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Decision No. 80811

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Mr. and Mrs. Alvin J. McGowan,  
Complainants,

v.

San Diego Gas & Electric Co.,  
a corporation,  
Defendant.

Case No. 9342  
(Filed March 6, 1972;  
Amended August 24, 1972)

Higgs, Fletcher & Mack, by Pitts Mack,  
Attorney at Law, for complainant.  
Gordon Pearce and Frederick I. Fox, by  
Frederick I. Fox, Attorney at Law,  
for San Diego Gas & Electric Company,  
defendant.

### O P I N I O N

This is a complaint regarding the removal of an existing pole and associated equipment and the installation of a new pole and equipment on San Elijo Street, in San Diego. Complainants requested defendant to remove the new pole and relocate it to its original position or to remove the existing overhead system and replace it with an underground system. Defendant did not remove the new pole nor did it underground the system as requested. Thus this matter was brought before the Commission.

Complainants allege that defendant's action has caused them mental suffering and anguish as well as certain money damages to the value of their home.

Hearing was held at San Diego on August 24, 1972 before Commissioner Moran and Examiner Gillanders and the matter submitted.

Testimony and exhibits were adduced from complainants and defendant. In addition, testimony was adduced from a Mr. Gant called by the examiner.

Based on the record, we find as follows:

1. On November 9, 1971 defendant erected a new pole on San Elijo Street, San Diego, opposite the extension of the property line between the property of complainants and the parcel immediately to the north.

2. The new pole substitutes for another location on San Elijo Street, approximately 35 feet to the north.

3. The pole in the new location serves electricity to two homes on the easterly side of San Elijo Street which were served since 1947 from the old pole. Neither the new pole nor the old pole serves the home of complainants.

4. The new pole was placed because a sketch, provided to defendant by a contractor building a new home on the property immediately to the north of complainants' property, showed that the old pole would be in the proposed driveway to the new house.

5. The driveway was not placed as proposed and the old pole was not in the driveway as built.

6. The new pole is the source of underground service to the new residence.

7. The new residence is owned by R. Gant.

8. Mr. Gant saw the old pole before he bought the property.

9. Mr. Gant did not request the removal of the old pole.

10. It is the policy of defendant that once a work order of the type used in replacing poles is issued no further check is made to determine if the need for the work order still exists.

11. Defendant's field crews have no authority to question the work assigned to them.

12. It would cost approximately \$600 to remove the new pole and place it in the old pole location.

Based on these findings we make the following conclusions of law:

1. Defendant's policy of not checking the need for work once a work order has been issued resulted, in this case, in unnecessary and useless expenditure of not only its funds but the funds of others.
2. Defendant's policy is not in accordance with generally accepted utility practice.
3. Defendant should be ordered to remove the new pole and install a suitable pole in the same location as the old pole it replaced.
4. Defendant should pay all costs involved in the removal and installation including any incurred by Mr. Gant necessary to maintain his underground electric service.
5. This Commission has no authority to award damages for the type of damage, suffering, and anguish alleged in the complaint.

O R D E R

IT IS ORDERED that defendant shall immediately remove the new pole, install a suitable pole at the former location of the old pole, and do all work necessary to continue service to its existing customers at no cost to such customers.

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

Dated at San Francisco, California, this 12<sup>th</sup> day of DECEMBER, 1972.

Vernon L. Sturgeon  
President  
William G. Moore  
Harry Brown  
Robert J. Vukasin, Jr.  
Commissioners