

CITY COUNCIL MEETING
SEPTEMBER 19, 1984

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Pg 255

PENDING ORAL
ARGUMENTS IN THE
U.S. COURT OF
APPEALS, NINTH
CIRCUIT

In response to an earlier inquiry by the Council, the following information was presented regarding pending oral arguments in the U. S. Court of Appeals, Ninth Circuit.

"TO NCPA LEGAL COMMITTEE

Gentlemen:

Subject: Pending oral argument in the U. S.
Court of Appeals, Ninth Circuit

Some of your cities, at least, have been receiving notices from the Court that oral argument in two matters will occur on October 2, 1984. A copy of a recent order relating to them, and the hearing notice, is enclosed.

The first case, 7854, is the result of a FERC decision in Docket EL82-21 in favor of SMUD in a proceeding brought by it to obtain transmission capacity on PG&E's line from the northwest. The FERC decision is reported at 23 FERC par 61,042 (April 8, 1983), and the order denying rehearing is reported at 24 FERC par 61,305 (Sept. 22, 1983).

The second case, 7933, is the result of a FERC decision in Docket EL82-3 rejecting the City of Oakland's application that the Port of Oakland be treated as a wholesale customer. The original decision is reported at 24 FERC par 61,010 (July 18, 1983) and rehearing was denied at 25 FERC par 61,105 (October 20, 1983).

NCPA and its "PG&E city" members were allowed to intervene in the Oakland case, on the ground

"that any determination that the PG&E sale to the Port of Oakland is a sale for resale could affect the rate under which the NCPA members purchase."

On that basis we have received notice of it, and since SMUD is on the same calendar, we will receive notice of it, too. NCPA and its members have been neutral, and will not participate in the appeals.

I will be glad to furnish copies of any of the above cited documents if you desire.

Sincerely,

s/Martin McDonough
Attorney"

McDONOUGH, HOLLAND & ALLEN

A PROFESSIONAL CORPORATION
ATTORNEYS

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WASHINGTON, D. C. 20008
202-635-0810

September 12, 1984

JAMES F. MCCONNELL JR.
ADMITTED IN DISTRICT OF COLUMBIA ONLY

TO NCPA LEGAL COMMITTEE

Gentlemen:

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Court of Appeals, Ninth Circuit

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SEP 13 1984

September 12, 1984

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Sincerely yours,



Martin McDonough
Attorney

MMcD:pa

enc.

cc: Robert E. Grimshaw

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

AUG 27 1984

PHILLIP B. WINBERRY
CLERK, U.S. COURT OF APPEALS

PACIFIC GAS AND ELECTRIC COMPANY, et al)

Petitioners)

vs.)

FEDERAL ENERGY REGULATORY COMMISSION)

Respondent)

CITY OF OAKLAND, CALIFORNIA, etc.)

Petitioner)

vs.)

FEDERAL ENERGY REGULATORY COMMISSION)

Respondent)

PACIFIC GAS AND ELECTRIC COMPANY, et al)

Intervenors)

83-7854

FERC # EL 82-21-000

83-7933

FERC # EL 82-3-000; EL 82-3-001

ORDER

Respondent's motion to schedule these cases for separate argument calendars is DENIED. Respondent's motion to reschedule these cases is GRANTED. Both appeals will be argued on October 2, 1984, in San Francisco.

By Direction of the Court

PHILLIP B. WINBERRY
Clerk of Court

Miriam Mueller

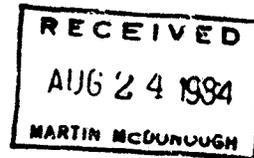
By Miriam Mueller
Deputy Clerk

SEP 13 1984

OFFICE OF THE CLERK
UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

HEARING NOTICE

DATE: AUG 23 1984



Case No. & Title:

83-7854 Pacific Gas & Electric Co., et al. v.
Federal Energy Regulatory Commission
83-7933 City of Oakland, etc. v. Federal Energy
Regulatory Commission

assigned for hearing:

Date: Tuesday, October 2, 1984

Time: 1:30 p.m.

Location: U.S. COURT OF APPEALS, 7th & Mission Streets,
San Francisco, California

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT
7th & Mission Streets, P.O. Box 547
San Francisco, CA 94101

NOTICE OF CASES SET FOR HEARING

Your case has been set for hearing as indicated on the attached calendar. Please take special note of the time and place of hearing. In order that the court may make proper arrangements for oral argument it is essential that you immediately complete the attached acknowledgment receipt and return it to the clerk's office address provided.

In preparing for oral argument the parties should be guided by Rule 34 of the Federal Rules of Appellate Procedure. The following information is provided to ensure the effectiveness of the hearing process:

Possibility of Mootness or Settlement - If your case has become moot or a settlement is imminent, immediately advise this office in writing.

Notification of Related Cases - If you are aware of other cases pending in this court which are related to and which should be calendared with the case(s) checked on the attached calendar, please notify this office.

Admission for Oral Argument - Any attorney who will be presenting oral argument must have been admitted to the bar of this court. If you have not been admitted, please check the appropriate box on the acknowledgement receipt and return it with a self-addressed franked envelope. This office will provide you with the forms necessary for admission by mail. While admission in open court on the day of hearing is discouraged, you may elect such an admission procedure. Candidates for admission in open court must appear in the clerk's office with a sponsor who has already been admitted to the bar of the circuit and who can orally move the admission before the calendar is called.

