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TO PARTIES OF RECORD IN RULEMAKING 17-05-010:

This is the proposed decision of Commissioner Alice Reynolds. Until and unless the Commission hears the item and votes to approve it, the proposed decision has no legal effect. This item may be heard, at the earliest, at the Commission's June 8, 2023 Business Meeting. To confirm when the item will be heard, please see the Business Meeting agenda, which is posted on the Commission's website 10 days before each Business Meeting.

Parties of record may file comments on the proposed decision as provided in Rule 14.3 of the Commission's Rules of Practice and Procedure.

/s/ MICHELLE COOKE
Michelle Cooke
Acting Chief Administrative Law Judge

MLC:mef
Attachment

Decision **PROPOSED DECISION OF COMMISSIONER ALICE REYNOLDS**
MAILED ON (5/5/2023)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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

Rulemaking 17-05-010

**PHASE 2 DECISION REVISING ELECTRIC RULE 20 AND ESTABLISHING
LOCAL AND TRIBAL GOVERNMENT CONSULTATION REQUIREMENTS**

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PHASE 2 DECISION REVISING ELECTRIC RULE 20 AND ESTABLISHING LOCAL AND TRIBAL GOVERNMENT CONSULTATION REQUIREMENTS

Summary

Electric Rule 20 (Rule 20) defines policies and procedures for investor-owned utilities to convert overhead power lines and other equipment to underground electric facilities at the request of a city, county, or private applicant.

This Phase 2 decision discontinues Rule 20A and Rule 20D to prevent ratepayers from funding inefficient and inequitable infrastructure investments. Rule 20A is a subprogram of Rule 20 that allocates ratepayer-funded work credits to cities and unincorporated counties for projects that meet criteria focused on aesthetic purposes. Rule 20D is a subprogram that allocates ratepayer-funded work credits to projects for mitigating fire risk in San Diego Gas & Electric Company's service territory. No project has ever been completed through Rule 20D.

The Commission will retain its authority to decide whether to approve ratepayer-funded investments in undergrounding electric lines or authorize less expensive solutions for mitigation of wildfire-related risks through other processes, including General Rate Case proceedings. Local and tribal governments will have the opportunity to provide input on large utilities' wildfire-related undergrounding plans on a regular basis.

This decision directs Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company to leverage an existing semi-annual workshop requirement to consult with local and tribal governments about wildfire-related undergrounding investment plans.

This proceeding is closed.

1. Background

On May 11, 2017, the Commission issued the Order Instituting Rulemaking to Consider Revisions to Electric Rule 20 and Related Matters (OIR). The OIR described the long procedural history of the Electric Rule 20 program (Rule 20), dating back to 1967. The OIR named certain electric utilities and communications providers as respondents to the rulemaking.¹

Rule 20A is a subprogram of Rule 20 that allocates ratepayer-funded work credits to cities and unincorporated counties for projects that meet eligibility criteria focused on aesthetic purposes. Rule 20D is a subprogram that allocates ratepayer-funded work credits to reduce fire risk in high fire risk areas within cities and unincorporated counties in San Diego Gas & Electric Company (SDG&E) service territory.

On June 3, 2021, the Commission approved Decision (D.) 21-06-013, which revised Rule 20A as follows: (a) discontinued new work credit allocations for Electric Rule 20A projects, (b) clarified Electric Rule 20A project eligibility criteria and work credit transfer rules, and (c) enhanced program oversight. The decision concluded Phase 1 of the proceeding (Phase 1 Decision).

On August 16, 2022, the assigned Commissioner issued a Scoping Memo and Ruling (scoping memo) that established the issues for Phase 2 of this

¹ Electric utility respondents: Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), San Diego Gas & Electric Company (SDG&E), Bear Valley Electric Service Company (BVES), Liberty Utilities (Liberty), and PacifiCorp. Facilities-based communications provider respondents: Incumbent Local Exchange Carriers, AT&T California, Cal-Ore Telephone Company, Calaveras Telephone Company, Citizens Telecommunications Company of California, Ducor Telephone Company, Foresthill Telephone Company, Happy Valley Telephone Company, Hornitos Telephone Company, Kerman Telephone Company, Pinnacles Telephone Company, Ponderosa Telephone Company, Sierra Telephone Company, Siskiyou Telephone Company, Frontier California, Volcano Telephone Company, Consolidated Communications of California, Winterhaven Telephone Company, and other facilities based communication providers.

proceeding and requested party comments. The following parties filed opening comments and/or reply comments to the scoping memo questions: Rural County Representatives of California (RCRC); City of San Jose; Liberty Utilities (CalPeco Electric) LLC (Liberty Utilities); PacifiCorp d.b.a. Pacific Power (PacifiCorp); County of Sonoma; County of San Diego; Southern California Edison Company (SCE); League of California Cities (Cal Cities); SDG&E; Public Advocates Office of the California Public Utilities Commission (Cal Advocates); California Cable & Telecommunications Association (CCTA); AT&T Mobility, Pacific Bell Telephone Company d/b/a AT&T California (AT&T); City of Laguna Beach; City of San Diego; Pacific Gas and Electric Company (PG&E); and California State Association of Counties (CSAC).

On November 8, 2022, the Commission's Energy Division held a workshop (2022 Workshop) on the Phase 2 issues. Over 200 stakeholders participated in the workshop. Workshop panelists included representatives of PG&E, SCE, SDG&E, The Utility Reform Network (TURN), Cal Advocates, CSAC, RCRC, Lake County, and Cal Cities.

On December 7, 2022, the assigned Administrative Law Judge (ALJ) issued a ruling to request party comments on the 2022 Workshop. The following parties filed opening comments and/or reply comments to the scoping memo questions: SCE, PG&E, SDG&E, Cal Cities, Cal Advocates, TURN, County of Tuolumne, County of San Diego, AT&T, Citizens Telecommunications Company of California Inc., Frontier Communications of the Southwest Inc., Frontier California Inc., Santa Barbara Cellular Systems, Ltd., and New Cingular Wireless PCS, LLC.

