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Decision 92-06-004 June 3, 1992

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of GTE California)
Incorporated (U 1002 C) for)
Exemption from Rules in Decision)
No. 80864.)

ORIGINAL
Application 91-09-048
(Filed September 17, 1991)

O P I N I O N

Statement of Facts

Public Utilities (PU) Code § 320 declares it to be the policy of this State to require, whenever feasible and not inconsistent with sound environmental planning, the undergrounding of all electric and communication distribution facilities proposed to be erected in proximity to any state scenic highway. The Commission is charged with obtaining compliance.

State Highway 154, in the area of our present interest, is a state scenic highway which proceeds southeastwardly from Santa Ynez, crosses the Santa Ynez River, and after passing the Cachuma Dam, continues along the southern shore of Lake Cachuma before entering the Los Padres National Forest near the Paradise County Park, and then crosses the San Marco Pass enroute toward Santa Barbara.

GTE California Incorporated (GTEC) is a California public utility telephone corporation within the context of PU Code § 216(a), and as relevant here, owns, operates, and maintains 13.5 miles of aerial telephone cable on an existing pole line within its franchised territory along State Scenic Highway 154 within the highway right of way. The existing aerial cables along approximately the westernmost half of the line are between 50 and 400 feet from the roadway. Along the easternmost half the cables are between 50 and 100 feet from the roadway. Much of the cable is partly hidden from public view by canyons and foliage.

By this application GTEC seeks approval to add aerial fiber optic cable within a 1-1/2-inch subduct on the same pole line at a height 22 feet above ground alongside existing cables for the 13.5-mile distance. Because of the size and distance from the scenic highway, GTEC believes that no significant visual impact would be noticeable to a motorist or casual observer.

On October 10, 1990, GTEC filed an encroachment permit application with the California Department of Transportation (CalTrans) to add fiber optic cable to the existing aerial facilities alongside the highway. On December 3, 1990, citing the undergrounding requirements of PU Code § 320 and Article 2.5 of the California State Statutes, CalTrans denied the application stating, in relevant part, that "without a PUC variance I am unable to comply with your request and undergrounding would be required."

GTEC's application sets forth estimated costs comparing undergrounding to overhead. Costs associated with undergrounding in the rocky, unstable terrain along the lake and in the existing wetlands to the west are estimated at approximately \$1,975,802 compared to installation overhead on the existing pole line of \$339,569, a \$1.6 million difference. Undergrounding would also involve employment of consultants to determine the location of archaeological sites and the risks of undergrounding in existing wetlands.

Finally, the County of Santa Barbara has made application with the California Department of Water Resources to increase the capacity of Lake Cachuma. If granted, Highway 154 and GTEC's facilities will need to be rerouted along the lake.

Under these circumstances, GTEC asserts that trenching and placement of underground facilities in this environmentally, archaeologically, and biologically sensitive area make no sense. GTEC requests that a variance be granted to allow the utility the efficient use of its resources while adequately protecting the public interest. The application was filed and served in

compliance with those portions of Rule 43.1 et seq. of our Rules of Practice and Procedure, which are applicable, and was noticed in the Commission's Daily Calendar of September 30, 1991. There were no protests.

However, in his initial review of the application, Administrative Law Judge (ALJ) John B. Weiss noted that GTEC had not complied with one of the Commission's statewide requirements relative to undergrounding of future electric and communication distribution facilities in proximity to state scenic highways; specifically, Ordering Paragraph 3.B of Decision (D.) 80864,¹ which states:

"B. Respondents shall review with, and seek an expression of opinion from, the appropriate local governmental agency prior to requesting Commission authorization for deviation from the requirements of paragraph 1 of this order."²

Accordingly, on October 18, 1991, the ALJ wrote GTEC instructing the utility to notice Santa Barbara County and to file an appropriate affidavit. On February 11, 1992, GTEC responded, filing as Attachment "G" to the utility's application, a February 4, 1992 memorandum from the Santa Barbara County Department of Public Works. This memorandum represented that the County had no objection to GTEC's proposal, and that as the work was outside the coastal zone, no county permits would be required.

¹ Overhead Electric and Communication Distribution Facilities of P.G. & E. Co., P.T. & T. Co., So. Cal. Edison Co., S.D.G. & E. Co., Gen. Tel. Co. of Cal., et al., Prohibited in Proximity to State Scenic Highways (1972) 74 CPUC 454, 468.

² Ordering Paragraph 1 prohibits overheading unless (a) a showing is made to the Commission's satisfaction that undergrounding would not be feasible or would be inconsistent with sound environmental planning, or (b) the overhead construction had been started or contracted for before December 31, 1972.

