ltc

Decision No. 85788

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own Motion into the Planning, Construction, Operations, Practices, Aesthetics, and Economics of Overhead and Underground Transmission Facilities of all Electric Public Utilities in the State of California.	Case No. 9365 (Filed April 18, 1972)

ORDER DENYING REHEARING AND
AMENDING DECISION NO. 85497

On April 18, 1972, the Commission issued an order instituting an investigation of overhead and underground electric transmission facilities. After 26 days of hearing an interim opinion, D.85497, was issued which ordered each respondent electric corporation to file a revised Rule 20 substantially as set forth in Appendix B of D.85497 within 30 days of the effective date of this order. Rule 20 deals with undergrounding electric transmission and distribution lines; D.85497 removed the voltage limit on undergrounding.

Petitions for rehearing were filed by Pacific Gas and Electric Company (PG&E), San Diego Gas & Electric Company (SDG&E), and Southern California Edison Company (SCE).

Discussion

Since the petitions for rehearing raise similar grounds for rehearing, each distinct claim of error will be stated only once, followed by a discussion of the merits of that claim.

According to PG&E, the evidence does not support adoption of Rule 20 without a voltage limitation. PG&E states that all of the utilities that presented evidence on this subject suggested that the new voltage limitation for Rule 20 should be 70 kv. The Commission

staff also agreed on this point, as shown in the staff's Exhibit 92-A which sets forth its suggested Rule 20 modification. According to PG&E, the staff stated in direct testimony that it recommended that a reasonable period of experience with the undergrounding of transmission lines below 70 kv occur before any requirements for conversions at higher voltages are imposed.

However, according to PG&E, the Commission in D.85497 ignored its own staff's admonition with respect to a voltage limitation to be contained in Rule 20. PG&E believes that this action ignores the evidence concerning the expense of undergrounding high voltage transmission lines and the reliability problems associated with such undergrounding. Local agencies, according to PG&E, "who attempt to use Rule 20 money for undergrounding of all overhead lines will find that transmission line undergrounding costs are so high that they will be able to underground very little with their funds."

PG&E's assertion that all utilities and the staff suggested that the new voltage limitation for Rule 20 be 70 kv is accurate, but PG&E ignores the fact that approximately 30 percent of the testimony and exhibits in this matter deal with Foster City's contention that the 115 and 230 kv overhead lines running through that city should be undergrounded. The testimony and exhibits of Foster City clearly establish that such construction can be done for a fraction of the cost estimated by PG&E and would result in reliable service. Such testimony, as well as other testimony regarding undergrounding presented by the private utilities, is persuasive evidence and refutes the staff's contention that more experience is needed for voltages higher than 70 kv.

A careful reading of Assembly Concurrent Resolution No. 78 shows that the Legislature did not limit its request that the Commission expand its program for the undergrounding of transmission facilities to those of 70 kv or less. It is apparent that the Legislature recognized that the utilities were not undergrounding at a pace satisfactory to the Legislature and that it wanted the undergrounding of transmission facilities of any voltage to take place sooner than the utilities were planning. D.85497 clearly is in harmony with the legislative intent of ACR No. 78.

According to SDG&E, the rule set forth in Appendix B of D.85497 (Rule 20 - Replacement of Overhead with Underground Electric Facilities) is deficient in the following respects.

Paragraph A of the new rule states:

> "The utility will, at its expense, replace its existing overhead electric facilities with underground electric facilities along public streets and roads, and on public lands and private property across which rights-of-way satisfactory to the utility have been obtained by the utility, ..."

The rule presently in effect contains the following additional (underlined) language:

> "The utility will, at its expense, replace its existing overhead distribution facilities with underground distribution facilities along public streets and roads, and on public lands and private property across which rights-of-way satisfactory to the utility have been obtained, or may be obtained without cost or condemnation, by the utility..."

SDG&E is concerned by the deletion of the phrase "or may be obtained without cost or condemnation" as it relates to obtaining easements for distribution electric facilities. The deletion of that language in the new formulation of the rule, according to SDG&E, creates a strong presumption that the Commission is now placing the cost burden for obtaining easements for distribution purposes on the utility.[1/]

According to SCE, the application of Rule 20 as proposed may result in a substantial loss of property rights to SCE. It contends that the inclusion of a high voltage major transmission line or right-of-way within an underground district which would require that all such existing overhead electric facilities be removed would in effect be a taking of SCE's property without the payment of just compensation; that many of SCE's major transmission rights-of-way have been acquired by the payment of substantial consideration; that prohibition of the use of such rights-of-way for economic overhead construction to meet system load growth due to underground districts formed under Rule 20A would impose a substantial economic burden upon SCE and be violative of its constitutional rights of due process of law. We do not agree.