This matter was submitted on February 17, 2023 upon filing of reply comments to the ALJ ruling on December 7, 2022.

2. Issues Before the Commission

The Phase 2 issues before the Commission are as follows:

- a. Whether to modify Rule 20A project eligibility criteria to include wildfire safety and emergency-related undergrounding or otherwise modify Rule 20A project eligibility criteria;
- b. Whether the Commission or utilities should enhance engagement with local and tribal governments to inform utility investments in undergrounding for wildfire safety, resilience, or emergency-related purposes;
- c. Whether to modify or discontinue the Rule 20D program;
- d. Whether to modify the Rule 20 program to support future projects in underserved, tribal, and/or disadvantaged communities or otherwise advance the goals of the Commission's Environmental and Social Justice (ESJ) Action Plan 2.0; and
- e. Whether to take additional steps to support the completion of active Rule 20A projects with insufficient work credits in underserved, tribal, and/or disadvantaged communities.

3. Wildfire-Related Undergrounding Investments by Ratepayers

Before addressing issues (a) through (c) above, this decision will first consider what role local and tribal governments should have in determining where to cost-efficiently invest ratepayer funding in undergrounding power lines to mitigate wildfire-related risk.

Local governments argued that they should be involved in siting undergrounding projects for wildfire-related purposes because local governments have valuable knowledge of the wildfire-related needs of their communities. RCRC asserted that local governments have a deep understanding of their communities, including energy reliability needs and natural disaster vulnerabilities. RCRC strongly supported enhanced engagement with local

governments to plan undergrounding projects for wildfire mitigation and resilience purposes because there is “little or no utility involvement with local governments to determine which undergrounding projects will be included in their wildfire mitigation or resilience programs.”² RCRC argued, “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.”³

Cal Cities similarly argued that utility ratepayers should fund “locally-identified wildfire safety and emergency projects that might otherwise not be high priority for PG&E but hold great significance locally and for overall wildfire mitigation.” Cal Cities also strongly supported enhancing engagement with local governments earlier in the planning process for utility investments in undergrounding for safety, resilience, or emergency-related purposes. Cal Cities proposed that large utilities should be required to consult with cities about their wildfire-related undergrounding plans early enough in the planning process so that the information gained from the consultation can inform the large utility’s plans. Cal Cities proposed additional requirements for public hearings and comments from local officials.⁴

Tuolumne County commented that local governments should have the opportunity to provide input on utilities’ wildfire-related undergrounding plans during the “scoping and planning stages.”⁵

² RCRC’s comments on January 20, 2023.

³ RCRC’s comments on September 13, 2022.

⁴ Cal Cities’ comments on September 15, 2022.

⁵ Tuolumne County comments on January 20, 2023.

The large electric utilities each argued that the Commission should not create new requirements for utilities to consult with local or tribal governments about wildfire-related undergrounding projects. SDG&E argued that utilities have the most expertise in wildfire safety and should continue to identify where to invest in undergrounding power lines for safety and emergency purposes, and that its existing processes for consulting with local governments is sufficient. SDG&E also opposed changing Rule 20A project eligibility criteria to include wildfire mitigation.⁶

PG&E argued that its existing processes for engaging with local governments and tribes is sufficient because it “appropriately balances the utilities’ need to efficiently move forward with our undergrounding work that mitigates for system-wide wildfire risk and accounts for the needs of communities, tribes and customers to be informed and involved in the process.” PG&E explained that it first selects wildfire undergrounding investments based on wildfire risk models, in consultation with regulators, and then begins engagement with local governments and tribes after the projects are selected.⁷

SCE opposed Cal Cities’ proposal for increasing engagement with local governments in planning utility-driven investments in wildfire undergrounding, arguing that its existing and planned outreach efforts already offer opportunities for local and tribal governments to provide input to inform SCE’s determinations about whether to pursue wildfire mitigation-related undergrounding projects.⁸

No party specifically argued that small or multi-jurisdictional utilities should be required to increase local and tribal engagement about wildfire-related

⁶ SDG&E comments on September 15, 2022.

⁷ PG&E’s comments on February 17, 2023.

⁸ SCE’s comments on January 20, 2023 and February 17, 2023.

undergrounding investment plans. No small or multi-jurisdictional utility addressed this issue in comments.

Local and tribal governments should have the opportunity to provide input on large electric utilities' wildfire-related undergrounding plans on a regular basis. Local governments have valuable knowledge of the wildfire-related needs of their communities. It is not sufficient for utilities to inform local governments about wildfire-related undergrounding plans and projects after these plans are final.

Ratepayer advocates strongly opposed allowing local governments to decide where ratepayers should invest in wildfire-related undergrounding through the Rule 20A program. TURN asserted that Californians are facing an "unprecedented and increasingly dire affordability crisis" and urged the Commission to avoid irresponsible spending of ratepayer funds. TURN argued that the Commission should retain its authority to decide whether to approve ratepayer-funded investments in undergrounding electric lines or authorize less expensive solutions through General Rate Case (GRC) Phase 1 proceedings.⁹

Cal Advocates similarly argued that decisions to invest in undergrounding or other solutions for mitigating wildfire risk at much lower costs to ratepayers, including covered conductor, should be made through the Wildfire Mitigation Plans (WMPs) approval process.¹⁰

PG&E and SDG&E agreed that decisions regarding wildfire mitigation investments should continue to be made through the existing GRC Phase 1 and WMPs processes and that Rule 20A should not be expanded to address wildfire

⁹ TURN's comments on January 20, 2023.

¹⁰ Cal Advocates comments on January 20, 2023.

mitigation.¹¹ PG&E also noted that Senate Bill (SB) 884, Stats. 2022, ch. 819, requires the creation of an additional regulatory process for reviewing utility undergrounding investments for wildfire mitigation, which will be overseen by the Office of Energy Infrastructure Safety (OEIS) and the Commission.¹² Liberty Utilities and PacifiCorp agreed that addressing wildfire safety and emergency issues should remain outside of the Rule 20A context since conversion of overhead facilities to underground is very expensive in comparison to other wildfire mitigation measures such as hardening the overhead system.

