

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
(Filed May 11, 2017)

MOTION FOR PARTY STATUS BY CITY OF SAN JOSE

Dated: September 8, 2017

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I. Introduction

The City of San José (“CSJ”) respectfully moves for party status in this proceeding in accordance with Section 1.4 of the California Public Utilities Commission (“Commission”) Rules of Practice and Procedure.

II. Interest in this Proceeding R. 17-05-010

CSJ is a long time, active participant in the Electric Rule 20 program which has resulted in the successful completion of numerous undergrounding projects in CSJ. However, the pace of implementing projects in CSJ has slowed significantly in the past several years. See the attached “Protest of the City of San José to PG&E’s Advice Letter No. 4948-E Modifying Its’ Agreement to Perform Tariff Schedule Related Work, Rule 20A General Conditions (Form 79-117)”, a true and correct copy of which is attached hereto and incorporated herein by this reference as Exhibit 1.

CSJ would like to join these proceedings as a party so it can ensure that the City’s interests in the Rule 20 program are considered as part of the rulemaking process.

III. Notice

Service of notices, orders, and other correspondence in this proceeding should be directed to the City of San José at the address set forth below:

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IV. Conclusion

CSJ's participation in this proceeding will not prejudice any party and will not delay the schedule or broaden the scope of the issues in the proceeding. For the reasons stated above, CSJ respectfully requests that the CPUC grant this Motion for Party Status filing.

Respectfully Submitted,

RICHARD DOYLE, City Attorney

Dated: September 8, 2017

By: /s/ Jennifer Pousho
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JLP/blg

EXHIBIT 1

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

Protest of the City of San Jose to Pacific
Gas and Electric Company's Advice Letter
No. 4949-E Modifying its "Agreement to
Perform Tariff Schedule Related Work,
Rule 20A General Conditions" (Form 79-
1127)

(U 39 E)

Advice Letter No: 4948-E

**PROTEST OF THE CITY OF SAN JOSE TO PG&E's ADVICE LETTER NO.
4948-E MODIFYING ITS "AGREEMENT TO PERFORM TARIFF SCHEDULE
RELATED WORK, RULE 20A GENERAL CONDITIONS" (FORM 79-117)**

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

Protest of the City of San Jose to Pacific Gas and Electric Company's Advice Letter No. 4949-E Modifying its "Agreement to Perform Tariff Schedule Related Work, Rule 20A General Conditions" (Form 79-1127)

Advice Letter No: 4948-E

(U 39 E)

PROTEST OF THE CITY OF SAN JOSE TO PG&E's ADVICE LETTER NO. 4948-E MODIFYING ITS "AGREEMENT TO PERFORM TARIFF SCHEDULE RELATED WORK, RULE 20A GENERAL CONDITIONS" (FORM 79-117)

In accordance with Section 7.4.1 of the California Public Utilities Commission's (Commission) General Order 96-B (GO 96-B), the City of San José (City) submits this protest (Protest) to Advice Letter No. 4948-E (AL 4948-E) and accompanying Electric Sample Form 79-1127 entitled "General Conditions Agreement to Perform Electric Work Pursuant to PG&E Electric Rule 20A – Replacement of Overhead with Underground Electric Facilities" (Rev. Form 79-1127), filed by Pacific Gas & Electric Company (PG&E)¹ on October 31, 2016.

The City strenuously objects to several of the terms included in Rev. Form 79-1127 (Dispute), and urges the Commission to reject AL 4948-E and Rev. 79-1127 on the basis that the relief requested therein is unjust and unreasonable.²

I. INTRODUCTION

The City and PG&E have a long history of working together to successfully complete Electric Rule No. 20A (Rule 20A) undergrounding projects in San José.³ Despite these successes, project completion in San José has been very slow.⁴ This is

¹ Advice Letter No. 4948 E and modified Form 7911-1127, are attached as Ex. A.

² GO 96-B, Section 7.4.2, sub. (6).

³ Electric Rule No. 20, attached as Ex. B.

⁴ Rule 20A projects in San José stopped in February 2011.

due in large part to PG&E's November 30, 2010 Advice Letter 3767-E (AL 3767-E), approving PG&E's "New Sample Form 79-1127, Agreement to Perform Tariff Schedule Related Work, Rule 20A General Conditions" (Form 79-1127),⁵ the advice letter and general conditions agreement preceding AL 4948-E and Rev. Form 79-1127, which were never served on the City in violation of GO 96-B, Energy Industry Rule 3, Section 3.2, subsection (1).

Rev. Form 79-1127 contains terms whereby PG&E attempts to contractually dictate how and under what circumstances the City's Rule 20A allocation can be used, even though the terms PG&E seeks to impose on the City are vague, ambiguous, and most importantly, not reflected in Rule 20 itself.⁶

The current balance of the City's Rule 20A allocation is approximately \$48 million. The allocation will continue to accumulate because no expenditures are anticipated to be made within the foreseeable future due to PG&E's refusal to implement the City's previously planned and City Council's previously approved Rule 20A projects until the City agrees to Rev. Form 79-1127.

A. Chronology of Dispute Leading to City's Protest of AL 4948-E and Rev. Form 79-1127

1. PG&E's Refusal to use Rule 20A Allocation for "Special Facilities"

It has been the City's position since May 2004, that the City's Rule 20A allocation may be used to install subsurface electrical transformers (aka "Special Facilities"). There is nothing in Rule 20A, which prohibits the expenditure of Rule 20 funds for this purpose, and the City has not been able to identify any legal authority to the contrary. PG&E disagrees with the City's interpretation, but neither has it identified any legal authority which prohibits the use of Rule 20A funds to underground subsurface electrical transformers.

⁵ Advice Letter 3767-E and Electric Sample Form 79-1127, are attached as Ex. C.

⁶See Ex. A, "Advice Service List". PG&E states that the revisions of Form 79-1127, represent a further clarification of the Governmental Bodies responsibilities and the use of 20A funds. The only Rule 20A governmental bodies that were served with AL 4948-E were San José and the County of Tehama. The lack of notice to the governmental bodies in violation of GO 96-B, Energy Industry Rule, Section 3.2(1) is inconsistent with PG&E's representations in AL 4948-E.

This disagreement led City, PG&E staff, and their respective attorneys to engage in a series of workshops and meetings in an effort to resolve the conflict as to whether the City funds or its Rule 20A allocation should be used to pay for the Special Facility charges beginning on or around April 15, 2004.

After approximately three years of negotiation, on May 16, 2007, PG&E's Laura Sellheim, Director of Area 3 Maintenance, and Darren Deffner, Governmental Relations Representative, sent a letter to the City's Director of Public Works, Katy Allen addressing the issue.⁷ In the letter, PG&E made several promises to the City for the purpose of providing San José with "...greater control over its Rule 20A allocation" committing to "remove most of the challenges..." the City and PG&E "...faced together for years including "expedited project implementation" and the use of..." the City's "...*allocation balance to pay for subsurface transformers* and managing right-of-way issues"⁸ (emphasis added.)

With respect to the use of the City's Rule 20A allocation to pay for Special Facilities charges, the letter clearly and unequivocally states that:

"Solution: Our past difference on this issue has resulted in project delays. We recognize that the case-by-case approach has had a limited level of success. Our review of the Rule 20A Program has taken this issue head-on and resulted in a new method that eliminates the roadblock we have faced in the past. Specifically, PG&E will allow the City to use its Rule 20A allocations to pay for 'special facility' charges for subsurface transformers." (emphasis added.)

PG&E's commitments to the City regarding the use of its Rule 20A allocation was presented to, and approved by the San José City Council on June 5, 2007, as part of the City Council's approval of the City's fiscal year "2006/07-2011/12 Workplan for the Rule 20A and Rule 20B (In Lieu Fee) Underground Utility Program".⁸ As part of that action, the City Council directed staff to work with PG&E and return to Council in September of 2007 with a revised workplan that provided for the expedited delivery of Rule 20A projects.

⁷ May 16, 2007, letter from Laura Sellheim and Darren Deffner to Katy Allen attached as Ex. D.

⁸ May 18, 2007, Supplemental Memo from Katy Allen to the Mayor and City Council attached as Ex. E.

Between 2007 and 2010, PG&E constructed four projects to install electrical cabinets underground at no cost to the City: Guadalupe Gardens,⁹ Stevens Creek, Jackson/Taylor and Market/Almaden.

2. PG&E's "Letter of Streetlight Agreement" and "Electric Panel Service Conversion Agreement Form 79-1113"

In April of 2010, PG&E sought the City's approval of two agreements which PG&E alleged were necessary for PG&E to proceed with street light conversions and electrical panel conversions for the City's Rule 20A projects: a "Letter of Streetlight Agreement" and an "Electric Panel Service Conversion Agreement Form 79-1113" (Form 79-1113).

After reviewing the "Letter of Streetlight Agreement"¹⁰ City staff determined that the street light conversion agreement was not necessary because the City performs the conversion of street lights on its own.

With respect to electrical panel conversions, City staff determined that the City could not enter into PG&E's Form 79-1113¹¹ because Sections 5 and 6 of Form 79-1113 required the waiver of permit fees and inspection fees respectively, which waiver conflicted with provisions of the San José Municipal Code (SJMC).¹² SJMC Section 1.17.010 makes it unlawful to "waive fees or charges for permits, licenses, activities and services unless the waiver is otherwise specifically provided for in the SJMC or waived by ordinance."¹³ There was nothing in the SJMC that specifically provided for such a waiver, nor was there an ordinance allowing for the waiver of the fees.¹⁴

These issues notwithstanding, on September 15, 2010, the City's Deputy Director Public Works, Timm Borden, sent a letter to Sindy Mikkkelsen, PG&E's Principal Program Manager for the Rule 20A program, advising PG&E that the City would continue performing the other activities identified in Form 79-1113 as was the

⁹ For this project, PG&E and the City agreed that it was appropriate to have some of the facilities above-ground.

¹⁰ PG&E's "Letter of Streetlight Agreement" attached as Ex. F.

¹¹ PG&E's Form 79-1113 attached as Ex. G.

¹² September 15, 2010, letter from Timm Borden to Sindy Mikkkelsen attached as Ex. H.

¹³ SJMC 1.17.010, attached as Ex. I.

¹⁴ See Exhibit I.

City's practice, except as to the waiver of fees.¹⁵

After communicating further with PG&E regarding the City's position, PG&E agreed to move forward with the construction of Rule 20A projects without the City executing Form 79-1113. The City's September 15, 2010, letter was sufficient for PG&E to proceed with the construction of Rule 20A projects. During the discussions regarding these agreements, City staff asked PG&E staff to notify the City of any future agreements that would impact the City's Rule 20A projects.¹⁶

The City highlights the street light and electric panel conversion agreements for the Commission because they exemplify PG&E's long term pattern and practice of trying to contractually impose responsibilities on the City for its Rule 20A projects that are not contained in Rule 20. The discussions and negotiations pertaining to these agreements also provide the background leading up to the Commission's approval of AL 3737-E and Form 79-1127, and the City's Protest of Rev. Form 79-1127.

3. AL 3736-E and Form 79-1127

After the City notified PG&E that it could not legally agree to Sections 5 and 6 of Form 79-113, PG&E continued to pressure the City to contractually shift projects costs on to the City by obtaining approval of AL 3767-E and Form 79-1127, from the Commission which became effective on December 30, 2010.¹⁷

The stated purpose of the new form AL 3767-E was to "improve customer communications", and to "memorialize the roles and responsibilities of both the Applicant and PG&E on Rule 20A projects."

Form 79-1127 is a standard agreement to be entered into between Rule 20A participants (in this case the City) and PG&E in which the City would be contractually obligated to undertake significant, costly and in many instances, unlawful activities in order for Rule 20A projects to be constructed in San José.

Although PG&E stated that the purpose of Form 79-1127 was to "improve customer communications and to establish consistency with the communities" PG&E failed to serve AL 3767-E and Form 79-1127 on the City or any other Rule 20A

¹⁵ See Ex. H.

¹⁶ The City is willing to make an offer of proof that City staff made this request to Sindy Mikkelsen.

¹⁷ See Ex. C.

community as required by GO 96-B, Energy Industry Rule 3, Section 3.2, subsection (1). PG&E should have served AL 3767-E and Form 79-1127, or a notice of the advice letter (containing a summary of the major provisions and information on accessing or ordering the entire advice letter) on the City pursuant to Section 3.2, sub. (1) because the Advice Letter sought "...*approval of a Contract...*" (emphasis added.)

The first time the City became aware of AL 3767-E and Form 79-1127 was in January 2011, when PG&E staff met with City staff and for the first time notified the City about the new general conditions contained in Form 79-1127.¹⁸ At that point, the 20-day protest period under GO-96B, Section 7.4.¹⁹ had passed leaving the City and the other communities with the inability to challenge the terms of Form 79-2111.

Sindy Mikkelsen memorialized the January 2011 meeting in a June 13, 2011,²⁰ email to PG&E's Paul Espinola . In that e-mail Ms. Mikkelsen confirms that she knew San José "could be a bit sensitive" about the new form.

In a follow up email to City staff on June 19, 2011,²¹ Ms. Mikkelsen stated that PG&E would require signed Form 79-1127 agreements from the City for undergrounding projects that had already been legislated and adopted by the City Council via ordinance. City staff recommended approval of those ordinances to the City Council relying on PG&E's commitment to construct the projects based on the terms and scope of work that had been negotiated with PG&E before the Commission approved Form 79-1127. City staff expressed their concerns about the ability to retroactively enter into Form 79-127 after the City Council had legislated the districts based on the facts known at the time which did not include the onerous requirements of Form 79-1127, making PG&E's threat to cease projects absent compliance with Form 79-1127, unreasonable²².

Ms. Mikkelsen was dismissive of the City's concerns and went on to incorrectly state in her email that Form 79-1127, "...generally speaking does not require additional

¹⁸ June 13, 2011, email from Sindy Mikkelsen to Paul Espinola attached as Exhibit J.

¹⁹ The City's protest would have due by December 20, 2010.

²⁰ According to City staff the meeting occurred in January 2011. Ms. Mikkelsen's June 13, 2011, email indicates the meeting was held in February 2011.

²¹ See Ex. J, June 19, 2011 email to City staff Leo Ruiz and Sal Kumar.

²² See Ex. J.

funding from the City, it simply no longer allows the city to make money off a Rule 20A project.²³

Rule 20A describes how rate payer funds may and may not be used. At no time has the City knowingly exceeded or acted beyond the scope of those limitations. No claim or assertion has ever been made that the City has not complied with the Rule 20A requirements and it was misleading and inappropriate for Ms. Mikkelsen to make such an accusation about the City.

On November 17, 2011, the City responded to PG&E's demands by sending an extensive and detailed letter to Ms. Mikkelsen identifying each of the terms the City was willing to agree to, and describing the critical legal and business reasons why the City could not otherwise enter into Form 79-1127, as drafted.²⁴

For example, Form 79-1127 required the City to waive provisions of the City's encroachment permit ordinance (SJMC Chapter 15.50.) such as "work hour restrictions for construction" which are established for the public's health and safety, and are required by law under the City's ordinance. Another provision of Form 79-1127 mandated that the City "[s]ecure all required rights-of-way and easements, which must be satisfactory to and approved by PG&E."²⁵ This requirement was in direct conflict with the explicit language of Rule 20A which states that "...rights of way satisfactory to PG&E have been obtained by PG&E."²⁶ (emphasis added.)

Form 79-1127, again, required that the City "waive all permit fees and other incidental project specific costs, including but not limited to: parking charges; rental costs of county properties; and lost revenues." The City was (and still is) unable to comply with these requirements because they violate Section 1.17.010 of the SJMC as discussed above, and are beyond the City's practical and legal ability to perform. For instance, the City could not waive the "rental costs of county properties." The City has no control or authority over what the County elects to do or not do with its properties.

²³ See Ex. J.

²⁴ November 17, 2011, letter from David Sykes to Sandy Mikkelsen attached as Ex. K.

²⁵ See Ex. C, Section 19, "Responsibilities of the Applicant".

²⁶ See Ex. C, Section 6.

Furthermore, Form 79-1127 demanded that the City wholly “own and manage all contaminated soils” and “own and manage all cultural resource findings” without regard to the applicant’s responsibility, ownership or control of the environmental issue.²⁷

Notably absent from Form 79-1127 was a requirement that the project applicant pay Special Facility charges.

City and PG&E staff continued to discuss the terms of Form 79-1127 following the City’s November 17, 2011, letter and have drafted many revisions to Form 79-1127 since that time, up until as recently as October 11, 2016.

During the course of these negotiations, City staff reached out to neighboring public agencies and discovered that a number of other cities, including Oakland, Hayward, Campbell and the County of Tehama (collectively Cities and County), were experiencing similar issues with PG&E. They were also concerned about the legality of Form 79-1127.

The Cities and County worked together with PG&E in an effort to develop terms that were acceptable to all of the parties. While the parties agreed to a number of changes to Form 79-1127, PG&E was very slow to respond to the agencies’ requests. Given PG&E’s unresponsiveness, the Cities and County sent a joint letter to Christopher P. Johns, the president of PG&E, on December 17 2012, to reiterate their concerns with Form 79-1127.²⁸ Copies of the letter were also sent to each of the Commission’s members.

On December 24, 2012, following the Cities and County’s letter, Greg Kiraly, PG&E’s Senior Vice President of Distribution Operations, wrote to the City’s Director of Public Works, David Sykes, offering to schedule a meeting with Mike Kress, Sr. Director of Customer Service Delivery, in an effort to facilitate better communication and exchange of information on behalf of PG&E. The letter was only addressed to the City, so it unknown whether the Cities and County received similar letters

Between 2012 and 2016, the City, PG&E, and the Cities and County participated in numerous meetings in order to try and resolve the parties continuing conflict over the

²⁷ See Ex. C, Section 20.

²⁸ December 17 2012, letter to PG&E’s President Christopher P. Johns from the Cities joined by Co. of Tehama, attached as Ex. L.

terms of Form 79-1127.²⁹ The meeting participants and the scope of the negotiations were memorialized in agendas and meeting minutes.³⁰ Despite these efforts, the City could not reach agreement with PG&E.

4. The City's Protest of AL 4948-E and Rev. Form 79-1127

Although there have been some improvements to the terms set forth in Form 79-1127, after many years of costly and protracted negotiations between the City and PG&E, two critical issues remain in Rev. Form 79-1127.

The first issue pertains to the scope of the City's and PG&E's respective responsibilities for "contaminated soils" and "cultural resources" where contamination may be a concern.³¹ (Form 79-1127, Section 16 (a) and 16(b) respectively of "Responsibilities of Governmental Body).³² The second issue relates to Special Facility charges and the requirement that the City pay a "one-time maintenance charge" should PG&E, in its sole discretion, decide to install electrical equipment subsurface.

On October 3, 2016, Jennifer Pousho, Sr. Deputy City Attorney for the City, sent Aichi Danielsen, attorney for PG&E, comments regarding the remaining two issues, along with some housekeeping comments regarding Form 79-1127. With respect to the first issue, Ms. Pousho pointed out that the language in Section 16 exposed the City to unknown potential liability for "contaminated soils" and "cultural resources" that the City could not agree to contractually undertake, and stated that the City was unaware of any legal authority requiring it to do so. She also included a representation made by PG&E staff to City staff wherein PG&E agreed to use the City's Rule 20A funds to pay for the management of "contaminated soils" and "cultural resources". In addition, Ms. Pousho raised the City's concerns about the lack of process for project completion in the event an environmental issue was encountered, and the practical difficulties associated with

²⁹ January 18, 2013, letter from Michael O'Connell to Sindy Mikkelsen attached as Ex. M.

³⁰ Meeting agendas and minutes between March 7, 2013, and March 24, 2015, collectively attached as Ex. N.

³¹ See Ex. A.

³² The language in Rev. Form 79-1127, Section 16(a) and 16(b) is the same under "responsibilities of PG&E" Sections 12 (a) and 12(b) respectively.

trying to identify and compel an unknown “responsible party” to undertake whatever mitigation measures might be required.³³

Ms. Danielsen sent her reply comments to Ms. Pousho on October 11, 2016. She disagreed with the City’s position as to the environmental issues on the basis that PG&E’s offer to pay for the management of “contaminated soils” and “cultural resources” was intended to be a “one-time tariff deviation” made expressly for the City. Ms. Danielsen went on to state that the City rejected PG&E’s offer and, as such, it was no longer available. She also insisted that the offer to the City could not have been construed as an offer for broader tariff changes that would be applicable to other cities and counties.

Ms. Danielsen similarly responded that PG&E’s 2007 agreement to use the City’s Rule 20A allocation to pay for Special Facilities was only a one time offer, even though the language in the language in PG&E’s 2007 letter contains no conditions of any kind.

Ms. Danielsen did not specifically respond to the City’s comments, nor did she cite any legal authority in support PG&E’s position.³⁴

She further stated that her comments represented PG&E’s “final position” on the issues.³⁵

On October 13, 2016, Ms. Pousho advised Ms. Danielsen that the City would review PG&E’s comments and then reply to Ms. Danielsen.³⁶ Before the City was given the opportunity to respond, however, City staff was told by PG&E staff that PG&E was unwilling to discuss any further revisions to Form 79-1127, and that it would be seeking the Commission’s approval of another advice letter and a revised Form 79-1127.

II. PROTEST

The City protests AL Letter 4948-E and Rev. Form 79-1127, pursuant to General Order 96-B, Section 7.4.2, on the basis that they are unjust and unreasonable for each and every one of the following reasons:

³³ October 3, 2016, email and comments from Jennifer Pousho to Aichi Danielsen, attached as Ex. O.

³⁴ October 11, 2016, email and comments from Aichi Danielsen to Jennifer Pousho, attached as Ex. P.

³⁵ See Ex. P.

³⁶ October 13, 2016, email from Jennifer Pousho to Aichi Danielsen attached as Ex. Q.

A. The City of San José is a Charter Law City and Cannot Legally be Compelled to Enter into the Agreement in Order to Participate in the Rule 20A Program

The City of San José is a charter law city. As a charter law city, San José is entitled to make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general law.³⁷ It derives its corporate powers directly from the state constitution subject to limitations in its charter or the legislature on matters of statewide concern.³⁸ Neither PG&E, an investor-owned public utility which is regulated by the Commission, nor the Commission, a constitutional agency which regulates investor-owned electric, natural gas, telecommunications, and water utilities, has direct regulatory or legislative oversight over the City. As such, neither PG&E nor the Commission have the legal authority or jurisdiction to compel the City to be contractually bound by the terms of Rev. Form 79-1127 in order for the City to participate in the Rule 20 program.

B. PG&E Failed to Properly Serve the City with AL 3767-E in Violation of GO 96-B, Energy Industry Rule 3.2 (1)

The City's opposition to AL 4948-E and Rev. Form 79-1127, begins with PG&E's failure to serve AL 3767-E and Form No. 79-11 as required by GO 96-B, Energy Industry Rule 3.2 (1), on November 30, 2010.

AL 4948-E and Rev. Form 79-1127 prejudices the City because together they are based on an inaccurate assumption that AL 3767-E and Form 79-11 were valid in the first place. The representations made by PG&E that AL 4948-E and Rev. Form 79-1127 should be approved by the Commission because they've been negotiated with cities and counties to "further clarify the responsibilities of the Governmental Bodies and PG&E" is untrue as to San José. While the City, as well as a number of other cities and counties, have been attempting to resolve the legal and business impediments posed by AL 3767-E and Form 79-1127 for almost six years, PG&E's position presupposes that the documents were legally valid in the first place. The City strongly disagrees with this view.

³⁷ Cal. Const., art. XII, § 7.

Based on the foregoing, the City requests that the period to protest AL 3767-E and Form 79-1127 be reopened so that the City, along with any other governmental agency which was not properly served with AL 3767-E and Form 79-1127, can appear and have their concerns heard and considered by the Commission.

C. The Commission Should Not Approve Rev. Form 79-1127 Because it Exposes the City to Unlimited Liability and Financial Exposure for “Contaminated Soils” and “Cultural Resources”

Rev. Form 79-1127, Section 16 of the Responsibilities of the Governmental Body³⁹ states that the City, as the Governmental Body, will:

“16) Work cooperatively with PG&E concerning contaminated soils and cultural resources.

(a) Contaminated Soils. In the circumstances where contamination may be a concern, PG&E’s Electric Rule 20A funds will be used for core samples to design a project to avoid environmental issues. In the event contamination is encountered that triggers federal, state, and/or local laws and regulations which restrict or prohibit further work in the trench, PG&E will suspend work in the affected area until all measures required by law have been completed by the Governmental Body or other party responsible for such contamination.

(b) Cultural Resources. In the circumstance where cultural resources are encountered that trigger federal, state, and/or local laws and regulations which restrict or prohibit further work in the trench, PG&E will suspend work and comply with the appropriate notification requirements.

1. “Contaminated Soils” and “Cultural Resources”

Since December 2010, PG&E has taken the position that Rule 20A funds cannot be used for remediation of contaminated soils. As a result, PG&E is attempting to contractually impose potential unlimited liability with respect to the identification, mitigation and remediation of contaminated soils on the City by requiring either the City or “other party responsible for such contamination” to bear the costs of those measures.

³⁸ See *Johnson v. Bradley* (1992) 4 Cal. 4th 389, 394.

³⁹ See Ex.A.

During the many years the City has been negotiating with PG&E over the City's "responsibilities" under Rule 20A, it has become apparent to the City that PG&E fundamentally misunderstands its role in constructing Rule 20A projects. PG&E, for all intents and purposes, is the *owner* of Rule 20A projects. "Rate payers collectively pay through utility rates the bulk of the costs of Rule 20A projects," which are for the benefit of the rate payers, and must be in the public interest.⁴⁰ PG&E is *not* the City's contractor, *nor* is the City PG&E's customer. If the City were, then it might be appropriate to memorialize the roles and responsibilities of the owner/contractor, customer/contractor in some type of construction agreement. However, the City is not the owner, contractor, or customer of PG&E in the case of Rule 20A projects. Rule 20A already sets the parameters for the program and the City's responsibilities thereunder.

It is important to distinguish the use of Rule 20A funds to address environmental issues that may arise during the construction of a Rule 20A project from the concept of using rate payer Rule 20A funds to subsidize the remediation of general environmental issues in the City. The City is not looking to impose general environmental cleanup costs that are beyond the scope of the Rule 20A project on PG&E ratepayers. The City simply requests that the Commission view the expenditure of Rule 20A funds to respond to environmental issues as part of the costs of constructing the project as the City would do if it were the owner of the project.

As an alternative to imposing responsibility for "contaminated resources" on the City, Rev. Form 79-1127 requires that "...other such party responsible for such contamination" be responsible for the costs of any clean-up efforts.⁴¹ Attempting to impose financial responsibility on an unknown person or entity that is not in privity of contract with PG&E poses a host of legal and practical issues. It could be extremely time consuming and costly to try to identify the responsible party, who at the end of that effort, may never be determined. There is also the added complexity of trying to compel this unknown party to take all measures required by law to secure and/or remediate the site. Rev. Form 79-1127 is silent as to who will pay for this effort, what happens to the

⁴⁰ Commission Resolution E-4001, August 24, 2006, Findings Nos. 4. and 6, attached as Ex. R.

⁴¹ See Ex. A.

project during the process, or what happens to the project if the responsible party cannot be identified or compelled to respond to the environmental issue encountered.

a. The CPUC Has Approved the Use of Electric Rule 20A Funds to Dispose of and Transport Contaminated Soils Before

On April 28, 1999, Brian Schumacher, Supervisor of the Commission's Energy Division, issued an opinion to the Deputy Director of Public Works for Placer County, agreeing with the County of Placer "...that the disposal and transport of contaminated soil in the conversion project can be funded under Rule 20-A of Sierra Pacific and/or Rule 32-A of Pacific Bell."⁴² While this opinion is informal, it clearly supports the City's position that Rule 20A funds may be used to respond to environmental issues.

D. Project Completion in the Event "Contaminated Soils" or "Cultural Resources" Are Encountered During Project Construction

Rev. Form 79-1127 provides no process or procedure for completing Rule 20A projects in the event "contaminated soils" or "cultural resources" are encountered. Rev. Form 79-1127 simply states that "PG&E will suspend work until all measures required by law have been completed..." It could take weeks, months or years for any clean up to take place. However, Rev. Form 79-1127 doesn't state what happens to the work that has been performed up to the time the discovery is made, who is responsible for securing that the project site, what PG&E will do to complete the project, etc.

PG&E, as the project owner, should be responsible for environmental hazards that are encountered during the project and use the City's Rule 20A allocations as necessary to respond to the hazard. This isn't to say that PG&E's rate payers should subsidize a response to a general environmental issue in the City. However, to the extent that the issue is discovered during the course of a Rule 20A project, the City's Rule 20A allocation should be available for mitigation as required by law.

The City has always been, and continues to be, willing to facilitate and assist PG&E with the administration of Rule 20A projects in San José much in the same way that it provides development services assistance to other private construction/development projects. The City spends a substantial amount of its own

resources to implement Rule 20A projects which includes, but is not limited to, City staff time coordinating with PG&E staff to develop the project, administering and managing its 20A allocation, preparing reports for the City Council, conducting public outreach and legislating the underground district, coordinating with other trench participants, providing project inspection services, and assisting PG&E with obtaining easements. However, as is the case with other private development the substantive construction project is PG&E's, not the City's.

Furthermore, Rev. Form 79-1127 contains no definition for the term "contaminated soils". The lack of definition creates an ambiguity in the work for which PG&E wants the City to be contractually and legally responsible, and exposes the City to vague and unknown risks for an undefined period of time. The same can be said of the term "cultural resources".

Given PG&E's extensive history of changing its position regarding the scope of the Rule 20A program and misstating the facts relating thereto, the City cannot leave the vague, overly broad and ambiguous Rev. Form 79-1127 terminology to be resolved formally or informally with PG&E at some unknown time in the future. The City, its elected officials, PG&E's rate payers and the public need certainty and transparency with regard to how the Rule 20A program is to be implemented and the projects are to be constructed.

E. The City Relied on PG&E's 2007 Agreement to Use 20A Funds for Subsurface Electrical Facilities Making its Unilateral Withdrawal of the Agreement in 2016 Unreasonable and Unfair

PG&E unequivocally agreed to use the City's Rule 20A allocation to install subsurface electrical equipment as set forth in its May 16, 2007 letter to the City. Despite this long standing agreement, PG&E added a provision to Rev. Form 79-1127 which requires governmental agencies to pay a one-time "maintenance cost" for requesting PG&E facilities (e.g., aboveground transformers) to be placed subsurface. The one-time "maintenance cost" for Special Facilities ranges between \$700 and \$34,000 per facility, depending on the type of equipment.

