

ORIGINAL

Decision 82 03 064

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of BESSIE G. ATWOOD,)
 ROBERT L. ATWOOD, SR., CHARLES)
 BERGMAN, BETTY BERGMAN, ERIC)
 CHRISTOPHER WOOD, GREGORY)
 FANGEROW, CATHLEEN FANGEROW, AND)
 RODNEY FLUBELL to deviate from)
 mandatory requirements for under-)
 ground utility extensions in)
 Riverside County, California.)

Application 60965
 (Filed October 1, 1981;
 amended November 20, 1981)

O P I N I O N

Applicants request authority to deviate from the mandatory underground requirement for electric line extensions to permit a temporary overhead extension of electric service to their property within the real estate development known as Enchanted Village Estates, Inc. located in Riverside County. The development is in the Overlook Division No. 2 to Corona subdivision. This request for a variance is made under the provision for unusual or exceptional circumstances in Southern California Edison Company's (Edison) tariff Rule 15.E.7. Such temporary overhead service would be in effect until the developers have corrected the conditions which have created the unusual or exceptional circumstances.

The following findings are contained in a Commission staff's memorandum report following an investigation and an on-site inspection by a Utilities Division engineer:

- a. Overlook Addition No. 2 to Corona is a 30-acre subdivision recorded by the County Recorder of Riverside County on December 21, 1925. The subdivision consists of Lots 1 through 30. Twenty-five of these lots are in a development known as Enchanted Village Estates, Inc. The first family moved into the development early in 1976. Nine families moved mobile homes into the development before Riverside County stopped issuing building permits and the California Department of Real Estate issued an "Order to Desist and Refrain". At present, only applicants and their families reside in the development.
- b. The terrain is hilly with well-defined ridges, deep ravines, and gullies. Ground cover consists of scattered brush. Many areas have been deeply eroded.
- c. The existing roads in this subdivision are in extremely poor condition. At one time, the surface had a thin asphalt cover, but this surface is now either badly fractured or nonexistent. Many parts of the road system are badly eroded and some of the access roads to the lots which had been on fill material are completely washed away. Access to the subdivision can only be made over a single dirt road which crosses a deep ravine and is situated over a 50-foot fill. A drainage pipe is embedded in the fill above the flow line of the ravine. The road fill over the

ravine thus becomes a dam and there is no evidence that this dam has been designed or constructed in accordance with accepted engineering principles. Failure of this fill from excessive water collecting upstream would isolate applicants.

- d. Electrical and water service to applicants were originally provided for by the developer. These utilities are underground and located in one trench. The trenching for the underground services passes through fill areas and in some places is so badly eroded that the buried utilities are exposed. Numerous repairs have been necessary to the water mains because of shifting soil conditions and erosion.
- e. The existing electrical system is a "mutual" system with one share for each lot owner and the majority of shares lying with the developer. Originally, there were to have been three 60-kVA diesel generators to provide the power. At the present time, only one generator is operable. This generator is in such deplorable condition that it is only used once a week to provide power to the well pump for delivery of water to the water tank. Applicants receive no power from this system for their homes. Power to each home is derived from small, individually owned generators. However, these small generators cannot power air-conditioning and the major appliances must be used very sparingly and on a priority basis.

- f. Edison has indicated to applicants and to the Commission staff that it will not accept ownership, connect to, or operate the existing underground electrical system because it is not constructed in accordance with Edison's specifications. Edison believes the existing system is hazardous and there is a possibility of explosions because the underground transformer vaults are not vented. In addition, connections are not water-proofed and the wiring is undersized to the point that applicants' homes cannot get adequate service. There are no drawings in existence for the existing system and Edison has no way of knowing exactly where the buried conduit lies. Edison therefore prefers to bring its own service to each of the applicants.
- g. In 1977, the Riverside County Grand Jury issued a special report on Enchanted Village Estates, Inc. The report charged that the County Building Department allowed people to move into the subdivision without necessary permits. Among other things, the report concluded that the private power system, which had been installed, was inadequate and operating without a county permit, that the grading of the land was improper, that fill land was uncompacted, and that erosion control was not used.
- h. In May 1977, the District Attorney for Riverside County filed a lawsuit for the people of California against the developers of Enchanted Village Estates, Inc. Trial was held in the California Superior Court, Riverside County, and during the proceedings, expert testimony concerning soil conditions within the tract was presented into evidence. On October 2, 1981, the

Court filed Findings of Fact and Conclusions of Law in the case. Among other things, the Findings of Fact found that in many areas of the tract grading was not done in accordance with county ordinances, the ground was not properly prepared before placing the fill material, the fill material was not properly compacted, and a natural water course was restricted by fill material near the entrance to the tract without providing for adequate drainage, properly designed by an engineer or approved by the City of Corona.

