

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation into the operations and practices of the San Diego Gas & Electric Company in connection with its compliance with requirements to maintain proper clearance between power lines and vegetation.

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PUBLIC UTILITIES COMMISSION
APRIL 9, 1998
SAN FRANCISCO OFFICE
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ORDER INSTITUTING INVESTIGATION

San Diego Gas & Electric Company (SDG&E) is an electric and gas utility subject to this Commission's jurisdiction, and the operation and maintenance of its facilities used to provide utility service must be carried out so that electric service is safe and reliable. (Pub. Util. Code, § 451.) The Commission has a regulatory program to meet the mandate of section 451, and has adopted General Order (GO) 95 and issued other orders to further that goal.

Staff from the Consumer Services Division (CSD) prepared a report, dated March, 1998, alleging public safety violations by SDG&E arising from failure to maintain proper clearances between utility facilities (electric wires) and trees in SDG&E's service territory.¹ Such safety violations, if proven, would constitute violations of the Public Utilities Code, Commission decisions and our GO 95, in

¹ Staff was directed by Ordering Paragraph No. 5 of Decision (D.) 97-01-044 to monitor the utilities' compliance with the tree trimming and other standards set forth in that decision, and to take all investigatory and enforcement action it deems appropriate.

addition to other statutory and regulatory violations.² Particularly concerning is that the sixteen tree-line clearance violations alleged, and the three fires resulting from such problems, were all apparently found in follow-up inspections by CSD staff after relying on SDG&E filings with the Commission that the vegetation under the particular circuit should have been trimmed. The alleged sixteen tree-line clearance violations, known as "burners," caused significant public safety concerns; notwithstanding those concerns, the three actual fires amplify the urgency in ensuring that utilities are meeting the requirements of GO 95 and/or other jurisdictional requirements concerning safe electrical facilities.

Alleged Tree-Line Clearances in Violation of Applicable Requirements:

Staff has specifically alleged in its investigative report, that on or about August 28 and 29, 1997, during an unannounced inspection of SDG&E's overhead conductors, it discovered that primary distribution conductors were in contact with surrounding vegetation at two locations: 3876 Mission Avenue, Oceanside, and 2024 Ocean View Road, Oceanside. During announced inspections of overhead conductors on or about September 23, 24 and 30, 1997, CSD staff found ten incidents where the conductors were either in contact with, or significantly less than 18-inches from, vegetation at the following locations in SDG&E's service territory: Viejas Grande Road N/o Willows Road, Alpine; E/o 4058 Willows Road,

² The Public Resources Code provides that specific clearances between electrical transmission or distribution lines (over 750 volts) and vegetation, including trees, in fire-prone mountainous, forest-covered, brush-covered or grass-covered terrain shall be maintained. (See e.g., Pub. Res. Code, §§ 4292, 4293.) Minimum clearance provisions are contained in Title 14 of the California Code of Regulations, sections 1250 et seq., and require that a minimum clearance of four feet be maintained between vegetation and such transmission or distribution lines. Public Resources Code section 4421 prohibits anyone from causing or setting a fire to any "forest, brush, or other flammable material which is on any land that is not his own, or under his legal control, without the permission of the owner, lessee, or agent of the owner or lessee of the land." Violation of laws that endanger the public safety may be violations of Public Utilities Code section 451.

Alpine; Viejas Grade Road N/o Willows Road, Alpine; 15060 Espola Road, Poway; 14301 High Valley Road, Poway; 14720 High Valley Road, Poway; 15364 Markar Road, Poway; 1927 Robinson Avenue, San Diego; 3760 Utah Street, San Diego; 3786 Utah Street, San Diego; 3443 Alabama Street, San Diego.

On or about March 17-19, 1998, CSD staff conducted inspections of SDG&E primary distribution conductors and found four instances where the conductors were either in contact with, or less than 18-inches from, vegetation at the following locations: 3920 Mt. Ainsworth Avenue, San Diego; 4866 Fond Du Lac Court, San Diego; 3838 Mt. Blackburn Avenue, San Diego; Avocado Boulevard S/o Cajon View Drive, El Cajon.

In all 16 of the above referenced discoveries, the staff was inspecting SDG&E facilities that the utility had identified to staff as having been brought into compliance with the tree trimming standards adopted by us in January 1997.

The Applicable Standard:

On January 23, 1997 by D. 97-01-044, the Commission adopted revised tree trimming standards for public utilities under our jurisdiction, requiring that a minimum clearance of 18-inches between utility conductors and vegetation be maintained at all times. (GO 95, Rule 35.) D.97-01-044 further provided a schedule by which all subject utilities are to be in compliance with the decision's mandates.³ All subject utilities shall be in compliance within two years from the issuance of D.97-01-044, and were further required to insure that 25% of the total number of trees requiring trimming are in compliance within six months following D.97-01-044, 50% by the first year, and 75% within 18 months from the issuance of that decision. Prior to D.97-01-044, the earlier version of GO 95, former Rule

³ That requirement was later modified on October 22, 1997 by D. 97-10-056; however, the modification did not relieve subject utilities from complying with the 25% implementation required for the six month anniversary established in D.97-01-044.

