

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

COMMISSION ADVISORY AND
COMPLIANCE DIVISION
Energy Branch

RESOLUTION R-3417
Date: July 19, 1995

R E S O L U T I O N

RESOLUTION R-3417. LYNN HOFACKET REQUESTS APPROVAL OF A SERVICE INSTALLATION ON AN EASEMENT, DEVIATING FROM PACIFIC GAS AND ELECTRIC COMPANY'S SERVICE EXTENSION TARIFF RULE, UNDER THE UTILITY'S EXCEPTIONAL CASES TARIFF PROVISION.

BY LETTER DATED APRIL 13, 1995.

SUMMARY

1. Lynn Hofacket (Applicant) requests a special ruling under the Exceptional Cases provision of Pacific Gas and Electric Company's (PG&E) Line Extension Tariff Rule 15 by letter dated April 13, 1995.
2. Applicant seeks a Commission Order directing PG&E to meter and serve him on an easement adjacent to his property. Such an installation would deviate from PG&E's practice of furnishing and installing service on the customer's property as provided under PG&E's Services Tariff Rule 16. By installing his own line, Applicant estimates savings of \$58,000 over a PG&E installation.
3. PG&E protested Applicant's filing by letter dated May 8, 1995. PG&E requested that the filing be denied on the basis that Applicant failed to use the proper procedure and that the relief sought contradicts PG&E's tariffs.
4. This Resolution determines that Applicant has used the proper procedure. Furthermore, PG&E's argument that a request for deviations contradicts or departs from authorized tariffs is not germane to the issue. Applicant's request is reasonable and will not burden the ratepayers or PG&E, if conditioned to authorize PG&E to terminate service if Applicant's easement is rescinded and to prohibit future services to additional customers from Applicant's line. This Resolution denies PG&E's protest and grants Applicant's request, with the two limiting conditions.

BACKGROUND

1. Applicant has requested a special ruling by the Commission under the Exceptional Cases provision of Pacific Gas and Electric Company's (PG&E) Line Extension Tariff Rule 15 (Section 15.E.7) by letter dated April 13, 1995.

2. The Exceptional Cases provision in effect at the time that Applicant's request was received states:

"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, PG&E 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." (Emphasis added.)

3. Applicant desires electric service to his property located in the vicinity of St. Helena Road in a rural area of Sonoma County. A preliminary route map indicates that the service extension from PG&E's existing facilities to Hofacket's property would be approximately 4,500 feet in length over the property of another landowner. Applicant indicates that PG&E's proposed installation cost estimate is \$69,300. The addition of Pacific Bell facilities would cost another \$9,000. The total cost would be \$78,300.

4. By installing his own line and based on comparable construction, including cost of materials (PG&E and Pacific Bell quality), engineer's fees, and labor estimates, Applicant estimates that he can install the overhead line for \$20,000, saving \$58,000. Applicant has obtained an easement for this purpose and would install his own transformers and a 6,000 foot private line extension.

5. This installation would require a deviation from PG&E's Electric Services Tariff Rule 16 by which the utility furnishes and installs service on an applicant's premises.

6. On July 1, 1995 new line extension rules became effective for PG&E. The Exceptional Cases provision is briefer but substantially unchanged:

EXCEPTIONAL CASES. When the application of this rule appears impractical or unjust to either party or the ratepayers, PG&E or Applicant may refer the matter to the Commission for a special ruling or for special condition(s), which may be mutually agreed upon.

Additional language, contained in the new rule, addresses the issue of Private Lines:

PRIVATE LINES. PG&E shall not be required to serve any Applicant from extension facilities that are not owned, operated, and maintained by PG&E.

NOTICE

1. Applicant mailed a copy of his letter to PG&E. The Commission Calendar of April 21, 1995 published notification of the receipt of Applicant's letter.

