Calendar No. 388

89TH CONGRESS, 1st Session | SENATE | REPORT No. 390

AMENDMENT TO SECTION 271 OF THE ATOMIC ENERGY ACT OF 1954

JUNE 30 (legislative day, JUNE 29), 1965.—Ordered to be printed

Mr. PASTORE, from the Joint Committee on Atomic Energy, submitted the following

REPORT

[To accompany S. 2103]

The Joint Committee on Atomic Energy, having considered S. 2103, to amend section 271 of the Atomic Energy Act of 1954, as amended, report favorably thereon without amendment and recommend that the bill do pass.

SUMMARY OF THE BILL

The bill, as recommended by the Joint Committee on Atomic Energy, would amend section 271 of the Atomic Energy Act of 1954, as amended, for the purpose of clarifying the language of that section to conform to the intent of Congress. As amended, this section would provided that nothing in the Atomic Energy Act of 1954, as amended, shall be construed to affect the authority of any Federal, State, or local agency with respect to the generation, sale, or transmission of electric power produced through the use of nuclear facilities licensed by the Atomic Energy Commission. However, nothing in section 271 shall be construed to confer on any Federal, State, or local agency any authority to regulate, control, or restrict activities of the Atomic Energy Commission.

BACKGROUND

In 1961, after several years of study, Congress authorized construction of a $114 million linear accelerator facility on the property of Stanford University in California (SLAC). Thereafter, construction of the SLAC facility began and is continuing today. In order to obtain the large amounts of electric power necessary for this facility, the Atomic Energy Commission and Pacific Gas & Electric Co., the local utility, signed a contract in January 1963, which stipulated that a

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220-kilovolt overhead powerline, suspended from conventional towers, would be constructed and maintained to service SLAC.

In 1963 and early 1964, two local governmental authorities in the State of California—the town of Woodside and the county of San Mateo—refused to issue land use permits to Pacific Gas & Electric Co. to construct an electric transmission line to bring electric power to serve SLAC unless the line was placed underground. The SLAC facility was, and is, under construction for the account of the U.S. Government. As the result of this barrier to the supply of power for the operation of this national facility, the Department of Justice, representing the Atomic Energy Commission, instituted judicial proceedings in 1964 to condemn certain electric transmission line easements within the county of San Mateo and the town of Woodside. It was the intent of the AEC to acquire these easements in order to construct and maintain an overhead electric power transmission line for the purpose of receiving electricity for SLAC from Pacific Gas & Electric Co. and the Bureau of Reclamation.

In this connection, it is significant that at the time land use permits were denied to Pacific Gas & Electric Co. for overhead powerlines there were no ordinances of the town of Woodside or of the county of San Mateo prohibiting overhead transmission lines. However, on March 9, 1964, the town of Woodside enacted a temporary interim zoning ordinance prohibiting overhead powerlines of 50,000 volts or greater. This action was taken after the town was advised by AEC that condemnation action would be instituted shortly. This ordinance was followed on April 13, 1964, by another temporary interim zoning ordinance, valid for 1 year, which prohibited all overhead transmission lines. According to representatives of the town of Woodside, the town's interim zoning ordinance has been renewed for another year, but has never been made permanent legislation. Variances for local residents have been granted since the temporary ordinance was enacted. Since March 9, 1964, while the controversy over construction of an overhead powerline for SLAC continued, 59 new poles were erected within about 5 miles from the proposed overhead line route. The county of San Mateo does not at this time have an ordinance requiring underground powerlines.

The defendants in the above-mentioned condemnation actions argued that section 271 of the act, which reads as follows:

> SEC. 271. AGENCY JURISDICTION.—Nothing in this Act shall be construed to affect the authority or regulations of any Federal, State, or local agency with respect to the generation, sale, or transmission of electric power.

deprived the AEC of authority to condemn these easements for the purposes stated above, since ordinances of the town of Woodside and the county of San Mateo had the effect of preventing construction of the overhead transmission line. A Federal district court dismissed this argument. The defendants in the condemnation actions then appealed to the U.S. Court of Appeals for the Ninth Circuit.

