

ORIGINAL

Decision No. 87305

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

HIDDEN VALLEY WEST, a General Partner-)
 ship, THE E. C. MALONE COMPANY, a)
 California corporation and General)
 Partner in Hidden Valley West,)

Complainants,)

v.)

SAN DIEGO GAS & ELECTRIC COMPANY,)
 a California corporation,)

Defendant.)

Case No. 10097
 (Filed May 4, 1976)

William H. Kronberger, Jr., Attorney at Law,
 for Hidden Valley West and The E. C. Malone
 Company, complainants.

L. Earl Ligon, Attorney at Law, for San Diego
 Gas & Electric Company, defendant.

O P I N I O N

This complaint is brought by Hidden Valley West (the subdividers), a general partnership, and the E. C. Malone Company, a corporation and general partner in Hidden Valley West, against San Diego Gas & Electric Company (the utility), a public utility, for reparations in connection with a project undertaken by the utility at the request of the subdividers, calling for the replacement of a three-phase overhead electric distribution line with an underground system in the residential subdivision known as Hidden Valley West at La Jolla (the subdivision). Five days of hearing were held on the matter at San Diego before Examiner Pilling. The case was submitted with the filing of the final brief on November 23, 1976.

The complaint requests the following specific relief:

1. Order the utility to pay all costs of undergrounding the existing overhead facilities south of the southern boundary of the subdivision.
2. Order the utility to repay to the subdividers the sum of \$12,641 as reparations for the overcharge of extending underground facilities south of the southern boundary of the subdivision.
3. Order the utility to repay to the subdividers the cost of the overhead reroute work accomplished by the utility in December, 1974 and without the consent or agreement of the subdividers.
4. Order the utility to refund all charges in excess of the costs of undergrounding and replacement of overhead facilities as computed pursuant to the subdividers' proposals.

The area embraced by the new 19-lot subdivision (see sketch, Appendix A) generally describes, for simplicity sake, a rectangle whose long axis runs north and south. The southern third of the subdivision's western boundary lies along side of and to the east of Hidden Valley Road which continues south past the southern boundary of the subdivision for 200 feet where it junctions with a street named Via Capri which runs east and west. The overhead distribution line involved in this controversy starts at a pole (pole #1) northwest of the subdivision, diagonally crosses into the northwest portion of the subdivision, runs south through the western portion of the subdivision on two poles (pole #2 and pole #3), extends south outside of the subdivision across a lot, owned by the Scanlons on the northeast corner of Hidden Valley Road and Via Capri, and terminates at a cable pole (pole #4) at the point of tangency on Via Capri just around the corner from Hidden Valley Road. The overhead line, comprised of three spans of wires, is 1000 feet in length and before the area was subdivided, served only two customers, one customer located within the subdivision area and one located outside. The overhead line also carried

power to a distribution line on Via Capri. Pole #4, a cable pole, is also the terminus of an underground system running along Via Capri from the east and the terminus of an overhead system on Via Capri coming from the west. Hidden Valley Road has been designated by the city of San Diego as a scenic drive. A city of San Diego ordinance requires the undergrounding of utilities in all new residential subdivisions.

When the area was subdivided in 1974 the subdividers requested the utility to provide the 19 lots with underground electric service. The utility viewed the request as two separate requests: (1) to replace the overhead electric distribution line running over the subdivision with an underground system pursuant to the utility's tariff Rule 31.B--Replacement of Overhead with Underground Distribution Facilities, and (2) to extend the replacement underground system to serve the remainder of the lots in the subdivision under the utility's tariff Rule 20.1--Underground Extensions Within New Residential Subdivisions and Residential Developments. The issues raised by this complaint pertain only to the work done under Rule 31.B, which was eventually made the subject of a separate contract between the utility and the subdividers.

