

ALJ/jn *

Decision No. 91908 JUN 17 1980

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of Southern California Edison)
Company for Authority to Increase)
Rates Charged by it for Electric)
Service.)

Application No. 57602
(Petition Filed June 7, 1979)

O P I N I O N

On June 7, 1979, Toward Utility Rate Normalization (TURN) filed a petition for attorney fees and costs in the above-entitled proceeding. The petition was opposed by Southern California Edison Company, which filed an answer to the petition on June 15, 1979.

TURN's petition arises out of the instant general rate application proceeding in which TURN participated.

The Commission issued its opinion (Decision No. 89711) in the instant proceeding on December 12, 1978. TURN's application for rehearing of Decision No. 89711 was filed January 10, 1979, and denied February 27, 1979, by Decision No. 90043. TURN's petition for writ of review in S.F. No. 24008 was denied by the California Supreme Court (court) on August 15, 1979.

Since the above-described events occurred, the court filed its decision in TURN v CPUC (1979) 25 C 3d 891 in which it held that the Commission "was without authority to award attorney fees and costs in quasi-legislative ratemaking proceedings..." (Ibid., at 913.) Accordingly, the Commission lacks jurisdiction to award the attorney fees and costs sought by TURN for its participation in the underlying general rate increase proceeding.

TURN's petition is not premised on participation in an electric rate case under the Public Utility Regulatory Policies Act of 1978 (PURPA). We are considering in Order Instituting Investigation No. 39 how to administer claims for intervenor's costs on PURPA related issues. However, TURN's participation in the instant proceeding predates PURPA; and TURN's request for an award of costs is not based upon PURPA, which is not even cited. This opinion is, therefore, based solely on the holding in TURN v CPUC, supra, and not on PURPA.

Finding of Fact

Application No. 57602 is a quasi-legislative ratemaking proceeding.

Conclusions of Law

1. The Commission is without authority to award attorney fees and costs in quasi-legislative ratemaking proceedings.^{1/}
2. The petition of TURN should be dismissed for lack of jurisdiction.

^{1/} We do not intend to express any opinion in this proceeding on the legal effect of PURPA on the court's holding in TURN v CPUC, supra.

O R D E R

IT IS ORDERED that the petition of Toward Utility Rate Normalization for an award of attorney fees and costs in the above-entitled proceeding is dismissed.

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

Dated JUN 17 1980, at San Francisco, California.

John E. Guyon
President
Hermon L. Sturgeon

Walter J. Delaney
Lawrence J. Smith
Commissioners

Commissioner Richard D. Gravelle, being necessarily absent, did not participate in the disposition of this proceeding.