

ALJ/nb *

ORIGINAL

Decision No. 92607 January 21, 1981

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the SOUTH SHORE VILLAGE CLUB to deviate from mandatory requirements for under- ground utility extensions in San Luis Obispo County, California.)))))	Application No. 59008 (Filed July 17, 1979)
--	-----------------------	--

Daniel P. Miroballi and J. D. Preletz, for
the South Shore Village Club, applicant.
Alvin Pak, Attorney at Law, and Andrew
Tokmakoff, for the Commission staff.

O P I N I O N

By this application South Shore Village Club (South Shore) seeks authority to deviate from the undergrounding provisions of Pacific Gas and Electric Company's (PG&E) line extension rule, Rule No. 15. South Shore proposes to construct an overhead power line from PG&E's existing overhead lines located within three miles (line of site) of South Shore's property. The property for which this deviation is requested is 95 acres located on Lake Nacimiento 30 miles west of Paso Robles. The only existing road to South Shore's property is a graded dirt access road five miles long put in by South Shore. It is not an all-weather road. South Shore is a seasonal recreation club whose membership is limited to 40 members.

A prehearing conference was held in Los Angeles on May 15, 1980. Pursuant to instructions from the Administrative Law Judge (ALJ) at the prehearing conference the parties reduced their testimony to writing and exchanged the testimony and exhibits prior to the scheduled hearing date of October 28.

A telephone conference call was held on October 27 at 10 a.m. between the assigned ALJ; Lindsay F. Nielson, an Attorney at Law, representing South Shore; and Alvin Pak, staff counsel.

It was pointed out that a stipulation had been entered into by the parties wherein it was agreed that pursuant to Rule 17.3 of the Commission's Rules of Practice and Procedure, Government Code Sections 65920 et seq. and the time deadlines as promulgated by the Office of Planning and Research for determination and action on applications within specified time limits applied to the matter at hand. The parties agreed and stipulated that the failure to observe the time limits provided in Government Code Section 65956 has, by operation of law, granted South Shore the entitlement of use and deviation from PG&E's underground requirements.

On October 22, 1980, we issued Decision No. 92349 in Application No. 58547 wherein we concluded that said application had been approved by operation of law under Government Code Section 65956.

Since the evidence that would have been presented at the hearing has been distributed in advance, we are in a position to consider the evidence as well as the stipulation filed by the parties. We will receive the prepared testimony and exhibits of applicant and the staff in evidence and identify these items as follows:

South Shore's Exhibits identified as Exhibits A, B, C, D-1 through D-6, E-1 through E-6, F, G, H, and I, will be identified as Exhibit 1 in this proceeding; the prepared testimony of George H. Schmidt, Exhibit 2; the prepared testimony of David Preleutz, Exhibit 3; and the prepared testimony of Lindsay F. Nielson, Exhibit 4. The prepared testimony of and report of the staff's witness, Farzad Ghazzagh, is identified as Exhibit 5. The trial brief submitted by South Shore is noted and will be placed in the file.

Under the provisions of the Permit Streamlining Act (Government Code Section 65920 et seq.) we are required to approve or disapprove applications for development projects within

A.59008 ALJ/nb *

specified periods of time. Lead agencies are given one year to issue a decision (Government Code Section 65950). Under the provisions of Rule 17.1(i) A-8 of our Rules of Practice and Procedure the Commission is the lead agency for the preparation of an environmental impact report. The application was filed on July 17, 1979. More than one year has passed since its filing without a decision in the matter. Therefore, the application has been approved by operation of the law.

Findings of Fact

1. Application No. 59008 was filed on July 17, 1979.
2. The Commission did not approve or disapprove the application prior to July 17, 1980.
3. The Public Utilities Commission is the lead agency for the project at issue in this application.

Conclusions of Law

1. Applications to deviate from a utility's undergrounding rule are subject to the Permit Streamlining Act.
2. The application has been approved by operation of law under Government Code Section 65956.

O R D E R

IT IS ORDERED that the application of South Shore Village Club to install overhead electric lines has been approved by operation of law.

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

Dated JAN 21 1981, at San Francisco, California.

John E. Bryan
President
Richard D. ...
...

Commissioners