In late 1974 the utility presented the subdividers, at their request, with contracts, designs, and associated cost estimates for the underground replacement and extension. The utility's proposed underground replacement was designed to run along Hidden Valley Road from an existing pole (pole #5) located on the west side of Hidden Valley Road where that road starts running alongside of the western boundary of the subdivision, thence south 400 feet along Hidden Valley Road to the southern boundary of the subdivision, thence 250 feet south along Hidden Valley Road to Via Capri and around the corner on Via Capri easterly past pole #4 to a proposed handhole on Via Capri for a total distance of approximately 650 feet. The utility's design called for two handholes at the north end of the undergrounding and one handhole at the south end. The handholes would house,

among other devices, plug-in connections. To accomplish the utility's proposed design the overhead line coming into pole #5 from the west had to be converted from a single-phase to a three-phase line (the overhead reroute work). Through an alleged clerical error the overhead reroute work was started and completed by the utility before the utility received a response from the subdividers to its tendered contracts and designs. In fact, the subdividers let the utility's offer expire because they were experiencing difficulty in obtaining financing for the subdivision.

In May of 1975, at the request of the subdividers, the utility submitted to the subdividers a new underground proposal (Exhibit 1-2) which, except for some additional work in the northeast portion of the subdivision requested by the subdividers, was the same design previously submitted. After studying the new proposal the subdividers made known to the utility their objection to being assessed the cost of the overhead reroute work of \$7,170 and the cost of the undergrounding between the southern boundary of the subdivision and pole #4 of \$12,641. They also objected to, as being too low, the amount of credit of \$4,588 they were being allowed for the equivalent overhead system pursuant to Rule 31.B. The subdividers claimed that the overhead reroute work was not done under any contract or agreement with the subdividers; therefore, they should not have to pay for it. The utility claimed that the work was done solely, if in error, in anticipation of the subject undergrounding and that if the underground design was to start at pole #5 the work would have had to be done anyway. Also, in view of the mounting inflation the cost of the work was less at the time it was done than it was later on.

The subdividers contended that the undergrounding south of the southern boundary of the subdivision was strictly for the convenience of the utility and was completely unnecessary in the rendition of underground electric service to the subdivision. They contended that the undergrounding could be stopped just outside

of the southern boundary of the subdivision and a new pole erected there to carry the existing overhead lines to pole #4. (The existing overhead lines followed a utility easement across a vehicle right-of-way and across the Scanlons' property to pole #4.) As an experiment, the utility placed a trial pole up among the existing overhead lines just south of the southern boundary off of Hidden Valley Road in the east-west vehicle right-of-way which separates the Scanlons' property to the south from the southern boundary of the subdivision to the north. The Scanlons' property is at an approximate 20-foot higher elevation than the vehicle right-of-way. The Scanlons objected to the location of the trial pole as the pole and its cross arms protruded into their 25-degree wide ocean view from their living room and upstairs bedroom (Exhibit 7). The Scanlons claimed they purchased their house and lot because it was ocean view property and that polluting this view with a utility pole would degrade the value of their property. The existing wires were already within their ocean view. They claimed the pole irritated their peace of mind and filed a formal complaint with the Commission to have the pole removed. The utility removed the pole and the complaint was withdrawn. A second location for a new pole was suggested--in the utility franchise area on Hidden Valley Road just north of the southern boundary--but the utility rejected this position because new overhead wiring between the pole and pole #4 would overhang the southwest corner of the Scanlons' property and the Scanlons had verbally refused to give an easement for the wires. A third location was suggested and rejected because the pole would be within the Scanlons' ocean view.

The utility suggested that pole #3, the southernmost pole in the subdivision, be made the southern terminus of the undergrounding but the subdividers refused on the grounds that pole #3 would have to be made into a cable pole and the concrete anchor of the cable would be just a few feet from the back door of

one of the new houses being built in the subdivision. The utility then suggested that a new pole be placed south of pole #3 within a eucalyptus grove to camouflage the pole and its cross-arms, but the subdividers rejected the idea stating that they did not want any poles within the subdivision. A waiver from the city of San Diego would have been necessary to keep pole #3 in place or to place a new pole in the subdivision, and initial inquiries made by the utility of the City Engineer indicated that his department would support such a waiver.

