

ORIGINAL

Decision No. 77187

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's
own motion into the Rules Pertaining
to Underground Extensions to Com-
mercial and Industrial Developments
and to Individual Customers of all
Electric and Communication Public
Utilities in the State of California.

Case No. 8993
(Filed November 4, 1969;
Amended February 20, 1970)

(See Appendix A for Appearances)

INTERIM OPINION

The amendment to the Order Instituting Investigation in this proceeding enlarged the scope of the investigation to determine whether or not the rules of electric and telephone utilities do make it mandatory that all future extensions within residential subdivisions be constructed underground.

Following due notice, this phase of the proceeding was included on the agenda at public hearings held before Commissioner Sturgeon and Examiner Catey in Los Angeles on March 17 and 18, 1970 and in San Diego on April 27, 28, 29 and 30, 1970. Respondents and interested parties were given an opportunity to make statements and some presented evidence in support of their position on this issue.

Position of Parties

The Commission staff recommends that, in the absence of compelling evidence to the contrary, the underground line extension rules applicable to residential subdivisions should be deemed mandatory so that any future overhead line construction in such subdivisions would require that a deviation be authorized by the Commission.

The position of most of the electric utilities is that mandatory undergrounding rules are not necessary but would be acceptable if provision is made for Commission authorization of deviations in exceptional cases. One electric utility stated that undergrounding in new subdivisions within its service area already has been made mandatory by local ordinances. Another electric utility recommended that a mandatory undergrounding rule for subdivisions should state specifically that it applies to existing subdivisions where extensions have not yet been installed, as well as to new subdivisions, whereas another electric utility wanted it to apply only to new subdivisions. Some rural electric cooperatives contend that a mandatory undergrounding rule would be grossly unfair to their members.

The large telephone utilities did not offer any objections, comments or recommendations relative to mandatory undergrounding in residential subdivisions. A representative of the smaller telephone utilities stated that they had no objection to a mandatory rule provided no change was made in the present definition of a subdivision.

California Builders Council stated that there is no evidence in this record to justify mandatory underground extensions. That group further contends that, if the undergrounding rules become mandatory, the subdividers' responsibility in the present rules for certain conduits and trenching should become the utilities' responsibility.

Several developers of "lot-sale" and "recreational community" developments expressed doubts and objections to mandatory undergrounding in their areas, due to economic considerations. They were particularly concerned that any mandatory rules that might be prescribed would be applied retroactively.

The League of California Cities advocated adoption of mandatory undergrounding rules.

In Decision No. 76394, dated November 4, 1969, in Case No. 8209, the Commission found, among other things, that underground should be the standard for all extensions by electric and telephone utilities. The subdivision extension rules prescribed by that decision were intended to implement that finding. However, there was doubt among the parties whether or not underground construction became mandatory. These parties felt that elimination of overhead construction remained voluntary with the utilities and developers rather than becoming mandatory.

The record shows that the utilities and developers have generally responded commendably to the Commission's decision. The vast majority of extensions of electric and telephone lines in new subdivisions since the effective date of Decision No. 76394 have been underground. Under the interpretation by many parties of the present tariff provisions, however, the electric utility and the developer must both agree to undergrounding in order to make the present subdivision underground extension rule applicable. Thus, under such interpretation, with or without a valid reason, and without Commission review or even timely knowledge, either a utility or a subdivider could subvert the intention of Decision No. 76394.

It will be far better for the Commission to scrutinize closely the circumstances whenever a utility or a developer wishes to install overhead utility extensions in a residential subdivision.

There is no merit in the contention that the relative responsibilities of utilities and developers resulting from the present subdivision line extension rules should be modified when the rule is

made mandatory. Those relative responsibilities have been deemed reasonable by their having been prescribed by the Commission. Making the rule apply in essentially all cases, rather than just in most cases, does not render those relative responsibilities unreasonable. If the rule is applied in a discriminatory manner, as suggested by some developers, appropriate relief can be sought by a formal complaint.

From an aesthetic standpoint, there is no merit to the contentions that undergrounding should not be required for "lot-type" or "recreational community" developments, where construction of residences is spread over many years. Slow growth does not make it desirable to have festoons of electric and telephone lines in a tract. However, the record shows that some developments have progressed to the point where plans cannot be changed without serious or even disastrous financial impact on the developer. The order made herein will exempt such developments from the mandatory undergrounding provisions. Other developers who do not fall within this exemption, but feel that for one reason or another they should be exempted from the mandatory requirement of the subdivision line extension rules, may file a formal complaint with the Commission seeking relief, or the appropriate utility may file an application requesting such relief. However, the Commission wishes to emphasize that only exceptional circumstances will hereafter justify the granting of any further exemptions.

Developers who are now planning sales programs have requested, and are entitled to, a prompt determination of the issue of voluntary versus mandatory undergrounding. In view of the finding

in Decision No. 76394 that underground should be the standard, no further evidence is needed merely to implement that finding by making undergrounding mandatory for residential subdivisions. It thus is appropriate to dispose of the issue at this time by interim order.

Findings and Conclusion

The Commission affirms its finding in Decision No. 76394 that:

"Undergrounding should be the standard for all extensions."

