PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

I.D.# 7306

ENERGY DIVISION **RESOLUTION E-4146**

February 14, 2008

R E S O L U T I O N

Resolution E-4146. Southern California Edison Company (SCE). This resolution denies SCE's Request For Deviation From Electric Rule 20A. Resolution E-4001 prohibits granting the request for more than five year's mortgaging of the City of La Habra's Undergrounding Conversion Fund Balance. Instead SCE is to notify certain communities that unused funds previously allocated to them may be transferred to La Habra's account, effective 90 days from the effective date of this Resolution or approximately June 1, 2008.

By Advice Letter 2110-E. Filed on March 15, 2007. Denied.

SUMMARY

This Resolution E-4146 disposes of AL 2110-E.

This Resolution applies only to Southern California Edison Company (SCE) and denies its request to deviate from its Electric Rule 20. In April and August 2006 two Resolutions directed utilities to not commit to Rule 20 projects that require more than five years of a community's allocations. In its March 2007 Advice Letter (AL) 2110-E SCE asked to amortize over 10 years instead of five an undergrounding project in the City of La Habra (La Habra). In July 2007 Resolution E-4101 denied the request in compliance with the 2006 Resolutions. In September 2007 Decision (D.) 07-09-048 vacated Res. E-4101 due to inadequate notice to affected communities.

The Commission herein maintains the policy established and confirmed by the two 2006 Resolutions; namely, that extensions to the 5-year limit will not be granted absent evidence of unforeseen conditions. Instead SCE is to use its Rule 20 authority to notify 24 communities out of a total of 212 that it will transfer to La Habra approximately 3.8% of previous allocations made to them. The effective date of the reallocations is 90 days from the effective date of this Resolution or approximately June 1, 2008. Until that time a community may adopt in an ordinance the boundaries of a bona fide undergrounding conversion district or take other action described herein to prevent reallocation of its Rule 20 funds.

BACKGROUND

Procedural Background

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

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

The second part of the program governs conversion of existing overhead lines to new underground service, and who shall bear the cost of the conversion. Rule 20 provides three levels, A, B, and C, of progressively diminishing ratepayer funding for the projects.

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

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

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

allocation budgets based on the actual inflation for the period and adjusted growth factors.

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

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

Rule 20 requires the utility to reallocate to communities having active undergrounding programs amounts initially allocated to others but not spent.[1] Interest in the program varies widely; some communities have backlogs of specific projects waiting for funding, whereas others have no active projects and no apparent plans for any. Once a community has established a master undergrounding plan and identified specific projects, it may spend its accumulated allocations plus an amount equal to its estimated allocations for the next five years. Utilities may file Advice Letters to request exemptions from Rule 20. Upon completion of an undergrounding project, the utility records its cost in its electric plant account for inclusion in its rate base. In a General Rate Case the Commission authorizes the utility to recover the cost from ratepayers until the project is fully depreciated.

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[1] Electric Rule 20.A.2 of SCE's tariffs contains details of the allocation formulas and states that SCE shall transfer funds from inactive community programs to active programs that need funds:

> … When amounts are not expended or carried over for the community to which they are initially allocated, they shall be … reallocated to communities with active undergrounding programs.

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

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

On January 6, 2000, the Commission opened Order Instituting Rulemaking (OIR) 00-01-005 to implement Assembly Bill 1149 regarding undergrounding of electric and telecommunication facilities. On December 11, 2001, the Commission issued Decision (D.) 01-12-009 in Phase 1 of the OIR directing expanded use of Rule 20 funds.

D.01-12-009 extended the mortgage period from 3 to 5 years. Later, in D.02-11-019 the Commission signaled its consideration of a new rulemaking to address Phase 2 issues. Later D.05-04-038 closed OIR 00-01-005, stating the Phase 1 decision remains effective until a new proceeding is opened consistent with the Commission's resources and priorities.

On April 13, 2006 Resolution E-3968 deterred San Diego Gas and Electric Company from requesting Rule 20 mortgages longer than five years. 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. The policies 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.

On August 24, 2006, Resolution E-4001 extended and applied those same policies to all other jurisdictional electric IOUs. It also required utilities to file Advice Letters for exemption from the five-year cap no later than 3 months before the date construction begins. Where the excess costs result from unanticipated conditions encountered during construction utilities may file later.

On March 15, 2007 SCE filed AL 2110-E asking to amortize over 10 years instead of five an undergrounding project in the City of La Habra. Construction had not yet started.

On July 12, 2007 Resolution E-4101 denied SCE's AL 2110-E. The Commission relied on its existing Rule 20 language in directing SCE to reallocate accumulated funds from certain communities deemed inactive, sufficient to complete the La Habra project.

On September 20, 2007, Decision (D.) 07-09-048 vacated Resolution E-4101 because the affected communities were not given proper notice of any reallocation, and it directed Energy Division to handle rehearing of AL 2110-E.

La Habra Project Background

The City of La Habra (La Habra) approved its Harbor Boulevard undergrounding project (Project) in 2004. At that time La Habra anticipated that available funds, plus accumulated future funds would cover project costs.

Separately, in 2006, La Habra secured a provisional $663, 750 grant for street improvements from Orange County to be constructed at the same time as the undergrounding conversion project.

By January 2007 increasing costs put the undergrounding project mortgage beyond 5 years. The Orange County funds would not be available unless the Project began by July 15, 2007, according to SCE's March 2007 AL. Therefore SCE's AL requested a 10-year mortgage and for the Commission to approve it before July 15, 2007.

NOTICE

Notice of AL 2110-E has been made by publication in the Commission's Daily Calendar. Southern California Edison Company states that a copy of the Advice Letter was mailed and distributed in accordance with Section III-G of General Order 96-A.