⁴² April 28, 1999, letter from Brian Schumacher to Wesley K. Zicker, attached as Ex. S.

The proposed “maintenance cost” is yet another attempt by PG&E to require the City to pay for subsurface installations; it is just replacing the term “one - time maintenance cost” in lieu of calling the subsurface installations cost a Special Facilities cost, which is simply a matter of form over substance.

There are no parameters stated in Rev. Form 79-1127, as to when PG&E will agree to use the allocation to pay for subsurface equipment leaving the City vulnerable to the discretion of PG&E to find funding for the “maintenance fee”. The City has no budget for these facilities and cannot begin to develop a budget to pay for these “fees” given that PG&E has the sole discretion under Rev. Form 79-1127, to decide whether or not to install subsurface equipment.

F. The relief requested in AL 4948-E is not appropriate for the advice letter process and requires consideration in a formal hearing.

GO 96-B, Section 5.1, states that the “...advice letter process provides a quick and simplified review of the types of utility requests that are expected neither to be controversial nor to raise important policy questions.”

AL 4948-E and Rev. Form 79-1127, are very controversial and raise important policy questions as set forth in this Protest, and includes PG&E’s attempt to contractually bind a charter law city to its self-serving interpretation of what Rule 20A allocations can be used for, which cannot be decided through the advice letter process.

III. REQUEST FOR EVIDENTIARY HEARING

For the foregoing reasons, an evidentiary hearing is necessary for San José to present facts regarding, and for the Commission to fully and properly evaluate, the deficiencies in Rev. Form 79-1127. The City respectfully protests Rev. Form 79-1127 and requests that the Commission deny Rev. Form 79-1127 as drafted, and requires further consultation with and revision of the form to address the City’s input and comments. PG&E should be required to revise Rev. Form 79-1127 to adequately respond to the City’s concerns as outlined herein and as may be proposed during subsequently ordered negotiations.

IV. REQUEST FOR ALTERNATIVE DISPUTE RESOLUTION

Without waiving and subject to the City’s ability to have an evidentiary hearing, the City is willing to participate in the Commission’s Alternative Dispute Resolution (ADR)

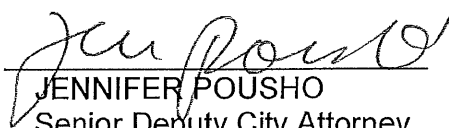
program.⁴³ If the Commission elects to refer the City and PG&E to its ADR program, the City maintains that its request for evidentiary hearing be granted based on facts and analysis set forth above, but that it be stayed for a period of time as directed by the Commission, or until such time mutually agreed to by the City and PG&E.

Dated: November 21, 2016

Respectfully Submitted,

RICHARD DOYLE, City Attorney

By:



JENNIFER Pousho

Senior Deputy City Attorney

Attorney for CITY OF SAN JOSE
200 E. Santa Clara St., 16th Floor
San Jose, CA 95113

Telephone: 408.535.1922

Facsimile: 408.998.3131

Email: jennifer.pousho@sanjoseca.gov

JLP/mmr

⁴³ Commission Resolution ALJ-185.

PROOF OF SERVICE

I, the undersigned declare as follows:

I am a citizen of the United States, over 18 years of age, employed in Santa Clara County, and not a party to the within action. My business address is 200 East Santa Clara Street, San Jose, California 95113-1905, and is located in the county where the service described below occurred.

On November 21, 2016, I caused to be served the within documents:

PROTEST OF THE CITY OF SAN JOSE TO PG&E's ADVICE LETTER NO. 4948-E and FORM 79-1127 ENTITLED "REVISIONS TO FORM NO. 79-1127, AGREEMENT TO PERFORM TARIFF SCHEDULE RELATED WORK, RULE 20A GENERAL CONDITIONS"

by MAIL, with a copy of this declaration, by depositing them into a sealed envelope, with postage fully prepaid, and causing the envelope to be deposited for collection and mailing on the date indicated above.

I further declare that I am readily familiar with the business' practice for collection and processing of correspondence for mailing with the United States Postal Service. Said correspondence would be deposited with the United States Postal Service that same day in the ordinary course of business.

by ELECTRONIC TRANSMISSION, with a copy of this declaration, to an electronic address listed below.

Addressed as follows:

CPUC Energy Divisions
ED Tariff Unit
505 Van Ness Avenue, 4th Floor
San Francisco, CA 94102
Email: EDTariffUnit@cpuc.ca.gov
(Via Email only)

Erik Jacobson
Director, Regulatory Relations
c/o Megan Lawson
Pacific Gas and Electric Company
77 Beale Street, Mail Code B10c
P.O. Box 770000
San Francisco, CA 94177
Email: PGETariffs@pge.com
(Via Email only)

Attn: Director, Energy Division
505 Van Ness Avenue, Room 4004
San Francisco, CA 94102
(By U.S. Mail)

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on November 21, 2016, at San Jose, California.

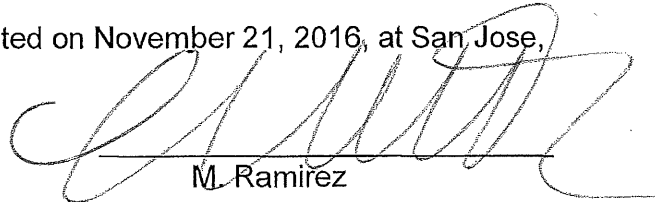

M. Ramirez

EXHIBIT A



**Pacific Gas and
Electric Company**

Erik Jacobson
Director
Regulatory Relations

Pacific Gas and Electric Company
77 Beale St., Mail Code B10C
P.O. Box 770000
San Francisco, CA 94177

Fax: 415-973-1448

October 31, 2016

Advice 4948-E

(Pacific Gas and Electric Company ID U 39 E)

Public Utilities Commission of the State of California

Subject: Revisions to Sample Form No. 79-1127, "Agreement to Perform Tariff Schedule Related Work, Rule 20A General Conditions"

Pacific Gas and Electric Company (PG&E) hereby submits this filing pursuant to California Public Utilities Commission (CPUC or Commission) General Order 96-B, Section 8.1, to revise Form 79-1127, "Agreement to Perform Tariff Schedule Related Work, Rule 20A General Conditions", for use on Rule 20A projects.

Purpose

PG&E is submitting modifications to its "Agreement to Perform Tariff Schedule Related Work, Rule 20A General Conditions," (Form 79-1127) in order to further clarify roles and responsibilities with cities and counties (Governmental Bodies) on Rule 20A projects. The modifications are intended to provide more cost certainty for project proponents and add efficiencies in project timing.

Background

On December 31, 2010, the Commission approved Advice 3767-E establishing Form 79-1127, which memorializes the roles and responsibilities of both the Applicant and PG&E on Rule 20A projects.

Since the inception of Form 79-1127, Governmental Bodies have expressed the need to revise Form 79-1127 to add further clarity. As a result, PG&E continued to work with various Governmental Bodies to further streamline the Rule 20A process. After working collaboratively with the California State Association of Counties (CSAC), the League of California Cities (LOCC), and local cities and counties, PG&E is now filing revisions to Form 79-1127 that further clarify the responsibilities of the Governmental Bodies and PG&E and the use of the Rule 20A allocation funds to project related costs.

Tariff Revisions

The following are the major substantive changes to Form 79-1127:

- **Americans with Disabilities Act (ADA) Requirements:** The current Form 79-1127 does not require Governmental Bodies to account for ADA requirements when determining boundaries of the Rule 20A project. To provide clarity, the revised requirement is that Governmental Bodies will acknowledge wheelchair access and consider it as a basis for defining the boundaries of the Rule 20A project (see Revised Form 79-1127, Responsibility of Governmental Body Section, # 4).
- **Maps:** In the current Form 79-1127, Governmental Bodies are required to provide PG&E with base maps for the Rule 20A project. After feedback from Governmental Bodies of having difficulties in providing the base map causing project delays, the revised requirement is that Governmental Bodies will provide PG&E with the project boundary map and available drawings of known Governmental Bodies-owned facilities and road improvement (see Revised Form 79-1127, Responsibility of Governmental Body Section, # 5) and PG&E will prepare the base map (see Revised Form 79-1127, Responsibility of PG&E Section, # 2).
- **Easements:** In the current Form 79-1127, Governmental Bodies are required to secure all rights of way and easements to the satisfaction of PG&E. After feedback from Governmental Bodies that projects are delayed due to the current process of obtaining easements, the revised requirement delineate responsibilities to secure easements for the Rule 20A project so that the requirement is a shared responsibility (see Revised Form 79-1127, Responsibility of Governmental Body Section, # 6 and Responsibility of PG&E Section, # 7).
- **Paving and Restoration Costs:** In the current Form 79-1127, Governmental Bodies are required to pay for all paving and restoration costs beyond the standard excavation and restoration cost necessary for the Rule 20A project. The revised requirement makes these costs a shared responsibility with joint trench participants and eliminates the current requirement of the Governmental Body to pay for costs beyond the standard excavation (see Revised Form 79-1127, Responsibility of Governmental Body Section, # 7).
- **Paving Moratorium:** In the current Form 79-1127, Governmental Bodies are required to waive paying moratorium requirements or pay for the additional costs needed. The revision no longer requires waiver and clarifies the process for working in moratorium areas (see Revised Form 79-1127, Responsibility of Governmental Body Section, # 8).
- **Streetlights:** In the current Form 79-1127, Governmental Bodies are required pay for streetlights according to a Street Light Agreement and remove streetlights attached to utility poles and located within the underground district. Due to the

complexity of streetlight conversions, the revision now requires the Governmental Bodies to elect how to address streetlights impacted within the project scope prior to the start of the project design and PG&E to disclose project impacts to the existing streetlight system (see Revised Form 79-1127, Responsibility of Governmental Body Section, # 9 and Responsibility of PG&E Section, # 5).

- **Permit Conditions, Fees, and Cost Details:** In the current Form 79-1127, Governmental Bodies are required to waive all fees and permit costs. After feedback from the Governmental Bodies that the costs should not be waived, the requirement is revised to allow the Governmental Bodies to share these costs with joint trench participants (see Revised Form 79-1127, Responsibility of Governmental Body Section, # 11).
- **Construction Yards:** In the current Form 79-1127, Governmental Bodies are required to provide acceptable construction yard for materials and equipment storage. The requirement is revised to allow the Governmental Bodies to share these costs with joint trench participants (see Revised Form 79-1127, Responsibility of Governmental Body Section, # 15).
- **Contaminated Soils and Cultural Resources:** In the current Form 79-1127, Rule 20A funds cannot be used by the Governmental Bodies to own and manage all contaminated soils and cultural resource findings. After much discussion with Governmental Bodies, the revised requirement is to further clarify the process and role of the Governmental Bodies when contamination and cultural resources are encountered. In addition, the revision allows for Rule 20A funds to be used for core samples to design a project to avoid environmental issues (see Revised Form 79-1127, Responsibility of Governmental Body Section, # 16 and Responsibility of PG&E Section, # 12).
- **Electric Service Panel Conversions:** In the current Form 79-1127, the electric service panel conversion responsibility was solely under the PG&E responsibility section. The revision allows the Governmental Bodies to elect to be the lead in the conversion of electric service panels and further clarifies the payment and reimbursement process (see Revised Form 79-1127, Responsibility of Governmental Body Section, # 17 and Responsibility of PG&E Section, # 13).
- **Subsurface Equipment:** The current Form 79-1127, does not specify a process to deal with subsurface equipment. The additional sections provide clarity that the Governmental Bodies may require PG&E to install subsurface equipment and if PG&E agrees then the Rule 20A allocation funds may be used for the additional installation costs for the subsurface installation. The Governmental Bodies will be required to pay the one-time maintenance charge associated with the subsurface installation (see Revised Form 79-1127, Responsibility of Governmental Body Section, # 18 and Responsibility of PG&E Section, # 14).

The filing would not increase any current rate or charge, cause the withdrawal of service, or conflict with any rate schedule or rule.

Protests

Anyone wishing to protest this filing may do so by letter sent via U.S. mail, facsimile or e-mail, no later than November 21, 2016, which is 21 days¹ after the date of this filing. Protests must be submitted to:

CPUC Energy Division
ED Tariff Unit
505 Van Ness Avenue, 4th Floor
San Francisco, California 94102

Facsimile: (415) 703-2200
E-mail: EDTariffUnit@cpuc.ca.gov

Copies of protests also should be mailed to the attention of the Director, Energy Division, Room 4004, at the address shown above.

The protest shall also be sent to PG&E either via E-mail or U.S. mail (and by facsimile, if possible) at the address shown below on the same date it is mailed or delivered to the Commission:

Erik Jacobson
Director, Regulatory Relations
c/o Megan Lawson
Pacific Gas and Electric Company
77 Beale Street, Mail Code B10C
P.O. Box 770000
San Francisco, California 94177

Facsimile: (415) 973-1448
E-mail: PGETariffs@pge.com

Any person (including individuals, groups, or organizations) may protest or respond to an advice letter (General Order 96-B, Section 7.4). The protest shall contain the following information: specification of the advice letter protested; grounds for the protest; supporting factual information or legal argument; name, telephone number, postal address, and (where appropriate) e-mail address of the protestant; and statement that the protest was sent to the utility no later than the day on which the protest was submitted to the reviewing Industry Division (General Order 96-B, Section 3.11).

¹ The 20-day protest period concludes on a weekend. PG&E is hereby moving this date to the following business day.

Effective Date

PG&E requests that this Tier 2 advice filing become effective on regular notice, November 30 which is 30 calendar days after the date of filing.

Notice

In accordance with General Order 96-B, Section IV, a copy of this advice letter is being sent electronically and via U.S. mail to parties shown on the attached list. Address changes to the General Order 96-B service list should be directed to PG&E at email address PGETariffs@pge.com. For changes to any other service list, please contact the Commission's Process Office at (415) 703-2021 or at Process_Office@cpuc.ca.gov. Send all electronic approvals to PGETariffs@pge.com. Advice letter filings can also be accessed electronically at: <http://www.pge.com/tariffs/>.

/s/

Erik Jacobson
Director, Regulatory Relations

Attachments

cc: Service List

CALIFORNIA PUBLIC UTILITIES COMMISSION

ADVICE LETTER FILING SUMMARY ENERGY UTILITY

MUST BE COMPLETED BY UTILITY (Attach additional pages as needed)

Company name/CPUC Utility No. **Pacific Gas and Electric Company (ID U39 E)**

Utility type:

ELC GAS
 PLC HEAT WATER

Contact Person: Kingsley Cheng

Phone #: (415) 973-5265

E-mail: k2c0@pge.com and PGETariffs@pge.com

EXPLANATION OF UTILITY TYPE

ELC = Electric GAS = Gas
PLC = Pipeline HEAT = Heat WATER = Water

(Date Filed/ Received Stamp by CPUC)

Advice Letter (AL) #: **4948-E**

Tier: **2**

Subject of AL: **Revisions to Sample Form No. 79-1127, "Agreement to Perform Tariff Schedule Related Work, Rule 20A General Conditions"**

Keywords (choose from CPUC listing): Forms

AL filing type: Monthly Quarterly Annual One-Time Other _____

If AL filed in compliance with a Commission order, indicate relevant Decision/Resolution #: N/A

Does AL replace a withdrawn or rejected AL? If so, identify the prior AL: No

Summarize differences between the AL and the prior withdrawn or rejected AL: _____

Is AL requesting confidential treatment? If so, what information is the utility seeking confidential treatment for: No

Confidential information will be made available to those who have executed a nondisclosure agreement: N/A

Name(s) and contact information of the person(s) who will provide the nondisclosure agreement and access to the confidential information: _____

Resolution Required? Yes No

Requested effective date: **November 30, 2016**

No. of tariff sheets: **3**

Estimated system annual revenue effect (%): N/A

Estimated system average rate effect (%): N/A

When rates are affected by AL, include attachment in AL showing average rate effects on customer classes (residential, small commercial, large C/I, agricultural, lighting).

Tariff schedules affected: **Electric Sample Form 79-1127**

Service affected and changes proposed: N/A

Pending advice letters that revise the same tariff sheets: N/A

Protests, dispositions, and all other correspondence regarding this AL are due no later than 21 days¹ after the date of this filing, unless otherwise authorized by the Commission, and shall be sent to:

California Public Utilities Commission
Energy Division
EDTariffUnit
505 Van Ness Ave., 4th Flr.
San Francisco, CA 94102
E-mail: EDTariffUnit@cpuc.ca.gov

Pacific Gas and Electric Company
Attn: Erik Jacobson
Director, Regulatory Relations
c/o Megan Lawson
77 Beale Street, Mail Code B10C
P.O. Box 770000
San Francisco, CA 94177
E-mail: PGETariffs@pge.com

¹ The 20-day protest period concludes on a weekend. PG&E is hereby moving this date to the following business day.

**ATTACHMENT 1
Advice 4948-E**

Cal P.U.C. Sheet No.	Title of Sheet	Cancelling Cal P.U.C. Sheet No.
37682-E	Electric Sample Form 79-1127 Agreement to Perform Tariff Scheduled Related Work, Rule 20A General Conditions Sheet 1	29717-E
37683-E	ELECTRIC TABLE OF CONTENTS Sheet 1	37634-E
37684-E	ELECTRIC TABLE OF CONTENTS SAMPLE FORMS Sheet 31	36053-E



Pacific Gas and Electric Company
San Francisco, California
U 39

Revised
Original
Cancelling

Cal. P.U.C. Sheet No.
Cal. P.U.C. Sheet No.

37682-E
29717-E

Electric Sample Form 79-1127
Agreement to Perform Tariff Scheduled Related Work,
Rule 20A General Conditions

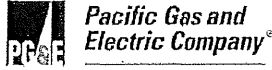
Sheet 1

**Please Refer to Attached
Sample Form**

Advice Letter No: 4948-E
Decision No.

Issued by
Steven Malnight
Senior Vice President
Regulatory Affairs

Date Filed October 31, 2016
Effective _____
Resolution No. _____



GENERAL CONDITIONS AGREEMENT TO PERFORM WORK PURSUANT TO PG&E ELECTRIC RULE 20A – REPLACEMENT OF OVERHEAD WITH UNDERGROUND ELECTRIC FACILITIES

PG&E Contract: _____
Contact #: _____

PROJECT NAME: _____

LOCATION: _____, CALIFORNIA

City/County of _____ (Governmental Body) has requested, and PACIFIC GAS AND ELECTRIC COMPANY (PG&E) has agreed to perform the replacement of overhead with underground electric facilities pursuant to Section A of PG&E's Electric Rule 20 Tariff (Electric Rule 20A), subject to the following General Conditions Agreement.

Rule 20A Tariff:

PG&E will, at its expense, replace its existing overhead electric facilities with underground electric facilities along public streets and roads, and on public lands and private property across which rights-of-way satisfactory to PG&E have been obtained by PG&E, consistent with Electric Rule 20A.

To ensure the success of this Electric Rule 20A project, Governmental Body and PG&E agree to the following terms. Any exceptions to these terms will require an advice filing with the California Public Utilities Commission (CPUC), with notice to the Governmental Body in accordance with General Order 96-B or any successor orders.

Responsibilities of the Governmental Body:

PG&E's Electric Rule 20A sets forth a program for replacing existing overhead electric facilities with underground electric facilities subject to certain requirements. In order to implement the Electric Rule 20A program as requested by the Governmental Body, the Governmental Body hereby agrees to:

- 1) Consult with PG&E to confirm the requirements of an Electric Rule 20A project and the location of the specific Electric Rule 20A project.
- 2) Hold public hearing(s) on the proposed Electric Rule 20A project in order to determine that the specific Electric Rule 20A project is in the general public interest.
- 3) Provide PG&E with a duly-adopted ordinance or resolution, as appropriate, creating an underground district in the area in which both the existing and new facilities are and will be located, requiring, among other things:
 - a) That all existing overhead communication and electric distribution facilities in such district shall be removed;
 - b) That each property served from such electric overhead facilities shall have installed in accordance with PG&E's rules for underground service, all electrical facility changes on the premises necessary to receive service from the underground facilities of PG&E as soon as it is available; and
 - c) Authorizing PG&E to discontinue its overhead electric service upon completion of the underground distribution system.
- 4) Acknowledge that wheelchair access is in the public interest and will be considered as a basis for defining the boundaries of projects that otherwise meet the criteria set forth in PG&E's Electric Rule 20A, Subsection 1(a).
- 5) Provide PG&E with a project boundary map and available drawings showing all known Governmental Body-owned facilities and known road improvements.
- 6) Identify property owners/persons responsible for the properties identified by PG&E as requiring easements. Make initial contact with the property owners/responsible persons, mail PG&E prepared



GENERAL CONDITIONS AGREEMENT TO PERFORM WORK PURSUANT TO PG&E ELECTRIC RULE 20A – REPLACEMENT OF OVERHEAD WITH UNDERGROUND ELECTRIC FACILITIES

- easement documents, and coordinate meetings for the purpose of assisting PG&E with acquisition of necessary easements.
- 7) Provide PG&E with the Governmental Body's published standard for trench restoration and backfill requirements prior to start of engineering for the project, and require joint trench participants to replace paving, landscaping, sidewalk, etc., in accordance with the Governmental Body's published standard for trench restoration and backfill requirements that is removed or damaged during construction.
 - 8) Work cooperatively with PG&E to schedule undergrounding projects prior to paving projects or after the paving moratorium period. If the Governmental Body elects to construct the undergrounding project prior to the end of the paving moratorium period, restoration and backfill requirements shall not exceed the standards for non-moratorium streets, described in Section 7 above.
 - 9) Prior to the start of the project design, elect how to address streetlights impacted within the project scope.
 - 10) Prior to the start of the project design, provide a list of all recorded property owners (including APNs and addresses based on current tax assessor records).
 - 11) By the end of the project design, disclose all intended permit conditions, fees, and cost details. If the Governmental Body is a joint trench participant, the Governmental Body will pay its share of the associated permit costs.
 - 12) Provide PG&E with recent pot holing/core samplings and soils/paving information from other projects, if available.
 - 13) Work cooperatively with PG&E to establish work hour restrictions for construction, including holiday and/or special construction limitations.
 - 14) Survey, stake, and provide drawings to PG&E for any future known Governmental Body road improvement, grade changes, or viaduct projects known or planned within the project limits.
 - 15) Work cooperatively with PG&E to identify a suitable construction yard for the Rule 20A project. If the Governmental Body is a joint trench participant, will pay its share of the associated construction yard costs.
 - 16) Work cooperatively with PG&E concerning contaminated soils and cultural resources.
 - a) Contaminated Soils. In the circumstance where contamination may be a concern, PG&E's Electric Rule 20A funds will be used for core samples to design a project to avoid environmental issues. In the event contamination is encountered that triggers federal, state, and/or local laws and regulations which restrict or prohibit further work in the trench, PG&E will suspend work in the affected area until all measures required by law have been completed by the Governmental Body or other party responsible for such contamination.
 - b) Cultural Resources. In the circumstance where cultural resources are encountered that trigger federal, state, and/or local laws and regulations which restrict or prohibit further work in the trench, PG&E will suspend work and comply with the appropriate notification requirements.
 - 17) Electric Service Panel Conversion: Governmental Body may choose to be the lead in the conversion of electric service panels to accept underground service. If so and stated in the ordinance or resolution, PG&E shall pay the Governmental Body up to the maximum amount allowed by the Electric Rule 20A Tariff per service entrance, excluding permit fees. If the panel conversions are performed by the property owner, the Governmental Body will coordinate the reimbursement of PG&E funds, to the property owner / responsible party, up to the maximum amount allowed by the Electric Rule 20A Tariff per service entrance, excluding permit fees.
 - 18) Subsurface Equipment: Governmental Body may request that PG&E install electrical equipment subsurface. If PG&E agrees, then, the Governmental Body's Electric Rule 20A allocation shall be used for the additional costs necessary to complete the subsurface installation. The Governmental Body shall be responsible for paying the appropriate one-time maintenance charge. However, in the event that pad-mounted equipment cannot be installed due to field conditions, the Governmental Body will not be charged the one-time maintenance fee.



GENERAL CONDITIONS AGREEMENT TO PERFORM WORK PURSUANT TO PG&E ELECTRIC RULE 20A – REPLACEMENT OF OVERHEAD WITH UNDERGROUND ELECTRIC FACILITIES

Responsibilities of PG&E:

PG&E's Electric Rule 20A sets forth a program for replacing existing overhead electric facilities with underground electric facilities subject to certain requirements. In order to implement the Electric Rule 20A program as requested by the Governmental Body, PG&E hereby agrees to:

- 1) Consult with the Governmental Body to confirm the requirements of Electric Rule 20A, including but not limited to holding public hearings, adoption of an ordinance or resolution, and creation of a project boundary map.
- 2) Prepare a base map showing the following: boundary, roads, sidewalks, curbs, property lines, buildings, existing water and sewer, easements, and any other known utilities or obstacles.
- 3) Upon request of the Governmental Body, initiate project design sufficient to identify trench routes and obtain any necessary easements with the express understanding that if the underground district is subsequently delayed or cancelled, PG&E shall deduct all project-related expenses, including overheads, from the Governmental Body's Electric Rule 20A allocation. If the necessary easement(s) cannot be obtained, the Governmental Body may elect to change the project scope, request redesign of the project to avoid the need for the easement(s), or request that the project be postponed.
- 4) If PG&E is designated as the design/trench lead, PG&E shall prepare the intent drawings, composite drawings and joint trench cost agreement for joint trench construction (costs will be shared by all joint trench participants). If an entity other than PG&E is designated as the design/trench lead, PG&E shall provide electric design to the design/trench lead agency.
- 5) Disclose project impacts to the existing streetlight system.
- 6) If PG&E is designated as the joint trench lead, provide Governmental Body with traffic control plan for PG&E construction pursuant to the California Manual on Uniform Traffic Control Devices (MUTCD) as part of the permit process.
- 7) Identify all locations that require an easement(s) for PG&E, prepare all necessary easement related documents, and with the cooperation of the Governmental Body (as described in item 6 of "Responsibilities of Governmental Body" above), secure easements to the satisfaction of PG&E.
- 8) Once the design process begins, provide a project schedule and cost updates on a quarterly basis to the Governmental Body.
- 9) Provide proper notification to all affected customers when electrical outages are necessary to complete project conversion to the new underground system.
- 10) Remove poles, portions of poles, or tenant poles from the underground district as required by the Joint Pole Utility Agreement.
- 11) Provide inspection services for the installation of PG&E facilities.
- 12) Work cooperatively with the Governmental Body concerning contaminated soils and cultural resources.
 - a) Contaminated Soils. In the circumstance where contamination may be a concern, PG&E's Electric Rule 20A funds will be used for core samples to design a project to avoid environmental issues. In the event contamination is encountered that triggers federal, state, and/or local laws and regulations which restrict or prohibit further work in the trench, PG&E will suspend work in the affected area until all measures required by law have been completed by the Governmental Body or other party responsible for such contamination.
 - b) Cultural Resources. In the circumstance where cultural resources are encountered that trigger federal, state, and/or local laws and regulations which restrict or prohibit further work in the trench, PG&E will suspend work and comply with the appropriate notification requirements.



**GENERAL CONDITIONS AGREEMENT TO
PERFORM WORK PURSUANT TO PG&E ELECTRIC
RULE 20A – REPLACEMENT OF OVERHEAD WITH
UNDERGROUND ELECTRIC FACILITIES**

- 13) Electric Service Panel Conversion: Governmental Body may choose for PG&E to be the lead for the panel conversion. If so, then PG&E will convert the electric service panels to accept underground services. PG&E will have its selected contractor communicate to each property owner / responsible party the plan for the trench and panel locations and reach an agreement with the property owner / responsible party before proceeding with conversion. PG&E will be responsible for any work up to and including the meter. Any additional work needed by the property owner / responsible party will be at owner's / responsible party's costs. PG&E will require its selected contractor to abide by all Governmental Body's applicable laws and regulations.
- 14) Subsurface Equipment: Governmental Body may request that PG&E install equipment subsurface. If PG&E agrees, then the Governmental Body's Electric Rule 20A allocation shall be used for the additional installation costs necessary to complete the subsurface installation. The Governmental Body shall be responsible for paying the appropriate one-time maintenance charge. However, in the event that pad-mounted equipment cannot be installed due to space constraints, the Governmental Body will not be charged the one-time maintenance fee.

I have read the above information and understand and agree with the provisions and responsibilities as described above. I hereby attest, under penalty of perjury, that I am authorized to enter into this agreement on behalf of the entity indicated below.

Executed this _____ day of _____ 20_____

City/County of: _____

 Governmental Body

 Authorized by (Signature)

 Print Name

 Title

PACIFIC GAS AND ELECTRIC COMPANY

 Authorized by (Signature)

 Print Name

 Title

Mailing Address



Pacific Gas and Electric Company
 San Francisco, California
 U 39

Revised
 Cancelling Revised

Cal. P.U.C. Sheet No. 37683-E
 Cal. P.U.C. Sheet No. 37634-E

ELECTRIC TABLE OF CONTENTS

Sheet 1

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(Continued)

Advice Letter No: 4948-E
 Decision No.