Discussion

In enacting PU Code § 320, the Legislature clearly stated that it wanted future electric and communication distribution facilities undergrounded where these facilities would be proximate to and visible from scenic highways in the state. But the Legislature also recognized that there could be situations where undergrounding would not be feasible or consistent with sound environmental planning. It left to the Commission adoption of a statewide plan and formulation of rules to effectuate this policy. In 1972, by D.80864³ the Commission formulated statewide requirements.

Inter alia, D.80864 provides that deviations are not precluded where the visual impact would be so infinitesimal as to render undergrounding unwarranted and wasteful.

In the situation herein at issue, the proposed fiber optic cable encased within a 1-1/2-inch subduct would be placed alongside existing aerial GTEC facilities. Because this additional cable at the closest points would be between 50 and 400 feet from the highway and 22 feet above ground partially hidden from view by canyons and foliage, the addition is unlikely to be noticeable to a passing motorist or casual observer.

The rocky and unstable terrain along the highway for about 3/4 of the distance in inclement weather frequently produces landslides and washouts, at times closing the highway, and would add to undergrounding difficulties. The 1/4 distance wetland areas have their own risk for undergrounding. Combined, these conditions in this environmentally, archaeologically, and biologically sensitive area would make trenching and placement of underground facilities questionable. The costs also cannot be ignored. Costs associated with undergrounding are estimated at approximately

3 Supra, note 1.

\$1,975,802 whereas adding the fiber optic link on GTEC's existing pole line would be \$1.6 million less. These facts lead to our conclusion that the additional visual impact of overhead alongside the existing line would be infinitesimal, and that undergrounding this 13.5-mile distance would be unwarranted and wasteful as well as inconsistent with sound environmental planning. Finally, it must be noted that the appropriate local governmental agency has no objection.

Accordingly, GTEC's application for a deviation will be approved and an exemption granted from application of the underground rules contained in D.80864.

Findings of Fact

1. GTEC is a public utility telephone communications company within the context of PU Code § 216(a), and within the jurisdiction of this Commission.

2. GTEC presently owns, operates, and maintains 13.5 miles of aerial telephone cable facilities 50 to 400 feet adjacent to State Scenic Highway 154.

3. GTEC plans to place a fiber optic cable line encased in a 1-1/2-inch subduct along this section of Highway 154.

4. The placement of this additional communication distribution facilities is subject to the restrictions against installation of overhead facilities as required by PU Code § 320 and addressed by D.80864.

5. The Legislature contemplated and D.80864 provides for deviations to the restrictions against installation of new overhead facilities in proximity to scenic highways when it would not be inconsistent with sound environmental planning and the visual impact of overhead facilities would be so infinitesimal as to render undergrounding unwarranted and wasteful.

6. The size of this additional cable, which GTEC desires to place alongside its existing cable at not insubstantial but varied distances from the scenic highway and located in canyons and amidst

foliage, makes it unlikely to become appreciably more noticeable to passing motorists or casual observers.

7. The difficult and unstable local terrain presents risks for undergrounding, as well as potential archaeological and biological problems were undergrounding to be adopted.

8. There are very substantial additional costs to undergrounding.

9. The appropriate local governmental agency, the Santa Barbara County Department of Public Works, has no objection to overheading this cable addition.

10. A public hearing is not necessary.

Conclusions of Law

1. Overheading of this fiber optic cable adjacent to GTEC's existing cable line would not, under these circumstances, be inconsistent with sound environmental planning, and the visual impact would be so infinitesimal as to render undergrounding unwarranted and wasteful.

2. The application for a deviation should be approved and an exemption granted from application of the undergrounding rules contained in D.80864.

O R D E R

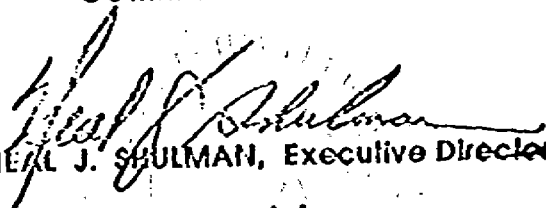
IT IS ORDERED that GTE California Incorporated's (GTEC) application for exemption from application of the undergrounding rules contained in Overhead Electric and Communication Distribution Facilities of P.G.& E. Co., P.T.& T. Co., So. Cal. Edison Co., S.D.G.& E. Co., Gen. Tel. Co. of Cal., et al., Prohibited in Proximity to State Scenic Highways (1972) 74 CPUC 454, is granted applicable to the addition of aerial fiber optic cable within a 1-1/2-inch subduct alongside existing GTEC aerial facilities along Highway 154 between Post Mile R8.11 and Post Mile 21.59.

This order becomes effective 30 days from today.

Dated June 3, 1992, at San Francisco, California.

DANIEL Wm. FESSLER
President
JOHN B. OHANIAN
PATRICIA M. ECKERT
NORMAN D. SHUMWAY
Commissioners

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


NEAL J. SHULMAN, Executive Director