring PG&E to preserve documents. The purpose of those orders was to ensure that all documents in the possession of PG&E, the DRA, or the AG, that could possibly be relevant to the Diablo Canyon rate case, were preserved and available for use in

the litigation. The April 9, 1985 order was later orally extended and broadened to include other intervenors in the proceeding.

On December 22, 1988 the Commission issued its decision in the matter (Decision (D.) No. 88-12-083) and approved the settlement negotiated by the DRA, AG, and PG&E. Two Petitions for Rehearing of Decision 88-12-083 were filed. Both have been denied. (D.89-03-022 (March 8, 1989) and D.89-03-062 (March 22, 1989).) The Supreme Court denied review.

The Diablo Canyon rate case has been decided and the purpose of the orders requiring the preservation of rate case related documents has been served. Moreover, an extensive record relating to the case has been preserved in the Commission's formal files and in the state archives.

Extensive discovery was conducted over roughly a five-year period and was concluded months ago. Thousands of pages of expert testimony and supporting exhibits were prepared on the basis of this discovery. All testimony offered in evidence by any party to the proceeding was received in evidence and is now preserved as part of the Commission's formal file on the proceeding. Hundreds of boxes of additional documents and DRA notes, drafts, and workpapers have also been retained and forwarded for long-term storage to the state archives.

The DRA states that the order to preserve documents has required the parties and their consultants to retain hundreds of file boxes of notes, drafts, duplicates, telephone messages, routing slips, scribbles and miscellaneous other material that, but for the order, would have routinely been discarded in the ordinary course of business. Now, with the case decided and a full evidentiary record preserved, it is asserted that the cost and inconvenience of retaining this material clearly outweigh any possible benefit of continuing the order.

PG&E maintains that in compliance with the document retention orders, PG&E is continuing to retain any and all

materials which in any conceivable way reference Diablo Canyon. Some 43,000 boxes of miscellaneous documents, plus another 15,000 boxes of routine records held beyond their normal destruction dates, plus 63,000 additional boxes at Diablo Canyon, are all being stored or warehoused simply because they might refer in some way to Diablo Canyon. Additional boxes are being accumulated daily.

TURN argues that all records should be retained because future Commissions might wish to review the material when evaluating whether the settlement remains in the public interest.

We will grant the motion. TURN's argument is not persuasive. The Supreme Court has denied review of D.88-12-083, and the material to be disposed of as a result of this motion is merely peripheral to the Diablo Canyon hearing. Whole libraries of material will be retained after granting the motion. All the testimony, proposed testimony, supporting documents, and work papers will continue to be preserved; most of this material has been admitted into the record. TURN points to no items in the material to be destroyed which would be useful to its case. It had years of discovery.

We find that the burden to preserve the material which is subject to this motion far exceeds any theoretical benefit that might accrue should the material be retained. We conclude that the motion of the DRA should be granted.

ORDER

IT IS ORDERED that all orders requiring the preservation of documents in A.84-06-014 and A.85-08-025 are dissolved.

This order is effective today.

Dated NOV 22 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.

- 4 -

Wesley Franklin

WESLEY FRANKLIN, Acting Executive Director

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