The Commission and OEIS have existing processes that are more appropriate than the Rule 20 program for considering whether to approve ratepayer-funded investments in wildfire-related undergrounding or more cost-efficient measures. It is reasonable for the Commission to retain its authority to decide whether to approve ratepayer-funded investments in undergrounding electric lines or authorize less expensive solutions for mitigation of wildfire-related risks through existing processes and any future process created in accordance with SB 884.

3.1. Whether to Add Rule 20A Project Eligibility Criteria for Wildfire-Related Undergrounding

As discussed above, local governments should have the opportunity to influence the planning of utilities' wildfire-related undergrounding projects, but the Commission will not delegate its authority for deciding whether to approve ratepayer-funded investments in undergrounding electric lines or more cost-efficient solutions for mitigation of wildfire-related risks.

¹¹ Comments of PG&E and SDG&E on January 20, 2023.

¹² PG&E's comments on January 20, 2023.

RCRC, Cal Cities, and CSAC argued that local governments should have the opportunity to pursue Rule 20A projects for wildfire-related projects because utilities may not prioritize projects that reflect local governments' knowledge of the specific needs of their communities.¹³ As discussed in Section 3.2 below, this decision will provide opportunities for local and tribal governments to inform utilities' plans for wildfire-related undergrounding. This approach will incorporate local and tribal concerns while retaining the Commission's authority to determine whether to approve ratepayer funding for investments in wildfire-related undergrounding projects.

SCE proposed to give local and tribal governments the opportunity to propose Rule 20A projects for wildfire mitigation purposes in the locations with the highest wildfire-related safety risks, with the caveat that utilities should have the option to assess whether it makes sense to underground overhead lines in areas where covered conductor has already been installed to reduce ignition risk.¹⁴ SCE proposed to allow utilities to decide whether to approve Rule 20A projects for wildfire mitigation purposes where covered conductor has been installed, presumably because the costs may outweigh the benefits of these projects.

This decision will not adopt SCE's proposal because the Commission will not delegate its authority to utilities or local governments for determining whether the costs of wildfire-related undergrounding investments outweigh the benefits for specific projects.

¹³ RCRC comments on September 13, 2022; Cal Cities' comments on September 15, 2022; and CSAC's comments on September 26, 2022.

¹⁴ SCE's comments on February 17, 2023.

Further, as discussed in Section 3.3 below, local governments have not completed a single project under Rule 20D, which the Commission authorized in 2014 to allow local governments in SDG&E's service territory to use ratepayer funding for wildfire mitigation undergrounding in locations designated by SDG&E.

For the reasons above, it is reasonable to not add wildfire-related project eligibility criteria to Rule 20A.

3.2. Whether to Enhance Engagement with Local Governments and Tribal Jurisdictions to Inform Utility Investments in Undergrounding for Wildfire Safety, Resilience, or Emergency-Related Purposes

As discussed above, this decision concludes that local and tribal governments should have the opportunity to provide input on the large electric utilities' wildfire-related undergrounding plans on a regular basis.

PG&E, SCE, and SDG&E each opposed the creation of new local consultation processes, arguing that they each have extensive existing processes for engaging with local and tribal governments about planned investments in wildfire-related undergrounding.¹⁵ Liberty Utilities, PacifiCorp, and Bear Valley did not comment on this topic.

In contrast, RCRC commented that although it is a member of PG&E's Undergrounding Advisory Group and an active stakeholder of the Office of Energy Infrastructure Safety's Wildfire Mitigation Plan process, the 2022 Workshop presentations on utilities' wildfire undergrounding efforts provided "the first real look" into PG&E's undergrounding plans and criteria for selecting

¹⁵ See comments of PG&E, SCE, and SDG&E on January 20, 2023 and February 17, 2023.

project locations.¹⁶ PG&E acknowledged that it generally informs local and tribal governments about undergrounding plans after the project locations have been selected.¹⁷

This decision recognizes that the creation of a new local and tribal consultation process would significantly increase administrative costs borne by electric ratepayers as well as local and tribal governments. However, it is necessary to establish utility consultation requirements to ensure that local and tribal governments have the opportunity to provide input on utilities' wildfire undergrounding plans on a regular basis. This decision will leverage an existing consultation process to minimize administrative costs.

In D.20-06-017, the Commission ordered PG&E, SCE, and SDG&E to conduct semi-annual workshops (Semi-Annual Local/Tribal Workshops) designed to empower local and tribal jurisdictions with a better understanding of grid operations, utility infrastructure, and the nature of weather events alongside utilities' Public Safety Power Shutoff (PSPS) mitigation initiatives so they can make informed decisions on where to focus their resiliency planning efforts, capital investments, and pre-PSPS event operations. The agendas for these Semi-Annual Local/Tribal Workshops must include a discussion of utilities' electric transmission and distribution infrastructure investment plans.¹⁸ Wildfire-related undergrounding is highly relevant to this agenda item.

It is reasonable to direct PG&E, SCE, and SDG&E to include the following items in the agenda of each Semi-Annual Local/Tribal Workshop: (a) briefing about the utility's wildfire-related transmission and distribution investment

¹⁶ RCRC's comments on January 20, 2023.

¹⁷ PG&E's comments on January 20, 2023.

¹⁸ Ordering Paragraph 7 of D.20-06-017.

plans, including plans for potential undergrounding project locations that are not final; and (b) opportunity for local and tribal governments to share their priority sites for wildfire-related undergrounding projects.

3.3. Whether to Modify or Discontinue the Rule 20D Program

On February 13, 2020, the assigned ALJ issued a ruling to request comments on a staff proposal to reform the Rule 20 program (February 2020 Staff Proposal). The February 2020 Staff Proposal included the following background information about the Rule 20D program.