35, provided that trees located so "that they can fall into a crossing span or into any span that could communicate the trouble to a crossing span shall be removed wherever practicable."

According to CSD staff, on each of the above-referenced occasions, the staff's inspections of SDG&E's conductors took place more than six months after the issuance of D.97-01-044, with SDG&E personnel present in all but one inspection, and in locations identified by SDG&E as having received maintenance, so that there was compliance with revised GO 95, Rule 35.

In addition to the 16 referenced incidents, known in industry parlance as "burners," the staff's report also concerns three fires that occurred in SDG&E's service territory allegedly due to vegetation coming into contact with SDG&E primary distribution conductors.

Personal Injuries and Loss of Property Stemming From Violations:

According to staff's report, the California Department of Forestry (CDF) contends, and SDG&E apparently admits, that three fires occurred in SDG&E's service area because of vegetation coming into contact with primary distribution conductors. The staff's report alleges that all three fires occurred on a SDG&E's circuit that had been identified to the staff by the utility as having been in compliance with GO 95, Rule 35, by the end of the initial six month anniversary period.

The August 1, 1997 fire occurred at 19325 Laurel Lane, San Diego County and burned 800 acres. A CDF contract aircraft crashed into the San Vicente Reservoir while fighting this fire. Both the pilot and co-pilot were injured. According to staff's report, CDF investigators determined that the fire was caused by SDG&E's conductors coming into contact with a eucalyptus tree.

Four days later, on August 5, 1997, a fire burned two acres of grass on a property located a short distance from where the Laurel fire of August 1 originated, at 14049 Mussey Grade Road, near Marmac Drive and Thomas Paine Drive in San Diego County. That fire also partially damaged a shed. According to the staff's report, the CDF fire investigators determined that the fire was caused by a eucalyptus tree coming in contact with SDG&E's conductors.

Also on August 5, 1997, just south of the August 1 fire, a fire burned two acres of brush and destroyed a shed. According to staff's report, the CDF determined that the fire was caused by a pine tree contacting SDG&E's conductors.

Staff alleges that in each of these instances, SDG&E failed to comply with the tree trimming standards established in D.97-01-044 and/or the earlier iteration of GO 95.

Discussion

Public Utilities Code section 451 mandates, among other things, that "[e]very public utility ... furnish and maintain ... adequate, efficient, just and reasonable service, instrumentalities, equipment, and facilities ... as are necessary to promote the safety, health, comfort, and convenience of its patrons, employees, and the public."

Public Utilities Code section 702 requires every public utility to obey and comply with every order, decision, direction, or rule made or prescribed by the Commission in matters specified by the Public Utilities Act, "or in any other matter in any way relating to or affecting its business as a public utility" and further requires public utilities to do "everything necessary or proper to secure compliance therewith by all of its officers, agents, and employees."

The Commission's Rules of Practice and Procedure establish a circle of ethics (rule 1) which provide in part:

Any person who signs a pleading or brief, enters an appearance at a hearing or transacts business within the Commission by such act represents that he or she is ... agrees to comply with the laws of this State; to maintain respect due to the Commission, members of the Commission and its Administrative Law Judges; and never to mislead the Commission or its staff by an article or false statement of fact or law. (Rule 1.)

General Order 95, Rule 35 (adopted by D.97-01-044), provides, in part:

Where overhead wires pass through trees, safety and reliability of service demand that tree trimming be done in order that the wires may clear branches and foliage by a reasonable distance. The minimum clearances established in Table 1, Case 13, measured between line conductors and vegetation under normal conditions, shall be maintained. (Also see Appendix E for tree trimming guidelines.)

When a utility has actual knowledge, obtained either through normal operating practices or notification to the utility, dead, rotten and diseased trees or portions thereof, that overhand or lean toward and may fall into a span, should be removed.

Communication and electric supply circuits, energized at 750 volts or less, including their service drops, should be kept clear of limbs and foliage, in new construction and when circuits are reconstructed or repaired, whenever practicable. When a utility has actual knowledge, obtained either through normal operating practices or notification to the utility, that any circuit energized at 750 volts or less shows strain or evidences abrasion from tree contact, the condition shall be corrected by slacking or rearranging the line, trimming the tree or placing mechanical protection on the conductor(s).

