

ORIGINAL

Decision No. 59218

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

BERNARD W. STEIN and BERNICE A. STEIN,)
 Complainants,)
 vs.)
 SOUTHERN CALIFORNIA EDISON COMPANY,)
 Defendant.)

Case No. 6281

Thomas McGurrin for complainants.
Rollin Woodbury and Harry W. Sturges, Jr., by
H. Clinton Tinker, for defendant.
L. S. Patterson and Norman R. Johnson, for the
 Commission's staff.

O P I N I O N

By the complaint herein, filed by Bernard W. Stein and Bernice A. Stein on June 5, 1959, it is alleged, inter alia, that complainants are the owners of real property described as Lots 1 through 6 of Tract No. 19724, Beverly Hills, Los Angeles County, California; that there is no electrical service at present on Lots 1 through 5 of said tract; that during the years 1954, 1955 and 1956, Robert J. Corcoran owned the land comprising the tract, subdivided it and had certain utilities installed; that during the years 1955 and 1956 the defendant informed the City of Beverly Hills and Robert J. Corcoran that defendant would install underground electrical service to supply Lots 1 through 5 of said tract; that as a result of defendant's request it was granted an easement five feet wide in Lots 1 through 4 in said tract, by a deed recorded on March 15, 1954,

for underground conduits and incidental purposes; that said easement was on the rear of said lots; that defendant prepared a proposed underground construction map for electrical service on said lots in May, 1954, after conveyance of the said easement; that defendant informed the City of Beverly Hills and Robert J. Corcoran during the years 1955 and 1956 that the total cost to construct the underground electrical service as set forth in the May, 1954, construction map would be \$4,760; that by reason of the defendant's representation as to the location of and cost of the electrical installation, the City Council of Beverly Hills directed Robert J. Corcoran to deposit a total of \$4,760 with the city clerk to guarantee the payment for the installation of the underground conduits; that on and prior to May 23, 1956, Robert J. Corcoran deposited \$4,760 to cover the cost of the said installation; that on or about October 10, 1958, complainants purchased the property in question; that on or about October 17, 1958, complainants requested that defendant inform them as to the cost of the installation of the underground facilities and advised defendant that they desired that the facilities be constructed as soon as possible in accordance with the May, 1954 plan; that in March or April, 1959, defendant notified complainants that it could not install the underground electrical system pursuant to the May, 1954 plan as the city would not permit it; that defendant advised the complainants that it would install the underground system in the streets in front of the lots at a cost to complainants in excess of \$13,000; and that the City of Beverly Hills does not object to the installation of the underground electrical service in accordance with the May, 1954 plan. The complainants pray that the Commission order the defendant to install electrical

service and construction in accordance with the May, 1954 plan at a reasonable price which considers cost increases since the 1955 and 1956 estimates.

On June 29, 1959, the defendant filed an answer. Therein it admits certain matters and denies others. Among the admissions it states that it prepared preliminary engineering specifications for underground installations in the rear of the lots and that the information was made available to the City of Beverly Hills and Robert J. Corcoran; that it was granted a five-foot-wide easement over the rear of the lots; that it informed the City and Robert J. Corcoran that the cost of the installation would be \$4,760, but alleges that at no time did it enter into an agreement with said Robert J. Corcoran on a definite cost basis; defendant alleges that the money deposited with the City of Beverly Hills by said Robert J. Corcoran was at the request of said Corcoran, that the deposit be allowed in lieu of posting a bond in order to retain the status of the subdivision as a legal tract; and that said deposit was voluntary and not as a result of representations made by the defendant. The defendant alleges that good engineering practices and the provision of adequate service to complainants require that defendant install underground service by street installations in front of complainants' lots and in accordance with its rules and regulations; that this would cost complainants approximately \$13,000; and that it will bill the complainants for the actual cost of said installation.

Public hearings on the complaint were held before Examiner Kent C. Rogers in Los Angeles on August 21 and September 3, 1959, the matter was orally argued and submitted. It is ready for decision.

The record and reasonable inferences from the evidence show the following facts, which we find to be true.

