

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to
Consider Revisions to Electric Rule 20
and Related Matters.

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**ORDER INSTITUTING RULEMAKING TO CONSIDER REVISIONS
TO ELECTRIC RULE 20 AND RELATED MATTERS**

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ORDER INSTITUTING RULEMAKING TO CONSIDER REVISIONS TO ELECTRIC RULE 20 AND RELATED MATTERS

Summary

This Order institutes a rulemaking proceeding to consider revisions to Rule 20, the Commission's program for replacement of overhead with underground electric facilities.

The Commission may revise or otherwise modify Rule 20, or take another course of action based on the Commission's assessment of which option is most likely to enhance the fair, efficient allocation of ratepayer funds to communities for the undergrounding of electric infrastructure in specified locations and circumstances. The Commission will primarily focus on revisions to Electric Tariff Rule 20A but may make conforming changes to the other parts of Rule 20.

1. Summary of Electric Tariff Rule 20A

Rule 20 defines the policies and procedures followed by the electric utilities to convert overhead power lines and other equipment to underground facilities. Rule 20A is part of Electric Tariff Rule 20 of the California investor-owned electric utilities, including Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), San Diego Gas & Electric Company (SDG&E), PacifiCorp, Bear Valley Electric Service Company (BVES), and Liberty Utilities (Liberty).¹ Under Rule 20A, these utilities annually allocate work credits to California's communities – either cities or unincorporated areas of counties – to convert overhead electric facilities to underground. The

¹ Rule 20 includes four sets of rules – Rule 20A, 20B, 20C and 20D. While the rules are interrelated, the scope of this updated rulemaking focuses on revisions to Rule 20A and conforming changes to Rules 20B, 20C and 20D.

communities accumulate their annual allocations until they have enough credits to fund an undergrounding project. After the local communities work with their utility to complete the project, the utility requests authorization from the Commission to include completed projects in its rate base and recover project costs from ratepayers.

As discussed in earlier Commission decisions, the public overwhelmingly supports the undergrounding of electric facilities for a variety of reasons. Undergrounding enhances safety and reliability, provides aesthetic benefits, and increases property values.² In general, undergrounding a facility may make the system more reliable (since the facility is protected by being underground). At the same time, undergrounding may make the electric system less resilient since accessing the line/facility is made more complicated (and therefore taking longer when compared to above-ground facilities).

The Commission has also approved parallel rules to Rule 20A for the undergrounding of communications lines and facilities. Undergrounding of electric and communication facilities often needs to be coordinated because utilities attach different types of infrastructure to utility poles; undergrounding only the electric facility may not achieve the public interest benefits of undergrounding.

When it established the Rule 20A undergrounding program, the Commission required that any such projects must have been determined, by the

² See, for example, Decision (D.) 73078 (67 CPUC 490, 512) and D.01-12-009 at 19.

governing body of the community, to be in the public interest for one or more of the following reasons:³

1. Undergrounding will avoid or eliminate an unusual heavy concentration of overhead electric facilities;
2. The street or road or right-of-way is extensively used by the general public and carries a heavy volume of pedestrian or vehicular traffic;
3. The street or road or right-of-way adjoins or passes through a civic area or public recreation area or an area of unusual scenic interest to the general public; and
4. The street or road or right-of-way is considered an arterial street or major collector as defined in the Governor's Office of Planning and Research Guidelines.

We note that the Rule 20A tariffs of PG&E and SDG&E also require that the governing body to acknowledge that wheelchair access is in the public interest and will be considered as a basis for defining the boundaries of projects that otherwise qualify for Rule 20A under the four criteria listed above.

Currently, annual work credit allocations are based on the amount allocated to a city or a county in 1990 as the base and adjusted for the following:

- 50% of the change from the 1990 total budgeted amount is allocated in the same ratio as the number of overhead meters in any city or unincorporated area to the total system overhead meters; and
- 50% of the change from the 1990 total budgeted amount is allocated in the same ratio as the total number of meters in any city or the unincorporated area to the total system meters.

³ The first three criteria date back to the 1967 creation of the program in D.73078. The Commission added the fourth criterion in 2001.

The intent of this allocation formula is to insure that work credits are allocated equitably to all communities that need undergrounding of their overhead electric lines, but with slightly more weight given to those communities that have a greater undergrounding need.

In addition to meeting the public interest criteria listed above, the Rule 20A tariff requires that the local community has adopted an ordinance creating an underground district in the project area, requiring, among other things, (1) that all existing overhead communication and electric distribution facilities in such district shall be removed, (2) that each property installs the electrical facilities necessary to receive service from the utility's underground facilities, and (3) authorizing the utility to discontinue its overhead service.

The utilities work with the communities to plan and schedule conversion work. Each electric utility forecasts annual spending on these projects during its three-year General Rate Case (GRC) cycle based on its estimate on the projects that communities will be initiating during those years. Medium and large telecommunications and cable companies do not have GRCs and do not earn a rate of return on capital investment nor collect revenues from their customers in the same manner as the electric utilities. The cost to underground electric lines and facilities varies dramatically by location, with large differences between urban and rural settings. Once approved by the Commission, the utility earns a return on these capital investments.

2. Legislative and Procedural Background

The Commission has a long history when it comes to Rule 20. In 1965, the Commission opened Case 8209, which was an "Investigation on the Commission's Own Motion into the Tariff Schedules, Rates, Rules, Charges, Operations, Practices, Contracts, Service, and Aesthetics and Economics of

Facilities of All Electric and Communication Public Utilities in California.”

