

DRAFT

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA
ENERGY DIVISION
ITEM # 7 I.D. # 8841
RESOLUTION E-4241
October 29, 2009

R E S O L U T I O N

Resolution E-4241. Southern California Edison (SCE)

PROPOSED OUTCOME: This Resolution approves with modifications SCE's request to delete the option for customers to have distribution system equipment installed underground. It requires a cost cap when SCE moves existing underground equipment above ground, and requires SCE to better define when equipment may no longer be installed underground in projects already underway. In particular it also requires SCE to consult with the Building Industry Association regarding grandfathering of projects, and finally it directs SCE to file a Supplement to this AL.

ESTIMATED COST: None.

By Advice Letter 2334-E Filed on March 27, 2009.

SUMMARY

SCE's proposal to delete the customer option of placing distribution system equipment underground when receiving new service under Tariff Rules 2, 15 and 16 is approved with modifications.

This Resolution approves with modifications SCE's request in AL 2334-E to modify Rules 2, 15 and 16 to delete the undergrounding option now available to applicants for electric service to request undergrounding of certain new distribution system equipment such as transformers, switches, capacitors, and junction bars (Equipment). It allows SCE to relocate existing underground Equipment above ground during planned maintenance and capacity upgrades.

Costs to ratepayers should be capped

In order to protect ratepayers from excessive costs, the total cost including easement acquisition and aesthetic surface improvements of above-ground installations must not exceed the total cost of safe underground designs.

SCE should define the stage in project schedules after which it would grandfather underground installations

For new developments and undergrounding conversion projects already underway SCE is to define the threshold event in the project schedules. Projects which have not reached the threshold event must comply with the proposed requirements for installing distribution Equipment above ground.

BACKGROUND

Current Tariff

SCE's current Rule 15, Distribution Line Extensions and Rule 16 Service Extensions allow for applicants to choose underground installation of wires and equipment at additional cost to the applicant.

Past Commission support of pad mount design

Prior to the Commission's approval of Rule 16 language identifying pad mount Equipment as part of SCE's standard installation, the Commission issued Decision (D.) 92-03-065 which supported SCE's position concerning pad mount Equipment by stating that SCE's "standard transformer in a residential subdivision is a pad mount transformer."

NOTICE

Notice of AL 2334-E was made by publication in the Commission's Daily Calendar. SCE states that a copy of the Advice Letter was mailed and distributed in accordance with Section 3.14 of General Order 96-B.

PROTESTS

Advice Letter 2334-E was protested in 29 letters and supported or otherwise commented on in 3 letters.

On April 14, 2009 the City of Highland (Highland) timely protested SCE's AL 2334-E.

Also on April 14 SCE realized that not all interested parties had been served and amended its service by extending the protest period until May 4, 2009.

On April 29 SCE's AL was protested by Ms Laura Stotler (Ms Stotler) of Valencia.

Between April 30 and the last day of the protest period on May 4, 2009, the Commission received 26 letters protesting SCE's AL 2334-E; namely, from the Cities of Bell, Benicia (not in SCE's service area), Brentwood, Buena Park, Cerritos, Culver City, Diamond Bar, Downey, Hidden Hills, Huntington Beach, Laguna Hills, Laguna Woods, Long Beach, Long Beach Redevelopment Agency, Palm Springs, Placentia, Rancho Santa Margarita, San Jose (not in SCE's service area), San Juan Capistrano, Santa Clarita, Stanton, Thousand Oaks, Tustin (represented by Woodruff, Spradlin & Smart Corp.), West Hollywood, Whittier and the Westside Cities Council of Governments (Beverly Hills, Culver City, Los Angeles, Santa Monica, West Hollywood, County of Los Angeles).

On May 8, 2009 SCE requested an extension of time to May 15 to respond to all the protests and the CPUC Executive Director granted this request on May 8, 2009.

The issues in City of Stanton's late protest on May 11 were similar to those of other cities.

On May 15, 2009, SCE responded to the protesters (Protesters).

Also on May 15 San Diego Gas and Electric Company (SDG&E) and the International Brotherhood of Electrical Workers Local 47 (IBEW) filed letters supporting SCE's AL 2334-E.

In a letter to CPUC staff dated June 2, 2009 the Building Industry Association (BIA) listed issues raised in SCE's AL that needed clarification, including project grandfathering and various implementation details.

On July 13, 2009 SCE responded to BIA's letter.

