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ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

1049 MARKET STREET ASSOCIATES, a
California Limited Partnership,

Complainant,

vs.

PACIFIC GAS & ELECTRIC COMPANY,

Defendant.

(U-39E)

Case 87-03-035
(Filed March 20, 1987)OPINIONSummary

1049 Market Street Associates (complainant) requests that Pacific Gas and Electric Company (PG&E) be ordered to bear the cost of a transformer vault required to provide electric service to complainant's commercial building.

Commission denies relief requested.

Procedural Summary

The complaint was filed on March 20, 1987. PG&E filed its answer on April 23, 1987. The parties agreed to submit this matter for decision on the basis of their prepared testimony. PG&E and complainant submitted prepared testimony on November 6 and 25, 1987, respectively. PG&E submitted prepared rebuttal testimony on December 18, 1987 and the matter was submitted for decision.

Statement of Facts

In October 1980 complainant purchased 1049 Market Street, San Francisco, a commercial building. The property had suffered extensive fire damage in 1979 and the property was purchased with the intention of rehabilitating it for commercial use.

The main electrical panel serving the building clearly states on the face of the equipment that it is rated for 2,000 amperes (amp.). It is complainant's contention that since PG&E had connected its service to this panel, the building was entitled to draw a load up to a level consistent with the 2,000 amp. rating of this panel (or 416 kilovolt-ampere (KVA)).

Consistent with its plan to develop the building for commercial use, complainant notified PG&E that additional load was to be connected. By letter dated June 11, 1985 PG&E advised complainant as follows:

"In order to provide service to your new electrical load of 374 KVA (533 kW connected), it will be necessary for you to provide a transformer vault in accordance with Electric Rule 16 (copy attached). Attached is a rough sketch indicating the area where the transformer vault can be built.

"Presently, the capacity of the existing service facilities to your 2,000 amp panel is approximately 100 KVA. If your proposed load is connected to the existing network system, an outage will occur leaving your tenants without power."

Then, in a letter dated August 12, 1985 PG&E further advised complainant as follows:

"Thank you for your July 24, 1985 letter regarding the transformer vault.

"Your letter correctly mentioned that PGandE connected service to the 2,000 ampere panel. However, 'physical alteration' has occurred since the panel was originally connected. The physical alteration is the recent load increase in excess of 75 KVA and the new 400 amp fire pump service.

"As outlined in Electric Rule 16; a transformer vault must be provided by the owner for loads in excess of 75 KVA."

Complainant then determined that the cost of the transformer vault was approximately \$40,000.

Complainant contends that there has been no "physical alteration" to the main service at any time, and a change in the level of service provided by PG&E is, apparently, the cause of the problem. Therefore, complainant submits that PG&E should waive the requirement of a transformer vault, or pay the cost of the vault.

In support of its position that the level of PG&E's service should match the rated capacity of the building switchboard, complainant submitted the prepared testimony of its electrical contractor, which states:

"When 1049 Market Street Associates bought the building, I inspected the premises. I am a licensed electrical contractor. I observed a fairly new panel showing that the main panel had a 2,000 amp capacity. Although I have been involved in the purchase and renovation of several other buildings, I had never encountered another situation where PG&E was supplying load less than the rated capacity of the main panel. Neither the previous owner nor PG&E notified me in any way that less load than capacity was being supplied to this main.

"Accordingly, I believed that approximately 416 KVA was being supplied to the building. . . ."

Addressing the same question as to whether the level of PG&E's service should match the rated capacity of the building switchboard, the prepared testimony of PG&E's Service Planning Representative states:

". . . PG&E occasionally grants service requests for large switchboards with low initial loads, as was the case here. Sometimes, service applicants wish to install larger-than-initially-needed electric service panels in anticipation that at some future date the unused service capacity will be required. This approach is beneficial to service applicants since they are spared the expense of re-installing a larger electric service panel at a later date. When PG&E agrees to serve

under such conditions, the service applicant is informed that a transformer vault or pad space may be required at whatever time future load additions occur. PG&E currently serves hundreds of customers in San Francisco in this manner and with this understanding.

