

Decision 10-07-006 July 8, 2010

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Patrick J. Killen and Dennis Cleland,

Complainants,

vs.

Southern California Edison Company (U338E),

Defendant.

Case 09-12-036
(Filed December 31, 2009)

DECISION DENYING RELIEF

Patrick J. Killen and Dennis Cleland (Complainants), seek approximately \$100,000 from Southern California Edison Company (SCE or Defendant) for the cost of undergrounding conduits to provide the necessary power to their proposed development. Defendant moves to dismiss for failure to state a cause of action. The motion is granted.

Complainants allege that the City of Manhattan Beach (City) and SCE did not plan ahead for future development 10 years ago when they undergrounded powerlines on Manhattan Beach Boulevard. As a result, there are no conduits underground to provide necessary power for Complainants' project and for future needs. Complainants have been asked to provide money for construction of facilities from which future developments would ultimately benefit. They believe asking a developer to fix what is a city issue seems unfair because it was the City and SCE's oversight that caused the problem. Complainants state that

on the boulevard where their project is planned the conduits and transformers were not designed to accommodate future development. The cost to upgrade to meet Complainants' needs has been estimated to be \$100,000 plus, which Complainants believe is an enormous amount they should not be expected to pay.

Defendant's answer asserted that in August 2008, Killen completed a Customer Project Information Sheet (CPIS) and signed a design option letter for the property located at 930 Manhattan Beach Boulevard, Manhattan Beach, California (Subject Property). The CPIS described Killen's project location and noted that he was upgrading his electrical panels. Killen requested that SCE provide 120/240-volt single phase electrical service to six meters. In October, Killen called SCE and requested a 120/208-volt 3-phase 4-wire service to supply an 800 amp electrical meter panel instead of his prior request. SCE's service planner made field visits to the Subject Property to determine if SCE could provide the new requested voltage. SCE determined that the customer would need to install a vault in the street, per SCE's Tariff Rule 16,¹ in order to provide a three-phase transformer because Killen had already begun constructing his additions to the existing buildings, leaving no room on the Subject Property for a padmounted transformer.²

¹ Per SCE's Tariff Rule 16 Section F, where SCE's existing service facilities require reinforcement due to added load, the Service Facilities shall be replaced as a new Service Extension in which case the applicant is responsible per Section D, to provide a clear route, excavation, and the furnishing and installing of all conduits and substructures. Where conduits and substructures are to be deeded to SCE, Rule 15 may be applicable.

² Per SCE's Tariff Rule 16, Section D. 1.g., padmounted equipment is SCE's standard installation.

In April 2009, SCE met with Killen to discuss final plans. SCE informed Killen that, if he wanted a 120/208-volt 3-phase 4-wire electrical service, he would need to install a new vault (transformer structure) and new conduits in the street. SCE also informed Killen that, regardless of the voltage, if Killen wanted 800 amps of power, a new vault and conduits would need to be installed in the street. SCE stated that, as a last alternative to having Killen install a vault in the street and continue being served from the existing structure, SCE could investigate if a new 3-phase 4-wire transformer bank could be installed in the existing vault. However, SCE further explained that Killen would likely need to downsize his request to a 400-amp panel. Killen stated he was not happy but would settle for a 400-amp electrical meter panel served at 120/240-volt 3-phase 4-wire service. In April 2009, SCE delivered to Killen a revised underground structure/conduit map outlining the conduit installations required of Killen to serve a new 120/240-volt 3-phase 4-wire service. This revision also required Complainants to pay the substantial costs of undergrounding.

Discussion

Complainants' request to have SCE pay for the costs of undergrounding electric facilities to serve Complainants' project is denied. Complainants have not pleaded any facts showing that SCE has violated any rule or charge established or fixed by or for SCE, in violation or claimed to be in violation, of any provision of law or of any order or rule of the Commission. (Pub. Util. Code § 1702.)

We have no jurisdiction over the City of Manhattan Beach. Nor should we review actions taken 10 years ago to determine if future needs had been properly considered; that would be no more than rank speculation.

SCE's Rule 15 (Distribution Line Extension) and Rule 16 (Service Extension), approved by this Commission, provide the standards for service and apportionment of costs when facilities are extended or upgraded. Both Rules provide for the customer to pay when certain facilities are needed i.e., Rule 15.B.1.a: Applicant is responsible for excavation, substructure and conduits, and protective structures, for underground distribution line extensions; Rule 16.C.3.a and Rule 16.D.1.a provide that applicant has similar responsibilities for Service Extensions.

SCE's Rules are clear and give notice to the developers of their obligations. Complainants have not shown why they should be exempt from requirements common to all developers.

Comments on Proposed Decision

The proposed decision of the Administrative Law Judge (ALJ) in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed by SCE which support the decision.

Assignment of Proceeding

Timothy Alan Simon is the assigned Commissioner and Robert Barnett is the assigned ALJ in this proceeding.

Findings of Fact

1. Complainants' project in Manhattan Beach requires substantial upgrades, including undergrounding, to provide it with sufficient electricity.
2. The apportionment of costs necessary to provide power is set forth in SCE's tariffs, approved by this Commission.

3. Complainants have not pleaded any facts to show that SCE has violated any rule or charge established or fixed by or for SCE, in violation or claimed to be in violation of any provision of law or of any order or rule of the Commission.

Conclusion of Law

The complaint should be dismissed for failure to plead a cause of action.

O R D E R

IT IS ORDERED that:

1. Case 09-12-036 is dismissed.
2. Case 09-12-036 is closed.

This order is effective today.

Dated July 8, 2010, at San Francisco, California.

MICHAEL R. PEEVEY
President
DIAN M. GRUENEICH
JOHN A. BOHN
TIMOTHY ALAN SIMON
NANCY E. RYAN
Commissioners