Tract No. 19724 is in the City of Beverly Hills. It consists of six lots. Complainants' predecessor in interest owned the property and subdivided it. In May, 1956, defendant furnished the City of Beverly Hills a plan for the installation of electrical service and telephone service through an underground conduit on the rear of the lots (Exhibit No. 1 herein). This plan was prepared by defendant, and the total cost of the telephone and electrical facilities was estimated to be \$4,760. This sum was deposited with the City by complainants' predecessor in interest and the subdivision was approved. Thereafter complainants acquired Lots 1 through 6 in Tract No. 19724 and requested that defendant proceed to install the electric service as planned. Defendant refused to install according to the original plan (Exhibit No. 1) and offered to install underground services from mains in the front of the lots (Exhibit No. 2). The estimated cost of the electrical installation alone was estimated to be \$7,500 under the second plan (Exhibit No. 2). This compares with an estimated cost at present-day prices of \$3,600 for the electrical installation only under the original plan. Under either plan, adequate electricity can be furnished, except that under the first plan, (Exhibit No. 1), an additional transformer vault would be required at the north end of the easement at an additional cost, above the \$3,600, of \$2,000. This extra \$2,000 above the original estimate is caused by the requirement of additional transformer capacity to handle the assumed increased volume of electricity to be furnished. At the time the original plan (Exhibit No. 1) was filed by defendant, it was acceptable to the defendant. Since that time, defendant's thinking has changed

and it does not now install according to such plan. The defendant objects to the installation pursuant to the first plan (Exhibit No. 1) for the reasons (1) that servicing the underground system would be difficult because of the inability of defendant's employees to reach the rear of the lots, and going through the yards would cause poor public relations, and (2) since the 1954 plan was promulgated there has been an increase in electrical usage resulting in installations of larger capacity transformers and conduits.

The City of Beverly Hills will permit installation under either plan.

The defendant's rules and regulations simply require that the installation be made according to the company's specifications (Southern California Edison Company's Rule No. 15, i.e., Revised Cal. P.U.C. Sheet No. 2749-E).

Neither the filed tariffs nor the applicable law of the City of Beverly Hills specifies the particular type of installation to be made herein. The defendant approved the subdivision plans showing the installation of service along the rear of the lots. The complainants purchased the subdivision while these plans were on file and with knowledge thereof. The estimated cost for the installation of electric and telephone services was \$4,760 at the time the complainants acquired the property and this money was and is on deposit with the City of Beverly Hills to cover the cost of the defendant's services plus the telephone installation. The same engineer of the defendant was responsible for the first plan and the second plan. It appears immaterial which plan of construction is followed by defendant. The complainants or their predecessors in interest having deposited with the City of Beverly Hills the cost,

as estimated by defendant, of installing the requested services, no good reason appears why defendant should not be required to complete the installation subject to admittedly enlarged requirements including an additional transformer at a cost of approximately \$2,000 and the difference in cost of materials and supplies between the time the deposit was made in 1954, and the actual cost at the time of construction. It is immaterial whether defendant installs the service in the street in front of the property, as per Exhibit No. 2, or on the easement in the rear of the property, as per Exhibit No. 1. Defendant will be ordered to install service at a location to be determined by it but to require from the complainants only \$3,600 to cover the estimated cost under the original plan adjusted to present-day costs, plus the cost of installing the extra transformer vault estimated at \$2,000.

O R D E R

A complaint having been filed, public hearings having been held thereon, and the Commission having made the foregoing findings, and based on said findings,

IT IS ORDERED that Southern California Edison Company shall install electrical service to complainants' property known as Lots 1 through 5 of Tract No. 19724 at a cost to complainant which shall not exceed \$3,600, as per the May, 1954 plan (Exhibit No. 1), plus \$2,000 for an additional transformer vault. Said service may be provided pursuant to either the Exhibit No. 1 or the Exhibit No. 2 plan.

The Secretary of the Commission is directed to cause service of a certified copy of this order to be made upon the defendant and

this order shall be effective twenty days after the completion of such service.

Dated at Los Angeles, California, this 3rd day of November, 1959.

Curtis W. Page
President
[Signature]
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Theodore Jenner
Commissioners