Notice of the Rehearing of AL 2110-E and of possible subsequent reallocation of Rule 20 funds was made by US mail on October 18, 2007 to 212 communities in SCE's service territory provided to staff and as a courtesy to the other 4 electric

IOUs in the Commission's jurisdiction as well even though this rehearing is limited to SCE.

PROTESTS

AL 2110-E requested a mortgage extension to 10 years in advance of starting construction of the La Habra project but the AL was not protested by the public. After the Commission denied the request and instead directed reallocation of Rule 20 funds substantial public opposition surfaced as reflected herein.

DISCUSSION

Comments on AL 2110-E were received at 3 stages. Normally in the Resolution process Comments and Replies are sought one time in the Draft Resolution then reflected in the Final Resolution. In this case comments were received first, on the Draft Resolution E-4101 mailed June 11, 2007, and secondly after the Final Resolution E-4101 was signed on July 12, 2007 (later vacated). Thirdly, comments were received in response to Energy Division's November 2, 2007 letter, which proposed criteria for determining active versus inactive communities in advance of preparing this Draft.

- Comments and discussion that appeared in Resolution E-4101 (signed July 2007 but later vacated due to insufficient notice) are incorporated below starting with Efficiency of Funding .
- Comments received in response to Energy Division's letter in November 2007 are grouped and discussed starting on page 14.
- Comments that will be received on this Draft Resolution E-4146 will be reflected in the Final Resolution E-4146 posted for the Commission's consideration prior to the Commission Meeting scheduled for February 18, 2008.

Energy Division reviewed SCE's request and the comments received on it in the light of the 2006 Resolutions E-3968 and E-4001. In both 2006 Resolutions the Commission confirmed already-adopted policies to limit mortgages in Rule 20 projects to five years.

Efficiency of funding does not justify exemption.
In Resolution E-4001 August 2006 the Commission responded to PG&E's earlier Comments on the Draft version of Resolution E-4001. PG&E had recommended

that the Commission adopt clear exemptions from the five-year limit and in cases where state law, efficient engineering or other circumstances "dictate" that relocated utility facilities be placed underground, the cost of such "mandated" undergrounding should be exempt from the five-year mortgage limit.

In response the Commission stated that it:

> cannot allow unlimited borrowing by communities and spreading of costs to all ratepayers. The efficiency argument is already accommodated by the policy of permitting 5 years of borrowing future allocations to fund current projects. Alone as a justification for exemption from the 5-year cap, efficiency will not be persuasive.

Costs increased during project planning. Project planning cost estimates should be made early and often, and be expected to rise as time passes and the project is better defined. In La Habra's case the Project had not yet started and cost estimates had risen twice before SCE filed its AL.

According to SCE the original estimate of $1.7 million provided to the city of La Habra in 2003 was a rough order of magnitude estimate used for project feasibility. As such, it was prepared without the benefit of engineering and design, and was based on an estimated trench length of 5,800 feet. A revised estimate of $2.3 million was prepared and submitted to the city in 2004 to capture increases in material costs experienced in ongoing undergrounding projects including concrete, PVC conduit, steel, and paving.

The third and most recent estimate was prepared in early 2007. This $3.2 million estimate included 7,100 feet of underground trenching based on the final design drawings and reflects construction costs in 2007 dollars. SCE stated the revised estimate is also more conservative in light of the potential need to cease construction under the policies of Resolution E-4001 should costs exceed mortgage limitations.

The total required trench length increased from the original rough order of magnitude estimate but the Utility Undergrounding District boundary has remained the same from the inception of the project.

Commission policy does not support granting SCE's request to extend the amortization period before construction begins. In its Finding No. 8 of Resolution E-4001 the Commission went on to state:

> 8. The Commission should maintain and extend the policy adopted in Res. E-3968 of denying utility exemption requests for authority

> to commit funds or to begin construction of a project having foreseeable project cost over-runs that require mortgaging more than 5 years of a community's Rule 20 estimated allocations.

Discussion of comments on Draft Resolution E-4101 mailed June 11, 2007

In the Joint Comments of SCE, Pacific Gas and Electric Company, and San Diego Gas and Electric Company (Joint Utilities) filed on June 25, 2007 six criteria are noted citing PG&E's earlier AL 2426-E. The Joint Utilities believe the economies of scope and scale represented by the criteria justify borrowing ahead without limit to achieve economies of scale.

The Commission reached a different conclusion in its 2006 Resolutions, that such economies are not persuasive and that borrowing should be capped. In view of the available alternative to reallocate unused funds, which is developed and adopted herein, the Commission confirms for a third time its five-year cap on Rule 20 borrowing.

The Joint Utilities also commented that communities in their search for funds should not look to other communities for unused allocation balances. The Commission agrees and emphasizes that communities should plan well ahead so as to not schedule projects whose costs would exceed the 5-year limit.

With SCE's AL 2110-E the Commission potentially faced either ignoring policies it had twice affirmed, or effectively denying La Habra's project, but a third choice exists. Under the annual allocation formula allocations are made every year to communities regardless of whether projects are currently identified and in need of funding, or whether previously allocated funds have been used. Communities may accumulate excess funds as a result. Moreover, unused funds are to be transferred to communities with active undergrounding programs (see Footnote 1).

Sufficient unused Rule 20 funds are available from inactive communities while leaving active programs intact. Based on analysis of SCE's Annual Reports of its Rule 20 Program as filed with the Energy Division, and of SCE responses to staff data requests[2], Rule 20 funds are available in aggregate with

[2] Response emailed from H. McCarthy SCE to B. Schumacher CPUC on October 15, 2007, among others.

which SCE could comply with a Commission directive to reallocate funds to meet La Habra's needs in this case, and to do so without affecting the existing projects or plans of active communities.

