

DRAFT

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

I.D.# 6750

RESOLUTION E-4101

July 12, 2007

R E S O L U T I O N

Resolution E-4101. Southern California Edison Company's Request For Deviation From Electric Rule 20A, Allocation Allowances, In Compliance With Resolution 4001

By Advice Letter 2110-E Filed on March 15, 2007. Denied.

SUMMARY

This Resolution denies SCE's request to deviate from its Electric Rule 20. SCE asks to amortize over 10 years instead of five an undergrounding project in the City of La Habra. Instead SCE is to use its Rule 20 authority to reallocate a portion of allocations made to communities that have not been active since 1999 or earlier. Further SCE is to act in time to permit La Habra to begin construction before a mid-July 2007 deadline, after which La Habra asserts it would forfeit other funding.

BACKGROUND

Utilities annually allocate funds under Rule 20 to communities, either cities or unincorporated areas of counties, to convert overhead electric facilities to underground. The recipient communities may either bank (accumulate) their allotments, or borrow (mortgage) future undergrounding allocations for five years at most.

The Commission instituted the current undergrounding program in 1967. It consists of two parts. The first part, under Tariff Rules 15 and 16, requires new subdivisions (and those that were already undergrounded) to provide underground service for all new connections.

The second part of the program governs both when and where a utility may remove overhead lines and replace them with new underground service, and who shall bear the cost of the conversion. Tariff Rule 20 is the vehicle for the

implementation of the underground conversion programs. Rule 20 provides three levels, A, B, and C, of progressively diminishing ratepayer funding for the projects.

Under Rule 20, the Commission requires the utility to allocate a certain amount of money each year to all communities for conversion projects and to reallocate to communities having active undergrounding programs amounts not spent where they are initially allocated. Once a community has established a master undergrounding plan and identified specific projects, it may spend its accumulated allocations plus an amount equal to its estimated allocations for the next five years. Utilities may file Advice Letters to request exemptions from Rule 20. Upon completion of an undergrounding project, the utility records its cost in its electric plant account for inclusion in its rate base.¹ In a General Rate Case the Commission authorizes the utility to recover the cost from ratepayers until the project is fully depreciated.

Because ratepayers contribute the bulk of the costs of Rule 20A programs through utility rates, the projects must be in the public interest by meeting one or more of the following criteria:

- Eliminate an unusually heavy concentration of overhead lines;
- Involve a street or road with a high volume of public traffic;
- Benefit a civic or public recreation area or area of unusual scenic interest;
- Be listed as an arterial street or major collector as defined in the Governor's Office of Planning and Research (OPR) Guidelines.

On January 6, 2000, the Commission opened Order Instituting Rulemaking (OIR) 00-01-005 to implement Assembly Bill 1149 regarding undergrounding of electric and telecommunication facilities. On December 11, 2001, the Commission issued Decision (D.) 01-12-009 in Phase 1 of the OIR directing expanded use of Rule 20 funds, and in D.02-11-019 the Commission signaled its consideration of a new

¹ Utilities have an annual budget for undergrounding for each community (city or the unincorporated area of a county). Details of allocation formulas are shown in Electric Rule 20.A.2 of the tariffs.

rulemaking to address Phase 2 issues. Later D.05-04-038 closed OIR 00-01-005, stating the Phase 1 decision remains effective until a new proceeding is opened consistent with the Commission's resources and priorities. On August 24, 2006, Resolution E-4001 required utilities to file Advice Letters for exemption from the five-year cap no later than 3 months before the date construction begins except where the excess costs result from unanticipated conditions encountered during construction.

NOTICE

Notice of AL 2110-E was made by publication in the Commission's Daily Calendar. Southern California Edison Company states that a copy of the Advice Letter was mailed and distributed in accordance with Section III-G of General Order 96-A.

PROTESTS

AL 2110-E was not protested.

DISCUSSION

SCE states in its AL that the City of La Habra (La Habra) passed a resolution approving its Harbor Boulevard project (Project) in 2004. At the time La Habra anticipated that available and accumulated future funds would cover project costs. Separately, in 2006, for street improvements to be made at the same time as the undergrounding, La Habra secured a \$663, 750 grant from Orange County, to be available provided the Project begins by July 15, 2007.