In 1967, the Commission issued Decision (D.) 73078 which promulgated the first rules concerning service connections and overhead conversions, and directed that they be filed by all of the electric and communication utilities. For the electric utilities, these rules became Rule 20. Rule 20A continued to be updated and refined periodically over time – perhaps most notably in D.82-01-18 and in D.90-05-032. While some of the modifications were more technical in nature, D.90-05-032 addressed the issue of equity in the allocation formula. In that decision, the Commission modified the allocation formula in order to assist communities that have eligible projects but insufficient allocations, and to address concerns that while all ratepayers contribute to Rule 20 funding, some have only a very small fraction of their contributions returned for use by their communities.⁴ The allocation methodology described above is a result of the Commission’s action in D.90-05-032.

As we consider updates to Rule 20A, we also look to any relevant guidance given to the Commission by the California Legislature. As first enacted in 1971, California Public Utilities (Pub. Util.) Code § 320 states:⁵

The Legislature hereby declares that it is the policy of this state to achieve, whenever feasible and not inconsistent with sound environmental planning, the undergrounding of all future electric and communication distribution facilities which are proposed to be erected in proximity to any highway designated a state scenic highway pursuant to Article 2.5 (commencing with Section 260) of Chapter 2 of Division 1 of the Streets and Highways Code and which would be visible

⁴ See D.90-05-032, Finding of Fact 2.

⁵ Stats. 1971, Ch. 1697.

from such scenic highways if erected above ground. The commission shall prepare and adopt by December 31, 1972, a statewide plan and schedule for the undergrounding of all such utility distribution facilities in accordance with the aforesaid policy and the rules of the commission relating to the underground of facilities.

The commission shall coordinate its activities regarding the plan with local governments and planning commissions concerned.

The commission shall require compliance with the plan upon its adoption.

This section shall not apply to facilities necessary to the operation of any railroad.

While § 320 is limited to undergrounding of facilities in proximity to scenic highways, it provides relevant history for the Commission's actions in undergrounding. While the due date for the statewide plan is no longer relevant, § 320 informs the Commission with legislative guidance in terms of the need for an overall plan and set of rules for undergrounding in general.

In 1999, the California Legislature adopted Assembly Bill 1149.⁶ This legislation directed the Commission to complete a study on ways to amend, revise, and improve rules governing the replacement of overhead electric and communications facilities with underground facilities. The Commission opened Rulemaking (R.) 00-01-005 in response to this legislation.

As part of R.00-01-005, the Commission held numerous Public Participation Hearings in a variety of geographic locations. The Commission's rulemaking process was also informed by broad participation from electric and telecommunications companies, cable companies, consumer groups and several

⁶ Stats. 1999, Ch. 844.

municipalities. D.01-12-009, which mandated the current rules that provide for the uniformity of Rule 20A, benefitted from all of this participation. In that decision, the Commission directed PG&E, SDG&E and SCE to draft and file by Advice Letter a model Tariff Rule 20. D.01-12-009 also expanded Rule 20A “public interest” criteria to include projects where the street or road or right-of-way is considered an arterial street or major collector; extended the use of Rule 20A funds by allowing cities to (a) leverage funds with Rule 20B funds and (b) mortgage Rule 20A funds by borrowing up to five years’ worth of credits ahead of time;⁷ required standardized reporting from the utilities; improved communication between utilities and residents; and ordered the creation of an updated Undergrounding Planning Guide.

In D.01-12-009, the Commission envisioned that there would be a second phase of R.00-01-005. Subjects contemplated in D.01-12-009 for this second phase included, but were not limited to, the following:⁸

- whether or not to establish standards for conversion projects so that third parties can competitively bid on projects with no compromise of quality, safety, or reliability;
- whether incentive mechanisms are a better way to manage costs and encourage timely completion of projects;

⁷ Local communities may accumulate their Rule 20A credits and bank them for future projects and can also borrow against future anticipated allocations to facilitate the undergrounding of particular projects. D.01-12-009 lengthened the borrowing timeline from three to five years.

⁸ D.01-12-009 at 25-26.

- investigation of whether there should be a “breakpoint” in allowing new overhead pole and line installation or whether the current exemption process is working;⁹
- explore the value of charging for undergrounding via a line item on utility bills;
- the creation of a fair, equitable, and competitively neutral recovery mechanism for telecommunications carriers and cable companies to recover their undergrounding costs;
- whether adjustments in the Rule 20A allocation formula are appropriate; and
- are there reforms to the undergrounding program that are more properly within the legislative domain?

The Commission ultimately closed R.00-01-005 before reaching this second phase. As discussed nearly four years later in D.05-04-038, “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...”

D.05-04-038 closed the rulemaking and directed that the Interim Order issued in 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, or until further order of the Commission.