The Commission in its two 2006 Resolutions balances the cost of promoting underground conversion with limiting Rule 20 costs flowing ultimately to rates. The Commission did not prohibit all exceptions to five-year mortgages, only those requested during the planning phase before construction starts. Latitude appears for granting exemptions for unforeseen costs encountered during construction after establishing that all prudent planning steps had been taken.

Moving to the current case and future similar cases where insufficient funding is known before construction starts and would delay and ultimately increase the cost of a project, we are still not inclined to

- Grant a mortgage longer than 5 years; nor to
- Directly increase IOU costs and rates by raising the nominal 2% set aside for Rule 20; nor to
- Indirectly increase SCE rates by denying AL 2110-E [3].

Therefore while our policy on limiting mortgages to 5 years is firm, that is a different issue than limiting SCE's funding of an individual project to the allocation formula for the community. One community may use more where others use less, up to a point. Resolving where that point lies is not necessary today, but we offer guidance for community planning. We do not intend to interfere with active projects or bona fide community planning for Rule 20 conversion projects. As developed further below, we simply conclude that SCE should reallocate available unused funds.

[3] In 2006 SDG&E explained during processing of its AL 1722-E leading to Res. E-3968 that since it had already spent the funds that it would need to either receive its requested exemption for a longer mortgage or it would have to charge the cost to another account for recovery through a general rate case or a balancing account proceeding. Likewise, at this point, SCE has explained that it has already completed the La Habra project late in 2007.

Once all available funds are committed by active communities recourse for projects that forecast overruns may be limited to:

- Starting the project on schedule but reducing its scope and cost; or
- Delaying the project to fully fund it by
  - Accumulating additional years of allocations; or
  - Locating other funding such as by assessing direct beneficiaries.

Events Following Remand to the Energy Division

The Commission directed Energy Division (ED) to handle the rehearing of the AL in its September 2007 decision vacating Resolution E-4101 due to insufficient notice [4]. ED is accomplishing two things in the rehearing: first, assuring that all potentially affected communities are notified of it, and secondly, developing a better definition of active community undergrounding programs whose funding would not be subject to reallocation.

ED notified every community in SCE service territory of the rehearing. On October 18, 2007 ED sent by U.S. mail a letter to the 212 communities in SCE service territory to whom SCE makes annual Rule 20 allocations.[5] The letter stated that the Commission was considering directing SCE to transfer certain Rule 20 allocations to other communities and that those wishing to participate in the new proceeding should contact the Energy Division by November 1, 2007. Thirteen communities and organizations some with multiple individuals replied to create the new service list for this proceeding.

ED requested comments on two proposed criteria by which a community could demonstrate it was actively using or planning to use its accumulating Rule 20 allocations and thus prevent reallocation of its funds. On November 2, 2007 Energy Division emailed to the new service list a letter requesting Comments on two criteria for defining "active" communities in SCE service territory.[6] "Inactive" communities would be subject to reallocation of their undergrounding funds. Comments were due by November 26, 2007.

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[4] D.07-09-048.

[5] Letter to All Communities in Southern California Edison Company Service Territory from Brian Schumacher, Energy Division, dated October 15, 2007, service list attached.

[6] The task of completing the rehearing in a timely manner and Commission resource limitations precluded opening a broader investigation applying to all IOUs at this time.

- The first criterion exists in Rule 20 at A.2.e and requires a community to pass an ordinance forming an undergrounding district.
- The second criterion proposed for comment was that a community had completed an undergrounding project in the year 2000 or more recently (after 1999). Alternatively a community could provide evidence of planned projects that would require use of Rule 20 funds.

Most communities did not respond to ED's November 2007 letter giving notice of possible transfers of Rule 20 undergrounding allocations. Only 32 responded, including some 18 late contacts made after the November 2, 2007 formal closing date for joining the new service list. After November 26, 2007 however, the formal deadline for submittal of comments on the criteria proposed in ED's letter mailed November 2, 2007, one response was received but not accepted. The contacts accepted were either comments on the criteria proposed to define active undergrounding programs, or were simply requests to be added to the service list for the rehearing.

Through November 26, 2007 additions to the service list were received and accepted along with all Comments received. Ultimately 18 additional communities in SCE territory or that of other utilities, together with the 13 initially on the service list, submitted 20 comments, which are grouped and discussed below. Eight communities not in SCE service territory also appear on the service list and six of them submitted comments; however only one raised any unique issues[7]. Comments from these eight are not discussed individually because this rehearing and this Resolution are restricted to SCE.

Comments received regarding ED's November 2007 letter

Among comments submitted, few directly addressed the two criteria to determine active communities that ED proposed in its November 2007 letter, but all comments opposed any reallocation of funds, as summarized following.

SCE comments on ED's November 2007 letter

[7] The City of San Francisco uniquely asks the Commission to reopen the undergrounding OII.

SCE repeats its request for an exemption for La Habra from the five-year mortgaging limit. If not granted, SCE asks for no reallocation of funds for at least one year.

In its comments SCE revised downward to "only about $400,000" its earlier estimate that some $2.1 million in reallocations[8] would be required to bring the La Habra project within the five-year mortgaging limit. By November SCE had

completed its portion of the La Habra project and knew the actual costs. The revised amount required corresponds to about two additional years' mortgaging for La Habra, instead of five.

If instead the Commission should proceed with directing reallocations then SCE requests that the effective date be at least one year from date of this Resolution in order to permit local governments time to issue an undergrounding ordinance that would prevent reallocation of Rule 20 funds.

League of Cities (League) comments on Energy Division's November 2007 letter

The League requests that the second criterion be expanded to include projects that may have been started in 2000 or more recently, but may not yet be completed. The criteria should be further expanded to include undergrounding projects that the city causes to be built, for example, as part of a property development permit. Although city resources might not be expended on private property developments the requirement would demonstrate that a city views utility undergrounding as important.