Issued by
Steven Malnight
 Senior Vice President
 Regulatory Affairs

Date Filed October 31, 2016
 Effective _____
 Resolution No. _____



ELECTRIC TABLE OF CONTENTS
SAMPLE FORMS

Sheet 31

FORM	TITLE OF SHEET	CAL P.U.C. SHEET NO.
Sample Forms Miscellaneous (Cont'd)		
79-966	Agreement for Schedule E-OBMC	32491-E
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79-1006	Municipal Departing Load - Nonbypassable Charge Statement	32124-E
79-1013	New Municipal Departing Load Nonbypassable Charge Statement	33015-E
79-1024	Dual Supply Customer Authorizing Agreement	33017-E
79-1029	Community Choice Aggregator (CCA) Service Agreement	27499-E
79-1031	Community Choice Aggregator (CCA) Non-Disclosure Agreement	32646-E*
79-1039	Rate Schedule Selection Customer Agreement	35419-E
79-1040	Non-Disclosure and Use of Information Agreement	33020-E
79-1050	Contract for Customer Provision of Physically Assured Load Reduction	33021-E
79-1075	Notice to Add or Delete Customers Participating in the Capacity Bidding Program	32495-E
79-1076	Agreement for Aggregators Participating in the Capacity Bidding Program	32496-E
79-1079	Agreement for Aggregators Participating in the Base Interruptible Load Program	32497-E
79-1080	Notice to Add or Delete Customers Participating in the Base Interruptible Program	32498-E
79-1102	Section 399.20 Power Purchase Agreement	32140-E
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79-1118	General Off-Bill and On-Bill Financing Loan Agreement	32499-E
79-1120	Standard Contract for Eligible CHP Facilities	30818-E
79-1121	Power Purchase and Sales Agreement - Contract For Eligible CHP Facilities with Net Output of Not Greater Than 5 MW	32148-E
79-1126	Off-Bill and On-Bill Financing Loan Agreement for Self-Installed Projects	32500-E
79-1127	Agreement to Perform Tariff Schedule Related Work, Rule 20A General Conditions	37682-E (T)
79-1128	Affidavit in Support of Customer Claim as Qualifying as a Small Business Customer under Government Code Section 14837*	33026-E
79-1138	Power Purchase and Sale Agreement - Contract For Eligible CHP Facilities with Power Rating of Less Than 500 KW	32150-E
79-1141	Agreement for Schedule A-15 Fixed Usage Estimate	33683-E
79-1143	California State Government Customers On-Bill Financing Loan Agreement	32501-E
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79-1157	Authorization To Add Loan Charges To Utility Bill (Non-Residential)	34534-E*
79-1158	Electric Vehicle Submetering Meter Data Management Agent (MDMA) Registration Agreement	35264-E
79-1159	Electric Vehicle Submetering Pilot (Phase 1) Customer Enrollment Agreement	35265-E
79-1170	Authorization to Add MCE Loan Charges to Utility Bill	35485-E
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(Continued)

Advice Letter No: 4948-E
 Decision No.

Issued by
Steven Malnight
 Senior Vice President
 Regulatory Affairs

Date Filed October 31, 2016
 Effective _____
 Resolution No. _____

**PG&E Gas and Electric
Advice Filing List
General Order 96-B, Section IV**

AT&T	Division of Ratepayer Advocates	Office of Ratepayer Advocates
Albion Power Company	Don Pickett & Associates, Inc.	OnGrid Solar
Alcantar & Kahl LLP	Douglass & Liddell	Pacific Gas and Electric Company
Anderson & Poole	Downey & Brand	Praxair
Atlas ReFuel	Ellison Schneider & Harris LLP	Regulatory & Cogeneration Service, Inc.
BART	Evaluation + Strategy for Social Innovation	SCD Energy Solutions
Barkovich & Yap, Inc.	G. A. Krause & Assoc.	SCE
Bartle Wells Associates	GenOn Energy Inc.	SDG&E and SoCalGas
Braun Blaising McLaughlin & Smith, P.C.	GenOn Energy, Inc.	SPURR
Braun Blaising McLaughlin, P.C.	Goodin, MacBride, Squeri, Schlotz & Ritchie	San Francisco Water Power and Sewer
CENERGY POWER	Green Charge Networks	Seattle City Light
CPUC	Green Power Institute	Sempra Energy (SoCal Gas)
California Cotton Ginners & Growers Assn	Hanna & Morton	Sempra Utilities
California Energy Commission	ICF	SoCalGas
California Public Utilities Commission	International Power Technology	Southern California Edison Company
California State Association of Counties	Intestate Gas Services, Inc.	Spark Energy
Calpine	Kelly Group	Sun Light & Power
Casner, Steve	Ken Bohn Consulting	Sunshine Design
Center for Biological Diversity	Leviton Manufacturing Co., Inc.	Tecogen, Inc.
City of Palo Alto	Linde	TerraVerde Renewable Partners
City of San Jose	Los Angeles County Integrated Waste Management Task Force	TerraVerde Renewable Partners, LLC
Clean Power	Los Angeles Dept of Water & Power	Tiger Natural Gas, Inc.
Clean Power Research	MRW & Associates	TransCanada
Coast Economic Consulting	Manatt Phelps Phillips	Troutman Sanders LLP
Commercial Energy	Marin Energy Authority	Utility Cost Management
Cool Earth Solar, Inc.	McKenna Long & Aldridge LLP	Utility Power Solutions
County of Tehama - Department of Public Works	McKenzie & Associates	Utility Specialists
Crossborder Energy	Modesto Irrigation District	Verizon
Crown Road Energy, LLC	Morgan Stanley	Water and Energy Consulting
Davis Wright Tremaine LLP	NLine Energy, Inc.	Wellhead Electric Company
Day Carter Murphy	NRG Solar	Western Manufactured Housing Communities Association (WMA)
Defense Energy Support Center	Nexant, Inc.	YEP Energy
Dept of General Services	ORA	

EXHIBIT B



ELECTRIC RULE NO. 20 Sheet 1
 REPLACEMENT OF OVERHEAD WITH UNDERGROUND ELECTRIC FACILITIES

A. PG&E will, at its expense, replace its existing overhead electric facilities with underground electric facilities along public streets and roads, and on public lands and private property across which rights-of-ways satisfactory to PG&E have been obtained by PG&E, provided that:

1. The governing body of the city or county in which such electric facilities are and will be located has:

a. Determined, after consultation with PG&E and after holding public hearings on the subject, that such undergrounding is in the general public interest for one or more of the following reasons:

- 1) Such undergrounding will avoid or eliminate an unusually heavy concentration of overhead electric facilities;
- 2) The street or road or right-of-way is extensively used by the general public and carries a heavy volume of pedestrian or vehicular traffic;
- 3) The street or road or right-of-way adjoins or passes through a civic area or public recreation area or an area of unusual scenic interest to the general public; and
- 4) The street or road or right-of-way is considered an arterial street or major collector as defined in the Governor's Office of Planning and Research General Plan Guidelines.

b. Adopted an ordinance creating an underground district in the area in which both the existing and new facilities are and will be located requiring, among other things, (1) that all existing overhead communication and electric distribution facilities in such district shall be removed, (2) that each property served from such electric overhead facilities shall have installed in accordance with PG&E's rules for underground service, all electrical facility changes on the premises necessary to receive service from the underground facilities of PG&E as soon as it is available, and (3) authorizing PG&E to discontinue its overhead service.

c. Acknowledged that wheelchair access is in the public interest and will be considered as a basis for defining the boundaries of projects that otherwise qualify for Rule 20A under the existing criteria set forth in Section A(1)(a) above.

(N)
 I
 I
 (N)

(Continued)



ELECTRIC RULE NO. 20 Sheet 2
 REPLACEMENT OF OVERHEAD WITH UNDERGROUND ELECTRIC FACILITIES

A. (Cont'd.)

2. PG&E's total annual budgeted amount for undergrounding within any city or the unincorporated area of any county shall be allocated as follows: (N)
 - a. The amount allocated to each city and county in 1990 shall be the highest of:
 - 1) The amount allocated to the city or county in 1989, which amount shall be allocated in the same ratio that the number of overhead meters in such city or unincorporated area of any county bears to the total system overhead meters; or
 - 2) The amount the city or county would receive if PG&E's total annual budgeted amount for undergrounding provided in 1989 were allocated in the same ratio that the number of overhead meters in each city or the unincorporated area of each county bears to the total system overhead meters based on the latest count of overhead meters available prior to establishing the 1990 allocations; or
 - 3) The amount the city or county would receive if PG&E's total annual budgeted amount for undergrounding provided in 1989 were allocated as follows:
 - a) Fifty percent of the budgeted amount allocated in the same ratio that the number of overhead meters in any city or the unincorporated area of any county bears to the total system overhead meters; and
 - b) Fifty percent of the budgeted amount allocated in the same ratio that the total number of meters in any city or the unincorporated area of any county bears to the total system meters. (N)

(Continued)

Advice Letter No: 1300-E
 Decision No. 90-05-032

Issued by
Gordon R. Smith
 Vice President
 and Chief Financial Officer

Date Filed June 7, 1990
 Effective July 17, 1990
 Resolution No. _____



ELECTRIC RULE NO. 20 Sheet 3
 REPLACEMENT OF OVERHEAD WITH UNDERGROUND ELECTRIC FACILITIES

A. (Cont'd.)

2. (Cont'd.)

b. Except as provided in Section 2.c., the amount allocated for undergrounding within any city or the unincorporated area of any county in 1991 and later years shall use the amount actually allocated to the city or county in 1990 as the base, and any changes from the 1990 level in PG&E's total annual budgeted amount for undergrounding shall be allocated to individual cities and counties as follows:

(N)

- 1) Fifty percent of the change from the 1990 total budgeted amount shall be allocated in the same ratio that the number of overhead meters in any city or unincorporated area of any county bears to the total system overhead meters; and
- 2) Fifty percent of the change from the 1990 total budgeted amount shall be allocated in the same ratio that the total number of meters in any city or the unincorporated area of any county bears to the total system meters.

c. When a city incorporates, resulting in a transfer of utility meters from the unincorporated area of a county to the city, there shall be a permanent transfer of a prorata portion of the county's 1990 allocation base referred to in Section 2.b. to the city. The amount transferred shall be determined:

- 1) Fifty percent based on the ratio that the number of overhead meters in the city bears to the total system overhead meters; and
- 2) Fifty percent based on the ratio that the total number of meters in the city bears to the total system meters.

When territory is annexed to an existing city, it shall be the responsibility of the city and county affected, in consultation with the Utility serving the territory, to agree upon an amount of the 1990 allocation base that will be transferred from the county to the city, and thereafter to jointly notify PG&E in writing.

(N)

(Continued)

Advice Letter No: 1300-E
 Decision No. 90-05-032

Issued by
Gordon R. Smith
 Vice President
 Finance and Rates

Date Filed June 7, 1990
 Effective July 17, 1990
 Resolution No. _____



ELECTRIC RULE NO. 20 Sheet 4
 REPLACEMENT OF OVERHEAD WITH UNDERGROUND ELECTRIC FACILITIES

A. (Cont'd.)

2. (Cont'd.)

d. However, Section 2 a, b, and c shall not apply to PG&E where the total amount available for allocation under Rule 20-A is equal to or greater than 1.5 times the previous year's statewide average on a per customer basis. In such cases, PG&E's total annual budgeted amount for undergrounding within any city or the unincorporated area of any county shall be allocated in the same ratio that the number of overhead meters in the city or unincorporated area of any county bears to the total system overhead meters.

e. Upon request by a city or county, the amounts allocated may be exceeded (N)
 for each city or county by an amount up to a maximum of five years'
 allocation at then-current levels where PG&E establishes additional |
 participation on a project is warranted and resources are available. Such |
 allocated amounts may be carried over for a reasonable period of time in (N)
 communities with active undergrounding programs. In order to qualify as a
 community with an active undergrounding program the governing body must
 have adopted an ordinance or ordinances creating an underground district
 and/or districts as set forth in Section A.1.b. of this Rule. Where there is a (T)
 carry-over or additional requested participation, as discussed above, PG&E (T)
 has the right to set, as determined by its capability, reasonable limits on the
 rate of performance of the work to be financed by the funds carried over.
 When amounts are not expended or carried over for the community to which
 they are initially allocated they shall be assigned when additional
 participation on a project is warranted or be reallocated to communities with
 active undergrounding programs.

(Continued)

Advice Letter No: 2280-E-B
 Decision No. 02-06-027

Issued by
Karen A. Tomcala
 Vice President
 Regulatory Relations

Date Filed July 31, 2002
 Effective July 19, 2002
 Resolution No. E-3757 E-3767



ELECTRIC RULE NO. 20 Sheet 5
 REPLACEMENT OF OVERHEAD WITH UNDERGROUND ELECTRIC FACILITIES

A. (Cont'd.)

- | | |
|--|-----|
| 3. The undergrounding extends for a minimum distance of one block or 600 feet, whichever is the lesser. | (L) |
| Upon request of the governing body, PG&E will pay from the existing allocation of that entity for: | (T) |
| | (T) |
| The installation of no more than 100 feet of each customer's underground electric service lateral occasioned by the undergrounding. | (T) |
| | (L) |
| The conversion of electric service panels to accept underground service, up to \$1,500 per service entrance, excluding permit fees. | (N) |
| | (N) |
| The governing body may establish a smaller footage allowance, or may limit the amount of money to be expended on a single customer's electric service, or the total amount to be expended on all electric service installations in a particular project. | (L) |
| | (L) |

(Continued)



ELECTRIC RULE NO. 20

Sheet 6

REPLACEMENT OF OVERHEAD WITH UNDERGROUND ELECTRIC FACILITIES

B. In circumstances other than those covered by A above, PG&E will replace its existing overhead electric facilities with underground electric facilities along public streets and roads or other locations mutually agreed upon when requested by an applicant or applicants when all of the following conditions are met:

1. a. All property owners served from the overhead facilities to be removed first agree in writing to have the wiring changes made on their premises so that service may be furnished from the underground distribution system in accordance with PG&E's rules and that PG&E may discontinue its overhead service upon completion of the underground facilities; or
- b. Suitable legislation is in effect requiring such necessary wiring changes to be made and authorizing PG&E to discontinue its overhead service.

2. The applicant has:

- a. Furnished and installed the pads and vaults for transformers and associated equipment, conduits, ducts, boxes, pole bases and performed other work related to structures and substructures including breaking of pavement, trenching, backfilling, and repaving required in connection with the installation of the underground system, all in accordance with PG&E's specifications, or, in lieu thereof, paid PG&E to do so;
- b. Transferred ownership of such facilities, in good condition, to PG&E; and
- c. Paid a nonrefundable sum equal to the excess, if any, of the estimated costs, of completing the underground system and building a new equivalent overhead system. (T)

3. The area to be undergrounded includes both sides of a street for at least one block or 600 feet, whichever is the lesser, and all existing overhead communication and electric distribution facilities within the area will be removed.

(Continued)

Advice Letter No: 1765-E
 Decision No. 97-12-098

Issued by
Thomas E. Bottorff
 Vice President
 Rates Account Services

Date Filed May 11, 1998
 Effective July 1, 1998
 Resolution No. _____



ELECTRIC RULE NO. 20 Sheet 7
 REPLACEMENT OF OVERHEAD WITH UNDERGROUND ELECTRIC FACILITIES

B. (Cont'd)

- 4. PG&E may, when requested by the city or county and mutually agreed upon by such government entity and PG&E, initially fund any required engineering/design costs for conversion projects under this section. In the event such a project proceeds, the requesting city or county shall reimburse PG&E for such engineering/design costs before PG&E shall be required to commence further work on the project. In the event the project is not approved to proceed within two and one-half years of PG&E's delivery of such engineering/design study, the requesting city or county shall reimburse PG&E for its costs of such engineering/design study within 90 days of a demand by PG&E. In the event payment is not received PG&E shall expense such costs as an operational cost and shall reduce the city or county's allocations provided under Section A of this Schedule by the amount. (N)
- 5. The costs of removal of the overhead poles, lines, and facilities are the responsibility of PG&E and will be paid by PG&E. Such payments shall not operate to reduce Rule 20-A allocations. (N)

- C. In circumstances other than those covered by A or B above, when mutually agreed upon by PG&E and an applicant, overhead electric facilities may be replaced with underground electric facilities, provided the applicant requesting the change pays, in advance, a nonrefundable sum equal to the estimated cost of the underground facilities less the estimated net salvage value and depreciation of the replaced overhead facilities. Underground services will be installed and maintained as provided in PG&E's rules applicable thereto.
- D. The term "underground electric system" means an electric system with all wires installed underground, except those wires in surface mounted equipment enclosures.

Advice Letter No: 2260-E-B
 Decision No. 02-06-027

Issued by
Karen A. Tomcala
 Vice President
 Regulatory Relations

Date Filed July 31, 2002
 Effective July 19, 2002
 Resolution No. E-3757 E-3767

EXHIBIT C

STATE OF CALIFORNIA

ARNOLD SCHWARZENEGGER, *Governor*

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



December 31, 2010

Advice Letter 3767-E

Jane K. Yura
Vice President, Regulation and Rates
Pacific Gas and Electric Company
77 Beale Street, Mail Code B10B
P.O. Box 770000
San Francisco, CA 94177

**Subject: New Sample Form No. 79-1127, Agreement to Perform Tariff
Schedule Related Work, Rule 20A General Conditions**

Dear Ms. Yura:

Advice Letter 3767-E is effective December 30, 2010.

Sincerely,

A handwritten signature in black ink, appearing to read "Julie A. Fitch".

Julie A. Fitch, Director
Energy Division



**Pacific Gas and
Electric Company**

Jane K. Yura
Vice President
Regulation and Rates

Pacific Gas and Electric Company
77 Beale St., Mail Code B10B
P.O. Box 770000
San Francisco, CA 94177

Fax: 415-973-6520

November 30, 2010

Advice 3767-E

(Pacific Gas and Electric Company ID U 39 E)

Public Utilities Commission of the State of California

**Subject: New Sample Form No. 79-1127, Agreement to Perform Tariff
Schedule Related Work, Rule 20A General Conditions**

Pacific Gas and Electric Company (PG&E) hereby submits for filing new Sample Form 79-1127 for use on Rule 20A projects.

Purpose

In an effort to improve customer communications and establish consistency with the communities, PG&E introduces a new form for use as needed on Rule 20A projects. The new form will memorialize the roles and responsibilities of both the Applicant and PG&E on Rule 20A projects.

Protests

Anyone wishing to protest this filing may do so by letter sent via U.S. mail, by facsimile or electronically, any of which must be received no later than **December 20, 2010**, which is 20 days after the date of this filing. Protests should be mailed to:

CPUC Energy Division
Tariff Files, Room 4005
DMS Branch
505 Van Ness Avenue
San Francisco, California 94102

Facsimile: (415) 703-2200
E-mail: ijnj@cpuc.ca.gov and mas@cpuc.ca.gov

Copies of protests also should be mailed to the attention of the Director, Energy Division, Room 4004, at the address shown above.

The protest also should be sent via U.S. mail (and by facsimile and electronically, if possible) to PG&E at the address shown below on the same date it is mailed or

delivered to the Commission:

Jane Yura
Vice President, Regulations and Rates
Pacific Gas and Electric Company
77 Beale Street, Mail Code B10B
P.O. Box 770000
San Francisco, California 94177

Facsimile: (415) 973-6520
E-mail: PGETariffs@pge.com

Effective Date

PG&E requests that this advice filing become effective 30 days from the date of filing date, **December 30, 2010**.

Notice

In accordance with General Order 96-B, Section IV, a copy of this advice letter is being sent electronically and via U.S. mail to parties shown on the attached list. Address changes to the General Order 96-B service list and all electronic approvals should be directed to email PGETariffs@pge.com. Advice letter filings can also be accessed electronically at: **<http://www.pge.com/tariffs>**.

Jane Yura - OB

Vice President, Regulation and Rates

Attachments

CALIFORNIA PUBLIC UTILITIES COMMISSION

ADVICE LETTER FILING SUMMARY
ENERGY UTILITY

MUST BE COMPLETED BY UTILITY (Attach additional pages as needed)

Company name/CPUC Utility No. **Pacific Gas and Electric Company (ID U39 M)**

Utility type: <input checked="" type="checkbox"/> ELC <input checked="" type="checkbox"/> GAS <input type="checkbox"/> PLC <input type="checkbox"/> HEAT <input type="checkbox"/> WATER	Contact Person: <u>Olivia Brown</u> Phone #: <u>415.973.9312</u> E-mail: <u>oxb4@pge.com</u>
---	--

EXPLANATION OF UTILITY TYPE ELC = Electric GAS = Gas <input type="checkbox"/> PLC = Pipeline HEAT = Heat WATER = Water	(Date Filed/ Received Stamp by CPUC)
---	--------------------------------------

Advice Letter (AL) #: 3767-E **Tier: 2**
 Subject of AL: New Form No. 79-1127, Agreement to Perform Tariff Schedule Related Work, Rule 20A General Conditions
 Keywords (choose from CPUC listing): Forms
 AL filing type: Monthly Quarterly Annual One-Time Other _____
 If AL filed in compliance with a Commission order, indicate relevant Decision/Resolution #: N/A
 Does AL replace a withdrawn or rejected AL? If so, identify the prior AL: No
 Summarize differences between the AL and the prior withdrawn or rejected AL: N/A
 Is AL requesting confidential treatment? If so, what information is the utility seeking confidential treatment for: No
 Confidential information will be made available to those who have executed a nondisclosure agreement: N/A
 Name(s) and contact information of the person(s) who will provide the nondisclosure agreement and access to the confidential information: N/A

Resolution Required? Yes No
 Requested effective date: December 30, 2010 No. of tariff sheets: 3
 Estimated system annual revenue effect (%): N/A
 Estimated system average rate effect (%): N/A
 When rates are affected by AL, include attachment in AL showing average rate effects on customer classes (residential, small commercial, large C/I, agricultural, lighting). N/A
 Tariff schedules affected: New Electric Sample Form 79-1127
 Service affected and changes proposed: N/A

Protests, dispositions, and all other correspondence regarding this AL are due no later than 20 days after the date of this filing, unless otherwise authorized by the Commission, and shall be sent to:

CPUC, Energy Division Tariff Files, Room 4005 DMS Branch 505 Van Ness Ave., San Francisco, CA 94102 jnj@cpuc.ca.gov and mas@cpuc.ca.gov	Pacific Gas and Electric Company Attn: Jane K. Yura, Vice President, Regulation and Rates 77 Beale Street, Mail Code B10B P.O. Box 770000 San Francisco, CA 94177 E-mail: PGETariffs@pge.com
--	--

**ATTACHMENT 1
Advice 3767-E**

**Cal P.U.C.
Sheet No.**

Title of Sheet

**Cancelling Cal
P.U.C. Sheet No.**

29717-E Electric Sample Form 79-1127
Agreement to Perform Tariff Scheduled Related
Work,
Rule 20A General Conditions
Sheet 1

29718-E ELECTRIC TABLE OF CONTENTS
Sheet 1

29672-E

29719-E ELECTRIC TABLE OF CONTENTS
SAMPLE FORMS
Sheet 18

29550-E



Pacific Gas and Electric Company
San Francisco, California
U 39

Original
Cancelling

Cal. P.U.C. Sheet No.
Cal. P.U.C. Sheet No.

29717-E

Electric Sample Form 79-1127
Agreement to Perform Tariff Scheduled Related Work,
Rule 20A General Conditions

Sheet 1 (N)
(N)
(N)

**Please Refer to Attached
Sample Form**

Advice Letter No: 3767-E
Decision No.

Issued by
Jane K. Yura
Vice President
Regulation and Rates

Date Filed November 30, 2010
Effective December 30, 2010
Resolution No. _____



Pacific Gas and Electric Company

Agreement to Perform
Tariff Schedule Related Work,
Rule 20A General Conditions¹

PROJECT MGR.
PM #

PROJECT NAME: _____

LOCATION: _____, CALIFORNIA

City: _____

City/County of _____, (Applicant) has requested PACIFIC GAS AND ELECTRIC COMPANY, a California corporation (PG&E) to perform the tariff schedule related work as located and described herein.

General Conditions:

PG&E will, at its expense, replace its existing overhead electric facilities with underground electric facilities as outlined in the Rule 20 Tariff. To ensure the success of this program, the Applicant agrees to support the Rule 20A Program as follows:

Responsibilities of the Applicant:

1. Consult with PG&E to confirm the requirements and location of the project.
2. Provide a resolution and boundary map as required in Electric Rule 20.
3. Provide a list of all recorded property owners, APN#, phone number and address.
4. Provide a list of the most recent tenant (for rental properties).
5. Provide Base Map (in AutoCAD) showing the following: boundary, roads, future road improvements, sidewalks, curbs, property lines, buildings, existing water and sewer, easements, and any other known utilities or obstacles.
6. Secure all required rights-of-way and easements, which must be satisfactory to and approved by PG&E.
7. Own and manage all contaminated soils. (Rule 20A funding cannot be used for environmental remediation costs)
8. Own and manage all cultural resource findings. (Rule 20A funding cannot be used for managing cultural resource findings).
9. Provide recent pot holing/core samplings and soils/paving information from projects that were recently completed.
10. Provide acceptable construction yard for materials and equipment storage.
11. Pay for paving and restoration costs beyond the standard excavations and restorations necessary for the construction of the project. Joint trench participants will replace paving, landscaping, sidewalk, etc. that is removed during construction. (Rule 20A funding cannot be used for additional restoration costs).
12. Waive paving moratorium requirements, or pay for additional costs above PG&E's responsibility for restoration.
13. Stake and survey for any associated future grade changes.
14. Should applicant require additional traffic control beyond that which PG&E provides (per California Joint Utility Traffic Control Committee), Applicant will pay for the additional costs.
15. Should Applicant require a traffic control plan, Applicant will prepare or pay to prepare such a plan.
16. Pay for streetlight costs per Street Light Agreement.
17. Remove Applicant owned streetlights attached to utility poles and located within the underground district at Applicant cost.
18. Issue and waive cost of encroachment permit.
19. Waive work hour restrictions for construction, including holiday and/or special construction limitations.
20. Waive all permit fees and other incidental project specific costs, including but not limited to: parking charges; rental cost of city or county properties; and lost revenues.

Responsibilities of PG&E:

1. Provide consultation to Applicant to establish resolution and boundary map.
2. If designated as the design/trench lead, prepare the Intents, Composite and Form B (costs will be shared by all joint trench participants).
3. Provide electric design to the design/trench lead agency, if lead is other than PG&E.
4. Identify all locations that require an easement.
5. Prepare easement documents for signature.
6. Upon request of the Applicant, Rule 20A allocation may be used for the installation of no more than 100 feet of each customer's underground electric service lateral.
7. Upon request of the Applicant, the Rule 20A allocation may be used for the conversion of electric service panels to accept underground service, up to \$1,500 per service entrance (excluding permit fees). Alternatively, if the Applicant requests that PG&E manage the panel conversion work, perform such conversions by agreement (Form 79-1113, Agreement to Perform Tariff Schedule Related Work, Rule 20A).

¹ Automated Document, Preliminary Statement, Part A.



Pacific Gas and Electric Company

Agreement to Perform
Tariff Schedule Related Work,
Rule 20A General Conditions¹

PROJECT MGR.
PM #

- 8. Provide inspection services for the installation of PG&E facilities.
- 9. Remove poles, or portions of poles, from the underground district as required by the Joint Pole Utility Agreement.
- 10. Provide proper notification to all affected customers when electrical outages are necessary to complete project conversion to the new underground system.

We have read the above information and understand and agree with the provisions and responsibilities as described above/.

Executed this _____ day of _____ 20__

City/County of : _____
Applicant

PACIFIC GAS AND ELECTRIC COMPANY

By: _____

By: _____

(Print or Type Name)

(Print or Type Name)

Title:

Title:

Mailing Address: _____

City/County of : _____



Pacific Gas and Electric Company
 San Francisco, California
 U 39

Revised
 Cancelling Revised

Cal. P.U.C. Sheet No.
 Cal. P.U.C. Sheet No.

29718-E
 29672-E

ELECTRIC TABLE OF CONTENTS

Sheet 1

TABLE OF CONTENTS

SCHEDULE	TITLE OF SHEET	CAL P.U.C. SHEET NO.	
	Title Page	29718-E	(T)
	Rate Schedules	29459,29549, 29611,29630-E	
	Preliminary Statements	29496,28907,29497,29554-E	
	Rules	29675-E	
	Maps, Contracts and Deviations.....	29671-E	
	Sample Forms.....	28385,29638,29325,29614,27639,29532,29719,29626-E	(T)

(Continued)

Advice Letter No: 3767-E
 Decision No.

Issued by
Jane K. Yura
 Vice President
 Regulation and Rates

Date Filed November 30, 2010
 Effective December 30, 2010
 Resolution No. _____



Pacific Gas and Electric Company
 San Francisco, California
 U 39

Cancelling Revised Cal. P.U.C. Sheet No. 29719-E
 Revised Cal. P.U.C. Sheet No. 29550-E

**ELECTRIC TABLE OF CONTENTS
 SAMPLE FORMS**

Sheet 18

FORM	TITLE OF SHEET	CAL P.U.C. SHEET NO.
Sample Forms Miscellaneous		
79-1079	Agreement for Aggregators Participating in the Base Interruptible Load Program	28420-E
79-1080	Notice to Add or Delete Customers Participating in the Base Interruptible Program	28421-E
79-1118	General On-Bill Financing Loan Agreement.....	29493-E
79-1127	Agreement to Perform Tariff Schedule Related Work, Rule 20 A General Conditions.....	29717-E (N)
Sample Forms Experimental		
79-771	Agreement for Economic Development Incentive for Electric Service.....	26674-E
79-1122	Agreement for Economic Development Incentive on Electric Service.....	29547-E
Sample Forms Long-Term Service Agreements		

(Continued)

Advice Letter No: 3767-E
 Decision No.

Issued by
Jane K. Yura
 Vice President
 Regulation and Rates

Date Filed November 30, 2010
 Effective December 30, 2010
 Resolution No. _____

**PG&E Gas and Electric
Advice Filing List
General Order 96-B, Section IV**

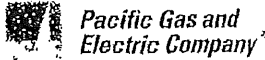
Alcantar & Kahl LLP
Ameresco
Anderson & Poole
Arizona Public Service Company
BART
Barkovich & Yap, Inc.
Bartle Wells Associates
Bloomberg
Bloomberg New Energy Finance
Boston Properties
Braun Blaising McLaughlin, P.C.

