

Decision 89 07 042

JUL 19 1989

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of GTE California)	
Incorporated (U 1002 C) for)	Application 89-05-003
Exemption from Rules in Decision)	(Filed May 1, 1989)
No. 80864.)	

OPINION

GTE California Incorporated (GTEC) seeks exemption from the application of the undergrounding rules of Decision (D-) 80864 (74 CPUC 454). GTEC owns, operates and maintains aerial telephone cables within its franchised territory along State Scenic Highway 9 within the state right of way. The aerial facilities at issue here are those between Post Mile 8.33 to 11.06, inclusive, in Santa Clara County. The aerial cables are located approximately 5 to 10 feet from the edge of the roadway. GTEC alleges that the aerial cables are for the most part hidden from public view, since they run through the thick foliage of trees which line the highway. Some sections of cable are completely covered by trees, other sections are slightly visible, and in only a few areas, sections of cable are clearly visible from the roadway.

In July and September 1988, GTEC filed encroachment permit applications with CalTrans to replace existing deteriorating aerial cable along the section of Highway 9 in question. In a letter denying one of GTEC's applications, CalTrans stated, in relevant part, that "this request must be denied because most of the proposed work is within the limits of a designated scenic highway. As such, no increase in aerial capacity is allowed. All provisions for increased capacity must be underground, and only maintenance of existing service is to be performed."

GTEC asserts that through its permit applications it was seeking to replace existing aerial telephone cable with cable which would be approximately 1/2 inch larger in diameter than the existing cable. Replacement of certain sections is required because the existing cable is deteriorating. Since the replacement cable in question would be placed at a height 22 feet above the ground, the difference in size of the two cables would be unnoticeable to the motorist or casual observer 22 feet below. GTEC estimates the costs associated with relocating the aerial telephone lines underground at \$1,441,553. The cost of replacing the existing aerial cables would be \$235,441.

GTEC believes that CalTrans premised its denial of the permit applications on the ground that replacement of the cable would allow GTEC to increase its capacity in accordance with D.80864, which generally precludes the new installation of overhead electric and communications distribution facilities on a scenic highway. On page 468 of the decision, however, the Commission states clearly that "'install' shall not include repairs or replacements of existing overhead facilities in the same location unless the visual impact would be significantly altered." GTEC contends that, since replacement of existing aerial cable with a cable which is only 1/2 inch larger in diameter would not have a significant visual impact, CalTrans should have granted the permit applications.

GTEC argues that individual CalTrans districts which are charged with approving permit applications for construction along scenic highways have various and sometimes conflicting interpretations of D.80864. It has been GTEC's experience that CalTrans District 11 office (Stockton) will allow the placement of a new cable on an existing pole line along a scenic highway, if at the same time GTEC removes an existing cable in the vicinity. Similarly, in a letter dated March 8, 1973 and in a follow-up letter to all communications utilities (dated March 21, 1973), the

Secretary of the Commission stated that certain facilities could be installed aerially along designated scenic highways. In fact, electric utilities were permitted to add a "third phase" to existing distribution facilities. Notably, such changes would require the placement of new wires along the pole line.

GTEC requests that the Commission grant an exemption from the undergrounding rules and authorize the encroachment permit applications for that section of State Highway 9 (04-SC1-9), between Post Mile 8.33 and 11.06, inclusive. By doing this, the Commission would be permitting GTEC the efficient use of its resources while adequately protecting the public interest.

This application was filed and served in compliance with the Commission's rules (specifically those portions of Rule 43.1 et seq. which are applicable) and was noticed in our Daily Calendar. There are no protests. The application should be granted.

Findings of Fact

1. GTEC seeks to replace portions of existing aerial cable on sections of State Highway 9 (04-SC1-9) between Post Mile 8.33 and 11.06 inclusive with cable approximately 1/2 inch larger in diameter than existing cable.

2. The replaced cable will not be noticeably different to an observer. The visual impact will be the same before and after the replacement.

Conclusion of Law

GTEC should be granted an exemption from the undergrounding rules in D.80864.

ORDER

IT IS ORDERED that GTE California Incorporated is granted an exemption from the undergrounding rules in D.80864 to permit it to replace portions of existing aerial cable on sections of State Highway 9 (04-SC1-9) between Post Mile 8.33 and 11.06 inclusive with cable approximately 1/2 inch larger in diameter than existing cable.

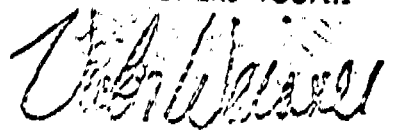
This order is effective today.

Dated JUL 19 1989, at San Francisco, California.

G. MITCHELL WILK
President
FREDERICK R. DUDA
STANLEY W. HULETT
JOHN B. OHANIAN
Commissioners

Commissioner Patrick M. Eckert,
being necessarily absent, did
not participate.

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


Victor Weiszor, Executive Director