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Decision No. 83682

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of THE AUSTIN-ROBERT  
COMPANY, a California corporation,  
to request deviation from the  
mandatory undergrounding rules for  
Trinity Lake Forest Unit #1.

Application No. 54788  
(Filed April 5, 1974)

Robert J. Oberdick, for applicant.  
Linda S. Friedman, Attorney at Law,  
for Pacific Gas and Electric  
Company, interested party.

O P I N I O N

Hearing

After due notice public hearing in this matter was held before Examiner Coffey at San Francisco on May 20, 1974. The matter was submitted upon receipt of applicant's late-filed exhibit on August 21, 1974.

Requested Relief

The Austin-Robert Company, a California corporation, as owners and subdividers of a real estate subdivision known as Trinity Lake Forest Unit No. 1, requests an order which authorizes a deviation from the mandatory undergrounding rules of the Pacific Gas and Electric Company (Pacific).

Trinity Lake Forest Unit No. 1

Trinity Lake Forest Unit No. 1 is a recreational and seasonal subdivision in Trinity County, located about 25 miles north-east of Weaverville. Part of the unit is within 1,000 feet of State Highway 3 (Route 3). The subdivision area is approximately 101 acres divided into 151 parcels which range in size from 1/4 acre to 3 acres.

There are approximately 100 acres adjacent to the subdivision which are subject to future subdivision. The property is described as a wooded, sparsely developed, rural area. A water system, consisting of two wells, water main, and service laterals, has been installed. An electric overhead distribution pole line has been built inside the northern boundary of the subdivision. The line extends 3,620 feet from Lot No. 2 to the east edge of Lot No. 55. The line continues underground in an easterly direction for a distance of about 640 feet outside the subdivision, across the scenic easement, and Route 3, to an overhead pole line located on the east side of Route 3. In addition to the service of the two water pumps located on Lot No. 2, underground services from the overhead pole line have been established to provide service to Lots Nos. 28 and 43. Two houses have been completed but have not requested service because of the cost of underground service. Fifty-eight of the 151 lots have been sold.

Lots Nos. 1 through 151, inclusive of Trinity Lake Forest Unit No. 1, are shown on a map recorded on March 17, 1970 in Book 5 of Maps and Surveys, Trinity County Records.

Scenic Highway

The witness for Pacific testified that the latest report of the Department of Transportation dated January, 1974 indicates that Route 3 in Trinity County from Weaverville to the Siskiyou County line is currently under review by the state and local jurisdictions for designation as a Scenic Highway. Accordingly, Pacific treats Route 3 at this subdivision as a designated Scenic Highway. In accordance with Decision No. 80864 dated December 19, 1972, Pacific proposes to install electric facilities underground that are within 1,000 feet of the westerly boundary of Route 3 at locations where the facilities are visible from Route 3 unless the Commission directs otherwise.

Approximately 30 lots of the subdivision are within 1,000 feet of the westerly boundary of Route 3. However, because of the terrain and tree cover, it is difficult without an actual field survey to determine whether or not overhead facilities would be visible from Route 3 since the elevation of Route 3 is lower than the roads of the subdivision. This record does not disclose which lots of the subdivision may be subject to the provisions of Decision No. 80864, nor does this record disclose which of these lots may be exempt from the requirements of the decision because the electric facilities would not be visible from Route 3.

Decision No. 80864 orders:

- "1. After December 31, 1972, no respondent electric or communication utility, whether privately or publicly owned, shall install overhead distribution facilities in proximity to any highway designated a State Scenic Highway pursuant to Article 2.5 (commencing with Section 260) of Chapter 2 of Division 1 of the Streets and Highways Code and which would be visible from such scenic highways if erected aboveground, unless (a) a showing is made before the Commission that undergrounding would not be feasible or would be inconsistent with sound environmental planning, or (b) the overhead construction had been commenced or contracted for prior to the date of this order.

\* \* \*

- "B. In interpreting the foregoing paragraph 1, the following shall apply:

'Distribution' shall have the same meaning as now defined in each utility's tariffs, unless a different definition is prescribed by further order of the Commission.

'Install' shall not include repairs or replacements of existing overhead facilities in the same location unless the visual impact would be significantly altered, but shall include moving to, or replacing at, a new location.

'In Proximity To' shall mean within 1,000 feet from each edge of the right-of-way of designated State Scenic Highways.