In 2001, the City of San Diego (City) adopted an ordinance to underground all of its utility facilities in the next 20 years, including infrastructure that went beyond the established public interest criteria for undergrounding and would therefore be ineligible for recovery under Rule 20. In 2002, the Commission

⁹ D.01-12-009, footnote 1: “In this context, a break point would denote where there would be no further installations of overhead lines.” The footnote states that “the granting of exemptions for new construction is frustrating the overall goals of the program.”

approved Resolution E-3788, which authorized a franchise fee surcharge within the City for electric conversions not eligible under Rule 20. As part of this effort, there was need for greater coordination in the City between SDG&E's implementation of Rule 20 and SBC (later AT&T California, Inc.) use of its Tariff Rule 32. In D.06-12-039, the Commission authorized AT&T California to collect from its customers a limited-time surcharge to help pay for the undergrounding of its lines in the service area that overlapped with the city of San Diego.¹⁰ The Commission deemed AT&T California's circumstances "unique" given the transition from traditional rate regulation to the Universal Regulatory Framework, and directed Commission staff to advise any utilities seeking similar measures, either as surcharges or increases in franchise fees, that the statewide plan (established as summarized above) continues to control utility undergrounding. In 2014, the Commission authorized SDG&E the ability to consider wildfires when converting electric facilities to underground. The Commission agreed with SDG&E that undergrounding could "mitigate the risks of wildfires in the more fire-prone areas of SDG&E's service territory."¹¹ The Commission approved a SDG&E-specific version of Rule 20D that is modeled on Rule 20A, but limited to areas where the governing body has determined that such undergrounding will occur in the SDG&E Fire Threat Zone as developed in accordance with D.09-08-029 and will occur in an area where the SDG&E has determined that undergrounding is a preferred method to reduce fire risk and enhance the reliability of the facilities to be undergrounded.

¹⁰ See Application (A.) 05-03-005 for additional background.

¹¹ D.14-01-002, Finding of Fact 6.

3. Current Status of Rule 20A Implementation

In the over 15 years since the current version of Rule 20A was adopted, we have considered on a case-by-case basis changes to the Rule 20A program established in D.01-12-009. For example, the Commission temporarily revised annual allocation amounts in a previous PG&E GRC decision.¹² The Commission has also issued resolutions concerning Rule 20A allocations and policy, including Resolutions E-3788, E-4731, E-4001, E-3637, and E-4146.

In November 2016, the Commission's Policy and Planning Division authored a staff report reviewing Rule 20A entitled, "Program Review: California Overhead Conversion Program, Rule 20A for Years 2011-2015."¹³ The staff report's review of the Rule 20A allocations over this five year period indicates that there is a large balance of unclaimed credit allocations: local communities have been allocated but have not yet redeemed the equivalent of approximately one billion dollars of Rule 20A credits. It is unclear at this time how many of these allocated credits will be redeemed in the future and on what time horizon.

The staff report shows that costs to underground an electric line or facility can vary significantly based on whether the project is in an urban, suburban or rural location. Rule 20A may not adequately accommodate this cost differential between the urban, suburban and rural locations in allocating the credits to local communities. Some local communities are simply unaware of the existence of

¹² See, D.11-05-018 in PG&E's 2011 GRC Application (A.) 09-12-020.

¹³ Available online at [http://www.cpuc.ca.gov/uploadedFiles/CPUC_Public_Website/Content/About_Us/Organization/Divisions/Policy_and_Planning/PPD_Work_Products_\(2014_forward\)\(1\)/PPD_Rule_20-A.pdf](http://www.cpuc.ca.gov/uploadedFiles/CPUC_Public_Website/Content/About_Us/Organization/Divisions/Policy_and_Planning/PPD_Work_Products_(2014_forward)(1)/PPD_Rule_20-A.pdf)

their allocations and do not consider undergrounding facilities in their local planning process. Some local communities are so small that their work credit allocations are marginal and not sufficient to conduct an undergrounding project of even modest size. The staff report also observes that there is a need for additional coordination between electric and telecommunication companies on conversion projects, a subject envisioned for Phase 2 of R.00-01-005.

4. Discussion

Based on issues identified in the staff report such as the large number of unredeemed Rule 20A credits and the urban/suburban/rural differences in costs of undergrounding a facility, as well as various ratemaking issues noted in the GRC process and the potential need to re-examine the criteria that makes up the “public interest” as being a rationale for redeeming the Rule 20A credits, we conclude that it is reasonable to institute this new rulemaking.

In this rulemaking, the Commission will also require additional information about how joint infrastructure above-ground poles and other facilities can be converted to undergrounding. We also intend to examine whether there is a need to modify the allocation methodology to local jurisdictions depending on the types of attachments to the above-ground pole/facility.

The Commission should also consider updates to Rule 20A that would leverage the undergrounding opportunity and maximize the local community investment with all utility facilities. Accordingly, we include in the scope of this rulemaking any revisions to Rule 20A that are necessary to leverage undergrounding opportunities with communications facilities. We name as respondents to this rulemaking the Facilities-Based Competitive Local Exchange Carriers, including the telecommunications Incumbent Local Exchange Carriers

(ILECs) AT&T California, Cal-Ore Telephone Company, Calaveras Telephone Company, Citizens Telecommunications Company of California, Ducor Telephone Company, Foresthill Telephone Company, Happy Valley Telephone Company, Hornitos Telephone Company, Kerman Telephone Company, Pinnacles Telephone Company, Ponderosa Telephone Company, Sierra Telephone Company, Siskiyou Telephone Company, Frontier California, Volcano Telephone Company, Consolidated Communications of California, Winterhaven Telephone Company and the other Facilities-Based Companies. We invite other communication providers that have an interest in electric undergrounding, including but not limited to cable companies and wireless companies to seek party status and to participate in this rulemaking. In addition, we also invite local municipalities who are allocated the work credits to participate.

As noted above, the electric utilities seek recovery of Rule 20A project costs as part of their General Rate Case process, based on annual budgets for project expenditures established in those proceedings. Since the Commission's action in D.01-12-009, we have considered on a case-by-case basis the reduction of work credit allocations and whether there is a mismatch between funds authorized and spent. While we do not make any determinations about any pending GRCs in this order, we do think it is appropriate to examine the ratemaking issues associated with Rule 20A to ensure that there is a proper match between the demand to underground, the design of the Rule 20A allocation methodology, and the regulatory process to ensure that Commission-approved budgets for Rule 20A projects are spent in a reasonable manner.