"Mr. On installed a main electrical service of 2000 Amps at 1049 Market Street. An entry in the service representative's job file customer contact log sheet made on January 23, 1977 indicates that the applicant, Lewis C. On, was to construct a network transformer vault with dimensions of 9 feet wide by 16 feet long by 10 feet in height prior to connecting future load. (Exhibit 6.)"

* * *

". . . A notation in the job file folder log sheet (Exhibit 6) dated November 13, 1978 indicated that the owner had run out of money and was not going to develop the building any further."

PG&E argues that the basis for its contention that complainant should provide the transformer vault at its expense is PG&E's Electric Rule 16. According to PG&E, Rule 16.C states that, if an applicant's load in an urban area is such that a separate transformer of 75 kVA or greater must be installed to serve his load, then he must provide space on his property for the placement of that transformer. In downtown San Francisco, which is part of San Francisco's Network Distribution System, this means that the applicant must provide a subterranean transformer vault.

PG&E's explanation as to why it did not require the previous owner of the building to comply with Rule 16 is set forth in the prepared testimony of its Service Planning Representative as follows:

"When the job estimate for 1049 Market Street was prepared by PG&E's Engineering Department in 1976, company engineers estimated that the initial demand to be imposed upon our system by the applicant's proposed initial connected load

of 79 kW was approximately 40 kVA, using a calculation method similar to the one described above. The future demand was estimated at 350 kVA, pending further information about the nature of those future appliance loads, which PG&E never received. PG&E committed its service facilities to Mr. On for the initial demand, but not for the future demand, which as I have pointed out, was mere conjecture. (Exhibit 4.)"

Then, in his prepared rebuttal testimony, PG&E's Service Planning Representative adds:

"If PG&E had required the previous owner to comply with Rule 16 when it was not necessary, it would have been a hardship for him. As I previously testified, the expected demand load at 1049 Market never materialized but remained around 40 kVA. Rule 16 applies to loads over 75 kVA. After the fire of 1979, 1049 Market Street was unoccupied and the load was reduced to zero until its sale to Mr. Rifkin.

"Furthermore, it would be extremely uneconomical for PG&E to provide oversized facilities at commercial establishments merely because they may be required at some later date. 1049 Market Street is an excellent example. The building's demand load was about 40 kVA or less from 1976 to some time in 1985, a period of 9 years. Under Mr. Rifkin's theory of electric system planning, PG&E should have assumed that the 1049 Market Street would exceed a 75 kVA load based on the 2,000 amp panel and then have dedicated its resources for this hypothetical load. Of course, as I have shown, these oversize facilities would have actually remained unnecessary for 9 years, costing PG&E and its ratepayers needless expense."

Lastly, it is PG&E's position that it has not at any time reduced the level of service, or agreed to supply the building with service capacity over the 1977 initial connected load of approximately 40 kVA.

Discussion

The issue is: since PG&E has provided service to a commercial building switchboard panel that is clearly rated for 2,000 amp. (or 416 kVA), is it reasonable for the owners of the building to assume that PG&E is obligated to provide a level of service consistent with the rating of that switchboard?

We note that there is no evidence to support a contention that PG&E ever made a firm commitment to provide service up to the rated capacity of the switchboard. However, PG&E's 1976 work estimate has the notation: "initial estimated demand 40 kVA, future estimated demand 350 kVA." Also, PG&E's Customer Call Record has the following entries:

"01-23-77 Customer will build a vault adjacent for 1-750 (9x16x10).

"11-13-78 This party has run out of funds - no activity expected."

Notwithstanding PG&E's contention that the 350 kVA was "mere conjecture," we conclude that in view of the above documentation of the original installation, and certainly by the end of 1978, any expectation of PG&E having to provide service up to 350 kVA could not have reasonably existed.

Further, based on the testimony and exhibits submitted by PG&E, we conclude that the level of service to the building had always been about 40 kVA and PG&E has not at any time reduced its level of service.

Setting aside the possibility that commitments may have been made in 1977 when PG&E first provided service, Rule 16.C states:

"1. General

"If an applicant's load in an urban or suburban area zoned for residential or commercial use is such that a separate transformer installation is required to serve him alone, and the transformer capacity required is 75 kva or greater, the

applicant will provide space on his premises for the transformer installation in accordance with Section C.2. below. If space cannot be provided on the applicant's premises, a vault will be installed at the applicant's expense in the street near his property line. . . .