Secondly, where a community can only offer project planning as evidence of activity, the League requests better definition as to what evidence would be sufficient to demonstrate that an undergrounding project is planned, since planning is often a multi-year process or part of a larger project that may be put on hold, and involve various levels of city government from top to bottom.

Thirdly, the League asks whether cities will be required to provide evidence of the intended use of Rule 20A funds for the project. Cities typically rely on

[8] Email from Darrah Morgan SCE to David Lee CPUC April 25, 2007.

several funding sources for undergrounding projects. As the project goes through the planning process, funding sources may be added or deleted for a variety of reasons. The League suggests that a city only need to state that its Rule 20A allocation may be a potential funding source, and not be required to affirm that Rule 20A funds will be committed to the project.

Fourthly, the League asks whether a city will need to demonstrate that it meets the two criteria every time a utility considers reallocating Rule 20 funds, and asks what would happen if total funds became insufficient.

Finally, if the Commission believes that reallocation is still an appropriate alternative for a city project with a current funding need, the League states it believes, at a minimum, that a city at risk for having its funds reallocated, in whole or in part, should be provided adequate notice and an opportunity to protest the reallocation.

Better definition needed for evidence of planning
LEAGUE, SIERRA PACIFIC
Staff proposed for comment that, in order to be considered an active community in the absence of specific projects under construction, a community instead could provide evidence of its plans to use Rule 20 funds. Both the League and Sierra Pacific call for a better definition of the necessary evidence.

Voluntary trading of Rule 20 allocations
INDUSTRY
Establishing a market in Rule 20 allocations is suggested by the City of Industry as being more fair and equitable than the deliberate process of utility administration of reallocations with oversight by the Commission.

Accumulate a minimum balance of $500,000 for a period of 5-7 years
INDUSTRY, GOLETA
Industry also suggests and is joined by Goleta in asking to prevent reallocation from a community unless its Rule 20 balance reaches $500,000 and remains above that level for five to seven years.

Funds to not expire and notice to be not retroactive
GOLETA, COVINA
Funds should be allocated permanently but also be freely traded among communities, and any reallocation if needed should not occur until at least 5 years after notice.

Declare active or inactive every 5 yrs
LA PALMA
La Palma sees a discrimination against smaller communities and urges periodic opportunities for communities to positively declare that they are active or inactive.

Each of the following communities filed individual comments, which **opposed reallocation of funds and described or referred to recent projects** that were funded by Rule 20, or at least one specific project that would be funded by its accumulating allocations.

Artesia, Cerritos, Covina, Monterey Park, Palos Verdes Estates, Port Hueneme

Each of the following communities filed individual comments that **opposed reallocation of funds, but mentioned no specific projects** or plans to use the

undergrounding allocations from SCE, or if mentioned, simply asserted that projects were being considered but provided no details.

Adelanto, Bishop, Exeter, La Verne, Porterville, Villa Park, Whittier

Discussion of comments received regarding ED's November 2007 letter
Discussion of the above comments is limited to the comments as submitted, since no replies were received.

Reallocation can be made with no adverse effect on active communities and only a small effect on inactive communities.
The majority of comments only assumed but nevertheless objected to any method that reallocates the same dollar amount from both large and small communities. We agree and adopt a proportional or fixed percentage reallocation, applying it only to inactive communities and leaving intact any existing programs. The percentage to be reallocated is fixed for all inactive communities. As shown in Appendix A *Inactive Communities* the dollar amount reallocated from a given community bears the same relation to its current Rule 20 accumulation as the total dollar amount to be reallocated bears to the total current Rule 20 accumulation for all inactive communities.

SCE
SCE's comments on ED's November 2007 letter did not address the criteria that ED proposed to define an active undergrounding program. SCE likewise was

silent regarding the two Commission Resolutions in 2006 that confirmed 5 years as the limit for mortgaging Rule 20 projects.

A nominal 90 day notice from the effective date of this Resolution is provided until June 1, 2008 to allow any community in Appendix A to, despite all evidence to the contrary, complete a bona fide project or planning that it has started. Should the Commission proceed with reallocations as a policy SCE asks that each potentially affected community receive one year's notice from the effective date of this decision in order to prevent reallocation of its accumulated Rule 20 balance by forming an undergrounding district and demonstrating project planning or completion. The four-level process of elimination used in this Resolution to net out inactive communities and represents more than adequate notice to any community that has a genuine interest in Rule 20 undergrounding conversion. Nevertheless we will delay the effective date of reallocations as noted.

LEAGUE

We agree with the League's comments that suggest that projects started after 1999 should qualify a community as active even if they are not complete. We disagree however that the criteria should be further expanded to include undergrounding projects that the city causes to be built, for example, as part of a property development permit. Interest in undergrounding conversion is the key. Most new construction must be served underground already in most communities, based on other codes and requirements. To agree with this suggestion could exempt from reallocation any community that issues a building permit.

Little need to further define evidence of project planning. The League requests better definition of evidence of undergrounding project planning that would qualify a community as active in the absence of ongoing construction. Given recent Commission attention to the need for careful long-range planning to avoid a need for reallocations in the first place the Commission expects the number and amount of such requests to be small. As of this Resolution no active communities are affected by reallocations, and the accumulations of inactive communities are reduced by less than 4%. Until such time as the Rule 20 funds available for reallocation potentially affect undergrounding programs in active communities the Commission sees little need to define, in the absence of actual projects or a community resolution, the evidence of planning needed to establish

a community as active. Nevertheless SCE's project manager may judge a community as active if several of the following are present:

- A project location is described and identified, if not legally defined;
- Names of parties likely involved are available and confirmed;
- Sources of funding, potential if not committed, are known;
- An accurate if not precise schedule exists that others can confirm; and
- Documentation of joint planning efforts is available, both for coordination achieved and that still required.