PROTESTS

1. PG&E protested Applicant's letter on May 8, 1995.

DISCUSSION

1. Applicant is requesting a deviation from PG&E's Tariff Rules 15 and 16 under the utility's Exceptional Cases provisions. Applicant believes that PG&E would impose an unwarranted \$58,000 cost with regard to the installation of 6,000 feet of an overhead electric line. Applicant purchased a land parcel based on PG&E assurances that Applicant could install his own line with metering at the present termination point of PG&E's facilities. Applicant acquired easements based upon that premise. Applicant believes that the application of PG&E's Line Extension Tariff Rules in his circumstance is impractical and unjust.

2. Applicant requests a Commission Order directing PG&E to deviate from its Electric Rule 16 and to provide metering at the present termination point of PG&E's facilities.

3. PG&E protested Applicant's filing, claiming that the request for a special ruling did not fulfill the requirements of a complaint under the Commission's Rules of Practice and Procedure. Thus, PG&E does not contend that the Applicant not be allowed to request a special ruling. Rather, PG&E believes that the Applicant should be required to make his request using the complaint procedure.

4. Utilities seeking deviations from their tariffs do so by utilizing the provisions of the Commission's rules for filing rates, rules, etc. (Commission General Order 96A - "Rules governing the filing and posting of schedules of rates, rules, and contracts relating to rates, applicable to gas, electric, telecommunications, water, sewer system, pipeline and heat utilities".)

5. Section X of General Order 96A, "Contracts and Services at Other Than Filed Tariff Schedules", is pertinent. Subsection A, General Requirements and Procedure allows utilities to file for minor deviations from their rules by advice letter, rather than by formal application. It also specifies notice requirements and protest opportunities to the affected parties.

6. Utilities typically use the provisions of General Order 96A to seek authorization for a deviation from their rules by advice letter when providing non-standard service to individual customers or small groups of customers. The Commission typically issues its Order on the request by Resolution.

7. Applicant seeks a Commission Order authorizing a deviation from PG&E's tariffs using the same filing process that utilities use, rather than the more burdensome complaint process specified in the Commission's Rules of Practice and Procedure. Applicant mailed his letter request to the Commission, citing PG&E's Exceptional Case provision. He also provided a copy of his letter to PG&E, indicating PG&E's opportunity to protest. Finally, Applicant's letter was noticed in the Commission Calendar dated April 21, 1995.

8. Acting on letters, rather than utility advice letter filings, the Commission has issued, at least eight energy Resolutions in the last five years¹. This demonstrates that access to the Commission by letter is an avenue available to applicants for utility service and others, even though it is used infrequently.

9. In CACD's opinion, PG&E's procedural protest misses the mark completely. Applicant has not filed a complaint. He has filed for a ruling in accordance with a specified tariff using procedures comparable to those employed by utilities. Requiring Applicant to pursue his request through the formal complaint procedure would be the imposition of an unnecessarily bureaucratic procedure for the resolution of a simple request.

10. PG&E further protested on the grounds that Applicant's request to be served on a third-party easement is in direct conflict with PG&E's Commission-approved tariffs.

11. CACD notes that what Applicant seeks is similar to the provision of service delineated under the provision for Unusual Site Conditions in PG&E's Service Extension Rule 16:

UNUSUAL SITE CONDITIONS. In cases where Applicant's building is located a considerable distance from the available Distribution Line ... PG&E may at its discretion, waive the normal Service Delivery Point

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- 1 The following is a list of such Resolutions:
- E-3397 Eric Diesel to deviate from undergrounding requirements.
 - E-3325 Trinity County Local Agency Formation Commission for finding the a proposed reorganization will not impair utility's ability to provide service.
 - E-3317 Viacom Cablevision to deviate from undergrounding requirements.
 - G-3304 Southern California Gas Company refund plan.
 - E-3290 El Dorado County Board of Supervisors on behalf of Linda and Mario D'Amico to deviate from undergrounding requirements.
 - E-3273 Russ Kirk, engineer, for Pacific Bell to deviate from undergrounding requirements.
 - E-3201 R. D. Hunt to deviate from undergrounding requirements.
 - E-3204 Pacific Gas and Electric Company to deviate from undergrounding requirements.

location. In such cases, the Service Delivery Point will be at such other location on Applicant's property as may be mutually agreed upon; or alternatively, the Service Delivery Point may be located at or near Applicant's property line as close as practical to the available Distribution line.

