

ORIGINAL

Decision No. 59150

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
DESERT ELECTRIC COOPERATIVE, INC.,
for modification of tariff schedules
and standard form.

Application No. 41205
(Amended)

Bayard R. Rountree, attorney, for applicant.
John Perchaz and Caroline Perchaz in propria personae.
L. S. Patterson for the Commission staff.

O P I N I O N

Desert Electric Cooperative, Inc., a non-profit corporation, by the above-entitled application, filed June 4, 1959, seeks authority to modify and amend its presently filed tariff schedules to provide that its Application for Membership and Agreement of Membership form, Exhibit No. 5 in this proceeding, be modified and amended to provide that the minimum term of membership shall be for a period of five years; that the Cooperative, by contract, be permitted to provide in said form for a lien upon the property to be served to secure the payment of accounts; and that a new standard form of application, Exhibit "A" attached to the instant application, be approved. By an amendment, filed June 30, 1959, the applicant seeks additional modification of its tariff schedules and standard form filed by it, and that its Rule No. 15-A, Single-phase line extensions, PUC Sheet No. 44-E, authorized to be filed on January 2, 1958, with its tariff schedules authorized by Decision No. 52526, be amended to provide 1000 feet of free footage per member of line

extension in place of the 2000 feet per member contained in the presently filed Rule. Exhibit "A" attached to the amendment to the application sets forth the requested amended Rule No. 15-A.

A public hearing was held before Examiner Stewart C. Warner on August 12, 1959, at Twentynine Palms. Approximately 70 of applicant's member-customers attended the hearing, and 2 of such members protested the application. The matter was submitted subject to the receipt of late-filed Exhibits Nos. 1B, 8, 9, and 11, by August 20, 1959. Such exhibits having been received, the matter is now ready for decision.

General Information

Applicant was organized in 1950 and was granted a certificate of public convenience and necessity and authority to issue membership certificates and evidences of indebtedness by Decision No. 52526, dated January 31, 1956, in Application No. 37250. By said decision, applicant was authorized to file tariff schedules of rates and rules.

Applicant's service area comprises approximately 256 square miles of so-called "high desert" territory extending easterly from Yucca Valley, northerly from Joshua Tree Monument and Pinto Mountains, southerly from the north end of Lucerne Valley, and westerly of Sheeps Hole Pass en route to Amboy. The districts of Rim Rock, Yucca, Sheeps Hole Pass, and other outlying districts are included within the service area but the communities of Yucca, Joshua Tree and Twentynine Palms are excluded therefrom. Such latter communities are served by California Electric Power Company, an electric:public utility. Electric power is purchased from said

California Electric Power Company at a substation in Indian Cove nine miles west of Twentynine Palms on Twentynine Palms Highway, and is distributed over single-phase circuits at approximately 14,400 volts through 486 miles of distribution lines. As of July 31, 1959, applicant furnished electric service to 1787 customers of which 11 were small commercial of 25-KVA or less, one was large commercial, and two were schools, with the balance being domestic non-farm. Of said balance, applicant classified 1466 customers as nonresidents.

Request to File New Paragraphs Nos. 1, 5, 7, and 9
of Application for Membership and Agreement of
Membership Form

Exhibit "A" of the application, the proposed amended Application for Membership and Agreement of Membership, proposes that paragraphs Nos. 1 and 7 of the present application form, Exhibit No. 5, be combined as paragraph No. 1 of said amended application form. Paragraph No. 5 of said exhibit, a proposed new paragraph, provides that an applicant for membership in the Cooperative agrees to cause his premises to be wired for electric service in accordance with the specifications and regulations of the Cooperative and pursuant to the ordinances of San Bernardino County and any applicable laws of the State of California. The purpose of said amendment, the record shows, is to assure to the Cooperative that standard construction and safety practices be followed and agreed to by applicants for membership as to their electrical installations. Paragraph No. 9 of said Exhibit "A", also a proposed new paragraph, provides that the applicant for membership in the Cooperative agrees that the Cooperative may use the membership fee advanced with the application for any investigation or engineering expense incurred with respect to the application or the proposed furnishing of electricity to the premises of the applicant for membership.

The testimony of record supports the granting of the instant application insofar as the proposed new paragraphs Nos. 1, 5, and 9, heretofore outlined, are concerned, and a Commission staff engineer in a report on the application, as amended, for proposed tariff modifications, submitted at the hearing as Exhibit No. 7, recommended such modifications.