Rule 20D is currently only in SDG&E's service territory and it applies specifically to undergrounding in SDG&E's high fire threat areas where undergrounding is deemed by SDG&E to be a preferred method for wildfire mitigation in a given area. Rule 20D is structured similarly to the Rule 20A program and is similarly-community-driven. SDG&E annually allocates work credits to eligible communities and that they may borrow forward five years to obtain additional funds. Unlike Rule 20A, Rule 20D only allows communities to utilize work credits towards the conversion of primary distribution to underground. The program does not pay for undergrounding secondary lines or services, or for panel conversions for residences or businesses. Rule 20D has been in existence since 2014 and SDG&E has not started or completed a single project to date through this program.¹⁹

The February 2020 Staff Proposal included the following explanation for its recommendation to discontinue the Rule 20D program.

Rule 20D may no longer serve a function in light of the utilities' [WMPs] which are intended to fire harden overhead infrastructure in the same high fire threat areas that would be eligible for Rule 20D projects. The utilities' WMPs are not precluded from including undergrounding as a mitigation measure. Rule 20D projects may place higher costs on ratepayers than simply installing steel poles

¹⁹ February 2020 Staff Proposal at 11.

and covered conductors. Furthermore, the program may be too slow to complete undergrounding projects in light of the growing wildfire risk. Not a single Rule 20D project has been initiated since the program began in 2014 and any projects could take up to seven years to complete.²⁰

The February 2020 Staff Proposal recommended discontinuing the allocation of new work credits immediately and allowing communities to use previously allocated work credits to complete existing projects within 10 years.²¹

In D.21-06-013, the Commission declined to address the staff recommendation to discontinue the Rule 20D program and concluded that the Commission would consider whether to modify or discontinue the Rule 20D program in Phase 2 of this proceeding.

In the scoping memo, the assigned Commissioner requested party comments on whether to modify or discontinue Rule 20D. Only SDG&E, County of San Diego, and Cal Advocates commented on the Rule 20D issue. The City of San Diego had no comments on this issue.²²

SDG&E supported discontinuation of Rule 20D in alignment with its comments that wildfire-related undergrounding investments should be approved through GRC Phase 1 proceedings and WMPs. SDG&E asserted that since the beginning of the program, no community has been able to identify a Rule 20D project due to the eligibility terms.²³

²⁰ February 2020 Staff Proposal at 37-38.

²¹ February 2020 Staff Proposal at 38.

²² City of San Diego's comments on September 15, 2022.

²³ SDG&E's comments on September 15, 2022.

Cal Advocates supported discontinuation of Rule 20D, arguing that the program is unnecessary because it is duplicative of the WMPs and no projects have been initiated under Rule 20D.²⁴

County of San Diego expressed its strong interest in mitigating fire risk but did not oppose discontinuation of Rule 20D. County of San Diego explained that it has not completed any Rule 20D projects for several reasons, including the program requirements to form an undergrounding utility district and the additional costs of undergrounding that are not covered by ratepayers, such as a right-of-way acquisition and environmental analysis. Further, County of San Diego has not been able to use Rule 20D with similar success as its Rule 20A credits because it is unable to combine Rule 20D undergrounding projects with other roadway improvements. County of San Diego found that areas prone to the highest fire risks are not always within the planned roadway improvements or within the County's right-of-way. County of San Diego recommends modifying Rule 20D to cover all costs associated with undergrounding utilities and focus on undergrounding within existing public right-of-way.²⁵

No Rule 20D projects have been formally initiated or completed since the inception of the program, and it is not feasible to increase participation in the Rule 20D program without substantially increasing ratepayer investments in the program. Further, as discussed above, the Commission should decide whether to approve ratepayer-funded investments in undergrounding electric lines or authorize less expensive solutions for mitigation of wildfire-related risks through existing processes and any future process created in accordance with SB 884.

²⁴ Cal Advocates' comments on September 15, 2022.

²⁵ County of San Diego comments on September 15, 2022.

It is reasonable to discontinue the Rule 20D program. No new Rule 20D work credits will be allocated as of the effective date of this decision.

County of San Diego caveated its position on Rule 20D discontinuation on the ability to convert Rule 20D work credits to Rule 20A work credits. County of San Diego did not provide a justification for why it would be reasonable to convert Rule 20D work credits to Rule 20A work credits.²⁶

SDG&E supported eliminating Rule 20D with no conversion of work credits to Rule 20A work credits. SDG&E argues that conversion of Rule 20D work credits to Rule 20A work credits would be inequitable because not all communities within SDG&E's territory received Rule 20D work credits. SDG&E also commented that it did not expect discontinuation of the program to affect its GRC Phase 1 requests because it had not requested funding for Rule 20D through a GRC Phase 1 proceeding.²⁷

It is reasonable to not convert Rule 20D work credits to Rule 20A work credits. All Rule 20D work credits that are not committed to a specific project as of the effective date of this decision shall be deemed expired.

4. Equity and Environmental and Social Justice

The February 2020 Staff Proposal found deep inequities in Rule 20A program spending and recommended discontinuation of the program.

Undergrounding for aesthetic purposes in localized areas benefits few ratepayers at the expense of the many. While society at large may benefit from the reduction of overhead facilities in scenic viewsheds, it is not a sustainable or equitable proposition to continue placing the burden on ratepayers at large. Undergrounding of overhead infrastructure can be conducted when desired by local

²⁶ County of San Diego comments on March 2, 2023.

²⁷ SDG&E's comments on September 15, 2022.

communities, but costs should be primarily borne by those who will benefit directly from the projects.²⁸

The February 2020 Staff Proposal found that while 83 eligible communities did not complete a single project between 2005 and 2018, utilities spent over \$50 million of ratepayer funds on Rule 20A projects in each of the following seven communities during that period: City and County of San Francisco (\$174,194,533); City of San Diego (\$123,959,969); Unincorporated Los Angeles County (\$80,199,098); Unincorporated San Diego County (\$66,219,539); City of Long Beach (\$66,113,635); City of Oakland (\$59,290,182); and City of San Jose (\$54,445,341). The Staff Proposal considered the eligible communities that had not completed a project since 2004 as “historically underserved” by the Rule 20A program.²⁹

The February 2020 Staff Proposal proposed to sunset the Rule 20A program in two steps:

- First, stop the issuance of work credit allocations. Communities may use accrued work credits to complete existing projects.
- Second, any unused work credits after a ten-year period will expire.³⁰

The Phase 1 Decision discontinued the issuance of Rule 20A work credits as of December 31, 2022, but declined to establish a wind-down period or deadline for the use of Rule 20A work credits at that time. In D.21-06-013, the Commission determined that it would consider whether to modify the Rule 20A program to support projects in underserved and disadvantaged communities in

²⁸ February 2020 Staff Proposal at 21-22.

