

ORIGINAL

Decision 83 10 042 OCT 19 1983

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Andreas Palms Development Corp., )  
 )  
 Complainant, )  
 )  
 . vs. )  
 )  
 Southern California Edison Co., )  
 )  
 Defendant. )

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Case 83-05-04  
(Filed May 11, 1983)

Peter L. H. Tynberg, for Andreas Palms  
 Development Corporation, complainant.  
Larry C. Mount, Attorney at Law, for  
 defendant.

O P I N I O N

Complainant Andreas Palms Development Corporation (Andreas) seeks an order requiring defendant Southern California Edison Company (Edison) to reimburse it for allegedly improperly computed line extension charges and to apportion the required non-reimbursable off-site costs among all the developers that will derive benefits from the facilities thus installed.

A duly noticed hearing was held before Administrative Law Judge N. R. Johnson in Los Angeles on July 25, 1983, and the matter was submitted on receipt of transcript. Testimony was presented on behalf of Andreas by Doctor P. L. H. Tynberg, and on behalf of Edison by one of its planning managers, Donald H. Brawley, and by one of its rate structure engineers, C. Daniel Sanborn.

I. POSITION OF ANDREAS

Testimony and exhibits presented on behalf of Andreas indicated that:

1. The dispute involves Edison's allegedly erroneous interpretation of its Rule 15.1 involving underground extensions within residential subdivisions and its inequitable practice of charging required off-site improvement costs against the first developer as contrasted with the practice of other utilities which split such costs between all people who benefit from such improvements.
2. The Andreas Palms Estates Development consists of 34 lots which face on an interior private street (Andreas Palms Drive) within the subdivision.
3. Edison computed the total footage of property fronting on and contiguous to streets within the subdivision to be 5,750 feet, which at \$4.75 a foot required a deposit of \$27,312.50.
4. The extension rule provides for a nonrefundable deposit equal to \$1 a foot for property front footage in excess of 125 feet per unit. In this case this was equal to the above 5,750 feet minus 34 times 125 feet, or 1,500 feet or \$1,500.
5. In initial discussions with Edison personnel Tynberg was informed that Andreas would be required to build part of the frontage improvements that would be on the street alongside the subdivision (Bogert Trail) that would end up servicing the neighbors to the east and would have to pay a reimbursable fee for service to the lots from Andreas Palms Drive.

6. Rule 15.1 states in part:  
"C.1. The developer shall pay to the Company, before the start of construction, the estimated cost (exclusive of transformers, meters, and services) of the underground extension within the subdivision, such payment to be the product of \$4.75 per foot times the total footage of property fronting on streets within the subdivision."
7. The above-quoted tariff provision is at variance with the form of agreement for extension of electric line within a new residential subdivision which provides that the \$4.75 per foot be applied to "...the total footage of property fronting on and contiguous to streets within the subdivision..."
8. Under the contract arrangement, complainant is paying for line footage on a street that does not serve the subdivision which is contrary to Rule 15.1 which specifically says the total frontage of property on streets within the subdivision is to form the basis for the computation of the charges.
9. Unlike Edison, which charges the first developer in an area for off-site improvements, other utilities such as the sewer company owned by the City of Palm Springs, Desert Water Agency, General Telephone Company of California (General), Warner Cable Company, and Southern California Gas Company (SoCal) handle the non-reimbursable off-site improvement deposits in such a manner that all those fronting on a street eventually pay their pro rata share of such fees.

10. The estimated installed cost of required additional facilities to be installed by developer is \$6,600 which will be credited to developer when the facilities are deeded to Edison.

## II. POSITION OF EDISON

Testimony and exhibits presented on behalf of Edison indicated that:

1. In designing the electrical system for Andreas the following factors were considered:
  - a. Facilities needed to service the tract.
  - b. Facilities needed to connect the tract on existing facilities.
  - c. Facilities needed to provide service to potential loads in proximity of the tract.
  - d. Facilities for an alternate source to provide for emergency backup, circuit flexibility, and reliability.
  - e. Obstructions to other potential circuit routes.
  - f. The locations of proposed facilities and the impact on private property.
2. After considering the above factors, a two-duct backbone system located in the parkway between the curb and sidewalk along Bogert Trail, approximately five feet north of the north property line, was deemed appropriate to meet the needs of the tract and adjacent area.
3. Installing the backbone system in streets within the subdivision was considered impractical and imprudent since it would have required 4,200 feet of additional duct and three additional splicing structures.

