



BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

FILED

08-23-07
04:59 PM

Petition to Adopt, Amend or Repeal a
Regulation Pursuant to Public Utilities Code
Section 1708.5 and Commission Decision
(D.) 05-01-030.

Petition 07-07-020
(Filed June 24, 2007)

**RESPONSE OF THE CONSUMER PROTECTION
AND SAFETY DIVISION TO PETITION TO ADOPT NEW GENERAL
ORDER 95 RULES FOR ANTENNAS CONSTRUCTED ABOVE SUPPLY
AND COMMUNICATION LINES**

I. INTRODUCTION

Pursuant to Rule 6.3 of the Commission's Rules of Practice and Procedure ("Rules"), the Consumer Protection and Safety Division ("CPSD") submits its Response to the petition of the General Order 95/128 Rules Committee ("Rules Committee") to amend General Order ("GO") 95 Rules pursuant to Public Utilities Code § 1708.5, Rule 6.3, and Commission Decision ("D.") 05-01-030. The Petition requests that the Commission amend GO 95 Rules by adopting uniform construction standards governing antennas between and/or above supply lines, generally referred to as "pole top antennas." More specifically, the Petition contains a package of four proposed final rule changes ("PRCs"), contained in Appendix B to the Petition, which purport to encompass basic construction requirements for antennas affixed above supply and communication lines; between supply lines on joint use utility poles; and clarify certain requirements for antennas constructed below supply lines as currently provided in GO 95, Rule 94.

CPSD files the instant Response in order to raise its concerns and recommendations to the Commission regarding the Rules Committee's proposed changes to GO 95.

II. BACKGROUND

Pursuant to Ordering Paragraph 8 of D.05-01-030, the Rules Committee's Executive Board met with CPSD staff members Raffy Stepanian and Ray Fugere to discuss the proposed new rules covering pole-top installations. As stated in the Petition, two of CPSD's concerns relating to the formatting in PRC 4 were incorporated into the new proposed rules. However, the Rules Committee declined to make changes to the proposed rules in response to CPSD's concerns that PRC 1, new Rule 94.4 (Material Strengths) mirrors existing requirements found in Section IV and should be deleted or incorporated into existing Rule 94.3. The Rules Committee also declined to make changes to PRC 1, new Rule 94.5-F, in response to CPSD's concern that the rule uses the term "qualified persons" which is undefined in GO 95. Both of these concerns are discussed in more detail below.

In addition, CPSD was able to conduct a more detailed review of the final proposed rule changes once the Rules Committee filed its instant Petition. Upon further review, CPSD has identified additional concerns and/or recommendations to the proposed rule changes, as discussed below.

III. RECOMMENDATIONS AND CONCERNS

CPSD has the following concerns and recommendations for the General Order 95/128 Rules Committee Proposed Changes to General Order 95:

1. The proposed rule change to Rule 91.3-B (Proposed Revision #2) adds the following exception: "Steps are not required in a Supply utility's designated space when a third party Antenna is affixed above supply conductors." The term "Supply utility's designated space" is not defined in General Order 95 and is ambiguous.

CPSD suggests changing the term "Supply utility's designated space" to "Supply Work Space (See Rule 54.7-B)".

2. Proposed Rule 94.8 (see Proposed Revision #1) uses the following format for the section title: "Stepping (See Exception to Rule 91.3)". This format has never been used before in General Order 95 and may be confusing.

CPSD recommends that the title be specified as follows: “Stepping (See Rule 91.3)”.

3. Proposed Rule 94.9 (see Proposed Revision #1) includes the two phrases “...passing supply and/or communication lines, or space typically occupied by supply or communication lines, and equipment...” (see Proposed Rule 94.9-C) and “...passing supply line or space typically occupied by supply line and equipment...” (see Proposed Rule 94.9-B). This language is ambiguous and not consistent with other General Order 95 rules.

CPSD recommends that the two phrases be changed to the following: “passing supply and/or communication lines, or the Supply Work Space (See Rule 54.7-B)” and “passing supply line or the Supply Work Space (See Rule 54.7-B)”.

4. Proposed Rule 94.4 (see Proposed Revision #1) should either be deleted or incorporated into existing Rule 94.3. It is duplicative and inconsistent with other sections of General Order 95. First, it is unnecessary because existing Rule 94.3 already states that Antennas, and all associated elements of the Antenna, must meet Class C equipment requirements. The requirements for Class C equipment are the same as those requirements set forth in Proposed Rule 94.4. Second, the proposed rule is inconsistent with other sections of General Order 95 which reference Section IV or a particular rule in Section IV, without repeating the requirements in that rule. An example of this is Rule 51.3 “Material and Strength (See Section IV)”.

CPSD suggests that if the substance of Rule 94.4 is to be kept, it should be incorporated into Rule 94.3 and changed to read: “Rule 94.3-C Material Strength (See Section IV)”. Furthermore, if the safety factors in Section IV are not safe enough for an antenna located above supply lines, they should re-evaluated.

5. In the proposed changes to Rule 38, Table 2, Case 21 (see Proposed Revision #4), the Rules Committee added footnote “xx”, which states, “For clearances below supply and communication lines and between supply and communication lines see Rule 94.5A-B”. The phrase “Rule 94.5A-B” is not consistent with the formatting used in General Order 95.

CPSD recommends revising the formatting of the footnote to: “For clearances below supply and communication lines and between supply and communication lines see Rules 94.5-A and 94.5-B”, in order to be consistent with General Order 95, and to clarify the rule.