Submission Without Oral Argument - A party who feels that oral argument would not be of assistance to the court may present a written motion asking the court to submit the case for decision without oral argument. Such a motion must be served on all parties. The court may, on its own motion, determine that oral argument would not be of assistance. In such cases, all parties will be advised by separate notice pursuant to Rule 3(a) of the Local Rules of the Ninth Circuit.

Appearing for Argument - If oral argument is to be presented, please register in the Court of Appeals clerk's office at the hearing location 30 minutes before the time of hearing. The deputy clerk assigned to your case(s) will direct you to the appropriate courtroom. All parties for all cases must be in their respective courtrooms at the time the session is convened.

Hearing Order of Cases - Cases are generally heard in the order in which they appear on the calendar. On the other hand, a panel may elect to poll the calendar prior to the commencement of argument and to rearrange the order of cases based on the projected length of argument. Nevertheless, parties in the first case should be prepared to begin argument immediately after court is convened in the event that the entire calendar is not polled.

Limitation on Argument Time - Argument time in cases on the calendar which are identified with an asterisk (*) is limited to 15 minutes per side. In all other cases oral argument time is limited to 30 minutes per side. The limitations may be modified by the panel at the time of hearing.

Subject of Oral Argument - At the time of hearing the judges of the panel will have studied the record and the briefs and will be familiar with the facts and issues of the case. Argument should be devoted to clarifying issues as needed and to responding to questions raised by the judges of the panel.

Presenting Additional Citations - Additional citations of relevant decisions rendered since the filing of the party's last brief may be submitted not later than one week prior to the hearing. Such citations should be on letter-size paper, showing proof of service on all counsel and parties not represented by counsel. An original and three copies must be submitted to the court. Under no circumstances may arguments be included with additional citations. On the day of hearing the panel may authorize the filing of additional citations of very recent decisions. Such citations must be submitted on "gum sheets" provided by the clerk's office.

Identity of Panel Members - Not earlier than the week before the court week in which your case will be heard, the names of judges hearing the currently calendared cases will be announced. The names will be posted on the public bulletin board of the clerk's office of your local U.S. district court. You may also determine the names of the judges by submitting with the attached acknowledgement form, a self-addressed postage paid envelope and a card listing the case number, date and time of hearing. We will write the names of the judges hearing your case on this card and will mail it to you at the same time that the official calendars are mailed to the district court clerk's offices for posting.

Continuances - After a case has been calendared continuances are not granted except for a showing of extraordinarily good cause. If oral argument is essential but you find it impossible to be present, you must immediately after receipt of this hearing notice submit a formal motion and supporting affidavit for continuance. Presentation of the motion does not ensure that the continuance will be granted. The court will not consider a motion for continuance after the identity of the panel of judges has been divulged.

OFFICE OF THE CLERK
UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

ACKNOWLEDGEMENT OF HEARING NOTICE

ATTENTION: Calendar Clerk

DATE: _____

I acknowledge receipt of notice of assignment showing my case:

No. _____

Title: _____

assigned for hearing:

Date: _____ Time: _____

Location: _____

Counsel to Argue: Name: _____

Address: _____

Phone: _____

Party(s) Represented: _____

NOTE:

In the event that argument is to be presented "in pro per" please place party's name, address and telephone number in the space provided for counsel.

ADMISSION STATUS

(TO BE COMPLETED BY ATTORNEYS ONLY)

- [] I certify that I am admitted to practice before this Court.
- [] I certify that I am generally qualified for admission to practice before the bar of the Ninth Circuit and that I will immediately apply for admission.

Date: _____ Signature: _____

SSN: _____

RETURN NOTICE TO: Office of the Clerk, U.S. Court of Appeals for the
Ninth Circuit, P.O. Box 547, San Francisco, CA 94101

CITY COUNCIL MEETING
SEPTEMBER 19, 1984

11
CC35
279
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Pg 254

PLANNING
COMMISSION

City Manager Graves gave the following report of the
Planning Commission meeting of September 10, 1984.

ITEMS OF
INTEREST

The Planning Commission -

1. Recommended that the Batch Final Environment Impact Report be certified as adequate environmental documentation. This report covers the 100 acre Batch parcel bounded by Lodi Park West Subdivision on the north; Lower Sacramento Road on the east; and the Woodbridge Irrigation District Canal on the south and west, and the 20 acre Mills property at the northeast corner of Lower Sacramento Road and West Lodi Avenue.
2. Recommended that the Batch parcel be rezoned to P-D (26), Planned Development District No. 26 with the single-family portion conforming to the City's R-2, Single-Family Residential District and the multiple family portions conforming to the City's R-CA, Garden Apartment Residential restrictions with a limitation of 15 units per acre.

The Batch development 325 single-family lots, 2 multiple-family parcels containing 246 units and a 14 acre basin/park site. An elementary school may be substituted for one of the multiple family sites.

3. Recommend that the Mills parcel be rezoned U-H, Unclassified Holding until a development plan can be approved by the Planning Commission and City Council

VARIOUS ITEMS
SET FOR PUBLIC
HEARINGS

On motion of Council Member Reid, Hinchman second, items 1, 2, and 3 heretofore set forth were set for public hearing on Wednesday, October 3, 1984 at 7:30 p.m.