

Decision No. 82455

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ROBOB LTD.,
a Limited Partnership,
JERRY H. BUSS and FRANCIS R.
MARIANI, General Partners,

Complainant,

vs.

SOUTHERN CALIFORNIA EDISON
COMPANY, a corporation,

Defendant.

Case No. 9556
(Filed May 11, 1973)

Marvin E. Levin, Attorney at Law,
for Robob Ltd., complainant.
Woodbury, Cahall, Elston, by William T.
Elston, Attorney at Law, for
Southern California Edison Company,
defendant.

O P I N I O N

The dispute in this proceeding concerns the application of the tariff rules of Southern California Edison Company (Edison) as they relate to serving complainant's new 78-unit apartment building by an electric line extension. Complainant contends defendant improperly required payment of \$1,270.50 by complainant and seeks a refund in that amount from defendant. Defendant denies this contention and urges that the complaint be dismissed. A duly noticed public hearing was held in this proceeding before Examiner Main in Los Angeles on August 30, 1973. The matter was submitted subject to the filing of briefs, the last of which was filed on November 26, 1973.

The central issue is whether defendant's Rule No. 15, Line Extensions, and Rule No. 15.1, Underground Extensions Within New Residential Subdivisions, require, as Edison contends, the undergrounding of line extensions to serve new apartment buildings with separately metered dwelling units. As an aid in resolving this issue official notice is taken of the following decisions: Decision No. 76394 dated November 4, 1969 in Case No. 8209, Decision No. 77187 dated May 5, 1970 in Case No. 8993, and Decisions Nos. 78294 dated February 9, 1971 and 78500 dated March 31, 1971 which are also in Case No. 8993.

In Decision No. 76394 and again in Decision No. 77187 the Commission made the finding that undergrounding should be the standard for all extensions of electric distribution systems. Edison filed its Rule No. 15.1 pursuant to Decision No. 76394 and amended Section D.1. of its Rule No. 15 pursuant to Decisions Nos. 78294 and 78500 as follows:

" . . . All line extensions to serve new residential subdivisions shall be made underground in accordance with Rules Nos. 15 and 15.1 unless exempted by Section C of Rule No. 15 or the exceptional case provision of Section E.7. of Rule No. 15 and Section E.4. of Rule No. 15.1. All line extensions to serve new commercial and industrial developments shall be made underground in accordance with Rules Nos. 15 and 15.2 unless the extension to the new commercial and industrial development is exempted by the exceptional case provision of Section E.7. of Rule No. 15 and Section D.3. of Rule No. 15.2. Underground line extensions to serve individuals will be made only where mutually agreed upon by the utility and the applicant, except in those areas where the utility maintains or desires to maintain underground distribution facilities for its operating convenience or in compliance with applicable laws, ordinances, or similar requirements of public authorities."

As a result of the above enumerated decisions promulgating tariff rules governing underground line extensions, a mandatory undergrounding requirement was imposed for extensions

to serve residential subdivisions and commercial or industrial developments. In these decisions extensions to serve individuals was the only general category of extensions expressly exempted from the mandatory undergrounding requirement. In this regard we said in Decision No. 78294: ". . . There is insufficient evidence in the record, however, to warrant making undergrounding mandatory for an extension to serve an individual customer. The general provisions of the present rule applicable to extensions to individuals result in undergrounding of such extensions where existing and planned nearby facilities also are underground. To require a single individual to be served by an underground extension where all other facilities in the area are overhead might be unreasonable."

An extension to serve an apartment building or residential development, however, is not in the ordinary sense an extension to serve a residential subdivision, a commercial or industrial development, or an individual. Presumably because of this lack of definitive classification, the Commission staff made inquiries at about the time Edison's Rule No. 15.1 became effective to determine how Edison intended to apply its extension rules to new residential developments other than subdivisions. Edison's written reply to these inquiries was to the effect that Rule No. 15.1 would be applied to line extensions to serve new residential developments of five or more separately metered domestic accommodations where all the accommodations are located on a single premises.

The applicability of the tariff rules of electric utilities under our jurisdiction governing underground extensions to serve new residential subdivisions differs in this respect to some extent, and it does so in response to certain differences in practices in determining delivery points. In this regard Edison

under its long standing practice makes available multiple delivery points to an apartment house with separately metered dwelling units if load requirements are met. This is in contrast to the practices of Pacific Gas & Electric Company (PG&E) and San Diego Gas & Electric Company (SDG&E) which ordinarily provide one delivery point to an apartment building.

Accordingly, PG&E and SDG&E elected to modify "Rule-.1, Underground Extensions Within New Residential Subdivisions", as prescribed in Appendix A to Decision No. 76394, to provide coverage of new residential developments of two or more buildings. Edison in turn elected to file the rule as set forth in that appendix and to interpret "new residential subdivision" for purposes of its Rules Nos. 15 and 15.1 as including a new residential development with five or more separately metered dwelling units on a single premises without regard to the number of buildings or lots involved. (From the standpoint of the line extension's basic configuration it appears to matter little whether or not the group of residential units served on a single premises is in one or more than one building if multiple delivery points are provided.) This interpretation was conveyed to the Commission staff as well as in announcements made by Edison at the time of adoption of its Rule No. 15.1 and in its instructions manual for its employees, the Edison's System Manual.

