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Decision 95-07-021 July 19, 1995

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of PACIFIC GAS AND ELECTRIC COMPANY for Authority, Among Other Things, To Increase Its Rates and Charges for Electric and Gas Service.

Application 91-11-036 (Filed November 26, 1991)

(Electric and Gas) (U 39 M)

Application 90-04-003 I.92-02-002 I.90-02-043

And Related Matters.

OPINION

ORIGINAL

Summary

The request for intervenor compensation of Sesto F. Lucchi is denied.

Background

Sesto F. Lucchi was an appearance and participated in this proceeding. He testified on April 23, 1992 and sponsored Exhibit 302, which was accepted into evidence. He was cross-examined by both Division of Ratepayer Advocates and Pacific Gas and Electric Company (PG&E). His testimony appears at Tr. 2603-2624.

On October 9, 1992 Lucchi submitted a request for finding of eligibility for compensation. This filing was made pursuant to former Rule 76.54 of the Commission's Rules of Practice and Procedure (Rules). Lucchi asked for \$23,615 for compensation for his endeavors in this proceeding.

PG&E responded to this request on November 6, 1992. (Former Rule 76.54(b).) It asked for further information regarding Lucchi's background to justify his claimed rate of compensation (Former Rule 76.60) and further justification of the significant

financial hardship criterion under former Rule 76.52(f)(2). PG&E also disputed \$1,668.50 in Lucchi's budget which was attributable to his participation in another matter before this Commission. Lucchi responded by letter dated November 15, 1993.

On April 12, 1994 Lucchi submitted a motion for receipt of a late-filed request for compensation.<sup>1</sup> The material in the April 1994 filing related to the financial hardship issue, plus a statement of what he determined to be the substantial contribution he made to the decision in this proceeding. Lucchi conceded that the \$1,668.50 identified by PG&E was incorrectly listed on his October 9, 1992 filing and should be deducted from his request for compensation.

#### Substantial Contribution

The rules cited in the prior portion of this opinion were in effect at the time Lucchi filed his initial request for eligibility. Since then they have been repealed (Decision (D.) 93-05-040) and the eligibility requirements are now governed by §§ 1801-1812.<sup>2</sup> Under either the former rules or the new statutes, the party seeking compensation has the burden to show that he or she made a substantial contribution to the order or decision in question. (Former Rule 76.53(a) and § 1803(a).) Under § 1802(h) and former Rule 76.52(g) "substantial contribution" is defined as requiring adoption in the order or decision, in whole or in part, "...one or more factual contentions, legal contentions, or specific policy or procedural recommendations presented by the

<sup>1</sup> As grounds for the motion, Lucchi states that he was awaiting Commission approval of a request for finding of eligibility before filing this request. For good cause shown, the motion is granted.

<sup>2</sup> All citations to sections herein are to the Public Utilities Code.

customer." Lucchi's request for compensation founders on this basic requirement.

Lucchi was concerned with four subjects: continuation of the Conservation Voltage Regulation program; the possibility of future natural gas supply from Mexico; use of propane and liquefied natural gas; and additional underground natural gas storage. He presented testimony on each of these subjects. Consideration of his testimony on Conservation Voltage Reduction was discussed at 47 CPUC 2d 143, 264. There we noted that Lucchi did not offer any cost-effectiveness studies and did not know the cost of the program he was recommending. (Tr. 2608-2609.)

His testimony on the possibility of gas from Mexico, future use of liquefied natural gas and propane, and additional underground storage was in the form of things that should be examined. He made no cost-effectiveness study of any of these concepts. (Tr. 2613 and 2615.) We did not believe that these suggestions were sufficiently developed to warrant discussion in D.92-12-057. Consequently, they did not present "issues material to the order or decision" (§ 1705) and therefore we made no separate finding of fact or conclusions of law on these subjects. (§ 1705.)

While we appreciate the public interest concern that motivated Lucchi and encourage future participation in our proceedings, we cannot find that Lucchi made a substantial contribution to D.92-12-057 that qualifies for intervenor compensation, either under former Rule 76.54 or § 1803(a).

Findings of Fact

1. Lucchi sponsored testimony and Exhibit 302 on the record in Application 91-11-036.
2. Lucchi's evidence was of a conceptual nature and did not cover costs associated with his proposed ideas or discuss the cost-effectiveness of the proposed programs.

3. Lucchi's proposals were not adopted in whole or in part by the Commission in D.92-12-057.

4. Lucchi filed a request for compensation.

Conclusion of Law

We conclude that Lucchi is not entitled to intervenor compensation in that his presentation did not make a substantial contribution to the adoption, in whole or in part, of D.92-12-057.

ORDER

IT IS ORDERED that Sesto F. Lucchi's request for compensation is denied.

This order becomes effective 30 days from today.

Dated July 19, 1995, at San Francisco, California.

DANIEL Wm. FESSLER  
President  
P. GREGORY CONLON  
JESSIE J. KNIGHT, JR.  
HENRY M. DUQUE  
Commissioners

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

*Wesley Franklin*

Acting Executive Director