

Decision No. 85777**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Continental Port  
Industrial Park For Authority  
To Deviate From Rules Re Mandatory  
Undergrounding of Electric and  
Telephone Lines in the Industrial  
Subdivision.  
(Electric and Telephone)

Application No. 56090  
(Filed November 25, 1975)

O P I N I O NStatement of Facts

Continental Port Industrial Park (Continental), a joint venture of Continental West Port, Inc., a California corporation, and Port Sacramento Land Company, a Delaware corporation, owns a 632-acre tract of land, presently being used for farming, which Continental is developing into an industrial park offering both light and heavy industrial sites. The tract, located in East Yolo County west of West Sacramento, is roughly trapezium in shape, and is protected on all but the northern side by levees. It is bordered on the east by the ship-turning basin of the Port of Sacramento, on the south by the Sacramento Deep Water Ship Channel, on the west by Yolo Bypass farmlands, and on the north by a trailer park adjoining Interstate Highway 80. Apart from this trailer park, the nearest residential areas lie 1-1/2 miles northeast and east of the subject site. The use of the site as an industrial park is in compliance with the planned land uses of the Yolo County general plan.

As of August 19, 1975, the developers had tentatively divided the tract into 64 lots with a minimum area of two acres per lot, although except for two parcels in escrow with buyers, some 89 percent of the total land involved in the tract is subject to redesign and marketing modifications. The developers have designated the southern part of the tract, roughly that part lying south of a pathway designated "Seaport Boulevard" (between Seaport Boulevard and the Sacramento Deep Water Ship Channel) as "heavy industry", and the part north of Seaport Boulevard as "light industry".<sup>1/</sup> The elevation of the land slopes downwards from north to south toward the deep water ship channel. An existing 12-kv overhead line on poles runs north-south the length of the western boundary of the tract, and both an existing 115-kv transmission line and an overhead 12-kv line run the length of the eastern boundary, also on poles.

Continental plans initially to serve the development with electric service drawn from Pacific Gas and Electric Company's (PG&E) existing eastern and western power lines. However, since only a portion of the total area is now being developed it would be very difficult to speculate as to what electric demands will be created in the future or how much of a distribution system will be required. Similarly, the telephone requirements are unknown at this time. Normally the developer would be required to underground such electric distribution and telephone systems.

By this application Continental seeks authority to deviate from the mandatory undergrounding provisions of PG&E's Rules 15 and 15.2, and Pacific Telephone's Rule 15 so as to permit overhead electric and telephone services within that portion of its industrial park designated as "heavy industry". The two lots now in escrow,

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<sup>1/</sup> See Exhibit A to this opinion.

Lots 1 and 2,<sup>2/</sup> are being sold to Levin Metals Corporation and Collier Carbon and Chemical Corporation, respectively. These lots are located in the heavy industry portion of the planned industrial park and are situated in the southwestern corner along the Sacramento Deep Water Ship Channel. These lots measure approximately 52 acres and 16 acres, respectively. While Lot 1 initially can have its 12-kv primary service requirements met from the existing 12-kv overhead line adjacent to and running parallel to its (and the park's) western border, it also will require 115-kv primary service which must be brought east to west directly across the industrial development from the existing 115-kv transmission line running on the eastern border of the park. If the requested deviation is granted, Continental would utilize underground distribution for the light industry area to the north of Seaport Boulevard, and overhead distribution in the heavy industry area to the south of Seaport Boulevard, for both electrical and telephone services.<sup>3/</sup> Eventually the entire 12-kv distribution system would be supplied from a substation which the developer proposes to construct south of Seaport Boulevard in the mid-area of the heavy industry portion of the park. This substation in turn would be supplied by the east-west 115-kv transmission line which must in any event be constructed across the park to service Lot 1.

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<sup>2/</sup> Lots 1 and 2 are indicated by cross hatching, supra, Note 1.

<sup>3/</sup> Pacific Telephone would not be obligated to underground if there is no legal prohibition to the construction of overhead electrical facilities; rather it would determine its method of construction based solely on the economic advantage.

On March 14, 1974 West Sacramento Port Center, predecessor in interest to Continental, submitted a draft Environmental Impact Report (EIR) to the county of Yolo, lead agency for the project. The county approved the draft EIR and adopted it as its own on April 16, 1974, after discussing the use of overhead facilities in the area south of proposed Seaport Boulevard.