Decisions Nos. 76394, 78294, and 78500, Edison's Tariff Rules Nos. 15 and 15.1 and the testimony and exhibits herein establish, and the Commission finds as follows:

1. Complainant began construction of a 78-unit apartment building on a site near the corner of Ocean Avenue and Bicknell Street, Santa Monica, California, in approximately January of 1972.

a. To make way for this new construction approximately seven existing residential structures were demolished or removed as was the Edison pole situated about 50 feet inside the building site from which those residential structures had received overhead electric service.

b. The site consists of six previously subdivided lots and is bounded on three sides by streets.

2. There are both overhead and underground electric distribution lines near the site.

3. At some point prior to the completion of the plans for furnishing electric service to the new apartment building, Edison's customer service planners informed complainant's representatives that the only way that Edison could serve the building was by underground line extension.

a. The indicated source of power for the extension was a 16-kilovolt power source located 130 feet away in a vault in the middle of Ocean Avenue, from which complainant would be required by Edison to perform the trenching and backfilling and provide and install the conduit for the 130 feet to reach the on-site portion of the underground extension.

b. Complainant's representative questioned the reasonableness of this requirement and requested Edison to furnish a copy of its pertinent tariff provisions.

4. The service plan, which was completed in about late May of 1972, confirmed that the source of supply for the new apartment building would be the 16-kv power source previously specified. It called for an underground distribution line extension which includes three single-phase transformers to serve five meter bank locations and one three-phase transformer set to serve the house meter.

5.a. In June of 1972 Edison prepared an agreement entitled Agreement for Extension of Underground Electrical Lines Within

a New Residential Subdivision, Exhibit 2 herein. At that time complainant appeared to have agreed to do all necessary trenching, backfilling, and laying of conduit including that for the 130 foot underground extension from the vault in Ocean Avenue, if required by Edison's extension rules. Complainant did not sign the agreement until May 2, 1973. Between these dates this agreement became inconsistent with the further understandings of the parties and the transactions which evolved.

b. In early 1973, as an outcome of an informal complaint processed by the Commission staff, Edison agreed that, consistent with prior decisions of the Commission, complainant's obligation for the portion of the underground extension in dispute should be limited to the cost of trenching, backfill, and conduit to the nearest source of power. This resulted in Edison's performing these operations to reach the power source instead of complainant and in complainant's being charged \$1,270.50 for the 70 feet of trenching, conduit, and backfill necessary to reach the 4-kv power source on Bicknell Street rather than \$2,268.78 for the 130 feet necessary to reach the 16-kv underground power source actually used. Complainant paid the \$1,270.50 to Edison in order to obtain electrical service to the building but did so under protest.

b. Underground construction, rather than overhead, is the standard for all distribution line extensions of electric utilities under the jurisdiction of this Commission.

a. Undergrounding is mandatory for line extensions to new residential subdivisions and to new commercial and industrial developments but not for line extensions to serve individuals.

b. A new apartment building with separately metered dwelling units served by an extension providing multiple points of delivery has by its nature a high customer density and gravitates toward classification as a residential subdivision from the standpoint

of the developer's role in arranging for utility service and on the basis of the electrical distribution system layout required. Clearly, it is not representative of an extension to serve an individual customer.

7. Edison's Rule No. 15.1 applies to: "Extension of underground distribution lines at available standard voltages necessary to furnish permanent electric service within a new single-family and/or multifamily residential subdivision of five or more lots..."

a. In applying this rule, Edison in effect interprets "new...residential subdivision of five or more lots" to include new residential developments of five or more separately metered dwelling units on a single premise and has done so, it appears, during the entire period Rule No. 15.1 has been in effect.

b. With this interpretation it would follow from Section D.1. of Edison's Rule No. 15, quoted hereinabove (mimeo p. 2), that line extensions to serve new apartment buildings such as complainant's must be made underground.

c. Edison's interpreting Rules Nos. 15 and 15.1 in this way is consistent not only with underground construction, rather than overhead, being the standard for electric line extensions but with the line extensions to serve individuals being the only classification of extensions expressly exempted from the mandatory undergrounding requirement.

8. The extension to serve complainant's building is governed by Edison's Rule No. 15.1, and therefore the agreement in evidence as Exhibit 2 is deficient in that it does not reflect complainant's obligation to pay Edison the \$1,270.50.

The Commission concludes that:

1.a. Edison's interpretation, as set forth in Finding 7 above, of its Tariff Rules Nos. 15 and 15.1 is consistent with our decisions promulgating tariff rules for underground line extensions.

b. This interpretation and its consistent application by Edison is approved.

c. Edison Tariff Rules Nos. 15 and 15.1 should be made explicit as to their applicability to new residential developments by appropriate revision of their contents.

2.a. Edison has applied properly its Tariff Rules Nos. 15 and 15.1 in making the line extension to serve complainant's new apartment building.

b. Complainant is not entitled to the relief it seeks.

O R D E R

IT IS ORDERED that the relief requested 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 FEBRUARY, 1974.

Hermon L. Sturgeon
President
William L. Sinsola
X/V. Walker
[Signature]
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Commissioners