On May 20, 1965, the court of appeals reversed the order of the lower court. The court of appeals, contrary to the opinion of the Federal district court, was of the view that section 271 of the act subjected AEC itself to the authority or regulations of any Federal, State, or local agency with respect to the generation, sale, or transmission of electric power. According to the court, the town of Woodside and

county of San Mateo ordinances pertained to the transmission of electric power. The court ruled, in effect, that although AEC could take the proposed action pursuant to the supremacy clause of article VI of the Constitution, section 271, by necessary implication, precluded AEC from constructing and operating this overhead line.

On May 25, 1965, three identical bills (H.R. 8443, H.R. 8444, and S. 2035) were introduced by Chairman Holifield, Mr. Hosmer, and Vice Chairman Pastore (for himself and Senator Hickenlooper), respectively, for the purpose of reiterating the intent of Congress underlying section 271 and clarifying the meaning of this section. Public hearings on these bills were held on May 27, 1965, and June 2, 1965, before the Subcommittee on Legislation, as summarized in the next section of this report.

The Subcommittee on Legislation met in executive session on June 8, 1965, and after careful deliberation, voted without dissent to adopt certain perfecting amendments to these bills which had been suggested as the result of several informal conferences between the staff of the committee and representatives of the Department of Justice and the AEC. The subcommittee also voted to file identical "clean bills," which were introduced on June 8, 1965, by Chairman Holifield (as H.R. 8856), Mr. Hosmer (as H.R. 8857), and Vice Chairman Pastore (for himself and Senator Hickenlooper, as S. 2103).

The full committee met to consider these bills on June 16 and 29, 1965. After full discussion, the committee voted unanimously on June 29, 1965, to report out the bills as approved by the Subcommittee on Legislation (H.R. 8856 and S. 2103), without amendment, with a recommendation that they do pass, and to adopt this report thereon.

HEARINGS

On May 27, 1965, the following witnesses appeared before the Subcommittee on Legislation concerning H.R. 8443, H.R. 8444, and S. 2035:

Representing the Atomic Energy Commission:
- Commissioner Gerald F. Tape.
- Joseph F. Hennessey, General Counsel.
- Lawrence G. Mohr, area manager, Palo Alto area office.

Representing Stanford University:
- Dr. W. K. H. Panofsky, director, Stanford Linear Accelerator Center.

Representing the town of Woodside:
- Paul N. McCloskey, Jr., special counsel.
- Donald J. Graham, mayor.

In addition to the above-mentioned witnesses the Honorable J. Arthur Younger, a Representative in Congress from the State of California, testified before the subcommittee.

On June 2, 1965, the Subcommittee on Legislation received testimony from the following witnesses:

Representing the Atomic Energy Commission:
- Commissioner Gerald F. Tape.
- E. J. Bloch, Deputy General Manager.

Representing the town of Woodside:
- Austin Clapp, special counsel.
- Paul N. McCloskey, Jr., special counsel.

Representing the county of San Mateo:
E. R. Stallings, county manager.
Mrs. Jean Fassler, member of the board of supervisors, San Mateo County.
Representing Stanford University:
Lyle Nelson, director of university relations.
Representing Pacific Gas & Electric Co.:
Frederick T. Searls, general attorney.

In addition to the above-mentioned witnesses, the subcommittee received testimony from the Honorable Thomas H. Kuchel, a U.S. Senator from the State of California, and the Honorable J. Arthur Younger, a Representative in Congress from the State of California.

These hearings were published by the Joint Committee under the title "Proposed Amendment to Section 271 of the Atomic Energy Act of 1954."

COMMITTEE COMMENTS

A. General purpose of the bill

Section 271 was included in the national atomic energy law for the first time in 1954, with the enactment of H.R. 9757, the "Atomic Energy Act of 1954." Virtually nothing was said about this section in the Joint Committee's report on the bill, although there was considerable discussion of the meaning of this section during the Senate debates.

A review of the legislative history of this section makes it quite clear why it was placed in the law. The Atomic Energy Act of 1954 established the framework for significant private participation in the development of nuclear energy for peaceful commercial purposes. Among the most important provisions in the 1954 act are those authorizing private ownership and operation of nuclear reactors. including those useful in the generation of electric power. The act also established a comprehensive pattern of Federal regulation over these privately owned power reactors, which would be exercised by the AEC. As part of this regulatory pattern, the AEC was authorized to license privately owned power reactors under section 103 and section 104 of the act, for the purpose of protecting the health and safety of the public and the common defense and security.