Brookfield Renewable Power
CA Bldg Industry Association
CLECA Law Office
CSC Energy Services
California Cotton Ginners & Growers Assn
California Energy Commission
California League of Food Processors
California Public Utilities Commission
Calpine
Cardinal Cogen
Casner, Steve
Chris, King
City of Palo Alto
City of Palo Alto Utilities
Clean Energy Fuels
Coast Economic Consulting
Commercial Energy
Consumer Federation of California
Crossborder Energy
Davis Wright Tremaine LLP
Day Carter Murphy
Defense Energy Support Center
Department of Water Resources

Dept of General Services
Division of Business Advisory Services
Douglass & Liddell
Downey & Brand
Duke Energy
Dutcher, John
Economic Sciences Corporation
Ellison Schneider & Harris LLP
Foster Farms
G. A. Krause & Assoc.
GLJ Publications
Goodin, MacBride, Squeri, Schlotz & Ritchie
Green Power Institute
Hanna & Morton
Hitachi
In House Energy
International Power Technology
Intestate Gas Services, Inc.
Lawrence Berkeley National Lab
Los Angeles Dept of Water & Power
Luce, Forward, Hamilton & Scripps LLP
MAC Lighting Consulting
MBMC, Inc.
MRW & Associates
Manatt Phelps Phillips
McKenzie & Associates
Merced Irrigation District
Modesto Irrigation District
Morgan Stanley
Morrison & Foerster
NLine Energy, Inc.
NRG West
Navigant Consulting
Norris & Wong Associates
North America Power Partners

North Coast SolarResources
Northern California Power Association
Occidental Energy Marketing, Inc.
OnGrid Solar
Praxair
R. W. Beck & Associates
RCS, Inc.
Recurrent Energy
SCD Energy Solutions
SCE
SMUD
SPURR
San Francisco Public Utilities Commission
Santa Fe Jets
Seattle City Light
Sempra Utilities
Sierra Pacific Power Company
Silicon Valley Power
Silo Energy LLC
Southern California Edison Company
Spark Energy, L.P.
Sunshine Design
Sutherland, Asbill & Brennan
Tabors Caramanis & Associates
Tecogen, Inc.
Tiger Natural Gas, Inc.
TransCanada
Turlock Irrigation District
United Cogen
Utility Cost Management
Utility Specialists
Verizon
Wellhead Electric Company
Western Manufactured Housing
Communities Association (WMA)
eMeter Corporation

EXHIBIT D



Pacific Gas and
Electric Company

Government Relations

111 Almaden Boulevard
San Jose, CA 95113

408.282.7159
Fax: 408.282.7238.

May 16, 2007

Ms. Katy Allen, Director
Department of Public Works
City of San Jose
200 East Santa Clara Street
San Jose, California 95113

Dear Ms. Allen:

Thank you for the ongoing assistance you and your team have provided regarding Rule 20A undergrounding projects in San Jose. Pacific Gas and Electric Company (PG&E) remains committed to the success of projects being constructed in San Jose, and we appreciate the partnership we have with the City.

PG&E staff has been reviewing the implementation methods used for Rule 20A projects to improve processes and provide greater flexibility. There are a number of improvements expected to be adopted in the near future. Several of them will address key issues in San Jose focusing on project implementation, subsurface installations, and rights-of-way.

Project Implementation

PG&E's top priority is to provide high-quality and reliable service to our customers. In the past, this has meant that system maintenance, new service connections, emergency response, capacity upgrades, and other priority work delayed implementation of undergrounding projects. Our differences over California Public Utilities Commission (CPUC) tariff rules and guidelines have also played a large role in the delay of projects in San Jose.

A key focus of our review of the Rule 20A Undergrounding Program has been to find every available means to provide greater flexibility in project implementation. While we have made progress through workshops and meetings with San Jose staff, there is more that can be done to give you greater control over your Rule 20A allocation.

Solution: To build on our recent success, PG&E staff recommends that we revise the City's current Rule 20A Underground Utility Program Workplan, which prioritizes projects over the next five years, to expedite projects for implementation over the next three years. PG&E commits to meet with San Jose staff to develop an expedited schedule that will shorten the timeframe for engineering, construction, and completion of the City's prioritized projects. This will more than double the amount of funding spent in San Jose for Rule 20A undergrounding for the next several years. Furthermore, we will also discuss with City staff how faster implementation will draw down San Jose's current allocation balance.

Subsurface Installations

The CPUC in Decision 92-03-065 ruled that the standard design for underground installations in the PG&E system should be a pad-mounted transformer. PG&E has also preferred this standard because of the additional cost to install, higher cost to maintain, and lower reliability of subsurface transformers.

Subsurface transformers have been an option when pad-mounted transformers were not feasible due to PG&E engineering specifications or space limitations. In addition, project sponsors have had the option to pay the differential cost in "special facility" charges for subsurface transformer placement.

Solution: Our past difference on this issue has resulted in project delays. We recognize that the case-by-case approach has had a limited level of success. Our review of the Rule 20A Program has taken this issue head-on and resulted in a new method that eliminates the roadblock we have faced in the past. Specifically, PG&E will allow the City to use its Rule 20A allocations to pay for "special facility" charges for subsurface transformers.

Rights-of-Way (ROW)

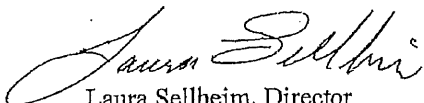
Another ongoing challenge for project implementation is right-of-way acquisition for undergrounding facilities that can not otherwise not be placed along the public streets in franchise areas. Guidelines used from CPUC decisions require project sponsors to provide those rights without additional cost to PG&E ratepayers.

Solution: PG&E understands the difficulty cities face with providing no-cost ROW easements to PG&E for undergrounding projects. In order to better assist the City, we are prepared to take the lead on land and ROW issues and allow for San Jose Rule 20A allocations to be used for this purpose at no additional cost to the City.

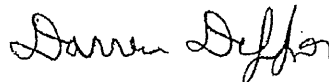
Summary

PG&E believes that our improved Rule 20A program will meet the needs of San Jose and remove most of the challenges we have faced together for years, including expedited project implementation and the use of your allocation balance to pay for subsurface transformers and managing right-of-way issues. We look forward to continuing our work together and hope that this information is helpful. Please contact Darren Deffner at 408-282-7299 or dddi@pge.com, if you have any questions or concerns.

Sincerely,



Laura Sellheim, Director
Area 3 Maintenance & Construction
Energy Delivery Department



Darren Deffner
Government Relations Representative
Public Affairs Department

EXHIBIT E



SUPPLEMENTAL

COUNCIL AGENDA: 06-05-07
ITEM: 3.5

Memorandum

To: HONORABLE MAYOR
AND CITY COUNCIL

From: Katy Allen

SUBJECT: SEE BELOW

DATE: 05-18-07

Approved

Deanna Aichele

Date

5/21/07

COUNCIL DISTRICT: Citywide

**SUBJECT: REPORT ON THE RULE 20A AND RULE 20B (IN-LIEU FEE)
UNDERGROUND UTILITY PROGRAM AND 2006/07- 2011/12 WORKPLAN**

REASON FOR SUPPLEMENTAL MEMO

The previous recommendation included directing staff to take collective action with other cities for advocacy for increased accountability and resource allocation for the delivery of Rule 20A projects. Staff has received a letter from PG&E dated May 16, 2007 (attached), that commits to expediting the Rule 20A Undergrounding Program Workplan, and proposes favorable solutions to issues that have been obstacles to projects moving forward.

This item is also requested to be deferred to the June 5th Council agenda so that Council has adequate time to review the revised recommendation.

RECOMMENDATION

That the City Council:

- a) Approve this report, the proposed fiscal year 2006/07 - 2011/12 Workplan for the Rule 20A and Rule 20B (In-Lieu Fee) Underground Utility Program.
- b) Direct staff to work with PG&E and return to Council in September with a revised workplan that provides for expedited delivery of Rule 20A Projects.

ANALYSIS

The letter from PG&E documents their commitment to solutions that staff believes will allow the Underground Program to move projects forward in an expedited workplan, and begin to reduce the growing Rule 20A reserves. Specifically, PG&E proposes to compress the current 5 year Rule 20A Workplan into a 3 year plan. PG&E also offers that they will:

HONORABLE MAYOR AND CITY COUNCIL

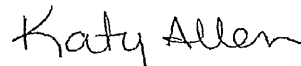
05-18-07

Subject: Report on the Rule 20A and 20B Underground Utility Program and 2006/07-2011/12 Workplan

Page 2

- allow the City's Rule 20A allocation to be used to pay for the "special facility" charges to install subsurface transformers
- take the lead on land and right of way issues for easements for aboveground cabinets and will allow the City's use of Rule 20A allocation for this purpose

This change is consistent with the Sunshine noticing requirements allowing a supplemental memo to be released.



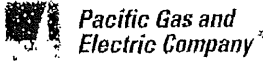
KATY ALLEN

Director, Public Works Department

TB/aa

Attachment

5_22_07#3s_rule20(2).doc



Pacific Gas and
Electric Company

Government Relations

111 Almaden Boulevard
San Jose, CA 95113

408.282.7159
Fax: 408.282.7238.

May 16, 2007

Ms. Katy Allen, Director
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City of San Jose
200 East Santa Clara Street
San Jose, California 95113

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PG&E staff has been reviewing the implementation methods used for Rule 20A projects to improve processes and provide greater flexibility. There are a number of improvements expected to be adopted in the near future. Several of them will address key issues in San Jose focusing on project implementation, subsurface installations, and rights-of-way.

Project Implementation

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A key focus of our review of the Rule 20A Undergrounding Program has been to find every available means to provide greater flexibility in project implementation. While we have made progress through workshops and meetings with San Jose staff, there is more that can be done to give you greater control over your Rule 20A allocation.

Solution: To build on our recent success, PG&E staff recommends that we revise the City's current Rule 20A Underground Utility Program Workplan, which prioritizes projects over the next five years, to expedite projects for implementation over the next three years. PG&E commits to meet with San Jose staff to develop an expedited schedule that will shorten the timeframe for engineering, construction, and completion of the City's prioritized projects. This will more than double the amount of funding spent in San Jose for Rule 20A undergrounding for the next several years. Furthermore, we will also discuss with City staff how faster implementation will draw down San Jose's current allocation balance.

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Rights-of-Way (ROW)

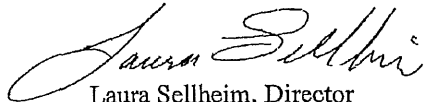
Another ongoing challenge for project implementation is right-of-way acquisition for undergrounding facilities that can not otherwise not be placed along the public streets in franchise areas. Guidelines used from CPUC decisions require project sponsors to provide those rights without additional cost to PG&E ratepayers.

Solution: PG&E understands the difficulty cities face with providing no-cost ROW easements to PG&E for undergrounding projects. In order to better assist the City, we are prepared to take the lead on land and ROW issues and allow for San Jose Rule 20A allocations to be used for this purpose at no additional cost to the City.

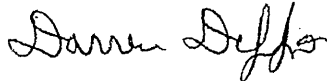
Summary

PG&E believes that our improved Rule 20A program will meet the needs of San Jose and remove most of the challenges we have faced together for years, including expedited project implementation and the use of your allocation balance to pay for subsurface transformers and managing right-of-way issues. We look forward to continuing our work together and hope that this information is helpful. Please contact Darren Deffner at 408-282-7299 or dddi@pge.com, if you have any questions or concerns.

Sincerely,



Laura Sellheim, Director
Area 3 Maintenance & Construction
Energy Delivery Department



Darren Deffner
Government Relations Representative
Public Affairs Department

EXHIBIT F

WHAT A COMMUNITY SHOULD KNOW ABOUT R20A

Letter of Streetlight Agreement

Dear valued customer,

As we approach the beginning of your Rule 20A project, one issue that you will need to address is your choice of the available streetlight options. The streetlights located within the Rule 20A project are currently _____ (PG&E or community owned) and on Rate Schedule _____ (LS1, LS2, LS3, streetlights OL1 outdoor lighting, TC1 traffic signals).

Rule 20A funding covers the costs of converting existing PG&E owned streetlight services on a one-for-one basis, but does not provide for the upgrading of facilities. Therefore, if the existing streetlights are on wood poles, the Rule 20A funding will cover the cost of providing an underground service and riser up the existing wood pole to the existing streetlight and the topping of the wood pole just above the streetlight.

You have the option under Rate Schedule LS1 (PG&E owned streetlights); to install new-galvanized steel streetlights that meet PG&E's standards or have PG&E install these new streetlights for you at your cost, in place of leaving the existing wood pole mounted streetlights. If you choose to have PG&E install these new streetlights standards the costs which you will be responsible for will include the installation and purchase of the new streetlight, replacement of any necessary landscaping, pavement and/or concrete and ITCC tax at a current rate of 34%. If you choose to install new streetlights that do not meet PG&E's standards, you may do so but PG&E will no longer own and maintain them.

If the existing streetlights are customer owned (rate schedule LS2 or LS3), you as the streetlight owner will be responsible for the cost to underground the streetlights. A portion of your streetlight undergrounding cost will include a share of the joint trenching costs (based on the conduit occupancy of the joint trench) and streetlight conduit installation costs should you choose to participate in the joint trench. When estimating begins we will provide you with an estimate of the approximate cost of this portion of your streetlight conversion costs for your budgeting purposes. You will also be responsible for any connection and removal costs associated with your customer owned streetlights. All of the provisions of customer owned streetlights also apply to traffic signals (rate schedule TC1) and outdoor lighting (rate schedule OL1).

WHAT A COMMUNITY SHOULD KNOW ABOUT R20A

Please note that the existing streetlights and supporting overhead electrical system cannot be removed prior to the new streetlights being installed and energized. If you are the streetlight owner or they are PG&E owned and you choose to perform the streetlight work yourself, then the new streetlights should be installed and ready to be energized prior to the completion of trenching. Streetlight standard leads times can be three to four months, so please coordinate your work to ensure the streetlights do not delay removal of the overhead system.

WHAT A COMMUNITY SHOULD KNOW ABOUT R20A

Please check the boxes below that represent how your community would like to proceed regarding streetlights.

- Streetlights will remain on existing wood poles.
- Install new galvanized steel streetlight poles at our expense.
- We choose to purchase and install our own new streetlights poles.
- We choose to participate in the joint trench installing our own streetlight conduit.
- We choose to participate in the joint trench, but would like PG&E to install our streetlight conduit.
- We choose not to participate in the joint trench, and instead will do our own trenching for streetlights.
- The current streetlights are in conflict with our road improvements and we would like PG&E to replace them on a one-for-one basis.

NOTE: LS1 = Owned & maintained by PG&E; LS2 = Customer owned & maintained or PG&E maintained; LS3 = Customer owned metered; OL1= Outdoor lighting private property; TC1 = Government owned metered traffic signals or signal lighting systems.

I request PG&E to proceed with the design of this project based on the above marked choices and understand I will have a chance to review the estimate prior to agreeing on any associated cost. If applicable, contracts will be executed based on the above decisions and associated cost.

Signature: _____

Title: _____

Date: _____

EXHIBIT G



Pacific Gas and Electric Company

Agreement to Perform
Tariff Scheduled Related Work,
Rule 20A Electric Panel Service Conversions

APPLICANT (Original) MLX#
 DIVISION (Original) PM #
 ACCTG. SERVICES PROJECT MGR.

City/County of _____, (Applicant) has requested PACIFIC GAS AND ELECTRIC COMPANY, a California corporation (PG&E) to perform the tariff scheduled related work as located and described herein.

Electric Panel Service Conversion Program:

In order to expedite the completion of Rule 20A Projects, PG&E has offered to manage the electric service conversions, and pay for this work from the Applicant's allocation funds. The underground electric feed that replaces the existing overhead service will be installed in the most economical manner possible, as determined by PG&E. To ensure the success of this program, the Applicant agrees to support the Electric Panel Service Conversion Program as follows:

Responsibilities of the Applicant:

1. Provide accurate list of owner, parcel #, address, phone number.
2. Mail informational letters to all residents describing the program and their responsibilities.
 - a. PG&E will provide templates for these letters.
3. Obtain Right of Entry agreements from property owners prior to scheduling construction.
 - a. PG&E will provide the document for each property owner to complete and sign.
4. Provide a liaison for residents and property owners to contact with questions.
5. Waive permit fees.
6. Waive inspection fees.
7. Facilitate a preliminary job walk with the liaison, building inspector and others.
 - a. Review PG&E's intended placement of new equipment required for conversions.
 - b. Clarify the inspection and permit requirements and timing, if necessary.
8. Provide information enabling the field crews to determine the location of property lines.
9. Disclose all special circumstances
 - a. For example: historic buildings, hazardous materials, environmental issues, burial grounds and other items that may affect the overhead-to-underground conversion.
10. Communicate with the property owners if additional work beyond the conversion will be required.
 - a. PG&E will pay for the work required to replace the existing overhead electric feed with a new underground feed only. The cost of any additional work required to bring the property up to current codes will be borne by others (property owner or Applicant).
 - b. The Applicant will communicate to the property owner all items that must be brought up to code in a timely manner, and all code issues will be managed by the Applicant.
11. Disclose work hours and days.
12. Agree prior to construction regarding the required notifications to residents and property owners.
13. Failure to complete the above requirements may result in construction delays.

PROJECT NAME: _____

LOCATION: _____, CALIFORNIA

City: _____

Executed this _____ day of _____ 20__

City/County of: _____
Applicant

PACIFIC GAS AND ELECTRIC COMPANY

By: _____

By: _____

(Print or Type Name)

(Print or Type Name)

Title:

Title:

Mailing Address: _____

City/County of: _____

PERMISSION TO ENTER AND CONVERT ELECTRIC FACILITIES

Deadline to return this form:

5/15/10

I give my permission to PACIFIC GAS & ELECTRIC COMPANY (PG&E), or its authorized agents, to enter upon my property in order to convert my overhead electric service to underground service for the project known as Delmas/Park Rule 20A, approved pursuant to City of San Jose - *Resolution No. 28231*.

PG&E shall only be liable for injury, loss, damage or expense and claims for loss, damage or expenses that result from the negligent or intentional acts of PG&E, its contractors, officers, agents or employees. PG&E shall not be liable for any injury, loss, damage or expense and claims for loss, damage or expense arising from any other cause or causes whatsoever.

Owner: (Signature) _____ Dated: _____

Owner: (Print Name) _____

Site Address: _____

Assessor Parcel Number (APN) _____

Telephone Number: (_____) _____

If you want to begin coordination of a meter panel upgrade or relocation as part of this conversion, please check the appropriate box or boxes below and call PG&E's Project Manager, Ignacio Carretero, at 408-463-7608.

Panel Upgrade – If you want to increase the current capacity to the home by installing a new electric panel. (Typically done if the owner wants to add capacity for additions such as air conditioning or whirlpool spas).

Panel Relocation – Moving your meter to another location on your home.

Property owners are responsible for costs associated with the upgrade or relocation.

Return to:

EXHIBIT H

September 15, 2010

Sindy Mikkelsen
Principal Program Manager- Rule 20A
Pacific, Gas and Electric Company
3395 McMaude Place
Santa Rosa, CA 95407

Dear Ms. Mikkelsen:

**SUBJECT: AGREEMENT TO PERFORM TARIFF SCHEDULED RELATED
WORK, RULE 20A ELECTRIC PANEL SERVICE CONVERSIONS**

The purpose of this letter is to support PG&E taking the lead in electric panel conversion work for Rule 20A undergrounding projects and to memorialize the City's participation in PG&E's "Agreement to Perform Tariff Scheduled Related Work, Rule 20A Electric Panel Service Conversions" (tariff agreement). The City is unable to enter into the tariff agreement as drafted because Sections 5 and 6 of the tariff agreement requiring the waiver of permit fees and inspection fees respectively, conflicts with provisions of the San José Municipal Code (SJMC). Section 1.17.010 of the SJMC, makes it unlawful to waive fees or charges for permits, licenses, activities or services unless the waiver is otherwise specifically provided for in the SJMC or waived by ordinance.

We are currently working with the City Attorney's Office to evaluate the possibility of revising the City's utility undergrounding ordinance to allow waiver of permit and inspection fees associated with City utility undergrounding projects. If, after this evaluation, the City determines that it wants to proceed with these changes to the SJMC, the changes must be approved by the City Council. Preparing revisions to the SJMC and the process of obtaining City Council approval may take several months to complete.

The City will continue to perform the other activities identified in the tariff agreement as has been the City's practice except as noted above, while the City is in the process of evaluating changes to the SJMC. The City understands that the City's Rule 20A allocation may not be used for permit fees under Section A.3.b. of the Rule.

Also, thank you for the opportunity to review the right-of-entry documents. We have completed our review and have some minor comments, enclosed, that will help clarify the grounding and bonding issues that we have discussed in the past.

Ms. Mikkelsen

Subject: Agreement to Perform Tariff Scheduled Related Work, Rule 20A Electric Panel Service
Conversions

09-15-10

Page 2

Thank you for PG&E's continued cooperation and support of the City's Rule 20A projects. Should you have any questions or need any additional information, please contact John Cannon at (408) 535-8340 or Sal Kumar at (408) 793-5307 of my staff.

Sincerely,



Timm Borden
Deputy Director
Public Works Department

TB:JTC:SK

CSJ Ltr in-lieu of Tariff Agreement Panel Service Conversion 091010



Pacific Gas and Electric Company

Agreement to Perform
Tariff Scheduled Related Work,
Rule 20A Electric Panel Service Conversions

APPLICANT (Original) MLX#
 DIVISION (Original) PM #
 ACCTG. SERVICES PROJECT MGR.

City/County of _____, (Applicant) has requested PACIFIC GAS AND ELECTRIC COMPANY, a California corporation (PG&E) to perform the tariff scheduled related work as located and described herein.

Electric Panel Service Conversion Program:

In order to expedite the completion of Rule 20A Projects, PG&E has offered to manage the electric service conversions, and pay for this work from the Applicant's allocation funds. The underground electric feed that replaces the existing overhead service will be installed in the most economical manner possible, as determined by PG&E. To ensure the success of this program, the Applicant agrees to support the Electric Panel Service Conversion Program as follows:

Responsibilities of the Applicant:

1. Provide accurate list of owner, parcel #, address, phone number.
2. Mail informational letters to all residents describing the program and their responsibilities.
 - a. PG&E will provide templates for these letters.
3. Obtain Right of Entry agreements from property owners prior to scheduling construction.
 - a. PG&E will provide the document for each property owner to complete and sign.
4. Provide a liaison for residents and property owners to contact with questions.
5. Waive permit fees.
6. Waive inspection fees.
7. Facilitate a preliminary job walk with the liaison, building inspector and others.
 - a. Review PG&E's intended placement of new equipment required for conversions.
 - b. Clarify the inspection and permit requirements and timing, if necessary.
8. Provide information enabling the field crews to determine the location of property lines.
9. Disclose all special circumstances
 - a. For example: historic buildings, hazardous materials, environmental issues, burial grounds and other items that may affect the overhead-to-underground conversion.
10. Communicate with the property owners if additional work beyond the conversion will be required.
 - a. PG&E will pay for the work required to replace the existing overhead electric feed with a new underground feed only. The cost of any additional work required to bring the property up to current codes will be borne by others (property owner or Applicant).
 - b. The Applicant will communicate to the property owner all items that must be brought up to code in a timely manner, and all code issues will be managed by the Applicant.
11. Disclose work hours and days.
12. Agree prior to construction regarding the required notifications to residents and property owners.
13. Failure to complete the above requirements may result in construction delays.

PROJECT NAME: _____

LOCATION: _____, CALIFORNIA

City: _____

Executed this _____ day of _____ 20____

City/County of: _____
Applicant

PACIFIC GAS AND ELECTRIC COMPANY

By: _____

By: _____

(Print or Type Name)

(Print or Type Name)

Title:

Title:

Mailing Address: _____

City/County of: _____

PERMISSION TO ENTER AND CONVERT ELECTRIC FACILITIES

Deadline to return this form: 5/15/10

I give my permission to PACIFIC GAS & ELECTRIC COMPANY (PG&E), or its authorized agents, to enter upon my property in order to convert my overhead electric service to underground service for the project known as Delmas/Park Rule 20A, approved pursuant to City of San Jose - **Resolution No. 28231.**

PG&E shall only be liable for injury, loss, damage or expense and claims for loss, damage or expenses that result from the negligent or intentional acts of PG&E, its contractors, officers, agents or employees. PG&E shall not be liable for any injury, loss, damage or expense and claims for loss, damage or expense arising from any other cause or causes whatsoever.

Owner: (Signature) _____, Dated: _____

Owner: (Print Name) _____

Site Address: _____

Assessor Parcel Number (APN) _____

Telephone Number: (_____) _____

If you want to begin coordination of a meter panel upgrade or relocation as part of this conversion, please check the appropriate box or boxes below and call PG&E's Project Manager, Ignacio Carretero, at 408-463-7608.

Panel Upgrade – If you want to increase the current capacity to the home by installing a new electric panel. (Typically done if the owner wants to add capacity for additions such as air conditioning or whirlpool spas).

Panel Relocation – Moving your meter to another location on your home.

Property owners are responsible for costs associated with the upgrade or relocation.

Return to:

City/County
Letterhead

Dear Property Owner:

Subject: Important Information Regarding the Undergrounding of Overhead PG&E Power Lines

At a public hearing, the City of San Jose approved the creation of an underground utility district in the neighborhood where you own property. This means that existing overhead lines in this district will be removed and an underground system will be installed. PG&E or its contract crews will soon begin construction of the new underground electric system.

Because transformers will no longer be on poles, the new system will install facilities in subsurface structures as much as possible. However, low-profile pad-mounted transformers may be used because of underground utility conflict or right-of-way issues. Perhaps you have seen these green boxes on concrete pads in other neighborhoods or parks. They are usually under three feet tall and very low profile. In commercial areas, sometimes larger transformers may be necessary to provide adequate service. Attempts will be made to place transformers and other PG&E subsurface structures within the municipal right of way.

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PG&E or its crews will leave an informational door hanger approximately one week prior to performing work on your property. The crew foreman or contractor's name and phone number will be noted should you have any questions. The crews will also provide the trench and conduit for PG&E, AT&T, and Comcast to those properties within the underground district boundary.

PG&E's contract electrician will perform the necessary electrical work to re-feed your existing electric meter panel with the new underground cable. The cost of basic electrical panel conversion (typically single family residences) is covered by PG&E. Multi-family and commercial properties may cost more due to additional work (bonding and grounding of the service) beyond the scope of this project. The additional cost will be at the property owner's expense and may be negotiated with PG&E's contract electrician as a separate contract or you may hire your own contractor for the additional work. Prior to beginning the work, PG&E's contract electricians will leave a door hanger on your property indicating their name and phone number in case you have questions.

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If you wish to upgrade your electric meter panel to increase current capacity for expected additions such as air conditioning or whirlpool spas or relocate your meter to another location on your home, please check the appropriate box or boxes on the enclosed *Permission to Enter and Convert Electric Facilities Form*. Meter panel upgrades and relocations will be at the property owner's expense, and the deadline to begin coordination for meter panel upgrades or relocations is the project's construction start date.

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Bonding and grounding of electrical service panels is required for PG&E to complete the work on your property. PG&E will pay for minimum required for the bonding and grounding. Additional work beyond the scope of this project, including bonding and grounding work will be at the owner's expense. Any additional work may be negotiated with PG&E's contract electrician or you can hire your own electrician to complete the work.

Once PG&E's contract electrician has completed the standard conversion work on your property, the final step will be to pull new service cable into your electric meter panel and switch from the overhead lines to the new underground electric system. If you decide to upgrade or relocate your meter panel after PG&E's contract electrician has completed the work to convert your existing meter panel to underground, all costs associated with the removal of our completed work and upgrade or relocation will be at the expense of the property owner.

Any pre-existing electrical violations or hazardous conditions identified by the City of San Jose Electrical Inspector must be corrected. The owners will be notified, and they can negotiate with the PG&E contract electrician to repair or correct the situation, or the owners can hire their own electrician to correct the violations. These corrections will be at the property owners' expense.

Please make sure that there is three feet of clear working space (including vegetation) in front of the existing electric meter panel. If, during construction, there is vegetation in the required three foot working space in front of the existing electric meter panel or the new pull can location, it will be removed and will not be replaced. The pull can is a box that may be installed on your house or building that will be the termination point for the new underground wires. Additionally, any existing gates with locks or keyways that do not meet PG&E's specifications must be replaced with locks provided by PG&E, or the keyway will need to be re-keyed at the property owner's expense to ensure PG&E has necessary access.

We are dedicated to working with you on this important project. In the coming weeks, you will receive more information about a public meeting where we can further explain the technical nature of this work. When the job is complete, we're certain you will be pleased with the results. If you have further questions, please contact PG&E's Project Manager, Brenda Carretero, at (408) 772-0645.



Dear Property Owner:

Subject: Important Information Regarding the Undergrounding of Overhead PG&E Power Lines

The City of San Jose has informed us that you signed and returned the "Permission to Enter and Convert Electric Facilities", requesting that Pacific Gas and Electric Company (PG&E) convert your overhead electric service to underground service as part of the project known as *Delmas/Park Rule 20A*, approved pursuant to *City of San Jose Ordinance 28321*. PG&E or our contract crews will soon begin construction of the new underground electric system, and this will provide some information about the process.

The Construction, PG&E or contract crews will be performing the necessary electrical work to re-feed your existing meter panel with the new underground cable. PG&E or contract crews will also be providing the trench and conduit for PG&E, AT&T and Comcast for your property, as you have requested. The crew will leave a door hanger on your door approximately one week prior to performing work on your property indicating a contact name and phone number in case you have questions.

Transformers. The new system will install facilities in subsurface structure as much as possible. However, low-profile pad-mounted transformers may be used because of underground utility conflict or right-of-way issues. In commercial areas, some larger transformers may be necessary to provide adequate service. Transformers and some of our subsurface substructures will be placed within the municipal right of way. The location may vary, but is usually 10 feet behind curb.

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Bonding and Grounding. Bonding and grounding of electrical service panels is required for PG&E to complete the work on your property. PG&E will pay for minimum required for the bonding and grounding. Additional work beyond the scope of this project, including bonding and grounding work will be at the owner's expense. Any additional work may be negotiated with PG&E's contract electrician or you can hire your own electrician to complete the work.

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Meter Panel Upgrades and Relocations. The deadline to begin coordination for meter panel upgrades or relocations is the construction start date of the project. Meter panel upgrades and relocations will be at the property owner's expense. Once our crew has completed the standard conversion work on your property, this will be our final obligation, with the exception of pulling new service cable into your panel. If you decide to upgrade or relocate your meter panel after we complete the work of converting your existing meter panel to underground, all expenses associated with the removal of our completed work, and upgrade or relocation, will be your responsibility as the owner of the property.

Hazards. Any pre-existing electrical violations or hazardous conditions identified by the City of San Jose Electrical Inspector must be corrected. You can negotiate with the PG&E contract electrician to repair and/or correct the situation, or you can hire your own electrician to correct the violations. These corrections will be at the property owner's expense.

Plants or Landscaping. If there are plants that encroach in the required three (3) foot working space area in front of the existing electric meter panel and/or the new pull can location, those plants will be removed and will not be replaced. (The pull can is a box that may be installed on your house/building that will be the termination point for the new underground wires.)

Access to Property. Existing gates with locks or keyways that do not meet PG&E's specifications must be replaced with PG&E locks (which PG&E will provide) or the keyway will need to be "re-keyed" at your expense for PG&E access.

We look forward to working with you and hope you will be patient with us during the construction period. When the job is complete, we are sure you will be pleased with the results.

If you have further questions, please contact us at 408- 772-0645.

EXHIBIT I

1.17.010 - Waiver of fees.

Fees, deposits, bonds or charges for permits, licenses, activities or services provided for by this code may not be waived unless the waiver is otherwise specifically provided for in this code or unless waived by ordinance.

