

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA
ENERGY DIVISION

ITEM# 8 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 small portion of allocations accumulated by communities showing no intention of using the funds. Further SCE is to act in time to permit La Habra to begin construction before a deadline of this year 2007, after which La Habra would forfeit certain partial project 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 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.

Interest in the program varies widely; some communities have backlogs of specific projects waiting for funding, whereas others have no active projects and no apparent plans for any. 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, meaning they meet 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

Throughout the remainder of this Resolution use of the term Rule 20 will refer to Rule 20.A specifically. Projects under Sections B and C are primarily or entirely funded by recipients and are not an issue in this case.

The City of La Habra (La Habra) approved its Harbor Boulevard undergrounding 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. The funds would be available provided the Project begins by, according to SCE, July 15, 2007.

By January 2007 increasing costs put the project mortgage beyond 5 years.

In order to avoid delaying the Project and jeopardizing County funds, SCE requests that it be allowed to mortgage five additional years beyond the five years allowed under Rule 20, and for the Commission to approve the deviation before July 15, 2007.

Energy Division reviewed SCE's request in light of last year's 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 projects, as discussed following².

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 Resolution E-4001. 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 while the Project has merit and no fatal flaws, Commission policy does not support granting SCE's request to extend the amortization period before the Project has commenced.

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.

Annually SCE allocates funds to communities based on formula, not on direct evidence of need. Based on analysis of SCE's Annual Reports of its Rule 20 Program as filed with the Energy Division, funds are available with which SCE can comply with a directive to reallocate funds, with no harm to existing projects or plans.

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.

SCE's Rule 20 reports filed each year since 1999 show that 94 communities have completed no undergrounding projects since that year at least, possibly earlier. Based on the annual allocation formula SCE for the year 2007 alone allocated over \$8 million to those communities.

Further, among those 94 communities 43 have no current undergrounding districts, a prerequisite of Rule 20 to fund actual projects. Finally, as a group their accumulated past unused allocations total more than \$24 million.

Energy Division recommends that SCE reallocate to La Habra a fraction of funds previously allocated to other communities but which those communities have not yet spent or encumbered.

SCE should transfer approximately \$2 million of this total, or approximately 8%, of current or past allocations in order to comply with Commission policy and approved tariffs, and allow the City of La Habra to proceed timely with its Project.

COMMENTS

In accord with Public Utilities Code section 311(g) (1) this resolution was served at least 30 days prior to a vote of the Commission. Comments and Replies received are discussed below.

In the Joint Comments of SCE, Pacific Gas and Electric Company, and San Diego Gas and Electric Company (Utilities) filed on June 25, 2007 the Utilities assert that the Comment period was only 14 days.

ED staff normally provide a 14 to 20 day comment period on draft resolutions. Further, the Draft Resolution was emailed on June 11, 2007, a day in advance of the deadline for 30 days' Notice before the scheduled Commission Meeting of July 12, 2007.

The Commission Provided Sufficient Notice of Intent to Reallocate Funds

The Utilities further claim insufficient notice that the Commission might direct SCE to transfer undergrounding allocations from communities that are not using them for undergrounding conversion projects, to those that need funds.

As well as complying with the 30-day deadline staff discussed by telephone with SCE on May 18, 2007 its intent to recommend reallocation, some 54 days before the scheduled Meeting. Utilities themselves note in their comments that the reallocation provision has stood in Rule 20 for forty years, and that PG&E had exercised it as noted in D.82-01-18.

Utilities suggest the Commission should have stated in Resolution E-4001 August 2006 that it might utilize the reallocation provision of Rule 20. That Resolution did not instruct utilities how to avoid exceeding the 5-year limit on mortgaging Rule 20 conversion projects. Instead it repeated the policy and directive contained in Resolution E-3968, April 13, 2006, issued to SDG&E, and extended and applied it to SCE and PG&E; namely, that utilities are not to plan to exceed the 5-year limit, or to begin construction of projects having foreseeable costs that would do so.

The allocation formula in its current third revision accounts for differences in community size and partially for undergrounding progress but not whether allocated funds are used.

The Commission adopted Decision (D.73078) on September 19, 1967. Instead of specifying a fixed allocation formula, the Commission required each utility to report annually and to propose an amount for its Rule 20 allocation. Utilities have submitted their Rule 20 allocation budgets to the CPUC each year by advice letter and set aside approximately two percent of their electric revenue for overhead conversions. The total allocation then was divided among individual cities or counties based on that jurisdiction's share of the utility's total customers.

In 1981, the CPUC initiated proceedings to set future allocations. The resulting CPUC Decision, D.82-01-018, explained that the per capita approach failed to recognize that subdivisions in newer communities were constructed entirely underground while customers in older communities would be served mainly by overhead lines. D.82-01-018 then ordered each utility to amend its tariff so that Rule 20A allocations for each community would be based on the ratio of its number of overhead meters to the total system overhead meters.