Because of these unique provisions in the act pertaining to AEC's licensing and regulation of persons operating reactors which could be used to produce electricity, there was some feeling of uneasiness among the drafters of the legislation over the effect of the new law upon other agencies—Federal, State, and local—having jurisdiction over the generation, sale, and transmission of electric power. It was recognized by the drafters that the authority of these other agencies with respect to the generation, sale, and transmission of electric power produced through the use of nuclear facilities was not affected by this new law; and that AEC's regulatory control was limited to considerations involving the common defense and security and the protection of the health and safety of the public with respect to the special hazards associated with the operation of nuclear facilities. Nevertheless, section 271 was added to make it explicit that licensees of the AEC who produced power through the use of nuclear facilities would otherwise remain subject to the authority of all appropriate Federal, State, and local authorities with respect to the generation, sale, or transmission of electric power.

Several other points should be noted concerning section 271. The first is that it was not intended to affect another section of the statute—section 44—which sets forth conditions under which the AEC may dispose of energy produced at the AEC's production facilities or experimental utilization facilities. Second, there was no intention, by including section 271 in the act, in any way to limit the sovereign immunity possessed by the AEC as a Federal agency, by virtue of the supremacy clause of article VI of the U.S. Constitution. In this connection, see the statement by Senator Hickenlooper on page 51 of the hearings of the Joint Committee entitled "Proposed Amendment to Section 271 of the Atomic Energy Act of 1954."

The decision of the U.S. court of appeals handed down on May 20, 1965, overruling a lower Federal court, has raised doubts concerning the interpretation to be given by the courts to the intent of Congress underlying section 271. As noted above, this decision arose out of the condemnation proceedings involving an electric powerline for SLAC. However, the decision of the court has far-reaching implications which go to the very heart of the AEC's entire program.

The holding of the court was based upon the following line of reasoning: The general sovereign immunity of the Federal Government, its agencies and instrumentalities (e.g., the AEC), from State or local control of its governmental functions, is established under the supremacy clause of article VI of the U.S. Constitution. Therefore the activities of the AEC in connection with the construction and operation of the transmission line in question are wholly immune from local control, unless it can be established that Congress has directed that AEC subject itself thereto. The court found that no Federal statute contains such an express limitation of this kind. However, in the opinion of the court:

> Section 271 requires AEC to accede to the authority or regulations of any Federal, State, or local agency with respect to the "* * * generation, sale, or transmission of electric power." The line which AEC proposes to construct and operate in Woodside and adjacent San Mateo County, is for the transmission of electric power. The zoning and other ordinances of Woodside and the county, here in question, pertain to the transmission of electric power, for if they are complied with AEC may not transmit such power through an overhead line. Looking at the face of the statute, then, it would appear that section 271, by necessary implication, precludes AEC from constructing and operating this overhead line.

If the interpretation of section 271 set forth in the court of appeals decision became binding generally, major adverse consequences throughout the entire range and scope of all of the AEC's programs could result. In the final analysis, all of the AEC's essential activities, including those vital to the defense and security of the United States and the entire free world, involve the generation, sale, and transmission of electric power. If all of these activities became subject to the control of local agencies of government, through the enforcement of local ordinances and regulations concerning generation, sale, or transmission of electric energy, an intolerable burden would be placed upon the effective performance of the AEC's responsibilities under the Atomic Energy Act of 1954. In the passage of section 271 of this act

the Congress did not intend to divest a Federal agency (i.e., the Atomic Energy Commission) of its inherent powers to carry out its duties under the Constitution. It is equally obvious that a single agency with vital defense missions—the AEC—should not be subjected to local controls which are constitutionally void with respect to other Federal agencies.

There remains, of course, the possibility of further judicial review of the court of appeals' decision which the Government could pursue. The Government can and probably will proceed to obtain such review. However, it is scarcely reasonable for Congress simply to leave to the courts the resolution of a problem involving solely the determination of the intention of Congress. It is a responsibility of Congress to assist the courts by spelling out that intention.