²⁹ February 2020 Staff Proposal at 14-15.

³⁰ February 2020 Staff Proposal at 32.

Phase 2 of this proceeding. The scoping memo for Phase 2 included the broader issue of whether to modify the Rule 20 program to support future projects in underserved, tribal, and/or disadvantaged communities or otherwise advance the goals of the Commission’s ESJ Action Plan 2.0.

The ALJ ruling, issued on December 7, 2022, also asked parties for comments on how to define underserved communities and disadvantaged communities.

Cal Advocates proposed using the definition of “ESJ Community” from the ESJ Action Plan 2.0, which includes all of the following communities, to ensure consistency and alignment with the ESJ Action Plan 2.0.³¹

- a. Disadvantaged Communities, defined as census tracts that score in the top 25 percent of CalEnviroScreen 3.0, along with those that score within the highest 5 percent of CalEnviroScreen 3.0's Pollution Burden but do not receive an overall CalEnviroScreen score;
- b. All federally-recognized tribal lands;
- c. Low-income households (meaning households with incomes below 80 percent of the area median income); and
- d. Low-income census tracts (meaning census tracts where aggregated household incomes are less than 80 percent of area or state median income).

Cal Advocates also proposed to define an “underserved community” as a community that has never completed a project through the Rule 20A program.³²

RCRC proposed that the Commission adopt definitions of disadvantaged communities and underserved communities that would include all ESJ

³¹ Cal Advocates comments on September 15, 2022.

³² Cal Advocates comments on September 15, 2022.

Communities as well as locations with lower historical levels of energy reliability.³³

It is reasonable to adopt the definition of ESJ Community from the ESJ Action Plan 2.0 for consistency and alignment with the action plan.

The definition of an underserved community should be based upon the historical inequities of Rule 20A program expenditures. However, communities that completed a project several decades ago should still be considered underserved by the program. Underserved Community should be defined as any city, unincorporated county, or tribal jurisdiction that has not completed a Rule 20A project since 2004.

Parties generally did not offer suggestions for modifying Rule 20A to increase future participation of ESJ Communities or Underserved Communities in the Rule 20A program. A few parties offered the following informative comments.

PG&E commented that the Rule 20A program rules should be modified to include tribes as eligible to receive Rule 20A work credits.³⁴

County of San Diego's comments on the challenges with developing Rule 20D projects in high fire threat areas illuminated the challenges Underserved Communities may have with implementing Rule 20A projects. As discussed in Section 3.3 above, County of San Diego explained that it had not completed any Rule 20D projects due to the program requirements to form an undergrounding utility district and the additional costs of undergrounding that

³³ RCRC's comments on September 15, 2022.

³⁴ PG&E's comments on September 15, 2022.

are not covered by ratepayers, such a right-of-way acquisition and environmental analysis.³⁵

Cal Advocates argued that the best solution for advancing equity and reducing the impact of Rule 20A on rising rates is to sunset the Rule 20A program. Cal Advocates argued that it is not feasible to increase participation of Underserved Communities, which tend to be smaller communities, because larger communities are more likely to be able to dedicate greater internal staff and outside consulting services to help them plan for Rule 20A projects. Cal Advocates urged the Commission to discontinue the Rule 20A program to provide relief to California ratepayers.³⁶

We agree with Cal Advocates' arguments about the barriers to participation for Underserved Communities. We also note that the February 2020 Staff Proposal identified an additional Rule 20A barrier for small communities. The Rule 20A work credit allocation methodology resulted in smaller communities accruing insufficient work credits to complete a project.³⁷

The Commission's ESJ Action Plan 2.0 includes a new emphasis on considering "rate burdens" on low-income communities. The action plan states that "Continuing to assess the cumulative impact of rates on households and working to mitigate these impacts on the most burdened households will remain a priority in all actions the [Commission] takes."³⁸

The best way to address the inequities of the Rule 20A program and advance the Commission's ESJ Action Plan 2.0 is to discontinue the Rule 20A

³⁵ County of San Diego comments on September 15, 2022.

³⁶ Cal Advocates' comments on September 15, 2022.

³⁷ February 2020 Staff Proposal at 29.

³⁸ The Commission's ESJ Action Plan 2.0 at 4 and 22.

program. Any Rule 20A work credit that has not been allocated to an Active Rule 20A Project within one year of the effective date of this decision shall be deemed expired. An Active Rule 20A Project shall be defined as a project with a signed resolution that the utility has designated as either “active” or on “hold.” A Rule 20A project that a utility has designated as on “hold” is a project that was initiated but has stopped for an indeterminate amount of time due to the community possessing insufficient work credits to fund the entire project. Any Rule 20A work credit that has not been deducted from a community’s work credit balance by December 31, 2033 shall be deemed expired.

We will also update the utilities’ Rule 20A reporting requirements to reflect the discontinuation of the Rule 20A program and new work credit allocations. This decision updates utilities’ Rule 20A reporting requirements as follows: (a) utilities shall no longer be required to serve a Rule 20A Annual Statement in accordance with Ordering Paragraph 6 of D.73078 as of the effective date of this decision;³⁹ (b) utilities shall continue to serve Rule 20A Annual Updates in accordance with Ordering Paragraph 15 of D.21-06-013 to communities that have an Active Rule 20A Project until December 31, 2033; (c) utilities shall no longer serve Rule 20A Annual Updates in accordance with Ordering Paragraph 15 of D.21-06-013 to communities that do not have an Active Rule 20A Project as of one year after the effective date of this decision;⁴⁰ and (d)

³⁹ This requirement is outdated. The Rule 20A Annual Statements are reports of the new Rule 20A work credit allocations for the upcoming year that utilities must send to each local government. D.21-06-013 discontinued new Rule 20A work credit allocations, so there is no longer any information to report through the Rule 20A Annual Statements.