Meanwhile, D.82-12-069 ordered PG&E to consult with the League of California Cities to determine PG&E's future Rule 20A allocation budgets. PG&E and the League agreed to use a "composite inflation and real growth factor" to determine annual Rule 20A allocation budgets. PG&E would adjust annual allocation budgets based on the actual inflation for the period and adjusted growth factors.

In 1989, the League of California Cities filed a petition for modification of D.82-01-018 to change the overhead-only allocation formula to the 50/50 formula, where half the allocation was based on the ratio of the community's overhead meters to total system overhead meters, and half based on the community's total meters to total system meters. Ultimately, the League's petition was approved and the allocation formula was changed to the current 50/50 formula.

Currently, some cities have sufficiently completed their conversion projects that the one half of the allocations that is based on remaining overhead meters approaches zero. However, these cities continue to receive the other half of the 50/50 allocation method which is based on size (total number of meters). Revising the allocation formula to reflect this partial success of the undergrounding conversion program could free up and redirect funds to communities able to utilize them today. This issue is one among several the Commission could take up in a reopened Undergrounding OII.

Reallocation can be made with no adverse effect on active communities and only a small effect on inactive communities.

While protesting that the Draft Resolution does not specify how reallocation should take place, the Utilities in their Comments propose only a method having a major drawback. Across-the-board dollar transfers of current allocations or accumulated balances are faulted in the Comments as inequitable and ruinous to smaller communities.

The Commission agrees and finds that a proportional or fixed percentage reallocation, which would leave intact affected programs if any, is more suitable than a method which reallocates the same dollar amount from both large and small communities.

A cumulative allocation to 43 communities of \$24 million appears unused, uncommitted, and without planning to use the funds.

Of some 91 communities referred to in the Draft as not having completed undergrounding conversion projects recently, the 43 shown in Appendix A have no current undergrounding districts either, as called for by Rule 20. The \$2 million needed to bring La Habra's project within the 5-year limit would only reduce this cumulative allocation to \$22 million dollars, still unused, uncommitted, and with no plans to use the funds. No active projects or allocations to Edison's remaining 161 communities which have active programs or potential Rule 20 projects would be affected. The reallocated \$2 million corresponds approximately to redirecting one year of additional allocations to the functionally inactive 43 communities.

Edison should notify the communities described herein that a portion of their accumulated allocations will be transferred.

In Ordering Paragraph 2 of D.82-01-18 the Commission directed utilities to transfer unused allocations after providing notice to affected communities. The Commission declined to adopt specific standards defining unused allocations, but concluded the utility should at least notify affected communities of transfers. The 43 communities listed in Appendix A appear to have no active programs or projects.

Beginning with Appendix A as a guide Edison should identify its inactive and least active communities based on criteria referred to in this Resolution such that a transfer of approximately 10% of the accumulated balance of each one would meet the shortfall of approximately \$2 million needed by La Habra's Harbor Boulevard Project in order to stay within the five year cap on Rule 20 mortgages.

The Joint Utilities also commented that communities in their search for funds should not look to other communities for unused allocation balances. The

Commission agrees and emphasizes that communities should plan well ahead so as to not schedule projects whose costs would exceed the 5-year limit.

The League of Cities also filed Comments on June 25, 2007. The League requests without elaboration that the Commission adopt the changes proposed by SCE.

No Party except Edison Itself Replied to Edison's Comments

Edison acknowledges that Replies should be limited to legal error, and that no party had expressed opposition to its AL. Its AL states that the Commission must grant Edison a deviation from Rule 20 by July 15, 2007 to keep the City of La Habra from forfeiting funds essential to its Harbor Boulevard project. Therefore Edison states that its Reply serves only to emphasize that the Draft Resolution creates an unmanageable situation for Edison because the funding deadline follows only 3 days after the Commission's July 12, 2007 Meeting.

La Habra's deadline to avoid forfeiting funds is the end of 2007.

On the contrary La Habra's funds are not jeopardized by the Commission's process. The Project Manager explained to Energy Division that the City's deadline to commence construction of the Boulevard portion of its project and thereby avoid forfeiting the County street improvement funds is not that soon, but "November-December or, this year". La Habra primarily needs Edison to complete its portion first, to make way for the City's street contractors to begin using County funds this year, once Edison's trenching and backfill are complete. A meeting between the City and Edison is scheduled for July 30, 2007 to review action by the Commission and discuss next steps.

SCE completed its Reply Comments by stating that it plans to move forward with the La Habra project. We concur with SCE's intent to do so, assuming it remains in compliance with Commission orders.