The Westside Cities Council of Government in particular requested the CPUC to table SCE's proposal until further details are provided to those cities. The Council allowed, however that employee safety, reliability and environmental protection are the right factors to drive these changes.

San Jose and Benicia lie outside of SCE's service area but were concerned that SCE's proposal may become statewide rule. San Jose stated that PG&E claims that the employee safety concerns with underground Equipment location can be fully mitigated by standard maintenance and operation procedures.

DISCUSSION

Energy Division has reviewed AL 2334-E, all protests, SDG&E's letter of support, BIA's letter and SCE's responses.

The specific changes SCE would make to its Rules are discussed first below, followed by SCE's reasons for proposing the changes and action it has taken to date to prepare customers for them. Then the 29 protests to SCE's proposal are grouped into four common issue areas: safety concerns, aesthetic concerns, whether CPUC or local authority should apply, and transition issues. The protesters' concerns are summarized in each issue area along with SCE's response, and the outcome is stated and explained.

Proposed Tariff Changes

SCE proposes to insert the following language into Rule 2 - Description of Service, Rule 15 - Distribution Line Extensions, and Rule 16 - Service Extensions.

“Following a Transitional Grace Period of 90 Days after the date SCE receives Commission approval of AL 2334-E, SCE will no longer accept requests under the Added Facilities provision of Rule 2, Section H, for underground distribution systems that call for specified pieces of electrical Equipment to be installed in below-ground structures in circumstances where it is technically feasible to install the Equipment above ground. For purposes of this provision, specified pieces of Equipment include all primary voltage from 4 kV to 35 kV electrical distribution system Equipment, including, but not limited to, transformers, switches and fuses, capacitors, and junction bars.

Where SCE has existing primary voltage distribution Equipment installed in below-ground structures, the Equipment will continue to be operated and

maintained below ground. Should the existing below-ground Equipment fail and result in an unplanned outage, service will be restored using below-ground Equipment when replacement Equipment is available. Where, however, existing below-ground Equipment is scheduled to be replaced in a planned process, such as a maintenance program or capacity upgrade, the replacement will be made with similar, above-ground Equipment, to the extent technically feasible.

“Technically feasible” refers to the availability of the required physical space, either readily available or through architectural design, that can be set aside to accommodate the required electrical distribution Equipment necessary for SCE to serve the customer. The required space is defined by existing design standards within the operation and maintenance requirements that are in compliance with applicable safety codes and regulations such as CPUC General Order 128.”

SCE’s tariff changes will apply in two situations. One of them is when customers request new underground service (an extra-cost option). The other is when SCE replaces its existing underground Equipment as part of planned maintenance or capacity upgrades.

In either case the distribution conductors themselves will still be located above or below ground in accord with existing Rules 15, 16, and 20.

Disadvantages of below ground equipment installations

Distribution Equipment in underground enclosed spaces (vaults, enclosures, etc.) is more difficult to install and maintain than above-ground Equipment. Also, this Equipment, in many cases, is located beneath traveled public roadways. Although rare, Equipment failures in these underground spaces can occur and require significant safety precautions to repair.

Operating, maintaining and repairing below-ground Equipment in confined underground enclosures is difficult work. Electric service outages last longer than those occurring above ground since it takes longer to locate and repair a failed underground component. Once located, complex safety procedures are required for vault entry including heat scans for hot spots and testing for gases. Often water or contaminants must be trucked away before electrical work starts, and the facilities steam or pressure washed.

Equipment degradation is more likely below-ground because of corrosion when Equipment is submerged in run-off water and contaminants.

Advantages of above ground equipment installations

Electrical service may be restored sooner when Equipment is located above ground than when it is installed in below-ground structures. Routine maintenance takes longer, for example when multiple vaults are accessed for circuit switching each one must be opened and tested for gases.

While underground installations are relatively safe with proper precautions, transformers and other Equipment failures involving high pressures and hot gas can be catastrophic. Moreover, underground structures collect run-off water which if contaminated must be tested and removed. Moving away from underground installations advances safety goals and reduces concentration of contaminants.

The SmartGrid technologies, which enhance reliability, require that controls and antennas be located above ground, to support integrating them into SCE's electrical system.

Existing underground Equipment operating normally will remain below ground.

Where SCE has existing underground primary voltage distribution Equipment installed in below-ground structures, the Equipment will continue to be operated and maintained below ground. Should existing below-ground Equipment fail and result in an unplanned outage, service will be restored on an emergency basis using below-ground Equipment when replacement Equipment is available.