⁴⁰ The Rule 20A Annual Updates required by D.21-06-013 are sent to local governments to provide the status of such community’s Rule 20A projects and its work credits by April 1 each year. Utilities have no project status updates to report in a Rule 20A Annual Update to a community with no Active Rule 20A Projects. D.21-06-013 discontinued new Rule 20A work

Footnote continued on next page.

utilities shall continue to serve Rule 20A Annual Reports in accordance with Ordering Paragraph 14 of D.21-06-013 until December 31, 2033, and these Rule 20A Annual Reports will include all work credit reallocations.

5. Active Rule 20A Projects with Insufficient Work Credits

In D.21-06-013, the Commission discontinued allocations of new Rule 20A work credits after December 31, 2022. The Commission recognized in D.21-06-013 that some active Rule 20A projects may have insufficient work credit balances and insufficient available community funding to support completion and concluded that Phase 2 of this proceeding should consider whether to take additional steps to support the completion of active Rule 20A projects that are located in underserved and/or disadvantaged communities.

In the scoping memo, the assigned Commissioner asked parties whether to prioritize disadvantaged and/or underserved communities for the reallocation of Rule 20A work credits, and whether there are barriers to conversion of Rule 20A projects with insufficient work credits to Rule 20B or Rule 20C projects. As discussed in Section 4 above, this decision adopted definitions for ESJ Communities and Underserved Communities for Rule 20A.

5.1. Reallocation of Rule 20A Work Credits

Section 2(c) of Rule 20A allows utilities to reallocate work credits from an inactive community to a community with an active project. Resolution E-4971 defined a community as “inactive” if it has not (i) formally adopted an undergrounding district ordinance which expires at completion of work within the district boundaries, (ii) started or completed construction of an

credit allocations, so there are no new work credit allocations to report to communities. Further, this decision provides that any Rule 20A work credit that has not been allocated to an Active Rule 20A Project within one year of the effective date of this decision shall be deemed expired.

undergrounding conversion project since 2011, or (iii) received Rule 20A allocations from the utility for only 5 years or fewer due to recent incorporation. While Resolution E-4971 defined what constitutes an inactive community, it did not expressly define what constitutes an active project. In Section 4 above, this decision defines Active Rule 20A Projects.

The scoping memo attached Table 1 below, which presented an Energy Division staff analysis of the aggregate work credit shortfall of active Rule 20A projects (Total Active Project Work Credit Shortfall) and the aggregate work credits accrued by inactive communities (Total Inactive Community Work Credits) for the service territories of PG&E, SCE, and SDG&E as of April 2022.

Table 1: Summary of Rule 20A Work Credit Short Shortfall and Inactive Community Work Credits (April 2022)⁴¹

Utility	Total Active Project Work Credit Shortfall	Total Inactive Community Work Credits
PG&E	\$397,700,987	\$77,417,347
SCE	\$5,539,689	\$63,860,438
SDG&E	\$92,792,582.79	\$7,437,903.40

The forecasted work credit shortfall is based on the utility's estimates as of April 2022, which may be subject to change. The source of the Total Inactive Community Work Credits was the 2022 Active and Inactive Community Work Credit Balance Lists submitted by PG&E, SCE, and SDG&E in accordance with D.21-06-013, Ordering Paragraphs 3(b) and 3(c).

⁴¹ The data in Table 1 was provided by PG&E, SCE, and SDG&E in response to an Energy Division data request.

Table 1 above shows an approximately \$320 million work credit shortfall for active projects in PG&E territory and an approximately \$85 million work credit shortfall for active projects in SDG&E territory.

Several parties generally opposed reallocation of work credits from inactive communities to active Rule 20A projects. RCRC and Cal Cities each argued that communities who were not interested in Rule 20A in the past may become interested if the Commission adds wildfire-related purposes to the project eligibility criteria.⁴² Since this decision declines to add wildfire-related purposes to Rule 20A, RCRC's argument is no longer relevant. City of Laguna Beach and CSAC recommended allowing inactive communities to redirect their accumulated work credits to other types of Rule 20 projects.⁴³ However, because parties such as CSAC also simultaneously argued that it would be too burdensome for communities to complete projects using Rule 20B and Rule 20C,⁴⁴ this argument is not persuasive.

PG&E commented that if the Commission decides not to authorize new Rule 20A work credit allocations, the Commission should redefine "inactive community" so that more work credits would be available for reallocation. PG&E proposed to define an inactive community as a community with insufficient work credits to complete a Rule 20A project for the minimum distance of 600 feet or one block.⁴⁵

⁴² RCRC's comments on September 13, 2022 and Cal Cities comments on September 15, 2022.

⁴³ City of Laguna Beach's comments on September 15, 2022 and CSAC's comments on September 26, 2022.

⁴⁴ CSAC's comments on September 26, 2022

⁴⁵ PG&E's comments on September 15, 2022.

Cal Advocates opposed reallocation of work credits, except to active Rule 20A projects in ESJ communities that have never completed a Rule 20A project. Cal Advocates argued that the Commission should immediately sunset the Rule 20A program and limit reallocations of work credits to combat rising electric rates and address historical inequitable distribution of Rule 20A funds.⁴⁶

SDG&E commented that it does not have any active projects located in a disadvantaged community.⁴⁷ Liberty and PacifiCorp also commented that they do not have any Rule 20A projects in disadvantaged communities.⁴⁸

We agree with Cal Advocates that our approach to addressing active Rule 20A projects should protect ratepayers from higher Rule 20A program costs and counteract the historical inequitable distribution of Rule 20A funds. We also acknowledge that some utilities may not have any active Rule 20A projects located in an ESJ Community or an Underserved Community.

