

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

<p>Ronald E. and Linda L. Scarberry,</p> <p style="text-align: center;">Complainants,</p> <p style="text-align: center;">vs.</p> <p>Pacific Gas and Electric Company,</p> <p style="text-align: center;">Defendant.</p>

(ECP)
Case 04-04-013
(Filed April 13, 2004)

**OPINION DENYING REQUEST
FOR UNDERGROUNDING**

The Commission denies the request of Ronald E. and Linda L. Scarberry (Complainants), that Pacific Gas and Electric Company (PG&E) be ordered to underground its overhead electric facilities that were relocated as part of a street widening project along Academy Avenue, in Sanger, California. For purposes of the project, the County of Fresno (County) acquired an easement over Complainants' land, which is part of a residential subdivision. In a 1990 Resolution approving the subdivision, the County expressly adopted the findings for Improvement Standard exceptions permitting overhead utilities along Academy Avenue. The Resolution also adopts requirements that all new utilities in the subdivision be placed underground.

Complainants argue that PG&E's relocated facilities are "new" and should be placed underground since the land on which the easement exists is owned by

Complainants and is part of the subdivision to which the undergrounding requirements apply.

Today's decision finds that the undergrounding requirements for utilities in the subdivision do not apply to this project, which is not a new line but a relocation of an existing line. If undergrounding is desired, then an underground district should be created pursuant to PG&E's Electric Tariff Rule 10 - Replacement of Overhead with Underground Electric Facilities. This proceeding is closed.

Background

Due to a street widening project undertaken by the County, PG&E was requested to relocate approximately 4.5 miles of overhead electric facilities located along Academy Avenue. PG&E relocated its facilities in an easement obtained by the County from Complainants, who own land alongside Academy Avenue.

Positions of the Parties

Complainants claim the site of the relocated facilities falls within the property boundaries of the subdivision in which they reside. As such, Complainants claim that the property owners in this subdivision have the right to require the County and PG&E to place the electric facilities underground, as required by the Resolution approving the subdivision.

Complainants further claim that a utility pole installed at the corner of Academy Avenue and Richert Avenue obstructs the view of drivers turning on to a 65 miles-per-hour (mph) roadway. Complainants claim the pole is installed on their private property, and as such, they should be allowed to determine whether the facilities should be moved.

Also, Complainants dispute PG&E's installation of an anchor and guy wire on Richert Avenue, based on their contention that any facilities in this "cut off" area must be placed underground.

PG&E responds that the overhead electric facilities at issue were installed and relocated in accordance with the Commission's General Order 95, and pursuant to PG&E's right under its franchise agreement with the County. According to PG&E, if the County desired the relocated facilities to be converted to underground service, the County would have adopted an ordinance creating an underground district pursuant to PG&E's Commission-approved Electric Tariff Rule 20- Replacement of Overhead with Underground Electric Facilities.

In response to Complainants' argument that the relocated facilities are on new larger and taller poles with new lines that did not exist as stated in the Resolution, PG&E contends that the facilities at issue are not "new" but an existing line that was relocated. PG&E notes that the Resolution described the service as "two lines on a single pole, a 70 kilovolt (kV) transmission and 12 kV distribution line." The facilities, as installed now, are two lines on a single pole, a 70 kV transmission line with a 12 kV distribution underbuild. PG&E believes that it has the right and duty to modernize and upgrade its facilities to provide service. According to PG&E, the upgrading of the actual poles and wires in conjunction with the relocation required by the County was a prudent business decision for the betterment of the customers which the transmission line serves. Also, PG&E states that the cost difference for PG&E to place the facilities underground in lieu of overhead would be approximately 10-20 fold. PG&E believes that in this case, it would not be prudent to pass such costs on to ratepayers.

According to PG&E, the pole at the corner of Academy Avenue and Richert Avenue was installed in accordance with the Commission's clearance requirements, within the County right of way, and not on private property. PG&E contends that the pole is set back from the road and does not obstruct the view of drivers turning on to Academy Avenue, which has a posted speed limit of 55 mph. Also, according to PG&E, the disputed anchor and guy wire are within the County right of way and not on private property.

PG&E argues that this relocation project did not involve new electric service to serve the subdivision, and is therefore not subject to the Resolution requirement that new utility facilities to serve the subdivision must be undergrounded.

Discussion

We conclude that the Resolution approving the subdivision does not require the relocated electric facilities on Academy Avenue to be placed underground. The Resolution expressly grants an exception from any undergrounding requirement for the existing 70 kV and 12 kV lines along Academy Avenue (*see* p. 1 of Attachment E to the complaint).

Relocation of the existing overhead electric facilities to a new location within the easement obtained by the County does not subject PG&E to the condition in the Resolution that all new utilities in the subdivision be placed underground (*see* p. 5 of Attachment E to the complaint). This undergrounding requirement is intended for those facilities providing service within the subdivision. The Resolution expressly exempts the 70 kV and 12 kV line along Academy Avenue. PG&E's transmission pole line serves the general public and transmits electricity from generation or substation to substation. PG&E's overhead facilities were and are within the franchise area obtained by the County

for the purpose of accommodating the overhead electric facilities. Any requests for underground service are subject to the Commission-approved application process as provided in PG&E's Electric Tariff Rule 20.

Complainants' concerns regarding the County acquiring an easement rather than purchasing their property which subjects the Complainants to property taxation is a land rights issue between the Complainants and the County and is outside the scope of this proceeding.

Complainants have failed to show that PG&E has violated any law or Commission rule or order. Therefore, we conclude that the complaint should be dismissed.

Assignment of Proceeding

Geoffrey Brown is the Assigned Commissioner and Bertram D. Patrick is the assigned Administrative Law Judge in this proceeding.

O R D E R

IT IS ORDERED that:

1. The complaint of Ronald E. and Linda L. Scarberry against Pacific Gas and Electric Company, is denied.
2. Case 04-04-013 is closed.

This order is effective today.

Dated _____, at San Francisco, California.