

bf/dcp **

Decision No. 89852 JAN 16 1979

ORIGINAL

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
(Order Granting Rehearing
filed June 13, 1978)

OPINION MODIFYING DECISION AFTER RECONSIDERATION

The order in Decision No. 88605 states:

"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."

Southern California Edison Company (Edison) filed a petition for rehearing of said decision. The Commission in Decision No. 88970 granted rehearing and reconsideration.

In its petition for rehearing Edison states that the complaint did not comply with the Public Utilities Code Section 1702. Section 1702 states, "Complaint may be made by...any...person..., by written petition or complaint, setting forth any act or thing done or omitted to be done by any public utility, including any rule or charge heretofore established or fixed by or for any public utility, in violation or claimed to be in violation, of any provision of law or of any order or rule of the commission..." Edison states that complainants failed to show a violation by Edison of any order or rule of the Commission or of any other provision of law.

In the opinion in Decision No. 88605 we stated:

"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."

However, from a review of the record including the above "...unusual circumstances..." it is clear that Edison is correct in its contention that it has not violated any order of the Commission or any provision of law. Edison is not required under its present tariffs to notify adjoining landowners before placing a pole on a customer's property. In this case, however, Edison did notify the complainants one day before the pole was installed, and the complainants did not object to the location of the pole.

Copies of the petition and order granting rehearing were served upon complainants. The assigned administrative law judge, by letter dated September 15, 1978, advised complainants that a further hearing would be set to provide them an opportunity to present argument and/or additional testimony to show a cause of action to comply with Section 1702. Complainants were also informed that if they should

decide not to proceed, or if they should not respond to this letter within ten days, that an order would be drafted denying the complaint. No response has been received from the complainants.

Finding

Edison has not violated any order or rule of the Commission or any provision of law.

Conclusion

Further hearing is not necessary. We conclude that we do not have jurisdiction under Section 1702 and that the complaint should be dismissed.

O R D E R

To conform the opinion and order in Decision No. 88605 with the views expressed herein, IT IS ORDERED that:

1. The conclusion in Decision No. 88605 is hereby deleted.
2. The ordering paragraph in Decision No. 88605 is rescinded.
3. The complaint is dismissed.

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

Dated at San Francisco, California, this 16th day of JANUARY, 1979.

Robert Batizian

 President
Robert D. ...

Clare J. ...

Commissioners