(Ords. 21281, 26171.)

EXHIBIT J

11/17/2016

RE: Rule 20A - General Conditions - Ruiz, Leo

RE: Rule 20A - General Conditions

Mikkelsen, Sindy <SLP6@pge.com>

Sun 6/19/2011 1:29 PM

To: Ruiz, Leo <Leo.Ruiz@sanjoseca.gov>; Kumar, Sal <Sal.Kumar@sanjoseca.gov>;

Cc: Morse, Lisa <LxH9@pge.com>; Whitfield, Keith <KWW9@pge.com>; Pogatchnik, Sidney <SNP1@pge.com>; Espinola, Paul <PRE2@pge.com>;

Leo & Sal,

I wanted to make sure that I personally responded to both of you regarding the exchange of emails. Initially, this was intended as an internal communication with instructions for Paul to get on point with getting the documents signed with you folks, as we want to be sure and keep your projects moving through the queue efficiently.

As I stated in the meeting, the new General Conditions Agreement was designed and introduced as a way of assuring that all parties involved on a Rule 20A understand their responsibilities, and no false expectations as to how Rule 20A funds may be utilized. The intent is to protect the Rule 20A funds, which are paid by all rate payers in PG&E's territory, to be utilized for undergrounding electric lines and not used to offset the shortfalls of a community budget.

The document was signed by the CPUC the end of December, to be effective 1/1/2011. We have agreed with the CPUC to grand-father all projects that are already in the estimating/construction queue. All projects that were NOT in estimating already at that time would require the documents be signed to allow them to proceed. And as stated at the meeting, we understand your concern about projects for which a resolution has already been established, but I need to remind you that the General Conditions Agreement generally speaking does not require additional funding from the City, it simply no longer allows the city to make money off a Rule 20A project.

Additionally, as discussed, the Agreement makes more clear the intent of the program, which is to be viewed much more like a grant than an entitlement. There are performance conditions and limitations on grants, as there are on the Rule 20A projects.

We have several projects which San Jose has in our estimating/construction queue which are not impacted by this new form. There are however, several other projects which have resolutions and will need the form signed before they can proceed to estimating.

The expectation is that between Paul and Sidney Pogatchnik you should have a local representative that can answer questions about the new forms. If you still feel that additional information is needed, do not hesitate to contact me and I will make every effort to answer your questions.

Kind regards,
Sindy Mikkelsen

From: Espinola, Paul
Sent: Monday, June 13, 2011 1:39 PM
To: Mikkelsen, Sindy
Cc: Morse, Lisa; Whitfield, Keith; Pogatchnik, Sidney
Subject: RE: Rule 20A - General Conditions

Sindy:

Here is the initial response back from the City of San Jose, it would appear that their recollection concurs with mine...

Paul, I agree that Sindy did notify us that future projects would need the forms signed. We stated that we had several projects, including Tully, which had already been legislated. Council approved these projects based on no

11/17/2016

RE: Rule 20A - General Conditions - Ruiz, Leo

additional costs to the City. Sal and I believe *Sindy* agreed and we would notify Council on upcoming unlegislated projects of the new requirements by PG&E.

We will look into the form further with our attorney. I'll let you know if anything comes of it.

Thanks for the head up Paul.

Leo Ruiz

(408) 793-5308

From: Mikkelsen, Sindy
Sent: Monday, June 13, 2011 12:56 PM
To: Espinola, Paul
Cc: Morse, Lisa; Whitfield, Keith; Pogatchnik, Sidney
Subject: Rule 20A - General Conditions

Hi Paul,

I just got back from vacation and understand that you had some confusion as to how things were to go with San Jose with regard the General Conditions forms.

Back in February when we met as a group, I notified all project managers that for the projects still assigned to them, that had not started in estimating, that they would be required to obtain the signed General Conditions forms from the city or county that the projects is generated from.

The following day I stayed in the area and went to the meeting in San Jose that you, Sidney and myself attended. This was the first time the information about the new General Conditions form was going to be discussed, and I knew that San Jose could be a bit sensitive. My attendance at that meeting was really to see how the city would take the news, be supportive of you and Sidney in that difficult area, as well as respond to any questions since you were just told about it the day before.

Sidney, as the area Liaison, is always available to assist if you are having difficulty with a community understanding how the General Conditions form works. For all projects assigned to her, she will obtain the needed signatures. However, you still have projects, like most PM's, that need the form signed and it's your responsibility to get that done. The city of San Jose is aware of the need to have it signed or the project will not move forward. Estimating will not work the project without it, so to retain a project in the queue it needs to be obtained early on.

Keep in mind that once the last of those projects are out of your hands you'll never have to deal with getting it again, as all projects are to have this and other needed documents in the package prior to hand off to the PM and Estimating.

Please be sure and get those signed documents as soon as possible so that we can get these projects moving in estimating, as we now have a commitment from estimating to put some additional effort into working 20A projects.

Thank you,

Sindy

EXHIBIT K

November 17, 2011

Ms. Sindy Mikkelsen
Principal Program Manager- Rule 20A
Pacific, Gas and Electric Company
3395 McMaude Place
Santa Rosa, CA 95407

Dear Ms. Mikkelsen:

Re: PG&E Advice Letter 3767 – Tariff Schedule Form 79-1127

The City of San José is unable to comply with several of the requirements contained in PG&E's "Agreement to Perform Tariff Schedule Related Work, Rule 20A General Conditions", Form 79-1127 (Agreement), for a number of legal and business reasons which are explained in detail below. As a result, the City cannot enter into the Agreement as drafted and expects PG&E to continue estimating on all City of San José Rule 20A projects that have been legislated in accordance with the City's "5-Year Rule 20A Underground Utility Work plan" (5-year Work plan).

Background

The City and PG&E have a long history of completing Rule 20A projects together, yet the City's current Rule 20A allocation balance remains in excess of \$53 Million. On May 16, 2007, PG&E sent the City a letter outlining a plan to accelerate projects in order to reduce the project backlog and allocation balance.¹ As part of that plan, PG&E committed to working with the City to expedite projects for implementation and complete its 5-year Work plan within three years.

While work has progressed on several Rule 20A projects in San José, a majority have yet to begin PG&E's estimating process and are at risk of coming to a standstill because of PG&E's insistence that the City enter into the Agreement. The City initially shared its concerns about the terms of the Agreement with PG&E staff on January 28, 2011, during the City/PG&E Rule 20A/B coordination meeting. At that meeting, City staff advised PG&E that some of the requirements contained in the Agreement could result in additional project costs for the City which had not been disclosed to the City Council prior to legislation of the underground utility district.² PG&E agreed that no previously legislated project would be subject to the Agreement, but that a signed Agreement would be needed in order to implement future projects. Staff agreed

¹ See PG&E's May 16, 2007 letter to City's former Director of Public Works Katy Allen attached.

² At the time of the January 28, 2011 meeting, there were 12 legislated underground utility projects in the 5-Year Work plan that were not under construction.

Ms. Sindy Mikkelsen
Principal Program Manager- Rule 20A
Pacific, Gas and Electric Company
November 17, 2011
PG&E ADVICE LETTER 3767 – TARIFF SCHEDULE FORM 79-1127
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to review the Agreement, but did not commit to signing it. On September 28, 2011, PG&E asked the City to sign the Agreement within 45 days in order for PG&E to resume or initiate engineering on the City's previously legislated districts. Staff responded by e-mail stating that the City would not sign the agreement within 45 days. This letter articulates the City's concerns and outlines what efforts the City can commit to in order to keep the Rule 20A program on track.

Municipal Authority

The City of San José is a charter law city. As a charter law city, San José is entitled to make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general law.³ It derives its corporate powers directly from the state constitution subject to limitations in its charter or the legislature on matters of statewide concern.⁴ PG&E on the other hand is an investor-owned public utility which is regulated by the California Public Utility Commission (CPUC). The CPUC is a constitutional agency which regulates investor-owned electric, natural gas, telecommunications, and water utilities.⁵ It does not have direct regulatory authority or legislative oversight of the City.

An ordinance is a law and cannot unilaterally be altered or negotiated away by an agreement. It is unlawful for any person to violate any provision or fail to comply with any requirements of the San José Municipal Code or any other ordinance of the City. Any person violating any of the provisions or failing to comply with any mandatory requirements of the S.J.M.C., or of any city ordinance, other than administrative provisions, shall be guilty of a misdemeanor.⁶ The purpose of highlighting these provisions is to ensure that PG&E recognizes that the City cannot enter into an agreement that is contrary to the S.J.M.C.

Adoption of an Ordinance

In order for PG&E to replace existing overhead electric facilities with underground electric facilities along public streets and roads, PG&E's Rule 20A requires that the City Council adopt an ordinance creating an undergrounding district in the area in which both the existing and new facilities are and will be located.⁷ S.J.M.C., Chapter 15.24, Sections 15.24.050 -15.24.180, sets forth the criteria and procedures for adopting an ordinance establishing an underground district which includes, among other things, notice and hearing requirements. Rule 20A and Chapter 15.24 both require that the City Council make certain findings and determine that the removal of existing poles and overhead wires is necessary for the public health, safety, and/or welfare, and is

³ Cal. Const., art XI, §7.

⁴ *Johnson v. Bradley* (1992) 4 Cal.4th 389, 394.

⁵ <http://www.cpuc.ca.gov/NR/rdonlyres/77E9A246-8F2F-46D7-8C4A-BE8B06A6A57A/0/CPUCRegulatoryResponsibilities0410.pdf>

⁶ See S.J.M.C. Section I.08.010.

⁷ See PG&E's Rule 20A.1.b.

Ms. Sindy Mikkelsen
Principal Program Manager- Rule 20A
Pacific, Gas and Electric Company
November 17, 2011
PG&E ADVICE LETTER 3767 -- TARIFF SCHEDULE FORM 79-1127
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in the general public interest.⁸ This means the City Council must have complete disclosure of all of the necessary facts and any legal issues concerning the proposed undergrounding district in order for it to take action and adopt the ordinance required by Rule 20A and the S.J.M.C.

To date, the City Council has adopted 138 ordinances establishing undergrounding districts across the City, 12 of which have not yet been completed. The City Council and City staff relied in good faith on PG&E's promises and commitment to construct the projects as approved by the City Council through the adoption of these ordinances.

PG&E is now taking the position it cannot construct projects that have not been started by PG&E's estimating department absent the City entering into the Agreement. This is despite the fact that the terms and scope of work for the projects have already been negotiated and agreed to by PG&E. PG&E's attempt to impose conditions and responsibilities which the City cannot legally comply with under threat by PG&E that failure to do so will result in no further action on the previously legislated projects is unreasonable.⁹

In your June 19, 2011 email, you claim that the purpose of the Agreement is to "assure that parties on a Rule 20A understand their responsibilities, and no false expectations as to how Rule 20A funds may be utilized." Rule 20A describes how rate payer funds may and may not be used and at no time has the City knowingly exceeded or acted beyond the scope of those limitations. Nor has any claim or assertion ever been made that the City has not complied with the Rule 20A requirements.

"Responsibilities of the Applicant"

The City disagrees with the use of the term "applicant" as it relates to Rule 20A projects. Nowhere in Electric Rule 20A is the word "applicant" used, rather it clearly spells out the responsibilities and actions that the "governing body" of the City must take in order for PG&E to underground its facilities. The City Council (the "governing body" of the City of San Jose) satisfies each of these requirements for every Rule 20A project. The Agreement places certain responsibilities on the "applicant" that are not defined, discussed or required under the Tariff as being applicable to a "governing body". If it is the intent of PG&E to place these specific responsibilities on the governing body, it is the City's opinion that it should be done through a Rulemaking at the CPUC, to amend Electric Rule 20, rather than through an advice filing and the requirement that a separate agreement be signed for each Rule 20A project.

⁸ See S.J.M.C. sec. 15.24.060.

⁹ Your June 19, 2011 email states that "[t]here are however several other projects which have resolutions and need the form signed before they can proceed to estimating." In essence this means that PG&E will not proceed with the City's projects until the City signs the Agreement even though the City cannot legally comply with many of the terms in the Agreement.

Ms. Sindy Milkelsen
Principal Program Manager- Rule 20A
Pacific, Gas and Electric Company
November 17, 2011
PG&E ADVICE LETTER 3767 – TARIFF SCHEDULE FORM 79-1127
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On November 3, 2011, City staff met with you to discuss the agreement, the City's inability to sign the agreement, and the terms that the City can comply with in order to allow PG&E to continue working on all previously legislated projects. The following is a summary of the City's position regarding each of the Agreement's 20 conditions:

"1. Consult with PG&E to the requirements and location of the project."

City agrees. It has always been the City's practice to consult and coordinate the requirements and the location of the project with PG&E. The City and PG&E have completed 126 projects in 43 years which would not have occurred if the City failed to consult with PG&E. The City will continue to consult and coordinate with PG&E regarding Rule 20A projects.

"2. Provide a resolution and boundary map as required in Electric Rule 20."

City agrees. The City always provides an ordinance with an accompanying boundary map to PG&E. The City would be unable to proceed with its Rule 20A projects without the ordinance required by Rule 20A and S.J.M.C. Chapter 15.24. The City will continue to provide an ordinance and related boundary map for Rule 20A projects.

"3. Provide a list of all recorded property owners, APN#, phone number and address."

City partially agrees. The City has and is willing to continue providing PG&E with publicly available information for properties and property owners who are subject to the undergrounding ordinance if that information is already in the possession of the City, including telephone numbers to the extent the telephone numbers are public. The City will not however, provide the telephone numbers of property owners to PG&E which are not otherwise publicly available, because doing so may constitute an invasion of the property owners' constitutional and statutory rights to privacy.

"4. Provide a list of the most recent tenant (for rental properties)."

City partially agrees. The City has and is willing to continue providing commercial tenant information to the extent the information is publicly available and already in the City's possession. For rental properties, the City will attempt to locate the property manager and, if available, will provide that contact information to PG&E. The City will not however, make any additional effort or perform extra work to obtain all tenant information on PG&E's behalf when the information is public and can be equally accessed by PG&E.

"5. Provide Base Map (in AutoCAD) showing the following: boundary, roads, future road improvements, sidewalk, curbs, property lines, buildings, existing water and sewer, easements, and any other known utilities or obstacles."

Ms. Sindy Mikkelsen
Principal Program Manager- Rule 20A
Pacific, Gas and Electric Company
November 17, 2011
PG&E ADVICE LETTER 3767 – TARIFF SCHEDULE FORM 79-1127
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City disagrees. The City is not legally obligated to comply with this term because it is not required by Rule 20A. It is clearly the responsibility of the lead trench agent to prepare a legible construction drawing using established engineering standards that includes a base map showing basic information such as boundary, property lines, roads, existing buildings and utilities, and easements etc.

Additionally, the City will not agree to any term that requires the City to provide information about "any other known utilities or obstacles" which the City may or may not be aware of and which the City does not own or operate. Furthermore, the term "obstacle" is vague and is subject to various interpretations as to its meaning and application and therefore the City could not agree to provide "any known obstacles" given the breadth and ambiguity of that term.

However, in order to assist with project development, the City is willing to request existing facility maps from other utilities on behalf of PG&E. And the City is also willing to provide PG&E with record drawings of City facility information including street light, traffic signal, communication conduits, and sewer (storm and sanitary), facilities to the extent they are publicly available and in the City's possession. The City has and will continue to advise PG&E of any known future road improvement projects to the extent the information is known and publicly available.

"6. Secure all required rights-of-way and easements, which must be satisfactory to and approved by PG&E."

City disagrees. Rule 20A provides that "...rights-of-ways satisfactory to PG&E have been obtained by PG&E..." (emphasis added) The language of Rule 20 itself clearly states that PG&E will acquire the necessary rights-of-way and not the governing body. The City has spent several years negotiating with PG&E over the issue of who is responsible for obtaining rights-of-way which ultimately resulted in PG&E agreeing "...to take the lead on land and ROW issues and allow for San Jose Rule 20A allocations to be used for this purpose at no additional cost to the City."¹⁰ The current practice in San José is for PG&E to obtain the necessary property approvals and for the City to facilitate and assist PG&E with the coordination needed to obtain these approvals, which the City is still willing to do.

"7. Own and manage all contaminated soils. (Rule 20A funding cannot be used for environmental remediation costs.)"

City disagrees. The City will not agree to assume this risk and liability when there is no legal basis under Rule 20A or otherwise mandating the City's compliance with this requirement. The City at no time has ever used Rule 20A funds for environmental remediation and PG&E cannot unilaterally impose this affirmative responsibility on the City without regard to who

¹⁰ See page 2 of PG&E's May 16, 2007 letter to Katy Allen.

Ms. Sindy Mikkelsen
Principal Program Manager- Rule 20A
Pacific, Gas and Electric Company
November 17, 2011
PG&E ADVICE LETTER 3767 – TARIFF SCHEDULE FORM 79-1127
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owns the property and/or who created the contamination. As agreed at the November 3, 2011 meeting, if contaminated soil is encountered, PG&E will design around the area.

“8. Own and manage all cultural resource findings. (Rule 20A funding cannot be used for managing cultural resource findings.)”

City disagrees. To the extent the City understands what is meant by “cultural resources findings” the City will not agree to assume this risk and liability when there is no legal basis under Rule 20A or otherwise mandating the City’s compliance with this requirement. The City at no time has ever used 20A funding to pay for the management and disposition of cultural resources discovered and PG&E cannot unilaterally impose this affirmative responsibility on the City. Furthermore, PG&E has its own obligations to comply with all applicable environmental laws including CEQA and local laws such as those contained within the City’s encroachment permit ordinance.

“9. Provide recent pot holing/core samplings and soils/paving information from projects that were recently completed.”

City partially agrees. The City is willing to assist PG&E in locating pot holing, core sampling and soils/paving information that are a matter of public record, within the project area, and already in the possession of the City. However, in doing so the City makes no representations about the accuracy of the information or whether it can be relied upon by PG&E to make engineering decisions about the design of the underground system. PG&E assumes any and all risks associated or related to the use of this information and the City expressly disclaims any responsibility for its accuracy or reliability.

“10. Provide acceptable construction yard for materials and equipment storage.”

City disagrees. There is no legal justification under Rule 20A or otherwise which requires the City to comply with this term. PG&E cannot compel the City to expend City funds on a storage area to be used for PG&E or for the City to provide PG&E with the use of its property free of charge.

The City is willing to assist PG&E with the identification and location of possible storage areas by providing property owner contact information, if available, or facilitating negotiations with the City in the event a City owned or controlled property is available for storage.

“11. Pay for paving and restoration costs beyond the standard excavations and restorations necessary for the construction of the project. Joint trench participants will replace paving,

Ms. Sindy Mikkelsen
Principal Program Manager- Rule 20A
Pacific, Gas and Electric Company
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landscaping, sidewalk, etc. that is removed during construction. (Rule 20A funding cannot be used for additional restoration costs.) “

City partially agrees. City does not expect PG&E to restore sites or pave streets outside of the project limits, nor does the City expect PG&E to conform to a design standard that is beyond those that apply to any other project performed by a utility, developer or the City.

If PG&E damages adjacent paving, landscaping, sidewalk, etc., during the undergrounding project, then PG&E is responsible for repairing and/or replacing the paving, landscaping, sidewalk, etc.

“12. Waive paving moratorium requirements, or pay for additional costs above PG&E’s responsibility for restoration.”

City partially agrees. The City makes a good faith effort to legislate and schedule undergrounding projects to occur outside of paving moratorium areas and timeframes which are set forth in San José Council Policy 8-6. However, the City will not waive any paving moratoriums or pay any additional costs for paving if a project schedule is delayed due to the action or inaction of PG&E or any other utility that is subject to the undergrounding district.

“13. Stake and survey for any associated future grade changes.”

City partially agrees. The City will coordinate with PG&E when it is aware of future grade or alignment changes affecting the undergrounding project. To the extent the alignment and grade changes are known, the City will provide PG&E with the information necessary to complete the undergrounding.

“14. Should applicant require additional traffic control beyond that which PG&E provide (per California Joint Utility Traffic Control Committee). Applicant will pay for the additional costs.”

City disagrees. Under S.J.M.C. Section 15.50., encroachment permit applicants must provide “[a]ll conditions necessary to ensure proper traffic control, public safety and welfare and the lack of conflict with other existing and planned, projects, structures or facilities.” (emphasis added.) These conditions are legally required by the S.J.M.C. and are not waivable or subject to modification by the applicant or the City. As a result, PG&E may not attempt to limit the S.J.M.C. requirements so that PG&E is only obligated to provide traffic control “per California Joint Traffic Control Committee”¹¹ or to attempt to impose costs for traffic control on the City. PG&E will be held to the same standard for safety and public convenience as any other entity performing work on City streets.

¹¹ It is unclear how the reference to the California Joint Traffic Control Committee affects PG&E’s traffic control obligations.

Ms. Sindy Mikkelsen
Principal Program Manager- Rule 20A
Pacific, Gas and Electric Company
November 17, 2011
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Furthermore, the only method the City has to verify that appropriate traffic controls are in place is by reviewing the traffic control plan prepared and submitted by the encroachment permit applicant. The City has posted on its internet site sample traffic control plans free of charge that may be updated or revised to meet the needs of the project and permit applicant. In San José, all traffic control plans must meet, at a minimum, the State of California's "Manual on Uniform Traffic Control Devices," (MUTCD) standards which incorporates provisions from the Federal Highway Administration's "Manual on Uniform Traffic Control Devices".

"15. Should Applicant require a traffic control plan, Applicant will prepare or pay to prepare such a plan."

City disagrees. See City's Response to Condition No 14.

"16. Pay for streetlight costs per Street Light Agreement."

City agrees. The City currently owns all streetlights in San Jose, and pays PG&E for the energy costs in accordance with the LS-2 rate. In addition, the City designs and constructs the conversion of street lights installed on utility poles to City standard steel poles, underground electrical services for street lights and traffic signals with its own trench for City electrical conduits.

"17. Remove Applicant owned streetlights attached to utility poles and located within the underground district at Applicant cost."

City agrees. See City's response to Condition No. 16.

"18. Issue and waive cost of encroachment permit."

City partially agrees. The City will issue an encroachment permit pursuant to S.J.M.C. Section 15.50.300 provided that PG&E has submitted plans and specifications that are satisfactory to the City. It has been the City's practice to waive the fee, pursuant to S.J.M.C. Section 15.50.300 12.D "if the work or installation is required by the city for its own purposes and not for the benefit of the applicant." For Rule 20A projects, the City's current practice is to issue a no cost permit to PG&E and other joint trench occupants. If PG&E is upgrading its own system, the project is not for the sole purpose of Rule 20A undergrounding, or is not otherwise required by the City for City purposes, the City shall charge PG&E the applicable encroachment permit fee approved by the City Council.

"19. Waive work hour restrictions for construction, including holiday and/or special construction limitations."

Ms. Sindy Mikkelsen
Principal Program Manager- Rule 20A
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City disagrees. Under S.J.M.C. 15.50.500 A. all encroachment permits shall contain “[a]ll conditions necessary to ensure proper traffic control, public safety and welfare and the lack of conflict with other existing and planned, projects, structures or facilities.” (emphasis added.) The permit may only be issued if the Director of Public Works has made a finding that issuance of the permit is in the public’s interest and welfare. Furthermore, the Director has the authority to include any other condition deemed appropriate by the Director.¹²

Condition No. 19 is overly broad and conflicts with PG&E’s obligations as a permittee to comply with all conditions that the Director of Public Works determines are necessary to ensure the public safety and welfare of the community. Accordingly, the City will not agree to a blanket waiver of conditions that may conflict with the public’s safety and welfare. On major roads, which is one of the locations under Rule 20A where an undergrounding utility district may be established, construction activities can place pedestrians and vehicles in danger during times of high traffic volume e.g., at rush hour. Additionally, certain City or privately sponsored events may conflict with construction activities during the holidays or for special events (e.g., Christmas in the Park, Jazz Festival, Rock and Roll ½ Marathon, holiday shopping, etc.), which may require adjusted work hours to ensure public safety at or near the work site. The City will continue to work with PG&E to provide advance notice of these events, and, on a case-by-case basis, determine if exceptions to working hour restrictions are appropriate in certain instances.

“20. Waive all permit fees and other incidental project specific costs, including but not limited to: parking charges; rental cost of city or county properties; and lost revenues.”¹³

City disagrees. S.J.M.C. Section 1.17.010 prohibits the waiver of “fees, deposits, bonds or charges for permits, licenses, activities... unless the waiver is otherwise specifically provided for in this code or unless waived by ordinance.” As such, except for the waiver of the encroachment permit fee which is specifically provided for by ordinance (See Response No. 18 above), it would be illegal for the City to waive any other permit fees, or other incidental project specific costs such as parking charges, rental cost of city property or lost revenues, unless such waiver is provided for by ordinance. Currently, there are no ordinances in place which provide for the waiver of these items and the City does not intend to adopt an ordinance that would provide for a waiver of these items.

Article XVI, Section 6 of the California Constitution also prohibits the City from making a gift of public funds which is in essence what would happen if the City elected to provide PG&E with all of the requested fee waivers.¹⁴

The City is limited in its ability to pay for the liabilities of others, or to provide goods, services, credit, or things of value, to any individual, by Article XVI, Section 6. The City is simply not in a

¹² See S.J.M.C. 15.50.310 A.2. and 15.50.500 F.

¹³ The County of Santa Clara would not be a party to the Agreement and therefore, neither PG&E nor the City could impose or require a waiver of the “rental cost of...county properties”.

¹⁴ Cal. Const. Article XVI, Sec. 6.

Ms. Sindy Mikkelsen
Principal Program Manager- Rule 20A
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position to compensate or waive costs and liabilities that are incurred by PG&E absent some legal determination that the City is responsible to pay for these costs, and the City is not aware of any legal authority compelling it to assume these costs – there is certainly nothing in Rule 20A requiring the City to do so.

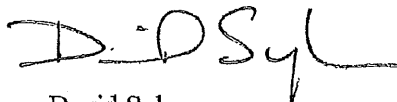
CONCLUSION

The Agreement, as written, creates significant legal and business challenges, and even though the City, by practice, complies with many of the terms of the Agreement, it does not have a legal obligation to do so. This letter seeks to outline partial acceptance of some of the Agreement terms which will allow Rule 20A projects to proceed in San José while providing the clarity that PG&E seeks. Absent a change to Rule 20A that describes the contrary, it is the City's intent and expectation that current and future projects will operate under the terms outlined in this letter.

The City's legal inability to enter into the Agreement should not override the City and PG&E's mutual interest in completing undergrounding projects for the benefit of PG&E ratepayers and San José citizens. Given this mutual interest, the City is looking forward to continuing its partnership with PG&E and completing the City's Rule 20A projects as we have in the past.

For questions please contact John Cannon at 408-535-8340 or at john.cannon@sanjoseca.gov.

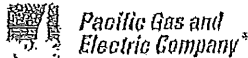
Sincerely,



David Sykes
Director of Public Works

cc: Laura Sellheim, PG&E
Karla Rodriguez Lomax, PG&E
Sidney Pogatchnik, PG&E

Enclosure – PG&E's May 16, 2007, letter from Laura Sellheim to Katy Allen



Pacific Gas and
Electric Company

Government Relations

111 Almaden Boulevard
San Jose, CA 95118

408.282.7159
Fax: 408.282.7238

May 16, 2007

Ms. Katy Allen, Director
Department of Public Works
City of San Jose
200 East Santa Clara Street
San Jose, California 95113

Dear Ms. Allen:

Thank you for the ongoing assistance you and your team have provided regarding Rule 20A undergrounding projects in San Jose. Pacific Gas and Electric Company (PG&E) remains committed to the success of projects being constructed in San Jose, and we appreciate the partnership we have with the City.

PG&E staff has been reviewing the implementation methods used for Rule 20A projects to improve processes and provide greater flexibility. There are a number of improvements expected to be adopted in the near future. Several of them will address key issues in San Jose focusing on project implementation, subsurface installations, and rights-of-way.

Project Implementation

PG&E's top priority is to provide high-quality and reliable service to our customers. In the past, this has meant that system maintenance, new service connections, emergency response, capacity upgrades, and other priority work delayed implementation of undergrounding projects. Our differences over California Public Utilities Commission (CPUC) tariff rules and guidelines have also played a large role in the delay of projects in San Jose.

A key focus of our review of the Rule 20A Undergrounding Program has been to find every available means to provide greater flexibility in project implementation. While we have made progress through workshops and meetings with San Jose staff, there is more that can be done to give you greater control over your Rule 20A allocation.

Solution: To build on our recent success, PG&E staff recommends that we revise the City's current Rule 20A Underground Utility Program Workplan, which prioritizes projects over the next five years, to expedite projects for implementation over the next three years. PG&E commits to meet with San Jose staff to develop an expedited schedule that will shorten the timeframe for engineering, construction, and completion of the City's prioritized projects. This will more than double the amount of funding spent in San Jose for Rule 20A undergrounding for the next several years. Furthermore, we will also discuss with City staff how faster implementation will draw down San Jose's current allocation balance.

Subsurface Installations

The CPUC in Decision 92-03-065 ruled that the standard design for underground installations in the PG&E system should be a pad-mounted transformer. PG&E has also preferred this standard because of the additional cost to install, higher cost to maintain, and lower reliability of subsurface transformers.

Subsurface transformers have been an option when pad-mounted transformers were not feasible due to PG&E engineering specifications or space limitations. In addition, project sponsors have had the option to pay the differential cost in "special facility" charges for subsurface transformer placement.

Solution: Our past difference on this issue has resulted in project delays. We recognize that the case-by-case approach has had a limited level of success. Our review of the Rule 20A Program has taken this issue head-on and resulted in a new method that eliminates the roadblock we have faced in the past. Specifically, PG&E will allow the City to use its Rule 20A allocations to pay for "special facility" charges for subsurface transformers.

Rights-of-Way (ROW)

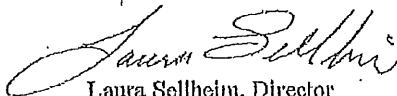
Another ongoing challenge for project implementation is right-of-way acquisition for undergrounding facilities that can not otherwise not be placed along the public streets in franchise areas. Guidelines used from CPUC decisions require project sponsors to provide those rights without additional cost to PG&E ratepayers.

Solution: PG&E understands the difficulty cities face with providing no-cost ROW easements to PG&E for undergrounding projects. In order to better assist the City, we are prepared to take the lead on land and ROW issues and allow for San Jose Rule 20A allocations to be used for this purpose at no additional cost to the City.