In January 2007 La Habra notified SCE that increasing costs for labor and materials would put the cost of the Project beyond the five-year mortgaging threshold.

Therefore, as one way to avoid delaying the Project and causing La Habra to forfeit the County funds, SCE requests that it be allowed to mortgage five additional years beyond the five years allowed under Rule 20A, and for the Commission to approve the deviation before July 15, 2007.

Energy Division reviewed SCE's request in light of Resolution E-4001, August 24, 2006. The Commission on its own motion in that Resolution extended to all

IOUs the policies it adopted earlier for SDG&E in order to cap the cost of Rule 20 projects².

Efficiency of Funding Does Not Justify Exemption.

In Resolution E-4001 the Commission responded to PG&E's earlier Comments on the Draft version of the Resolution. PG&E had recommended that the Commission adopt clear exemptions from the five-year limit and in cases where state law, efficient engineering or other circumstances "dictate" that relocated utility facilities be placed underground, the cost of such "mandated" undergrounding should be exempt from the five-year mortgage limit.

In response the Commission stated that it:

cannot allow unlimited borrowing by communities and spreading of costs to all ratepayers. The efficiency argument is already accommodated by the policy of permitting 5 years of borrowing future allocations to fund current projects. Alone as a justification for exemption from the 5-year cap efficiency will not be persuasive.

Cost Increases During Project Planning Do Not Justify Exemption.

Project planning cost estimates should be made early and often, and be expected to rise as time passes and the project is better defined. In La Habra's case the Project has not yet started and cost estimates have risen twice.

According to SCE the original estimate of \$1.7 million provided to the city of La Habra in 2003 was a rough order of magnitude estimate used for project feasibility. As such, it was prepared without the benefit of engineering and design, and was based on an estimated trench length of 5,800 feet. A revised estimate of \$2.3 million was prepared and submitted to the city in 2004 to capture increases in material costs experienced in ongoing undergrounding projects including concrete, PVC conduit, steel, and paving.

The third and most recent estimate was prepared in early 2007. This \$3.2 million estimate includes 7,100 feet of underground trenching based on the final design drawings and reflects construction costs in 2007 dollars. SCE states the revised

² Resolution E-3968, April 13, 2006.

estimate is also more conservative in light of the potential need to cease construction under the policies of Resolution E-4001 should costs exceed mortgage limitations.

The total required trench length has increased from the original rough order of magnitude estimate but the Utility Undergrounding District boundary has remained the same from the inception of the project.

In its Finding No. 8 of Resolution E-4001 the Commission went on to state:

8. The Commission should maintain and extend the policy adopted in Res. E-3968 of denying utility exemption requests for authority to commit funds or to begin construction of a project having foreseeable project cost over-runs that require mortgaging more than 5 years of a community's Rule 20 estimated allocations.

Therefore the Project has merit and no fatal flaws but Commission policy does not support granting SCE's request to extend the amortization period before the Project has commenced.

Energy Division recommends that SCE reallocate to La Habra sufficient funds previously allocated to other communities but which those communities have not yet spent or encumbered. SCE's Rule 20 at A.2.e states that SCE shall transfer funds from inactive community programs to active programs that need funds:

... When amounts are not expended or carried over for the community to which they are initially allocated, they shall be ... reallocated to communities with active undergrounding programs.

Based on analysis of SCE's Annual Reports of its Rule 20 Program filed with the Energy Division it appears that SCE can comply with the recommendation to reallocate funds.

SCE states that bringing the La Habra project within the five-year amortization limit would require SCE to reallocate \$2.1 million from other communities. That figure represents a reduction of less than one-third in existing allocations that have not been used for other projects for at least 6 years. SCE allocated more than \$8 million in 2007 alone to some 94 communities that staff would not expect those communities to spend. The funds are allocated annually by formula not by

evidence of need, and SCE's reports each year since 1999 show that none of the 94 communities have completed any undergrounding projects since that year, if not earlier.

SCE should reallocate without delay a portion of such unused funds to comply with Commission policy and approved tariffs, and to permit the City of La Habra to proceed timely with its Project.