The Commission further finds and concludes that it is in the public interest that undergrounding should be mandatory for all new residential subdivisions, but that such a mandatory requirement should not apply to those subdivisions for which a master plan, preliminary map or tentative map has been filed with the appropriate local authorities pursuant to the Subdivision Map Act on or prior to the effective date of this order and where an agreement is entered into with a utility for electric service within two years after the effective date of this order.

INTERIM ORDER

IT IS ORDERED that:

1. Within twenty days after the effective date of this order, each respondent providing electric service shall file revised tariff sheets which add the following to the end of the title of Section C, Rule No. (15) or (20), Line Extension (C. Overhead Extensions to Serve Subdivisions or Tracts, Housing Projects and Multi-Family Dwellings*):

- * Not applicable to service within a new single-family and/or multi-family residential subdivision of five or more lots (subdivision) and in a new residential development consisting of five or more dwelling units in two or more buildings located on a single parcel of land (development) unless a master plan, preliminary map or tentative map has been filed for the subdivision with the appropriate local authorities pursuant to the Subdivision Map Act on or prior to May 5, 1970, and where an agreement has been entered into with the utility for electric service prior to May 5, 1972.

2. Within twenty days after the effective date of this order, each respondent providing telephone service shall file revised tariff sheets to make underground extensions mandatory in new residential subdivisions consistent with the undergrounding requirement set forth in paragraph 1 above.

3. Filings made pursuant to the foregoing paragraphs in this order shall comply with General Order No. 96-A. The effective date of the revised sheets shall be four days after the date of filing.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 5th day of May, 1970.

William J. Quinn
President
J. H. Quinn
John H. Quinn
Vernon L. Sturgeon
Commissioners

Commissioner A. W. Gatov, being necessarily absent, did not participate in the disposition of this proceeding.

LIST OF APPEARANCES

| <u>PARTY</u> | <u>APPEARANCE</u> |
|---|--|
| <u>Respondent Electric Utilities</u> | |
| Anza Electric Cooperative, Inc. | <u>G. J. Whittlinger</u> |
| California-Pacific Utilities Company | <u>John P. Vetromile</u> |
| Pacific Gas & Electric Company | <u>Daniel E. Gibson</u> , John C. Morrissey, F.T. Searls, and Ross Workman |
| Plumas-Sierra Rural Electric Cooperative | <u>A. E. Engel</u> |
| San Diego Gas & Electric Company | Chickering & Gregory (by C. Hayden Ames, Sherman Chickering, <u>David R. Pigott</u> , and Donald J. Richardson, Jr.) and <u>Stanley Jewell</u> |
| Sierra Pacific Power Company | <u>Richard G. Campbell</u> and <u>Ralph P. Cromer</u> |
| Southern California Edison Company | <u>H. W. Sturges, Jr.</u> , <u>H. Clinton Tinker</u> , and <u>R. E. Woodbury</u> |
| Southern California Water Company | <u>William V. Caveney</u> |
| Surprise Valley Electrification Corporation | <u>Donald W. Hicks</u> |
| <u>Respondent Telephone Utilities</u> | |
| Continental Telephone Company of California | <u>C. N. Morris</u> |
| General Telephone Company of California | <u>Donald J. Duckett</u> and <u>A. M. Hart</u> |
| The Pacific Telephone and Telegraph Company | <u>George A. Sears</u> and <u>Pillsbury, Madison & Sutro</u> |
| <u>Interested Parties</u> | |
| American Water Works Association, California Section | <u>C. G. Ferguson</u> and <u>G. A. Wyss</u> |
| Boise Cascade Properties, Inc., and Boise Cascade Properties, Inc., of Delaware | <u>John H. Cutler</u> |
| California Builders Council | <u>Fred F. Cooper</u> |
| California Farm Bureau Federation | <u>William L. Knecht</u> |
| California Independent Telephone Association | <u>Neal C. Hasbrook</u> |
| California Water Service Company | <u>C. G. Ferguson</u> and <u>Parker M. Robinson, Jr.</u> |

APPENDIX A
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| El Dorado County Developers Association League of California Cities | <u>George C. Baron</u> <u>Ralph Andersen and Daniel J.</u> <u>Curtin, Jr.</u> |
| City of Los Angeles, Department of Water & Power City of Long Beach Oceanic Properties, Inc. Moffett Park Associates | <u>Allen D. Fricke and G. A. Wyss</u> <u>Louis Possner</u> <u>Reverdy Johnson</u> <u>Slinger & Associates, Inc. (by</u> <u>Robert Membrano)</u> |
| 16 Recreational Community Developers Sacramento Municipal Utility District City of San Diego | <u>Sam Whiting</u> <u>Donald M. Haight</u> <u>John C. Witt (by C. M.</u> <u>Fitzpatrick and Kenneth H.</u> <u>Launsbery)</u> |
| Southern California Gas Company and Southern Counties Gas Company Tahoe Paradise, Inc. Titan Group, Inc. City of Walnut Creek | <u>John Ormasa and Robert Salter</u> <u>George C. Baron</u> <u>Elaine S. Schwartz</u> <u>Daniel J. Curtin, Jr.</u> |
| <u>California Public Utilities</u> <u>Commission</u> | |
| Staff Counsel Utilities Division | <u>Timothy E. Treacy</u> <u>Kenneth J. Kindblad</u> |