"2. Transformers in Vaults, Rooms or Outdoor Enclosures

"The applicant will furnish, at his own expense, a suitable concrete foundation, enclosure, vault or room for the type of transformer installation designated by the Utility. The concrete foundation, vault, room, or outdoor enclosure will conform with all applicable laws of the State of California, municipal regulations, and regulations of other public bodies having jurisdiction, and shall be subject to approval by the Utility."

Therefore, based on Rule 16, since the (proposed) load exceeds 75 kVA, complainant is required to provide a transformer vault at its expense. Furthermore, there is no limitation on when PG&E may invoke the vault requirement. In other words, as load imposed by a building is increased following the initial connection of service, PG&E may invoke its vault requirement, in due course, when the level of service requirement exceeds 75 kVA. Accordingly, we conclude that PG&E is within its rights to require complainant to provide a transformer vault at its expense.

Lastly, we address complainant's argument that it was reasonable to assume that PG&E's level of service matched the rated capacity of the building switchboard. On the one hand, we have PG&E's testimony that it "currently serves hundreds of customers" whose switchboard ratings do not match their level of PG&E service. On the other hand, we note the testimony of complainant's electrical contractor that he has "never encountered another situation where PG&E was supplying load less than the rated capacity of the panel." On weighing the equities of the situation,

we are reminded that complainant bought a fire-damaged building to which electrical service had been discontinued for a period of years, and the building was bought for the purpose of commercial development. Complainant was clearly undertaking a commercial venture involving certain risks which were of the complainant's own choosing. It is unfortunate that complainant made no inquiries from PG&E or the prior owner at the time the building was purchased. Since complainant neglected to do so, complainant should not now complain because of an unexpected expenditure of \$40,000 for a transformer vault. Since the alternative is that PG&E's ratepayers bear the cost of the transformer vault, and keeping in mind that the ratepayers have no interest in this commercial venture, we conclude that the equities are not on complainant's side. Accordingly, we deny complainant's request for relief.

Findings of Fact

1. Complainant contends that because PG&E connected service to the switchboard of its building, PG&E is obligated to provide a level of service consistent with the 2,000 amp. rating of the switchboard. For purposes of this discussion, this equates to a level of 416 kVA.
2. PG&E informed complainant that in accordance with its Rule 16, since complainant's new connected load would exceed 75 kVA, complainant will have to construct a transformer vault at its expense. The vault is estimated to cost \$40,000.
3. Complainant further contends that the building was entitled to draw a load consistent with the rating of its switchboard panel and it is a change in level of service by PG&E that has apparently caused the problem.
4. The evidence submitted by PG&E confirms that the level of service dedicated to this building when service was initiated in 1977 was approximately 40 kVA. There is no evidence that PG&E ever changed its level of service to the building, or agreed to provide

service in excess of this figure, unless a transformer vault was constructed.

5. Rule 16.C states that, if an applicant's load in an urban area is such that a separate transformer of 75 kVA or greater must be installed to serve his load, then he must provide space on his property for the placement of that transformer. In downtown San Francisco, which is part of San Francisco's Network Distribution System, this means that the applicant must provide a subterranean transformer vault at applicant's expense.

Conclusion of Law

Under Rule 16, PG&E is entitled to require complainant to provide a transformer vault at complainant's expense, since the new load will exceed a total of 75 kVA. Accordingly, the relief requested by complainant should be denied.

ORDER

IT IS ORDERED that the relief requested by complainant is denied for the reasons set forth.

This order becomes effective 30 days from today.

Dated April 13, 1988, at San Francisco, California.

STANLEY W. HULETT

President

FREDERICK R. DUDA

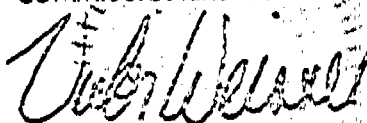
G. MITCHELL WILK

JOHN B. OHANIAN

Commissioners

Commissioner Donald Vial, being necessarily absent, did not participate.

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY.



Victor Weisser, Executive Director