

Decision No. 88970

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

MARY ANN STEWART and
FRANCIS E. STEWART,

Complainants,

vs.

Case No. 10352

SOUTHERN CALIFORNIA EDISON COMPANY,

Defendant.

ORDER GRANTING REHEARING

Southern California Edison Company has filed a petition for rehearing of Decision No. 88605. The Commission having considered each and every allegation contained therein is of the opinion that good cause for rehearing has been shown, therefore,

IT IS ORDERED that rehearing or reconsideration of Decision No. 88605 is granted.

Dated at San Francisco, California, this 13th day of JUNE, 1978.

Robert Bateman
President
William Sproull Jr.
Herbert J. Stinson
Robert P. Threlk
Clare T. DeWitt
Commissioners

kcm/lc

Decision No. 88605 MAR 21 1978

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

MARY ANN STEWART and FRANCIS E.
STEWART,

Complainants,

vs.

SOUTHERN CALIFORNIA EDISON COMPANY,
Defendant.

Case No. 10352
(Filed June 14, 1977)

Mary Ann Stewart, for herself, complainant.
John W. Evans, Attorney at Law, for
Southern California Edison Company,
defendant.

O P I N I O N

Complainants, Mary Ann Stewart and Francis E. Stewart, request an order that the pole located near the northwest corner of their property be relocated to a less objectionable area and at no expense to them. They state that on December 20, 1976, defendant, Southern California Edison Company, installed Pole No. 2091052E adjacent and contingent to the northwest corner of their property. The pole was installed to serve a neighbor to the rear of complainants' property. It is alleged that the pole is aligned with the center of the view from complainants' living room picture window, the view from their porch, kitchen, and bedroom windows.

Complainants contend that defendant has created a "line of sight easement" causing damage to their property and that by securing a new easement defendant acted in an unethical manner in order to avoid notifying them prior to installation, in sufficient time to agree on a location or perhaps arrange for underground installation.

A duly noticed public hearing was held in this matter before Administrative Law Judge John J. Doran in Los Angeles on November 8, 1977, and the matter was submitted subject to receipt of late-filed exhibits on December 6, 1977.

The complainants testified that they built their own home about four years ago at 14160 El Mesa Drive, Riverside, and have underground utility services. They live in an overhead area, but paid the utilities to provide underground services in order not to obstruct their view. The house is reverse plan with the living room on the second floor. The new pole cuts through the view from the living room. Complainants' home fronts to the south and their utility services come underground from the south from a pole 170 feet away.

A new home was recently constructed across from the public utility easement on the north (or rear view) side of their property. Electric and telephone lines were extended overhead from the east to the pole complained about. Underground service lines were then connected to that pole to serve the neighbor's home.

Complainants testified that approximately five months prior to the pole installation they objected to defendant's proposal to install a pole on their property to provide temporary service for construction of the new home. No specific reason was given for the objection and the temporary pole was not installed.

Complainants further testified that they receive an electric bill every two months and, therefore, wonder why they did not receive a letter asking them if they objected to the pole. They further stated that defendant rang their doorbell the day before the pole was set and stated that defendant was setting a pole, but that it was not on complainants' property. An objection was not registered at that time.

Defendant's service planner testified that his first contact with complainants was at the time of the temporary service pole and the next time about three days after the pole and pole line that is at issue in this complaint was constructed. The witness advised complainants about defendant's tariff rules for relocating poles and that the customer is expected to pay the cost of relocating the facilities (electric, telephone, and the underground service of the other customer). The pole in question is jointly owned with The Pacific Telephone and Telegraph Company.

Complainants discussed this matter with the Commission's Consumer Relations staff by telephone on December 21 and were advised to phone the utility about the matter. Complainants filed Informal Complaint 67182-E on January 25, 1977 which was not resolved to their satisfaction, resulting in this formal proceeding.

Discussion

The complainants would be satisfied if the objectionable pole was moved 120 feet east from their rear northwest property corner to the northeast property corner. While complaint requested relief at no expense to complainants, complainants stated at the hearing that they were originally willing to pay to have the pole moved, were it a reasonable amount, and they thought it would be somewhat more than \$150.

Defendant stated at the hearing that it was prepared to move the pole and make other arrangements, if it is possible to do so; however, it was not prepared to assume the expense for doing it.

Pursuant to the request of the ALJ, defendant submitted a late-filed exhibit estimating the relocating expenses for moving Pole No. 2091052E and the attached underground service from its present location to a point 120 feet east to be \$1,328 for defendant, \$520 for the telephone utility, both excluding the cost of trenching which complainants had indicated they would do.

Complainants submitted a late-filed exhibit showing the approval of their neighbors to moving the pole 120 feet to the east of its present location. Letters of approval were obtained from the owner of the two lots to the west of complainants' property, the resident owner to the east and the resident owner to the north or rear. The owner of lots to the west plans to have underground utility services and the owner to the rear does have underground utility services.

There are unusual circumstances in this complaint matter which make it different from an ordinary request to move a pole in an overhead area at the expense of the customer. In this matter the complainants have a reverse plan home. The structure is situated on relatively high ground. The view from the second story living room picture window is across the northwest corner of their property. The view has been bisected by a utility pole. Looking from the pole to the window would also indicate the effect. The complainants put defendant on notice that they dislike overhead utility service by originally paying to have their utility service placed underground. Subsequently, they did not authorize a temporary pole on their property.

Considering the unusual circumstances herein, complainants were not notified in an adequate and timely manner about the pole and pole line that cuts through the view of their picture window.

Requiring defendant to move Pole No. 2091052E 120 feet to the east at no expense to complainants except for the necessary trenching and backfill, is reasonable and will be adopted.

Findings

1. Complainants live in an overhead utility area.
2. Complainants paid to underground their utility services.
3. Complainants refused to authorize a temporary pole to be placed on their property.
4. Defendant installed a pole that bisected the view from complainants' living room picture window.

5. Considering the unusual circumstances herein, complainants were not notified about the pole construction in an adequate and timely manner.

6. The relocating expenses for moving Pole No. 2091052E and the attached underground service excluding trenching from its present location to a point 120 feet east are estimated to be \$1,328 for defendant's facilities and \$520 for telephone facilities.

7. Complainants indicated they can provide the necessary trenching and backfill.

8. Complainants' neighbors have indicated their approval of moving the pole.

Conclusion

It is concluded that the relief requested should be granted to the extent provided for herein; i.e., the pole should be moved at no expense to the complainants except for the expenses of trenching and backfill.

ORDER

IT IS ORDERED that Pole No. 2091052E and the attached underground service be relocated to a point approximately 120 feet east of its present location, the exact point to be determined by complainants and defendant. at no expense to complainants except the expense of trenching and backfill to be accomplished by complainants.

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

Dated at San Francisco, California, this 21st day of March, 1978.

ROBERT BATINOVICH
President

WILLIAM SYMONS, JR.

VERNON L. STURGEON

RICHARD D. GRAVELLE

CLAIRE T. DEDRICK
Commissioners