The application was listed in the Commission's Daily Calendar of December 1, 1975. No objection to the granting of the deviation has been received. Both Yolo County and PG&E express their lack of objection. The staff, after consultation with Continental, and considering the size of the planned structures, the expected buildup of scrap metal piles nearly 100 feet tall by one of the lot purchasers and erection of large 100-foot tall storage tanks by the second lot purchaser, the present existence of overhead lines on both sides of the park - which cross the Sacramento Deep Water Ship Channel on towers large enough to be seen from all parts of the park - and an assumption that prospective buyers of remaining lots in the heavy industry portion of the park will erect equally sizeable and massive structures, recommended that a deviation from undergrounding, limited to the heavy industry area south of proposed Seaport Boulevard, should be granted ex parte.

#### Discussion

It has been the policy of this Commission to require undergrounding of all new residential, commercial, and industrial electrical and communications service and facilities unless compelling

reasons otherwise dictate granting of deviation authority.<sup>4/</sup> In Decision No. 85497, issued as an interim opinion on March 2, 1976 in Case No. 9365, the Commission reaffirmed its policy regarding the undergrounding of distribution lines, and recognizing technical advances in the state of the art, expanded that policy to cover the undergrounding of all overhead lines regardless of voltage classification. As we noted elsewhere,<sup>5/</sup> this Commission is not inclined to grant deviations from undergrounding requests on the basis of cost and difficulty alone. Rather we will restrict granting of deviations to those specific projects where an almost complete absence of aesthetic considerations coalesce with strong economic and technical reasons not to underground. In our opinion this application meets these stated criteria.

In order to serve the southwest corner lot fronting on the Sacramento Deep Water Ship Channel, one of the two lots now in escrow and the one which will require 115-kv primary service, it will be necessary to extend 115-kv service east-west all the way across the "heavy industry" section of the industrial park. It is proposed that this 115-kv service be overhead, and to use the corridor established by this 115-kv line for overhead 12-kv distribution and telephone service in the heavy industry section of the industrial park. It is this section of the park for which Continental is

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4/ In Decision No. 76394 dated November 4, 1969 in Case No. 8209, the Commission, noting that "it is the continued policy of this Commission to encourage underground construction", concluded that all electric and communication distribution systems within new subdivisions should be installed underground, and that whenever feasible, to be determined at the local level, underground construction should be required in commercial and industrial developments. Subsequently, by Decision No. 77187 dated May 5, 1970 in Case No. 8993, the Commission made undergrounding mandatory for all new residential subdivisions. Decision No. 78294 dated February 9, 1971 in Case No. 8993 extended mandatory undergrounding to new commercial and industrial developments unless a deviation from this requirement is authorized by the Commission.

5/ Dart Industries, Inc. (1973) 74 CPUC 587, 589.

seeking deviation from mandatory undergrounding. The section is to be devoted to heavy industry and is an area designated as "Heavy Industrial (M-2) Zone" under Yolo County Zoning Regulations.<sup>6/</sup> The two industrial firms which are located in this section of the park will be typical of heavy industry. One will create and build up immense scrap piles nearly 100 feet tall, using large cranes and bulk loading and moving equipment. The second will erect large industrial tanks also almost 100 feet tall, with attendant piping.

The sector selected for heavy industry is an area relatively isolated, and one specifically selected to minimize adverse effects on adjoining areas. The nearest residential area of any size, a trailer park on the northern boundary of the industrial park and adjoining Interstate Highway 80, is at least 2,600 feet distant at the nearest point from the heavy industry section of the park. The nearest general residential area is 1-1/2 miles northeast and east from the industrial park. Adjoining areas on the west and south are undeveloped seasonal farmlands in the Yolo Bypass area, and are inundated part of each year by controlled release of flood waters out of the Sacramento River. The heavy industry section of the park is well beyond the 1,000-foot proximity distance limitation established by the Commission to meet requirements of Section 320 of the California Public Utilities Code.<sup>7/</sup> Thus, should Interstate Highway 80 ever be designated a state (or county) scenic highway, no conflict would result.

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<sup>6/</sup> Article 19.01 of the Yolo County Zoning Regulations with reference to a "Heavy Industrial (M-2) Zone", notes the purpose of such zoning:

"To provide areas exclusively for the normal operation of almost all industries including those which may create some objectionable conditions, subject only to those regulations needed to control congestion and to protect the surrounding area or adjoining premises. This zone, therefore, can approximately be established only on certain locations that are selected so as to minimize adverse effects on adjoining areas."

<sup>7/</sup> See Decision No. 80864 dated December 19, 1972 in Case No. 9364.

