

L/WHK:rg:1q*

Decision 83 04 056 APR 6 1983**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 SOUTHERN CALIFORNIA EDISON COMPANY)
 and PACIFIC GAS AND ELECTRIC COMPANY)
 for a Certificate that present and)
 future public convenience and necessity)
 require or will require the participa-)
 tion by Applicants and others in the)
 construction and operation of six new)
 coal fired steam electric generating)
 units, to be known as Units 1, 2, 3)
 and 4, at a site in Nevada known as the)
 Harry Allen Generating Station, and as)
 Units 1 and 2 at a site in Utah known)
 as the Warner Valley Generating)
 Station, together with other)
 appurtenances to be used in connection)
 with said generating stations.)

Application 59308
 (Filed November 30, 1979;
 amended January 7, 1980,
 February 6, 1980, and
 May 27, 1980

ORDER MODIFYING DECISION (D.93724)
AND DENYING REHEARING

On November 12, 1981, we issued D.93724, an interim opinion, which was to be effective 30 days thereafter. However, applications for rehearing of that decision were filed by Pacific Gas and Electric Company and Environmental Defense Fund (EDF) in time to stay it as a matter of law. Subsequently, Southern California Edison Company also filed an application for rehearing.

By D.82-01-097, issued on January 19, 1982, and D.82-02-067, issued on February 4, 1982, we extended the stay of D.93724 until further action of this Commission.

We have carefully considered the allegations of error in the above-noted applications for rehearing and are of the opinion that good cause for granting rehearing of D.93724 has not been shown. D.93724 as modified herein is merely an interim order which permits parties to file briefs. Setting a briefing schedule is clearly a matter within our discretion and not an order subject to review or mandamus. We have not yet determined whether or to what extent EDF is entitled to an award of fees.

Concurrently with this order we are issuing a decision in OII 100 which adopts rules for awarding intervenor fees and which sets forth our opinion on our jurisdiction to award such fees in various proceedings.

Finally, it appears that all parties would benefit if we modify D.93724 to clarify what we expect in the additional brief and to provide for an opening brief by EDF and for responses thereto by the other parties, rather than for concurrent briefs.

Therefore, good cause appearing,

IT IS ORDERED that,

1. Ordering Paragraph 1 of D.93724 is modified to read in full as follows:

"1. Within 30 days Environmental Defense Fund may file before the Commission a brief explaining why special circumstances in A.59308 may justify an award of compensation for attorney and witness fees, and other reasonable related costs.

"In its brief, EDF should clearly establish the causal relationship between its participation and the relief obtained in A.59308 and that its participation substantially contributed to the outcome of that proceeding. EDF should also include its claim for reasonable attorney and witness fees and other related costs supported by records, notes, etc. which establish how those fees and costs were determined.

"Reply briefs by the other parties may be filed within 30 days from the date EDF's brief is filed."

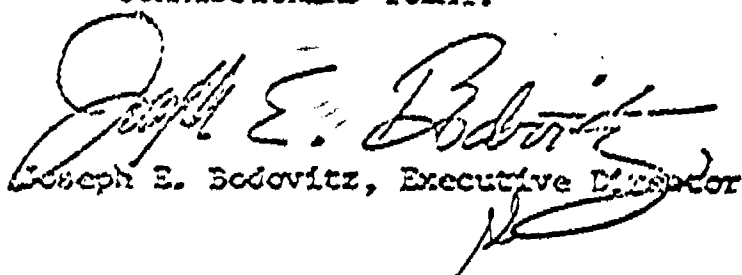
2. Rehearing of D.93724 as modified herein is denied.
3. The stay of D.93724 is terminated and the time set in modified Ordering Paragraph No. 1 for filing a brief shall be calculated from the date of this order.

This order is effective today.

Dated APR 6 1983 at San Francisco, California.

LEONARD M. GRIMES, JR.
President
VICTOR CALVO
PRISCILLA C. CREW
DONALD VIAL
Commissioners

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


Joseph E. Bodovitz, Executive Director

.....



By D.82-01-097, issued on January 19, 1982, and D.82-02-067, issued on February 4, 1982, we extended the stay of D.93724 until further action of this Commission.

We have carefully considered the allegations of error in the above-noted applications for rehearing and are of the opinion that good cause for granting rehearing of D.93724 has not been shown. D.93724 as modified herein is merely an interim order which permits parties to file briefs. Setting a briefing schedule is clearly a matter within our discretion and not an order subject to review or mandamus. We have not yet determined whether or to what extent EDF is entitled to an award of fees.

Furthermore, concurrently with this order we are issuing a decision in OII 100 which adopts rules for awarding intervenor fees and which sets forth our opinion on our jurisdiction to award such fees in various proceedings. We expect challenges to our jurisdiction will be made as to that decision and not to an order setting a briefing schedule.

Finally, it appears that all parties would benefit if we modify D.93724 to clarify what we expect in the additional brief and to provide for an opening brief by EDF and for responses thereto by the other parties, rather than for concurrent briefs.

Therefore, good cause appearing,

IT IS ORDERED that,

1. Ordering Paragraph 1 of D.93724 is modified to read in full as follows:

"1. Within 30 days Environmental Defense Fund may file before the Commission a brief explaining why special circumstances in A.59308 may justify an award of compensation for attorney and witness fees, and other reasonable related costs.