The minimum clearances established in Table 1, Case 13, require a radial clearance of at least 18 inches between bare line conductors and tree branches and foliage, this includes trolley contact, feeder and span wires from 0-5,000 volts, as well as supply conductors and supply cables between 750 and 22,500 volts. Appendix E of GO 95 provides guidelines to Rule 35, regarding minimum radial clearances that should be established at the time of trimming, between vegetation and the energized conductors and associated live parts of utility facilities where practicable, such as: "(A) Radial clearances [of 4 feet] for any conductor of a line operating at 2,400 or more volts, but less than 72,000 volts; (B) Radial clearances [of 6 feet] for any conductor of a line operating at 72,000 or more volts, but less than 110,000 volts; (C) Radial clearances [of 10 feet] for any conductor of a line operating at 110,000 or more volts, but less than 300,000 volts; [and] (D) Radial clearances [of 15 feet] for any conductor of a line operating at 300,000 or more volts."

Further, D.97-01-044 mandated that all subject utilities establish an implementation schedule for compliance with the standards set forth in that decision. Ordering Paragraph No. 3 of D.97-01-044 requires each utility to comply with the established standards by trimming at least 25% of the total number of trees by the sixth month anniversary of the decision's issuance.⁴ Ordering Paragraph No. 4 of that decision requires utilities to file a compliance plan within 10 days of the order's date of issuance, which must include an accurate estimate of the total number of trees requiring trimming.

The staff's report provides that SDG&E submitted its compliance plan on February 3, 1997, noting about 282,000 trees, with 10 foot radial clearance ranges at the time of its last scheduled patrolling, in its maintenance inventory. However,

⁴ Six months from the issuance of D.97-01-044 would have been about July 23, 1997.

staff contends that SDG&E's plan did not provide specifics on trees which would be in compliance by the end of each anniversary period as required by D.97-01-044. The report provides that staff discussed this matter with the utility and SDG&E submitted a revised plan, providing a list of circuits that would be in compliance at the end of the initial six month anniversary period. Following further discussions between staff and the utility, SDG&E submitted another revised plan on May 30, 1997, this time providing a new estimate of the total number of trees in the inventory (up to 405,000) and a list of circuits to be completed at the end of each anniversary period set forth by D.97-01-044.⁵ As noted above, all of the incidents at issue here concern trees and vegetation in locations that SDG&E identified to staff, following the sixth month anniversary, as being in compliance with GO 95, Rule 35.

This investigation is opened to determine whether SDG&E violated the Public Utilities Code, and Commission decisions, orders and rules in connection with the "burners" and fires described in the CSD staff's report. This investigation proceeding shall provide a forum for CSD's staff to present the results of its investigation, and to allow its findings to be aired with an opportunity for SDG&E, as the corporate respondent, to address staff's findings.

IT IS ORDERED that:

1. An investigation is opened into the operations and practices of SDG&E, the respondent utility corporation, in connection with the violations of General Order 95 as alleged in the CSD staff report of March, 1998. The purpose is to determine whether the respondent utility, its employees or agents, have violated any provisions of the Public Utilities Code, including Public Utilities Code sections 451 and 702, and/or applicable Commission orders, decisions, rules or

⁵ The increase in trees was explained as a change, from 10 feet to 20 feet, in the radial distance parameter used to define the maintenance inventory.

regulations, and if there are violations proven, to impose appropriate sanctions under Public Utilities Code sections 2107, and 2108. SDG&E is placed on notice that pursuant to section 2108, it is subject to a fine under section 2107 for each day that it is found in violation of a statute or Commission order, decision or rule and, following the close of an evidentiary hearing, staff should present a quantification of the cumulative days any violations occurred. The respondent is placed on notice that if it is found that it submitted inaccurate filings to the Commission on vegetation control activity in circuits, it may be subject to sanctions for violation of rule 1 of the Commission's Rules of Practice and Procedure.

2. Scoping Information: This paragraph suffices for the "preliminary scoping memo" required by Rule 6(c). This enforcement proceeding is adjudicatory, and, absent settlement between staff and the respondent, will be set for evidentiary hearing. A hearing may also be held on any settlement for the purpose of enabling parties to justify that it is in the public interest, or to answer questions from the ALJ about settlement terms. A prehearing conference will be scheduled and held within 40 days and hearings will be held as soon as practicable thereafter. Objections to the OII may be filed but must be confined to jurisdictional issues which could nullify any eventual Commission order on the merits of the issues about violations of statutes, rules, regulations or orders.

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3. A copy of this order and the staff's complete report shall be served by certified U.S. mail on the designated regulatory contact person for SDG&E, and to its General Counsel.

This order is effective today.

Dated April 9, 1998, at San Francisco, California.

RICHARD A. BILAS

President

P. GREGORY CONLON

JESSIE J. KNIGHT, JR.

HENRY M. DUQUE

JOSIAH L. NEEPER

Commissioners

LTC/jva

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NOTICE OF ASSIGNMENT

Please be advised that Investigation 98-04-010 is assigned to Commissioner Henry M. Duque and Administrative Law Judge Kim Malcolm.

Dated April 15, 1998, at San Francisco, California.

/s/ LYNN T. CAREW

Lynn T. Carew, Chief
Administrative Law Judge