Where, however, existing below-ground Equipment is scheduled to be replaced in a planned process, such as a maintenance program or capacity upgrade, the replacement will be made with similar, above-ground Equipment, to the extent technically feasible. Before construction work begins SCE will notify the affected parties where it plans to place the equivalent, new above-ground pad-mounted Equipment.

Local Ordinances

Some municipalities in SCE service territory have ordinances attempting to limit utilities' ability to install Equipment above ground. The Public Utilities Code and case law make clear that the CPUC's authority in the matters of utility system design is paramount over local law. However, the Commission expects

utilities to consult with affected parties before making above-ground installations and to make reasonable accommodations with respect to the location of the facilities.

SCE states that it will continue consulting affected parties. SCE will attempt to obtain easements from property owners to locate the Equipment out of the public right-of-way (ROW). SCE states it will install the replacement Equipment in the public ROW only if it is unable to obtain an easement. In new residential and commercial developments, SCE expects developers' plans to provide for location of the Equipment on private property.

Stakeholder Outreach

SCE claims that it has been in ongoing consultation with affected stakeholders regarding its proposal in order to make adjustments to reflect stakeholder input from local governments, representative organizations such as the League of California Cities, individual land developers and the Building Industry Association.

SCE briefed in person those cities with ordinances limiting its ability to install above-ground Equipment, and other cities were briefed by letter. SCE assured stakeholders that the company does not intend to relocate all serviceable below-ground Equipment immediately and replace it with above-ground Equipment. SCE committed to consultations with affected stakeholders in order to find the most acceptable above-ground location. SCE also plans to conduct building industry workshops covering design options for integrating above-ground Equipment into project architecture.

Aesthetic Considerations

SCE says that it has assembled a team to research various options which would make pad mounted Equipment better blend, visually, into the surrounding landscape. Other utilities, vendors, and cities have been surveyed for relevant ideas. Safety, Equipment performance (heat dissipation, corrosion, etc.), operability, inspection, installation and replacement are some of the issues that must be considered for this Equipment.

SCE has developed a catalog of various approved aesthetic improvement options available to customers and developers to help minimize the visual impact of above-ground pad mounted Equipment. The catalog (*Above Ground Equipment Initiative Aesthetic Improvement Manual* or AIM) includes aesthetic treatments and

enhancements for above-ground Equipment, such as use of certain colors, screening and landscaping. Aesthetic treatments may be available, at the customer's expense, subject to tariffs and applicable safety laws and regulations. SCE states it is open to suggestions from its customers and will evaluate them and include them in the catalog as options, upon approval.

SCE transition plans

Upon Commission approval, SCE plans to require that distribution system Equipment be located above ground in new installations when technically feasible, whether designed by SCE or third parties. Specifically, following a transitional grace period of 90 Days after the effective date of this Resolution, SCE will no longer accept requests to install specific pieces of electrical Equipment in underground vaults (all primary-voltage electrical distribution system equipment, including, but not limited to, transformers, switches and fuses, capacitors, and junction bars), unless it is not technically feasible to install the Equipment above ground. Customers, developers, and governmental entities would be required to utilize above-ground Equipment.

SCE plans to implement this change in two ways: (1) changing the design requirements for new residential and commercial developments, and (2) retrofitting, on a planned basis, existing underground structures where it is technically feasible to place Equipment above ground.

Staff analysis of protests and responses

SCE will comply with local, state and federal law governing vehicular and pedestrian safety

Protesters stated that use of the public ROW for pad mounted Equipment could impede traffic, restrict parking, impede sight at intersections and driveways, and be exposed to vehicle strikes. Furthermore, cities are obligated to comply with the Americans with Disabilities Act (ADA) for clearances. Natural disasters may increase the liability from damage to above-ground Equipment.

SCE responded that these concerns arise where its concept of "technically feasible" is not understood. Sometimes there is no room for above-ground Equipment and SCE repeats that, since it holds public safety paramount, it will neither place Equipment above ground where there is not enough space, nor in areas that would impede traffic or ADA compliance. The size of SCE's

Equipment is comparable to other utility equipment, such as telecommunication cabinets, fire hydrants, mail boxes, and much of it is smaller than a traffic signal control box.

SCE prefers private easements from the requesting applicant for service over public ROW installations, and states that its pad-mounted Equipment enclosures meet rigorous industry standards for the safety and security of employees and the public. It asserts that these considerations are not new since more than 80% of all SCE service connections made over the last two years have been above ground and met SCE's design standards for being "technically feasible".