The bill recommended by the committee would clarify the language of section 271 so as to correct any such erroneous conclusion that Congress intended that AEC's activities, as authorized by Congress, be limited by the authority or regulations of local authorities with respect to the generation, sale, or transmission of electric power. It would accordingly reaffirm the intent of Congress that AEC possess the same sovereign immunity, under the supremacy clause of article VI of the Constitution, that other Federal agencies possess. This is the major purpose of this bill.

This bill has nothing to do with regulatory control over radiation hazards pertaining to nuclear facilities licensed by AEC; this is covered by other provisions of the Atomic Energy Act of 1954 which are left unimpaired by this bill. Moreover, consistent with the original intent of section 271, this bill would have no effect with regard to AEC's authority to dispose of energy.

B. Effect of bill on SLAC powerline dispute

The committee is, of course, aware that this bill would have an immediate impact on the specific controversy involving construction of a powerline to service SLAC. The bill would make it clear that Congress did not intend to strip AEC of the power it would normally possess, under the Atomic Energy Act of 1954 and in accordance with the supremacy clause of article VI of the Constitution, to construct and operate an overhead transmission line to service this facility. Accordingly, the AEC could condemn the necessary easements for an overhead electric power transmission line for this purpose, and could construct and maintain such powerline, either with its own forces or through contractual arrangements, notwithstanding any State or local laws or regulations to the contrary, including those of the town of Woodside and the county of San Mateo at issue in the case before the court of appeals.

In order that this subject be viewed in the proper perspective it is essential to recount some of the history of the controversy over the SLAC powerline. This is not the first time that the committee has considered the supply of electric power to the Stanford Accelerator. As early as July 1959, the committee considered the availability and source of the needed power in connection with the proposed authorization of the SLAC project. Again in March and April 1960, the committee reviewed this subject in connection with authorizing design money for the accelerator. In 1961, another such comprehensive review was undertaken by the committee in the course of consideration of AEC's authorization bill for fiscal year 1962, which provided the

full authorization for the SLAC project. At each of these stages in the authorization process, careful attention was devoted to the overall costs of the project, including electrical power costs.

In January 1964, after difficulties arose between the AEC and the local communities adjoining Stanford concerning construction of an overhead powerline to SLAC, the committee held a full day of hearings devoted solely to this subject. Included among the witnesses were representatives of the town of Woodside and the county of San Mateo. In addition, members of the committee visited the Woodside area to study this subject firsthand. Individual informal meetings were also arranged by committee members to determine possible compromise arrangements. The hearings before the Subcommittee on Legislation, discussed earlier in the section of this report entitled "Hearings" (p. 3), afforded still another opportunity for this matter to be aired. It is clear from the history of this controversy that the local residents have been given every opportunity to prevent their case to the executive branch and Congress concerning construction of the powerline.

The purpose of the bill recommended by the committee is to remedy a problem which extends far beyond the dispute over the SLAC powerline. The committee believes it would be desirable for this legislation to be enacted even if there were no outstanding disagreement over this line, to avoid future erroneous interpretations of congressional intent underlying section 271. However, it should be pointed out that the committee also unanimously favors this bill because it will allow the AEC to proceed expeditiously with its present plans to construct an overhead line to service SLAC. A brief explanation of the committee's views on this matter is as follows: [1]

(*a*) The line in question is a high-voltage (220 kilovolts) *transmission* line. Unlike the case of lower voltage electric *distribution* lines which carry electricity directly to homes, stores, and so forth, the experts have concluded that burial of high-voltage transmission lines for so-called esthetic reasons is not warranted, because the cost for burying *high-voltage transmission lines* is very much greater than the relatively low cost for burying *low-voltage distribution lines.*

This point was brought out recently by the Panel on Underground Installation of Utilities of the White House Conference on Natural Beauty (May 24, 1965). High-voltage transmission lines which have been buried are those used in densely populated urban areas. The White House Conference panelists on natural beauty were very careful to differentiate between underground installation of relatively low-voltage distribution systems and high-voltage transmission lines. The Panel pointed out the very high cost of high-voltage underground transmission lines at present compared to the much lower costs for the lower voltage underground distribution lines. The cost, for example, for a 220,000-volt (planned for the SLAC facility) underground transmission line is 10 to 20 times as expensive per mile as a typical 12,000-volt underground distribution line. The estimated cost of such an underground high-voltage transmission line is approximately $500,000 per mile and the comparable cost for an underground low-voltage distribution line is approximately $30,000. In other words the "beautification dollar" would be much better spent on undergrounding the lower voltage distribution lines.

