

JUL 16 1997

ORIGINAL

Decision 97-07-029 July 16, 1997

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Joseph Canter,)
)
 Complainant,)
)
 vs.)
)
 Southern California Edison)
 Company, aka Edison Company,)
)
 Defendant.)
)

Case 96-12-016
(Filed December 4, 1996)

Joseph G. Canter, for himself, complainant.
James P. Scott Shotwell, Attorney at Law,
 for Southern California Edison Company,
 defendant.

O P I N I O N

Background

Complainant Joseph Canter filed this complaint on December 4, 1996, alleging that an electrical outage of Southern California Edison Company (Edison or defendant) was due to lack of maintenance and diligence on Edison's part. Canter requests relief for loss of revenue, inventory, and for appliance repair, as well as mental anguish, if allowed.

Defendant answers that under its rules, despite due diligence, it cannot guarantee uninterrupted service, and that it is not liable for interruption or shortage of supply, or for consequential loss or damage, if the interruption or shortage results from any cause not within its control. The interruption at issue was due to a failure in an underground line which reasonably could not be inspected, and had shown no signs of problems prior to the interruption.

Regarding damage to complainant's equipment, Edison notes that parties such as Canter who receive three-phase power, are required by tariff rules to be protected by automatic overcurrent interrupting devices to prevent damage to motors due to overheating. Edison indicates that complainant's motor may have been damaged when a single-phase condition existed during the course of this interruption, and the motor's protective device did not disconnect it, which resulted in overheating damage.

Edison further notes that Public Utilities Code § 2106 requires complainant to bring his case for damages before a court of competent jurisdiction, i.e., a civil court, and that complainant has filed such an action against Edison in the South Bay Municipal Court, Small Claims Case No. 96507336.

Hearing

A duly noticed hearing was held in Los Angeles on March 24, 1997. Complainant did not present an affirmative showing, but cross-examined Edison's witnesses and presented argument.

Edison presented the testimony of the following:

Dennis E. Sternberg, Troublemaker;

Robert S. Johnson, Distribution Operation
Center General Supervisor; and

Patricia A. Aldridge, Tariff Analyst.

Sternberg described Edison's efforts to determine the cause of the interruption and restore service to all customers who had been interrupted. Three field troublemen worked for about 4-1/2 hours to find the cause, which was difficult to find since it was underground. Using basically a process of elimination, they first checked the most likely causes of the problem, several times restoring Canter's service for a short time. When they finally found the actual cause, they were able to restore service to all

customers by disconnecting the failed underground circuit, which allowed service to be provided through other circuits.

Regarding damage to Canter's motor, any customer who receives three-phase power, as Canter does, is required by tariff to have motor protection, of either overload or thermal type. During an occurrence when normal three-phase power is lost, single-phase power may result, but with this protection, the motor will shut off rather than overheat and burn up. Otherwise, during the single-phase condition, the motor will draw more amperage to compensate for the lower voltage, and the high amperage will cause overheating.

When Sternberg visited Canter's business after the outage, he found Canter's electrician checking the voltage improperly by checking each phase to ground. Instead, it should be checked from phase to phase. Thus, although the electrician thought there was a problem with the service after power was restored, the service to all three phases was functioning properly.

Johnson testified that the method of identifying the cause of, and correcting the outage affecting Canter, is typical for such an outage. Because the problem was in an underground section, it took longer to locate and isolate. The cable that failed was about 10 to 15 years old, and has a life expectancy of at least 30 years. Inspections of underground facilities is limited to the terminations which are visible. There is no method of inspecting the underground cables without removing them, which would be enormously expensive.

Aldridge explained the applicable tariff rules, Rule 2 dealing with required protection of motors of one horsepower or larger by the customer, and Rule 14 dealing with the level of service to customers which states that Edison will exercise reasonable diligence to furnish a continuous and sufficient supply of electricity to its customers. In her opinion, Edison has exercised that diligence.

Discussion

Canter indicated that he did not wish to testify because he didn't want to incriminate himself and offered no further explanation about his concern. The administrative law judge told Canter that he would not be forced to testify. Thus Canter only cross-examined Edison's witnesses and presented argument. After extensive cross-examination, Canter conceded that Edison's employees that were involved in finding the cause of this outage are competent and adequately trained. Ultimately Canter's only argument about Edison's failing is that the problem should have been corrected sooner, with more effort by more service people.