A community need not commit to fund a specific new project with Rule 20 funds in order to avoid having its funds reallocated. The League further asks whether a given undergrounding project needs to be stated as the target use for Rule 20 funds. A community primarily should demonstrate interest in undergrounding conversion projects that depend on Rule 20 funding. One way to demonstrate interest is to show prior undergrounding conversion projects were at least partly funded by Rule 20.

A community must show that it is active in order to be removed from SCE's list of inactive communities. Most communities will not find this an issue. SCE must notify a community that it is considering reallocating its funds. Based on

the Appendix A list adopted today SCE will notify only about two dozen communities. Further, as mentioned above, improved planning on the part of all parties should reduce the overall need for reallocations in the future.

If total funds including reallocations prove insufficient, then a project must be delayed or a special exemption issued.

SIERRA PACIFIC

Sierra asks for better definition of planning of projects.
We responded above to the same request made by the League and found it unnecessary at this time.

INDUSTRY

Authorizing allocation trading would inevitably require planning and monitoring by SCE or the Commission in the public interest, even where the goal is to minimize it. Industry states that self-regulated voluntary trading of Rule 20 allocations would be a more efficient method of accommodating inevitable changes than would be the deliberate process of utility administration of reallocations with oversight by the Commission. Under the latter some smaller municipalities fear losing benefits of accumulating funds and being forced to demonstrate immediate intent to use them. Comments by others

envision reallocations as effectively destroying programs especially smaller ones. Such views are unfounded and do not justify the effort to authorize an acceptable trading program.

Any potentially adverse consequences to communities are addressed in this Resolution. First, SCE would use the 3 criteria described below to assess for active status that would prevent reallocation from a community with ongoing projects or planning. Secondly, for communities remaining inactive, without current projects or planning, SCE would use only proportional percentage reductions not fixed dollar reductions, of accumulated balances. If opportunities to use Rule 20 funds later appear on short notice smaller and larger inactive communities would be affected equally.

No replies elaborating on the trading concept were received.

A stand-alone requirement for a minimum balance of $500,000 for a period of 5-7 years could largely eliminate reallocations even from inactive communities. Industry's and Goleta's request is inequitable and unnecessary. Only 10 of the 24 communities of Appendix A have a balance above $500,000. None currently show interest in undergrounding by any measure, although if inactivity continued for years several others could grow to that balance. Any

sign of interest under the proposed criteria could prevent reallocation from a community. Individual communities not showing interest still would not be unduly affected, even small ones, if reallocations were a proportional percentage of their balance instead of fixed dollar amounts, and by definition no active projects or plans would be affected.

Expiring allocations do not unduly affect community planning
Rule 20 allocations once made should be considered permanent according to Goleta and Covina in order for communities to rely on them. We find this argument unpersuasive. Nothing in Rule 20 guarantees a community these funds. Rule 20 itself provides for reallocation from inactive communities. However, in order to aid communities' planning efforts, we agree with the League that a community need not commit to fund a specific new project with Rule 20 funds in order to avoid reallocations.

We adopt a criterion that prevents reallocation from a community during its first 5 years. Goleta comments that blanket reallocations would discriminate unfairly where a community has had only a few years' worth of accumulations. While reallocations proportional to the balance itself would largely resolve the

envisioned inequity we will accommodate the concern and expect to apply it infrequently.

Any of the communities SCE is expected to notify of potential reallocation may demonstrate evidence to SCE's assigned project manager that it is active. La Palma urges periodic opportunities such as every 5 years for communities to positively declare that their Rule 20 undergrounding programs are active, in order to prevent a perceived discrimination against smaller communities. Relying on such declarations made up to five years in the past would hinder timely efficient reallocations.

SCE should consider as active those communities using Rule 20 funds to plan Section B projects. AL 2110-E referred only to Section A of Rule 20 because projects under Sections B and C are primarily or entirely funded by recipients and have not been an issue, however D.01-12-009 permitted use of Section A funds to plan Section B projects. Such use demonstrates interest in undergrounding and should qualify a community as being active.

La Habra Project: three updates since SCE filed AL 2110-E in March 2007

1. **In its June 29, 2007 Reply Comments to the original Draft Resolution E-4101 SCE stated that it planned to move forward** with the La Habra project. At the same time it opposed the Rule 20 reallocations that staff had proposed in the Draft Resolution in place of SCE's proposed 10-year mortgage.

2. **As of 4th Quarter 2007 SCE's work is complete and La Habra had not forfeited other funding as cautioned by SCE in its AL.** La Habra's deadline to avoid forfeiting funds was incorrectly stated as July 15, 2007 in its AL. The date had not been determined in March 2007 when the AL was filed but La Habra's funds were not jeopardized by the Commission's process timeline. In June 2007 La Habra reported to ED that SCE's deadline for its part of the project was different from La Habra's deadline for forfeiting other funding. SCE's deadline was "November-December or, this year" and La Habra's deadline was more like August 2008. La Habra's primary need was not for Edison to start but to complete its trenching and backfill portion as a first phase during 2007. La Habra's street paving contractors then would begin using the at-risk County funds in 2008, after Edison's trenching and backfill was complete. La Habra has been free to contract with paving contractors since SCE completed its work in 2007.

3. **The cost of the La Habra project dropped from $2 million to $400,000**, as described above under **SCE comments on ED's November 2007 letter.**

A reallocation policy that distributes reductions over many permits a project to proceed that otherwise must be denied. While SCE and the League raise the adverse effects of reallocating Rule 20 funds, neither mentions the beneficial effects of this provision, especially given the Commission's recent emphasis on firmly capping Rule 20 mortgage extensions at 5 years prior to beginning construction. The Commission has not explicitly raised its original level of overall ratepayer funding for undergrounding conversion projects from the original nominal 2 percent of annual revenues.