Where SCE is choosing to move Equipment above ground, SCE states it would not bring an eminent domain action to obtain an easement but would negotiate with a property owner. If an easement cannot be obtained at a reasonable price, there is often more than one candidate property where Equipment can be electrically located. Otherwise SCE will inform the city and pursue installation in the public ROW.

We are satisfied that SCE considers public safety considerations more important than aesthetic considerations, and that SCE is consulting with cities, and complying with local, state and federal laws governing pedestrian and vehicular safety, to minimize adverse impacts of the change to the Rules.

Aesthetic Concerns can be mitigated but safety is paramount

Protesters stated that the underground clearance requirements of General Order (G.O.) 128 could prevent effective visual screening of above-ground facilities and that graffiti would be unsightly. Their suggestions to reduce visual impact included sufficient set back from the curb, and placement of Equipment in side yards.

SCE acknowledged that above-ground Equipment creates visual impact but when located in new developments, it can be designed outside public areas and screened with plantings. SCE stated these means will be incorporated in its Aesthetic Improvement Manual. Where relocating Equipment to above ground, it plans to continue close consultation with affected stakeholders and to evaluate new industry trends, including film application of landscape scenes and use of portable planters for camouflaging. SCE has contracted with an abatement vendor for removal of graffiti blight within 48 hrs of notification.

SCE believes that most of the concerns of Protesters are sincere but misplaced or misinformed. Safety of employees and the public is paramount and SCE says that Protesters seek to force a choice between aesthetics and safety. Where Equipment serves multiple customers, the aesthetic concerns of a few could adversely impact service reliability for many.

The effect on individual customers of deleting the underground option will be mainly visual. To the public at large it will be minimal at first, but over time may become noticeable as planned maintenance or upgrades of underground Equipment become more widespread. SCE will evaluate the technical feasibility of Equipment relocation and not categorically exclude subsurface installations. For example where easements for Equipment above ground cannot be obtained at reasonable cost and the public ROW is restricted, subsurface installations may remain.

PUC authority over design location exceeds local authority

The Protesters claim that:

- SCE's proposal would impact the cities' authority over private development projects and use of public ROW, including fair compensation for it;
- The proposal fails to allow cities to set standards, e.g. in historic districts, and is contrary to undergrounding ordinances;
- Public Utilities (PU) Code Section 6294 provides that
The grantee of a franchise shall construct, install and maintain all ... appurtenances in accordance and in conformance with all of the ordinances and rules adopted by the legislative body of the municipality ...and not in conflict with the paramount authority of the State ...;

and

- PU Code Section 2902 clearly allows cities to maintain control over the use of the public ROW and impose reasonable regulations as to the location of SCE facilities in the ROW.

SCE disputed the claims by local governments of absolute authority in matters relating to the broad authority given by the California Constitution to the CPUC to supervise and regulate public utilities, and it asserted that, relative to local governments, the CPUC's jurisdiction is paramount and exclusive. California courts have held that matters of "statewide concern", such as the design and construction of a utility's electrical infrastructure, are not subject to a

“checkerboard of regulations” by local governments. The CPUC has implemented legislative mandates with rules and policies governing the construction and operation of above and below-ground electric facilities, such as General Orders (G.O.) 95, 96, 128, 131-D, and policy documents.

SCE stated that two CPUC decisions affirmed the CPUC’s exclusive jurisdiction over power lines and other distribution facilities which local government cannot preempt. D.88642 denied Woodside’s authority to require PG&E to underground a distribution system while upgrading it. D.96-02-024 denied the City of Santa Barbara’s regulation of lower voltage lines, because the CPUC had “fully occupied the field of electric power line regulation”, including all “transmission lines, power lines, distribution lines, substations and facilities”. With regard to the electric facilities at issue in the Decision, the Commission stated that “local permit regulation[s] [are] preempted.”

SCE also cited California appellate court decisions to refute the Protesters’ claims. SCE cited *Southern California Gas Co. versus City of Vernon*, which rejected the City of Vernon’s broad claim to regulate facilities in the public ROW. The Court interpreted PU Code Section 2902 to give the city authority over the location of facilities, control of traffic, and the repair of public streets, but not over the design, type, or construction of the distribution facilities themselves.