Sternberg testified convincingly about Edison's efforts during the interruption. Several times the repair people thought they had solved the problem, only to find that it recurred shortly. He testified that he didn't think the outage would have been shortened if more repair people were assigned to the problem. Regarding maintenance, there was no prior indication that there was a problem with the underground line that failed. To inspect it would involve digging it up and removing it, a very expensive procedure.

Edison's positions regarding interruption of service and required customer protection of motors receiving three-phase power are correct and consistent with the Commission-approved tariff Rules 2 and 14, respectively. Under Rule 2.C.,

- "2. All motors of 1 hp or larger shall be equipped with thermal relays, fuses, or other automatic overcurrent interrupting devices to disconnect completely such motors from the line as a protection against damage due to overheating."

Rule 14 states,

- "A. Shortage and Interruption. The Company will exercise reasonable diligence to furnish a continuous and sufficient supply of electricity to its customers and to avoid any shortage or interruption of

delivery thereof. It cannot, however, guarantee a continuous supply or freedom from interruption.

"The Company will not be liable for interruption or shortage of supply, nor for any loss or damage occasioned thereby, if such interruption or shortage results from any cause not within its control."

We conclude that this interruption was not due to lack of diligence on Edison's part, and that any damage to Canter's motor was the result of lack of, or failure of, a protective device on the motor.

Canter's argument that if Edison had used more personnel the outage would have been shorter is mere conjecture. In Sternberg's opinion, more personnel would not have shortened the duration of outage.

As Edison correctly notes Public Utilities Code § 2106 provides in part, ". . . An action to recover for such loss, damage, or injury may be brought in any court of competent jurisdiction by any corporation or person." Thus any relief in the form of monetary damages cannot be obtained through the Commission.

We find that Canter has not satisfied his burden of proof. He has presented no evidence to support his claim that the outage would have been shorter if Edison had used more personnel.

We conclude that the complaint lacks merit and will deny it in the order that follows.

Findings of Fact

1. A failed underground line caused a power outage of about 4-1/2 hours duration to Canter.
2. Underground lines cannot be fully inspected without removing them at substantial cost.
3. Canter seeks monetary relief for loss of revenue, inventory, appliance repair, and mental anguish, if allowed.

4. Customers being served with three-phase power are required to have automatic interrupting devices to protect their motors from damage due to overheating.

5. The damage to Canter's equipment was due to lack of, or failure of, the required protective device.

6. The power outage was not due to lack of due diligence by Edison.

Conclusions of Law

1. Relief in the form of monetary damages must be sought in a court of competent jurisdiction, as the Commission does not have jurisdiction to award monetary damages.

2. Canter has not satisfied his burden of proof.

3. The complaint should be denied.

4. This case should be closed.

ORDER

IT IS ORDERED that:

1. The complaint in Case 96-12-016 is denied.

2. This case is closed.

This order becomes effective 30 days from today.

Dated July 16, 1997, at San Francisco, California.

P. GREGORY CONLON
President
JESSIE J. KNIGHT, JR.
HENRY M. DUQUE
JOSIAH L. NEEPER
RICHARD A. BILAS
Commissioners

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Regarding damage to complainant's equipment, Edison notes that parties such as Canter who receive three-phase power, are required by tariff rules to be protected by automatic overcurrent interrupting devices to prevent damage to motors due to overheating. Edison indicates that complainant's motor may have been damaged when a single-phase condition existed during the course of this interruption, and the motor's protective device did not disconnect it, which resulted in overheating damage.

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4. Customers being served with three-phase power are required to have automatic interrupting devices to protect their motors from damage due to overheating.

5. The damage to Canter's equipment was due to lack of, or failure of, the required protective device.

6. The power outage was not due to lack of due diligence by Edison.

Conclusions of Law

1. Relief in the form of monetary damages must be sought in a court of competent jurisdiction, as the Commission does not have jurisdiction to award monetary damages.

2. Canter has not satisfied his burden of proof.

3. The complaint should be denied.

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ORDER

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This order becomes effective 30 days from today.

Dated July 16, 1997, at San Francisco, California.

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