Given that communities such as La Habra occasionally request funds beyond the 5-year limit, and that many communities receiving allocations exhibit little intent to use them, and that other communities have completed most potential projects yet still receive allocations, therefore the flexibility offered by the Rule 20 reallocation provision is in fact a benefit to ratepayers and communities and the state as a whole.

Three criteria establish that a Rule 20 undergrounding program is active and not subject to reallocation of accumulated funds

Based on consideration of comments received throughout processing of SCE's AL 2110-E, and discussed above, the Commission directs SCE to revise its administration of its Rule 20 program.

SCE may consider any community active and not subject to reallocation if it satisfies any of the following criteria:

1. Formally adopting an undergrounding district ordinance which expires at completion of work within the district boundaries; or
2. a. Starting or completing an undergrounding conversion project within the last 8 years, currently meaning after 1999; or
   b. Currently planning an undergrounding conversion project considering the following points:
   - A project location is described and identified, if not legally defined;
   - Names of parties likely involved are available and confirmed;
   - Sources of funding, potential if not committed, are known;
   - An accurate if not precise schedule can be confirmed; and
   - Documentation of joint planning efforts is available, both for coordination achieved and that still required.
3. Receiving Rule 20 allocations from SCE for only 5 years or fewer due to recent incorporation.

The 24 communities of Appendix A meet none of the three criteria above

SCE allocates Rule 20 funds to 212 communities.

Of the 212:

1. 94 communities have not completed an undergrounding conversion project after 1999 based on SCE's Annual Reports; SCE confirmed 46 of those [9].

2. Subsequently SCE listed 68 communities that have no future projects identified or if they do, they have not passed a community resolution establishing an undergrounding district [10].

Of the 68:

3. 49 were noted by the SCE project manager as having "no known interest in undergrounding".

Of the 49:

4. 15 communities still may be active because they did *not appear* in SCE's list of communities that have *not completed* an undergrounding conversion project after 1998 [see Step 1. above and Fn 9]. *Assuming conservatively the 15 did complete projects* leaves 34 apparently inactive by all 3 measures considered above.

Of the 34:

5. 10 nevertheless responded to at least one of ED's October or November 2007 letters leaving a residual 24 entirely inactive communities.

The Commission finds and confirms existing policy that funds allocated to communities such as these 24 can be put to better use with no negative impact on

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[9] Energy Division staff reviewed SCE's annual Rule 20 conversion completion expenditure reports and found 94 communities haven't completed an undergrounding conversion project in 1999 or since then. On June 6, 2007, ED requested verification from SCE. On June 26, 2007, SCE replied with a list of 46 communities that haven't completed a project since 1999. This list of 46 communities is a subset of the list of 94 communities.

[10] SCE submitted on October 15, 2007 a spreadsheet containing cities/counties that would be affected by reallocation of Rule 20-A funds as prescribed by Resolution E-4101.

ratepayers or on active programs in other communities by simply reallocating the funds, in this case to the City of La Habra.

One of the criteria we adopt today to define an active undergrounding program is the starting or completing of a project in the year 2000 or since then. The Appendix A list of inactive communities however includes a community if it has not completed a project after 1998, because that is the most recent data available to Energy Division. Should a community listed as inactive nevertheless establish with SCE its interest in Rule 20 undergrounding projects, despite inactivity under other criteria, then SCE may consider that community active and not subject to the small reallocation we approve today, and may adjust the remaining reallocations accordingly.

Edison should confirm its inactive communities beginning with Appendix A as a guide. Based on criteria adopted in this Resolution transfer of approximately 3.8% of the accumulated balance of each one would meet the shortfall of approximately $400,000 needed by La Habra's Harbor Boulevard Project in order to stay within the five year cap on Rule 20 mortgages.

Edison should notify affected communities that a portion of their accumulated allocations will be transferred. In Ordering Paragraph 2 of D.82-01-18 the Commission directed utilities to transfer unused allocations after providing notice to affected communities. The Commission declined to adopt specific standards defining unused allocations, but concluded the utility should at least notify affected communities of transfers. The 24 communities listed in Appendix A appear to have no active programs or projects.

Energy Division recommends that SCE reallocate to La Habra a fraction of the funds which communities have not yet spent or encumbered or indicated intent to use. **A cumulative allocation to 24 communities totaling $10.6 million appears unused, uncommitted, and without planning to use the funds.** Based on data supplied by SCE, SCE should reallocate to La Habra approximately $400,000 of the total $10.6 million, or approximately 3.8%, of accumulated allocations to inactive communities, as needed, to allow the City of La Habra to fund its Project while complying with Commission policy and approved tariffs.

The table below illustrates the range of the *de minimus* effect of this proposal, from the largest to the smallest community involved based on present data.

County	Community	2007 Accumulation	Proposed Reallocation to La Habra	Proposed Proposed Percent Reduction	Remaining After Reallocation

Los Angeles	Maywood	$1,935,370	$73, 103	3.8%	$1,878,082
...		…	…	3.8%	…
San Bernardino	Banning	$ 522	$ 20	3.8%	$ 502
All	All	$10, 589,887	$400,000	3.8%	$10,293,30

COMMENTS

Public Utilities Code section 311(g)(1) provides that this resolution must 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 will be placed on the Commission's agenda no earlier than 30 days from the date of mailing.

