

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

601 NEW JERSEY AVENUE, NW

SUITE 9500

WASHINGTON, DC 20001

December 1, 2010

SECRETARY OF LABOR,	:	
MINE SAFETY AND HEALTH	:	
ADMINISTRATION (MSHA)	:	
	:	Docket No. WEST 2010-1625-M
v.	:	A.C. No. 48-00152-188933 U10
	:	
PACIFIC POWER & LIGHT COMPANY	:	

BEFORE: Jordan, Chairman; Duffy, Young, Cohen, and Nakamura, Commissioners

ORDER

BY THE COMMISSION:

This matter arises under the Federal Mine Safety and Health Act of 1977, 30 U.S.C. § 801 et seq. (2006) (“Mine Act”). On July 30, 2010, the Commission received from Pacific Power & Light Company (“Pacific Power”) a request by counsel seeking to reopen a penalty assessment that may have become a final order of the Commission pursuant to section 105(a) of the Mine Act, 30 U.S.C. § 815(a).

Under section 105(a) of the Mine Act, an operator who wishes to contest a proposed penalty must notify the Secretary of Labor no later than 30 days after receiving the proposed penalty assessment. If the operator fails to notify the Secretary, the proposed penalty assessment is deemed a final order of the Commission. 30 U.S.C. § 815(a).

The Secretary submits that upon reviewing the records in this proceeding, she has determined that the underlying citation in this proceeding, Citation No. 6419908, contained on Proposed Assessment No. 000188933, has been vacated. Accordingly, she submits that the request to reopen should be denied as moot.

Having reviewed Pacific Power's request and the Secretary's response, we deny the request to reopen as moot because the citation in question has been vacated.

Mary Lu Jordan, Chairman

Michael F. Duffy, Commissioner

Michael G. Young, Commissioner

Robert F. Cohen, Jr., Commissioner

Patrick K. Nakamura, Commissioner

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