As alternatives to the underground system design proposed by the utility the subdividers and their consultants proposed at various times five different designs (Exhibits 1-3, 1-4, 1-5, 1-6, and 1-7), three of which originated at pole #5 and each of which, except the design represented by Exhibit 1-3, would terminate at the location of the trial pole or a location rejected by the utility as stated above. The design represented by Exhibit 1-3 follows the path of the design proposed by the utility in Exhibit 1-2 except the subdividers' design would terminate at an existing pole (pole #6) on the northwest corner of Hidden Valley Road and Via Capri and would include but one handhole located about equidistant between the north and south ends of the system. It was estimated to cost \$10,000 to construct the portion south of the southern boundary of the subdivision. While the utility claimed it gave serious consideration to using the design depicted by Exhibit 1-3 it rejected the idea. The utility contended that three handholes were necessary in the system to maintain system flexibility and to reduce the problem of cable tension when cable is pulled through the conduit. Poles #4 and #5, between which the undergrounding runs, are equipped with plug-in devices used to connect overhead system segments. The handholes proposed by the utility will contain, among other devices, plug-ins for use in making future

underground connections. The utility claims the design depicted in Exhibit 1-3 will require, in the event future extensions are made to the system, the scrapping of all cable in the conduit. Also in case of future connections or in the event that certain repairs had to be made to the system a several hour interruption of service would be necessary using the Exhibit 1-3 design, whereas a momentary interruption is all that will be necessary if the utility's proposed design is used. The utility also contended that terminating the undergrounding on pole #6 would require converting pole #6 into a cable pole, and affixing additional devices to it. This would place two cable poles within approximately 100 feet of each other and further detract from the adverse visual impact created by the presence of the poles. The utility anticipates that it will be required in the near future to underground the overhead lines on Hidden Valley Road north of pole #5.

Designs depicted on Exhibit 1-6 and 1-7 originate at points other than pole #5 and would necessitate an easement across one of the lots in the subdivision. In the case of the design depicted on Exhibit 1-6 the utility offered to build it and stated to the subdividers that they would not have to pay for the overhead reroute work to pole #5 if the design depicted on Exhibit 1-6 was accepted. The subdividers did not elect to have that design constructed and instead presented the Exhibit 1-7 design to the utility for its consideration. The utility had cost estimated several designs for the subdividers and at this point the utility demanded that the subdividers pay the costs for cost estimating the design depicted on Exhibit 1-7. The utility also requested a written assurance from the subdividers that the subdividers would give the utility a 6- to 8-foot easement for a fenced graveled truck access to get back to the cable pole serving the underground at the rear of one of the lots in the subdivision. With those two conditions satisfied the utility stated that it would go ahead with the

design depicted on Exhibit 1-7 and told the subdividers that if that design was instituted they would not charge the subdividers for the overhead reroute work running into pole #5. The subdividers furnished the money for the cost estimation but when written assurances for a truck access easement were not forthcoming the utility returned the money. The witness for the subdividers stated that if the design depicted in Exhibit 1-7 had been proposed at the start of negotiations they would have given the truck access easement, but that at the time the design was proposed other construction already completed within the subdivision would have interfered with the design.

The subdividers were faced with an \$11,000 a month debt service, so to get things going they signed, under protest, the contract calling for the installation of the design depicted in Exhibit 1-2 with the intention of bringing an action for reparations before the Commission, which resulted in this case. The design depicted in Exhibit 1-2 had been installed at the time of the hearing. The least expensive house in the subdivision sold for \$125,000.