COMMENTS

Public Utilities Code section 311(g)(1) provides that this resolution must be served on all parties and be 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, and will be placed on the Commission's agenda for action no earlier than 30 days from today.

FINDINGS

1. Southern California Edison Company filed Advice Letter 2110-E seeking authority to deviate from the five-year maximum allowed under Electric Rule 20 to amortize undergrounding conversion project costs.
2. Under Rule 20, the Commission requires the utility to allocate a certain amount of money each year to all communities for conversion projects.
3. The City of La Habra (La Habra) passed a resolution approving its Harbor Boulevard project (Project) in 2004.
4. In January 2007 La Habra notified SCE that increasing costs for labor and materials would put the cost of the Project beyond the five-year mortgaging threshold.
5. Efficiency of funding integrated projects does not by itself justify an exemption from Rule 20.
6. Cost increases during project planning do not by themselves justify exemption.

7. SCE reported allocating more than \$8 million in 2007 to communities that did not complete any Rule 20 projects in 1999 or in any year since then.
8. Rule 20 directs SCE to reallocate unused funds to communities having active undergrounding programs.
9. SCE estimates that approximately \$2 million would bring the La Habra project within the five-year amortization limit.
10. The City of La Habra asserts it must begin the Project by mid-July 2007 or forfeit a grant for approximately \$663,750 from Orange County for street improvements integrated with its Project.

THEREFORE IT IS ORDERED THAT:

1. The request of the Southern California Edison Company (SCE) by AL 2110-E to deviate from Electric Rule 20 is denied.
2. SCE is to reallocate unused allocations accumulated by inactive communities as needed to bring the La Habra Project within the five-year amortization limit.
3. SCE is to reallocate funds in time to permit La Habra to avoid forfeiting the funds conditionally available to it from Orange County.

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 July 12, 2007; the following Commissioners voting favorably thereon:

Paul Clanon
Executive Director

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



June 11, 2007

I.D.# 6750
RESOLUTION E-4101
July 12, 2007 Commission Meeting

TO: PARTIES TO SCE ADVICE LETTER 2110-E:

Enclosed is draft Resolution Number E-4101 of the Energy Division. It is in response to SCE AL 2110-E and will appear on the agenda at the July 12, 2007 Commission meeting. The Commission may vote on this Resolution at that time or it may postpone a vote until a later meeting. When the Commission votes on a draft Resolution, it may adopt all or part of it as written, amend, modify or set it aside and prepare a different Resolution. Only when the Commission acts does the Resolution become binding on the parties.

All comments on the draft Resolution are due by **June 25, 2007**. Comments shall be served on parties, as outlined below.

1) An original and two copies, along with a certificate of service to:

Honesto Gatchalian
Energy Division
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

2) Brian Schumacher
Energy Division
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Email: bds@cpuc.ca.gov

Comments shall be limited to five pages in length plus a subject index listing the recommended changes to the draft Resolution, a table of authorities and an appendix setting forth the proposed findings and ordering paragraphs.

Comments shall focus on factual, legal or technical errors in the proposed draft Resolution.

Replies to comments on the draft resolution may be filed (i.e., received by the Energy Division) on **June 29, 2007**, and shall be limited to identifying misrepresentations of law or fact contained in the comments of other parties. Replies shall not exceed five pages in length, and shall be filed and served as set forth above for comments.

Late submitted comments or replies will not be considered.

An accompanying declaration under penalty of perjury shall be submitted setting forth all the reasons for the late submission.

Please contact Brian Schumacher at bds@cpuc.ca.gov or 415.703.1226 if you have questions or need assistance.

Sincerely,

Ken Lewis
Program Manager
Energy Division

Enclosure: Certificate of Service
Service List

CERTIFICATE OF SERVICE

I certify that I have by electronic mail this day served a true copy of Draft Resolution E-4101 on parties expressing interest in SCE Advice Letter 2110-E or their attorneys as shown on the attached list.

Dated June 11, 2007 at San Francisco, California.

Honesto Gatchalian

NOTICE

Parties should notify the Energy Division, Public Utilities Commission, 505 Van Ness Avenue, Room 4002 San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the Resolution number on the service list on which your name appears.

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