

Decision 05-04-038 April 21, 2005

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking into
Implementation of Assembly Bill 1149, Regarding
Underground Electric and Communications
Facilities.

Rulemaking 00-01-005
(Filed January 6, 2000)

O P I N I O N

Summary

This decision closes Rulemaking (R.) 00-01-005. The Interim Order issued in Decision (D.) 01-12-009 revising the rules for converting overhead utility lines to underground will stay in place until the Commission opens a new proceeding at a later date consistent with the Commission's resources and priorities, or until further order of the Commission.

Background

On January 6, 2000, the Commission issued an Order Instituting Rulemaking (OIR), R.00-01-005, to look into the implementation of Assembly Bill (AB) 1149, (Aroner) (Stats. 1999, Ch.844). This legislation required the Commission to study ways to amend, revise and improve the rules for the conversion of existing overhead electric and communications lines to underground service and to submit a report to the Legislature. Commissioner Duque, the Assigned Commissioner at the time, submitted his own report to the Legislature in April 2001. The Commission followed with D.01-12-009 in December 2001.

In its Rulemaking the Commission focused on hearing from interested parties and stakeholders through multiple days of workshops conducted by Energy Division (ED) staff, eight Public Participation Hearings (PPH) throughout the state presided over by Commissioner Duque and the assigned Administrative Law Judge (ALJ) Carol Brown and numerous rounds of comments and replies to comments.

After almost two years of work by staff and the parties on the Rulemaking, the Commission bifurcated the issues into the non-controversial actions the Commission could address without evidentiary hearings and the controversial areas that would require hearings. The Commission issued D.01-12-009 that proposed reforms to the underground conversion program that could be enacted based on information in the record, and deferred to a Phase 2 those actions or proposed changes that could benefit from evidence, testimony and cross-examination.

D.01-12-009 directed the following reforms: (1) expanding the Rule 20A criteria to include a few more areas within the definition of public interest; (2) allowing Rule 20A funds to be used in combination with Rule 20B funds; (3) allowing cities to mortgage Rule 20A allocations for up to five years; (4) requiring standardized reporting from the utilities; and (5) ordering the creation of an up-dated Undergrounding Planning Guide.

D.01-12-009 also identified some of the issues the Commission anticipated exploring in Phase 2 of the proceeding. Overtaking events in the electric industry required the Commission to manage and control its resources such that Phase 2 of the proceeding was never fully initiated beyond a Prehearing Conference.

Discussion

D.01-12-009 directed reforms to the undergrounding program that were designed to improve the conversion rules as much as the Commission could at that time based on the record of the proceeding. Due to the passage of time since the issuance of the Rulemaking in January 2000, the Rulemaking as currently drafted may no longer address issues that are of concern to the Commission, the parties and the stakeholders today. Therefore, the Commission closes this proceeding.

Comments on Draft Decision

The draft decision of ALJ Brown closing this proceeding was mailed to the parties in accordance with Pub. Util. Code § 311(g)(1) and Rule 77.1 of the Rules of Practice and Procedure.

On April 8 and April 11, 2005, the City and County of San Francisco (CCSF) and San Diego Gas & Electric Company (SDG&E) respectively filed comments to the draft decision (DD). CCSF asks the Commission to reject the DD and keep the proceeding open to conduct Phase II. In particular, CCSF has undergrounding conversion projects, both under way and on the drawing board, that could benefit from the resolution of some of the issues targeted for Phase II.

SDG&E supports the closing of R.00-01-005 and agrees that the Rulemaking that was drafted over five years ago no longer addresses the issues that are of concern to the Commission, the parties and interested stakeholders.

After review and consideration of the comments, the Commission still believes it is appropriate to close R.00-01-005.

Assignment of Proceeding

Susan P. Kennedy is the Assigned Commissioner and Carol A. Brown is the assigned ALJ in this proceeding.

Findings of Fact

1. R.00-01-005 is over five years old.
2. Due to the passage of time, the Rulemaking as currently drafted no longer addresses the issues that could be of concern to the Commission, the parties and interested stakeholders today.
3. R.00-01-005 should be closed.

Conclusion of Law

In light of the passage of time since the Commission initiated the Rulemaking in 2000, it is reasonable to close the proceeding.

O R D E R

IT IS ORDERED that Rulemaking 00-01-005 is closed.

This order is effective today.

Dated April 21, 2005, at San Francisco, California.

MICHAEL R. PEEVEY
President
GEOFFREY F. BROWN
SUSAN P. KENNEDY
DIAN M. GRUENEICH
Commissioners