Request to File New Rule No. 15-A, Single-Phase Line Extensions and Stipulation with Respect Thereto Entered Into With Staff

With respect to the proposed amendment to Rule No. 15-A, Single-phase line extension, Exhibit "A" of the amendment to the application, the applicant stipulated that the single-phase portion of applicant's existing Rule No. 15 be modified in accordance with the recommendation of the staff engineer set forth on page 7 of Exhibit No. 7. Such modification would provide a single-phase line extension of a determined number of free feet per member should the member guarantee a monthly minimum payment of at least \$10 for a period of five years; that the total free footage determination would be based on the combined free footage for all members to be served by the extension; that when a single-phase line extension required more than the determined free footage allowance, the member should pay to the Cooperative an advance payment of a determined amount of dollars per foot for each foot over and above the free footage, said payment to be made before construction is started; that the advance payment be refunded after two years of service at the rate of 10 percent of the annual bill until such time as the advance payment has been amortized by refunds; and that when a new, permanent installation is supplied by means of an extension on which there remains an unrefunded advance, the Cooperative would refund a determined amount of dollars for each foot that the free footage allowance exceeds the length of

line required to supply the new installation. The record herein supports the acceptance of the stipulation entered into between the Cooperative and the staff, except that the monthly minimum payment should conform with the requirements of the applicable rate schedule and the refund provision of the extension rule will be limited to the proportional cost (cents per foot) basis in order that said refunds give appropriate recognition to new customers or load.

Staff Recommendation Re Filing
Standard Contract Form

The Commission staff engineer recommended that the Cooperative be required to file in accordance with General Order No. 96 an acceptable standard contract form containing provisions for a five-year minimum payment where a line extension is required as heretofore outlined.

Experience of the Cooperative with After-One-Year's Service
Terminations and Bad Losses from Delinquent Accounts

Applicant's president testified that the Cooperative serves approximately 3½ meters per mile of distribution line; that its recent experience had been that approximately 11 percent of applicant's customers terminated their service after the first year of such service; that because of the week-end, nonresident, vacation characteristics of applicant's customers, most of whom owned 2½- or 5-acre tracts of land upon which they had built desert dwellings which only met the U. S. Land Office requirements of 400 square feet, applicant had experienced an unusually large amount of delinquent accounts and losses in connection therewith. Applicant's counsel testified, and Exhibit No. 10 shows, that as of June 30, 1959, 65 of applicant's accounts were then delinquent more than 30 days, in an amount of \$2,440.38, which amount had not been charged off; that 24 small claims cases, in an amount of \$2,512.38, had been filed; that 14 of such claims, in an amount of \$1,234.63, had been collected; and that delinquent accounts, in an amount of \$2,370.00, had been charged off as bad losses.

Relief Sought from After-One-Year's Service Terminations
and Bad Losses from Delinquent Accounts

Because of the temporary characteristics of the majority of the Cooperative's member-customers and the bad losses sustained, as heretofore outlined, applicant's president testified that the Board of Directors had authorized the filing of the instant application seeking two specific types of relief as follows:

(A) First Type of Relief Sought

The first type of relief would be the extension of the membership period requirement from one year to five years. In this regard, the staff engineer testified that an applicant for a single-phase line extension under the Cooperative's presently filed Rule No. 15-A is required to take service for five years at a minimum of \$10 per month, but that the Cooperative had not applied the provisions of this Rule to its present member-customers. He showed, in Exhibit No. 7, that no other membership contracts of electric Cooperatives in California contained any provision of such term in number of years; that Anza Electric Cooperative, Inc., had a three-year term; and that the other three electric Cooperatives in California had indeterminate terms. He testified that in his opinion the Cooperative would be amply protected by the proper application of its presently filed Rule No. 15 where line extensions were involved. He further testified that in his opinion the Cooperative could recover its up-and-down costs, where simple electric service extensions were involved which did not involve the setting of a pole. He testified that, in his opinion, the setting of a pole would constitute a line extension. He recommended that the portion of the instant application requesting a five-year membership requirement from a new member

be denied. He testified, however, that he had not known the extent of the nonresident nature of applicant's customers when he had made his study and recommendations contained in Exhibit No. 7.