The utility claims that at the time the project was conceived its policy in respect to undergrounding was to extend the undergrounding outside the area to be undergrounded to the next cable pole, which in this case is pole #4. The utility defends its position by pointing to Rule 31.D which states that "The term 'underground electric system' means an electric system with all wires installed underground, except those wires in surface mounted equipment enclosures." The utility contends that the plain meaning of Rule 31 is that overhead facilities, which for some reason are to be replaced, must be replaced with facilities located underground and not with new overhead facilities. Consequently, all overhead facilities "touched" by the conversion must be replaced by underground

facilities. Further, since Rule 31.B was promulgated on the grounds of esthetics it would be unfair to adversely impact the Scanlons' view because of work designed to heighten the esthetics of a view for someone else. The subdividers contend that the utility has no authority to mandate off-site undergrounding and that there is no provision in the utility's Rule 31.B which requires the subdividers to pay for the off-site undergrounding which amounts to over one-half of the cost of the entire Rule 31.B undergrounding project. They contend that requiring them to expend \$12,641 to prevent a slight intrusion by a utility pole into the Scanlons' view is economic insanity. They argue that if the fact that the Scanlons' view problem dictated the extension of underground facilities past the subdivision boundary it does not obligate the subdividers to pay the costs of a future expansion of the system. They argue that the design shown on Exhibit 1-3 would have answered the Scanlons' view problem and that they should not be made to pay the costs of future undergrounding.

The subdividers claim that the utility went ahead with the overhead reroute work without any contract or agreement with the subdividers and hence they should not be required to pay for it. They also claim that the utility, having expended \$7,170 on the overhead reroute work in error, wanted to recapture the cost of such work to the point of becoming inflexible when considering other designs proposed by the subdividers which did not connect with pole #5. (Exh. 1-6 & 1-7.) The utility offered an alternative design (Exhibit 19) which did not connect with pole #5 and told the subdividers that if they accepted that design they would not have to pay for the overhead reroute work. This design, quite similar to the design proposed by the subdividers depicted on Exhibit 1-6, was not accepted by the subdividers.

The equivalent overhead credit offered to be given by the utility was based on the cost of an overhead system design which generally followed the proposed undergrounding between pole #4 and #5. The subdividers claim that since the equivalent overhead system would have to cross a corner of the Scanlons' lot and the Scanlons refused an easement for an actual line across the same point, the equivalent overhead system could not be built. The subdividers want an equivalent overhead credit equal to the cost of placement of overhead distribution lines as though the underground design proposed by the subdividers in Exhibit 1-7 had been built (Exhibit 40). The utility counters with the argument that since the subdividers do not want any poles or wires within the subdivision that equivalent overhead system could not be built.

Rules 31.B and 31.C require the subdividers to advance the estimated cost of the underground replacement, less certain other items, before the utility will embark on the project. During negotiations the subdividers repeatedly requested the utility to furnish them with the underlying figures on which the utility based its cost estimates of the various designs, but their requests were just as repeatedly denied. The details of the cost estimates were eventually obtained by the subdividers by subpoena issued in this proceeding. At the start of the hearing the utility admitted that it made computation errors in two areas of its estimates and returned \$1,571 to the subdividers. The evidence also shows that the actual cost of the overhead reroute work was some \$1,900 lower than the estimated cost as originally presented to the subdividers. The subdividers question the reasonableness of the utility's method of arriving at its estimated costs, such as the addition of a contingency cost factor to its bare costs and in estimating cable length in excess of what is really needed to complete the job. The subdividers request that the Commission formally investigate the manner and methods used

by the utility in estimating their undergrounding costs. The witness for the utility stated that it was his company's policy to refund any monies paid in excess of the estimated cost of a replacement project.

Discussion

The utility had the legal right to place a permanent pole just south of the southern boundary in its overhead easement in the approximate location of the trial pole and there was no showing made that any local law prohibited such placement. Unfortunately, if a permanent pole had been placed in the trial pole location or in any other proposed location outside the subdivision, the pole and its crossarms would have adversely impacted the Scanlons' view. Undergrounding the system to pole #4 was the only alternative to placing a pole outside the subdivision. The Scanlons demanded that no pole be placed in a location that would adversely impact their view, thus presenting the question "Who is to be charged the cost for undergrounding the facilities south of the subdivision in order to protect the Scanlons' view?" The answer is contained in Rule 31.B which states in part:

"...the utility will replace its existing overhead distribution facilities with underground distribution facilities...when requested by an applicant...(if)

* * *

"2. The applicant has:

* * *

"c. Paid a nonrefundable sum equal to the excess, if any, of the estimated costs, exclusive of transformers..., of completing the underground system and building a new equivalent overhead system."