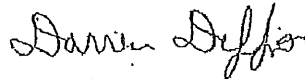
Summary

PG&E believes that our improved Rule 20A program will meet the needs of San Jose and remove most of the challenges we have faced together for years, including expedited project implementation and the use of your allocation balance to pay for subsurface transformers and managing right-of-way issues. We look forward to continuing our work together and hope that this information is helpful. Please contact Darren Deffner at 408-282-7299 or dddi@pge.com, if you have any questions or concerns.

Sincerely,



Laura Sellheim, Director
Area 3 Maintenance & Construction
Energy Delivery Department



Darren Deffner
Government Relations Representative
Public Affairs Department

EXHIBIT L



Department of Public Works

DAVID SYKES, DIRECTOR

December 17, 2012

Christopher P. Johns
President
PACIFIC GAS AND ELECTRIC COMPANY
77 Beale Street
San Francisco, CA 94105

Re: PG&E Advice Letter 3602 – Tariff Schedule Form 79-1127 and Proposed Revision

Dear Mr. Johns:

The purpose of this letter is to reiterate our position on the “Agreement to Perform Tariff Schedule Related Work, Rule 20A General Conditions”, Form 79-1127 (Agreement). The City of San José, City of Oakland, City of Hayward, and City of Cupertino (Cities) remain unable to comply with a number of the requirements contained in PG&E’s revised Agreement (original Agreement and revised Agreement attached) for a number of legal and business reasons which the Cities would like to discuss with you further. Tehama County joins in the request for a meeting and concurs with the Cities concerns. Some of the areas of concern are described in detail below.

Background

The Cities and PG&E have a long history of successfully completing Rule 20A projects together, yet in the case of some cities like San José, the current Rule 20A allocation balance remains in excess of \$53 million dollars. While work has progressed on several of the Cities’ Rule 20A projects during the past several years, these projects have proceeded slowly and with delays. Now, most projects have come to a standstill because of PG&E’s reluctance to make additional changes to the Agreement that are critical to Cities. In January 2011, the Cities first became aware of the Agreement after PG&E obtained the California Public Utility Commission’s (CPUC) approval of the Agreement, which became effective on December 30, 2010, without any city participation. PG&E never gave the Cities notice of the proposed Agreement prior to the CPUC approval, nor were the Cities given an opportunity to provide comments or input regarding its terms.

Once the Cities became aware of the Agreement, several of the Cities met with PG&E staff including Sindy Mikkelson, to share their concerns about the Agreement. One of the concerns shared with Ms. Mikkelson was that the terms of the Agreement (e.g., increased project costs, waiver of permit fees, waiver of work hour restrictions for construction, etc.), had not been disclosed to the Cities’ legislative bodies prior to legislation of the underground utility districts.

PACIFIC GAS AND ELECTRIC COMPANY

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Subject: Revision - PG&E Advice Letter 3602 – Tariff Schedule Form 79-1127 (Rev 12/10)

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If the Cities were to execute the Agreement, the execution of the Agreement could result in the nullification of the legislation authorizing the creation of the underground districts given that the legislative bodies did not have all of the facts necessary to approve or disapprove of the legislation. Implementation of the Agreement causes certain project costs or risks of potential costs to be shifted unilaterally to Cities and away from PG&E or eligible PG&E Rule 20A program costs.

PG&E verbally agreed that no previously legislated project would be subject to the Agreement. However, PG&E stated that a signed Agreement would be needed in order to implement any future projects. In the case of San José and Cupertino, letters were sent to Sindy Mikkelsen in November 2011 detailing San José and Cupertino's positions regarding each of the Agreement terms and the legal and business reasons why they could not enter into the Agreement. (San José and Cupertino's November 2011 letters are attached.)

Based on the concerns raised by the Cities through subsequent meetings and written communication, PG&E agreed to revise the Agreement and hold a workshop with the concerned Cities prior to the revised Agreement being submitted to the CPUC for approval. San José offered to facilitate the workshop to occur during Summer 2012 and advised San José's Mayor and City Council that the workshop would be forthcoming. PG&E's Sidney Pogatchnik subsequently notified San José that PG&E would not participate in a workshop.

PG&E Advice Letter 3602 – Tariff Schedule Form 79-1127

In October 2012, PG&E held meetings with the Cities individually regarding the revised Agreement. At the meetings, PG&E advised the Cities that there would be no other opportunities to comment on the Agreement, except during the CPUC's advice letter hearing process. The Cities recently met to discuss the legal and business issues presented by the Agreement and how to resolve them. For example, all participants agree that a cap on permit fees to a reasonable percentage of the construction cost would be acceptable. Following that meeting, the City of Oakland asked Ms. Mikkelsen to meet with the Cities to discuss their mutual concerns. Ms. Mikkelsen stated she was willing to meet but indicated that PG&E would not consider any further modifications to the Agreement.

While it appears that PG&E has made some efforts to address the Cities' concerns, it unfortunately contains most of the same terms and legal issues presented in the original version of the Agreement which the Cities cannot comply with or agree to. The underlying point to the most significant issues that the Cities have with the Agreement is that all cost associated with the project should be borne by the Rule 20 program, whether it is traffic control, contaminated soil removal, or cultural resource mitigation. The most challenging terms in the Agreement require the Cities to:

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- "...manage and pay all costs associated with contaminated soils..." regardless of whether the city has any responsibility for the contaminated soils or has the financial or legal ability to do so;
- "...manage and pay for all costs associated with cultural resource findings..." again, regardless of whether the city has any responsibility for the cultural resources or has the financial or legal ability to do so;
- "Provide acceptable construction yard for materials and equipment storage at no cost..." compelling the Cities to provide PG&E with access to its real property free of charge; and
- "Issue all permits and other incidental project specific costs at no charge to PG&E, including, but not limited to: inspection fees, parking charges, rental cost of city or county properties; and lost revenues."

None of the requirements are included in the provisions of Rule 20 and no other authority has been provided to the Cities which authorizes or justifies the imposition of these obligations on the Cities.

CONCLUSION

Based on the collective concerns of the Cities, we request an opportunity to meet and discuss the terms of the Agreement with you prior to taking any action before the CPUC. It is the Cities desired to resolve the issues informally as partners in the implementation of the Rule 20 program.

Given the mutual interest of the Cities and PG&E ratepayers, the Cities are looking forward to continuing its partnership with PG&E and completing the Cities' Rule 20A projects as we have in the past.

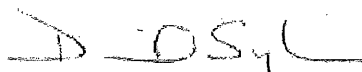
For questions, please contact Michael O'Connell, Deputy Director, at (408) 975-7333.

Sincerely,



Timm Borden, Director
City of Cupertino
Department of Public Works

Sincerely,



David Sykes, Director
City of San Jose
Department of Public Works

PACIFIC GAS AND ELECTRIC COMPANY

December 17, 2012

Subject: Revision - PG&E Advice Letter 3602 – Tariff Schedule Form 79-1127 (Rev 12/10)

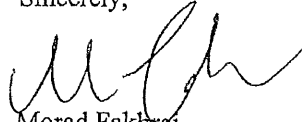
Page 4 of 4

Sincerely,



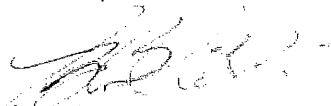
Vitaly Troyan, P. E.
Director of Public Works
City of Oakland

Sincerely,



Morad Fakhrai
Director of Public Works
Engineering and Transportation
City of Hayward

Sincerely,

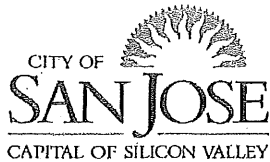


Gary Antone
Director of Public Works
County of Tehama

cc: Sindy Mikkelsen, PG&E
Karla Rodriguez Lomax, PG&E
Edward T. Bedwell, PG&E
Brian K. Cherry, PG&E
Chuck Lewis, PG&E
Jennifer Whitting, League of California Cities
Michael Peter Florio, California Public Utilities Commission
Catherine J. K. Sandoval, California Public Utilities Commission
Timothy Alan Simon, California Public Utilities Commission
Mark J. Ferron, California Public Utilities Commission
Michael R. Peevey, California Public Utilities Commission
Paul Clanon, California Public Utilities Commission

Attachments

EXHIBIT M



Department of Public Works
MICHAEL O'CONNELL, DEPUTY DIRECTOR

January 18, 2013

Sindy Mikkelsen
Principal Program Manager – Rule 20A
PACIFIC GAS AND ELECTRIC COMPANY
3395 McMaude Place
Santa Rosa, CA 95047

Re: Request for Information

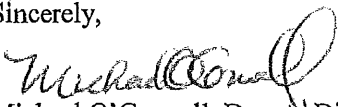
Dear Ms. Mikkelsen:

The purpose of this letter is to request a list of cities and their contacts that PG&E has discussed the "Agreement to Perform Tariff Schedule Related Work, Rule 20A General Conditions", Form 79-1127 (Agreement) since its inception. The City of San José, City of Oakland, City of Hayward, and City of Cupertino have discussed the Agreement and responded in a joint letter to PG&E dated December 17, 2012. PG&E has contacted the City of San José's Public Works Director to schedule a meeting to further discuss our concerns.

San José is requesting the list of cities to discuss any issues or concerns not already expressed to PG&E or creative solutions to the existing concerns. It is San Jose's intention with Oakland, Cupertino, Hayward and Tehama County in concurrence to meet with PG&E as a group to discuss the Agreement. Other cities will be invited on the requested list to join in the discussion. City of San Jose will be taking the lead in coordinating a joint meeting with PG&E and will be sending out meeting invite with couple possible dates shortly.

We look forward to your response and the opportunity to resolve our concerns in a group setting. Should you have any questions, please contact me at (408) 975-7333.

Sincerely,


Michael O'Connell, Deputy Director
City of San José
Department of Public Works

cc: Karla Rodriguez Lomax, PG&E

EXHIBIT N

General Conditions Tariff Meeting

March 7, 2013
10:00 am to 12:00 pm
City Hall, Tower 6th Floor, Room 644
200 E. Santa Clara Street

SUMMARY

• **Introductions**

Attendees:	
Sindy Mikkelsen, PG&E	Mike O’Connell, City of San José
Mike Kress, PG&E	David Lau, City of Oakland
Rinly Moolakatt, PG&E	Fredrick Ho, City of Campbell
Karla Rodriguez Lomax, PG&E	Leo Ruiz, City of San José
Alicia Bert, PG&E	James Chu, County of Alameda
Tom Wess, County of Tehama	Kevin Briggs, City of Hayward
Timm Borden, City of Cupertino	Paul Chan, City of Oakland
Sal Kumar, City of San José	David Sykes, City of San José
Alan Kam, City of San José	

• **General Conditions Tariff**

1. Applicant – Use of term in General Conditions Tariff

Sal asked the purpose of referring to the governmental agencies as “Applicant” on the Tariff. The Rule 20 Tariff addresses the tariff to “governing body of the city or county,” which all the governing agencies agree is the appropriate term.

Mike Kress agreed that the General Conditions Tariff will be modified to match the Rule 20 Tariff.

2. Item 4 of Revised General Conditions Tariff – “Applicant to manage and pay all costs associated with contaminated soils. If Applicant chooses, PG&E will return contaminated soils to the trench thereby avoiding soils management costs as part of this project.”

Sal stated Cities and County will not agree to assume this risk when there is no legal basis under Rule 20A Tariff. Mike Kress stated the discovery of hazardous materials would stop the project to negotiate the next steps for the project. Rinly Moolakatt discussed the possibility of changing the scope of the project to avoid the hazardous materials. Timm Borden stated federally funded projects do not exclude managing cultural or hazardous materials; the managing of hazardous materials is part of construction risks. This cost should be born by the 20A funds. Mike O’Connell stressed that these Rule 20A projects are PG&E owned projects and it would not be reasonable for the governing jurisdiction to be responsible for hazardous materials of others. Tom Wess provided documentation on Sierra Pacific Power Company’s authorization by the CPUC in 1999 to use Rule 20A funds for the dispensation of hazardous materials in Placer County. Tom also stressed most governing agencies would not sign an agreement with unknown cost implications. Rinly Moolakatt also agreed to reach out to governing bodies for information on known hazardous material and cultural resource sites. Mike O’Connell stated the City of San José has had issues with constructing 20A projects for the last 5-6 years and the agreement has only been a recent issue. Mike Kress assured the group that he will drive Rule 20A project commitments.

PG&E agreed to revise the language and submit it to the group in two weeks.

3. Item 5 of Revised General Conditions Tariff – “Applicant to manage and pay all costs associated with cultural resource findings.”

The issues discussed for the hazardous materials is substantially the same for cultural resource findings. Cindy Mikkelsen addressed high cost of cultural resources in Sacramento and another city. PG&E incurred \$200,000 for cultural resources find that impacted the city’s small allocation greatly. Fred Ho asked if PG&E had an internal CEQA process. Mike Kress responded that all PG&E projects go through land review which includes environmental clearances.

Similar to item 2 above, Cities and County disagree with the condition as drafted. PG&E agreed to revise the language and submit it to the group in two weeks.

4. Item 7 of Revised General Conditions Tariff – “Provide acceptable construction yard for materials and equipment storage at no cost. If applicant cannot provide an acceptable construction yard at no cost, PG&E will secure a site and deduct the cost from applicant’s available allocation.

Sal Kumar addressed the issue that no governing agency can guarantee a staging area at no cost to PG&E. Mike Kress asked if the phrase “no cost” were eliminated would the attending agencies agree to the item? All agencies present agreed that would be acceptable. According to Mike Kress, PG&E intended this item to promote cooperation with the governing agency in obtaining a staging area.

5. Item 13 of Revised General Conditions Tariff – “Disclose all intended permit conditions at start of engineering and prior to start of construction, issue encroachment permit at no cost to PG&E.

Sal Kumar stressed that cities are allowed to recover costs for encroachment permits. Mike Kress was concerned that some agencies have made requirements for multiple permits as a form of a revenue stream. Leo Ruiz has stated that Proposition 218 limits fees to cost recovery only and PG&E would be provided monthly billing where excessive bills could be identified early in a project. David Lau of Oakland stated that they currently do not have a method to provide monthly billing but is willing to negotiate with PG&E billing.

6. Item 15 Revised General Conditions Tariff – “Issue all permits and other incidental project specific costs at no charge to PG&E, including but not limited to: inspection fees, parking charges, rental cost of city or county properties; and lost revenue.”

Mike Kress asked whether a permit was required for Rule 20A work. Sal Kumar stated permits were a requirement of San José’s franchise agreement with PG&E with no exceptions for Rule 20A projects. Mike O’Connell requested PG&E provide permit costs for several different cities over the last 5 years. Mike Kress agreed to provide the information within 2 weeks.

- **Communication between PG&E and cities**

Sindy Mikkelsen and Mike Kress assured the attendees that they would provide updated changes to the General Conditions Tariff within 2 weeks. Mike O’Connell

SUBJECT: General Conditions Tariff Meeting

March 7, 2013

4 of 4

offered staff to coordinate a meeting with all attendees 2 weeks after the revised General Conditions Tariff is provided. Sindy Mikkelsen also stated she or PG&E Liaisons would contact each city or county when PG&E submits the revised General Conditions Tariff to the CPUC.

Mike Kress asked if the level of communication was sufficient. Tom Wess stated that a letter followed up with a call would be the best way to communicate with the agencies. Tom also noted the original General Conditions Tariff was never submitted to governing agencies to review prior to submittal to the CPUC nor within the 30 days allotted by the CPUC for comments. No governing body was listed as subscribers to Advice Letters. Sindy Mikkelsen stated she did not know the process to become part of the subscribers. Tom Wess asked that she place the attendees on the list or inform them on how to join the subscriber list.

- **Discuss Advice letter process**

Sal asked whether the Advice Letter was the appropriate manner in which to create the General Conditions Tariff. Sindy Mikkelsen stated she was told from her superiors that it was appropriate. Tom Wess pointed out the General Order 96-B states that minor items or items deemed non-controversial are appropriate Advice Letters and the General Conditions Tariff does not fit any of those criteria. Tom believes PG&E violated GO 96B by submitting the Tariff via Advice Letter. Mike Kress informed the group he was not familiar with GO-96B but would investigate the process.

The group agreed to reconvene 2 weeks after receiving the revised General Conditions Tariff.

General Conditions Tariff Meeting

April 17, 2013
1:30 pm to 3:00 pm
City Hall, Tower 6th Floor, Room 644
200 E. Santa Clara Street

Draft - AGENDA

I. Introductions

II. General Conditions Tariff – Review Changes/Edits

1. Responsibilities of the Governmental Body
 - Items 4 and 7
2. Responsibilities of PG&E:
 - Item 5 – Traffic control plan
 - Item 7 – Easements
 - Item 9 – Electrical Panel Service Conversion Agreement (Form 79-1113)
 - Items 10 & 11
 - Item 15 – Subsurface facilities/Special Facilities Cost
 - Item 16 - Schedule

III. Next Steps/ Advice letter process

IV. Open Agenda

Summary General Conditions Tariff Meeting

April 17, 2013
1:30 pm to 3:00 pm
City Hall, Tower 6th Floor, Room 644
200 E. Santa Clara Street

SUMMARY

I. Introductions

See attached sign-up sheet for attendees

II. General Conditions Tariff – Review Changes/Edits

Mike O'Connell opened the meeting with the acknowledgement of the cooperation PG&E has provided in the last iteration of the General Conditions. Sal Kumar stated that San José's attorney was still evaluating the Tariff's terminology but in general the changes made by PG&E are acceptable with these additional comments that were presented at the meeting.

1. Responsibilities of the Governmental Body

▪ Items 4 and 7

Sal directed the groups attention to the changes requested by the governmental bodies in item 4 which include with whom the governmental body is to coordinate and who will determine if the remedy is satisfactory.

Sal also noted changes to item 7 to incorporate the governmental body's standard backfill and restoration requirements instead of PG&E's standard. PG&E noted that the standards must be the same regardless if the project is a Rule 20A or not. Suggested terminology was "Joint trench participants will replace paving, landscaping, sidewalk, etc., per the Governmental Body's published and approved standard for trench restoration and backfill requirements, that is removed or damaged during construction."

Paul Chan stated he had concerns regarding item 3 of the agreement since it states the governmental body will provide a "complete and accurate" list of property owners to PG&E. The group agreed that the terminology should be changed. San José staff agreed to revise the terminology and provide to the group for review.

Paul Chan also noted the waiving of the paving moratorium and rescheduling of projects noted in item 8 was not acceptable. He stated that City of Oakland attempted to coordinate a paving project with a Rule 20A project. The paving project was impacted and delayed for 5 years because of the RULE 20A project. Mike Kress and Rinly Moolakatt agreed to coordinate the undergrounding projects better with paving projects. Leo Ruiz stated that this could be

achieved through the coordination of the 5-year workplan and also quarterly meetings with project managers. San José staff agreed to provide alternative terminology similar to item 4 of the Tariff.

2. Responsibilities of PG&E:

▪ Item 5 – Traffic control plan

Sal noted that the Work Area Protection Guide that PG&E uses for traffic control is typically insufficient for City/County streets. The California MUTCD should be used for traffic control. Mike Kress stated he would need to check with construction personnel to determine if this was possible.

▪ Item 7 – Easements

Sindy Mikkelsen asked if no cost easements were not attainable how would the district be affected. Leo Ruiz stated exceptions for poles within the district may need to be granted. Sindy stated that may not be acceptable since the purpose of undergrounding was to remove all poles. Sal and Leo stated that it was no different than the backyard exception that PG&E has granted in the past. Sindy and Mike Kress would look into this issue.

▪ Item 9 – Electrical Panel Service Conversion Agreement (Form 79-1113)

Alison Schwarz noted that several items on the Electrical Panel Service Conversion Agreement were similar to those on the General Conditions Tariff that were not acceptable to the governmental bodies. The group agreed to continue working to achieve a satisfactory General Conditions Tariff first then move on to the Electrical Panel Service Conversion Agreement.

▪ Items 10 & 11

Sal identified the changes to items 10 and 11 were similar to the changes under the Governmental Body responsibilities. No issues arose.

▪ Item 15 – Subsurface facilities/Special Facilities Cost

Sindy noted that PG&E has been allowing the use of 20A allocation to pay for the special facilities cost but the governmental body needs to understand this may reduce the footage actually undergrounded.

▪ Item 16 – Schedule

Rinly Moolakatt stated that it will be his job to coordinate and maintain schedules committed to in ordinances.

III. Next Steps/ Advice letter process

San José would collect all the comments and incorporate the attorney's comments to present to the group. PG&E would research the traffic control manual and the exceptions for poles if easements are not attainable. A third meeting will be coordinated by San José after all the information is available for review by the group.

IV. Open Agenda

Tom Wess asked about governmental bodies that have already signed agreements or in limbo since a final General Conditions Agreement has not been achieved. Mike Kress stated that governmental agencies who had already signed the old agreement would have the new

SUBJECT: Summary General Conditions Tariff Meeting
April 17, 2013
3

approved agreement provided. The old agreement would then be voided. For projects currently in limbo it would be best to not legislate until the agreement is finalized.

Q:\20A&B\20A Stuff\PG&E Tariffs\General Conditions Agreement\April 17 2013 General Conditions Mtg\Summary_041713.doc

QUESTIONS AND COMMENTS OF REVISED
GENERAL CONDITIONS TARIFF
MAY 15, 2014

The following changes of the General Conditions Tariff by PG&E have raised some questions and comments from the Governing Bodies.

Responsibilities of the Governmental Body:

Item 4. The Governmental Bodies disagree with the removal of the last sentence of the section. "If the Governmental Body and PG&E jointly determine that a satisfactory remedy to mitigate or otherwise manage the impacted project area does not exist, then PG&E will pay for mitigation, which shall be limited to the impacted area of the project." This statement allows for the project to continue if the four options of returning native soils to the trench, relocating trench, reducing trench depth and reducing the scope of the project are not acceptable to either party.

Item 10. The Governmental Bodies do not feel a Street Light Agreement is necessary if the Governmental Body performs or contracts out the conversion of street lights they own. The agreement should only be necessary if the Governing Body chooses PG&E to perform the conversion of their street lights.

Responsibilities of PG&E:

Item 9. The City feels the Rule 20 Tariff does not restrict PG&E from paying the property owners directly the \$1,500 reimbursement for electrical panel conversion. Asking the Governmental Body to reimburse the property owners directly duplicates the reimbursement effort, increases the delay in reimbursing the property owners, chances of errors or loss of information increases, and ultimately reduces PG&E's control of distribution of their rate payers funds.

Item 9. The Governmental Bodies restates PG&E's engineering documents requirements to meet the standards of the Governmental Bodies laws and regulations, such as; Building permits as necessitated by the Governing Body, inspection of the work performed by PG&E contractors in converting the electrical panels, which reduces the risk PG&E assumes for performing work on the electrical panels on behalf of the property owners.

Item 10. The Governmental Bodies disagree with the removal of the last sentence of the section. "If the Governmental Body and PG&E jointly determine that a satisfactory remedy to mitigate or otherwise manage the impacted project area does not exist, then PG&E will pay for mitigation, which shall be limited to the impacted area of the project." This statement allows for the project to continue if the four options of returning native soils to the trench, relocating trench, reducing trench depth and reducing the scope of the project are not acceptable to either party.

Item 11. "If the Governmental Body requires a detailed traffic control plan (PG&E provides a basic plan), PG&E will pay for the preparation of detailed traffic control plan by a 3rd party." Does this imply that the basic MUTCD traffic control plan is not paid through the Governmental Bodies allocation and only the detailed traffic control plan? What does PG&E consider detailed? The Governmental Bodies request the following change: If the basic MUTCD traffic control plan is paid by the Governmental Bodies Allocation this additional item is not necessary and Item 5 should be changed to the following:

"Provide traffic control plan to the current California State MUTCD standard or better as needed. The cost of the plan shall be deducted from the Governmental Bodies Allocation."

Item 15. The Governing Bodies disagree with the introduction of Rule 2 in the Rule 20 General Conditions Tariff. Rule 2 clearly states it is for applicant use, implying new construction, and not intended for the replacement of overhead facilities to underground. Since the General Conditions Tariff was changed to the Governmental Body instead of Applicant with concurrence from PG&E, we do not believe Rule 2 is valid. Rule 2 clearly states in Section I, item 2 "Special facilities are (a) facilities requested by an applicant which are in addition to or in substitution for standard facilities which PG&E would normally provide for a delivery service at one point, through one meter, at one voltage class under its tariff schedules, or (b) a pro rata portion of the facilities requested by an applicant for the sole use of such applicant, which would not normally be allocated for such sole use. Unless otherwise provided by PG&E's filed tariff schedules, special facilities will be installed, owned and maintained or allocated by PG&E and the reliability of service to PG&E's other customers is not impaired." In the case a sole service is to be undergrounded, the Governmental Body may choose to use its allocation for the special facilities or require the sole service recipient provide space on his property for standard PG&E facilities or pay for his own special facilities.

The Governmental Bodies request the following change:

"If the Governmental Body requests that underground equipment be installed subsurface, and PG&E agrees, then such work shall be performed and the Governmental Body's Rule 20A Allocation shall be used for the additional costs. If the overhead equipment is for the sole service of a property, the Governmental Body may choose to require the property owner to make space available for the standard above ground equipment or pay for the additional special facilities cost. If there is no available land, the Government Body may choose to use its allocation for the special facilities cost."

Item 16. The Governmental Bodies suggest the following changes to item 16:

“Provide schedule dates for start/completion of project design and construction activities, which have been coordinated with the Governmental Body. PG&E will provide quarterly updates on all schedules to the Governmental Body.”

RULE 20A UTILITY UNDERGROUNDING

➤ Update on March 24, 2015 meeting with PG&E

- On March 24, 2015, PG&E met with Sal Kumar and Leo Ruiz to discuss updates to the Rule 20A program. PG&E informed staff that three projects, (Lincoln Avenue, Kirk Park and Coleman Phase II) currently on the proposed 5-year workplan, will not be constructed until the General Conditions Tariff (GC) are signed or revised through CPUC approval process. (See below background on the GC)
- PG&E claims the approval by the CPUC of the GC sets a cutoff date for projects in estimating/design can go forward to construction without the General Conditions. The cutoff date is February 2011. Note: City has no control over when PG&E schedules projects in estimating. The City has also been told in quarterly 20A/B coordination meetings that these projects were scheduled for estimating several times over the years.
- Lincoln Avenue, Kirk Park and Coleman Phase II Rule 20A UUDs were legislated prior to 2011 and are scheduled to start construction in March 2017, December 2016 and July 2019 respectively. Coleman Phase II is not an issue since that undergrounding requires rights of way for the future Coleman widening project.
- Staff pointed out the above mentioned projects were already legislated prior to the GC. Previously, the City was assured that all legislated projects would be constructed. The workplan is based upon the promises PG&E has made in the past.
- Staff also noted that the requirement of the general conditions on these projects is not acceptable and may bring our concerns to PG&E's upper management, Andrea Samonek's supervisor or again to Christopher John, PG&E president.
- At the meeting, PG&E staff stated that they are looking for ways to allow the three projects to move forward, but would not have a decision soon.
- PG&E then proceeded to discuss the GC with staff. PG&E will schedule meetings to resume negotiations on the GC starting in mid-June to mid-August with a final submittal to CPUC in October. The revised GC will be circulated to all cities and counties, including other utility companies.
- Staff requested PG&E provide a letter in writing of the schedule for City Council. PG&E was reminded they had made similar commitments in the past and failed to live up to those commitments.
- Staff agreed to continue working with PG&E on the General Conditions and lead the other cities within the group through the process.

BACKGROUND ON GENERAL CONDITIONS TARIFF (GC)

- In 2011, PG&E submitted three Rule 20A tariffs (GC, Electrical Panel Conversion and Streetlight) to the City for approval in order to “clarify responsibilities” between PG&E and the City. These tariffs, approved by the CPUC, requires Cities and Counties to assume some management and financial responsibilities not currently part of the established Rule 20A process.
- The tariffs assign the City some responsibilities that violate the San José Municipal Code (waiving of fees, paying for traffic control plans, obtaining construction staging areas, etc.).
- City staff was able to placate PG&E with correspondence explaining the City’s position and agreeing to some terms that are accepted practices without signing any new agreement until recently with the submittal of the “General Conditions Tariff”.
- PG&E has stated without the “General Conditions Tariff” signed they will not design any future projects.
- The tariff has been reviewed by the CAO and their opinion is “there is no legal obligation” to sign the agreement and PG&E is required to continue working on all legislated undergrounding ordinances and future projects. In November 2011, City staff has sent a letter stating the CAO’s opinion.
- PG&E agreed to continue working on legislated projects without a signed agreement while working on revising the GC.

EXHIBIT O

Pousho, Jennifer

From: Pousho, Jennifer
Sent: Monday, October 03, 2016 12:23 PM
To: 'Daniel, Aichi'
Subject: RE: City of San Jose - proposed (revised) General Conditions Ruel 20A Tariff
Attachments: 1353515.pdf; PG&E 3 year commitment Letter.pdf

Hi Aichi. Here are the City's comments for your review. Please let me know if you have any questions.

Regards,

jennifer pousho | senior deputy city attorney
city of san josé | city attorney's office
200 e. santa clara street | san josé, CA 95113
p: 408.535.1922 | f: 408.998.3131
jennifer.pousho@sanjoseca.gov

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From: Daniel, Aichi [<mailto:AxNz@pge.com>]
Sent: Friday, September 30, 2016 4:08 PM
To: Pousho, Jennifer
Subject: RE: City of San Jose - proposed (revised) General Conditions Ruel 20A Tariff

Thanks for the update, Jennifer. Hope you have a good weekend as well.

Aichi

From: Pousho, Jennifer [<mailto:Jennifer.Pousho@sanjoseca.gov>]
Sent: Friday, September 30, 2016 3:48 PM
To: Daniel, Aichi
Subject: RE: City of San Jose - proposed (revised) General Conditions Ruel 20A Tariff

This is an EXTERNAL EMAIL. Stop and think before clicking links or opening attachments.

Hi Aichi. Sorry it's taken me longer than expected to get back to you. We had to do some internal coordination. You'll have our comments by Monday.

Have a good weekend.

jennifer pousho | senior deputy city attorney
city of san josé | city attorney's office

200 e. santa clara street | san josé, CA 95113
p: 408.535.1922 | f: 408.998.3131
jennifer.pousho@sanjoseca.gov

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From: Daniel, Aichi [<mailto:AxNz@pge.com>]
Sent: Tuesday, September 20, 2016 3:37 PM
To: Pousho, Jennifer
Subject: RE: City of San Jose - proposed (revised) General Conditions Ruel 20A Tariff

Jennifer,

Thank you for reaching out. I look forward to reviewing your comments with the PG&E team so that we can continue to move this along.