An additional finding was that the electrical system, which was installed, did not conform to Edison's standards.

- i. The developers of Enchanted Village Estates, Inc. were adjudged a penalty of \$70,000 to be paid to the county, and the order also provided that credit against the \$70,000 could be received by either restitution or rehabilitative work, or both.
- j. Pending appeals and other delays, it could be more than 18 months before final judgment is made in the case and an additional year before rehabilitative work might be completed.
- k. At this time it is certain that until corrective action has been taken by the developer to the satisfaction of Riverside County, the City of Corona, and the California Department of Real Estate, no new permits will be granted for move-ins into the tract.

- l. It is evident from the on-site inspection and from all the other evidence obtained from the staff's investigation that the development did not have proper planning or engineering and that construction was not in accordance with applicable codes and standards. The widespread erosion has resulted from the lack of overall drainage planning. Natural water courses have been plugged by fills which do not have the proper provision to pass the runoff through or over the fill. The staff concludes that under these unacceptable conditions, it would be imprudent to attempt to use any or all of the existing underground electric system or to allow new excavation and backfill such as trenching in these problem areas.
- m. An environmental impact report has never been prepared for this area. However, overhead lines would not be visible from the nearest highway which is over two miles away. The area is remote and isolated and the only access is over a dirt road.
- n. The City of Corona granted Edison variance on the underground requirements in Corona Municipal Code Section 15.60. Riverside County has no code requirements on mandatory undergrounding.
- o. Comparative cost estimates developed by Edison and the Commission staff for overhead and underground extensions to applicants are shown in the following tabulation. Estimates (1) and (2) are for inside the tract only and would be possible only if a requested overhead extension to a new customer just outside the southwest corner of the tract is started or completed in time for work to start on applicants' extension. There would be no cost to applicants for

Estimate (1) because it qualifies for the free-footage allowance in Rule 15. Estimates (3) and (4) are for extensions which start from the existing pole outside the northwest corner of the tract. The overhead estimates contain only Edison's costs. However, the underground estimates are made up of costs both to Edison and to applicants. Applicants would be responsible for all trenching, backfill, and concrete encasement.

	<u>Edison</u>	<u>Applicants</u>	<u>Total</u>
(1) Overhead (inside tract only)	\$ 8,000	\$ 0	\$ 8,000
(2) Underground (inside tract only)	48,400	8,910	57,310
(3) Overhead (inside and outside tract)	14,500	0	14,500
(4) Underground (inside and outside tract)	52,600	13,500	66,100

p. Edison is of the opinion that the costs shown in Estimates (2), (3), and (4) when compared with the expected base rate revenue would be excessive, and if the decision is made to provide any of these more costly extensions, it will file a request for deviation under the provisions of Rule 15.1, Section E.4, Exceptional Cases. A special contract will be proposed requiring applicants to advance the total cost of all facilities installed to provide service minus a credit of five times the estimated base rate revenue. In addition, applicants would be required to pay ownership costs based on the advanced amount. It is evident, therefore, from Edison's request for deviation and from the magnitude of cost Estimates (2) and (4) that the underground extensions are not economically feasible for applicants.

In the case before us, inadequate grading and compacting of the soil with resultant erosion and sliding is an unusual circumstance which makes the normally required installation of underground electric lines impractical. This soil condition causes destruction of trenches as well as exposure and breaking of pipes and conduits. In the deep fill areas, it is not possible to protect underground conduit from failure.

Applicants moved their mobile homes into the development in 1976 after receiving assurances by the developer and government agencies alike that the condition of the land and existing electrical distribution system met all legal requirements and standards. Shortly thereafter, the tract was found to be unsuitable for human habitation and yet, since applicants had already purchased lots, they were trapped. Edison has refused to use the existing electrical system, finding that it is unsafe and fails to meet Edison's standards. Edison has no objections to applicants' request for variance from undergrounding rules. The City of Corona has granted a variance to its underground requirements.

