

ORIGINAL

Decision No. 89772 .DEC 19 1978

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

MANUEL COSTA,
Complainant,
vs.
PACIFIC GAS AND ELECTRIC
COMPANY,
Defendant.

Case No. 10667
(Filed September 15, 1978)

DONALD L. MILBURN,
Complainant,
vs.
PACIFIC GAS AND ELECTRIC
COMPANY,
Defendant.

Case No. 10668
(Filed September 15, 1978)

ORDER OF DISMISSAL

By their above filed complaints, Donald L. Milburn (Milburn) and Manuel Costa (Costa), request an order of the Commission prohibiting Pacific Gas & Electric Company (PG&E) from acquiring any right-of-way or constructing any facility relating to a proposed 500-kV transmission line from PG&E's Gates Substation to PG&E's proposed Gregg Substation in Fresno and Madera Counties.

The proposed transmission line was the subject of extensive public hearings and a Final Environmental Impact Report in Application No. 56532 which has been filed by the staff. The time for exceptions to the Final Environmental Impact Report expired August 25, 1978 and replies to exceptions were due September 11, 1978.

Both complaints allege that PG&E is presently acquiring property for right-of-way purposes and has also commenced construction of the Gates Substation prior to receiving authority to construct the

proposed 500-kV transmission line. In addition, the Costa complaint alleges that PG&E proposes to connect the proposed Gates Substation to an unauthorized 230-kV transmission line.

By its answer to the complaints, PG&E admits that it has contacted property owners with regard to acquisition of easement options to permit timely construction of the Gates to Gregg transmission line when approved; denies that it made any representation that the Gregg Substation would not be constructed unless the 500-kV line was approved; and denies that it proposes to connect the Gates Substation to an unauthorized 230-kV transmission line.

In response, PG&E alleges that the proposed Gregg Substation is the nearest feasible terminal of PG&E's integrated electric system in the metropolitan area and its construction, operation, and connection with the Bellota-Herndon 230-kV line was fully considered by the Commission in Decision No. 85910 dated June 2, 1976, which authorized construction of the Helms Pumped Storage Project in Application No. 54450.

Concurrent with its answers to both complaints, PG&E filed motions to dismiss alleging that the complaints duplicate objections raised to the Gates to Gregg Transmission Line in Application No. 56532 and that the actions complained of by complainants have been either explicitly authorized by the Commission or are reasonable to carry out PG&E's responsibility to provide electric service based upon present or fairly anticipated circumstances.

After consideration the Commission finds that the instant complaints constitute collateral attacks on matters that have been either heretofore considered and authorized or that are presently before the Commission. The Commission, therefore, concludes that the motions to dismiss should be granted.

IT IS ORDERED that Cases Nos. 10667 and 10668 are hereby dismissed.

The effective date of this order shall be thirty days after the date hereof.

Dated at San Francisco, California, this 19th day of DECEMBER, 1978.

Roluit Batuman
President
William J. Lyons, Jr.
Veronica L. Stinson
Edward D. Hoyle
Clare T. Debris
Commissioners