FINDINGS

1. Southern California Edison Company filed Advice Letter 2110-E seeking authority to deviate from the five-year maximum allowed under Electric Rule 20 to amortize undergrounding conversion project costs.
2. Under Rule 20, the Commission requires the utility to allocate a certain amount of money each year to all communities for conversion projects.
3. The City of La Habra (La Habra) passed a resolution approving its Harbor Boulevard undergrounding project (Project) in 2004.
4. In January 2007 La Habra notified SCE that increasing costs for labor and materials would put the cost of the Project beyond the five-year mortgaging threshold.
5. In March 2007 SCE estimated that $2.1 million or an additional five years' of allocations was needed to bring the La Habra project within the five-year amortization limit.
6. Edison's AL states that the Commission must grant the five additional years of mortgaging by July 15, 2007 or La Habra will forfeit $663,750 in county funds for street improvements integrated with the undergrounding Project.
7. The Project Manager for La Habra stated in July 2007 that to avoid forfeiting county funds Edison need only complete its trench and backfill in 2007 so as to permit La Habra's street improvements to begin in calendar 2008 using the county funds.

8. Efficiency of funding integrated projects does not by itself justify an exemption from Rule 20.
9. Cost increases during project planning do not by themselves justify exemption.
10. Commission policy in Resolutions E-3968 and E-4001 does not support granting SCE's request to extend the amortization period before construction begins.
11. Rule 20 directs SCE to notify inactive communities it will reallocate unused funds to communities having active undergrounding programs.
12. Recourse for projects that forecast overruns may be limited once all available funds are committed by active communities.
13. In July 2007 the Commission issued Resolution E-4101 directing SCE to reallocate to La Habra a fraction of funds previously allocated to listed inactive communities.
14. In a September 2007 decision the Commission vacated Resolution E-4101 due to insufficient notice to affected communities and directed Energy Division (ED) to handle a rehearing of AL 2110-E after notifying all communities.
15. In October 2007 ED notified all 212 communities receiving SCE allocations and subsequently solicited comments on criteria ED proposed to define active communities.
16. Projects completed or started after 1999 should qualify a community as active.
17. A community need not commit to fund a specific new project with Rule 20 to avoid having its funds reallocated.
18. Allocation trading would require planning and monitoring by SCE or the Commission in the public interest.
19. Requiring a minimum balance of $500,000 for a period of 5-7 years could largely eliminate reallocations even from inactive communities.
20. Expiring allocations would not differ from other uncertain project funding sources.
21. Reallocations will not be made from communities having only five or fewer years' worth of Rule 20 allocations.
22. Any community notified of potential reallocation may demonstrate to SCE's assigned project manager that it is active.
23. SCE should consider as active those communities using Rule 20 funds to plan Section B projects.
24. In November 2007 SCE estimated that additional funds of only $400,000 approximately would bring the La Habra project within the five-year amortization limit.
25. The benefits of reallocations to an active community offset the reductions distributed over many inactive communities.

26. SCE may consider any community active and not subject to reallocation if it satisfies any of the following 3 criteria:

1. Formally adopting an undergrounding district ordinance which expires at completion of work within the district boundaries; or
2. a. Starting or completing an undergrounding conversion project within the last 8 years, currently meaning after 1999; or

   b. Currently planning an undergrounding conversion project considering the following components of the process:
   - A project location is described and identified, if not legally defined;
   - Names of parties likely involved are available and confirmed;
   - Sources of funding, potential if not committed, are known;
   - An accurate if not precise schedule can be confirmed; and
   - Documentation of joint planning efforts is available, both for coordination achieved and that still required.
3. Receiving Rule 20 allocations from SCE for only 5 years or fewer due to recent incorporation.

27. Edison should confirm its inactive communities beginning with Appendix A as a guide and notify them that a portion of their accumulated allocations will be transferred.

28. A cumulative allocation to 24 communities of $10.6 million appears unused, uncommitted, and without planning to use the funds.

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

THEREFORE IT IS ORDERED THAT:

1. The request of the Southern California Edison Company (SCE) by AL 2110-E to deviate from Electric Rule 20 is denied.
2. SCE is to comply with Rule 20 and transfer unused allocations accumulated by inactive communities as needed to bring the La Habra Project within the five-year amortization limit.

This Resolution is effective in 30 days.

I certify that the foregoing resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on February 14, 2008; the following Commissioners voting favorably thereon:

_____
Paul Clanon
Executive Director

APPENDIX A

Inactive Communities

None of the listed communities has:

1. Completed an undergrounding conversion project after 1998.
2. Passed a community resolution establishing an undergrounding district or has future projects planned.
3. Known interest in undergrounding, as reported by SCE.
4. Submitted comments on Energy Division's November 2007 letter nor submitted a request to be included on the service list for Energy Division's rehearing of AL 2110-E.

As a result the total existing Rule 20 balance of $10 million will be reduced by 3.8% as shown in order to accommodate the needs of City of La Habra for an estimated $400,000.

No.	Community	County	2007 Allocation	2007 Current Balance	Proposed Reduction	New Balance
Total			$776,404	$10,589,887	$400,000	**$10,293,309**
1	Agoura Hills	Los Angeles	$44,086	$838,045	$31,655	$813,238
2	Aliso Viejo	Orange	$70,728	$509,996	$19,264	$494,900
3	Avalon	Los Angeles	$22,405	$28,258	$1,067	$27,422
4	Banning	San Bernardino	$522	$522	$20	$507
5	Bell Gardens	Los Angeles	$145,746	$1,843,496	$69,632	$1,788,927
6	Blythe	Riverside	$38,781	$324,933	$12,273	$315,315
7	California City	Kern	$29,365	$501,787	$18,953	$486,934
8	Calimesa	San Bernardino	$23,317	$16,689	$630	$16,195
9	Colton	San Bernardino	$2,255	$2,255	$85	$2,188
10	Farmersville	Tulare	$19,742	$565,861	$21,374	$549,111
11	Glendale	Los Angeles	$6,995	$6,995	$264	$6,788
12	Los Angeles, City of	Los Angeles	$8,097	$8,097	$306	$7,857
13	Maywood	Los Angeles	$102,533	$1,935,370	$73,103	$1,878,082
14	McFarland	Kern	$10,194	$52,442	$1,981	$50,890
15	Pasadena	Los Angeles	$974	$974	$37	$945
16	Riverside, City of	Riverside	$809	$809	$31	$785
17	San Jacinto	Riverside	$48,361	$1,063,831	$40,183	$1,032,341
18	Stanton	Orange	$95,454	$1,600,832	$60,466	$1,570,335
19	Unincorporated Fresno County	Fresno	$29,659	$563,767	$21,295	$547,079
20	Unincorporated Imperial County	Imperial	$5,287	$147,357	$5,566	$142,995
21	Unincorporated Kings County	Kings	$70,676	$570,129	$21,535	$553,253
22	Unincorporated Madera County	Madera	$199	$5,961	$225	$5,785
23	Unincorporated San Diego County	San Diego	$158	$158	$6	$153
24	Unincorporated Tuolumne County	Tuolumne	$61	$1,323	$50	$1,284