PG&E claims that Hofacket's request is in "direct conflict with PG&E's Commission-approved tariffs." CACD is of the opinion that PG&E's grounds for protesting are without merit, given the similarity between the above provision and Applicant's request.

12. Applicant is aware of and has agreed to abide by the Private Line provisions of the line extension tariff language adopted by Commission Decision 94-12-026 under which the utility is not required to serve any other applicant from extension facilities that are not owned, operated, and maintained by the utility.

13. In the event that additional applicants desire service along the route of Applicant's private line, service shall be provided by PG&E under the terms of its extension rules unless otherwise authorized by the Commission.

14. Applicant has also indicated that he is agreeable to a provision that PG&E may discontinue his service in the event that his easement is rescinded.

15. CACD believes that the requested deviations would not be a burden to PG&E or its ratepayers and would allow Applicant to exercise his initiative for the purpose of obtaining electric service at a lower cost than would be available from PG&E. CACD therefore recommends denial of PG&E's protest and granting of Applicant's request, subject to the conditions indicated in paragraphs 12 and 13 above.

FINDINGS

1. Applicant submitted a request for a special ruling by the Commission under the Exceptional Cases provision of Pacific Gas and Electric Company's Tariff Rule Section 15.E.7. by letter dated April 13, 1995.

2. Applicant believes that if his request for a deviation is granted, he can save \$58,000 by installing his own private line.

3. Applicant believes that the application of PG&E's Line Extension Tariff Rules to his situation is impractical and unjust.

4. Applicant provided notice to PG&E of his request for a special ruling.

5. PG&E protested Applicant's filing by letter dated May 8, 1995. PG&E requested that the filing be denied on the basis

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that Applicant failed to use the proper complaint procedure and that the relief sought contradicts PG&E's tariffs.

6. The Commission has issued Resolutions based upon letter requests.

7. The language of PG&E's Exceptional Cases provision does not specify that the Commission's Rules of Practice and Procedure be used by applicants seeking special rulings from the Commission.

8. It is reasonable to evaluate Applicant's request as presented.

9. In the event that applicant's easement is rescinded, PG&E should be authorized to discontinue service.

10. Applicant agrees to abide by the Private Lines provisions of the line extension tariff language adopted by the Commission in Decision 94-12-026 under which the utility is not required to serve any other applicant from extension facilities that are not owned, operated and maintained by the utility.

11. The requested deviations would not be a burden to PG&E or its ratepayers and would allow Applicant to exercise his initiative for the purpose of obtaining electric service at a lower cost than would be available from PG&E.

12. PG&E's protest should be denied and Applicant's request granted, subject to the conditions that:

A. The utility is authorized to terminate service if Applicant's easement is rescinded.

B. The connection of future utility services to Hofacket's line is subject to the utility's Private Lines provision in Distribution Line Extension Tariff Rule 15, relieving PG&E of the requirement to serve from extension facilities that are not owned, operated and maintained by the utility.

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THEREFORE, IT IS ORDERED that:

1. Lynn Hofacket's request for electric service from Pacific Gas and Electric Company on an easement adjacent to his property in Sonoma County under the "Exceptional Cases" provision of the utility's Tariff Rule 15.E.7 is approved with the following two conditions:

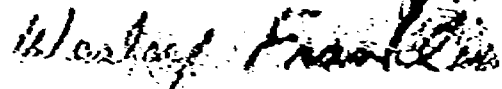
A. The utility is authorized to terminate service if Applicant's easement is rescinded.

B. The connection of future utility services to Hofacket's line is subject to the utility's Private Lines provision in Distribution Line Extension Tariff Rule 15, relieving PG&E of the requirement to serve from extension facilities that are not owned, operated and maintained by the utility.

2. Pacific Gas and Electric Company's protest is denied.

3. This Resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on July 19, 1995. The following Commissioners approved it:



WESLEY M. FRANKLIN
Acting Executive Director

DANIEL Wm. FESSLER
President
P. GREGORY CONLON
JESSIE J. KNIGHT, JR.
HENRY M. DUQUE
Commissioners