



**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

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09/13/22

04:09 PM

R1705010

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

Rulemaking 17-05-010
(Filed May 11, 2017)

**OPENING COMMENTS OF RURAL COUNTY REPRESENTATIVES OF
CALIFORNIA TO ASSIGNED COMMISSIONER'S SCOPING MEMO**

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September 13, 2022

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I. Introduction

In accordance with Rule 6.2 of the California Public Utilities Commission (“Commission”) Rules of Practice and Procedure (“Rules”), Rural County Representatives of California (RCRC) submits opening comments to Assigned Commissioner Alice Reynolds’s August 16, 2022 scoping memo and ruling. RCRC was granted party status via an e-mail ruling by Administrative Law Judge Stephanie Wang on April 23, 2021.

II. Comments

California has a pressing need to increase safety, reliability, and resiliency of utility infrastructure. California’s grid is facing increasing strain as a result of climate change, including extreme weather events further aggravating tree mortality due to persistent drought and invasive pests. These conditions, combined with often overdue infrastructure maintenance and upgrades, have significantly increased the risk of utility-caused wildfire. There has also been a sharp decline in energy reliability for millions of Californians over the last few years as utilities proactively and reactively deenergize electrical circuits to reduce wildfire risk. More recently, California sustained a historic heat wave that resulted in grid stress and statewide Flex Alerts.¹ This decline in energy

¹ California Independent System Operator, [California faces several more days of heat and grid stress; High electricity demand, wildfire threats combine to create supply uncertainty](#), September 2, 2022.

reliability will stymie the state's efforts to electrify buildings and the transportation system to achieve the state's aggressive carbon reduction targets.

To be clear, losing power is not just an inconvenience, it has profound impacts on the health and welfare of residents, especially those with disabilities, medical vulnerabilities, and the elderly.² Further, it disrupts educational outcomes for children and damages commerce and services that are the lifeblood of communities. Unfortunately, many rural counties have been experiencing unplanned, unannounced, long-duration power outages on a *weekly* basis several months out of the year. Simply put, rural communities are experiencing third world infrastructure conditions at first world prices. This cannot continue.

A. Role of undergrounding.

Undergrounding electric utility facilities, both within and outside the Rule 20 program, will improve safety, reliability, and the well-being of Californians. However, there are large differences in costs between undergrounding and other system improvements. Furthermore, there are other considerations present in rural settings that are not necessarily of concern in urban or suburban environments. For instance, rural and disadvantaged communities have limited economies of scale and smaller populations that place Rule 20 projects out of reach in areas that could benefit significantly from increased safety and reliability.

For these reasons, RCRC strongly supports adding wildfire safety and emergency-related eligibility criteria to the Rule 20A program. RCRC is not alone. As the Commission noted, "in October 2020 comments, the vast majority of commenters agreed that the Commission should continue to authorize ratepayer funding for Rule 20A projects with a greater focus on safety, reliability, and emergency-related purposes."³ Additionally, Liberty Utilities appears to rely on the Rule 20 program to provide wildfire safety benefits in addition to other project benefits, as evidenced by their Wildfire Mitigation Plan filings.⁴

² See Commission President Marybel Batjer Letter to PG&E, October 25, 2021, pages 1-2: "Fast Trip Outages are more than a matter of inconvenience – they are disruptive, and for customers who rely on electricity to maintain necessary life functions, they can be life-threatening."

³ *Decision 21-06-013, Phase 1 Decision Revising Electric Rule 20 and Enhancing Program Oversight*, June 7, 2021, page 12.

⁴ Page 120, *Liberty Utilities 2022 Wildfire Mitigation Plan Update*: "Most of Liberty's undergrounding projects currently underway are customer-initiated Rule 20A conversions of overhead systems based on county-allocated funds. Rule 20A projects are nominated by the city or county and are paid for by the electric utility ratepayers. Because ratepayers contribute the bulk of the costs of Rule 20A programs through utility rates, the projects must be in the public interest."

We also note that utility undergrounding, both within and outside the Rule 20 program, can help the state close the digital divide. Many of the most important safety-related undergrounding projects are in rural areas – areas that often have some of the greatest barriers to high-speed internet. California has a tremendous opportunity to promote the distribution of fiber for access to high-speed internet through co-trenching with utility undergrounding projects. The CPUC is well-positioned to facilitate those efforts as utilities plan for near- and medium-term undergrounding projects.

B. Rule 20 has continued vitality and can complement other utility wildfire safety undergrounding efforts.

Rule 20 is merely one pathway to undergrounding utility power lines. Utilities have also built undergrounding into their Wildfire Mitigation Plans⁵. In particular, PG&E announced its intentions in 2021 to underground about 10,000 miles of powerlines in or near high fire-threat areas. This would effectively triple the amount of undergrounding currently located in high fire threat areas.⁶ Rule 20 undergrounding projects, in relation, have been relatively small in scale and have taken years to finish. It remains unclear how PG&E can increase its pace and do so at reduced costs as promised with their 10,000 mile initiative.