To underground in the heavy industry section of the industrial park would necessitate additional and not unsubstantial costs to Continental. The area, bordered on three sides by levees designed to keep out flood waters, was itself built up several feet from its natural level by deposits of material dredged when the Sacramento Deep Water Ship Channel was constructed. The heavy industry section is at the lower south end of the industrial park adjoining the ship channel and the water table is close to the land surface. Installation of underground distribution lines with adequate protective covering ground would be difficult. Based upon the estimated 4,400 feet of substructure required by undergrounding, the initial cost to the developer for the 12-kv distribution lines alone would be between \$66,000 to \$132,000, although some of this outlay would be recovered based upon electric revenues.<sup>8/</sup> We also note that it is contemplated that at a future date a spur of the Western Pacific Railroad would be built east-west along the 115-kv corridor across the upper third of the heavy industry section. The rail bed would be running along what is termed by the U.S. Army Corps of Engineers as the high water line, and would be constructed as a levee. As such, under the Army's rules, it could not be pierced to accommodate electrical distribution lines which might be needed to accommodate the as yet undefinable needs of future lot purchasers.

The industrial park is already bordered on the east and west sides by existing overhead 115-kv and 12-kv lines. These overhead lines cross the ship channel on towers that are tall enough to

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<sup>8/</sup> See Rule 15.2, Section C.2 of Pacific Gas and Electric Company's tariff schedule, and related provisions for details on refunds of the substructure costs.

be visible from all parts of the industrial park. The general plan of Yolo County contemplates possible construction of a bridge across the ship channel. The approaches to this bridge generally would bisect the heavy industry section of the industrial park to connect the West Capitol Avenue (Drake Avenue) freeway interchange at Interstate Highway 80 with a proposed westward extension of Florin Road. A very high bridge would be required to surmount the 140-foot clearance that must be maintained over the ship channel. In the alternative a bascule-type bridge could be used. Neither would contribute aesthetically to the area.

The Commission takes official notice that Yolo County is the lead agency for the overall industrial park under the guidelines contained in the Regulations (Title 14, Division 6, California Administrative Code) designed to implement the California Environmental Quality Act of 1970 (CEQA). We note that Sacramento Port Center, predecessor-in-interest to Continental, submitted a draft EIR to Yolo County on March 14, 1974, and that Yolo County on April 16, 1974 approved and issued its Final EIR for the industrial park project. Nonetheless, under provisions of Section 15039 of the Regulations (Title 14, Division 6, California Administrative Code), this Commission is a "Responsible Agency",<sup>9/</sup> and as such must consider the Final EIR of the lead agency before acting upon or approving an application such as the one before the Commission.<sup>10/</sup> While in this instance the

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<sup>9/</sup> "'Responsible Agency' means a public agency which proposes to undertake or approve a project, but is not the lead agency for the project. It includes all public agencies other than the lead agency which have approval power over the project."

<sup>10/</sup> Section 15085(j) of Title 14, Division 6, California Administrative Code.



lead agency did not solicit comment from or consult with the California Public Utilities Commission as required by provisions of Sections 15015 (b) and (d) of the Regulations (Title 14, Division 6, California Administrative Code), about the possible environmental consequences of deviation from the mandatory undergrounding policy of the Commission, under all the facts shown by this application we do not consider that defect so significant that this Commission should assert lead agency status over the undergrounding deviation aspect of the overall industrial park project.<sup>11/</sup> Under the specific considerations involved in EIR approval of this project we cannot find the environmental impact derived from this deviation from mandatory undergrounding to be of any significance. The lead agency did discuss and consider use of overhead facilities in their EIR processing. They found no objection to overheading in the heavy industry section of the industrial park.

Given the factors present in this application: the almost complete superfluousness of aesthetic considerations inherent in the heavy industrial (M-2) zoning of this section of the industrial park; the indeterminate end use to which 89 percent of the total area will be put; the undergrounding difficulties inherent in terrain where the water table is so near the surface; the relatively high voltage of some of the service needed; the ready availability of existing overhead service on each side of the park; the distance from any residential area; and the heavy additional expense to the developer of undergrounding, we conclude there is present that coalescence of an almost complete lack of aesthetic consideration with strong economic and technical reasons which serve to justify a deviation. Accordingly, a deviation from the mandatory undergrounding provisions of our general policy, PG&E's Rules 15 and 15.2, and Pacific Telephone's Rule 15 to permit overhead electrical and telephone service and facilities within and confined to the heavy industry section of Continental's proposed industrial park should be granted.

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<sup>11/</sup> But see Decision No. 84978 dated October 7, 1975 in Application No. 55012.

Findings

1. Continental owns and is developing a large industrial park on the Sacramento Deep Water Ship Channel west of West Sacramento on land zoned by Yolo County as "heavy industrial".