5. Preliminary Scoping Memo

This rulemaking will be conducted in accordance with Article 6 of the Commission's Rules of Practice and Procedure, "Rulemaking."¹⁴ As required by Rule 7.1(d), this order instituting rulemaking includes a preliminary scoping memo as set forth below, and preliminarily determines the category of this proceeding and the need for hearing.

5.1. Scope

The scope of this rulemaking proceeding is to consider whether to revise or otherwise modify Rule 20 to enhance the fair, efficient allocation of ratepayer funds to communities for the undergrounding of electric infrastructure in specified locations and circumstances. The Commission will primarily focus on revision of Electric Tariff Rule 20A but may also consider conforming changes to other parts of Rule 20.

The scope shall also include consideration of changes to Rule 20A to facilitate the undergrounding of other utility infrastructure at the same time as the electric lines and facilities are converted to underground.

Also included in the scope are a series of broad questions listed below in Section 5.1.2. A subset of these questions were previously identified in D.01-12-009, including whether or not we should establish standards for conversion projects so third parties can competitively bid on projects with no compromise of quality, safety or reliability, whether adjustments in the Rule 20A allocation formula is appropriate, and whether or not there are benefits to listing the charges for undergrounding as a line item on utility bills.

¹⁴ All references to "Rules" are to the Commission's Rules of Practice and Procedure, which are available on the Commission's website.

We also include in the scope general consideration of undergrounding in urban/suburban/rural local communities, whether disadvantaged communities fully benefit from the program, and whether the criteria for considering the public interest should be updated.¹⁵

The scope of the proceeding will broadly consider the fair and equitable distribution of ratepayer dollars allocated to undergrounding, including equal access and potential to enjoy benefits from undergrounding at reasonable cost.

The scope of this proceeding will also include potential modifications to Rule 20 to account for changes to the communications regulatory system created by switching to the Uniform Regulatory Framework in 2006 in D.06-08-030, which occurred after the Commission last revised Rule 20. When last examined in R.00-01-005, both electric utilities and ILECs were under traditional rate-of-return regulation. With the changes starting in 2006, the landscape has changed and assumption embedded in Rule 20 about ILECs may no longer be valid. In light of the communications transition, Rule 20 may also need to be revised to account for competitive neutrality, since in 1998 the Commission granted SCE a Certificate of Public Convenience and Necessity (CPCN) for limited communications transport service and PG&E has recently filed an application for similar authority.¹⁶ In addition, the number and type of communication companies which make use of utility poles has grown

¹⁵ The CalEnviroScreen, as produced by the state's Office of Environmental Health Hazard Assessment, contains one definition of disadvantaged communities. (See <https://oehha.ca.gov/calenviroscreen/> for additional information.)

¹⁶ SCE was granted a CPCN in D.98-12-083; PG&E filed its request for a CPCN in A.17-04-010. We note that the electric utilities may also provide communication services, with Southern California Edison already doing so.

considerably, including video, broadband, mobile. Moreover, these providers are competing in the same geographic area where access to the utility pole is a significant issue. The scope of this rulemaking will consider revisions to Rule 20 to promote equitable and competitively neutral recovery of underground project costs.

Consistent with Rule 6.3(a) of the Commission's Rules of Practice and Procedure, any decision by the Commission in this proceeding to modify or amend Rule 20 will apply prospectively.

5.2. Initial Questions and Information

To support this rulemaking, the Commission intends to seek extensive information from the electric utilities and the Facilities-Based Competitive Local Exchange Carriers and the ILECs regarding the Rule 20A program, and to seek responses to a wide range of questions about the program. The preliminary list of information we intend to seek, and the initial list of the questions we intend to ask, are provided below. Respondents and interested persons are asked to file comments evaluating the appropriateness of the wording of the questions and the validity of the data sources identified herein. Respondents and interested persons are also encouraged to recommend additional questions or data that that may facilitate the Commission's review of the Rule 20A program. Following receipt of these comments, the Commission will hold a workshop and prehearing conference to discuss and refine the list of data and the initial questions and will thereafter, by ruling, issue a final list of questions for comment.

5.2.1. Preliminary Information from Electric Utilities

As part of this Order Instituting Rulemaking (OIR), we anticipate directing each electric utility to file and serve the following data for the 2005-2016 calendar

years. This data will create a common baseline on the relevant issues identified in this rulemaking.

- A complete list of Rule 20A-eligible communities;
- The amount of work credit allocations available to each community each year;
- The number of projects in the following categories:
 - initiated for the next ten years (process has started but no Utilities Conversion Plan);
 - (in planning phase with a Utilities Conversion Plan);
 - in progress (construction); or
 - completed.

The data should denote whether these projects are in urban, suburban or rural locations or if the project is located in a disadvantaged community.