(B) Second Type of Relief Sought

In an effort to prevent bad losses from delinquent accounts, applicant's president testified that the Board of Directors had, as a second specific type of relief, recommended the amendment to the Application for Membership which would provide in paragraph No. 7 thereof that the applicant for membership should agree that the Cooperative have a lien on the member's real property for any and all sums that might become due to the Cooperative under the terms of the membership contract. Said lien would be recorded in San Bernardino County and would include all costs and expenses incurred by the Cooperative in the recording and foreclosing of the lien, together with a reasonable attorney's fee to be fixed by the court as to such foreclosure. The record shows that the Cooperative's presently-filed Rules already provide for the discontinuance of electric service in the event of delinquencies; that such service has been discontinued in many instances, but that customers have vacated their property and have ignored claims for delinquent accounts made by the Cooperative; that the collection of delinquent accounts in Small Claims Court actions had been difficult; that distinctions between military and non-military personnel had had to be made, requiring in some instances expensive and extensive investigations; and that attorneys' fees were involved in claims filed in Superior Court. The staff engineering witness testified that no other electric utility, and to the best of his knowledge, no other type of utility in California had any such provision in its tariffs to prevent delinquent accounts or to assist in

the collection thereof. He testified, that, in his opinion, the granting of this portion of the application might set a precedent; that the Cooperative's presently filed Rule No. 7, Deposits, could be utilized to collect deposits from nonowners; and that its presently filed Rule No. 13, Temporary Service, could be utilized more fully by the Cooperative. Such latter Rule permits the Cooperative to collect the net costs of installing and removing any temporary facilities, together with a deposit equal to the full amount of the estimated bill for two months. It was the Cooperative's position in this regard that it would not always be practicable to determine whether or not an applicant for membership was going to be a temporary or a permanent resident; that all homesteads obtained from the U. S. Land Office were required to be improved within a two-year period; and that most homesteaders represented themselves to the Cooperative to be potentially permanent landowners and electric service customers.

Applicant's president testified that the estimated cost of a simple service connection requiring the installation of a 5-KVA transformer at \$155.52, a meter at \$19.60, and an 80-foot service drop, including materials and labor, at \$50, would amount to \$225.12.

Two customers protested the instant application with respect to the proposed property lien provisions of the Application for Membership on the grounds that this provision might constitute a threat against property owners which would deter and impede future sales and transfers of property.

Voting Privileges and Bylaws' Provisions Regarding
Cancellation and Transfer of Membership

The record shows that all members of the Cooperative have privileges of one vote per property-owner member. The record further shows that the Cooperative's bylaws provide that the unfulfilled liabilities and obligations of property owners with respect to their contracts for electric service are transferable to new property owners only to the extent that they exist at the time of transfer. Exhibit No. 8 is an amendment to the Application for Membership form incorporating such provisions of the bylaws. The record shows that memberships are nontransferable, but that when such memberships are cancelled, new certificates are issued to new property owners who receive credit for any unexpired term of a former owner's contract with the Cooperative.

General Statement of Financial Results of Operations of the
Cooperative for the Months of April, May, and June, 1959

The Cooperative's president testified that he was elected to such position on March 14, 1959, and that the Board of Directors was attempting, through the measures herein proposed, to place the Cooperative on a more economically operating basis. Exhibit No. 2 shows that the Cooperative operated at a loss of \$977.89 for the month of April, 1959, a gain of \$187.20 for May, 1959, and a loss of \$1,337.26 for June, 1959. Interest paid on long-term debt was included in such results of operations in amounts ranging from approximately \$2400 per month to \$2900 per month. Such results of operations included no payment on principal of loans which total in excess of \$1,400,000 and do not become payable until after the first five years' operation of the Cooperative.

Request to Reduce Free Footage Allowance in Rule No. 15-A,
Single-Phase Line Extensions, and to Include 65 Cents
Per Foot of Excess Footage Charge

As noted hereinbefore, the Cooperative's service area and pole-line mileage are extensive with a very low average number of electric meters per mile of line, and as further noted, the Cooperative's monthly financial operating results show little or no excess income at the present electric rates for the repayment of principal on debt. The record shows, also as hereinbefore noted, that the Cooperative's Board of Directors is attempting to operate the Cooperative economically. The record does not contain any mathematical data, as such, regarding the requested reduction of free footage allowance from 2000 feet per member to 1000 feet per member, but it may not have been, or be, feasible to develop such data. Exhibit No. 9 shows the cost per foot of line to be \$.61373, not including the cost of transformers.

Findings and Conclusions

After a careful review of the record, the Commission finds as a fact that the public interest requires that the application be granted in part and denied in part. The record clearly discloses that the operations of the Desert Electric Cooperative, Inc., are unique in the wide extent of the area served, in the sparsity of the populated area, in the large number of nonresident customers, in the large percentage of terminations of service after one year's electric service, and in the disproportionately large number of delinquent accounts and amounts of losses.