Utilities should prioritize reallocation of work credits (pursuant to Section 2(c) of Rule 20A) from inactive communities to communities with Active Rule 20A Projects with insufficient work credits as follows: first, to any project located in an Underserved Community, and second, to the portion of any project located in an ESJ Community census tract. An ESJ Community census tract should be defined as a census tract that meets one of the following criteria: (i) scores in the top 25 percent of CalEnviroScreen 3.0, along with those that score within the highest 5 percent of CalEnviroScreen 3.0's Pollution Burden but do not receive an overall CalEnviroScreen score; (ii) located in any federally-recognized

⁴⁶ Cal Advocates' comments on September 15, 2022.

⁴⁷ SDG&E's comments on September 15, 2022.

⁴⁸ Liberty Utilities and PacifiCorp's joint comments on September 15, 2022.

tribal lands; or (iii) where aggregated household incomes are less than 80 percent of area or state median income.

This decision does not increase the number of Rule 20A work credits available for reallocation or otherwise increase the ratepayer funding available for Rule 20A projects.

5.2. Community Contributions to Rule 20A Projects

The scoping memo asked parties to comment on whether there are barriers to communities making contributions to Rule 20A projects with insufficient work credits or converting these projects to Rule 20B or Rule 20C projects, which require communities or individuals to pay for most of the project costs.

RCRC, Cal Cities, CSAC, and County of San Diego each commented that the main barrier to conversion of a Rule 20A project to a Rule 20B or a Rule 20C project is the lack of local funding for these projects.⁴⁹ As discussed in Section 5.1 above, this decision does not authorize additional ratepayer funding for Rule 20A projects.

SDG&E commented that communities that have insufficient work credits to fund a Rule 20A project may enter into an agreement with SDG&E for the community to fund all portions of the project that exceed available work credits. Alternatively, they may create a separate project that can be funded through Rule 20B or Rule 20C, with separate resolutions to properly account for project cost and subsidies.⁵⁰

⁴⁹ RCRC's comments on September 13, 2022; Cal Cities comments on September 15, 2022; CSAC's comments on September 26, 2022; and County of San Diego's comments on September 15, 2022.

⁵⁰ SDG&E's comments on September 15, 2022.

SCE commented that its approach to Rule 20A projects that do not have sufficient work credits has been to (a) propose a reduced scope of work that fits within available work credit balance, or (b) define a separate scope of work for a Rule 20A portion and a Rule 20B portion of the project. When separate scopes of work are defined for Rule 20A and 20B projects, SCE estimates the scope of the Rule 20A portion very conservatively given the stream of annual work credits and mortgaging limitations. SCE commented that it would prefer to be able to give communities the option to contribute financially to a Rule 20A project that exceeds the Rule 20A work credit balance instead of carving out separate Rule 20A and Rule 20B scopes of work.⁵¹

This decision clarifies that utilities should give communities the option to contribute financially to a Rule 20A project that has insufficient work credits for completion.

6. Summary of Public Comment

Rule 1.18 of the Rules of Practice and Procedure (Rules) allows any member of the public to submit written comment in any Commission proceeding using the “Public Comment” tab of the online Docket Card for that proceeding on the Commission’s website. Rule 1.18(b) requires that relevant written comment submitted in a proceeding be summarized in the final decision issued in that proceeding.

The relevant Public Comments on the Docket Card include comments about how to define disadvantaged communities, whether or how to reallocate Rule 20A work credits, and wildfire-related undergrounding projects.

⁵¹ SCE’s comments on September 15, 2022.

7. Comments on Proposed Decision

The proposed decision of President Alice Reynolds in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on _____, and reply comments were filed on _____ by _____.

8. Assignment of Proceeding

President Alice Reynolds is the assigned Commissioner and Stephanie Wang is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. Local governments have valuable knowledge of the wildfire-related needs of their communities.
2. The Commission and OEIS have existing processes that are more appropriate than the Rule 20 program for considering whether to approve ratepayer-funded investments in wildfire-related undergrounding or more cost-efficient measures.
3. SB 884 requires the creation of an additional process for the Commission and OEIS to review ratepayer-funded investments in undergrounding electric lines to mitigate wildfire-related risks.
4. In D.20-06-017, the Commission ordered PG&E, SCE, and SDG&E to conduct Semi-Annual Local/Tribal Workshops that must include a discussion of utilities' electric transmission and distribution infrastructure investment plans.
5. No Rule 20D projects have been formally initiated or completed since the inception of the program.
6. It is not feasible to increase participation in the Rule 20D program without substantially increasing ratepayer investments in the program.

7. The Rule 20A program undergrounds power lines for aesthetic purposes in localized areas and benefits few ratepayers at the expense of the many ratepayers.

8. Eighty-three communities eligible for the Rule 20A program failed to complete a single project between 2005 and 2018.

9. Utilities spent over \$50 million of ratepayer funds on Rule 20A projects in each of the following seven communities between 2005 and 2018: City and County of San Francisco (\$174,194,533); City of San Diego (\$123,959,969); Unincorporated Los Angeles County (\$80,199,098); Unincorporated San Diego County (\$66,219,539); City of Long Beach (\$66,113,635); City of Oakland (\$59,290,182); and City of San Jose (\$54,445,341).

Conclusions of Law

1. Local and tribal governments should have the opportunity to provide input on large electric utilities' wildfire-related undergrounding plans on a regular basis.

2. It is reasonable for the Commission to retain its authority to decide whether to approve ratepayer-funded investments in undergrounding electric lines or authorize less expensive solutions for mitigation of wildfire-related risks.

3. It is reasonable to not add wildfire-related project eligibility criteria to Rule 20A.

4. The Commission should leverage an existing local and tribal consultation process to minimize administrative costs.

5. It is reasonable to direct PG&E, SCE, and SDG&E to include the following agenda items in each of its Semi-Annual Local/Tribal Workshops: (a) briefing about the utility's wildfire-related transmission and distribution investment plans, including plans for potential undergrounding project locations that are not

final; and (b) opportunity for local and tribal governments to share their priority sites for wildfire-related undergrounding projects.

