

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA



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

R.08-11-005
(Filed November 6, 2008)

**REPLY COMMENTS OF THE CONSUMER PROTECTION AND SAFETY
DIVISION ON THE ADMINISTRATIVE LAW JUDGE'S RULING ON
UNDERGROUNDING IN TARIFF RULE 20**

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May 21, 2010

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The Consumer Protection and Safety Division (“CPSD”) submits these reply comments pursuant to the Administrative Law Judge’s April 6, 2010 Ruling Granting the Motion to Exclude Tariff Rule 20 from the Scope of this Proceeding (“ALJ Ruling”). The ALJ Ruling granted a motion filed by the Communications Infrastructure Providers’ (“CIP”) Coalition to exclude proposed changes to electric Tariff Rule 20 from the scope of this proceeding on the grounds that there was no notice provided to the service list of any previous proceeding where the Commission addressed Tariff Rule 20. (ALJ Ruling, p. 3.) The ruling invited parties to file comments on whether the Commission should open a new proceeding to consider whether fire risk should be added to the list of reasons to permit undergrounding in Tariff Rule 20. Comments were filed on May 7, 2010, by (1) the California Cable & Telecommunications Association, Comcast, Time Warner Cable, tw telecom of california, llc, and the Verizon companies (collectively, the “Commenting CIPs”); (2) Facilities Management Specialists, LLC (“FMS”); (3) San Diego Gas & Electric Company (“SDG&E”); and (4) Toward Utility Rate Normalization (“TURN”).

CPSD supports adding fire risk to the list of reasons to permit undergrounding in Tariff Rule 20. As the Comments demonstrate, there are a number of complex issues associated with undergrounding that will take more time than is available in this proceeding to consider,¹ and for this reason CPSD did not oppose the CIP Coalition motion to exclude Tariff Rule 20 from the scope of this proceeding. However, CPSD agrees with FMS when it states that “[t]he consideration of expanding Commission rules to add fire risk to the list of reasons to permit undergrounding under Tariff Rule 20 is fundamental to any comprehensive consideration of measures to reduce fire hazards associated with utility infrastructure.” (FMS Comments, p. 8.) As recognized by FMS, undergrounding eliminates the causes of fires that R.08-11-005 was opened to prevent, such as poles/lines falling to the ground, trees and other vegetation coming into contact with lines, arcing caused by lines coming into contact with other lines or equipment, communication facilities coming into contact with supply lines, and other equipment failure that could provide sources of ignition. In addition, CPSD supports undergrounding because poles will not be subjected to wind damage and it will decrease wind caused outages. Moreover, CPSD is not aware of any incidents where underground supply facilities have been linked to the ignition of a wildland fire. Undergrounding should also result in a reduction in vegetation management activities and costs. Overall, CPSD believes that undergrounding supply facilities will enhance public safety and protect the electric system from fire damage.

CPSD notes that SDG&E states that it plans on filing a separate application seeking authorization of a new Rule 20D proposal for SDG&E only. TURN also states that Northern California utilities have not proposed or advocated undergrounding for fire

¹ CPSD does not comment at this time whether all the issues raised in parties’ comments (for example, cost recovery for CIPs with market-based rates) should be included in the scope of a new proceeding. CPSD requests that the Commission provide parties the opportunity to more fully address the proper scope of the proceeding and the issues that should be considered if the Commission decides to open a new proceeding.

risk and that such a method is not appropriate for statewide application. However, TURN also acknowledges that other Southern California utilities do favor undergrounding for fire risk. (TURN Comments, p. 2.) Rather than addressing the issue piecemeal, CPSD supports a statewide look at adding fire risk to the list of reasons to permit undergrounding in Tariff Rule 20. Undergrounding reduces the risk of fires caused by electric facilities throughout the State, not just in Southern California. CPSD recognizes that undergrounding is expensive, and supports efforts to increase funding for undergrounding in California to improve safety in general, and fire safety in particular.

For the reasons stated above, CPSD supports opening a new rulemaking proceeding to consider whether fire risk should be added as a reason to permit undergrounding in Tariff Rule 20. Proper notice of a new rulemaking proceeding would be provided through the Commission's Daily Calendar. Notice of the new rulemaking proceeding can also be served on the service list in R.00-01-005, the last Commission proceeding to consider undergrounding and Tariff Rule 20. CPSD also requests that the Commission solicit further comments from the parties as to the proper scope of such a proceeding.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of **REPLY COMMENTS OF THE CONSUMER PROTECTION AND SAFETY DIVISION TO ALJ RULING ON UNDERGROUNDING IN TARIFF RULE 20** the official service list in **R.08-11-005** by using the following service:

E-Mail Service: sending the entire document as an attachment to an e-mail message to all known parties of record to this proceeding who provided electronic mail addresses.

U.S. Mail Service: mailing by first-class mail with postage prepaid to all known parties of record who did not provide electronic mail addresses.

Executed on May 21, 2010 at San Francisco, California.

/s/ IMELDA EUSEBIO

Imelda Eusebio

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