The benefits of reallocation offset reductions distributed over many.

While SCE and the League raise the adverse effects of reallocating Rule 20 funds, neither mentions the beneficial effects of this provision, especially given the Commission's recent emphasis on firmly capping Rule 20 mortgage extensions at 5 years prior to beginning construction. The Commission has not explicitly raised its original level of overall ratepayer funding for undergrounding conversion projects from the original nominal 2 percent of annual revenues.

Given that communities such as La Habra occasionally have a bona fide need for funds beyond the 5-year limit, and that many communities receiving allocations exhibit little intent to use them, and that other communities have completed most potential projects yet still receive allocations, therefore the flexibility offered by

the Rule 20 reallocation provision is in fact a benefit to ratepayers and communities and the state as a whole.

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 undergrounding 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. A cumulative allocation to 43 communities of \$24 million appears unused, uncommitted, and without planning to use the funds.
11. Reallocation can be made with no adverse effect on active communities and only a small effect on inactive communities.
12. Communities described herein as inactive are listed for the most part in Appendix A.
13. Edison should notify such communities that about 10% of accumulated allocations will be transferred.
14. The benefits of the reallocation policy offset reductions when distributed over many communities.
15. Edison's AL states that based on a January 2007 letter from La Habra the Commission must grant five additional years of mortgaging or La Habra will forfeit \$663,750 in county funds for street improvements integrated with the undergrounding Project.
16. The Project Manger for La Habra stated in July 2007 that to avoid forfeiting county funds Edison need only begin and complete its trench and backfill

work so as to permit La Habra's street improvements contractor to begin work in calendar 2007.

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 comply with Rule 20 and transfer unused allocations accumulated by inactive communities as needed to bring the La Habra Project within the five-year amortization limit.
3. SCE is to act 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

APPENDIX A

APPENDIX A - Total Rule 20A Allocations for Communities Not Completing a Project Since 1999			
No.	Community	2007 Allocation	Current Allocation Balance
1	Unincorporated Fresno County	\$ 29,659	\$ 563,767
2	Unincorporated Imperial County	\$ 5,287	\$ 147,357
3	Bishop	\$ 4,377	\$ 79,620
4	California City	\$ 29,365	\$ 501,787
5	McFarland	\$ 10,194	\$ 52,442
6	Unincorporated Kings County	\$ 70,676	\$ 570,129
7	Agoura Hills	\$ 44,086	\$ 838,045
8	Artesia	\$ 65,478	\$ 528,860
9	Avalon	\$ 22,405	\$ 28,258
10	Bell Gardens	\$ 145,746	\$ 1,843,496
11	Bradbury	\$ 4,933	\$ 88,122
12	Covina	\$ 214,095	\$ 3,399,979
13	Glendale	\$ 6,995	\$ 6,995
14	Industry	\$ 20,439	\$ 293,143
15	La Verne	\$ 79,830	\$ 160,543
16	Los Angeles, City of	\$ 8,097	\$ 8,097
17	Maywood	\$ 102,533	\$ 1,935,370
18	Palos Verdes Estates	\$ 45,933	\$ 709,735
19	Pasadena	\$ 974	\$ 974
20	Rancho Palos Verdes	\$ 139,005	\$ 273,125
21	San Gabriel	\$ 203,497	\$ 2,926,875
22	South El Monte	\$ 104,004	\$ 1,301,315
23	Unincorporated Madera County	\$ 199	\$ 5,961
24	Aliso Viejo	\$ 70,728	\$ 509,996
25	Anaheim	\$ 311	\$ 311
26	La Palma	\$ 27,403	\$ 508,994
27	Stanton	\$ 95,454	\$ 1,600,832
28	Villa Park	\$ 13,600	\$ 196,457
29	Blythe	\$ 38,781	\$ 324,933
30	Norco	\$ 64,253	\$ 537,022
31	Riverside, City of	\$ 809	\$ 809
32	San Jacinto	\$ 48,361	\$ 1,063,831
33	Adelanto	\$ 26,070	\$ 348,418
34	Banning	\$ 522	\$ 522
35	Colton	\$ 2,255	\$ 2,255
36	Unincorporated San Diego County	\$ 158	\$ 158
37	Goleta	\$ 87,730	\$ 519,702
38	Exeter	\$ 33,239	\$ 707,578
39	Farmersville	\$ 19,742	\$ 565,861
40	Porterville	\$ 103,655	\$ 39,328
41	Woodlake	\$ 20,534	\$ 605,117
42	Unincorporated Tuolumne County	\$ 61	\$ 1,323
43	Port Hueneme	\$ 57,031	\$ 404,945
	Totals	\$ 2,068,504	\$ 24,202,387

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.

² Resolution E-3968, April 13, 2006.