SCE also cited *Leslie versus Superior Court*, where the court ruled that Ventura County could enforce against SCE the grading standards in the county code because state housing law expressly required the cities to adopt minimum standards for it. The court found that the state housing law and the CPUC’s mandate were of “equal dignity” and noted that the CPUC had never “purported to exercise its authority over” the construction, maintenance or grading of access roads.

Therefore SCE stated that these cases show that the municipalities can neither mandate the design and construction of Equipment, nor whether those facilities are placed above or below ground. The CPUC’s jurisdiction is exclusive because there is no statewide law or policy of “equal dignity”.

Nevertheless, pursuant to PU Code Section 6294, SCE states it would comply with local jurisdiction regulations that pertained to health and safety relating to the above-ground installation of electrical distribution Equipment. For example, SCE would: comply with local regulations prohibiting the installation of facilities

where it would impair a motorists' vision around corners, comply with the ADA when locating facilities within the public ROW, and obtain non-discretionary local permits and approvals for construction and operation of electrical facilities, where not inconsistent with the CPUC's areas of exclusive jurisdiction.

SCE concluded that the CPUC has affirmed its primary jurisdiction over placing Equipment above-ground. SCE has also committed to continuing consultations with local governments about where to place facilities. The Commission has made clear on numerous occasions that utilities are expected to engage in meaningful dialogue with local agencies before finalizing the location of facilities.

We agree that the line of decisions and cases cited by SCE show that it is the CPUC's exclusive jurisdiction to determine whether utility Equipment is designed for installation above or below ground. In turn the Commission expects SCE to work diligently with local agencies when determining the location for the Equipment.

Easement costs should be capped

Protesters are also concerned that SCE wants to save money by locating Equipment on public ROW, especially in retrofit projects. Protesters say that SCE has the means to acquire private easements and to enforce eminent domain.

SCE countered that, while it has the right to install Equipment in the public ROW under franchise agreements; it tries to avoid it because it has greater rights on private easements, which applicants must provide at no cost as a condition of service under existing Rules 15 and 16.

We note that a lower rate base and rates result from any capital cost savings that accrue to SCE from placing Equipment in the public ROW instead of acquiring easements. SCE would pay for an easement only when relocating Equipment not dedicated to a specific customer.

To hold ratepayers harmless from excessive easement costs, SCE should keep the total cost of relocating Equipment above ground, including easement and aesthetic surface improvement costs, about the same as keeping Equipment below ground after maintenance or upgrades. SCE should define "economically feasible" in its tariffs and include it as a criterion for moving Equipment above ground.

SCE should define the event in the planning and construction schedules of new developments and undergrounding conversion projects after which Equipment must remain above ground

Cities with undergrounding projects in progress are concerned that they may be disallowed.

First, SCE noted that its AL proposes a 90-day notice period following CPUC approval. Until the end of that period SCE would continue to accept designs using underground Equipment for new or converted service.

In addition, SCE stressed that other California utilities have used only above-ground Equipment for decades. SCE went to considerable lengths to brief local governments, the League of California Cities, developer groups and individual developers prior to filing this AL and is committed to continue these discussions with interested stakeholders.

Other Protesters are concerned that Equipment planned to be underground as part of current projects might have to remain above ground after the proposed tariff changes, and that the applicability to projects underway should be better defined.

We note that the date of individual undergrounding requests would establish whether they fell before or after the end of the 90-day transition period. However since larger developments and lengthy Rule 20 undergrounding conversion projects may not have a clear request date, SCE should define the event in the planning and construction schedules of such projects after which Equipment must remain or be installed above ground.

SCE should consult with BIA

BIA is not opposed to SCE's proposal, but asked SCE to clarify these issues:

- Grandfathering existing developments and matching state legislation (AB 333) on extension of tentative tract maps.
- Coordination with cities that require below ground installation.
- Responsibility for claims and litigation at homes less than 10 years old which must accept relocation of Equipment above ground.
- Definition in writing of grandfathered submittal for the transition period.
- Definition in writing that projects with dry utility joint trench installed, but not transformers, and fees paid, are grandfathered.

- Allow extension of active projects for more than 12 months and tariff inclusion of requirement for notification of expiration.
- Relaxing of clearance standards for above ground Equipment, especially on three sides.
- SCE's action to facilitate city acceptance of above ground Equipment within parkway or ROW.
- SCE action to reduce density of transformer locations.