- The estimated cost of individual projects initiated and/or in progress;
- The total cost of each completed project, including both the ratepayer and non-ratepayer cost of each completed project;
- The number of work credit allocations used for each project, including the number of mortgaged or borrowed credit allocations;
- The number of projects completed or underway that relied on credits that were bought or traded, if any; the percentage of the project funding provided by those credits; the cost to acquire those credits (if known).
- The utility's total annual Rule 20A spending;
- The CalEnviroScreen Score of the locations with completed projects;
- A general description of the utility's Rule 20A-related outreach and education efforts plans, partnerships, staffing and resources. To the extent applicable, describe how and

in what ways these strategies vary by region (including urban/suburban/rural and whether the project is in a disadvantaged community);

- The number of meters installed each year using new electric lines that were granted an exemption from the requirement to underground and the number of meters installed using new electric lines that were not exempt from requirement to underground; and
- A list of communities that have never completed a Rule 20A project nor utilized Rule 20A work credit allocations for projects.

5.2.2. Audit of Electric Utilities' Rule 20A Programs

Each electric utility shall file and serve a programmatic and financial audit of its administration of its Rule 20A program, conducted by an independent firm in consultation with the Commission's Utility Audit Finance & Compliance Branch and Energy Division. The audit will review compliance with the Commission's prior decisions, as well as review for the proper financial oversight of the use of Rule 20A ratepayer funds. Each electric utility shall send a copy of their proposed audit scope to the Director of the Commission's Energy Division and the manager of the Commission's Utility Audit Finance & Compliance Branch, and provide a copy to the service list within 60 days of today's Order. The Energy Division director shall have 30 days to respond in writing to each utility's proposed scope. The audit shall examine issues including but not limited to:

- 1) Percentages of cost spent on project overhead, labor, materials, and any other cost categories;
- 2) Whether communities are receiving credits but have not used them for extended periods of time;
- 3) Identification of factors that contribute to any identified project cost overruns;

- 4) Percentages of project cost paid by utilities, local government, residents, and any other entities with cost responsibility; and
- 5) The audit shall also address: the utility Rule 20A program communication and outreach efforts; the utility process for developing Rule 20A revenue requirements for its GRC; whether Rule 20A credit trading and transfer takes place between communities and how the utility is involved in that process; and the utility's communication practices for coordinating with other utilities that have facilities that are co-located on the pole.

The deadline for the audit will be 180 days after the Pre-Hearing Conference unless otherwise revised or determined by the Assigned Commissioner's Scoping Memo.

5.2.3. Preliminary Information from Facilities-Based Providers

As part of this OIR, we anticipate directing each Facility-Based Provider named as a respondent to this rulemaking to provide a summary of current undergrounding practices, including any coordination or collaboration with the electric utilities, and any relevant overlaps with Rule 20A. The summary should include the timelines, funding, coordination outreach efforts with local communities, coordination with electric utilities, and best practices from their existing undergrounding tariffs.

5.2.4. Initial Scoping Questions

To accomplish the goals of this rulemaking, our review will address, but may not be limited to, the following questions:

Rule 20A Work Credits

- 1) For the purposes of allocating Rule 20A work credits, is it reasonable to have a different methodology within each utility service territory for urban, suburban and rural areas? Would changing the work credit allocation

methodology promote additional conversion of lines and facilities to underground in a more fair and equitable manner than current practices?

- 2) In addition to banking and borrowing Rule 20A allocation credits, should a local government be allowed to buy/sell/trade its Rule 20A credits with other local jurisdictions so long as the total number of allocations redeemed does not exceed total project cost? If yes, should the electric utility be the entity to monitor and record this market activity? Should trading be limited to local jurisdictions within the same utility service territory?
- 3) Should rules be developed to increase Rule 20A participation from small municipalities, rural areas, and un-incorporated areas? What about projects located in disadvantaged communities?
- 4) Should the Commission examine appropriate ratemaking treatment options, such as one-way memorandum accounts, for tracking Commission-authorized Rule 20A budgets to prevent these funds from being used for other purposes?

Public Interest Criteria

- 5) Should current criteria listed in the Rule 20A tariff for determining “the public interest” be augmented to include updates to existing factors (including safety and reliability) or newer factors, such as wheelchair access, new forms of public safety promotion, or other environmental factors beyond scenic and aesthetic benefits?
- 6) Should the criteria to determine “the public interest” be different depending on whether the project area is an urban, suburban, or rural location? Are the “safety and reliability” benefits of undergrounding different for these different locations?
- 7) Should the public interest criteria be revised to balance the trade-offs between promoting safety and reliability versus concerns of resiliency and recovery? Does the geographic

region of the underground project (urban/suburban/rural) influence this distinction?

Allocation Methodology/Funding

- 8) Should the Rule 20A allocation methodology be modified to prioritize undergrounding utility infrastructure located in high fire areas, as defined in R.15-05-006, the Commission's rulemaking to develop and adopt fire-threat maps and fire-safety regulations? If yes, are there any safety concerns the Commission should consider when undergrounding in these high-fire areas?
- 9) Should Rule 20A be modified to have a different allocation methodology if the overhead pole (or other eligible facility) being replaced has telecommunications or other public use infrastructure co-located on the pole? Are there other modifications to Rule 20A that would help promote the simultaneous undergrounding of telecommunications infrastructure?
- 10) Should the Rule 20A allocation methodology take into account different ownership models of the above-ground infrastructure? For example, if the utility pole is owned solely by the electric utility versus co-owned by another entity, such as an ILEC or another facilities-based communications service provider?
- 11) Should entities with facilities attached to the above-ground pole bear any financial responsibility when a Rule 20A project is implemented?
- 12) How do pole ownership/leasing agreements influence the undergrounding process, if at all?
- 13) How, if at all, should the allocation methodology be modified to ensure competitive neutrality between the electric utilities and the facilities based providers?
- 14) Should the allocation methodology be modified to leverage grant or public-use programs or other sources of non-electric-ratepayer funds to help promote the new undergrounding of additional projects?

