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Decision 92-07-026 July 1, 1992

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of the)
Western Gas Liquid Association for)
Application for Rehearing of Resolution)
G-2948 to consider Economic Impact of)
Economic Practicality, Alternate Fuels,)
Non-core and Curtailment Penalty issues.)

ORIGINAL

Application 91-06-045
(Filed June 21, 1991)

And Related Matters.

Application 91-06-063
R.90-02-008
R.86-06-006

ORDER DENYING REHEARING
OF DECISION (D.) 92-03-091

On May 6, 1992, California Industrial Group, California Manufacturers Association and California League of Food Processors (collectively, "CIG") filed an application for rehearing of D.92-03-091. In its application, CIG alleges that the Commission erred by concluding that the elimination of the alternate fuel requirement necessitated an increase in the curtailment penalty, because the conclusion is without evidentiary support and contrary to D.91-09-085. CIG also claims that its due process was denied when the Commission ordered in D.92-03-091 that the curtailment penalty for PG&E should be considered in proceedings for Application (A.) 91-11-001, because D.92-03-091 was issued after the close of evidentiary hearings in this proceeding. Accompanied by a Motion for Leave to Accept Late Filing, PG&E filed a Response in Opposition to CIG's application for rehearing on June 5, 1992.

We reject CIG's application for rehearing as untimely filed. D.92-03-091 was mailed on April 1, 1992. Although its application is dated April 30, 1992, CIG did not file this

application until May 6, 1992, which was 35 days after D.92-03-091 was issued. Rule 85 of the Commission's Rules of Practice and Procedure provides that an application for rehearing "shall be filed within 30 days after the date of issuance For purposes of this rule, 'date of issuance' means the date when the Commission mails the order or decision to the parties to the action or proceeding." (Code of Reg., Title 20, §85.) Rule 85 implements Public Utilities Code Section 1731(b), which contains the same requirement. (Pub. Util. Code, §1731; see also, Re Commission's Rules of Practice and Procedure [D.86-12-055] (1986) 23 Cal.P.U.C.2d 40, 41.) Because this requirement is statutory, we have no discretion to waive it.

Because CIG filed its application for rehearing 5 days late, the application should be denied as untimely filed. Further, because we are denying CIG's application for rehearing as untimely, we need not address PG&E's Motion for Leave to Accept Late Filing of its response to PG&E's application for rehearing.

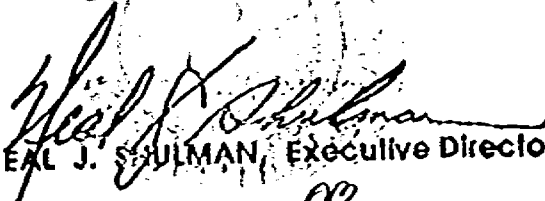
IT IS ORDERED that:

1. Rehearing of D.92-03-091 is denied.
2. PG&E's Motion for Leave to Accept Late Filing is dismissed as moot.

This order is effective today.

Dated July 1, 1992, at San Francisco, California.

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


NEAL J. SCHULMAN, Executive Director
RS

DANIEL Wm. FESSLER
President
JOHN B. OHANIAN
PATRICIA M. ECKERT
NORMAN D. SHUMWAY
Commissioners