

Decision No. 86643

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Presley of Southern California to deviate from mandatory requirements for undergrounding telephone utility lines near Nellie Gail Ranch Subdivision, Orange County, California.

Application No. 56717  
(Filed August 26, 1976)

O P I N I O N

Applicant Presley of Southern California, a corporation, seeks authority to temporarily deviate from the mandatory undergrounding requirements of The Pacific Telephone and Telegraph Company's (Pacific) Rule 15 (tariff Schedule 36-T) in regard to new subdivisions for the purpose of extending telephone service via temporary overhead extension lines to Tract No. 8965 located in the Nellie Gail Ranch Subdivision, Orange County, California.

The application shows that Tract No. 8965 comprises 1,327 acres divided into 1,397 residential lots and is located in a relatively undeveloped area. The nearest existing telephone facilities are approximately one mile away.

Applicant claims that to provide service to Tract No. 8965 a parcel of presently undeveloped land owned by the Narland Corporation (Narland) would have to be crossed. Pacific requires an irrevocable easement for its facilities when they are placed underground across private property, and obtaining such an easement at this time would be next to impossible for the following reasons:

- (a) A portion of the easement would be in the right-of-way of the Moulton Parkway. The permanent alignment of the Moulton Parkway has not been determined. There are several alternatives under study at this time by Orange

County as a part of the Southeast Orange County Circulation Study.<sup>1/</sup> The time frame for a decision on the permanent alignment of the Parkway is indefinite and could be in excess of one year.

- (b) Adherence to Rule 15, requiring undergrounding, would require detailed engineering plans and specifications for street patterns, elevations, grades, etc., on a portion of the Narland property in order that underground lines could be located correctly within the permanent easement. The development of the Narland property is not anticipated until 1978; therefore engineering plans and specifications for street patterns are not available.

Thus, Applicant contends that adherence to Rule 15 would create undue hardships for Applicant and other involved property owners.

In further support of the requested deviation, Applicant submits the following information:

- (a) Temporary overhead facilities can be constructed in a relocatable easement across the property of the Narland Corporation whose consent has been obtained by a letter of intent attached to the application as Reference b.

1/ Study instigated by Board of Supervisors of Orange County to determine effect of Orange County's General Land Use Plan on proposed surface transportation corridors with emphasis on the location of major highways and streets in the southeast area of Orange County.

- (b) The location of the temporary easement was selected after careful study and discussions between the Applicant, Narland Corporation, The Pacific Telephone and Telegraph Company, Avco Community Development, Inc., and the Environmental Management Agency of the County of Orange, Regulation Division.
- (c) The location selected will accommodate the Southeast Orange County Circulation Study and/or the future development of property in accordance with Orange County general plans.
- (d) Development of the Narland property is not anticipated until 1978 in this area whereas the Nellie Gail Ranch requires service by June of 1977 or sooner.
- (e) The location of the proposed overhead line in a valley was selected to reduce the impact on adjacent properties and lessen the visual impact. The remoteness of the location and the pace of development in the area mitigates against any significant visual impact.
- (f) If a temporary aerial deviation is obtained Pacific will waive all line extension charges in conformance with its tariffs and will relocate the permanent extension underground at its own expense in accordance with Rule 15 when the final alignment of Moulton Parkway is determined, as stated in an attachment to the application as Reference a.
- (g) It is the considered opinion of the Applicant that the public can best be served by granting this request.

Discussion

Narland, in its letter of intent attached to the application, states that it is its understanding that the easement across its property is temporary and will terminate on completion of Pacific's permanent facility installation, or upon operations undertaken by Narland or its assignees in the area, whichever comes sooner. If the permanent alignment of Moulton Parkway is accomplished first, no problems would arise from Narland's commitment. However, if the County delays the plans for the permanent alignment of Moulton Parkway beyond the time that Narland intends to develop their property - remote as this may be - presumably, they could order Pacific to remove its temporary facilities and thus interrupt telephone service to the Nellie Gail Ranch property. This is unsatisfactory, and some assurance must be given that it will not happen. Consequently, the order herein will be contingent upon a contract granting a temporary easement across the Narland property that will only terminate upon the determination of the final alignment of Moulton Parkway.

Findings

1. We find the statements and allegations in the application to be accurate and true.
2. After a thorough study of the application for a temporary deviation from Rule 15, we find that adherence to that rule, requiring undergrounding of telephone extension lines to provide temporary service to this tract, would be impractical and unjust.
3. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

4. We find that the conditions controlling the temporary easement mentioned in Narland's letter of intent (Reference b attached to the application) are not wholly satisfactory. Pacific could be required to remove its temporary facilities from Narland's property before permanent facilities necessary to maintain service to Tract No. 8965 can be installed if Narland begins development of its property before the permanent alignment of Moulton Parkway is determined.

5. We find that Pacific needs a temporary easement across the Narland property that will not terminate until the permanent alignment of Moulton Parkway has been determined.

6. We find that a contract between Pacific and Narland needs to be executed to define the time limitation of this temporary easement.

7. No protests to the application have been received.

8. A public hearing is not necessary.

We conclude that the application should be granted in accordance with the following order.

O R D E R

IT IS ORDERED that:

1. Pacific is authorized for a period of three years from the effective date of this order to deviate from the mandatory undergrounding requirements of its Rule 15 for the purpose of constructing temporary overhead telephone lines across the Narland property to provide service to Tract No. 8965 located in the Nellie Gail Ranch Subdivision, Orange County, California.

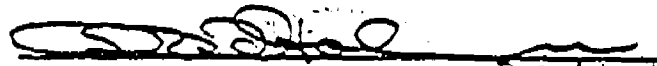
2. This deviation is temporary and will terminate 180 days after the determination of the permanent alignment of Moulton Parkway.

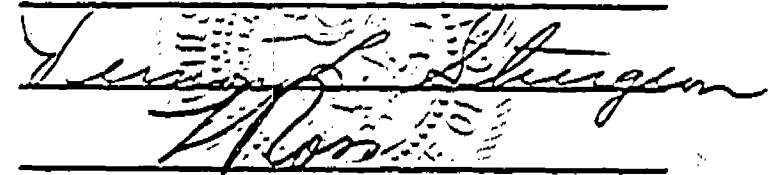
3. Pacific will install permanent facilities in accordance with Rule 15 within 180 days after the determination of the permanent alignment of Moulton Parkway to provide service to Tract No. 8965 located in the Nellie Gail Ranch Subdivision, Orange County, California.

4. Pacific shall file a contract with this Commission executed between Pacific and Narland for a temporary easement across the Narland property which will terminate 180 days after the determination of the permanent alignment of Moulton Parkway.

The effective date of this order shall be twenty days after Pacific files the contract for a temporary easement across Narland property.

Dated at San Francisco, California, this 10<sup>th</sup> day of NOVEMBER, 1976.

  
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President

  
\_\_\_\_\_  
Commissioners

*Jabstein*  
*Robert Batimovich*

Commissioner

Commissioner William Symons, Jr., being necessarily absent, did not participate in the disposition of this proceeding.