Testimony adduced by Foster City shows that if overhead transmission lines on a right-of-way were placed underground in the same right-of-way or preferably in the city streets - the so-called "franchise area" - the resulting ability to use the ground for other purposes has substantial value. If a right-of-way is not used for utility purposes, the utility would not suffer damages, but would, in many instances, benefit from a subsequent sale of the property for nonutility uses.

1/ We thought it would be apparent to everyone that "satisfactory" meant "giving or producing satisfaction of a kind to meet requirements or expectations" (Webster's New Collegiate Dictionary). The new wording simplifies the previous wording, and obviously if the utilities do not want to pay, then requiring payment would not be satisfactory to the utility.

According to SDG&E, Paragraph A.2 of the rule provides that:

> "...where there is a carry-over, the utility has the right to set, as determined by its capability, reasonable limits on the rate of performance of the work to be financed by the funds carried over. When amounts are not expended or carried over for the community to which they are initially allocated they shall be assigned when additional participation on a project is warranted or be reallocated to communities with active undergrounding programs."

In D.77879 in A.52250, the Commission specifically approved somewhat different language for SDG&E's carry-over provision of its Rule 31.A. SGD&E's current rule provides that:

> "...where amounts budgeted for any calendar year are not expended in that calendar year or the next two succeeding calendar years following the budgeting thereof because of forces beyond the control of the utility, then in that event and that event only the utility may reallocate the unexpended amounts of money in its discretion, to communities with active undergrounding programs, or with the approval of the Commission for any other lawful purpose."

The record in this proceeding is void of any comment, discussion, or criticism of the present language in SDG&E's Rule 31.A. There is, therefore, no basis for a change in this language and SDG&E asserts that the requirement that it file language substantially similar to Paragraph A.2 is in error. We agree and will so amend D.85497. However, SDG&E is put on notice that at further hearings it must present evidence why it should not be treated the same as all other electric utilities operating in California.

Reevaluation of the issues involved in D.85497 compels us to reject the petitions of PG&E, SDG&E, and SCE for rehearing. For clarity, however, we shall expand and restate the findings and conclusions made therein.

Findings

1. ACR No. 78 requested that the Commission expand its program for the undergrounding of transmission facilities and include the undergrounding of service connections in special cases of hardship or inequity.

2. ACR No. 78 did not limit its request to voltages of 70 kv or less.

3. The record has substantial evidence regarding the costs of undergrounding transmission lines of voltages above 70 kv.

4. Seventy kv lines and above which are undergrounded are reliable.

5. The cost of constructing underground lines at voltages above 70 kv when private utilities or electrical contractors do the work is substantially less than when such lines are constructed by public utilities.

6. The Commission staff presented no testimony regarding transmission line costs at any voltage.

7. The basis for the staff's recommendation that 70 kv be the limit was not adequately explained.

8. "Satisfactory" means giving or producing satisfaction of a kind to meet requirements or expectations. The utilities are not required to pay for rights-of-way or easements under the rule set forth in D.85497.

9. The evidence shows that the utilities will not be deprived of property if they relocate overhead facilities to underground on rights-of-way or easements obtained at no cost to the utility.

Conclusions

1. The use of so-called 8209 funds should not be restricted to distribution lines but, in the best judgment of the appropriate political bodies, should be used to underground lines of any voltage.

2. Such use of 8209 funds is in harmony with the wishes of the Legislature as set forth in ACR No. 78.

3. Such use of 8209 funds is in harmony with this Commission's policy of encouraging undergrounding.

4. Paragraph A.2 of Rule 20 should not apply to SDG&E.

5. PG&E, SDG&E, and SCE having petitioned for rehearing, and no adequate grounds having been made to appear, rehearing should be denied.

IT IS ORDERED that:

1. Decision No. 85497 is hereby amended by the substitution of Findings 1 through 9 and Conclusions 1 through 5 in lieu of the findings and conclusions set forth in Decision No. 85497.

2. Each respondent providing electric service shall, within thirty days from the effective date of this order, in accordance with the procedure prescribed by General Order No. 96-A, file with this Commission the rule substantially as set forth in Appendix B attached to Decision No. 85497. Such rule shall become effective on not less than five days' notice to the Commission and to the public and shall cancel and supersede the corresponding existing rule respecting replacement of overhead with underground electric facilities. Paragraph A.2 does not apply to San Diego Gas & Electric Company.

3. The petitions of Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company for rehearing of Decision No. 85497 are denied.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 11th day of MAY, 1976.

President

Commissioners

I abstain
Vernon L. Sturgeon

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