

ORIGINAL

Decision 93840 DEC 15 1981

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Ridge-Wheel)	
Properties, Inc. to use overhead)	
electric distribution extensions)	Application 59801
to serve a residential development.)	(Filed July 9, 1980)

Leon Cook, Attorney at Law, for
 Ridge-Wheel Properties, Inc.,
 applicant.
Nicholas R. Tibbetts, for
 Assemblyman Douglas H. Bosco,
 interested party.
Thomas P. Corr, Attorney at Law, and
Vladislav Bevc, P.E., for the
 Commission staff.

OPINION AFTER REHEARING

Procedure

This application for exemption from undergrounding requirements for electrical service was filed on July 9, 1980. A field investigation of the property was conducted by a supervising utilities engineer of this Commission in October 1980 and a staff report was filed on November 24, 1980.

We reviewed the application, which alleged that it was economically unfeasible to place lines underground, and the staff report, finding insufficient exceptional circumstances to warrant a recommendation for exemption. We determined that the matter could be properly concluded without public hearing, and denied the application in Decision (D.) 92517, issued December 16, 1980.

On January 21, 1981, an application for rehearing was filed by Ridge-Wheel Properties, Inc. (Ridge-Wheel), alleging additional facts showing the impracticality and unjustness, in applicant's view, of D.92517. On April 21, 1981 we issued D.92936 granting Ridge-Wheel's application for rehearing.

On Thursday, July 16, 1981 a duly noticed public hearing was held before Administrative Law Judge Orville I. Wright in Willits, and the matter was submitted for decision subject to receipt of the transcript.

Facts

Ridge-Wheel seeks Commission approval of a tariff rule variance to allow an overhead extension of electric service to a recreational/residential subdivision known as Ridgewood Park and comprising 6,100 acres located 13 miles north of Ukiah and 4 miles south of Willits within the service territory of Pacific Gas and Electric Company (PG&E). Applicant does not meet the criteria of PG&E's Tariff Rule No. 15, § C. It predicates its request upon § D. of the aforesaid rule, which states:

"Exceptional Cases. In unusual circumstances, when the application of these rules appears impractical or unjust to either party, or in the case of the extension of lines of a higher voltage, the utility or the applicant shall refer the matter to the Public Utilities Commission for special ruling or for the approval of special conditions which may be mutually agreed upon, prior to commencing construction."

Public hearing of this application has developed a record which persuades us that special conditions exist in this instance which compel the granting of exemption from standard undergrounding requirements for electric line extensions.

The line extension is to serve Units Nos. 1 and 3 of Ridgewood Park.

A Final Subdivision Public Report was issued for Unit No. 1 on July 16, 1969 and for Unit No. 3 on September 4, 1970. Unit No. 1 consists of 700 acres divided into 172 lots or parcels, and Unit No. 3 consists of 235 acres divided into 79 lots or parcels.

These caveats to prospective purchasers are set forth in the Department of Real Estate's required public report:

1. Fire protection is furnished by Forestry Service if equipment is available.
2. Private water wells are the only source of water and the lot owner is required to pay all costs to have a well installed.
3. Natural gas is not available.
4. Electric and telephone facilities and services are approximately three miles from the subdivision. The subdivider does not intend to install any electric and telephone facilities or services in the subdivision.
5. Septic tanks will be used for sewage disposal. Each purchaser must pay for his or her septic tank.

Since 1970, all but a few of the parcels in Units Nos. 1 and 3 have been sold. We estimate that approximately 50 lots may be actually occupied on a permanent basis, the residents living in mobile homes and trailers. Some who testified at the well-attended hearing were living in the environs of Willits and awaiting the time of extension of electrical service so that they might build upon their Ridgewood property.

A private gate to a paved road leading three and a half miles to Ridgewood Park is located adjacent to the sales office on U.S. Route 101. The tract is not visible from any public road and has no through road.

Elevations on the property range from 1250 feet to 2836 feet. Nearly all of the property consists of moderate and steep slopes dissected by moderate to steep gradient stream channels. This rugged terrain is subject to slides, a number having been experienced in Ridgewood Park in recent years, some along the single paved road provided by the developer to serve Units Nos. 1 and 3. Two engineers who testified to the relative desirability of having overhead electrical service to Ridgewood Park, as opposed to

underground, did double duty by leaving the hearing to survey conditions at a 500-foot landslide at the development which had closed the road to traffic for many weeks, and remained an engineering problem with no easy solution.

These experts testified that the site geology of Ridgewood Park had a material bearing on their belief that undergrounding of utilities would be more detrimental than overhead construction.

Ridgewood is underlain by a geological formation known as the Franciscan assemblage, a formation characterized by sedimentary layers which, when exposed by excavation, present a heterogeneous complex of hard rock, soft rock, and soft soil. Some of the bedrock is quite pervious, a condition which manifests itself in ground water springs which tend to surface at random locations. Trench interference with this rock/soil surface and with the natural spring channels lying shallowly beneath the surface by trenching could well result in alteration of the movement of groundwater and have an inverse impact on the hillside stability.