[1] Additional information pertaining to this subject will be found in apps. 1 and 2 of this report.

(*b*) The AEC has taken several unusual steps to improve the appearance, from an esthetic standpoint, of the proposed overhead powerline. This is consistent with the recommendation of the above-mentioned Panel on Underground Installation of Utilities. At an additional cost of several hundred thousand dollars, the AEC has agreed to utilize modern, relatively short, esthetically designed, thin metal poles to carry a single transmission line, although a double line suspended from conventional 120-foot transmission towers would have been more advantageous from a project standpoint. A total of 36 of these pole structures are involved in this controversy, three of which are within the town of Woodside. The AEC is willing to accept the substantial added cost of these more attractive pole structures, although the net effect is actually to provide less reliable service for SLAC. In addition, the plans and specifications for this line call for clearing of land only at the pole structure sites themselves, and for access to the sites. There will be no clearing to the ground of the trees and underbrush beneath the overhead wires although some tall trees that would interfere with the wire would have to be removed or trimmed. Accordingly, there will be no unsightly swath of felled trees and underbrush such as is common for most overhead powerlines. The AEC has testified that stringing of wires will be accomplished by helicopters to avoid cutting of trees and other growth for stringing corridors. Trees to be cut have been carefully selected and their number held to a minimum. The Commission has further testified that every effort will be made to preserve the natural terrain of the area.

(*c*) The estimated difference in cost between a 300-megawatt, single-circuit, overhead powerline of the type AEC proposes ($1,052,000) and a 180-megawatt, single-circuit, underground powerline of the type suggested by the local residents ($2,770,000) is $1,718,000. However, to this amount must be added a minimum of $2,640,000, representing the estimated cost of another underground line to supply additional power estimated to be needed in the early 1970's. (If the proposed overhead 300-megawatt line were constructed, it would not be necessary to construct a second line.) The net additional cost to the taxpayers of this country of going underground must therefore be viewed as well over $4 million. Moreover, this amount does not take into account the costs associated with delaying completion of the SLAC project. At this point, constructing the line underground could take about 12 to 18 months longer than constructing an overhead line. Unless power is available when the facility is completed its full use will not be possible.

(*d*) No adequate reason has been provided to the committee, during all the hearings held on this subject, why the taxpayers of the United States should be asked to shoulder this extra cost for the benefit of the local residents, in view of the present appearance of the Woodside area from an esthetic standpoint. By the count in February 1965, of an official agency of the State of California, the State Public Utilities Commission, there were 2,488 powerline and telephone poles in Woodside. The town of Woodside has informed the committee that 277 poles were erected between 1956, when the town was incorporated, and 1964. According to evidence presented to the committee by Stanford University, 26 poles were erected in Woodside between June 1963, when the Pacific Gas & Electric Co. applied for a land use permit for the SLAC powerline, and April 1964. Moreover, according to the

AEC, five poles have been erected in Woodside since March 1964, the date of enactment of the first ordinance prohibiting construction of overhead wires, and an additional 59 poles were erected within about 5 miles from the proposed overhead line route. Many of these poles are unsightly wooden structures which are much less pleasing in appearance than the structures proposed by the AEC. The average height of the poles to be used for the AEC's proposed line is about 65 feet. The height of the poles currently located in the town of Woodside range between 35 and 70 feet.

(*e*) Finally, as of the date of this report there has been no firm offer made by any party other than the AEC and the local electric utility to pay any part of the added cost of an underground line, although the town of Woodside has taken steps to contribute $150,000 toward this cost. Thus, although the committee strongly urged almost a year and a half ago that those who favored an underground line should offer to defray the extra cost for going underground, no compromise offer by the proponents of an underground line has been made that approaches the total additional costs involved.

The committee is of the view, which is shared by the Department of Justice and the AEC, that if enacted this bill will eliminate the constraints imposed upon AEC as the result of the erroneous interpretation of the intent of Congress by the court of appeals. The court of appeals' decision rested squarely upon the court's interpretation that it was the intent of Congress that section 271 be a limitation upon AEC's power to take the action in question. This bill would make it clear that section 271 was never intended to prevent AEC from constructing and maintaining an overhead transmission line, notwithstanding the authority or regulations of the town of Woodside and the county of San Mateo, or other State and local bodies. Accordingly, the AEC could clearly proceed with this action.