The subdividers made no request that the overhead facilities south of the subdivision be undergrounded. They could not therefore be considered an applicant who requested the undergrounding south of

the subdivision and so should not be made to pay the cost of it. The Scanlons were the ones who demanded that no pole be placed in a location which adversely impacted their view. Rule 31.B allows a person to effectively demand that objectional overhead electric distribution facilities be undergrounded, but only if the demand is accompanied by an offer to pay, or the payment of, the cost of undergrounding. Since the Scanlons' demand was not accompanied by an offer to pay, or the payment of, the cost of undergrounding, the utility should not have acceded to the Scanlons' demand nor, if the undergrounding south of the subdivision was accomplished, look to the subdividers for reimbursement of the cost of the project. No duty devolved on the subdividers toward the Scanlons to pay \$12,641 to protect the Scanlons' view. Nor was the undergrounding south of the subdivision essential or beneficial to service within the subdivision. The line extension south of the subdivision was necessary for the utility to discharge its duty to render service to customers, including the Scanlons, south of the subdivision. Those customers were served with an overhead line. Because of the replacement of the overhead line running through the subdivision the utility had nowhere to place a pole outside of the subdivision except in a location which would have adversely affected the Scanlons' view.

Under the circumstances did the utility have a duty to the Scanlons to underground south of the subdivision to protect the Scanlons' view? We think not. Under the circumstances the utility would have had a duty only if the Scanlons or some other person voluntarily offered to pay, or did pay, to the utility the costs required by Rule 31.B. Since no one voluntarily offered to pay, or did pay, such costs no duty devolved on the utility to underground south of the subdivision. The subdividers were improperly charged the cost of the undergrounding south of the subdivision, and any monies paid by them to cover such cost should be returned to them. Additionally, the subdividers were rightly adamant in refusing to have any poles within their subdivision.

They were willing to pay for the poles' removal from the subdivision, and they had no duty towards the Scanlons which would have necessitated their settling for less than the removal of all poles within the subdivision.

The overhead reroute work was necessary if the undergrounding was to originate at pole #5. The evidence shows that the work was done for no purpose other than as part of the proposed underground replacement project then under consideration by both the subdividers and the utility. While the work was done prematurely in error by the utility it was part and parcel of the underground project. To allow the subdividers to take advantage of this error on the ground that no contract or agreement was in existence at the time the work was done would result in the subdividers obtaining a rebate forbidden by Section 453 of the Public Utilities Code if the subdividers voluntarily took advantage of the work. Only two of the five designs suggested by the subdividers did not originate at pole #5. Each of those two designs, approved with reasonable conditions by the utility, were somehow rejected by the subdividers. This left three designs suggested by the subdividers, all of which originated at pole #5. Starting the underground project at pole #5 then was about the only feature of the project which was agreeable to both parties. Evidently, the subdividers considered that the two designs which did not originate at pole #5 would require giving the utility an underground easement across one of the lots in the subdivision, making that lot less attractive to a prospective buyer, and in one instance would have required the fencing and graveling of a truck access easement across a lot from a street within the subdivision, detracting from the general esthetics in the area. Hence, the subdividers voluntarily assumed the benefits of the overhead reroute work and they should be made to pay for it.

It is unnecessary here to deal with the manner in which the utility makes its cost estimates since the underground system had already been installed at the time of hearing of the matter and actual cost figures for its installation are available. The utility acted properly in refunding to the subdividers the excess of the estimated costs of the overhead reroute work over the actual cost. While Rule 31 speaks of the payment to the utility of the estimated costs as being "nonrefundable", the word "nonrefundable" is intended to mean that refunds will not be predicated on the line being connected to meters, as required of advances made in connection with extensions within subdivision as found in, for example, Rule 20.1.D. Failure to return monies paid in excess of the amount of the actual cost in estimated projects results in the levying of an unjust and unreasonable charge on the applicant contrary to Section 451 of the Public Utilities Code.