Thanks,
Aichi

From: Pousho, Jennifer [<mailto:Jennifer.Pousho@sanjoseca.gov>]
Sent: Tuesday, September 20, 2016 3:21 PM
To: Daniel, Aichi
Subject: City of San Jose - proposed (revised) General Conditions Ruel 20A Tariff

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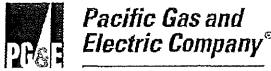
It was nice speaking with you Aichi. My contact info. is below as promised.

I'll comments you regarding the latest version of the form before the end of the week. Please let me know if you have any questions in he meantime.

Best,

jennifer pousho | senior deputy city attorney
city of san josé | city attorney's office
200 e. santa clara street | san josé, CA 95113
p: 408.535.1922 | f: 408.998.3131
jennifer.pousho@sanjoseca.gov

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GENERAL CONDITIONS AGREEMENT TO PERFORM WORK PURSUANT TO PG&E ELECTRIC RULE 20A – REPLACEMENT OF OVERHEAD WITH UNDERGROUND ELECTRIC FACILITIES

PG&E Contract: _____
Contact #: _____

PROJECT NAME: _____

LOCATION: _____, CALIFORNIA

City/County of _____ (Governmental Body) has requested, and PACIFIC GAS AND ELECTRIC COMPANY (PG&E) has agreed to perform the replacement of overhead with underground electric facilities pursuant to Section A of PG&E's Electric Rule 20 Tariff (Electric Rule 20A), subject to the following General Conditions Agreement.

Rule 20A Tariff:

PG&E will, at its expense, replace its existing overhead electric facilities with underground electric facilities along public streets and roads, and on public lands and private property across which rights-of-way satisfactory to PG&E have been obtained by PG&E, consistent with Electric Rule 20A.

To ensure the success of this Electric Rule 20A project, Governmental Body and PG&E agree to the following terms. Any exceptions to these terms will require an advice filing with the California Public Utilities Commission (CPUC), with notice to the Governmental Body in accordance with General Order 96-B or any successor orders.

Responsibilities of the Governmental Body:

PG&E's Electric Rule 20A, Subsection 1 sets forth certain requirements for the Governmental Body. In order to comply with these requirements, the Governmental Body hereby agrees to:

- 1) Consult with PG&E to confirm the requirements of an Electric Rule 20A project and the location of the specific Electric Rule 20A project.
- 2) Hold public hearing(s) on the proposed Electric Rule 20A project in order to determine that the specific Electric Rule 20A project is in the general public interest.
- 3) Provide PG&E with a duly-adopted ordinance resolution, as appropriate, creating an underground district in the area in which both the existing and new facilities are and will be located, requiring, among other things:
 - a) That all existing overhead communication and electric distribution facilities in such district shall be removed;
 - b) That each property served from such electric overhead facilities shall have installed in accordance with PG&E's rules for underground service, all electrical facility changes on the premises necessary to receive service from the underground facilities of PG&E as soon as it is available; and
 - c) Authorizing PG&E to discontinue its overhead electric service upon completion of the underground distribution system.
- 4) Acknowledge that wheelchair access is in the public interest and will be considered as a basis for defining the boundaries of projects that otherwise meet the criteria set forth in PG&E's Electric Rule 20A, Subsection 1(a).
- 5) Provide PG&E with a project boundary map and available drawings showing all known Governmental Body-owned facilities and known road improvements.
- 6) Identify property owners persons responsible for the properties identified by PG&E as requiring easements and assist PG&E as needed to secure easements to the satisfaction of PG&E.

Summary of Comments on PROJECT NAME:

Page: 1

T Number: 1 Author: jennifer.pousho Subject: Cross-Out Date: 9/27/2016 12:48:56 PM -07'00'

T Number: 2 Author: jennifer.pousho Subject: Inserted Text Date: 10/3/2016 12:02:37 PM -07'00'
Insert: "In order to implement the Electric Rule 20A program as requested by the Governmental Body, the Governmental Body hereby agrees to..." which more accurately describes the purpose of the agreement and to make consistent with intro. to PG&E's responsibilities.

T Number: 3 Author: jennifer.pousho Subject: Cross-Out Date: 9/30/2016 11:44:31 AM -07'00'
CSJ has no objection to including "resolution" in the text, but Rule 20 A.1.b requires adoption of an "ordinance". CSJ understands that other jurisdictions may be legislating their districts by resolution.

T Number: 4 Author: jennifer.pousho Subject: Cross-Out Date: 9/30/2016 12:39:22 PM -07'00'

T Number: 5 Author: jennifer.pousho Subject: Cross-Out Date: 9/30/2016 2:53:57 PM -07'00'

T Number: 6 Author: jennifer.pousho Subject: Sticky Note Date: 9/30/2016 2:50:59 PM -07'00'
Overly broad. CSJ is willing to help PG&E identify property owners/RPs, but it does not have resources to secure easements nor is it legally obligated to obtain easements on PG&E's behalf (e.g., Rule 20A doesn't require this). It's also contrary to PG&E's 5/16/07 letter.

T Number: 7 Author: jennifer.pousho Subject: Inserted Text Date: 9/30/2016 12:39:11 PM -07'00'
Insert: "Assist PG&E with the Identification of..."

T Number: 8 Author: jennifer.pousho Subject: Cross-Out Date: 9/30/2016 11:52:20 AM -07'00'
See previous comments.

T Number: 9 Author: jennifer.pousho Subject: Inserted Text Date: 10/3/2016 10:15:27 AM -07'00'
Insert: "...by providing a list of all recorded property owners to PG&E (including APNs and addresses) based on current tax assessor records.



GENERAL CONDITIONS AGREEMENT TO PERFORM WORK PURSUANT TO PG&E ELECTRIC RULE 20A – REPLACEMENT OF OVERHEAD WITH UNDERGROUND ELECTRIC FACILITIES

- 7) Provide PG&E with the Governmental Body's published standard for trench restoration and backfill requirements prior to start of engineering for the project, and require joint trench participants to replace paving, landscaping, sidewalk, etc., in accordance with the Governmental Body's published standard for trench restoration and backfill requirements that is removed or damaged during construction.
- 8) Work cooperatively with PG&E to schedule undergrounding projects prior to paving projects or after the paving moratorium period. If the Governmental Body elects to construct the undergrounding project prior to the end of the paving moratorium period, restoration and backfill requirements shall not exceed the standards for non-moratorium streets, described in Section 7 above.
- 9) Prior to the start of the project design, elect how to address streetlights impacted within the project scope.
- 10) Prior to the start of the project design, provide a list of all recorded property owners (including APNs and addresses based on current tax assessor records).
- 11) By the end of the project design, disclose all intended permit conditions, fees, and cost details. If the Governmental Body is a joint trench participant, the Governmental Body will pay its share of the associated permit costs.
- 12) Provide PG&E with recent pot holing/core samplings and soils/paving information from other projects, if available.
- 13) Work cooperatively with PG&E to establish ¹mutually acceptable work hour restrictions for construction, including holiday and/or special construction limitations.
- 14) Survey, stake, and provide drawings to PG&E for any future known Governmental Body road improvement, grade changes, or viaduct projects known or planned within the project limits.
- 15) Work cooperatively with PG&E to identify a suitable construction yard for the Rule 20A project. ⁴If the Governmental Body is unable to assist in identifying a suitable construction yard and PG&E is the joint trench lead, PG&E will work to unilaterally identify a suitable site and, if ⁵the Governmental Body is a joint trench participant, will pay its share of the associated construction yard costs.
- 16) ⁶Work cooperatively with PG&E concerning contaminated soils and cultural resources. ⁷
 - a) ⁹Contaminated Soils: In the circumstance where contamination may be a concern, PG&E's Electric Rule 20A funds will be used for core samples to design a project to avoid environmental issues. In the event contamination is encountered that triggers federal, state, and/or local laws and regulations which restrict or prohibit further work in the trench, PG&E will suspend work in the affected area until all measures required by law have ¹¹been completed by the ¹⁰Governmental Body or other party responsible for such contamination.
 - b) ¹⁰Cultural Resources: In the circumstance where cultural resources are encountered that trigger federal, state, and/or local laws and regulations which restrict or prohibit further work in the trench, PG&E will suspend work and comply with the appropriate notification requirements.
- 17) Electric Service Panel Conversion: Governmental Body may choose to be the lead in the conversion of ¹²electric service panels to accept underground service. If so and stated in the ordinance ¹³resolution, ¹²PG&E shall pay the Governmental Body up to the maximum amount allowed by the Electric Rule 20A Tariff per service entrance, excluding permit fees. If the panel conversions are performed by the property owner, the Governmental Body will coordinate the reimbursement of PG&E funds, to the property owner / responsible party, up to the maximum amount allowed by the Electric Rule 20A Tariff per service entrance, excluding permit fees.
- 18) Subsurface Equipment ¹⁴Governmental Body may request that PG&E install electrical equipment subsurface. ¹⁵PG&E agrees, then, the ¹⁶Governmental Body's Electric Rule 20A allocation shall be used for the additional costs necessary to complete the subsurface installation. ¹⁷The Governmental Body shall be responsible for paying the appropriate one-time maintenance charge. However, in the event that pad-mounted equipment cannot be installed due to field conditions, the Governmental Body will not be charged the one-time maintenance fee.

-
- Number: 1 Author: jennifer.pousho Subject: Sticky Note Date: 9/30/2016 2:54:28 PM -07'00'
Legally, work hours are within the discretion of CSJ pursuant to its encroachment permit ordinance SJMC 15.50, which cannot be modified by contract.
-
- Number: 2 Author: leo.ruiz Subject: Cross-Out Date: 9/19/2016 9:58:36 AM -07'00'
-
- Number: 3 Author: jennifer.pousho Subject: Sticky Note Date: 9/30/2016 12:11:57 PM -07'00'
CSJ is willing to help PG&E find a staging area it can use, but it cannot be contractually obligated to do more. If it ends up that the City is trench participant then it will pay its share of the costs that it is legally required to pay.
-
- Number: 4 Author: jennifer.pousho Subject: Cross-Out Date: 9/30/2016 2:56:01 PM -07'00'
-
- Number: 5 Author: jennifer.pousho Subject: Inserted Text Date: 9/30/2016 2:56:23 PM -07'00'
Insert: "If."
-
- Number: 6 Author: jennifer.pousho Subject: Sticky Note Date: 9/30/2016 2:58:31 PM -07'00'
Section 16 exposes the City to unknown potentially liability with respect to haz mat and cultural resources that it cannot contractually agree to, and CSJ is unaware of any legal authority requiring it to do so.
-
- Number: 7 Author: jennifer.pousho Subject: Sticky Note Date: 10/3/2016 12:04:37 PM -07'00'
According to CSJ staff, PG&E had, two years ago, under the directorship of Rinley Moolakatt, and Sr. Director Mike Kress, agreed to utilize, up the available limit of allocations, pay for management of both contaminated soils and cultural resources.
-
- Number: 8 Author: jennifer.pousho Subject: Highlight Date: 9/27/2016 10:12:46 AM -07'00'
-
- Number: 9 Author: jennifer.pousho Subject: Highlight Date: 10/3/2016 10:17:33 AM -07'00'
-
- Number: 10 Author: leo.ruiz Subject: Cross-Out Date: 9/19/2016 10:02:55 AM -07'00'
-
- Number: 11 Author: jennifer.pousho Subject: Sticky Note Date: 10/3/2016 12:06:02 PM -07'00'
It may be very time consuming and expensive to identify the RP (assuming it's even possible) and complete mitigation measures. Who will pay for that effort? What happens to the project in the meantime and/or if the RP cannot be identified or pay for mitigation? The project also shouldn't be left open for an indeterminate period of time. Doing so could pose health and safety issues. No terms to describe process/next steps in the event project is stopped i.e. what happens next? Who is responsible for what if the project is unable to move forward?
-
- Number: 12 Author: jennifer.pousho Subject: Sticky Note Date: 9/27/2016 2:05:55 PM -07'00'
See previous comments.
-
- Number: 13 Author: jennifer.pousho Subject: Cross-Out Date: 9/27/2016 2:05:43 PM -07'00'
-
- Number: 14 Author: jennifer.pousho Subject: Sticky Note Date: 10/3/2016 10:31:11 AM -07'00'
CSJ and PG&E spent many months negotiating this issue and PG&E agreed to use CSJ's allocation for subsurface equipment and special facilities. See 5/16/07 letter.
-
- Number: 15 Author: jennifer.pousho Subject: Cross-Out Date: 9/30/2016 11:58:07 AM -07'00'
-
- Number: 16 Author: jennifer.pousho Subject: Inserted Text Date: 9/30/2016 12:00:02 PM -07'00'
Insert: "The..."
-
- Number: 17 Author: jennifer.pousho Subject: Cross-Out Date: 9/27/2016 10:27:31 AM -07'00'



Pacific Gas and
Electric Company®

GENERAL CONDITIONS AGREEMENT TO PERFORM WORK PURSUANT TO PG&E ELECTRIC RULE 20A – REPLACEMENT OF OVERHEAD WITH UNDERGROUND ELECTRIC FACILITIES

Responsibilities of PG&E:

PG&E's Electric Rule 20A sets forth a program for replacing existing overhead electric facilities with underground electric facilities subject to certain requirements. In order to implement the Electric Rule 20A program as requested by the Governmental Body, PG&E hereby agrees to:

- 1) Consult with the Governmental Body to confirm the requirements of Electric Rule 20A, including but not limited to holding public hearings, adoption of an ordinance or resolution, and creation of a project boundary map.
 - 2) Prepare a base map showing the following: boundary, roads, sidewalks, curbs, property lines, buildings, existing water and sewer, easements, and any other known utilities or obstacles.
 - 3) Upon request of the Governmental Body, initiate project design sufficient to identify trench routes and obtain any necessary easements with the express understanding that if the underground district is subsequently delayed or cancelled, PG&E shall deduct all project-related expenses, including overheads, from the Governmental Body's Electric Rule 20A allocation. If the necessary easement(s) cannot be obtained, the Governmental Body may elect to change the project scope, request redesign of the project to avoid the need for the easement(s), or request that the project be postponed.
 - 4) If PG&E is designated as the design/trench lead, PG&E shall prepare the intent drawings, composite drawings and joint trench cost agreement for joint trench construction (costs will be shared by all joint trench participants). If an entity other than PG&E is designated as the design/trench lead, PG&E shall provide electric design to the design/trench lead agency.
 - 5) Disclose project impacts to the existing streetlight system.
 - 6) If PG&E is designated as the joint trench lead, provide Governmental Body with traffic control plan for PG&E construction pursuant to the California Manual on Uniform Traffic Control Devices (MUTCD) as part of the permit process.
 - 7) Identify all locations that require an easement(s) for PG&E, prepare all necessary easement related documents, and with the cooperation of the Governmental Body (as described in item 6 of "Responsibilities of Governmental Body" above), secure easements to the satisfaction of PG&E.
 - 8) Once the design process begins, provide a project schedule and cost updates on a quarterly basis to the Governmental Body.
 - 9) Upon request of the Governmental Body, install no more than 100 feet of each customer's underground electric service lateral.
 - 10) Provide proper notification to all affected customers when electrical outages are necessary to complete project conversion to the new underground system.
 - 11) Remove poles, portions of poles, or tenant poles from the underground district as required by the Joint Pole Utility Agreement.
 - 12) Provide inspection services for the installation of PG&E facilities.
- 43) Work cooperatively with the Governmental Body concerning contaminated soils and cultural resources.
- a) Contaminated Soils. In the circumstance where contamination may be a concern, PG&E's Electric Rule 20A funds will be used for core samples to design a project to avoid environmental issues. In the event contamination is encountered that triggers federal, state, and/or local laws and regulations which restrict or prohibit further work in the trench, PG&E will suspend work in the affected area until all measures required by law have been completed by the Governmental Body or other party responsible for such contamination.
 - b) Cultural Resources. In the circumstance where cultural resources are encountered that trigger federal, state, and/or local laws and regulations which restrict or prohibit further work in the trench, PG&E will suspend work and comply with the appropriate notification requirements.

Page: 3

Number: 1 Author: jennifer.pousho Subject: Cross-Out Date: 9/27/2016 12:45:40 PM -07'00'

Number: 2 Author: jennifer.pousho Subject: Sticky Note Date: 10/3/2016 12:18:05 PM -07'00'
The City will assist PG&E with the identification of property owner(s) from whom PG&E wants to obtain an easement.

Number: 3 Author: jennifer.pousho Subject: Highlight Date: 10/3/2016 12:14:06 PM -07'00'

Number: 4 Author: jennifer.pousho Subject: Highlight Date: 9/27/2016 11:01:06 AM -07'00'

Number: 5 Author: leo.ruiz Subject: Cross-Out Date: 9/19/2016 10:02:34 AM -07'00'

Number: 6 Author: jennifer.pousho Subject: Sticky Note Date: 9/27/2016 11:02:55 AM -07'00'
See previous comments re: Section 16 under Responsibility of Governmental Bodies.



Pacific Gas and Electric Company®

GENERAL CONDITIONS AGREEMENT TO PERFORM WORK PURSUANT TO PG&E ELECTRIC RULE 20A – REPLACEMENT OF OVERHEAD WITH UNDERGROUND ELECTRIC FACILITIES

- 14) Electric Service Panel Conversion: Governmental Body may choose for PG&E to be the lead for the panel conversion. If so, then PG&E will convert the electric service panels to accept underground services. PG&E will have its selected contractor communicate to each property owner / responsible party the plan for the trench and panel locations and reach an agreement with the property owner / responsible party before proceeding with conversion. PG&E will be responsible for any work up to and including the meter. Any additional work needed by the property owner / responsible party will be at owner's / responsible party's costs. PG&E will require its selected contractor to abide by all Governmental Body's applicable laws and regulations.
- 15) Subsurface Equipment Governmental Body may request that PG&E install equipment subsurface. PG&E agrees, then the Governmental Body's Electric Rule 20A allocation shall be used for the additional installation costs necessary to complete the subsurface installation. The Governmental Body shall be responsible for paying the appropriate one-time maintenance charge. However, in the event that pad-mounted equipment cannot be installed due to space constraints, the Governmental Body will not be charged the one-time maintenance fee.

I have read the above information and understand and agree with the provisions and responsibilities as described above. I hereby attest, under penalty of perjury, that I am authorized to enter into this agreement on behalf of the entity indicated below.

Executed this _____ day of _____ 20____

City/County of: _____

 Governmental Body

 Authorized by (Signature)

 Print Name

 Title

PACIFIC GAS AND ELECTRIC COMPANY


 Authorized by (Signature)


 Print Name


 Title

Mailing Address

Page: 4

 Number: 1 Author: jennifer.pousho Subject: Sticky Note Date: 10/3/2016 12:18:33 PM -07'00'
See previous comments in Section 18 under Governmental Body's Responsibilities.

 Number: 2 Author: jennifer.pousho Subject: Cross-Out Date: 9/30/2016 12:08:28 PM -07'00'

 Number: 3 Author: jennifer.pousho Subject: Inserted Text Date: 9/30/2016 12:08:47 PM -07'00'
Insert: "The.."


 Number: 4 Author: jennifer.pousho Subject: Cross-Out Date: 9/27/2016 11:10:27 AM -07'00'

EXHIBIT P

Pousho, Jennifer

From: Daniel, Aichi <AxNz@pge.com>
Sent: Tuesday, October 11, 2016 11:55 AM
To: Pousho, Jennifer
Subject: RE: City of San Jose - proposed (revised) General Conditions Rule 20A Tariff
Attachments: 79-1127-Rule 20A General Conditions Agreement_WithRedlinesForSJ_20161011.docx

Follow Up Flag: Follow up
Flag Status: Flagged

Jennifer,

Attached is the revised General Conditions Agreement form accepting your edits/comments for the following:

- Lead-in sentence to the Responsibilities of Governmental Body (GB) section: made consistent with lead-in to Responsibilities of PG&E Section
- GB Section 6: Reverted back to previous agreed upon language
- GB Section 13: Accepted proposed deletion
- GB Section 15: Accepted proposed deletion

If City of San Jose (CSJ) agrees to the changes above, there are two remaining issues:

1. Contaminated Soil and Cultural Resources (GB Section 16 and PG&E Section 13)
2. Subsurface Equipment (GB Section 18 and PG&E Section 15)

Contaminated Soil and Cultural Resources:

Your recent email referenced that two years ago PG&E's Rinly Moolakatt and Mike Kress offered to allow Rule 20A allocations to pay for management of both contaminated soils and cultural resources. However, the offer was intended to be a one-time tariff deviation expressly for CSJ; and expressly to settle CSJ issues regarding the draft General Conditions Agreement. CSJ rejected this offer and proceeded with further negotiations for additional revisions of the General Conditions Agreement. Once CSJ declined the offer specific to CSJ and proceeded with further negotiations, the 2014 offer made by Mr. Moolakatt and Mr. Kress is no longer available. Furthermore, the General Conditions Agreement is applicable to all cities and counties for future Rule 20A projects once it is approved by the CPUC. PG&E's past offer to solely CSJ is not an agreement for broader tariff changes applicable to all cities and counties in the form of the General Conditions Agreement.

Subsurface Equipment:

Your email also stated that PG&E and CSJ spent months negotiating issue related to subsurface equipment and cited the 5/16/07 letter sent by Laura Sellheim as PG&E's agreement to allow CSJ to use its Rule 20A allocation to pay for "special facility" charges for subsurface transformers. The 5/16/07 letter represents PG&E's willingness to offer a one-time solution to only CSJ. As mentioned above, the offer was intended to be a one-time tariff deviation expressly for CSJ, which PG&E would have to file and seek approval from the CPUC under General Order 96-B. CSJ also rejected this offer and proceeded with further negotiations for additional revisions of the General Conditions Agreement. Once CSJ declined the offer specific to CSJ and proceeded with further negotiations, the 5/16/07 offer made by Ms. Sellheim is no longer available. Furthermore, the General Conditions Agreement is applicable to all cities and counties for future Rule 20A projects once it is approved by the CPUC. PG&E's past offer to solely CSJ is not an agreement for broader tariff changes applicable to all cities and counties in the form of the General Conditions Agreement.

We have worked cooperatively with the California Association of Counties (CSAC) and League of California Cities (LOCC) both of whom have reviewed and provided input to the attached General Conditions Agreement. After extensive discussions and compromises with the City of San José and the rest of the governmental bodies in our territory, this represents PG&E's final positions on these two remaining issues.

Thanks,

Aichi N. Daniel, Esq.

Staff Attorney
Law – Electric Operations
Pacific Gas and Electric Company
77 Beale Street, San Francisco, CA 94105
415.973.6266. axnz@pge.com

From: Pousho, Jennifer [<mailto:Jennifer.Pousho@sanjoseca.gov>]
Sent: Monday, October 03, 2016 12:23 PM
To: Daniel, Aichi
Subject: RE: City of San Jose - proposed (revised) General Conditions Ruel 20A Tariff

This is an EXTERNAL EMAIL. Stop and think before clicking links or opening attachments.

Hi Aichi. Here are the City's comments for your review. Please let me know if you have any questions.

Regards,

jennifer pousho | senior deputy city attorney
city of san josé | city attorney's office
200 e. santa clara street | san josé, CA 95113
p: 408.535.1922 | f: 408.998.3131
jennifer.pousho@sanjoseca.gov

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From: Daniel, Aichi [<mailto:AxNz@pge.com>]
Sent: Friday, September 30, 2016 4:08 PM
To: Pousho, Jennifer
Subject: RE: City of San Jose - proposed (revised) General Conditions Ruel 20A Tariff

Thanks for the update, Jennifer. Hope you have a good weekend as well.

Aichi

From: Pousho, Jennifer [<mailto:Jennifer.Pousho@sanjoseca.gov>]
Sent: Friday, September 30, 2016 3:48 PM

To: Daniel, Aichi
Subject: RE: City of San Jose - proposed (revised) General Conditions Ruel 20A Tariff

This is an EXTERNAL EMAIL. Stop and think before clicking links or opening attachments.

Hi Aichi. Sorry it's taken me longer than expected to get back to you. We had to do some internal coordination. You'll have our comments by Monday.

Have a good weekend.

Jennifer Pousho | Senior Deputy City Attorney
City of San José | City Attorney's Office
200 E. Santa Clara Street | San José, CA 95113
p: 408.535.1922 | f: 408.998.3131
jennifer.pousho@sanjoseca.gov

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From: Daniel, Aichi [<mailto:AxNz@pge.com>]
Sent: Tuesday, September 20, 2016 3:37 PM
To: Pousho, Jennifer
Subject: RE: City of San Jose - proposed (revised) General Conditions Ruel 20A Tariff

Jennifer,

Thank you for reaching out. I look forward to reviewing your comments with the PG&E team so that we can continue to move this along.

Thanks,
Aichi

From: Pousho, Jennifer [<mailto:Jennifer.Pousho@sanjoseca.gov>]
Sent: Tuesday, September 20, 2016 3:21 PM
To: Daniel, Aichi
Subject: City of San Jose - proposed (revised) General Conditions Ruel 20A Tariff

This is an EXTERNAL EMAIL. Stop and think before clicking links or opening attachments.

It was nice speaking with you Aichi. My contact info. is below as promised.

I'll comment on you regarding the latest version of the form before the end of the week. Please let me know if you have any questions in the meantime.

Best,

jennifer pousho | senior deputy city attorney
city of san José | city attorney's office
200 e. santa clara street | san José, CA 95113
p: 408.535.1922 | f: 408.998.3131
jennifer.pousho@sanjoseca.gov

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GENERAL CONDITIONS AGREEMENT TO PERFORM WORK PURSUANT TO PG&E ELECTRIC RULE 20A – REPLACEMENT OF OVERHEAD WITH UNDERGROUND ELECTRIC FACILITIES

PG&E Contract: _____
Contact #: _____

PROJECT NAME: _____
LOCATION: _____, CALIFORNIA

City/County of _____ (Governmental Body) has requested, and PACIFIC GAS AND ELECTRIC COMPANY (PG&E) has agreed to perform the replacement of overhead with underground electric facilities pursuant to Section A of PG&E's Electric Rule 20 Tariff (Electric Rule 20A), subject to the following General Conditions Agreement.

Rule 20A Tariff:

PG&E will, at its expense, replace its existing overhead electric facilities with underground electric facilities along public streets and roads, and on public lands and private property across which rights-of-way satisfactory to PG&E have been obtained by PG&E, consistent with Electric Rule 20A.

To ensure the success of this Electric Rule 20A project, Governmental Body and PG&E agree to the following terms. Any exceptions to these terms will require an advice filing with the California Public Utilities Commission (CPUC), with notice to the Governmental Body in accordance with General Order 96-B or any successor orders.

Responsibilities of the Governmental Body:

PG&E's Electric Rule 20A sets forth a program for replacing existing overhead electric facilities with underground electric facilities subject to certain requirements. In order to implement the Electric Rule 20A program as requested by the Governmental Body, the Governmental Body hereby agrees to PG&E's Electric Rule 20A, Subsection 1 sets forth certain requirements for the Governmental Body. In order to comply with these requirements, the Governmental Body hereby agrees to

Comment [AD1]: Accepted CSI edit to make consistent with lead-in to PG&E responsibility section.

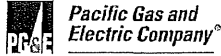
- 1) Consult with PG&E to confirm the requirements of an Electric Rule 20A project and the location of the specific Electric Rule 20A project.
- 2) Hold public hearing(s) on the proposed Electric Rule 20A project in order to determine that the specific Electric Rule 20A project is in the general public interest.
- 3) Provide PG&E with a duly-adopted ordinance or resolution, as appropriate, creating an underground district in the area in which both the existing and new facilities are and will be located, requiring, among other things:
 - a) That all existing overhead communication and electric distribution facilities in such district shall be removed;
 - b) That each property served from such electric overhead facilities shall have installed in accordance with PG&E's rules for underground service, all electrical facility changes on the premises necessary to receive service from the underground facilities of PG&E as soon as it is available; and
 - c) Authorizing PG&E to discontinue its overhead electric service upon completion of the underground distribution system.
- 4) Acknowledge that wheelchair access is in the public interest and will be considered as a basis for defining the boundaries of projects that otherwise meet the criteria set forth in PG&E's Electric Rule 20A, Subsection 1(a).
- 5) Provide PG&E with a project boundary map and available drawings showing all known Governmental Body-owned facilities and known road improvements.



**GENERAL CONDITIONS AGREEMENT TO
PERFORM WORK PURSUANT TO PG&E
ELECTRIC RULE 20A – REPLACEMENT OF
OVERHEAD WITH UNDERGROUND
ELECTRIC FACILITIES**

- 6) Identify property owners/persons responsible for the properties identified by PG&E as requiring easements. Make initial contact with the property owners/responsible persons, mail PG&E prepared easement documents, and coordinate meetings for the purpose of assisting PG&E with acquisition of necessary easements, and assist PG&E as needed to secure easements to the satisfaction of PG&E.

Comment [AD2]: Reverted back to previously suggested language by CSI on October 2015 and February 2016 drafts.