SECTION-BY-SECTION ANALYSIS

S. 2103 contains a single section, which would amend section 271 of the Atomic Energy Act of 1954, as amended, to read as follows:

> SEC. 271. AGENCY JURISDICTION.—Nothing in this Act shall be construed to affect the authority or regulations of any Federal, State, or local agency with respect to the generation, sale, or transmission of electric power produced through the use of nuclear facilities licensed by the Commission: *Provided*, That this section shall not be deemed to confer upon any Federal, State, or local agency any authority to regulate, control, or restrict any activities of the Commission.

As amended, section 271 would reaffirm a conclusion already implicit in the Atomic Energy Act of 1954, as amended. Nothing in that act adds to or detracts from any authority or regulations of any Federal, State, or local agency with respect to the generation, sale, or transmission of electric power produced through the use of nuclear facilities licensed by the AEC under the Atomic Energy Act of 1954, as amended. The term "nuclear facilities" mean production facilities or utilization facilities, as defined in the Atomic Energy Act of 1954, as amended. Accordingly, persons licensed by the AEC and producing electric power through the use of such facilities are subject to

AEC's control with respect to the common defense and security and protection of the health and safety of the public with respect to the special hazards associated with nuclear facilities, and otherwise to any and all applicable Federal, State, and local regulations with respect to the generation, sale, or transmission of electric power.

Section 271, as amended by this bill, does not in any way subject the AEC to the authority of any State, or local subdivision thereof. It in no way serves as a limitation of the powers that AEC otherwise possesses under the Atomic Energy Act of 1954, as amended, and the supremacy clause of article VI of the Constitution. The amendment of this section effected by this bill is intended as a clarification of the meaning of section 271 as originally enacted. Accordingly, it does not represent a change in this law applicable only to future judicial proceedings, but is intended to apply equally to any judicial proceedings currently in existence. The proviso to section 271, as amended, reaffirms that nothing in that section confers any authority on any Federal, State, or local agency to regulate, control, or restrict activities of the AEC.

CHANGES IN EXISTING LAW

In accordance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law recommended by the bill accompanying this report are shown as follows (deleted matter is shown in black brackets and new matter is printed in italic):

SEC. 271. AGENCY JURISDICTION.—Nothing in this Act shall be construed to affect the authority or regulations of any Federal, State, or local agency with respect to the generation, sale, or transmission of electric power *produced through the use of nuclear facilities licensed by the Commission: Provided, That this section shall not be deemed to confer upon any Federal, State, or local agency any authority to regulate, control, or restrict any activities of the Commission.*

APPENDIXES

Appendix 1.

Power Tbansmission for Stanford Accelerator

CHRONOLOGY

January 7–9, 1963: P.G. & E. was granted use permits by the planning commissions of San Mateo County and the city of Menlo Park for the 60-kilovolt wood pole line required to supply electric power for the construction of the Stanford linear accelerator.

January 10, 1963: P.G. & E.-AEC contract for supply of power required for the construction and operation of the accelerator was signed. The contract stipulates a 60-kilovolt wood pole line, and a 220-kilovolt powerline along the Searsville route.

January 24, 1963: P.G. & E. had a preliminary meeting with the Woodside Planning Commission. It requested that P.G. & E. consult with Woodside's staff planner and with the planning officials of San Mateo County to develop the best possible location for an overhead line.

June 1963: P.G. & E. filed applications with the planning commissions of Woodside and San Mateo County for use permits for a double circuit, 220-kilovolt line, capable of delivering 300 megawatts to SLAC over either of the two circuits. The estimated cost of this line was $668,000.

June 27, 1963: The Woodside Planning Commission held a hearing on P.G. & E.'s application. The Woodside Planning Commission requested additional data. It also asked why the overhead line could not parallel the proposed Junipero Serra Freeway.

August 7, 1963: P.G. & E. filed an amended application to cover, also, a line along the Junipero Serra route, either on towers or on dual circuit poles. The estimated cost of the tower line adjacent to the proposed freeway was $951,000, and the estimated cost of the tubular steel poles on this route was $1,012,000.