6. In the proposed changes to Rule 38, Table 2, Case 21 (see Proposed Revision #4), the Rules Committee added footnote “zz”, which states in part, “May be reduced to 72 inches for circuits up to 22,500 volts provided the antenna is suitably isolated.” The term “Isolated” is defined in General Order 95 as “not readily accessible to persons unless special means for access are used.” The term “suitably isolated” is not defined in General Order 95. It is unclear what the proposed rule intends to accomplish with this language.
7. Proposed Rule 94.9 (see Proposed Revision #1) requires Antenna risers to be suitably protected and insulated. The term suitably insulated is defined in General Order 95 as being insulated to protect against the voltage the wire carries. Usually, this definition of suitably insulated is adequate because higher voltage conductors are passing through lower voltage conductors and the insulation is based on the highest voltage. However, by placing antennas at the top of the pole, their associated risers that carry low voltages such as 120 volts would pass un-insulated conductors carrying 12,000 volts.

CPSD recommends that a note be added to Proposed Rule 94.9 stating that suitably insulated, for the purposes of the rule, is defined as insulated to either the voltage carried or voltages passed, whichever is higher.

8. Proposed Rule 94.5-F includes the phrase “qualified persons” which is undefined in General Order 95. General Order 128, titled *Rules For Construction of Underground Electric Supply and Communication Systems* contains a definition of “qualified” which means “qualified by training and experience to be competent to work on and recognize the hazards and exposure involved in the lines and equipment being worked on.”

CPSD recommends that General Order 128’s definition of “qualified” should be added to the definition section of General Order 95 to make proposed rule 94.5-F clear.

IV. CONCLUSION

CPSD supports the adoption of the proposed rule changes to General Order 95, with the modifications recommended herein. CPSD suggests that any remaining concerns regarding further revisions to the proposed rules be addressed in a workshop or other procedural vehicle deemed appropriate by the Assigned Commissioner and/or Administrative Law Judge.

Respectfully submitted,

/s/ KIMBERLY LIPPI

Kimberly Lippi

Attorney for the Consumer Protection
and Safety Division

California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Telephone: (415) 703-5822
Fax No.: (415) 703-2262

August 23, 2007

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing document
**“RESPONSE OF THE CONSUMER PROTECTION AND SAFETY DIVISION
TO PETITION TO ADOPT NEW GENERAL ORDER 95 RULES FOR
ANTENNAS CONSTRUCTED ABOVE SUPPLY AND COMMUNICATION
LINES” in P. 07-07-020 and R.05-02-023.**

A copy was served as follows:

BY E-MAIL: I sent a true copy via e-mail to all known parties of record who have provided e-mail addresses.

BY MAIL: I sent a true copy via first-class mail to all known parties of record.

Executed in San Francisco, California, on the **23rd** day of **August, 2007.**

/s/ REBECCA ROJO

Rebecca Rojo

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address and/or e-mail address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

E-MAIL SERVICE LIST
R.05-02-023
Petition 07-07-020

Ceaston@semptra.com;
Edward.McGah@verizonwireless.com;
Jay.M.Baumler@sprint.com;
Lorraine.Kocen@verizon.com;
Shanise.Black@ladwp.com;
agc@cpuc.ca.gov;
akott@anaheim.net;
amsmith@semptra.com;
ang@cpuc.ca.gov;
anitataffrice@earthlink.net;
ar2536@sbc.com;
bll@tid.org;
bmcc@mccarthy.com;
bob.ritter@crowncastle.com;
bon@cpuc.ca.gov;
btramont@wbklaw.com;
case.admin@sce.com;
cem@newsdata.com;
centralfiles@semptrautilities.com;
chuck.johnson@verizon.com;
cindy.manheim@cingular.com;
cjhashimoto@tid.org;
cmanzuk@semptrautilities.com;
cpuccases@pge.com;
danielle.padula@sce.com;
ddohren@semptrautilities.com;
dghurlb@pacbell.net;
Edward.mcgah@verizonwireless.com;
ens@loens.com;
fsc2@pge.com;
george.granger@cingular.com;
gew@cpuc.ca.gov;
gwalters@semptrautilities.com;
gxcgw@pge.com;
holly.groschner@crowncastle.com;
hooperjd@verizon.net;
info@tobiaslo.com;
jacque.lopez@verizon.com;
Jay.m.baumler@sprint.com;
jdodge@crblaw.com;
jesus.g.roman@verizon.com;
jfc@calcable.org;
jml@cpuc.ca.gov;
judypau@dwt.com;
jwmctarnaghan@duanemorris.com;
kt1242@att.comii;
lbiddle@ferrisbritton.com;
lkm4@ibew1245.com;
lmb@wblaw.net;
Lorraine.kocen@verizon.com;
lori.ortenstone@att.com;
louierochoa@cwa9423.com;
lrn3@pge.com;
marcel@turn.org;
marklegal@sbcglobal.net;
mcf@calcomwebsite.com;
mclaughlin@braunlegal.com;
michael.bagley1@verizonwireless.com;
mp@calcable.org;
mshames@ucan.org;
nluker@nextgnetworks.net;
nmason@nextgnetworks.net;
pac@cpuc.ca.gov;
pgh@cpuc.ca.gov;
pjg3@pge.com;
porte@fastballpartners.com;
ppv1@pge.com;
Public.advisor@cpuc.ca.gov;
rcosta@turn.org;
rdelsman@nextgnetworks.net;
rgf@cpuc.ca.gov;
richard.tom@sce.com;
robbgroup@earthlink.net;
rst@cpuc.ca.gov;
rtpl@pge.com;
rwc@cpuc.ca.gov;
sberlin@mccarthy.com;
sbeserra@sbcglobal.net;
scohn@smud.org;
Shanise.black@ladwp.com;
shg@cpuc.ca.gov;
stephen.h.kukta@sprint.com;
strange@strangelaw.net;
susan.lipper@t-mobile.com;
suzannetoller@dwt.com;
swilson@riversideca.gov;