The erosion potential is also significant, according to the soils engineer. Where the trenching is generally uphill/downhill, it may present a preferred path for surface runoff, stripping the backfill of the buried utility line.

While under no obligation to provide electrical service to the tract, the developer nevertheless decided to do so, being of the mistaken belief that overhead lines were acceptable in private developments. In order to assist lot purchasers and to enhance

the value of the areas of Ridgewood Park not yet sold, Ridge-Wheel expended some \$78,000 to install three miles of primary distribution line from a connection point 300 feet outside the development to Units Nos. 1 and 3 along the paved road.

Ridge-Wheel is prepared to complete the overhead extension within Ridgewood Park, but will not provide any of the estimated \$600,000 necessary to underground the electrical service.

The Planning Department of the County of Mendocino advised the Commission that the county does not require undergrounding of utilities in Ridgewood Park Units Nos. 1 and 3 because of the early commencement and approval date for these projects (1970).

In 1979, a property owners association was incorporated for Ridgewood Park. It is likely that the great majority of owners who purchased for investment will not vote to assess themselves for an electric line extension, whether overhead or underground, in the foreseeable future. If the 251 lot owners were to finance undergrounding, the cost per lot would be approximately \$2,300 plus cost of the line from the road to a dwelling unit. If only actual residents and those having a present intention to live in Ridgewood Park shared the cost of undergrounding, each would pay a sum in excess of the original cost of his or her lot plus cost of a line from the road to a house.

The record is clear that the residents of Ridgewood Park have no choice. If the application filed by their developer-surrogate for an overhead line extension is denied, there simply will not be any electrical service available to them now or in the foreseeable future.

Factors Justifying Deviation from
Undergrounding Requirements

In D.77187 dated May 5, 1970 in Case (C.) 8993, we affirmed our policy in D.76394 that undergrounding should be the standard for all extensions. Only exceptional circumstances would thereafter justify the granting of any further exemptions, we wrote.

In D.80736 dated November 11, 1972 in C.8993, we stated that:

"The Commission wishes to reaffirm its policy with respect to mandatory undergrounding in new residential subdivisions. However, the Commission also believes that it is desirable to consider at this time the criteria and factors that might warrant deviations from the mandatory underground requirements in new residential subdivisions. Such consideration could lead to the establishment of guidelines or rules or tariff changes that would more clearly apprise all parties of the circumstances under which deviations from the mandatory undergrounding rules would be authorized."

In D.81620 dated July 24, 1973 in C.8993 we summarized the principal factors to be considered in determining whether exceptional circumstances existed in a particular case sufficient to justify deviation from the undergrounding standard. We stated that:

"The Commission staff studied the various deviations which have been authorized since the mandatory undergrounding provisions became effective. The principal factors considered in the Commission resolutions and decisions involved included such things as whether roads were to be improved or unimproved, whether there was easy or limited access to the subdivided area by the general public, whether there was or was not any trenching to be done for other than electric and telephone lines, whether the lots were small or large, whether adjacent areas had underground or overhead

facilities, whether local ground conditions and terrain made trenching relatively simple or difficult, whether the development was by formal subdivision or resulted from successive lot-splits, whether undergrounding would involve reasonable or excessive costs, and whether the visual impact of overhead lines would be great or small."

We have already considered the cost and terrain factors which favor granting an exemption from undergrounding requirements in the instant case. It remains then to consider the other factors which we have outlined for considering deviations from underground line extensions.

There is but one improved road to Ridgewood Park which spans the high ridge and provides access to the 251 parcels in Units Nos. 1 and 3. The staff reports that the overhead line constructed on that road is generally acceptable under the overhead electric line construction standards of General Order 95 except for deficiencies capable of ready correction. Culverts and drains have been installed along the road. The contractor who constructed the overhead line testified that finding suitable places along the right-of-way for placing the poles was difficult, and the line traverses the road many times. If an underground conduit were to follow the overhead wire, the roadway would have to be excavated and repaved many times. If an underground conduit were not to traverse back and forth across the pavement, trenching would have to be undertaken where the contractor determined that the soil or rock was unsuitable even for a pole.

Access to this subdivided area by the general public is limited. As already noted, there is a gate at the only entrance to the Ridgewood Park subdivision.

There is no trenching to be done for any purpose in the subdivision. No telephone line extension is contemplated. Water and waste disposal facilities are the on-site responsibility of each owner.

The lots are generally large and deep, requiring service drops or underground extensions of more than 600 feet, according to the staff report. Thus, many owners would be required to pay from \$3,000 to \$6,000 to bring in electricity underground from the roadway if the system were placed underground.

Adjacent areas are undeveloped. There is an overhead line extension from U.S. Route 101 to the tract, approximately 3-1/2 miles. Other similar purpose developments in the Willits area have overhead electric service.