The unusual circumstances necessitating a variance may be temporary and could conceivably be corrected within a period of three years. The developer has been ordered by the Superior Court to correct the deficiencies or pay a fine. In Decision (D.) 83184 dated July 23, 1974, a temporary deviation for six years was granted because the high cost of undergrounding could later be split up among more persons when additional lots had been developed. That possibility exists here as well. It is not just or practical to require the small number of applicants

to pay for the tremendous job of compacting and grading the tract as well as building an underground system. In D.90983 dated November 6, 1979, a deviation from undergrounding requirements was granted to Sierra Pacific Power Company because of an emergency consisting of hardship and suffering of people from whom access to their newly bought houses was withheld because of a lack of electricity. Overhead lines were allowed because underground electric line extensions might not be completed before spring "in which case considerable hardship would have to be endured by those families". In the case at hand, hardship and suffering are at least as great as in the Sierra Pacific case. Families have been living in an abandoned subdivision without utility-supplied electric service since 1976. Since that time government and private bodies have discussed, argued over, and admitted the problem, but no one has helped the residents. Those who could leave the development did so. The others are trapped.

Applicants must rely on a surplus U.S. Air Force diesel generator to pump water once a week. When it is not working applicants are without water. Some applicants have been paying over \$400 per month just for fuel to run their own personal generators. The declaration of one resident states that his family's fuel bill is now over \$400 per month and rising. Another resident states he uses a kerosene stove to heat his home.

There are few, if any, esthetic considerations here. Overhead lines already exist near the development. There are no highways or scenic areas existing near the development, sage brush is the only ground cover, and erosion is widespread, destroying roads and other improvements. Any esthetic factors which may possibly exist here are far outweighed by the extraordinary circumstances and should give way, at least temporarily, to the needs of applicants for electricity.

The Commission's technical and legal staff recommend that the application for a temporary deviation be approved ex parte. They recommend temporary overhead extension of electric service only to applicants' five lots within the development should be allowed until such time as the developers have corrected the extraordinary conditions which have made the required installation of underground electric lines impractical and unjust.

The application should be granted because it states sufficient justification for granting a deviation from the undergrounding requirement of Edison's tariff Rule 15.

Findings of Fact

1. Enchanted Village Estates, Inc. development is located within the Overlook Addition No. 2 to Corona, Riverside County, California. At present, only the five applicants and their families reside within the development.

2. The existing electrical system is provided by one diesel generator, which is in poor condition, and is used only once a week to provide power to pump water for delivery to the development's water tank. Applicants receive no power from this system for their homes and have to rely on small, individually owned generators. The fuel costs for these generators are very high.

3. The existing electrical system is not up to Edison's standards and Edison has refused to use the system, finding that it poses danger. ✓

4. The development has been found to be unsuitable for human habitation subsequent to the time that applicants moved into the tract.

5. As a result of erosion and inadequate grading and compacting of soil within the development, the installation of underground electric lines is both impractical and unjust.

6. The developers of the development have been fined \$70,000 by the Superior Court, Riverside County, and have been ordered to make restitution or perform rehabilitative work within the development.

7. Until some corrective action has been taken by the developers to the satisfaction of Riverside County, the City of Corona, and the California Department of Real Estate, no new permits will be granted for people to move into the development.

8. The City of Corona has waived the requirements for mandatory undergrounding of utilities within the development. There are no mandatory undergrounding requirements by Riverside County.

9. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

Conclusions of Law

1. A public hearing is not required.
2. The application should be granted as provided in the order which follows.
3. Because of the imperative nature of the situation, the effective date of the order which follows should be today.

O R D E R

IT IS ORDERED that:

1. Southern California Edison Company (Edison) is authorized to temporarily deviate from the mandatory undergrounding requirements of its electrical line extension rule of its tariffs in the Enchanted Village Estates, Inc. development, Riverside County, California, for a period of three years from the effective date of this order.
2. Temporary overhead extension of electric service shall be authorized only to applicants' five lots within the development.

A.60965 ALJ/emk/vd1

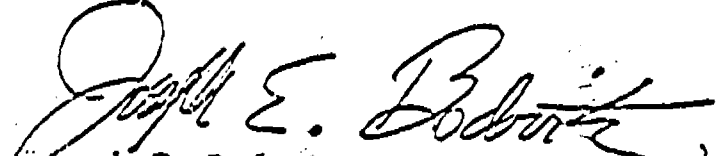
3. At the end of three years, Edison shall make a reappraisal of the situation and file a report with the Commission's Utilities Division.

This order is effective today.

Dated MAR 16 1982, at San Francisco, California.

JOHN E. BRYSON
President
RICHARD D CRAVELLE
LEONARD M. GRIMES, JR.
VICTOR CALVO
PRISCILLA C. GREW
Commissioners

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


Joseph E. Bodovitz, Executive Director