SCE largely responded to BIA's grandfathering (transitioning) concerns, but made no commitment to extend grandfathering to match certain pending legislation on tentative tract maps expiration. SCE will clarify in writing the events that determine project transition schedules. SCE states it is working with BIA on criteria for holding projects open beyond the standard 12 month period, and SCE now allows permanent landscaping and masonry walls and portable planters on three sides of Equipment.

SCE reiterated the need for developers to convene early meetings with the utility and city to reduce the possibility of last-minute issues, and SCE committed to continue working with cities and developers to coordinate solutions. This process would include optimally locating and sizing of transformers. SCE would not agree in advance to be responsible for homeowner claims or litigation because of Equipment relocation and resulting easement adjustments.

We note that BIA's concerns deal primarily with the logistics and timing issues of the proposed tariff changes. SCE responded adequately to these concerns but SCE's tariffs must also specify the events determining project schedules, and they must use the same terminology as SCE's filed forms.

SDG&E and IBEW support SCE's proposal

SDG&E supports SCE's AL based on its own decades-long experience with pad-mounted Equipment for new services. Subsurface Equipment often must be de-energized for servicing and therefore requires longer and geographically larger outages. The number of submersible Equipment manufacturers has declined, affecting availability. Reliability of subsurface Equipment is negatively affected by the collection of water with contaminants, which also pose environmental hazards and breeding grounds for mosquitoes. Subsurface Equipment is 3 to 4 times more expensive than pad-mounted Equipment.

The International Brotherhood of Electrical Workers (IBEW) also supports SCE's AL in the interests of safety for its members, and shorter outages, and stated that it raised these issues with SCE in the first place. The changes would avoid high risk environments where members have experienced life-changing or fatal injuries from working inside electrical vaults. IBEW echoed SCE's commitment to working with cities and developers to minimize the visual impact of pad-mounted Equipment, and mentions that the utilities of the Cities of Riverside and Azusa are among many utilities that have changed or are changing to pad-mounted Equipment designs only.

COMMENTS

Public Utilities Code section 311(g) (1) provides that this resolution must be served on all parties and subject to at least 30 days public review and comment prior to a vote of the Commission. Section 311(g) (2) provides that this 30-day period may be reduced or waived upon the stipulation of all parties in the proceeding.

The 30-day comment period for the draft of this resolution was neither waived nor reduced. Accordingly, this draft resolution was mailed to parties for comments on Tuesday, September 15, 2009 and will be placed on the Commission's agenda no earlier than 30 days from that date.

Comments

On September 18, 2009 Whittier repeated verbatim its protest.

On September 23 The League of California Cities opposed the draft resolution with its Qualified Petitioned Resolution. It suspects above-ground installations to cause fires, be a public hazard, limit project development space, intrude into the city's right-of-way, infringes on cities' authority and right over its affairs and requests that SCE should work together with the cities to identify safe and responsible solutions to equipment placement.

On September 25 California State Senator Fran Pavley (23rd Senate District), urged rejection of AL 2334-E and this draft resolution on grounds that SCE's proposal has not been properly vetted with the local stakeholders. Concerns are the same as voiced by protesters. She further states that her office could not find specific worker injuries as a result of working underground. She also is opposed

to capping the cost, as drafted in the resolution (she erroneously attributed the cost cap to SCE).

On September 25 Senator Curren D. Price commented on issues already contained in the protests.

On September 29 the City of San Juan Capistrano reiterated its protest about the impact on the public ROE, private property and public safety and that the proposed rule changes are contrary to the intent of the City's Redevelopment Code and infringe on the City's authority and rights over its affairs. The public ROW will be the default location for above ground installations and will impede pedestrian and vehicular traffic. The equipment cannot be screened from public view.

On October 1 the City of Rancho Cucamonga (Cucamonga) requested that:

- Findings and Conclusions include the statement:
SCE's aesthetic improvement options available to developers and customers will not override local ordinance. Ultimate design review and improvement of above-ground mounted equipment shall be regulated and approved by the cities' appropriate legislative body.
- Long term maintenance responsibility for the proposed aesthetic mitigation be assured, and asks how these costs would compare with those for proper maintenance if installed below ground.
- The notion of "Certain new distribution system equipment ..." be conclusively defined not left vague.
- A study be made of safety options other than locating Equipment above ground, because it (Cucamonga) agrees with San Jose's reference to a PG&E claim that standard maintenance procedures can mitigate employee safety concerns with underground Equipment.
- Finally Cucamonga requests that locating above-ground Equipment on public ROW be prohibited and that all above-ground installations be made on private easements.