- 15) Besides Rule 20A funds, how else could local governments finance undergrounding of utility infrastructure? Are there non-ratepayer sources of funds that could be better leveraged to promote undergrounding? Should the allocation methodology be revised to recognize different local tax bases/financial resources of communities that are located in urban/suburban/rural parts of the state, or those potential projects located in disadvantaged communities?
- 16) Should there be an overall cap on Rule 20A credits allocated to local communities? Should an electric utility suspend the issuance of new credits to a community if it attests that it does not plan to use an allocation in the next five years? Would letting Rule 20A credits expire or be transferred to another community if they are not used by a certain time improve or limit achieving Rule 20A objectives? Should the Commission examine the disposition of historic unused work allocation credits? For example, will communities be able to redeem unused work allocation credits?

Outreach Strategies

- 17) Should the electric utilities modify their local government outreach, existing partnerships or other approaches to facilitate a more equitable uptake of Rule 20A credits allocated to local communities? Should there be different strategies for coordination with local governments if they are in an urban, suburban or rural setting? What if the potential project is located in a disadvantaged community?

Additional Rule 20 Concerns

- 18) Should the Commission consider different revisions to Rule 20 for the small multi-jurisdictional electric utilities (BVES, Liberty, and PacifiCorp) to promote the undergrounding of lines and facilities in their service territories?

- 19) Should third parties be allowed to bid on Rule 20A projects? If so, what rules must the Commission establish to ensure the projects are high quality and meet all relevant safety and reliability standards? What contract provisions should the Commission establish to ensure proper labor protections?
- 20) Should the Commission consider how incentive mechanisms could be used as a way to manage costs and encourage timely completion of projects?
- 21) Should the Commission consider whether there should be a “breakpoint” in allowing new overhead pole and line installation, or is the current exemption process working?
- 22) Should the Commission change how the utility bill presents the costs of undergrounding facilities?
- 23) Should the Commission consider the use of Rule 20A allocations for conversion-related work like grid hardening, subsurface transformers, hazardous waste cleanup, etc.?
- 24) Does the undergrounding of existing utility infrastructure prevent the deployment of future infrastructure or upgrades of existing equipment?
- 25) Should the Commission review or modify Rules 20B, 20C or 20D as part of our comprehensive review of Rule 20A? If so, suggest what modifications, if any, are needed to better align Rules 20B, 20C or 20D with the suggested changes to Rule 20A?
- 26) Should poles that include wireless antennas be exempt from underground conversions? Alternatively, is it possible to mitigate the impact of underground conversions by relocating wireless facilities to other poles?
- 27) Should the Commission modify Rule 20 to better leverage or coordinate with existing broadband grant programs, such as the California Advanced Services Fund? Should the Commission consider exempting the undergrounding of poles where grants have already been given?

5.3. Proceeding Category and Need for Hearings

Pursuant to Rule 7.1(d), we preliminarily determine that (1) the category for this rulemaking proceeding is quasi-legislative as that term is defined in Rule 1.3(d), and (2) there is no need for evidentiary hearings in this proceeding. As permitted by Rule 6.2, parties may address these preliminary determinations in their written comments that are to be filed and served in accordance with the preliminary schedule for this proceeding. The assigned Commissioner will make a final determination regarding the category of this proceeding and the need for hearings in a scoping memo issued pursuant to Rules 7.1(d) and 7.3(a).

Pursuant to Pub. Util. Code § 1708.5(f), the Commission intends to conduct this proceeding using notice and comment rulemaking procedures. Accordingly, the comments and reply comments submitted pursuant to the preliminary schedule may constitute the record used by the Commission to decide matters within the scope of this proceeding. In addition to responding to those questions, parties should include in their comments and reply comments all information they want the Commission to consider in this proceeding, as there may not be another opportunity for parties to present such information to the Commission.

Pub. Util. Code § 1708.5(f) also provides that “the commission may conduct any proceeding to adopt, amend, or repeal a regulation using notice and comment rulemaking procedures, without an evidentiary hearing, except with respect to a regulation being amended or repealed that was adopted after an evidentiary hearing, in which case the parties to the original proceeding shall retain any right to an evidentiary hearing accorded by Section 1708.” Because the Commission adopted and subsequently amended the model Rule 20A in R.00-01-005 without an evidentiary hearing, Pub. Util. Code § 1708.5(f) allows the

Commission to amend Rule 20A in this rulemaking proceeding without an evidentiary hearing.¹⁷

5.4. Preliminary Schedule

For purposes of meeting the preliminary scoping memo requirements and to expedite the proceeding, we establish the following preliminary schedule:

Event	Date
OIR issued	May 11, 2017
Comments on OIR Scope/Schedule/Questions/Data filed and served	45 days after OIR issued
Preliminary Information from ILECs filed and served	45 days after OIR issued
Prehearing Conference/Initial Public Workshop to discuss (1) best questions (2) best data (3) audit scope	No later than 60 days after OIR issued
Electric IOUs filed and serve audit scope	60 days after OIR issued
The Energy Division director provides written response to each utility's proposed audit scope	30 days after IOUs file and serve audit scope
Scoping Memo (including final data and questions)	No later than 90 days after OIR issued
Intervenor Compensation NOIs filed and served	30 days after Prehearing Conference
Electric IOU data served	60 days after Prehearing Conference
Responses to Scoping Memo questions filed and served	30 days after Electric IOUs serve data
Replies to Responses filed and served	21 days after responses to Scoping Memo questions filed and served
Public Participation Hearings	September -- October 2017
Electric IOU audits filed and served	180 days after audit scope is filed
Comments on Electric IOU audits filed and served	30 days after Electric IOU audits filed and served
Reply Comments on Electric IOU audits filed and served	14 days after Comments on Electric IOU audits filed and served
Submittal date (based on this Preliminary Schedule)	February 2018
ALJ Proposed Decision	May 2018
Final Decision	July 2018

¹⁷ Parties may request evidentiary hearings as set forth in this Order and consistent with the Rules of Practice and Procedure.