August 15, 1963: Upon being informally advised that P.G. & E.'s applications were encountering serious opposition because of a desire that the transmission line be placed underground, AEC's general manager wrote to the Woodside Planning Commission to state his belief that the extra cost that AEC would be compelled to bear if the line were buried could not be justified. He reviewed the history of the project and stated other facts bearing on the problem.

August 22, 1963: The Woodside Planning Commission held another hearing to consider the additional data and the alternate application. At this hearing P.G. & E. presented a study of the problem of installing an underground line to SLAC. Among other things, this study indicated that the estimated cost of an underground line equivalent in capacity to the overhead tower line was $6,440,000.

September 26, 1963: The Woodside Planning Commission denied P.G. & E.'s applications for a use permit for an overhead line on either the Searsville or the Junipero Serra route. Findings were to be prepared to this effect.

October 24, 1963: The Woodside Planning Commission made findings and formally denied P.G. & E.'s applications for both routes. The following are pertinent excerpts from the minutes of his meeting of the Woodside Planning Commission:

"The proposed use is not needed to serve any portion of the town of Woodside and is intended to serve only the Stanford Linear Accelerator Center (SLAC).

"The proposed use will not contribute directly to the general well-being of the neighborhood or community in that its only purpose is to supply power to a facility which is located outside the town boundaries. It is recognized that SLAC may prove to be of benefit nationally, and thereby very indirectly contribute to the general well-being of residents of the town of Woodside; however, this does not appear to be a sufficiently certain or direct benefit to justify the granting of the permit, particularly in view of the fact that the major adverse affects of the transmission lines would be borne by the town of Woodside while any benefits resulting would accrue to the Nation as a whole."

October 19, 1963: The Woodside Planning Commission sent its recommendations to the Woodside Town Council.

November 13, 1963: P.G. & E. appealed the planning commission's decision to the Woodside Town Council. During this appeal, Mr. Herman Halperin, an independent consulting engineer on electric power, proposed a compromise single circuit, 220-kilovolt, 300-megawatt line on a new type of tubular steel poles rather than towers. P.G. & E., Stanford, and AEC were willing to accept this compromise line.

January 2 and 7, 1964: P.G. & E. filed applications for use permits for the compromise line on tubular steel poles with the Planning Commissions of Woodside and San Mateo County.

January 9, 1964: AEC staff met with Mr. Paul N. McCloskey, Jr., special counsel for the town of Woodside, at his request. He represented a group of citizens who were opposed to an overhead line.

January 22 and 23, 1964: The Planning Commissions of Woodside and San Mateo County denied use permits for the compromise line.

January 29, 1964: Hearing before the Joint Committee on Atomic Energy.

February 14, 1964: Woodside Town Council approved a resolution to raise funds for placing a powerline underground. The town proposed to raise $150,000 if this could be done legally.

February 1964: P.G. & E. appealed to the county board of supervisors the denial by the Planning Commission of San Mateo County of P.G. & E.'s applications. P.G. & E. also appealed to the Woodside Town Council the denial of the Woodside Planning Commission of a use permit for a single circuit line on tubular steel poles along the Searsville route.

February 27, 1964: At a special meeting the San Mateo Board of Supervisors returned to the county planning commission for reconsideration P.G. & E.'s applications for a use permit.

March 7, 1964: The Chairman of the AEC wrote to the mayor of Woodside and to the county manager of San Mateo County, recounting the background facts and explaining AEC's position.

March 9, 1964: The San Mateo Planning Commission granted the conditional use permit to P.G. & E. for tubular steel poles along the Searsville route. The Woodside Town Council denied P.G. & E.'s appeals from the denials by the Woodside Planning Commission.

The town of Woodside passed a temporary interim zoning ordinance prohibiting the overhead installation by anyone, including the United States, of electric lines of 50,000 volts or greater capacity.

March 16, 1964: The Chairman of the AEC wrote to the mayor of Woodside and to the county manager. This letter indicated that AEC was hopeful that it would not be necessary for the Government to acquire portions of the right-of-way in the unincorporated area of the county, and that a county use permit to P.G. & E. would enable AEC to construct, through Woodside, the tubular steel poles that P.G. & E. would install in the unincorporated area of the county under a county use permit.