The utility's tariff Rule 31.B.3 requires as follows:

- "3. The area to be undergrounded includes both sides of a street for at least one block or 600 feet, whichever is the lesser..."

If pole #5 is used as one terminus of the undergrounding and the other location is where the trial pole had been placed by the utility outside of the southern boundary of the subdivision, the undergrounding would not have extended for a block and would have only covered approximately 400 feet. Hence if the system had been built in that manner Rule 31.B would not have been applicable since the above quoted condition in Rule 31.B.3 had not been met. Instead Rule 31.C would have been applicable:

- "C. In circumstances other than those covered by A. or B. above, ...overhead distribution facilities may be replaced with underground distribution facilities, provided the applicant requesting the change pays, in advance, a nonrefundable sum equal to the estimated cost of the underground facilities less the estimated net salvage value and depreciation of the replaced overhead facilities."

The major difference in the application of those rules is that under Rule 31.B the applicant, in this case the subdividers, gets credit for the estimated cost to construct a "new equivalent overhead system" (Rule 31.B.2.C) while under Rule 31.C the applicant gets credit only for the estimated net salvage value and depreciation of the replaced facilities. The project should have been constructed pursuant to Rule 31.C and no equivalent overhead system credit given.

In summary, the subdividers were improperly charged the cost of undergrounding south of the subdivision boundary, and the subdividers opted to take advantage of the overhead reroute work running to pole #5 which was done solely for the subdividers' benefit. As the length of the underground extension which would have been made between pole #5 and the location of the trial pole was not of sufficient length to qualify for the application of Rule 31.B, the application of Rule 31.C is required. Additionally, the handholes at either extremity of the line were necessary to replace the service capability and reliability of the overhead line which was replaced.

Findings

1. At the request of the subdividers the utility submitted to them a proposal to replace an existing three-phase overhead electric distribution line running through the subdivision.

2. The design of the underground system called for undergrounding in a street from pole #5 to a pole approximately 250 feet south of the southern boundary of the subdivision.

3. Before hearing from the subdividers the utility inadvertently went ahead and completed certain overhead reroute work on the overhead line running into pole #5, costing \$7,170, which would have been necessary if the proposed underground design was to be installed.

4. After a lapse of several months the utility, at the request of the subdividers, submitted to them an updated proposal for the replacement project which included the original underground replacement design.

5. The proposal called for the subdividers to pay to the utility the cost of the overhead reroute work, to which the subdividers objected on the ground that the work had not been done under any agreement with the subdividers.

6. The proposal also included a cost to the subdividers of \$12,641, being the estimated cost of undergrounding south of the subdivision, to which the subdividers objected on the ground that the work was nonessential to the replacement of the overhead line within the subdivision.

7. In the ensuing negotiations that followed, the subdividers proposed five alternative designs for the underground system, three of which started at pole #5 and the other two, subsequently rejected by the subdividers, requiring an easement across a lot within the subdivision.

8. As an alternative to continuing the undergrounding south of the subdivision it was suggested that the undergrounding be connected to a new pole placed immediately south of the southern boundary in the utility's existing overhead easement and have the distribution lines continue overhead from the new pole to its terminus, as the lines then did.

9. A trial pole was placed by the utility among the existing overhead wires at the point suggested in finding 8, but its presence was objected to by the Scanlons, across whose property the existing span of wires stretched, as polluting their narrow view of the ocean and degrading the value of their property.

10. The Scanlons filed a formal complaint with the Commission to have the pole removed, after which the utility removed the pole and, out of deference to the Scanlons, refused to place the pole at that point. The complaint was withdrawn.

11. The utility suggested to the subdividers that the southernmost pole in the subdivision be left in place, or that a new pole be placed hidden in a grove of trees within the subdivision near its southern boundary in order to support the span of wires running to their termini outside of the subdivision, but the subdividers refused.

