ALJ/km/nb

Decision No. 92757 MAR 3 1981

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 participation 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 No. 59308 (Filed November 30, 1979; amended January 7, 1980, February 6, 1980, and May 27, 1980)

(Appearances are listed in Decisions Nos. 91968 and 92654.)

ORDER OF DISMISSAL

On February 13, 1981 applicants Southern California Edison Company and Pacific Gas and Electric Company filed a petition requesting permission to withdraw their application for a certificate of public convenience and necessity and all amendments thereto to participate in the Allen-Warner Valley Energy System, to refile an application for an amended project at a later date, and to incorporate such portions of the existing record in these proceedings as may be applicable to the new proceedings that will be instituted by the filing of the application for an amended project.

Each applicant alleges that it is requesting this permission since the application and all amendments thereto now on file in these proceedings no longer accurately describe the project it wishes to have certificated and since it would be in the public interest to preserve applicable portions of the public record developed in these proceedings for reuse in the proceedings to be instituted by the filing of the application for an amended project.

On February 19, 1981 all appearances were afforded an opportunity to comment on the petitions. All appearances except Toward Utility Rate Normalization (TURN) commented. None of the parties oppose the motion; however, various parties urge that the authorization to withdraw be subject to certain conditions.

Environmental Defense Fund (EDF) requested the granting of the motions be subject to the following conditions:

1. The entire record in this proceeding be incorporated in any future application.
2. Findings of fact be made based on the record herein.
3. A statement by us that a compelling case was made concerning alternative sources of energy and that any future filing for an amended project must include a specific analysis of alternatives.
4. The same Administrative Law Judge be assigned to any future application.
5. Applicants be required to pay EDF's attorneys' fees and costs for expert witness fees. In this regard, EDF requested an opportunity to make a written presentation.
6. Applicants be required to submit a full accounting of costs incurred since May 2, 1980 and that said costs not be allowed in rate base.

The California Energy Commission considers Conditions 1 to 3 enumerated by EDF appropriate and also requests that applicants should set forth a clear analysis of need and a complete cost comparison with alternative energy sources in any future application. It also requests that applicants be required to notify the Commission and all parties to the proceeding of any extensions or modifications to the preliminary agreements (Exhibits E and F to the application) beyond March 31, 1981.

The Sierra Club requested that the application be dismissed with prejudice.

Mr. Lakeland, whose interest in this proceeding was limited to photovoltaics, stated that in any future proceeding applicants should address that resource in depth.

The Commission staff expressed concern with the requests for use of the record in any future proceeding. It believes such a determination should be left to the time a new application comes before the Commission. It also believes that findings of fact and a statement that a compelling case was made with respect to alternatives is tantamount to a decision on the merits and therefore not appropriate at this time.

We concur with the applicants that duplication of the existing record should be avoided. Therefore, we shall incorporate such portions of that record that the Commission deems relevant to any future filing for an amended project. With respect to the assignment of the same Administrative Law Judge to a future application, we cannot guarantee that this will be done. Further, to make such a commitment would limit the Commission's ability to use its staff to its maximum potential. We wish to assure the parties that if such an assignment is feasible at the time a future application is filed, we will attempt to comply with their desires since such an assignment would be also helpful to the Commission. The request of EDF that applicants be required to account for costs incurred since

May 2, 1980 is not a proper subject for this proceeding but rather should be scrutinized in a general rate proceeding. The request of the California Energy Commission that applicants be required to notify the Commission and parties of extensions or modifications to the preliminary agreements beyond March 31, 1981 is a subject for any future application that may be filed and not an appropriate condition of the dismissal herein ordered. Applicants herein should be well aware that they must make a complete showing of need in any certificate proceeding and, therefore, such a direction, as requested by the California Energy Commission, is not warranted. Certainly, orderly and expeditious processing of any subsequent application pertaining to these facilities would be enhanced by inclusion in such application of a thorough analysis of the reasonable alternatives to the project including, but not limited to, those advanced by intervenors in the present proceeding or, at least, a statement as to why the applicants believe for any such alternatives a thorough analysis is not warranted. To grant the request of the Sierra Club for dismissal with prejudice would preclude applicants from applying for what may be needed under changed circumstances or different grounds for such a project and is therefore not warranted.

We will provide EDF with the opportunity to make a written presentation in regard to attorney's fees or costs of its expert witnesses and also afford all other parties an opportunity to reply.

Therefore, good cause appearing,

IT IS ORDERED that:

1. Application No. 59308 is dismissed without prejudice.
2. Should Southern California Edison Company and/or Pacific Gas and Electric Company file an application for an amended project, applicant(s) and all other appearances in such an application may move to incorporate by reference any pleadings, exhibits, or testimony contained in the record of this proceeding. Any such motion shall identify with specificity the material they desire incorporated and its relevance to the new proceeding.

3. On or before March 23, 1981 Environmental Defense Fund may file a memorandum of points and authorities concerning its request for attorney fees and expert witness fees. All other parties may file a response to the memorandum of points and authorities on or before April 7, 1981.

The effective date of this order is the date hereof.

Dated MAR 3 1981, at San Francisco, California.

I will file a concurring opinion.

President

Commissioners

LEONARD M. GRIMES, JR., COMMISSIONER

I concur.

Today's decision is the culmination of nine months of rigorous evidentiary hearings on this matter. All parties involved in these proceedings have demonstrated the appropriate level of commitment to inquiry that must accompany any request for new generation facilities in this time of serious financial difficulty for both utility company and ratepayer. The applicants have demonstrated a welcomed new level of sensitivity and courage by moving to withdraw this application upon the occurrence of substantially changed circumstances. The Staff, all intervening parties and our Administrative Law Judge are to be commended for their patient performance in pursuit of the many conflicting issues presented by this application.

Without passing judgment on the merits of the record developed in these proceedings, my observation as assigned Commissioner is that we have all learned a valuable lesson concerning the assessment of our future energy resources. The California Energy Commission's request for a clear analysis of need and complete cost comparison with alternative energy sources in any future amended filing touches on the heart of this lesson. We are in the midst of a fundamental transformation in energy supply. We have learned that the evaluation of alternatives and renewable sources must receive utmost care in their preparation. The cost and availability of alternatives today are dramatically different from the estimates of one year ago. Likewise, these estimates will be completely

different a year from now. This observation leads me to believe that the use of coal and uranium as "bridging fuels" during a transition period may not be necessary. It is the deployment of these alternatives that will increase their cost-effectiveness and commercial availability. The technological progress and momentous effort in the area of alternatives promise to reduce our need to grapple with complex social, political and financial problems, such as environmental pollution, compromise of national reserves, obsolete facilities and decommissioning uncertainties. The notion of whether or not transition fuels are needed must be very seriously calculated and assessed in any re-submission of this project. We may find that within the boundaries of this state we have the best answers to our energy future.

LEONARD M. GRIMES, JR., COMMISSIONER

San Francisco, California
March 3, 1981