**GENERAL CONDITIONS AGREEMENT TO
PERFORM WORK PURSUANT TO PG&E ELECTRIC
RULE 20A – REPLACEMENT OF OVERHEAD WITH
UNDERGROUND ELECTRIC FACILITIES**

- 7) Provide PG&E with the Governmental Body's published standard for trench restoration and backfill requirements prior to start of engineering for the project, and require joint trench participants to replace paving, landscaping, sidewalk, etc., in accordance with the Governmental Body's published standard for trench restoration and backfill requirements that is removed or damaged during construction.
- 8) Work cooperatively with PG&E to schedule undergrounding projects prior to paving projects or after the paving moratorium period. If the Governmental Body elects to construct the undergrounding project prior to the end of the paving moratorium period, restoration and backfill requirements shall not exceed the standards for non-moratorium streets, described in Section 7 above.
- 9) Prior to the start of the project design, elect how to address streetlights impacted within the project scope.
- 10) Prior to the start of the project design, provide a list of all recorded property owners (including APNs and addresses based on current tax assessor records).
- 11) By the end of the project design, disclose all intended permit conditions, fees, and cost details. If the Governmental Body is a joint trench participant, the Governmental Body will pay its share of the associated permit costs.
- 12) Provide PG&E with recent pot holing/core samplings and soils/paving information from other projects, if available.
- 13) Work cooperatively with PG&E to establish mutually acceptable work hour restrictions for construction, including holiday and/or special construction limitations.
- 14) Survey, stake, and provide drawings to PG&E for any future known Governmental Body road improvement, grade changes, or viaduct projects known or planned within the project limits.
- 15) Work cooperatively with PG&E to identify a suitable construction yard for the Rule 20A project. If the Governmental Body is unable to assist in identifying a suitable construction yard and PG&E is the joint trench lead, PG&E will work to unilaterally identify a suitable site and, if the Governmental Body is a joint trench participant, will pay its share of the associated construction yard costs.
- 16) Work cooperatively with PG&E concerning contaminated soils and cultural resources.
 - a) **Contaminated Soils.** In the circumstance where contamination may be a concern, PG&E's Electric Rule 20A funds will be used for core samples to design a project to avoid environmental issues. In the event contamination is encountered that triggers federal, state, and/or local laws and regulations which restrict or prohibit further work in the trench, PG&E will suspend work in the affected area until all measures required by law have been completed by the Governmental Body or other party responsible for such contamination.
 - b) **Cultural Resources.** In the circumstance where cultural resources are encountered that trigger federal, state, and/or local laws and regulations which restrict or prohibit further work in the trench, PG&E will suspend work and comply with the appropriate notification requirements.
- 17) **Electric Service Panel Conversion:** Governmental Body may choose to be the lead in the conversion of electric service panels to accept underground service. If so and stated in the ordinance or resolution, PG&E shall pay the Governmental Body up to the maximum amount allowed by the Electric Rule 20A Tariff per service entrance, excluding permit fees. If the panel conversions are performed by the property owner, the Governmental Body will coordinate the reimbursement of PG&E funds, to the property owner / responsible party, up to the maximum amount allowed by the Electric Rule 20A Tariff per service entrance, excluding permit fees.
- 18) **Subsurface Equipment:** Governmental Body may request that PG&E install electrical equipment subsurface. If PG&E agrees, then, the Governmental Body's Electric Rule 20A allocation shall be used for the additional costs necessary to complete the subsurface installation. The Governmental Body shall be responsible for paying the appropriate one-time maintenance charge. However, in the event that pad-mounted equipment cannot be installed due to field conditions, the Governmental Body will not be charged the one-time maintenance fee.

Comment [AD3]: Accepted CSJ's proposed deletion.

Comment [AD4]: Accepted CSJ's proposed deletion.



GENERAL CONDITIONS AGREEMENT TO PERFORM WORK PURSUANT TO PG&E ELECTRIC RULE 20A – REPLACEMENT OF OVERHEAD WITH UNDERGROUND ELECTRIC FACILITIES

Responsibilities of PG&E:

PG&E's Electric Rule 20A sets forth a program for replacing existing overhead electric facilities with underground electric facilities subject to certain requirements. In order to implement the Electric Rule 20A program as requested by the Governmental Body, PG&E hereby agrees to:

- 1) Consult with the Governmental Body to confirm the requirements of Electric Rule 20A, including but not limited to holding public hearings, adoption of an ordinance or resolution, and creation of a project boundary map.
- 2) Prepare a base map showing the following: boundary, roads, sidewalks, curbs, property lines, buildings, existing water and sewer, easements, and any other known utilities or obstacles.
- 3) Upon request of the Governmental Body, initiate project design sufficient to identify trench routes and obtain any necessary easements with the express understanding that if the underground district is subsequently delayed or cancelled, PG&E shall deduct all project-related expenses, including overheads, from the Governmental Body's Electric Rule 20A allocation. If the necessary easement(s) cannot be obtained, the Governmental Body may elect to change the project scope, request redesign of the project to avoid the need for the easement(s), or request that the project be postponed.
- 4) If PG&E is designated as the design/trench lead, PG&E shall prepare the intent drawings, composite drawings and joint trench cost agreement for joint trench construction (costs will be shared by all joint trench participants). If an entity other than PG&E is designated as the design/trench lead, PG&E shall provide electric design to the design/trench lead agency.
- 5) Disclose project impacts to the existing streetlight system.
- 6) If PG&E is designated as the joint trench lead, provide Governmental Body with traffic control plan for PG&E construction pursuant to the California Manual on Uniform Traffic Control Devices (MUTCD) as part of the permit process.
- 7) Identify all locations that require an easement(s) for PG&E, prepare all necessary easement related documents, and with the cooperation of the Governmental Body (as described in item 6 of "Responsibilities of Governmental Body" above), secure easements to the satisfaction of PG&E.
- 8) Once the design process begins, provide a project schedule and cost updates on a quarterly basis to the Governmental Body.
- 9) Upon request of the Governmental Body, install no more than an aggregated average of 100 feet for the customer's underground electric service lateral.
- 10) Provide proper notification to all affected customers when electrical outages are necessary to complete project conversion to the new underground system.
- 11) Remove poles, portions of poles, or tenant poles from the underground district as required by the Joint Pole Utility Agreement.
- 12) Provide inspection services for the installation of PG&E facilities.
- 13) Work cooperatively with the Governmental Body concerning contaminated soils and cultural resources.
 - a) Contaminated Soils. In the circumstance where contamination may be a concern, PG&E's Electric Rule 20A funds will be used for core samples to design a project to avoid environmental issues. In the event contamination is encountered that triggers federal, state, and/or local laws and regulations which restrict or prohibit further work in the trench, PG&E will suspend work in the affected area until all measures required by law have been completed by the Governmental Body or other party responsible for such contamination.
 - b) Cultural Resources. In the circumstance where cultural resources are encountered that trigger federal, state, and/or local laws and regulations which restrict or prohibit further work in the trench, PG&E will suspend work and comply with the appropriate notification requirements.



**GENERAL CONDITIONS AGREEMENT TO
PERFORM WORK PURSUANT TO PG&E ELECTRIC
RULE 20A – REPLACEMENT OF OVERHEAD WITH
UNDERGROUND ELECTRIC FACILITIES**

- 14) Electric Service Panel Conversion: Governmental Body may choose for PG&E to be the lead for the panel conversion. If so, then PG&E will convert the electric service panels to accept underground services. PG&E will have its selected contractor communicate to each property owner / responsible party the plan for the trench and panel locations and reach an agreement with the property owner / responsible party before proceeding with conversion. PG&E will be responsible for any work up to and including the meter. Any additional work needed by the property owner / responsible party will be at owner's / responsible party's costs. PG&E will require its selected contractor to abide by all Governmental Body's applicable laws and regulations.
- 15) Subsurface Equipment: Governmental Body may request that PG&E install equipment subsurface. If PG&E agrees, then the Governmental Body's Electric Rule 20A allocation shall be used for the additional installation costs necessary to complete the subsurface installation. The Governmental Body shall be responsible for paying the appropriate one-time maintenance charge. However, in the event that pad-mounted equipment cannot be installed due to space constraints, the Governmental Body will not be charged the one-time maintenance fee.

I have read the above information and understand and agree with the provisions and responsibilities as described above. I hereby attest, under penalty of perjury, that I am authorized to enter into this agreement on behalf of the entity indicated below.

Executed this _____ day of _____ 20_____

City/County of:	PACIFIC GAS AND ELECTRIC COMPANY
_____	_____
Governmental Body	
_____	_____
Authorized by (Signature)	Authorized by (Signature)
_____	_____
Print Name	Print Name
_____	_____
Title	Title

Mailing Address

EXHIBIT Q

Pousho, Jennifer

From: Pousho, Jennifer
Sent: Thursday, October 13, 2016 9:39 AM
To: 'Daniel, Aichi'
Subject: RE: City of San Jose - proposed (revised) General Conditions Rule 20A Tariff

Thanks Aichi. We'll review your comments and circle back to you.

Best,

jennifer pousho | senior deputy city attorney
city of san josé | city attorney's office
200 e. santa clara street | san josé, CA 95113
p: 408.535.1922 | f: 408.998.3131
jennifer.pousho@sanjoseca.gov

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From: Daniel, Aichi [<mailto:AxNz@pge.com>]
Sent: Tuesday, October 11, 2016 11:55 AM
To: Pousho, Jennifer
Subject: RE: City of San Jose - proposed (revised) General Conditions Rule 20A Tariff

Jennifer,

Attached is the revised General Conditions Agreement form accepting your edits/comments for the following:

- Lead-in sentence to the Responsibilities of Governmental Body (GB) section: made consistent with lead-in to Responsibilities of PG&E Section
- GB Section 6: Reverted back to previous agreed upon language
- GB Section 13: Accepted proposed deletion
- GB Section 15: Accepted proposed deletion

If City of San Jose (CSJ) agrees to the changes above, there are two remaining issues:

1. Contaminated Soil and Cultural Resources (GB Section 16 and PG&E Section 13)
2. Subsurface Equipment (GB Section 18 and PG&E Section 15)

Contaminated Soil and Cultural Resources:

Your recent email referenced that two years ago PG&E's Rinly Moolakatt and Mike Kress offered to allow Rule 20A allocations to pay for management of both contaminated soils and cultural resources. However, the offer was intended to be a one-time tariff deviation expressly for CSJ; and expressly to settle CSJ issues regarding the draft General Conditions Agreement. CSJ rejected this offer and proceeded with further negotiations for additional revisions of the General Conditions Agreement. Once CSJ declined the offer specific to CSJ and proceeded with further negotiations, the 2014 offer made by Mr. Moolakatt and Mr. Kress is no longer available. Furthermore, the General Conditions Agreement

is applicable to all cities and counties for future Rule 20A projects once it is approved by the CPUC. PG&E's past offer to solely CSJ is not an agreement for broader tariff changes applicable to all cities and counties in the form of the General Conditions Agreement.

Subsurface Equipment:

Your email also stated that PG&E and CSJ spent months negotiating issue related to subsurface equipment and cited the 5/16/07 letter sent by Laura Sellheim as PG&E's agreement to allow CSJ to use its Rule 20A allocation to pay for "special facility" charges for subsurface transformers. The 5/16/07 letter represents PG&E's willingness to offer a one-time solution to only CSJ. As mentioned above, the offer was intended to be a one-time tariff deviation expressly for CSJ, which PG&E would have to file and seek approval from the CPUC under General Order 96-B. CSJ also rejected this offer and proceeded with further negotiations for additional revisions of the General Conditions Agreement. Once CSJ declined the offer specific to CSJ and proceeded with further negotiations, the 5/16/07 offer made by Ms. Sellheim is no longer available. Furthermore, the General Conditions Agreement is applicable to all cities and counties for future Rule 20A projects once it is approved by the CPUC. PG&E's past offer to solely CSJ is not an agreement for broader tariff changes applicable to all cities and counties in the form of the General Conditions Agreement.

We have worked cooperatively with the California Association of Counties (CSAC) and League of California Cities (LOCC) both of whom have reviewed and provided input to the attached General Conditions Agreement. After extensive discussions and compromises with the City of San Jose and the rest of the governmental bodies in our territory, this represents PG&E's final positions on these two remaining issues.

Thanks,

Aichi N. Daniel, Esq.

Staff Attorney
Law – Electric Operations
Pacific Gas and Electric Company
77 Beale Street, San Francisco, CA 94105
415.973.6266. axnz@pge.com

From: Pousho, Jennifer [<mailto:Jennifer.Pousho@sanjoseca.gov>]
Sent: Monday, October 03, 2016 12:23 PM
To: Daniel, Aichi
Subject: RE: City of San Jose - proposed (revised) General Conditions Ruel 20A Tariff

This is an EXTERNAL EMAIL. Stop and think before clicking links or opening attachments.

Hi Aichi. Here are the City's comments for your review. Please let me know if you have any questions.

Regards,

jennifer pousho | senior deputy city attorney
city of san josé | city attorney's office
200 e. santa clara street | san josé, CA 95113
p: 408.535.1922 | f: 408.998.3131
jennifer.pousho@sanjoseca.gov

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From: Daniel, Aichi [<mailto:AxNz@pge.com>]
Sent: Friday, September 30, 2016 4:08 PM
To: Pousho, Jennifer
Subject: RE: City of San Jose - proposed (revised) General Conditions Ruel 20A Tariff

Thanks for the update, Jennifer. Hope you have a good weekend as well.

Aichi

From: Pousho, Jennifer [<mailto:Jennifer.Pousho@sanjoseca.gov>]
Sent: Friday, September 30, 2016 3:48 PM
To: Daniel, Aichi
Subject: RE: City of San Jose - proposed (revised) General Conditions Ruel 20A Tariff

This is an EXTERNAL EMAIL. Stop and think before clicking links or opening attachments.

Hi Aichi. Sorry it's taken me longer than expected to get back to you. We had to do some internal coordination. You'll have our comments by Monday.

Have a good weekend.

jennifer pousho | senior deputy city attorney
city of san josé | city attorney's office
200 e. santa clara street | san josé, CA 95113
p: 408.535.1922 | f: 408.998.3131
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From: Daniel, Aichi [<mailto:AxNz@pge.com>]
Sent: Tuesday, September 20, 2016 3:37 PM
To: Pousho, Jennifer
Subject: RE: City of San Jose - proposed (revised) General Conditions Ruel 20A Tariff

Jennifer,

Thank you for reaching out. I look forward to reviewing your comments with the PG&E team so that we can continue to move this along.

Thanks,
Aichi

From: Pousho, Jennifer [<mailto:Jennifer.Pousho@sanjoseca.gov>]
Sent: Tuesday, September 20, 2016 3:21 PM
To: Daniel, Aichi
Subject: City of San Jose - proposed (revised) General Conditions Ruel 20A Tariff

This is an EXTERNAL EMAIL. Stop and think before clicking links or opening attachments.

It was nice speaking with you Aichi. My contact info. is below as promised.

I'll comments you regarding the latest version of the form before the end of the week. Please let me know if you have any questions in he meantime.

Best,

jennifer pousho | senior deputy city attorney
city of san josé | city attorney's office
200 e. santa clara street | san josé, CA 95113
p: 408.535.1922 | f: 408.998.3131
jennifer.pousho@sanjoseca.gov

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EXHIBIT R

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

RESOLUTION E-4001
August 24, 2006

RESOLUTION

Resolution E-4001. The Commission on its own motion extends to all electric investor-owned utilities (IOUs) the policies discussed and adopted for San Diego Gas and Electric (SDG&E) on April 13, 2006 in Resolution E-3968 intended to cap the cost of ratepayer funded Electric Rule 20 projects that a utility may agree to fund in a community for overhead to underground conversions.

SUMMARY

The Commission adopts policies related to Electric Rule 20 Advice Letter filings and the use of Rule 20A funds for projects to convert existing electric and communication conductors and facilities from overhead construction to underground. Specifically, electric utilities may not commit ratepayers to projects that require borrowing more than five years of a community's expected future Electric Rule 20 allocations. Utilities may file for authority 3 months in advance of construction when known excess costs will be recovered from pre-arranged community funds or from shareholders. However after starting a project a utility may file an Advice Letter where it could not have foreseen costs that would exceed the 5-year cap. This Resolution does not apply to current Rule 20 projects or those scheduled to begin within 90 days of the effective date.

BACKGROUND

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

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

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

diminishing ratepayer funding for the projects.

Under Rule 20, the Commission requires the utility to allocate a certain amount of money each year for conversion projects. Upon completion of an undergrounding project, the utility records its cost in its electric plant account for inclusion in its rate base.¹ Then the Commission authorizes the utility to recover the cost from ratepayers until the project is fully depreciated.

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

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

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

NOTICE

No notice of this Resolution instituted on the Commission's own motion was made in the Commission's Daily Calendar.

PROTESTS

No Advice Letter was filed and no protests received.

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.

DISCUSSION

In the April 13, 2006 Commission Meeting the Commission adopted Resolution E-3968 for San Diego Gas and Electric Company. While it granted a one-time approval of San Diego Gas and Electric's (SDG&E's) request to allow the City of San Marcos to borrow 19 years into its future Rule 20A allocation, it set a new policy to deter similar filings in the future and which are intended to cap the cost of ratepayer funded Electric Rule 20 projects that a utility may agree to fund in a community for overhead to underground conversions. This Resolution extends and applies those same policies to all other jurisdictional electric IOUs.

The electric utility manages whether all of the community's projects taken together remain within the community's available Rule 20 balance including the next 5 years' expected allocations. It reviews and approves a community's proposed projects each year under the existing Rule 20 program. Because actual costs of ongoing projects during the prior 12 months are known, the utility can approve fewer or less costly new projects for an upcoming year as needed to maintain the balance within the 5-year cap. In cases where actual costs are emerging higher than projected costs the ability to stay within the cap assumes that any cost increase for a community's project or projects is less than its new Rule 20 budget allocation for that year.

Project costs may grow for a variety of reasons, both within and outside the control of the utility. A community typically has several Rule 20 conversion projects underway at the same time. A given project is often coordinated with other community projects such as street widening or sewer line replacement in order to reduce construction costs such as for trenching. However when multiple jurisdictions are involved projects may take more than a year from start to finish due to scheduling conflicts. Moreover a community's vision of its future infrastructure may grow in scope and scale with time. These factors offset one another but without this Resolution there is no clear cap on how much cost growth is reasonable or allowable.

The effects on communities, ratepayers and shareholders of granting a cost over-run are the same whether the action is taken before the project starts or after the funds are committed.

If the Commission grants recovery the community receives a one-time increase of its allocation. When the project or projects are complete and added to the utility's ratebase every ratepayer throughout the service territory contributes to that community's more costly project. The local project is built above the cost cap imposed by the uniform allocation formula, and other projects in the community are deferred while the over-run is paid down below the 5-year cap.

The effects on communities, ratepayers and shareholders of denying authority for a cost over-run differ and depend on whether the over-run can be avoided or has already occurred.

Before a utility commits to the costs of a project that will exceed the 5-year cap the Commission may specifically deny authority for such an over-run if notified. The utility then may avoid the over-run by re-negotiating the project with the community and other parties if necessary. The project size or features may be reduced to lower costs or the project start date may be deferred until sufficient future allocations have accumulated.

After project funds are committed or spent however, additional funding must be found. Three sources are to suspend construction for years until additional annual allocations cover the additional costs, assess community taxpayers, and charge utility shareholders.

All customers in a community should have a fair chance to participate in overhead conversion projects. While all projects must meet minimum criteria for being in the public interest individual projects may benefit some neighborhoods more than others. The existing policy of a 5-year cap is a balance. Its disadvantage is to further delay other overhead conversion projects in the same community when one project borrows allocations from years 6 or more in the future. The advantage is the savings in cost and project administration associated with undertaking a comprehensive overhead conversion project in a single phase.

Current Commission policy allowing up to 5 years of borrowing already accommodates the possible savings from combining current and future projects. Additional years of borrowing only further divert from other customers within the community Rule 20 funds otherwise available to them, in years 6 and beyond, for Rule 20 conversion projects in other parts of the community.

As a practical matter the disadvantage of delay is a voluntary one because a community receives another year's allocation every year whether it maintains its loan balance near zero or chooses to leave it near the 4 to 5 year maximum indefinitely. Fiscally moderate or conservative communities instead may choose to start no new underground conversion projects until annual allocations accumulate back to a zero balance, or further to a positive balance where a future project is estimated to cost more than 5 years worth of allocations.

For these reasons Energy Division recommends the Commission 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. Foreseeable excess costs not approved by the Commission would not be paid by ratepayers but through pre-arranged community funds, or by utility shareholders.

If an electric utility nevertheless files an Advice Letter requesting a decision for such authority in advance it should do so no later than three months before the project commencement date to allow time for staff analysis, Resolution drafting if necessary and lead time for the Commission Agenda. Project commencement date is defined as the date construction begins.

After a utility commits to a project however, and construction has started or been completed, and costs exceed the 5-year cap, the over-run may not be avoidable. If the Commission grants such an over-run it still unevenly benefits and burdens ratepayers but this outcome may be the fair outcome if the excess costs resulted from unanticipated conditions encountered during construction.

On the other hand if Energy Division review establishes that the utility could or should have

foreseen and avoided the over-run then the fair outcome appears to be to spare ratepayers and charge shareholders instead.

Provisions adopted in this resolution only apply to projects where construction is scheduled to begin more than 90 days after the effective date and do not apply where construction is already in progress.

COMMENTS

Public Utilities Code section 311(g) (1) provides that this resolution be served on all parties and subject to at least 30 days public review and comment prior to a vote of the Commission. Section 311(g) (2) provides that this 30-day period may be reduced or waived upon the stipulation of all parties in the proceeding.

The 30-day comment period for the draft of this resolution was neither waived nor reduced. Accordingly, this draft resolution was mailed to parties for comments, and was placed on the Commission's agenda no earlier than 30 days from the mail date of July 6, 2006.

PacifiCorp submitted the following comments/questions to the Energy Division on July 17, 2006:

- Certain communities may have requested and received more assistance than their accumulated allocation in the past. Therefore, they have "negative balances".
- Is the intent that all requests from these communities require an advice filing for as long as the credit requested exceeds the sum of the past expenditures in excess of allocations plus 5 years of future-borrowing? Or is the intent to treat these overdrafts as zero, and require an advice letter request based on just the 5 years of future borrowing?

Communities which have received more Rule 20A funds than their accumulated allocation in essence have borrowed forward into their future allocations. A utility may not approve new Rule 20A projects for a community until allocations have restored its balance to less than 5 years negative. Utilities may not nullify these overdraft balances.

Southern California Edison (SCE) submitted the following comments on July 17, 2006:

- The final resolution should include a statement indicating that the new requirements will only apply to projects where construction is scheduled to begin more than 90 days after the date the Commission adopts the final resolution and that such final resolution does not apply to current projects. This permits SCE ample time to file any necessary Advice Letters at least three months before commencing the affected projects.
- Project commencement date should be the date construction begins.
- Rule 20A provisions do not govern franchise agreements. Therefore, the original Ordering Paragraph related to overhead conversion projects resulting from franchise agreement improvement projects should be stricken from the final resolution.

Energy Division agrees that the new requirements only apply prospectively and that the project commencement date should be defined as the date construction begins.

The link between franchise improvement projects and cost over-runs however, should be explained in an Advice Letter where the franchise project is used as a justification for the over-run. The Commission should decide whether the franchise project caused the over-run, not the utility.

Pacific Gas and Electric (PG&E) submitted the following comments on July 28, 2006:

Resolution E-4001 should be applied prospectively.

There may be some communities that mortgaged future Rule 20A allocations beyond the current limit of five years. PG&E recommends that the proposed resolution be applied prospectively and should not disturb those long-standing agreements.

The proposed advice letter deadline needs to be more flexible.

It may not be apparent 90 days prior to the project commencement date that the project will need additional funding beyond the five-year mortgage limit. Not all of the circumstances can be known in advance because the construction site is hidden. Difficult soil conditions, hazardous materials, and unanticipated abandoned facilities may have to be traversed or removed. Delays by other project participants could delay the project schedule and also raise costs above initial estimates.

Once construction starts however the pre-construction deadline is past and the utility would be precluded from filing an advice letter to seek additional mortgage authority. The alternatives would be to suspend construction until new annual allocations cover the additional costs or establish a property assessment to shift the additional costs to local taxpayers, and neither one seems reasonable or fair.

Therefore, PG&E recommends that if it was known from the outset that a project, as designed, would require more than five years of Rule 20A allocation mortgaging, the utility must file an advice letter seeking additional authority in advance of construction. Additionally, if the legislative body proposes to change the project boundary or change the scope of the work in such a way as to exceed the five-year mortgage limit, the utility may not agree to such changes without first obtaining CPUC authority so to do. However, where cost increases are the result of circumstances discovered after construction has commenced and which could not reasonably have been foreseen by the utility, such utility should be able to continue construction provided it files an advice letter within 90 days that the circumstance became manifest and the costs become known.

An undergrounding project undertaken in-lieu of franchise relocation should be exempted from the mortgage limit.

A community may have a road widening or storm drain, or scenic highway project that requires the relocation of utilities and it may cost less to place them underground during construction than after completion. However, if the community has exhausted its accumulated allocations and mortgaging capacity, it would not be able to take advantage of the engineering efficiencies to underground in lieu of relocating overhead. The alternatives would be to either relocate the facilities overhead or to delay the public improvement (e.g. road widening) until additional Rule 20A allocations have accumulated.

PG&E recommends that in cases where state law, efficient engineering or other

circumstances dictates that relocated utility facilities be placed underground, the cost of this mandated undergrounding should be exempt from the five-year mortgage limit.

The utility would still be required to file an Advice Letter as soon as practicable after the decision by the local agency so there is a documented record of the additional allocation borrowing but the increase in the mortgage authority would be automatically authorized in order to comply with the franchise or other statutory requirements in the most efficient manner.

Energy Division responds to PG&E as it did to PacifiCorp's comment/question above, namely that a utility may not approve new Rule 20A projects for a community until allocations have restored its balance to less than 5 years negative, and utilities may not nullify overdraft balances.

The utility is expected to conduct adequate investigation and planning prior to committing funds to an overhead conversion project, and should include a greater or lesser amount for contingencies appropriate to the conditions known at the time.

Energy Division agrees with PG&E that if it is known from the outset that a project, as designed, would require more than five years of Rule 20A allocation mortgaging, the utility must file an advice letter seeking additional authority in advance of construction. For reasons given under Discussion above the authority would be denied under the current policy of a 5 year maximum, absent persuasive arguments that no alternative solutions could be applied.

Further, if the community proposes to change the project boundary or change the scope of the work in such a way as to exceed the five-year mortgage limit, the utility may not agree to such changes without first obtaining CPUC authority so to do.

Where cost increases are the result of circumstances discovered after construction has commenced and which could not reasonably have been foreseen by the utility, Energy Division recommends the utility should be able to file an advice letter within 30 days to justify the estimated additional costs and to continue construction unless denied.

Energy Division recommends the Commission consider approving such requests up to a maximum of 10 years of estimated allocations when the unforeseen exceptional circumstances are sufficiently documented in an advice letter. If 10 years of estimated allocations are still not enough to complete the project then a blend of additional financing should be considered including local tax assessments especially where a project is combined with a local public improvement project, as well as phasing part of the project so as to credit an additional year of normal allocations.

Accordingly the requirement to file Advice Letter requests 90 days in advance for exemption from the 5-year cap should be revised to permit them conditionally at any time with justification.

The Commission also acknowledges PG&E's advice to take advantage of the engineering efficiencies to underground in lieu of relocating overhead. However, as discussed above, the Commission 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. Demonstration that the community had established plans to place subject utilities underground in advance of a currently associated public improvement project will be needed for Energy Division to consider recommending that the Commission approve an exemption.

FINDINGS

1. The Commission instituted the current undergrounding program in 1967.
2. Tariff Rule 20 is the vehicle for the implementation of the underground conversion programs and provides three levels, A, B, and C, of progressively diminishing ratepayer funding for conversion projects.
3. Annually and cumulatively utilities allocate under a Rule 20 formula funds to a city or unincorporated area of a county (a community in its service territory) for conversion projects that are added to ratebase when complete.
4. Rule 20A projects must be in public interest.
5. The community may apply (mortgage) up to a maximum of 5 years' estimated future allocations to funding of a current project.
6. Ratepayers collectively pay through utility rates the bulk of the costs of Rule 20A projects.
7. The Commission should extend its policy of maintaining opportunities for all customers in a community to benefit from conversion projects on a regular basis.
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.
9. Where cost increases are the result of circumstances discovered after construction has commenced and which could not reasonably have been foreseen by the utility, Energy Division recommends the utility should be able to file an advice letter within 30 days to justify the estimated additional costs and to continue construction unless denied.
10. Foreseeable excess costs not approved by the Commission should not be paid by ratepayers but through pre-arranged community funds, or by utility shareholders.
11. The Commission should consider late-filed requests for exemption from the 5-year cap only in the case of unforeseen circumstances encountered during construction.

12. This resolution applies only to overhead conversion projects where construction is scheduled to begin more than 90 days after the date the Commission adopts this resolution and this resolution does not apply to projects where construction is already in progress.

THEREFORE, IT IS ORDERED THAT:

1. Electric utilities shall not commit ratepayers to the costs of an Electric Rule 20 overhead conversion project that requires borrowing more than five years of a community's Electric Rule 20A allocations without Commission's approval. Excess costs not approved by the Commission, will be paid either by pre-arranged community funds or by the utility shareholders. An exception may be made for excess costs resulting from unanticipated conditions encountered during construction.
2. Electric utilities shall file Advice Letters for exemption from the 5 year cap no later than three months before the date construction begins except where the excess costs result from unanticipated conditions encountered during construction.
3. This Resolution does not apply to current overhead conversion projects or those scheduled to begin less than 90 days after the effective date.
4. This Resolution is effective today.

I hereby certify that the Public Utilities Commission adopted this Resolution at its regular meeting on August 24, 2006. The following Commissioners voting favorably thereon:

STEVE LARSON
Executive Director

MICHAEL R. PEEVEY
PRESIDENT
GEOFFREY F. BROWN
DIAN M. GRUENEICH
JOHN A. BOHN
RACHELLE B. CHONG
Commissioners

EXHIBIT S

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

April 28, 1999

Wesley K. Zicker, P.E.
Deputy Director
Placer County, Department of Public Works
565 West Lake Blvd., P.O. Box 1909
Tahoe City, California 96145

RECEIVED BY FAX
MAY 06 1999

PLACER COUNTY
DEPT. OF PUBLIC WORKS



Dear Mr. Zicker:

Mr. Coughlan asked me to reply to your January 12, 1999 letter to him about the funding for removal and transport of contaminated soil in Tahoe City under Tariff Rule 20 of your city's serving electric utility, Sierra Pacific Power Company and Tariff Rule 32 of Pacific Bell.

You request that the disposal of contaminated material, including water from within the trench line and the transport of contaminated materials to an approved repository, constitute a part of the normal process in underground conversion. You refer to "betterment" as used in the "Underground Utilities Conversion Planning Guide" (Spring, 1996). The Commission adopts tariffs and has not adopted this "Guide".

We agree that the disposal and transport of contaminated soil in the conversion project can be funded under Rule 20-A of Sierra Pacific and/or Rule 32-A of Pacific Bell.

This opinion is an informal opinion of the Energy Division Staff. Should you wish to pursue this question further, you may contact the Commission's Public Advisor at (415) 703-2074.

Very truly yours,

A handwritten signature in cursive script that reads "Brian Schumacher".

Brian Schumacher, Supervisor,
Investigations, Monitoring and Compliance Branch
Energy Division

Cc: Rick Fraga, Pacific Bell
Wes Wiens, Sierra Pacific Power
Tom Ganyon, Caltrans
Cheryl Summers, Pacific Bell
Bill Gaffney, CPUC