What makes Rule 20 special is that it is focused on those projects identified by local governments. One of the most significant differences between Rule 20 undergrounding and other utility-led undergrounding efforts is that it puts local governments in the driver seat. Where utilities identify and prioritize wildfire mitigation and resilience projects, there is little or no involvement with local governments in determining which projects will be included in those efforts. Indeed, local governments have occasionally complained about utilities' lack of coordination with local governments and expressed confusion about why other seemingly higher-priority distribution segments impacting communities were not chosen for undergrounding.

Despite the fact that PG&E plans to underground 10,000 miles of powerlines for wildfire risk reduction, there is still a compelling need to expand the Rule 20 program to support safety,

⁵ Section 9.4, Guideline 9j from the Office of Energy Infrastructure Safety's final Wildfire Mitigation Plan guidelines specifically requires utilities to include, beginning in their 2022 Wildfire Mitigation Plan Updates, reports on undergrounding implementation such as its methodology, key assumptions, decision-making processes, design, long-term operations, etc.

⁶ According to the California State Auditor's *Electrical System Safety Report* (2021-117) published March 2022, only 12% or 4,996 miles have been undergrounded in PG&E high fire threat service territory, while 33,268 miles—80%—remain bare.

resilience, and emergency-related purposes. The Rule 20 program can provide an important safety net for locally-identified wildfire safety, resilience, and emergency projects that are not selected by the utility but which are incredibly important from a local perspective.

C. RCRC strongly supports efforts to enhance engagement with local governments to inform utility investments in undergrounding for safety, resilience, and emergency-related purposes.

The Scoping Memo notes that Phase 2 of this proceeding will consider whether the Commission or utilities should enhance engagement with local governments to inform utility investments in undergrounding for safety, resilience, and emergency-related purposes. Considering that the Commission has not yet determined whether to expand Rule 20 to include such projects, we take this opportunity to discuss the benefits of enhanced local engagement in the context of both Rule 20 and non-Rule 20 undergrounding projects.

In the closing days of the 2022 legislative session, the Legislature passed Senate Bill 884 by Senator Mike McGuire.⁷ That bill establishes an expedited process for the state’s review of utility undergrounding projects, granting the Office of Energy Infrastructure Safety (OEIS) and the Commission nine months each to review a utility’s ten-year plan for undergrounding distribution infrastructure in high fire threat districts and post-disaster rebuild areas. While the bill provides opportunities for public comment to the OEIS and Commission, far more benefits would be achieved through enhanced engagement with locals during plan development and before submission to the state for review.

Enhanced engagement with local governments can better inform both local government and utility decision-making, provide advanced notice of potential projects, and identify similar or overlapping public works projects within the undergrounding plan implementation horizon in order to reduce expenses, minimize environmental impacts, and avoid complications.

“Dig once” policies can substantially reduce project costs for a variety of ratepayers and taxpayers through non-duplicative construction costs and materials, as well as provide other public benefits including reduced disruptions and detours on highly traversed rights-of-way in communities. Coordination with local governments can ensure multiple projects do not compound access issues to ingress and egress routes through a community and that limited taxpayer resources

⁷ While Governor Newsom had not acted upon SB 884 by the time these comments were filed, he has until the end of September to either sign or veto the measure.

to improve road conditions will not be diminished. Furthermore, local governments are building and supporting the development of open-access, high speed broadband that includes installing fiber conduit. Municipalities are well-positioned to plan and coordinate multiple, simultaneous infrastructure projects.

Finally, enhanced coordination with local governments can significantly improve local energy reliability and resiliency for those customers in greatest need, ensuring that those projects are included in utility plans and do not fall through the cracks. The 1,000 plus Enhanced Powerline Safety Settings (EPSS) program outages experienced by PG&E customers over the last few months have had debilitating impacts on communities, including disruptive impacts on schools losing power repeatedly. To the extent that utility undergrounding projects can reduce wildfire risk and increase reliability, enhanced engagement with local governments can help inform utility decision making about the needs of critical customers.

III. Response to Ruling Questions

Per the Commissioner's ruling, RCRC responds to the specific questions posed in the scoping memo as follows:

- 1. Should the Commission Direct any of the investor-owned utilities to reallocate unused Rule 20A work credits of inactive communities to active projects with insufficient work credits in underserved and/or disadvantaged communities? If so, how should underserved communities and/or disadvantaged communities be defined and prioritized?***

We caution the Commission against reallocating unused work credits at this time. Phase 2 of this proceeding will contemplate whether the Rule 20A program should be expanded to fund safety, resilience, and emergency-related projects. Many communities, including those currently considered inactive, may be very interested in undertaking a Rule 20 project for wildfire safety or resilience, especially in light of the numerous outages experienced by customers in PG&E's service territory in the last few months. These communities may see the Rule 20 program as one of the few tools available to local governments to alleviate the impacts of at least a portion of those recurring power outages, especially as utilities try to discount the role microgrids may play as a mitigation and resiliency tool.⁸

⁸ See Reply Comments of Pacific Gas and Electric Company (U-39-E), Southern California Edison Company (U 338-E), and San Diego Gas & Electric Company (U 902 E) to Administrative Law Judge's Ruling Requesting Comment on the Microgrid Incentive Program Staff Proposal, R. 19-09-009, August 19, 2022, page 14.

