



BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

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

Rulemaking 17-05-010

**OPENING COMMENTS OF THE PUBLIC ADVOCATES OFFICE ON THE
PHASE 2 PROPOSED DECISION REVISNG ELECTRIC RULE 20 AND
ESTABLISHING LOCAL AND TRIBAL GOVERNMENT CONSULTATION
REQUIREMENTS**

RODERICK HILL

Attorney

Public Advocates Office
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Telephone: (415) 703-4478
E-mail: Roderick.Hill@cpuc.ca.gov

DANIELLE DOOLEY

Regulatory Analyst

Public Advocates Office
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Telephone: (415) 703-3666
Email: Danielle.Dooley@cpuc.ca.gov

EMIL RODRIGUEZ

Utilities Engineer

Telephone: (415) 913-9764
Email: Emil.Rodriguez@cpuc.ca.gov

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I. INTRODUCTION

Pursuant to Rule 14.3 of the California Public Utilities Commission (Commission) Rules of Practice and Procedure, the Public Advocates Office at the California Public Utilities Commission (Cal Advocates), hereby submits the following comments on the Phase 2 Proposed Decision Revising Electric Rule 20 and Establishing Local and Tribal Government Consultation Requirements (Phase 2 PD).

In the Phase 1 Decision Revising Electric Rule 20 and Enhancing Program Oversight (Decision (D.) 21-06-013, or Phase 1 Decision), the Commission enhanced its oversight of the Rule 20 program by adopting the following: ending new work credit allocations by December 31, 2022; adding Rule 20A public interest criteria; immediately banning all work credit trading, donating, and bartering; adding new reporting rules; and increasing Commission oversight of the Rule 20 program.¹ However, the Commission deferred its consideration of several issues to Phase 2 of this proceeding which have been addressed in the Phase 2 PD.²

The Phase 2 PD proposes the immediate discontinuation of Electric Rule 20D;³ the phase out of Rule 20A by 2033;⁴ and the potential redistribution of remaining work credits from inactive communities⁵ to those with active projects and insufficient work credits, while prioritizing the redistribution of work credits to communities located in

¹ “This Phase 1 decision revises Electric Rule 20 as follows: (a) discontinues new work credit allocations for Electric Rule 20A projects, (b) clarifies Electric Rule 20A project eligibility criteria and work credit transfer rules, and (c) enhances program oversight.” Phase 1 Decision at 2.

² Phase 1 Decision at 31.

³ “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.” Phase 2 PD at 16.

⁴ “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.” Phase 2 PD at 21.

⁵ 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 undergrounding conversion project since 2011, or (iii) received Rule 20A allocations from the utility for only 5 years or fewer due to recent incorporation.” Phase 2 PD at 22 and 23.

Environmental Social Justice (ESJ) census tracts.⁶ It also directs the investor-owned utilities (IOUs) to consult with local and tribal governments on wildfire-related undergrounding plans in existing semi-annual workshops.⁷

Cal Advocates supports the Phase 2 PD and recommends it be adopted by the Commission. The Phase 2 PD would increase the equity, transparency, and accountability of the Rule 20 program while providing rate relief to ratepayers amid rapid electric rate increases. However, as discussed in these comments, the Phase 2 PD should be modified to specify that reallocated Rule 20A work credits go only to communities in ESJ census tracks and underserved communities. Additionally, the proceeding should remain open to consider discontinuing the Rule 20B and 20C programs.

II. COMMENTS

A. **Reallocated Rule 20A work credits should go only to those communities in ESJ census tracks and underserved communities.**

The Phase 2 PD directs the IOUs to reallocate Rule 20A work credits from inactive communities to communities with active Rule 20A projects and insufficient work credits.⁸ The Phase 2 PD also provides reallocation criteria for project prioritization

⁶ “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.” Phase 2 PD at 25.

⁷ “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.” Phase 2 PD at 2.

⁸ “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.” Phase 2 PD at 25.

- first to communities that have not completed a Rule 20A Project since 2004, and second to those that fall under the definition of an ESJ Community.⁹ ¹⁰

Cal Advocates supports sunseting Rule 20A while addressing active Rule 20A projects. The methodology for reallocation of work credits to ESJ and underserved communities will protect ratepayers from higher Rule 20A program costs and counteract the historical inequitable distribution of Rule 20A funds. However, while the process of reallocating Rule 20A work credits is clearly defined in Section 2(c) of Rule 20A, the process by which each IOU will identify projects for reallocation of work credits is less clear. The Phase 2 PD states, “The utility shall prioritize reallocation of work credits from inactive communities to communities with active Rule 20A Projects with insufficient work credits...”¹¹ Cal Advocates recommends the Phase 2 PD be modified to specify that the reallocation of work credits is not only prioritized for communities in ESJ census tracts and underserved communities but is exclusively allocated to these communities. It is unclear if any reallocated work credits will remain after reallocation to these communities, but if there are, those remaining reallocated work credits should expire. There is no need to continue to supplement non-ESJ and non-underserved communities with more work credits and continue to burden ratepayers with financing

⁹ Phase 2 PD at 25.

¹⁰ “Under this definition the CPUC aimed to target the following communities:

- Disadvantaged Communities, defined as census tracts that score 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;
- All Tribal lands;
- Low-income households (Household incomes below 80 percent of the area median income);
- Low-income census tracts (Census tracts where aggregated household incomes are less than 80 percent of area or state median income).” *Environmental & Social Justice Action Plan Version 2.0*, California Public Utilities Commission, April 7, 2022, p. 2. Accessed at: <https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/news-andoutreach/documents/news-office/key-issues/esj/esj-action-plan-v2jw.pdf> . Hereafter: ESJ Action Plan.