STATE OF CALIFORNIA ARNOLD SCHWARZENEGGER, *Governor*

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

I.D. # 7306
January 15, 2008 RESOLUTION E-4146
Commission Meeting February 14, 2008

TO: PARTIES TO SOUTHERN CALIFORNIA EDISON ADVICE LETTER 2110-E

Enclosed is draft Resolution Number E-4146 of the Energy Division. It will be on the agenda at the next Commission meeting, which is held at least 30 days after the date of this letter. The Commission may then vote on this Resolution or it may postpone a vote until later.

When the Commission votes on a draft Resolution, it may adopt all or part of it as written, amend, modify or set it aside and prepare a different Resolution. Only when the Commission acts does the Resolution become binding on the parties.

Parties may submit comments on the draft Resolution. Comments on the draft Resolution must be received by the Energy Division by Monday February 4, 2008. Those submitting comments must serve a copy of their comments on 1) the entire service list attached to the draft Resolution, 2) all Commissioners, and 3) the Director of the Energy Division, on the same date that the comments are submitted to the Energy Division.

Comments shall be limited to five pages in length plus a subject index listing the recommended changes to the draft Resolution, a table of authorities and an appendix setting forth the proposed findings and ordering paragraphs.

Comments shall focus on factual, legal or technical errors in the proposed draft Resolution. Comments that merely reargue positions taken in the advice letter or protests will be accorded no weight and are not to be submitted.

Replies to comments on the draft resolution may be filed (i.e., received by the Energy Division) on Thursday February

7, 2006, and shall be limited to identifying misrepresentations of law or fact contained in the comments of other parties. Replies shall not exceed five pages in length, and shall be filed and served as set forth above for comments.

Late submitted comments or replies will not be considered.

An original and two copies of the comments and replies, with a certificate of service, should be submitted to:

Honesto Gatchalian
Energy Division
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

A copy of the comments and replies should be submitted by email to:

Brian Schumacher
Energy Division
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Email: bds@cpuc.ca.gov
Fax: 415-703-2200

Please contact me at 415-703-1226 if you have questions or need assistance.

Sincerely,

Brian Schumacher
Supervisor
Energy Division

Enclosure: Certificate of Service
Service List

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of Draft Resolution E-4146 on all parties in these filings or their attorneys as shown on the attached list.

Dated January 15, 2008 at San Francisco, California.

_____

Honesto Gatchalian

NOTICE

Parties should notify the Energy Division, Public Utilities Commission, 505 Van Ness Avenue, Room 4002 San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the Resolution number on the service list on which your name appears.

Service List for Resolution E-4146

Service was made by email to the following California communities and parties:

Adelanto	tlitfin@rutan.com
Anaheim	akott@anaheim.net
Artesia	Robert.Baird@asm.ca.gov
Bishop	publicworks@ca-bishop.us
Calistoga	LHarrison@ci.calistoga.ca.us
Carpinteria	daved@ci.carpinteria.ca.us
Cerritos	steres@bwcalaw.com
Costa Mesa	dslater@rutan.com
Covina, CA	shenley@ci.covina.ca.us
Downey	dalvarez@downeyca.org
Exeter	richardb@mkjw.com
Flintridge	steres@bwcalaw.com
Fortuna	drigge@ci.fortuna.ca.us
Goleta	dsinger@cityofgoleta.org
Industry	sporter@bwslaw.com
Joint IOUs SCE PG&E SDG&E	Akbar.Jazayeri@sce.com
La Canada	steres@bwcalaw.com
La Palma	jkuperberg@rutan.com
La Verne	dkeesey@ci.la-verne.ca.us
Laguna Niguel	tdixon@ci.laguna-niguel.ca.us
Lancaster, California	rwilliams@cityoflancasterca.org
League of California Cities	pwhitnell@cacities.org
Monterey Park	steres@bwcalaw.com
Mt. Shasta, CA	cityofms@nctv.com
Palos Verdes Estates	JHoefgen@pvestates.org
Port Hueneme	dnorman@ci.port-hueneme.ca.us
Porterville	mgr-Office@ci.porterville.ca.us
San Clemente	lundd@san-clemente.org
San Dimas	steres@bwcalaw.com
San Francisco	Theresa.mueller@sfgov.org
Santa Barbara	larroyo@santabarbaraca.gov
Sebastopol	dbrennan@sonic.net
Sierra Pacific Power	cdaley@sppc.com
South El Monte	mmancha@soelmonte.org
Southern California Edison	AdviceTariffManager@sce.com
Vallejo	gleach@ci.vallejo.ca.us
Villa Park	tlitfin@rutan.com
Visalia	abenelli@ci.visalia.ca.us
Watsonville	dkoch@ci.watsonville.ca.us
Weed, CA	wilson@ci.weed.ca.us
Westlake Village	tboga@rwglaw.com
Whittier	nmendez@cityofwhittier.org