March 24, 1964: Condemnation action was begun by the U.S. attorney.

April 13, 1964: Town of Woodside enacted temporary interim zoning ordinance prohibiting all overhead transmission or distribution lines, effective for 1 year.

April 21, 1964: Conditional use permit issued by San Mateo County Planning Commission on March 9, 1964, denied by San Mateo County Board of Supervisors, 5 to 0.

April 30, 1964: Declaration of taking for necessary right-of-way both in the town of Woodside and in San Mateo County filed in U.S. district court in San Francisco by Department of Justice at request of AEC.

June 12, 1964: Federal district court dismissed answers of town of Woodside and other defendants in condemnation proceedings. Court rule that section 271 does not bar the Government's action. The town of Woodside and others subsequently appealed this ruling to the Court of Appeals for the Ninth Circuit.

July 17, 1964: AEC notified the Joint Committee that it had decided to proceed with design of tubular steel poles for use in carrying a single-circuit, 220-kilovolt line over the Searsville route.

July-August 1964: Hearings held on complaint by town of Woodside and others against Pacific Gas & Electric Co. to compel construction of an underground line to SLAC, before California Public Utilities Commission.

February 9, 1965: California Public Utilities Commission ruled that complainants are not entitled to any relief.

March 4, 1965: AEC advised Joint Committee of final design for power poles.

March 8, 1965: Town of Woodside extended its temporary interim zoning ordinance for another year.

April 15, 1965: Bids received for construction of Government portion of SLAC powerline.

May 20, 1965: Court of Appeals reversed lower court decision, and ruled that section 271 of the act prevents AEC from constructing and maintaining powerlines.

May 25, 1965: H.R. 8443, H.R. 8444, and S. 2035 introduced to clarify intent of Congress underlying section 271.

May 27 and June 2, 1965: Hearings held before Joint Committee on Atomic Energy on H.R. 8443, H.R. 8444, and S. 2035.

June 14, 1965: Town of Woodside passed resolution reaffirming its willingness and intention to make an equitable contribution to the undergrounding of electric distribution and/or transmission facilities and allocating the sum of $150,000 therefor.

June 17, 1965: Stanford University trustees adopted resolution reaffirming their position of February 20, 1964.

Appendix 2

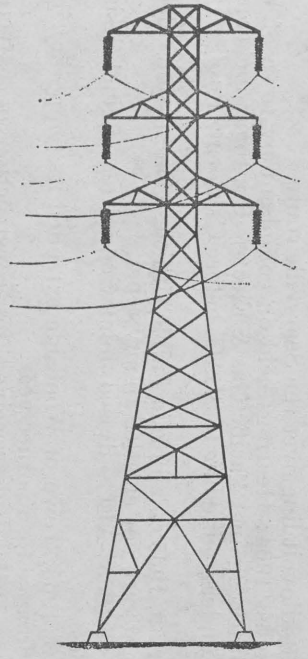
Comparison of Overhead Powerline Support Structures

Types of power poles involved in the current discussions on supplying power to the Stanford Linear Accelerator Center

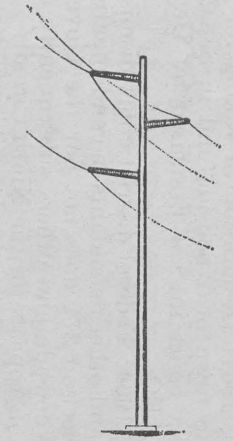
(a) Single-circuit pole proposed by Pacific Gas and Electric to supply power at 220 kv to SLAC

(b) Conventional wooden pole carrying lower voltage circuits common in California communities

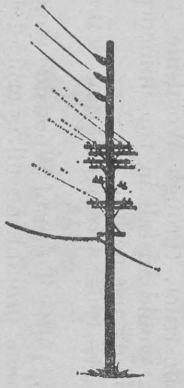
(c) Standard tower used by the utilities for transmitting 220 kv overhead power



STANDARD DUAL CIRCUIT TOWER
120 FEET
(c)



SINGLE CIRCUIT POLE
70 FEET
(a)



CONVENTIONAL WOODEN POLE
60 FEET
(b)