

L/WHK/lq

Decision 82 09 057 SEP 8 1982

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of PACIFIC GAS AND ELECTRIC COMPANY for authority, among other things, to increase its rates and charges for electric and gas service.

Application 60153

Application of PACIFIC GAS AND ELECTRIC COMPANY for authority to increase its electric rates and charges effective August 1, 1981, to establish an annual energy rate and to make certain other rate charges in accordance with the energy cost adjustment clause as modified by Decision 92496.

Application 60616

ORDER DENYING REHEARING OF DECISION (D.) 82-06-065

An application for rehearing of D.82-06-065 and an amendment to that application have been filed by Contra Costa County (Contra Costa), an interested party in these proceedings. A response to that application, asking that rehearing be denied, was filed by Pacific Gas and Electric Company (PG&E). We have carefully considered each and every allegation of error in Contra Costa's application and are of the opinion that good cause for granting rehearing has not been shown. However, the issues discussed by Contra Costa and PG&E indicate that we should clarify our reasons for denying Contra Costa's request for a finding of eligibility under the Public Utilities Regulatory Policies Act of 1978 (PURPA) for reimbursement of intervenor fees.

We are aware that, by definition under PURPA, political subdivisions of a state who are electric customers may intervene in electric rate proceedings and may be eligible for compensation of intervenor fees. Our statement in D.82-06-065 on legislative history and Congressional intent regarding intervenor fee for governmental political entities with the power of taxation, did not go far enough. Under PURPA we are free to adopt our own rules for determining eligibility, including a requirement that the applicant,

"...demonstrate that, but for the ability to receive such award, participation or intervention in such proceeding may be a significant financial hardship..."

(16 U.S.C. §2632(a)(3)(/a);  
FERC v. Mississippi U.S. \_\_\_\_\_, 50  
Law Week 4566, June 1, 1982).

We have adopted such rules and, as we stated in D.82-06-065, it was not our intention that public agencies who generate funds through their taxing power would be eligible. Contra Costa has never adequately addressed, let alone come close to satisfying, the requirement in Rule 76.05(c) that it show significant financial hardship. This is one reason why we require applicants for eligibility to include a specific budget for the representation and a summary description of the finances of the customer which distinguishes between grant funds committed to specific projects and discretionary funds (Rule 76.05(a), Rules of Practice and Procedure).

A.60153; A.60616

L/WK/lq

Agencies with taxing power have an obvious alternative to funding by utility ratepayers and, as such, are not eligible for compensation of intervention in our proceedings under Rule 76.01 et. seq. of our Rules of Practice and Procedure. Therefore,

IT IS ORDERED that rehearing of D.82-06-065 is denied.

This order is effective today.

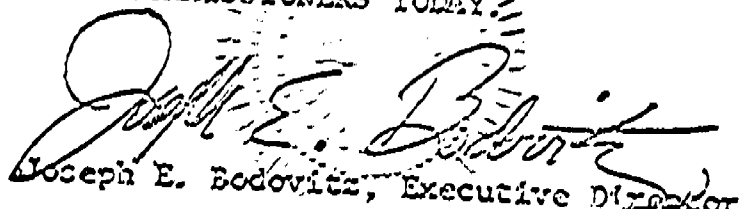
Dated SEP 8 1982, at San Francisco, California.

RICHARD D. GRAVELLE  
LEONARD M. GRIMES, JR.  
VICTOR CALVO  
PRISCILLA C. CREW  
Commissioners

Commissioner JOHN E. BRYSON

Present but not participating.

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

  
Joseph E. Bodovitz, Executive Director

We are aware that, by definition under PURPA, political subdivisions of a state who are electric customers may intervene in electric rate proceedings and may be eligible for compensation of intervenor fees. However, under PURPA we are free to adopt our own rules for determining eligibility, including a requirement that the applicant,

"...demonstrate that, but for the ability to receive such award, participation or intervention in such proceeding may be a significant financial hardship..."  
(16 U.S.C. §2632(a)(3)(/a);  
FERC v. Mississippi \_\_\_\_\_ U.S. \_\_\_\_\_, 50  
Law Week 4566, June 1, 1982).

We have adopted such rules and, as we stated in D.82-06-065, it was not our intention that public agencies who generate funds through their taxing power would be eligible. Rather, we believe the utility ratepayers should be called upon to compensate intervenors only when it is clear that alternative sources of funds, whether by private grant, assessment or public tax, are not available.

This is one reason why we require applicants for eligibility to include a specific budget for the representation and a summary description of the finances of the customer which distinguishes between grant funds committed to specific projects and discretionary funds (Rule 76.03(a), Rules of Practice and Procedure).