The granting of the application with respect to the proposed inclusion of an agreement for the placing of a lien against the property in the event of delinquency over thirty days

is without precedent in the State of California with respect to other electric utilities. We find that the inclusion of a lien provision in the Cooperative's application for membership form is an unreasonable requirement for obtaining electric public utility service, is not in the public interest and it will not be authorized.

The record is clear that where a line extension is necessary to serve a new customer, the requirements of a contract to take service for a period of five years is reasonable to protect the Cooperative's investment including pole line construction, which is installed to render service to that particular location. It is apparent that where only a transformer, service and meter are necessary to render service the same degree of protection for the Cooperative's investment is not required, as such facilities may be moved readily and economically so as to provide service at another location. In the latter case the Cooperative needs only sufficient additional revenue to cover the cost of installing and removing the facilities. In the opinion of the Commission, the revenue obtainable under the one-year contractual obligation of the present membership form will cover such costs.

The order hereinafter will provide that the proposed paragraphs Nos. 3 and 6 of the Application for Membership and Agreement of Membership, Exhibit "A" attached to the application, as amended by Exhibit No. 8, be authorized to be included in such Application and Agreement, as set forth in said paragraph, except that the period of required membership shall be one year, and that the applicant shall

agree to pay a minimum of \$10 each and every month for a period of 12 months for electrical energy up to 100 kilowatt-hours, with the provisions of said proposed paragraph No. 3 thereafter remaining as proposed.

It is further found as a fact that, in view of the Cooperative's extensive service area, its very low customer density, and its current financial operating results, the request of the Cooperative to reduce its free footage allowance of 2000 feet per member to 1000 feet and to include a charge of 65 cents per foot for excess footage, each as contained in its proposed and modified Rule No. 15-A, single-phase line extensions, is reasonable. The order which follows will authorize the applicant to modify said Rule in accordance with such request, and to file a new rule in the form recommended by the staff as shown on page 7 of Exhibit No. 7, except the modification to conform to the Cooperative's presently filed rate schedules, as hereinafter noted, together with the said authorized reduced free footage allowance and excess footage charge, and further excepting that refunds on a percentage of revenue basis will not be authorized.

It is found as a fact that increases in rates and charges or more restrictive conditions which may result from the tariff changes hereinafter authorized are justified, and that present rules or standard forms, in so far as they differ therefrom, are for the future unjust and unreasonable.

O R D E R

The above-entitled application, as amended, having been filed, a public hearing having been held, the matter having been submitted and now being ready for decision,

IT IS HEREBY ORDERED as follows:

1. That Desert Electric Cooperative, Inc., a nonprofit corporation, be and it is authorized to modify and amend its Application for Membership and Agreement of Membership in the proposed form set forth in Exhibit "A" attached to the application, as amended by Exhibit No. 8, except as follows:

- a. Paragraphs Nos. 3 and 6 of said proposed form shall provide a minimum of one year's membership instead of a minimum of five years' membership as proposed in said Exhibit, such one-year provision to conform to the outline expressed in the opinion hereinbefore.
- b. Paragraph No. 7 of said proposed form shall be deleted.

2. That the Cooperative be and it is authorized to amend, modify and refile its Rule No. 15-A, single-phase line extensions, in accord with Appendix A attached hereto.

3. That the Cooperative shall, within thirty days after the effective date of this order, file with this Commission, in accordance with the requirements of General Order No. 96, an acceptable standard contract form for line extensions containing a provision for a five-year guaranteed payment of a monthly minimum charge.

4. That the Cooperative shall utilize its Rules Nos. 7, Deposits, and 13, Temporary Service.

5. That in all other respects the application be and it is denied.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 13th day of October, 1959.

Walter D. ... President

E. ...

Richard ...

 Commissioners

Everett C. McKeage
Commissioner & Peter E. Mitchell, being necessarily absent, did not participate in the disposition of this proceeding.

Appendix A

Rule No. 15

LINE EXTENSIONS

A. Single-phase line extensions:

1. The Cooperative will extend its single-phase lines 1000 feet per member when the member will guarantee monthly minimum payments in accordance with the terms of the applicable rate schedule for a period of five years. The total free footage for an extension is determined by the combined free footage for all members to be served by the extension.
2. When a single-phase extension requires more than 1000 feet, the member shall pay to the Cooperative an advance payment of \$.65 per foot for each foot over and above the free footage, said payment to be made before construction is started.
3. When a new permanent installation is supplied by means of an extension on which there remains an unrefunded advance, the Company will refund \$.65 for each foot that the allowable free length of line under Section A-1 for the new installation exceeds the length of line required to supply the new installation.