6. It is reasonable to discontinue the Rule 20D program.

7. No new Rule 20D work credits should be allocated as of the effective date of this decision.

8. It is reasonable to not convert Rule 20D work credits to Rule 20A work credits.

9. All outstanding Rule 20D work credits that are not committed to a specific project as of the effective date of this decision should be deemed expired.

10. The Commission should adopt the definition of ESJ Community from the Commission's ESJ Action Plan 2.0 for the Rule 20A program.

11. The Commission should define Underserved Community as any city, unincorporated county, or tribal jurisdiction that has not completed a Rule 20A project since 2004.

12. It is reasonable to discontinue the Rule 20A program.

13. Any Rule 20A work credit that has not been allocated to an Active Rule 20A Project within one year of the effective date of this decision should be deemed expired.

14. An Active Rule 20A Project should be defined as a project with a signed resolution that the utility has designated as either "active" or on "hold."

15. A Rule 20A project that a utility has designated as on "hold" is a project that was initiated but has stopped for an indeterminate amount of time due to the community possessing insufficient work credits to fund the entire project.

16. Any Rule 20A work credit that has not been deducted from a community's work credit balance by December 31, 2033 should be deemed expired.

17. The Commission should update utilities' Rule 20A reporting requirements as follows: (a) utilities shall no longer be required to serve a Rule 20A Annual Statement in accordance with Ordering Paragraph 6 of D.73078 as of the effective date of this decision; (b) utilities shall continue to serve Rule 20A Annual Updates in accordance with Ordering Paragraph 15 of D.21-06-013 to communities that have an Active Rule 20A Project until December 31, 2033; (c) utilities shall no longer serve Rule 20A Annual Updates in accordance with Ordering Paragraph 15 of D.21-06-013 to communities that do not have an Active Rule 20A Project as of one year after the effective date of this decision; and (d) utilities shall continue to serve Rule 20A Annual Reports in accordance with Ordering Paragraph 14 of D.21-06-013 until December 31, 2033, and these Rule 20A Annual Reports will include all work credit reallocations.

18. Utilities should give communities the option to contribute financially to a Rule 20A project that has insufficient work credits for completion.

19. Utilities should prioritize reallocation of work credits (pursuant to Section 2(c) of Rule 20A) from inactive communities to communities with Active Rule 20A Projects with insufficient work credits as follows: first, to any project located in an Underserved Community, and second, to the portion of any project located in an ESJ Community census tract.

20. An ESJ Community census tract should be defined as a census tract that meets one of the following criteria: (i) scores in the top 25% of CalEnviroScreen 3.0, along with those that score within the highest 5% of CalEnviroScreen 3.0's Pollution Burden but do not receive an overall CalEnviroScreen score; (ii) located in any federally-recognized tribal lands; or (iii) where aggregated household incomes are less than 80 percent of area or state median income.

21. It is reasonable to not increase the number of Rule 20A work credits available for reallocation or otherwise increase ratepayer funding available for Rule 20A projects.

22. This proceeding should be closed.

O R D E R

IT IS ORDERED that:

1. Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas & Electric Company shall each file a Tier 1 advice letter within 30 days of the effective date of this decision to confirm that it will include the following items in the agenda of each semi-annual local and tribal workshop held in compliance with Decision 20-06-017: (a) briefing about the utility's wildfire-related transmission and distribution investment plans, including plans for potential undergrounding project locations that are not final; and (b) opportunity for local and tribal governments to share their priority sites for wildfire-related undergrounding projects.

2. San Diego Gas & Electric Company shall not allocate any new Electric Rule 20D work credits as of the effective date of this decision.

3. San Diego Gas & Electric Company shall file a Tier 1 advice letter within 30 days of the effective date of this decision to do all of the following: (a) modify its Electric Rule 20D (Rule 20D) tariff to state that any Rule 20D work credit that is not committed to a Rule 20D project that the utility has deemed as "active" as of the effective date of this decision is deemed expired; (b) confirm that there are no Rule 20D projects with a signed resolution that the utility has deemed as "active" as of the effective date of this decision; (c) confirm that all outstanding Rule 20D work credits are expired as of the effective date of this decision; and (d) modify

its Rule 20 Program Guidebook to reflect the conclusion of the Rule 20D program.

4. Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas & Electric Company, Bear Valley Electric Service Company, Liberty Utilities, and PacifiCorp shall each file a Tier 1 advice letter within 30 days of the effective date of this decision to modify its Electric Rule 20A (Rule 20A) tariff and its Electric Rule 20 Program Guidebook to provide as follows:

- (a) An Active Rule 20A Project shall be defined as a project with a signed resolution that the utility has designated as either “active” or on “hold.”
- (b) A Rule 20A project that a utility has designated as on “hold” is a project that was initiated but has stopped for an indeterminate amount of time due to the community possessing insufficient work credits to fund the entire project.
- (c) Any Rule 20A work credit that has not been allocated to an active project within one year of the effective date of this decision shall be deemed expired.
- (d) Communities shall have the option to contribute financially to any Rule 20A project that has insufficient work credits for completion.
- (e) Any Rule 20A work credit that has not been deducted from a community’s work credit balance by December 31, 2033 shall be deemed expired.
- (f) The utility shall prioritize reallocation of work credits (pursuant to Section 2(c) of Rule 20A) from inactive communities to communities with Active Rule 20A Projects with insufficient work credits as follows: first, to any project located in a city, unincorporated county, or tribal jurisdiction that has not completed a Rule 20A project since 2004, and second, to the portion of any project located in an Environmental and Social Justice

Community census tract. An Environmental and Social Justice Community census tract shall be defined as a census tract that meets one of the following criteria: (i) scores in the top 25 percent of CalEnviroScreen 3.0, along with those that score within the highest 5 percent of CalEnviroScreen 3.0's Pollution Burden but do not receive an overall CalEnviroScreen score; (ii) located in any federally-recognized tribal lands; or (iii) where aggregated household incomes are less than 80 percent of area or state median income.

5. Rulemaking 17-05-010 is closed.

This order is effective today.

Dated _____, at San Francisco, California