2. Continental has divided the park roughly in half with the northern half to serve light industry, and the southern half fronting the deep water ship channel to serve heavy industry.

3. The land making up the industrial park is surrounded on three sides by levees designed to prevent seasonal flooding out of the Yolo Bypass.

4. The water table is very close to the land surface, particularly in the southern - or heavy industry - section of the park adjacent to the deep water ship channel.

5. Both 115-kv and 12-kv primary electrical service run overhead on poles along the eastern side of the park. A 12-kv service runs overhead on poles along the western side of the park. All services cross the deep water ship channel on towers over 140 feet tall.

6. Two lots in the southwest corner of the heavy industry section of the industrial park, fronting on the deep water ship channel, are in escrow.

7. The southwestern corner lot requires 115-kv primary service which must be brought from the existing 115-kv service on the eastern border of the park. To accomplish this service it will be necessary to traverse the entire heavy industry section of the park with a 115-kv primary service corridor.

8. Apart from a trailer park on the south side of Interstate Highway 80 and adjacent to the northern boundary of the industrial park - and 2,600 feet from the nearest part of the heavy industry section, the nearest residential area is 1-1/2 miles distant to the northeast and east.

9. The farmlands west of the industrial park and south of the deep water ship channel are part of the Yolo Bypass flood control area.

10. The two heavy industry firms in escrow for the two lots will create scrap piles and storage tanks, both about 100 feet in height, as part of their operations.

11. Installation of undergrounding to allow adequate protective overlying ground would be difficult because of the high water table in the heavy industry portion of the industrial park.

12. Undergrounding costs in the heavy industry section of the park alone would add \$66,000 to \$132,000 to the developer's initial costs although some of this outlay would be recovered subsequently based upon future electrical revenues.

13. A future railroad spur traversing the heavy industry section of the industrial park following the planned 115-kv primary service corridor will further complicate undergrounding.

14. Future power and communication requirements in the heavy industry section aside from the two lots in escrow are purely speculative.

15. Yolo County is the lead agency under provisions of the California Environmental Quality Act, and has approved a Final EIR for the industrial park project. The considerations leading to that Final EIR included possible overhead electrical and communication service and facilities.

16. This Commission is a "Responsible Agency" under the California Environmental Quality Act, and as such considered the Final EIR of the lead agency in its processes relating to this deviation application.

17. The environmental impact of overhead electrical and communication service and facilities in the heavy industry section of this industrial park will be insignificant.

18. The staff recommended ex parte approval of the requested deviation.

Conclusions

1. Under the conditions here existing there would be no significant aesthetic disadvantages to the public in extending electrical and communications service and facilities overhead rather than underground; technical problems in undergrounding would be considerable; and the economic advantages in overheading would be substantial. Therefore application of this Commission's mandatory undergrounding policy, PG&E's Tariff Rules 15 and 15.2, and Pacific Telephone's Tariff Rule 15 would be unjust, and the requested deviation from undergrounding in the heavy industry section of Continental's industrial park would not be adverse to the public interest.

2. The requested deviation should be granted. A public hearing is not necessary.

O R D E R

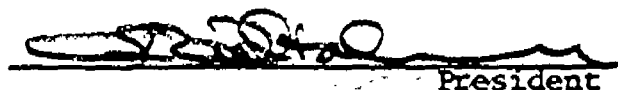
IT IS ORDERED that:

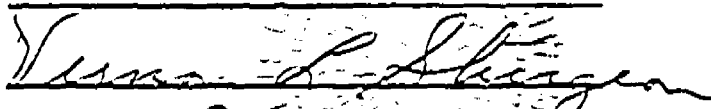
1. Pacific Gas and Electric Company and The Pacific Telephone and Telegraph Company are authorized and directed to deviate from the mandatory undergrounding provisions of their respective tariff line extension rules to the extent of providing overhead electrical and communication service and facilities in and limited to the heavy industry section of Continental Port Industrial Park's industrial park located in East Yolo County west of West Sacramento (see Exhibit A to this order).

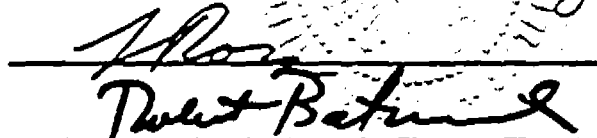
2. Within thirty days after completion of any facilities constructed under this deviation authority, Continental Port Industrial Park shall file with this Commission a complete description of such facilities.

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

Dated at San Francisco, California, this 24  
day of MAY, 1976.

  
President



  
Commissioners

Commissioner William Symons, Jr., being necessarily absent, did not participate in the disposition of this proceeding.