¹¹ Phase 2 PD at 25.

additional Rule 20A projects. Cal Advocates provides recommended changes to the Phase 2 PD, including Ordering Paragraph 4, in Appendix A.

Cal Advocates also recommends the Commission modify the Phase 2 PD to include additional direction to the IOUs to operationalize the process by which the utilities prioritize communities and active projects. Cal Advocates recommends requiring the IOUs to submit a Tier 1 advice letter to identify the specific communities and projects that would be eligible for reallocation in each IOU's service territory, pursuant to the prioritization of ESJ and underserved communities specified in the Phase 2 PD. Cal Advocates provides recommended changes to the Phase 2 PD, including Ordering Paragraph 4, in Appendix A.

B. This proceeding should remain open to consider discontinuing the Rule 20B and 20C programs.

The Phase 2 PD mentions Rules 20B and 20C numerous times but is silent on the futures of both programs. Cal Advocates recommends that the Commission establish a Phase 3 in this proceeding to consider discontinuing the Rule 20B and 20C programs. Rule 20B provides a sizable subsidy to participating communities for undergrounding, typically between 20 to 40 percent of the undergrounding project cost,¹² and less than a 20 percent subsidy for Rule 20C projects.¹³ The Phase 2 PD discontinues both Rules 20A and 20D in recognition of their inefficient and inequitable infrastructure investment design.¹⁴ Rule 20B and Rule 20C also suffer the same inefficiencies and inequities as the Rule 20A program and represent significant ratepayer-funded subsidies. Also, there are

¹² “Under Rule 20B, the community does not collect work credits for projects, but rather expends municipal funds and receives reimbursement after the project is completed for a small portion of the project costs 0-typically between 20 and 40% for Rule 20B and a de minimis amount for Rule 20C.”

¹³ Under Rule 20B, the community does not collect work credits for projects, but rather expends municipal funds and receives reimbursement after the project is completed for a small portion of the project costs 0-typically between 20 and 40% for Rule 20B and a de minimis amount for Rule 20C.” <https://www.cpuc.ca.gov/industries-and-topics/electrical-energy/infrastructure/electric-reliability/undergrounding-program-description/cpuc-rule-20-undergrounding-programs---faqs>.

¹⁴ “This Phase 2 decision discontinues Rule 20A and Rule 20D to prevent ratepayers from funding inefficient and inequitable infrastructure investments.” Cal Advocates Phase 2 Scoping Memo Comments at 5.

no limitations on the number of Rule 20B and Rule 20C projects a community can pursue. The Phase 2 PD acknowledges that the Rule 20 program was started over 50 years ago, and the program has run its useful course given the State’s current electrical needs and goals. Currently, IOU electric rates are soaring and are double the national average.¹⁵ The Commission should endeavor to fully sunset the inefficient and inequitable Rule 20 program, including Rule 20B and 20C, to provide timely rate relief for ratepayers. Cal Advocates provides recommended changes to the Phase 2 PD, including Conclusion of Law 22, and Ordering Paragraph 5, shown in Appendix A. Cal Advocates recommends that the Commission sunset Rule 20B and Rule 20C by 2033 and make that clarification in the Final Decision or consider a Phase 3 of the Rulemaking to address this issue.

III. CONCLUSION

Cal Advocates supports the Phase 2 PD but recommends that it be modified to specify that reallocated work credits only go to communities in ESJ census tracts and underserved communities. Additionally, the Commission should keep this proceeding open to consider discontinuing the Rule 20B and Rule 20C programs.

Respectfully submitted,

/s/ RODERICK HILL

Roderick D. Hill
Attorney for

Public Advocates Office
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Telephone: (415) 703-4478
Email: Roderick.Hill@cpuc.ca.gov

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¹⁵ Table 5.6.A Average Price of Electricity to Ultimate Customers by End-Use Sector by State, U.S. Energy Information Administration, February 2023.
https://www.eia.gov/electricity/monthly/epm_table_grapher.php?t=epmt_5_6_a.

APPENDIX A

Proposed Revisions to the Text, Findings of Fact, Conclusions of Law, and Ordering Paragraphs

Recommended additions are underlined. Recommended deletions are struck through.

Summary, p. 2

~~This proceeding is closed.~~

This decision also establishes a Phase 3 to the proceeding to consider additional changes to the Electric Rule 20 program.

Section 4. Equity and Environmental and Social Justice, p. 21

This decision discontinues Rule 20A and Rule 20D to prevent ratepayers from funding inefficient and inequitable infrastructure investments, but Rule 20B and Rule 20C also provide significant ratepayer funded subsidies and suffer similar inefficiencies and inequities as the Rule 20A program. Whether the Rule 20B and Rule 20C programs should be discontinued requires further consideration. The Commission will continue to deliberate on whether to discontinue these programs in Phase 3 of this proceeding.

Section 5.1. Reallocation of Rule 20A Work Credits, p. 25

Utilities should exclusively 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. Any remaining reallocated work credits should be deemed expired.

Conclusions of Law 22

22. ~~This proceeding should be closed.~~ The Commission should initiate Phase 3 of this proceeding to address whether to modify or discontinue Rule 20B and Rule 20C.

Ordering Paragraph 4 (f)

(f) The utility should exclusively 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. If any reallocated work credits remain after reallocation to the ESJ and underserved communities, those remaining reallocated work credits should expire.

Ordering Paragraph 4 (g) (new)

(g) The utility should identify the specific communities and projects that are eligible for work credit reallocation in each IOU's service territory, pursuant to the prioritization of ESJ and underserved communities.

Ordering Paragraph 5

5. ~~This proceeding should be closed.~~ Rulemaking 17-05-010 remains open.