

Decision 90 05 065 MAY 22 1990

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

GWF Power Systems Company,
Complainant,

vs.

Pacific Gas and Electric Company,
Defendant.

ORIGINAL
Case 85-05-091
(Filed May 10, 1985)

ORDER OF DISMISSAL

Complainant filed this pleading on May 10, 1985. It was originally styled "COMPLAINT; PETITION FOR MODIFICATION"; but the Docket Office amended the title of the document and filed it as a complaint. The complaint concerns the validity and enforceability of certain standard offers (No. 4) submitted to defendant by complainant on April 15, 1985, just two days before the Commission issued Decision (D.) 85-04-075, which suspended Standard Offer No. 4.

The Docket Office mailed its Instructions to Answer form to defendant on May 29, 1985. No answer has been filed.

The file reflects no other activity until October 3, 1989, when the administrative law judge (ALJ) wrote to complainant's vice president about the status of the case. The letter shows that the ALJ first contacted complainant's attorney by telephone and was referred by him to the vice president. The ALJ writes:

"On...October 3, 1989, I spoke with Mr. Kimball [the attorney] who recalled that this matter may have been impacted by a Commission decision in another docket. He suggested...that I contact you for more information. If this matter has become moot, I need...a letter...detailing what occurred or requesting that the matter be dismissed."

Complainant's vice president did not respond to the letter; and the file reflects no other activity after October 3, 1989.

The Commission issued D.85-04-075 on April 17, 1985, in Applications (A.) 82-04-44, 82-04-46, and 82-04-47 (consolidated). Thereafter, a multitude of pleadings were filed in that docket in response to D.85-04-075. Among them was a petition for modification of D.85-04-075 filed by complainant on May 23, 1985, in A.82-04-44. The relief sought by complainant in its petition for modification is identical to that sought through this complaint. The Commission granted that relief in D.85-06-163.

Accordingly, the complaint is moot; and it should be dismissed. Furthermore, complainant has failed to prosecute its complaint; and it should be dismissed for lack of prosecution.

IT IS ORDERED that the complaint in Case 85-05-091 is dismissed.

This order becomes effective 30 days from today.

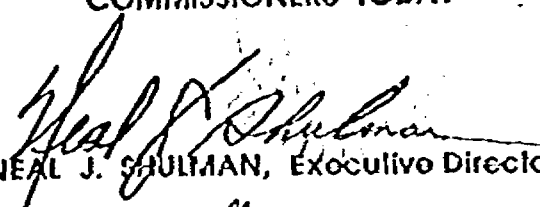
Dated MAY 22 1990 , at San Francisco, California.

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

Commissioner Frederick R. Duda,
being necessarily absent, did
not participate.

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

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NEAL J. SHULMAN, Executive Director