4. To complete the system to be used to serve the development three radial distribution circuits, including 10 transformer stations, were connected to the backbone source to distribute power within the subdivision. These facilities are located in an easement behind the curb on Andreas Palms Drive.
5. The source of power for the development is from the west and consists of a two-duct backbone system installed by previous developers.
6. Placing the feeder system just outside the property line of the development results in the most economical installation to the customer.
7. The purpose of the line along Bogert Trail is to bring power to users east of the project.
8. The line along Bogert Trail is physically located outside the limits of the subdivision but is considered as being within the subdivision because the property fronting on the street is within the subdivision.
9. The reimbursable deposit required of Andreas was for \$10,235 less than the cost of facilities installed by Edison to serve the development.
10. The phrase "any necessary distribution and feeder conduit" required in Section D.1. of Edison's Rule 15.1 includes conduit which is installed as part of a backbone system in accordance with sound engineering practices to provide for potential load growth and flexibility and versatility of modifying or supplying emergency backup power to the area involved.

11. Had there been streets on the east, south, and west borders of the development, Edison would have been able to include their footage in computing the deposit requirement.
12. One of the two ducts of the two-duct backbone system contains a 700,000 circular mil (CM) 12-kilovolt (kV) cable to provide service to the east portion of the development. The service emanates out of a vault installed by Tynberg for which he is being reimbursed \$6,600 by Edison.

### III. DISCUSSION

It is noted that the text of Rule 15.1 is virtually unchanged since its inception by Decision (D.) 76394 dated November 4, 1969 in Case (C.) 8209, our investigation of the extension rules of electric and communications utilities. D.76394 provided the utilities file an underground rule requiring the developer pay the utility a payment equal to "...the product of \$\_\_\_\_\_ \* per foot times the total footage of property fronting on streets within the subdivision." (70 CPUC 339 at 357.) The rule is quite explicit. It bases charges on property fronting on streets. It does not include the footage of the property on the side of a corner lot, the back of the lots bordering on another street, nor the footage of property contiguous to streets within the subdivision. It is true that the Commission approved the agreement form which provides for "the total footage fronting on and contiguous to streets within the subdivision..." However, the basic concept is contained in Rule 15.1 and the agreement form should agree and comply with the basic rule. Included in Rule 15.1 is a provision that the portion of the supply circuit which may extend beyond the boundaries of the subdivision to the utility's supply facilities that is not in excess of 200 feet is to be treated as though it were located within the subdivision and included in

the computations of the total footage fronting on streets within the subdivision. This portion of "contiguous" line accounts for the apparent discrepancy between the Commission-approved Rule 15.1 and the Commission-approved agreement form. In this case there is no such contiguous footage and the footage used for the computations of the deposit should therefore be limited to the total footage fronting on streets within the subdivision. According to Exhibit 3, a circuit diagram of the Andreas Palms Estates Development, the total footage fronting on the streets within the subdivision is approximately 3,980 feet. The product of this footage and \$4.75 per foot is \$18,950 and should have been the amount of the deposit rather than the \$27,312.50 that was required. The order that follows will provide that the amount of the deposit be adjusted accordingly.

As noted in the testimony of Edison's witness Brawley, the developer is to furnish, install, and deed to the company any necessary distribution and feeder conduit required which by D.89908 in C.10454, Villa v Edison, we determined: ". . . includes not only that feeder conduit required to serve the tract for which service is sought and that installed within the boundaries of the tract which is necessary to interconnect the service to the tract with service to subsequent developments outside the tract; but also includes conduit which is installed as a part of a backbone system in accordance with sound engineering practice to provide for the potential for growth in the area, to provide for future anticipated load growth in the existing residential subdivision and the existing subdivisions in close proximity thereto, and to provide the flexibility and versatility of modifying or supplying emergency backup power to the area involved." (Mimeo. pages 18-19.) Tynberg testified that he

understood the principle that since off-site improvements will never directly result in income to the utility but merely provide the possibility for service down the line to other people, the costs are not reimbursable to the original developer. He further testified that Edison's practice of assessing the full cost to the original developer is at variance with the other utilities with which he dealt such as the sewer company owned by the City of Palm Springs, Desert Water Agency, General, Warner Cable Company, and SoCal, which split the costs of those off-site improvements among all people who benefit from the improvements. It should be noted, however, that these other utilities have no facilities that are directly comparable to an electric utility backbone system. Such a backbone system is designed to provide a means of installing distribution cable, usually at some future date, to serve developments with an undeterminate number of customers. The other types of utilities extend facilities to serve a specific number of customers generally located within the subdivision. Refunds to developers by these other types of utilities are based on the number of customers served from the installed facilities. In some cases, refunds to original applicants for service are made when subsequent applicants have free footage allowances that exceed the footage of main extension required to serve them. In these cases, however, the advances originally collected were based on distribution facilities required in excess of the free footage allowances. Such is not the case for the nonrefundable advances required for backbone systems.



