

Decision 93853 DEC 15 1981

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Investigation by)
Rulemaking into the adoption of new)
Rules of Practice and Procedure to)
process and administer requests for)
attorney and/or witness fees and)
other expenses of participants)
in Commission proceedings.)

OII 100
(Filed November 13, 1981)

ORDER DENYING APPLICATION FOR STAY

On November 13, 1981 the Commission issued the above-captioned Order Instituting Investigation (OII) commencing an investigation by rulemaking to adopt new Rules of Practice and Procedure to administer and process requests by public participants for the award of attorney and witness fees and related reasonable expenses. The OII invited comments and required that any party interested in filing comments on the proposed rules submit them within 60 days, or by January 12, 1982.

The OII was issued concurrently with Decision (D.) 93724 in Application (A.) 59308 which found the Environmental Defense Fund eligible to apply for compensation for attorney fees and witness fees in that proceeding. The OII expressly stated that it was not the proceeding to address whether participant fees were appropriate, that the issue had been decided in A.59308. It stated further that it was critical to proceed to consider and adopt new Rules of Practice and Procedure to process and administer requests for participant fees despite the fact that court review of D.93724 was expected.

On December 3, 1981 Pacific Gas and Electric Company (PG&E) filed an application for rehearing of D.93724 and an application for stay in OII 100.

Process
13

OII 100 ALJ/ks *

PG&E challenges the authority of the Commission to issue the proposed rules or to award compensation for work done by participants in A.59308. It argues that it would be pointless for the Commission to proceed with OII 100 until the issue of its powers to promulgate the proposed rules is resolved. It notes that the petition for rehearing has been filed in time to result in an automatic stay of D.93724 (until February 3, 1982) and that since the basis for OII 100 is stayed, the OII itself should similarly be stayed.

We disagree with this contention and will deny the application for stay in OII 100. To allay the concerns of parties that rules regarding attorney and witness fees will be in effect prior to the completion of the review process in A.59308, possibly leading to an inconsistent result, we will adopt rules in OII 100 but will not implement them until the review process, including court review, if any, of D.93724 is complete.

Findings of Fact

1. Petition for rehearing of D.93724 has been filed and the decision is automatically stayed. ✓
2. Application for stay of OII 100 has been filed. Comments in OII 100 are due not later than January 12, 1982.
3. This order should be effective the date it is signed because comments are due in January. ✓

Conclusion of Law

No good cause has been shown to stay OII 100 and the application to do so should be denied.

OII 100 ALJ/ks

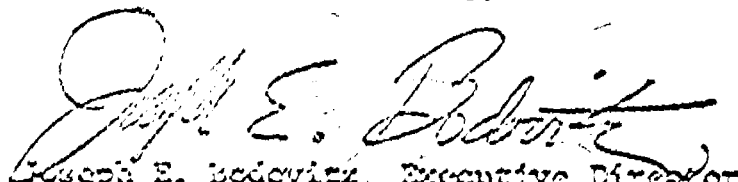
IT IS ORDERED that the application of Pacific Gas and Electric Company to stay OII 100 is denied.

This order is effective today.

Dated DEC 15 1981, at San Francisco, California.

JOHN E. BRYSON
President
RICHARD D. GRAVELLE
LEONARD M. CRIMES, JR.
VICTOR CALVO
PRISCILLA C. CREW
Commissioners

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY.


Joseph E. Bedovitz, Executive Director