5.5. Modification Process

Any person filing comments on this OIR shall state any objections to the preliminary scoping memo regarding the category, need for hearing, issues to be considered or schedule. (Rule 6.2.)

The assigned Commissioner through his/her ruling on the scoping memo and subsequent rulings, and the assigned Administrative Law Judge (ALJ) by ruling with the assigned Commissioner's concurrence, may modify the schedule as necessary during the course of the proceeding to promote the efficient and fair resolution of the rulemaking. We anticipate this proceeding will be resolved within 18 months from the issuance of the scoping memo.

6. Service of this OIR

The Commission's Executive Director shall cause copies of this order to be served on named respondents to this Order Instituting Rulemaking and the service lists for R.17-03-009, Investigation (I.) 15-11-007, A.16-09-001, A.15-09-001 and A.14-11-003.

Pursuant to Pub. Util. Code § 1711(a), the Commission shall, where feasible and appropriate and before determining the scope of the proceeding, seek the participation of those who are likely to be affected, including those who are likely to benefit from, and those who are potentially subject to, a decision in that proceeding. The Commission shall demonstrate its efforts to comply with this Section in the text of the initial scoping memo of the proceeding. Therefore, the Commission's Executive Director is hereby directed to work with the Commission's News and Outreach Office to ensure that notice of this OIR is provided to communities and counties in the service areas of the respondents, since they are likely to be directly impacted by this proceeding.

7. Parties, Service List, and Subscription Service

PG&E, SCE, SDG&E, Liberty, BVES, and PacifiCorp are named as respondents to this rulemaking.

We also name as respondents the Facilities-Based Competitive Local Exchange Carriers, including the ILECs, namely AT&T California, Cal-Ore Telephone Company, Calaveras Telephone Company, Citizens Telecommunications Company of California, Ducor Telephone Company, Foresthill Telephone Company, Happy Valley Telephone Company, Hornitos Telephone Company, Kerman Telephone Company, Pinnacles Telephone Company, Ponderosa Telephone Company, Sierra Telephone Company, Siskiyou Telephone Company, Frontier California, Volcano Telephone Company, Consolidated Communications of California, Winterhaven Telephone and the other facilities-based communication providers.

We also invite, but do not require, other communication providers that attach to the pole, cable companies, and wireless companies to seek party status and to participate in this rulemaking. We also encourage participation from local municipalities who are allocated Rule 20 work credits and participate in undergrounding.

Addition to the official service list is governed by Rule 1.9(f). Any person will be added to the "Information Only" category of the official service list upon request, for electronic service of all documents in the proceeding, and should do so promptly in order to ensure timely service of comments and other documents and correspondence in the proceeding. (*See* Rule 1.9(f).) The request must be sent to the Process Office by e-mail (process_office@cpuc.ca.gov) or letter (Process Office, California Public Utilities Commission, 505 Van Ness Avenue,

San Francisco, California 94102). Please include the Docket Number of this Rulemaking in the request.

Persons who file responsive comments pursuant to the preliminary schedule of this proceeding thereby become parties to the proceeding (see Rule 1.4(a)(2)) and will be added to the “Parties” category of the official service list upon such filing. Nevertheless, in order to assure service of comments and other documents and correspondence in advance of obtaining party status, persons should promptly request addition to the “Information Only” category as described above. Requests for party status made independent of the comment process shall be governed by Rule 1.4.

The Commission’s practice is to list only one representative per party in the “Party” category of the official service list. Other representatives for the same party may be placed on the service list in the “State Service” category or the “Information Only” category. The Commission’s Process Office will publish the official service list on the Commission’s website (www.cpuc.ca.gov) and will update the list as necessary. Prior to serving any document, each party must ensure that it is using the most up-to-date service list. The list on the Commission's website meets this definition.

8. Subscription Service

Persons may monitor this proceeding by subscribing to receive electronic copies of documents in this proceeding that are published on the Commission's website. There is no need to be on the service list in order to use the subscription service. Instructions for enrolling in the subscription service are available at <http://subscribecpuc.cpuc.ca.gov>.

9. Filing and Serving Documents

This proceeding will utilize the electronic service protocols adopted by the Commission in Rule 1.10 for all documents, whether formally filed or only served. This Rule provides for electronic service of documents, in a searchable format, unless the appearance or state service list member did not provide an e-mail address. If no e-mail address was provided, service should be made by United States mail. In this proceeding, concurrent e-mail service to all persons on the service list for whom an e-mail address is available will be required, including those listed under "Information Only." Parties are expected to provide paper copies of served documents upon request. E-mail communication about this OIR proceeding should include, at a minimum, the following information on the subject line of the e-mail: R.17-05-010 – Rule 20A Rulemaking. In addition, the party sending the e-mail should briefly describe the attached communication; for example, "Comments." As required by Rule 1.10(e) paper format copies, in addition to electronic copies, shall be served on the assigned ALJ.

