

Decision 83 05 020 May 4, 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 DECISIONS 93724 and 83-04-056

On April 6, 1983 we issued Decision (D.) 83-04-056 wherein
Ordering Paragraph 1 of D.93724 was modified to read 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 the 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."

D.83-04-056 was effective on the date of issuance: therefore, the due date of the brief to be filed by Environmental Defense Fund (EDF) is May 6, 1983.

On April 21, 1983, EDF filed a petition for an extension of time to file its brief and a temporary stay of that portion of Ordering Paragraph 1 requiring it to file a "claim for reasonable attorney and witness fees and other related costs supported by records, notes, etc. which establish how these fees and costs were determined."

The petition alleges that the requested extension is necessary for two reasons.

"(1) some limited discovery is needed so that EDF can fully address the issues raised, including its eligibility for attorney fees and experts witness costs and the appropriate standard for such fees and costs; and (2) both of EDF's principal attorneys in the Allen-Warner Valley certificate proceeding are out of the state.

"EDF anticipates filing discovery requests with the applicant utilities, and possibly with other parties. The requested extension of 60 days should provide adequate time to complete discovery and respond to the Commission's order, assuming the cooperation of parties with whom discovery requests are filed.

"One of EDF's principal attorneys, Mr. David Mastbaum, is no longer employed by EDF and now resides in Denver, Colorado. The other attorney, Mr. David Roe, is on sabbatical leave from EDF and presently resides in Cambridge, Massachusetts."

The petition further alleges with respect to the requested partial stay,

"The question of EDF's eligibility for fees and costs has been pending since April 16, 1981, and EDF is concerned that a determination be made on this question at the earliest possible date. EDF of course recognizes that no award of fees and costs can be made until a claim is filed and intends expeditiously to file such a claim and accounting. However, the introduction of other issues at this time could delay a decision on whether EDF is entitled to fees and costs in this proceeding."

Therefore, good cause appearing,

IT IS ORDERED that:

1. Ordering Paragraph 1 of D.93724 as modified by D.83-04-056 is further modified to read in full as follows:

On or before July 5, 1983 Environmental Defense Fund (EDF) 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.

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

2. In all other aspects D.93724 as modified by D.83-04-056 remains in full force and effect.

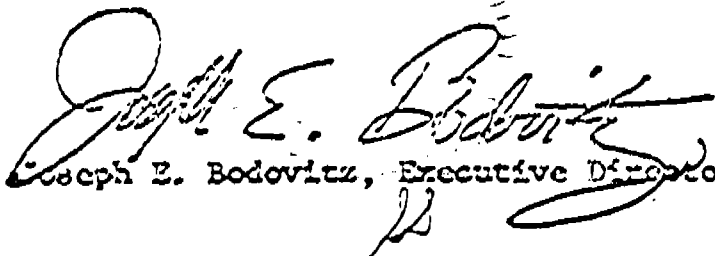
This order is effective today.

Dated MAY 4 1983, at San Francisco, California.

LEONARD M. GRIMES, JR.
President

VICTOR CALVO
PRISCILLA C. GREW
DONALD VIAL
Commissioners

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


Joseph E. Bodovitz, Executive Director



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