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Decision No. 92602 JAN 6 1981

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

Investigation on the Commission's)
 own motion into procedures for)
 determination of compensation for)
 costs of participation or)
 intervention in electric ratemaking)
 proceedings by electric consumers.)

OII No. 39
 (Filed March 13, 1979)

ORDER MODIFYING DECISION NO. 91909
AND DENYING REHEARING

Petitions for rehearing of Decision No. 91909, the effective date of which was July 28, 1980, have been filed by the Pacific Gas and Electric Company and the Southern California Edison Company. A response to these petitions has been filed by Toward Utility Rate Normalization. We have considered each and every allegation raised in the petitions, as well as the response thereto, and are of the opinion that no sufficient ground for granting rehearing has been shown. However, we recognize that certain portions of the decision require clarification, and consequently, we will modify Decision No. 91909 as specified below. Therefore,

IT IS HEREBY ORDERED that Decision No. 91909 is modified as follows:

1. The first two paragraphs on page 25, mimeo, are deleted and the following language substituted:

"We recognize that awards of compensation will in most cases be determined after examination of the level of operating expense and rate design issues have been concluded or in investigatory proceedings where rates are not being established. To avoid delay in rate cases and to provide for recovery of such expense in rates regardless of the case

in which compensation is ordered, each utility will be allowed to accumulate such payments in a deferred expense account. Such accumulated deferred expense shall be amortized over the interval contemplated between general rate case test years beginning with January 1 of the test year in the utility's next general rate case. Because deferred expense items are taken into consideration in the calculation of working cash allowances and rate base is adjusted accordingly, accumulation of interest on this deferred account will not be allowed."

"Retroactive Application of Rules."

"The rules adopted herein are intended to apply to appropriate proceedings initiated after the date on which the rules have become effective. A proceeding will be deemed initiated on the date an application or complaint is filed, or an OII (order instituting investigation) issued.

"Parties seeking reimbursement for proceedings for which a decision has been issued prior to the effective date of the rules will not be eligible for reimbursement through these procedures. Such parties have an alternate remedy available to them in the Superior Court.

"For cases which were pending on the effective date of the rules, where the formal filing procedures cannot be met, we will suspend the time requirements for filing requests for reimbursement and will consider such requests on an individual basis. Such requests must comply fully with the remaining rules."

2. Rule 76.02(h) is modified to read:
"(h) 'Proceeding' shall mean any application, case, investigation, or other procedure of the Commission related to or involving electric rates or rate design which is initiated after the date the rules herein become effective and in which a PURPA position is considered."

3. The first paragraph of Rule 76.03 is modified to read:
"Within 30 days of the first prehearing conference in a proceeding the consumer shall file with the Commission's Docket Office and serve on the parties known or contemplated at that time a Request for Finding of Eligibility for Compensation, in compliance with Rules 2, 3, 4, 6, and 7, and with an attached certificate of service by mail on appearances. In cases where no prehearing conference is scheduled or where the ALJ anticipates the proceeding will take less than 30 days, the ALJ shall determine the procedure to be used for filing petitions for reimbursement. In all cases, the petition for reimbursement must set forth the following:"

4. Rule 76.04 is modified to read:
"Except as provided by the ALJ in accordance with Rule 76.03, the Commission staff shall file with the Commission's Docket Office a statement within ten days after the consumer's filing or 30 days after the commencement of the proceeding, whichever occurs later, declaring whether it intends to take a position different from the consumer. Any other party may file comments on a consumer's request within ten days after the request is filed."

The filings under this Rule shall comply with Rules 2, 3, 4, 6 and 7, and be accompanied by a certificate of service on appearances by mail."

5. Rule 76.06 is modified to read:
"Following issuance of a Commission order or decision during a proceeding pursuant to Rule 76.05 a consumer may file a request for compensation with the Docket Office. The filing shall comply with Rules 2, 3, 4, 6 and 7, and shall have a certificate of service by mail on appearances attached. Such request shall include a detailed description of hourly services and expenditures or invoices for which compensation is sought. To the extent possible, this breakdown of services and expenses should be related to specific PURPA issues. The request shall also describe how the consumer has substantially contributed to the adoption, in whole or in part, in a Commission order or decision, of a PURPA position advocated by the consumer related to a PURPA standard. 'Substantial contribution' shall be that contribution which, in the judgment of the Commission, substantially assists the Commission to promote a PURPA purpose in a manner relating to a PURPA standard by the adoption, at least in part, of the consumer's position. A showing of substantial contribution shall include, but not be limited to, a demonstration that the Commission's order or decision has adopted factual contention(s), legal contention(s), and/or specific recommendation(s) presented by the consumer."

6. Rule 76.11 is added to read:
"For cases which were pending on the date these rules became effective, where the rules concerning time for filing requests for eligibility and reimbursement, the

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time for filing responses thereto, and time for a Commission decision thereon cannot be met, parties may file requests for reimbursement in compliance with all of the remaining rules. Such requests must be filed within 60 days of the date the order adopting this rule is made effective. The Commission will consider all such requests on an individual basis. The exception established by this rule is not applicable to cases in which a decision on the relevant PURPA issue or issues was issued prior to July 28, 1980.

IT IS FURTHER ORDERED that the petitions for rehearing of Decision No. 91909 as modified herein are denied.

The effective date of this order shall be the date hereof.

Dated JAN 6 1981, at San Francisco, California.

John E. Boyer

President
Richard D. Powell

William W. ...

Commissioners