Some communities may require more time to plan next steps to benefit from the program, given Decision 21-06-013’s modification of the Rule 20 program with respect to allocation and transfer of work credits. Given D.21-06-013 and the Scoping Memo’s consideration of program expansion, many communities may prefer to use them for purposes contemplated in Phase 2 of this proceeding. Other communities may simply not have any projects that qualify under the current criteria (aesthetics and access), but may have many projects that could qualify to improve safety, resilience, or emergency-related outcomes. Ultimately, much hinges upon the Commission’s determination being contemplated in this phase of the proceeding.

With so much uncertainty about whether wildfire safety, resilience, and emergency-related projects will be eligible for Rule 20A funding, it would be premature to redirect or reallocate unused Rule 20A work credits from inactive communities – especially if the only recipients are active projects with insufficient work credits. The Commission must first determine the full scope of the Rule 20A program. Only after that determination should the Commission explore how to reallocate unused work credits from inactive communities.

The question presented in the scoping memo asks whether unused work credits should be reallocated and only seems to contemplate reallocation to active work projects with insufficient work credits. Unfortunately, this seems to ignore the scenario where unused work credits could be redirected to communities for new wildfire safety-related undergrounding projects – projects which by definition cannot be “active projects” because they are not authorized under the current program.

With respect to the definition of underserved and/or disadvantaged communities, RCRC urges the Commission to establish a checklist approach where a community qualifies as underserved and/or disadvantaged if it meets *any* of the established criteria (below). We suggest building upon the CPUC’s definition of “environmental and social justice communities,”⁹ such as the following:

- Low-income communities and census tracts where the household income is less than 80% of the area or state median income;¹⁰

⁹<https://www.cpuc.ca.gov/industries-and-topics/electrical-energy/infrastructure/disadvantaged-communities>.

¹⁰ Alternatively defined as: “low-income communities” by Health and Safety Code Section 39713 for allocation of cap and trade auction revenues and “disadvantaged communities” in Water Code Sections 8007, 13288, 79505.5, and 79702(j).

- Communities identified by CalEnviroScreen as being at greatest risk;
- State or federally recognized tribal communities;
- Locations with lower historical levels of energy reliability where the risk of outage would be decreased by powerline undergrounding; or,
- Communities in the Commission’s Tier 2 or Tier 3 High Fire Threat Districts.¹¹

RCRC suggests that this “checklist” be weighted such that communities that satisfy multiple criteria will be prioritized for award/allocation of unused work credits.

If the Commission ultimately determines to reallocate unused work credits and decides to expand the program to include wildfire safety, resilience, and emergency-related projects, it should focus a significant portion of resources on those underserved and disadvantaged communities at greatest risk of an emergency or persistent energy disruption.

2. Are there any barriers to the conversion of Rule 20A projects with insufficient work credits to Rule 20B or Rule 20C projects? Should there be other mechanisms to enable local jurisdictions and individuals to contribute to the costs of Rule 20A projects with insufficient work credits?

Aside from legal or equity-related barriers associated with converting Rule 20A projects to the Rule 20B or Rule 20C programs, we note that local governments will very rarely have discretionary funding available to undertake utility undergrounding projects themselves. While there have been challenges with the Rule 20A program, including the insufficiency of funding and project delivery timelines, the program has been appealing because it has a dedicated source of funding. Ultimately, we believe that the Rule 20B and Rule 20C will be underutilized and communities will essentially have no *real* tools to underground existing powerlines. These concerns are even more acute for many rural counties and disadvantaged communities that lack the population density and experience more resource constraints than some of their larger urban counterparts and would benefit the most from utility undergrounding.

While these considerations may not be as pronounced if Rule 20A was limited to only aesthetic projects, the program also includes safety and access-related projects (and we hope it will be expanded to include wildfire safety, resiliency, and emergency related projects). There will be

¹¹ This category is particularly important if the Commission decides to expand the Rule 20A program to address wildfire safety and resiliency related projects.

a continued need for these projects, but without future work credit allocations, there will be no real way for many communities to fund them.

For these reasons, we urge the Commission seriously consider alternative pathways for local governments to secure undergrounding projects. While the Rule 20A experience has been less than ideal, the Rule 20B and 20C programs do not represent real alternatives to meet local undergrounding needs. If the Commission permanently discontinues work credit allocations and effectively suspends the Rule 20A program, we urge it to consider establishing a process through which local governments can petition the Commission (or IOU) to undertake and fund specific utility undergrounding projects, along with a justification of the need for the project.

IV. Conclusion

We appreciate your consideration of our comments. We respectfully request that the Commission's Docket Office be directed to accept these comments for filing.

Dated: September 13, 2022

Respectfully submitted,

/s/ John Kennedy

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