According to the record, the backbone system for the Andreas Palms Estates Development was installed along Bogert Trail and consists of two 5-inch ducts to the bridge abutment at Palm Canyon Wash. One of these two ducts contains a 700,000 CM 12-kV cable that provides service to the east portion of the development. The service to the development emanates out of a vault installed by Andreas for which Edison is reimbursing Andreas \$6,600. The balance of the costs of the above-described backbone system was advanced as an off-site nonreimbursable deposit. It is true that a developer who subdivides on the north side of Bogert Trail will escape sharing in the costs of the backbone system to the east end of the Andreas Palms Estates Development. However, the record clearly shows that Edison has consistently and indiscriminately applied the backbone system costs in the same manner as for Andreas. Under these circumstances we are not persuaded that any slight inequity to the original developers resulting from this practice justifies burdening the ratepayers with the cost of the record keeping necessary to implement any plan to charge any future developer a pro rata share of the off-site costs.

#### IV. FINDINGS AND CONCLUSIONS

##### Findings of Fact

1. The Andreas Palms Estates Development consists of 34 lots which face on an interior private street (Andreas Palms Drive) within the subdivision.
2. Edison computed the total footage of property fronting on and contiguous to the streets within the subdivision to be 5,750 feet, which at \$4.75 a foot required a deposit of \$27,312.50.

3. Deducting the product of 34 and 125 from the 5,750 front footage leaves an excess footage of 1,500 feet which at \$1 per foot results in the nonrefundable portion of the above deposit being \$1,500.

4. Rule 15.1, "Underground Extensions Within New Residential Subdivisions", provides the payment of a deposit before construction of the facilities to serve a subdivision be equal to the product of \$4.75 per foot times the total footage fronting on the streets within the subdivision. Such footage does not include the side footage of corner lots, the rear footage of the lot along a parallel street, nor the footage of property contiguous to the streets in excess of 200 feet from the subdivision.

5. The phrase "the total footage fronting on and contiguous to streets within the subdivision..." in the Commission-approved contract agreement form for underground extensions refers only to the first 200 feet of supply circuit outside the subdivision.

6. The total footage of property fronting on streets within the Andreas Palms Estates Development is 3,980 feet.

7. Applying the unit cost of \$4.75 a foot to the above 3,980 feet results in a refundable deposit requirement of \$18,950.

8. The backbone system consists of two 5-inch ducts along Bogert Trail. One of these ducts contains a 700,000 CM 12-kV cable to provide service to the east end of the development.

9. Other types of utilities have no facilities that can be deemed a counterpart to electric utility backbone systems.

10. Andreas advanced Edison a nonreimbursable deposit to cover the costs of the backbone system.

11. Any slight inequity of requiring the first developer to bear the costs of the backbone system does not justify burdening the ratepayers with the cost of the record keeping and other costs associated with implementing a plan to charge any future developer a pro rata share of the backbone system costs.

Conclusions of Law

1. Edison should adjust Andreas' deposit requirement from \$27,312.50 downward to \$18,950 and should return the \$8,362.50 difference with interest computed at the rate of 7% per annum from the time of deposit until the date of return.
2. In all other respects the relief requested should be denied.

O R D E R

IT IS ORDERED that:

1. Within 30 days after the effective date of this order, Southern California Edison Company shall adjust the deposit requirement for the Andreas Palms Estates Development from \$27,312.50 downward to \$18,950 and return the \$8,362.50 difference to Andreas Palms Development Corporation with interest computed at 7% per annum from the time of deposit to the date of return.

2. In all other respects the relief requested is denied.  
This order becomes effective 30 days from today.

Dated OCT 19 1983, at San Francisco, California.

LEONARD M. GREMES, JR.  
President

VICTOR CALVO

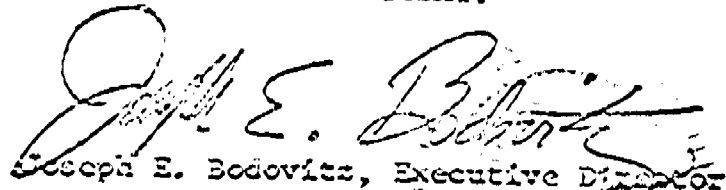
PRISCILLA C. GREW

DONALD VIAL

WILLIAM T. SAGLEY

Commissioners

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

  
Joseph E. Bodovitz, Executive Director