12. Because of the financial pressure on the subdividers to get the subdivision completed they signed, over their objections, a contract with the utility pursuant to the utility's tariff Rule 31.B to have the utility's proposed design installed. At the time of hearing the design had been installed.

13. The subdividers did not act unreasonably in refusing to have a pole within the subdivision as they were willing to pay to have all the poles within the subdivision removed.

14. No local law prevented the utility from placing a permanent pole in the location of the trial pole.

15. A condition for Rule 31.B is that the undergrounding must run for a minimum distance of 600 feet.

16. If the undergrounding had ended at the location of the trial pole the undergrounding distance would have been approximately 400 feet, in which event Rule 31.C, which requires no minimum distance, would have been applicable.

17. The subdividers were under no duty to the utility or any one else to pay the cost of the underground construction south of the subdivision.

18. The undergrounding south of the subdivision is nonessential to the replacement of the overhead lines within the subdivision.

19. Charging the subdividers the cost of the undergrounding south of the subdivision is, in this case, unjust and unreasonable.

20. The utility acted reasonably in demanding easements as a condition to undertaking the construction of the designs depicted in Exhibits 1-6 and 1-7.

21. In failing to meet the utility's conditions pertaining to easements for constructing the Exhibit 1-6 and 1-7 designs the subdividers rejected these proposals.

22. The only other underground designs proposed by the subdividers originated at pole #5.

23. Pole #5 was the only originating point that was agreeable to both the utility and to the subdividers.

24. The utility acted reasonably in demanding that the subdividers pay for the overhead reroute work if the undergrounding originated at pole #5.

25. The utility would have given the subdividers an unlawful preference had it not demanded that the subdividers pay the cost of the overhead reroute work which was done solely for their benefit, but they would not have been obligated to pay that cost if pole #5 had not been used as the originating point.

26. The handholes at either extremity of the line are necessary to replace the service capability and reliability of the overhead line which was replaced.

27. Complainants are entitled to reparations from defendant. Based on this record we estimate the reparations to be approximately \$10,000, but this estimate is subject to a more accurate accounting as set forth in the order. The actual amount may differ considerably from our estimate.

Conclusions

1. The project is subject to the utility's tariff Rule 31.C.

2. The utility should be ordered to repay to the subdividers all monies paid by the subdividers to the utility covering the cost of undergrounding south of the subdivision boundary less the sum of (1) the estimated cost of bringing the undergrounding from the southern boundary to the point where the trial pole had been positioned plus the cost of terminating the underground upon a new pole at that

position, (2) the estimated cost of installing a handhole with appropriate devices at a point selected by the utility as if the undergrounding had been terminated at said new pole, and (3) the estimated net salvage value and depreciation of the replaced overhead facilities.

3. The subdividers' request for a refund of monies paid by them to the utility to cover the cost of the overhead reroute work should be denied.

O R D E R

IT IS ORDERED that:

1. San Diego Gas & Electric Company (the utility) shall refund to the E. C. Malone Company as reparations all monies paid by the latter to the utility to cover the cost of undergrounding south of the Hidden Valley West subdivision involved in the project which has been the subject of this proceeding, less the sum of the following:

- a. The estimated cost of bringing the underground project from the southern boundary of the Hidden Valley West subdivision to the point where the utility had placed a trial pole as described in this decision plus the cost of terminating the underground project upon a new pole at that point;
- b. The estimated cost of installing a handhole at a point selected by the utility as if the underground project had terminated at said new pole;

plus the estimated net salvage value and depreciation of the replaced overhead facilities within the subdivision.

2. The request of complainants for a refund of monies paid to the utility by them to cover the cost of the overhead reroute work is denied.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 10th day of MAY, 1977.

Robert Batmang

President

William S. Jones Jr.

Vernon L. Ferguson

Richard D. Gault

Commissioners

C.10097

Appendix A

HIDDEN
VALLEY
WEST
SUBDIVISION

