

ORIGINAL

Decision No. 92114 AUG 19 1980

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's)
 own motion into the regulation of)
 employment practices of PACIFIC)
 TELEPHONE AND TELEGRAPH COMPANY,)
 PACIFIC GAS AND ELECTRIC COMPANY,)
 GENERAL TELEPHONE COMPANY,)
 SOUTHERN CALIFORNIA GAS COMPANY,)
 SAN DIEGO GAS AND ELECTRIC)
 COMPANY, SOUTHERN CALIFORNIA)
 EDISON, CALIFORNIA WATER COMPANY,)
 SIERRA PACIFIC POWER COMPANY,)
 PACIFIC POWER AND LIGHT COMPANY,)
 CP NATIONAL CORPORATION, SOUTHWEST)
 GAS CORPORATION, CITIZENS UTILITIES)
 COMPANY OF CALIFORNIA, and)
 CONTINENTAL TELEPHONE COMPANY OF)
 CALIFORNIA, respondents.)

Case No. 10308

(Amended Title)

ORDER DENYING PETITION
FOR AWARD OF ATTORNEY'S FEES

On July 2, 1980 an organization titled Cut Utility Rates Today (CURT) filed a document titled "Petition for award of Attorney's fees and cost of Participation: Declaration of William B. Hancock in support of Petition; and Data Request in the above case." By its terms the document "...petitions this Commission for approval of application to implement Article 18.5, Rules for Implementation of PURPA Section 122(a)(2) to establish procedures for an eventual award of reasonable fees and costs to consumers of electric utilities."

The petition alleges that but for the ability to receive compensation under the rules established in Decision No. 91909 dated June 17, 1980, CURT has no other income except \$321.06 per month. The petition further alleges that CURT will raise the following PURPA issues, including but not limited to: equitable rates to electric consumers, cost of service, declining block rates, time of day rates, seasonal rates, interruptible rates, load management techniques, information to consumers, and advertising. ✓ The petition makes various other allegations, primarily concerning the nature of the proposed participation in this investigation and the costs associated therewith. Attached to the petition are Exhibit 1, which is a data request by CURT to all respondents in this application, and Exhibit 1-A, which is a letter that CURT wants each respondent to send to all employees.

Discussion

Petitioner makes the bare assertion that it intends to raise certain PURPA issues in this proceeding but does not explain why such issues would be relevant in an investigation into the employment and contracting practices for the purpose of ensuring equal opportunities and eliminating discrimination in the practices of the named respondents, fewer than half of whom are electric utilities. Additionally, petitioner has failed to address the difference between an electric ratemaking proceeding and an order instituting investigation into the policies and practices of utilities in a designated area, and has thereby not demonstrated any applicability of the rules and standards set out in Decision No. 91909 to its petition in this investigation.

We do not believe that petitioner's failure to address these matters can be remedied by an amended motion. This investigation is simply not a ratemaking proceeding by any stretch of the imagination--no request for rate relief has been made by any utility in this proceeding, nor is the reasonableness of expense levels or the rate of return of any utility an issue in this proceeding. It follows that there are no rate design issues to be considered herein. Petitioner's request for attorney's fees to address such matters in this proceeding must therefore be denied.

In addition to denying petitioner's request for attorney's fees pursuant to the rules and procedures established in Decision No. 91909, we express our concern about the content of Exhibit 1-A attached to the petition. As indicated, that exhibit is a letter which petitioner apparently wants all respondents to send to their employees (see Item 7 of Exhibit 1 which is a data request addressed to all respondents by petitioner). The letter begins: "TO ALL EMPLOYEES, The California Public Utilities Commission has ordered the Company to advise you of Decision No. 91963 ordering an investigation of employment practices of the Company."

The Commission has made no such order nor do we propose to, and petitioner's representation in Exhibit 1-A that we have done so is a serious misstatement of fact. Petitioner is cautioned that such misstatements of fact are inconsistent with the Code of Ethics set forth in Rule 1 of our Rules of Practice and Procedure.

Findings of Fact

1. The investigation in this case is not an electric utility ratemaking proceeding.
2. Fewer than one half of the respondents to this investigation are electric utilities.

3. The PURPA issues proposed by petitioner to be raised in this investigation are not relevant to the scope of this investigation as set forth in Ordering Paragraph 3 of Decision No. 91963 dated June 17, 1980.


Conclusion of Law

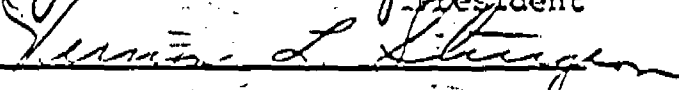
Petitioner should not be considered eligible for compensation under the rules set forth in Appendix B to Decision No. 91909 dated June 17, 1980, and its motion for attorney's fees should be denied.

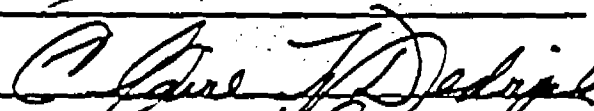
IT IS ORDERED that the petition of Cut Utility Rates Today (CURT) for attorney's fees and cost of participation under the rules and procedures set forth in Decision No. 91909 is denied.

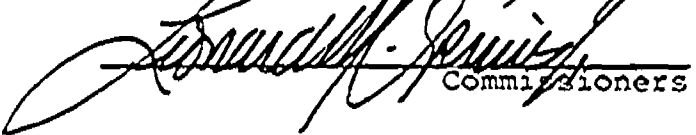
The effective date of this order is the date hereof.

Dated AUG 19 1980 , at San Francisco, California.



President






Commissioners

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