

Decision 99-06-064

June 10, 1999

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company for Authorization to Sell Certain Generating Plants and Related Assets Pursuant to Public Utilities Code Section 851. (U 39 E)

Application 98-01-008
(Filed January 15, 1998;
amended July 18, 1998)

**ORDER DISMISSING APPLICATION FOR REHEARING OF
DECISION 99-04-026**

On April 14, 1999 Driftwood Marina filed an application for rehearing of Decision (D.) 99-04-026. In D.99-04-026 we granted Pacific Gas and Electric Company (PG&E) authorization to sell certain of its generating plants. In its application, Driftwood protests the transfer of PG&E's Contra Costa and Pittsburg fossil fuel plants to Southern Energy. Driftwood alleges that the impact of the potential loss of the existing fallout type particulate (FTP) clean-up programs has not been adequately mitigated.

We find that Driftwood lacks standing to apply for rehearing and therefore we are dismissing Driftwood's application. Pursuant to Public Utilities Code section 1731 (b), only parties to a proceeding, and those who have a pecuniary interest in the utility concerned, may apply for rehearing to the Commission. Driftwood was not a party in PG&E's application for transfer proceeding nor did Driftwood participate in the environmental review process. Moreover, Driftwood does not have a pecuniary interest in PG&E. Contrary to Driftwood's assertions, being a beneficiary of a utility program is not the same as having a pecuniary interest in the utility itself. For these reasons, by statute, Driftwood lacks standing to file an application for rehearing.

We note that, in any event, Driftwood's arguments fail to demonstrate any legal error in D.99-04-026. Driftwood primarily takes issue with the adequacy of the measures we adopted to mitigate the impact of the potential loss of PG&E's FTP clean-up program. Because this impact was judged to be less than significant, the California Environmental Quality Act (CEQA) does not contain any requirement that the impact be mitigated at all. (See Pub. Resources Code § 21100 (b)(3).) Therefore, Driftwood cannot argue that these measures are legally insufficient.

Driftwood's other arguments assert that PG&E and Southern Energy have not complied with the mitigation measures. These arguments do not allege any legal errors in D.99-04-026, and are not appropriate grounds for rehearing.

Therefore, **IT IS ORDERED** that:

1. Driftwood Marina's application for rehearing of D.99-04-026 is dismissed.
2. This proceeding is closed.

This order is effective today.

Dated June 10, 1999, at San Francisco, California.

RICHARD A. BILAS
President
HENRY M. DUQUE
JOSIAH L. NEEPER
LORETTA M. LYNCH
JOEL Z. HYATT
Commissioners