'Designated State Scenic Highway' shall consist of those portions of state and county highways eligible under the State Scenic Highways Master Plan which actually have been officially designated as State or County Scenic Highways pursuant to action by the Department of Public Works. This does not preclude a utility from establishing an underground zone pursuant to its tariffs, covering extensions in proximity to eligible highways which have not yet officially been designated.

'Visible From' shall mean that overhead distribution facilities could be seen by motorists or pedestrians travelling along the scenic highway."

#### Discussion

Since applicant has not and does not propose to provide line extensions to serve all of the lots of the subdivision, applicant is not requesting a deviation so it can have overhead lines constructed, but it is requesting a deviation which will permit individuals to obtain overhead line extensions to their lots. Individuals were advised at the time when they purchased their lots that 'Electricity is available at buyer's cost. Buyers should check with PG&E for details'.

It will not be necessary to discuss in detail the presentations of applicant and Pacific. It is sufficient to note that tariffs prescribing the conditions under which overhead extensions are permitted and underground extensions are required to serve individuals have been ambiguous, conflicting, and the cause of confusion and errors in interpretation. Because of the numerous special circumstances and combination of circumstances, this Commission has held further hearings considering certain special circumstances and has ordered changes in the tariffs to clarify or expand the provisions. Clarification after further consideration may still be indicated, but this proceeding is not the proper vehicle for prescribing further tariff modifications.

Decision No. 81620 dated July 24, 1973 amplified extension rule requirements to make it clear that an individual applicant for service in a residential subdivision would automatically qualify for an overhead extension only if the subdivision itself qualified. The decision required Pacific to file revised tariff sheets for Rule 15 which included under Section C, entitled Overhead Extensions to Serve Residential Subdivisions of Developments, the following subsection:

"Extensions to Serve Individuals. Where overhead extensions are permitted under Section C.1, extensions to serve individual applicants for service in residential subdivisions will be made in accordance with Section B hereof."

Decision No. 81620 and Decision No. 81869 dated September 12, 1973 also caused modification of the conditions under which overhead extensions may be constructed to serve residential subdivisions or developments.

Section C of Pacific's Rule 15, Line Extensions, now reads:

"C. Overhead Extensions to Serve Subdivisions or Developments.

1. Conditions of Service.

Overhead extensions may be constructed when conditions in either a. or b. below are found to exist:

a.(1) The lots within the residential subdivision or development exist as legally described parcels prior to May 5, 1970, and significant overhead lines exist within the subdivision or development,  
or

(2) ..."

Since the lots of the Trinity Lake Forest Unit No. 1 were legally described on March 17, 1970 and substantial overhead line exists within the subdivision, it appears that overhead line extensions to individual lots in Trinity Lake Forest Unit No. 1 would not conflict with Pacific's filed tariffs provided the overhead line extensions do not conflict with the requirements for scenic highways.

Findings and Conclusion

1. The lots of Trinity Lake Forest Unit No. 1 were legally described on March 17, 1970.

2. The lots of Trinity Lake Forest Unit No. 1 were legally described prior to May 5, 1970.

3. An overhead line presently exists in Trinity Lake Forest Unit No. 1.

4. The overhead line in Trinity Lake Forest Unit No. 1 is a significant overhead line.

5. Pacific's Rule No. 15 provides that overhead line extensions are permitted to serve individuals in residential subdivisions when the lots within the subdivision are legally described parcels prior to May 5, 1970, and significant overhead lines exist within the subdivision.

6. Some overhead extensions in Trinity Lake Forest Unit No. 1 may be within 1,000 feet of Route 3 and visible from the proposed scenic highway.

We conclude that applicant's request for a deviation should be denied since the relief requested is available if the filed tariffs are correctly interpreted, and that Pacific should be directed to permit overhead line extensions to individuals provided the extensions are not visible from Route 3.

O R D E R

IT IS ORDERED that:

1. The request of The Austin-Robert Company for a deviation from the mandatory undergrounding rules of the Pacific Gas and Electric Company is denied.

2. Pacific Gas and Electric Company shall interpret and apply Subsections C.1.a(1) and C.4. of its Rule 15, Line Extensions, to permit overhead line extensions to individual lots in Trinity Lake Forest Unit No. 1 where such extensions are more than 1,000 feet from State Highway 3 or are not visible from State Highway 3.

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

Dated at San Francisco, California, this 16th  
day of NOVEMBER, 1974.

Vernon L. Stenger  
President  
William J. Lyons, Jr.  
Robert E. McFarland  
Commissioners

Commissioner Thomas Moran, being necessarily absent, did not participate in the disposition of this proceeding,