

Decision 09-10-004 October 1, 2009

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Revise and Clarify Commission Regulations Relating to the Safety of Electric Utility and Communications Infrastructure Provider Facilities.

Rulemaking 08-11-005  
(Filed November 6, 2008)

**ORDER CORRECTING ERRORS IN DECISION 09-08-029**

**1. Summary of Decision**

This decision corrects three obvious errors in Decision 09-08-029 in response to a letter submitted to the Executive Director by the Division of Ratepayer Advocates (DRA) pursuant to Rule 16.5 of the Commission's Rules of Practice and Procedure (Rule 16.5). DRA's other proposed corrections are rejected because they do not constitute obvious errors as required by Rule 16.5.

**2. Background**

Rule 16.5 provides the following procedure for parties to request the correction of obvious errors in Commission decisions:

Correction of obvious typographical errors or omissions in Commission decisions may be requested by letter to the Executive Director, with a copy sent at the same time to all parties to the proceeding. (Rule 16.5.)

Resolution A-4661, dated March 9, 1977, authorizes the Executive Director to sign Commission orders that correct obvious errors and omissions in Commission decisions.

On September 9, 2009, DRA submitted a letter to the Executive Director in which DRA requested four corrections to Decision (D.) 09-08-029. As required by Rule 16.5, DRA sent a copy of its letter to all parties to the proceeding.

On September 21, 2009, Southern California (SCE) submitted a response to DRA's letter. SCE supports one of DRA's proposed corrections, opposes two of the corrections, and takes no position regarding one correction. SCE represents that Pacific Gas and Electric Company and San Diego Gas & Electric Company support SCE's position. There were no other responses to DRA's letter.

### **3. Discussion**

For the reasons set forth below, this decision adopts two of DRA's proposed corrections to D.09-08-029 and rejects two of the proposed corrections. In addition, DRA's proposed corrections have brought to light another obvious error in D.09-08-029, which is corrected by today's decision.

#### **3.1. Proposed Correction No. 1**

D.09-08-029 determined that Rule 44.2 of General Order (GO) 95 should not include certain text. (D.09-08-029, p. 38.) Despite this determination, the text is included in Rule 44.2 at (1) p. 40 of D.09-08-029, and (2) Appendix B of D.09--08-029. DRA requests that D.09-08-029 be corrected to remove the text in question from Rule 44.2. SCE agrees.

DRA has identified an obvious error in D.09-08-029. Accordingly, its proposed correction is adopted pursuant to Rule 16.5. The corrected Rule 44.2 is set forth in Ordering Paragraph 1 of today's decision.

#### **3.2. Proposed Correction No. 2**

DRA requests that Rule 44.2 be corrected to include the acronym "CIP" or "CIPs" at three places. SCE opposes DRA's request. SCE states that Rule 44.2 is clear and accurate without the acronym.

DRA has not identified an obvious error in Rule 44.2. Accordingly, DRA's proposed correction is denied. If DRA believes the acronym needs to be added to Rule 44.2 of GO 95, DRA may file a petition to modify D.09-08-029 pursuant to Rule 16.4 of the Commission's Rules of Practice and Procedure.

On the other hand, DRA's proposed Correction No. 2 has revealed a typographical error in D.09-08-029. Specifically, the first sentence of the second paragraph of Rule 44.2 states: "All other utilities or on the subject pole ... ." (Emphasis added.) The word "or" is an obvious error and is hereby deleted.

### **3.3. Proposed Correction No. 3**

DRA proposes to add the following sentence to Rule 44.2: "See Ordering Paragraphs 3 and 4 of D.09-08-029 for interim rules concerning timeframes for the provision of relevant data and definition of 'materially increases the load on a structure.'" SCE responds that Rule 44.2 was thoroughly vetted, and that it is improper to add text to Rule 44.2 under the guise of a "correction."

DRA has not identified an obvious error in D.09-08-029. Accordingly, DRA's proposed correction is denied. If DRA believes its proposed text needs to be added to Rule 44.2 of GO 95, DRA may file a petition to modify D.09-08-029 pursuant to Rule 16.4 of the Commission's Rules of Practice and Procedure.

### **3.4. Proposed Correction No. 4**

DRA observes there is an incomplete sentence at the end of the penultimate paragraph of Section 6.1 of D.09-08-029 that reads: "In fact, while unregulated companies must address issues that regulated companies avoid." DRA requests that "the decision be clarified on this point." SCE did not respond to DRA's request.

There is no way to know what the Commission intended with the incomplete sentence because there was nothing like it in the proposed decision. The incomplete sentence appears to be an obvious error and is hereby deleted.

**IT IS ORDERED** that Decision 09-08-029 is corrected as follows:

1. The second paragraph of Rule 44.2 of General Order 95 that was adopted by Decision 09-08-029 is corrected to read as follows, with both the redlined and the final corrected versions shown below:

**Redlined**

All other utilities ~~or~~ on the subject pole shall cooperate with the utility performing the load calculations described above including, but not limited to, providing intrusive pole loading data and other data necessary to perform those calculations. ~~As an interim measure, the necessary data shall be provided upon request within fifteen business days of the request; however, if circumstances do not allow for the data to be provided within fifteen days, the utility or CIP providing the data shall inform the requesting party and CPSD (or its successor) of the delay, reason for the delay and the estimated date the data will be provided. Also for interim purposes, additional facilities that “materially increase the load on a structure” refers to an addition which increases the load on a pole by more than 5 percent per installation, or 10 percent over a 12 month span of the utility’s or CIP’s current load.~~

**Final**

All other utilities on the subject pole shall cooperate with the utility performing the load calculations described above including, but not limited to, providing intrusive pole loading data and other data necessary to perform those calculations.

2. The following incomplete sentence at the end of the penultimate paragraph of Section 6.1 of Decision 09-08-029 is deleted: “In fact, while unregulated companies must address issues that regulated companies avoid.”

3. Rulemaking 08-11-005 remains open for Phase 2 of the proceeding.

This order is effective today.

Dated October 1, 2009, at San Francisco, California.

/s/ PAUL CLANON

PAUL CLANON  
Executive Director