Rules 1.9 and 1.10 govern service of documents only and do not change the Rules regarding the tendering of documents for filing. Information about electronic filing of documents is available at www.cpuc.ca.gov/PUC/efiling. All documents formally filed with the Commission's Docket Office must include the caption approved by the Docket Office.

10. Public Advisor

Any person interested in participating in this proceeding who is unfamiliar with the Commission's procedures may obtain more information by visiting the Commission's website at <http://consumers.cpuc.ca.gov/pao>, by calling the Commission's Public Advisor at 866-849-8390 or 415-703-2074 or

866-836-7825 (TTY)), or by e-mailing the Public Advisor at public.advisor@cpuc.ca.gov.

11. Intervenor Compensation

In accordance with Pub. Util. Code § 1804(a)(1) and Rule 17.1, a customer who intends to seek an award of compensation must file and serve a notice of intent to claim compensation no later than 30 days after the date of the prehearing conference or as otherwise directed by the assigned Commissioner or ALJ.

12. *Ex Parte* Communications

This proceeding is preliminarily categorized as quasi-legislative. In a quasi-legislative proceeding, *ex parte* communications with the assigned Commissioner, other Commissioners, their advisors, and the ALJ are permitted without restriction or reporting as described in Pub. Util. Code § 1701.4(b) and Article 8 of the Commission's Rules.

Any workshops in this proceeding shall be open to the public and noticed in the Commission's Daily Calendar. The notice in the Daily Calendar shall inform the public that a decision-maker or an advisor may be present at the workshop. Parties shall check the Daily Calendar regularly for such notices.

O R D E R

Therefore, **IT IS ORDERED** that:

1. The Commission institutes this Rulemaking on its own motion to revise or otherwise modify Electric Tariff Rule 20, or take another course of action based on the Commission's assessment of which option is most likely to enhance the fair, efficient allocation of ratepayer funds to communities for the undergrounding of electric infrastructure in specified locations and circumstances.

2. The California investor owned electric utilities, Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas & Electric Company, Bear Valley Electric Service Company, Liberty Utilities, and PacifiCorp, are named as respondents to this Rulemaking.

3. The California Facilities-Based Communication Providers, including the Incumbent Local Exchange Carriers, AT&T California, Cal-Ore Telephone Company, Calaveras Telephone Company, Citizens Telecommunications Company of California, Ducor Telephone Company, Foresthill Telephone Company, Happy Valley Telephone Company, Hornitos Telephone Company, Kerman Telephone Company, Pinnacles Telephone Company, Ponderosa Telephone Company, Sierra Telephone Company, Siskiyou Telephone Company, Frontier California, Volcano Telephone Company, Consolidated Communications of California, Winterhaven Telephone Company and other facilities based communication providers are named as respondents to this Rulemaking.

4. The electric utilities, Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas & Electric Company, Liberty Utilities, Bear Valley Electric Service Company, and PacifiCorp, shall serve a copy of the proposed audit scope as outlined in Section 5.2.2 of this Order within 60 days of today's Order. The Energy Division director shall have 30 days to respond in writing to each utility's proposed scope. The electric utilities shall file and serve the results of the independent funded audit, as specified in Section 5.2.2 of this Order, within 180 days of the prehearing conference, unless otherwise specified by the Assigned Commissioner's Scoping Memo. The electric utilities shall also provide a copy of the audit to the Director of the

Commission's Energy Division and the manager of the Commission's Utility Audit Finance & Compliance Branch.

5. The preliminary category for this rulemaking proceeding is quasi-legislative as that term is defined in Rule 1.3(d) of the Commission's Rules of Practice and Procedure.

6. It is determined on a preliminary basis that there is no need for evidentiary hearings in this rulemaking proceeding.

7. Any persons objecting to the preliminary categorization or to the preliminary determination on the need for hearings, issues to be considered, or schedule shall state their objections in their opening comments on this Order Instituting Rulemaking.

8. The preliminary schedule for this rulemaking proceeding is set forth in Section 5.3 of this Order. The assigned Commissioner through his/her ruling on the scoping memo and subsequent rulings, and the assigned Administrative Law Judge by ruling with the assigned Commissioner's concurrence, may modify the schedule as necessary during the course of the proceeding to promote the efficient and fair resolution of the rulemaking.

9. Respondents and interested persons are asked to file comments evaluating the appropriateness of the wording of the questions and the validity of the data sources identified in Section 5.2 of this Order.

10. Commenters shall include in their opening comments any objections regarding the category, need for hearing, issues to be considered, or schedule. The deadline in this Rulemaking proceeding to file and serve notices of intent to claim intervenor compensation is 30 days after the date of the prehearing conference or as otherwise directed by the assigned Commissioner or the assigned Administrative Law Judge.

11. The Commission's Executive Director shall cause notice of this Rulemaking to the following service lists: Rulemaking 17-03-009, Investigation 15-11-007, and Application (A.) 16-09-001, A.15-09-001, A.17-04-010 and A.14-11-003 et al.

12. The Commission's Executive Director shall work with the Commission's News and Outreach Office to ensure that notice of this Order Instituting Rulemaking is provided to communities and counties in the service areas of the respondents, since they are likely to be directly impacted by this proceeding.

This order is effective today.

Dated May 11, 2017, at Merced, California.

MICHAEL PICKER

President

CARLA J. PETERMAN

LIANE M. RANDOLPH

MARTHA GUZMAN ACEVES

CLIFFORD RECHTSCHAFFEN

Commissioners