Ridgewood Park is a formal subdivision approved by Mendocino County. The county does not require undergrounding of utility extensions because the development was approved prior to the enactment of the county's undergrounding ordinance.

Ridge-Wheel had a mistaken belief that an overhead line would be acceptable in Ridgewood Park. Its construction is well along the path toward completion. The materials, labor, and environmental disturbance embodied in the raising of this overhead line will be economic waste if the exemption sought is not approved.

There will be no visual impact of the overhead lines on the general public as the subject area cannot be viewed from any public road, and the subdivision is private.

Environmental Impact

In Resolution ALJ-143 dated May 5, 1981 we amended Rule 17(i) to provide that the Commission is the lead agency for applications for exemptions from undergrounding requirements, except where the electrical or telephone distribution lines are incidental to a development project over which a city, county, or other political subdivision has the primary decision-making responsibility.

In this case, Mendocino County is the primary decision maker and it has approved the subdivision. Because the approval predated the enactment of the California Environmental Quality Act of 1970 (Pub. Resources Code §§ 2000 et seq.), no finding on environmental impact has been made.

We note that we are here exempting an overhead line extension which is already in place for the most part. Its effect on the environment is a known quantity in contrast to the testimony of applicant's engineers that there could well be a serious, physical dislocation of the earth were trenching to be the order. Accordingly, we conclude that it can be seen with certainty that there is no possibility that granting the exemption will have a significant adverse effect upon the environment.

Decision Rescinded

In Decision 92517 dated December 16, 1980 we denied exemption from undergrounding requirements in this case. We now rescind that decision.

Public hearing of this matter has developed an array of factors in compelling favor of exemption from undergrounding requirements in this matter. Among these are the following:

1. Overhead electrical service is the only practical method available to residents of Ridgewood Park. To decree undergrounding in this case is to deny PG&E service to the development.
2. Mendocino County does not require underground utility service to this subdivision.
3. Overhead lines are largely already in place due to a mistaken understanding of undergrounding requirements by the developer.
4. The expert testimony of Ridge-Wheel's engineers is that trenching, if not done with extreme caution and professionalism, could cause further erosion and sliding in the area while the in-place overhead lines have caused no visible physical damage to the environment.

The exemption should be allowed.

We stress that today's decision represents no retreat from our commitment to requiring undergrounding of power lines.

Today's decision should not be read as an indication of future action on undergrounding exemption applications; we shall give it no precedential value. We only recognize here a unique combination of factors which persuades us that an exemption is warranted.

Findings of Fact

1. The residents and intending residents of Ridgewood Park desire electrical service to their lots and dwellings.

2. Each owner of a lot in Ridgewood Park is individually responsible for his or her own electric, waste disposal, water, telephone, and all other services.

3. Ridge-Wheel has volunteered to provide overhead electric service to Units Nos. 1 and 3 of Ridgewood Park. Overhead lines have been constructed.

4. Ridge-Wheel's construction of lines was done prior to Commission approval by reason of a misunderstanding of undergrounding requirements by applicant.

5. Underground utility service to this subdivision is not required by Mendocino County.

6. Expert testimony supports overhead construction as being the least environmentally harmful method of bringing electrical service to Ridgewood Park.

7. Under these conditions, the applicability of mandatory undergrounding provisions of PG&E's tariffs would be unjust and impractical, and the requested deviation would not be adverse to the public interest.

Conclusion of Law

Ridgewood Park Units Nos. 1 and 3 should be exempted from the undergrounding requirements for electrical service by reason of unusual circumstances.

ORDER AFTER REHEARING

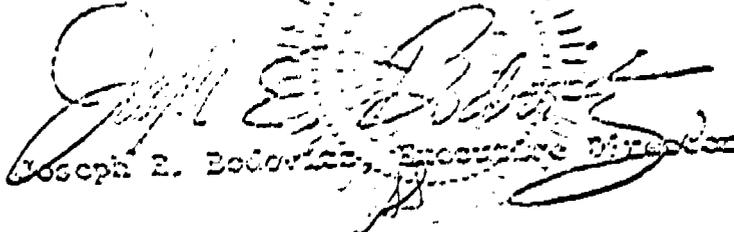
IT IS ORDERED that D.92517 dated December 16, 1980 is rescinded and that Pacific Gas and Electric Company is authorized and directed to deviate from the mandatory undergrounding requirements of its line extension rules to the extent of providing an overhead line extension or extensions in Ridgewood Park Units Nos. 1 and 3, Tract 124, Mendocino County, California.

This order becomes effective 30 days from today.

Dated DEC 15 1981, at San Francisco, California.

JOHN E. BRYSON
President
RICHARD D. GRAVELLE
LEONARD M. GRIMES, JR.
VICTOR CALVO
PRISCILLA C. CREW
Commissioners

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS.


Joseph E. Bodavias, Executive Director