On October 2 Assembly Member Julia Brownley (41st District) objected to SCE's proposal. She expressed the concerns of city officials in her district, stating that the proposal would threaten the good working relationship SCE had with the

communities, pose public safety hazards, create land use problems, breach local government authority, may cause wildfires and impact neighborhood aesthetics.

On October 2 SCE commented on the draft resolution by agreeing to better define the stage in existing undergrounding projects after which Equipment may no longer be installed underground and inactive projects would be terminated. SCE further agreed to develop clarifying tariff language and associated forms regarding transition schedules and timelines in collaboration with the BIA.

SCE objected however to a cap on the cost of moving existing underground Equipment above ground. SCE states that safety concerns should override any cost cap even though in most cases above-ground installations will cost less than undergrounding.

Reply Comments

On October 9 SCE replied to all the above comments, except Whittier's repetition of its protest and Senator Price's already answered comments.

SCE noted that the resolution by the League of California Cities opposing this matter did not afford SCE a chance to be heard because its policy committees did not originate or pass it. SCE states that it briefed as many cities as possible before filing and believes that dense urban environments such as West Hollywood are the main concern.

SCE reiterates its commitment to continue cooperation with local governments and to place Equipment underground if private easements or above ground public ROW is not available.

SCE clarified that it only serves about 93 customers in Capistrano; none from underground vaults. The remainder of the city is served by SDG&E which ceased underground equipment installations over three decades ago.

SCE's reply agrees with Cucamonga that cities should have a voice in matters of aesthetics and states that it will look for ways to incorporate local jurisdictions' aesthetic surface improvement approval as requirement prior to allowing them, but should not be required to verify those approvals. SCE however would retain

its definition of Equipment so as to provide flexibility for future needs of the distribution system. Also, SCE provides evidence that graffiti was removed in Cucamonga within 48 hours, as contracted with its abatement vendor.

In reference to Senator Pavley's comments, SCE notes that it also objected to the cost cap on above-ground installations after it first appeared in CPUC's draft resolution.

Finally SCE clarifies for Assemblymember Brownley that the design of Above Ground Equipment does not affect power lines, and that to SCE's knowledge no CPUC proceeding contends that above-ground transformers, capacitors or other Equipment of the type contemplated here has started fires.

Analysis of Comments and Replies

While most comments merely reiterate the protests, Cucamonga's comments merit discussion.

Regarding the aesthetic surface improvements, such as screening with live plantings: the cities' design review should not affect the engineering design or delay Equipment installation. Rules 2, 15 and 16, where applicable, should be amended to state:

SCE's aesthetic surface improvements for above-ground Equipment will not override local ordinance applicable to similarly sized facilities of public necessity and convenience (e.g. traffic controls, telecommunication equipment, mail boxes, hydrants, waste receptacles, etc).

Regarding long-term responsibility for maintenance of aesthetic improvements: we direct SCE to add language to Rules 2, 15 and 16, where applicable:

The party responsible for the cost of Equipment or its relocation is also responsible for the cost and ongoing maintenance of aesthetic surface improvements. SCE will respond within 48 hrs to requests for maintenance of such improvements made in the public ROW.

When Equipment and aesthetic improvements are located on private property cities may obligate owners using similar rules by ordinance.

Equipment definition: The largest piece of Equipment in a distribution system is a transformer, which is limited to a fraction of the typical 2 to 10 MW distribution

circuit capacity. A typical 500 kVA transformer is approximately 5 ft by 6 ft and 5 ft tall. Most distribution transformers are considerably smaller. We agree with SCE that defining conclusively all possible Equipment is neither useful nor practical and could limit modernizing the distribution system with new types of Equipment.

In addition SCE and Senator Pavley misunderstand the cost cap proposed in the draft resolution. We clarify here that the cost cap does not impose any additional burden on local governments or individuals. It only caps the cost to SCE and ultimately to ratepayers of relocating below-ground Equipment above ground. Below ground installations are normally more expensive than above ground installations. If the cost for above ground installation, including easements and aesthetics would exceed safe below ground installation cost, then we expect SCE to keep it below ground.

FINDINGS AND CONCLUSIONS

1. SCE's standard Equipment installations that are paid for in rates are above ground.
2. Currently, when applicants request new service, SCE installs the distribution system Equipment needed, such as transformers, switches, capacitors, and junction bars (Equipment), above-ground, not underground.
3. Rules 2, 15 and 16 allow applicants the option, at extra cost, to have distribution Equipment installed underground.
4. Over the last two years less than 20% of new SCE distribution system Equipment was requested installed underground, and other California utilities have already discontinued the option of installing Equipment underground.
5. In AL 2334, SCE seeks approval to delete the underground option in order to make its Equipment more accessible for installation, maintenance and repair, and safer for employees.
6. SCE proposes that, when its existing underground Equipment is part of a planned maintenance program or capacity upgrade it would be relocated on pads above ground to the extent technically feasible.
7. "Technically feasible" means that enough space is, or can be made, available above ground for the electrical distribution Equipment needed for SCE to serve customers.

8. Whether to allow for below-ground Equipment designs or above-ground Equipment designs is within the Commission's exclusive jurisdiction.
9. When relocating existing Equipment, SCE states it would comply with city mandates in matters of health, public safety, and convenience and with any state law of "equal dignity" to the PU Code, and with federal laws, e.g. ADA.
10. Equipment installed above ground will be either a new connection at customer request, or existing underground Equipment being moved above ground by SCE for better accessibility and employee safety.
11. For a new connection, the customer must provide a private easement for the Equipment above ground at no cost to SCE or ratepayers (Rule 15).
12. For existing underground Equipment being moved by SCE, SCE proposes installation in a private easement above ground if SCE can obtain the easement at a reasonable cost using ratepayer funds.
13. "Reasonable cost" should mean that the total cost of above-ground Equipment, including easement acquisition and aesthetic surface improvement and maintenance costs, is not to exceed the total cost of accommodating the new or larger Equipment underground.
14. The party responsible for the cost of Equipment or its relocation will also be responsible for the cost of ongoing maintenance of aesthetic surface improvements.
15. The options made available by SCE to customers for aesthetic surface improvements to Equipment are subject to local laws and ordinances for similarly sized equipment serving public convenience and necessity in the public ROW.
16. Local laws and ordinances may apply similar conditions to Equipment on private property.
17. When the reasonable cost test cannot be met, Equipment relocated by SCE from underground to above ground pad-mount should be installed in the public ROW per franchise agreements.
18. It is not useful or practical to conclusively define all Equipment because the future needs of the distribution system require flexibility.
19. This AL was initially suspended for 150 days after filing and a transition period of at least 90 days will follow approval.
20. Current undergrounding conversion projects have had over 6 months' notice of possible need to accommodate new above-ground requirements.
21. Individual undergrounding conversion projects under Rule 20-C have a clear effective start date to establish whether they were signed before or after the date barring underground Equipment.

22. Larger ratepayer-funded undergrounding conversion projects under Rule 20-A or 20-B may have more complex schedules making it unclear when the changes adopted in this Resolution apply to them.
23. SCE should define the triggering event within the schedule of undergrounding conversion projects after which Equipment may no longer be installed underground.

THEREFORE IT IS ORDERED THAT:

1. SCE shall file a supplemental Advice Letter AL 2334-E-A within 45 days to modify Rules 2, 15 and 16, where applicable, to comply with Ordering Paragraphs 2 through 6.
2. SCE shall define in its tariffs that the total project cost of moving existing underground Equipment above ground, including easement and aesthetic surface improvement costs, is reasonable if it does not exceed the cost of safely maintaining or upgrading the Equipment underground.
3. SCE shall amend Rules 2, 15 and 16 where applicable to state:
SCE's aesthetic surface improvement options for above-ground Equipment will not override local laws and ordinances applicable to similarly sized facilities of public convenience and necessity (e.g. traffic controls, telecommunication equipment, mail boxes, hydrants, waste receptacles, etc)
4. SCE shall include in Rules 2, 15 and 16, where applicable:
The party responsible for the cost of Equipment or its relocation will also be responsible for the cost of aesthetic surface improvements of above ground Equipment and its ongoing maintenance. SCE will respond within 48 hrs to maintenance requests of such surface improvements in the public ROW.
5. SCE shall define in its tariffs and forms the triggering event within ongoing undergrounding project schedules that starts the transition period of 90 days, after which Equipment may no longer be installed underground.
6. Using consistent terminology, SCE shall also define when inactive projects will be terminated.
7. SCE shall incorporate OP 5 and 6 after consultation with the BIA.

This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on October 29, 2009; the following Commissioners voting favorably thereon:

Paul Clanon
Executive Director