

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)

**OPENING COMMENTS OF THE CALIFORNIA STATE ASSOCIATION OF
COUNTIES ON THE ADMINISTRATIVE LAW JUDGE'S RULING (1) ISSUING AND
ENTERING INTO THE RECORD AN ENERGY DIVISION STAFF PROPOSAL FOR
IMPROVING THE ELECTRIC TARIFF RULE 20 UNDERGROUNDING PROGRAM;
(2) REQUESTING COMMENTS ON THE PACIFIC GAS AND ELECTRIC
COMPANY'S RULE 20A AUDIT REPORT; AND (3) SETTING A SCHEDULE FOR
COMMENT**

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COMMENT**

The California State Association of Counties (CSAC) respectfully submits these Opening Comments on the Administrative Law Judge’s Ruling (1) Issuing and Entering into the Record an Energy Division Staff Proposal for Improving the Electric Tariff Rule 20 Undergrounding Program; (2) Requesting Comments on the Pacific Gas and Electric Company’s Rule 20A Audit Report; and (3) Setting a Schedule for Comment (February 13 ALJ Ruling), issued in this Rulemaking (R.) 17-05-010 (Electric Rule 20) on February 13, 2020. These Opening Comments are timely filed and served pursuant to the Commission’s Rules of Practice and Procedure, the February 13 ALJ Ruling and the ALJ Ruling, issued on March 25, 2020 (March 25 ALJ Ruling).

**I.
BACKGROUND**

CSAC is a nonprofit mutual benefit corporation under the California Nonprofit Mutual Benefit Corporation Law. CSAC is a lobbying, advocacy and service organization which represents all 58 counties of the State of California. CSAC is focused on advancing the vital public interest in effective, efficient and responsive local government. CSAC, under the name of the County Boards of Supervisors Association of California began meeting in 1895 and was later renamed CSAC in 1991 and is based in Sacramento, California. CSAC’s long-term objective is

to significantly improve the fiscal health of all California counties so they can adequately meet the demand for vital public programs and services. CSAC has also been actively participating in the de-energization rulemaking (R.18-12-005) and the public safety power shutoff investigation (I.19-11-013).

II. SUMMARY

CSAC generally supports refining and expanding the public interest criteria for Rule 20A projects, while retaining the core components of the existing Rule 20A program. Modifications allowing local agencies to move forward with projects for the purpose of increasing safety and reliability, will increase motivation for completing projects as well as community support. Moreover, CSAC encourages the Commission to increase transparency as a means of encouraging additional participation. Slight modifications to the existing Rule 20 program could increase flexibility and provide incentives to implement improvements more expeditiously without phasing-out and ultimately eliminating Rule 20A. Slight modifications will be far more successful at increasing undergrounding efforts than the major reform proposed. As such, CSAC provides the following comments on specific areas of the Energy Division’s “Staff Proposal for Rule 20 Program Reform and Enhancements” (Staff Proposal).¹

III. CSAC COMMENTS ON THE STAFF PROPOSAL’S DEFINITION OF “DISADVANTAGED COMMUNITIES”

The Staff Proposal relies on a definition of disadvantaged communities that includes both socioeconomic factors and exposure to environmental pollution.² While this definition is appropriate in many contexts, CSAC encourages the use of a strictly economic definition within the Rule 20 program, to the extent that the program is modified to encourage access to

¹ Attachment A to the February 13 ALJ Ruling.

² Staff Proposal, at p. 4.

undergrounding opportunities by disadvantaged communities. Lower-income communities may experience greater difficulty providing the staff resources and discretionary revenue needed to successfully complete undergrounding projects, whether or not the community experiences a high level of pollution. Moreover, it is unclear how disadvantaged community data determined at a Census tract level could be effectively applied to a program currently based on individual city or unincorporated county jurisdictions.

**IV.
CSAC COMMENTS ON SECTION 4.1 OF THE STAFF PROPOSAL
(RULE 20 PROJECT ELIGIBILITY CRITERIA)**

Section 4.1.B. Safety and Reliability as additional criteria (Staff Recommendation).

CSAC supports the addition of safety and reliability as additional public interest criteria for Rule 20A.³ Counties have noted that these additional criteria could lead to greater community interest in pursuing this program by increasing the number of eligible projects.

In addition to the safety and reliability criteria identified in the Staff Proposal, other objective criteria that could be added to the public interest criteria include: whether the removal of poles will provide enhanced clear recovery zones; whether there is a history of pedestrian-vehicle collisions and whether the removal of overhead facilities would enhance pedestrian access.

Section 4.1.C. Refine and standardize existing Rule 20 public interest criteria (Staff Recommendation).

The Staff Proposal provides several changes to the existing public interest criteria used to determine project eligibility in the Rule 20A Tariff “to include objective requirements, add clarity, and allow more project to qualify that are in the public interest without changing the

³ Staff Proposal, at pp. 24-25.

focus away from aesthetic and traffic concerns.”⁴ The first change proposed in the Staff Proposal pertains to undergrounding that “will avoid or eliminate an unusually heavy concentration of overhead electric facilities.”⁵ CSAC recommends that the criteria for “heavy concentration of overhead electric facilities” should be compared to other areas within the jurisdiction in which the proposed undergrounding project will take place.

The Staff Proposal also recommends changes to the requirements for places that carry “a heavy volume of pedestrian, bicycle, rail, vehicular, or other traffic.”⁶ CSAC remains concerned that the criterion of “heavy volume of pedestrian, bicycle, rail, vehicular, or other traffic” is still subjective as are several terms within these criteria. The addition of the proposed threshold does not account for different population sizes in rural communities. The use of a functional classification, rather than traffic, is both objective and does not disadvantage rural communities. CSAC supports using functional classifications of arterials and major collectors in lieu of a specific traffic threshold.

Section 4.1.D. Include benefit-to-cost metrics as additional criteria (Staff Recommendation).

CSAC opposes adding cost-benefit criterion. As the Staff Proposal notes, “there are limited third-party benefit-cost studies that exist to draw from at this time for underground conversion...”⁷ Until such studies are readily available, the addition of cost-benefit criteria would conflict with the goal of expanding participation and increasing transparency. Cost-benefit criteria may also systemically disadvantage lower-density rural communities, which appear to be overrepresented on the list of 82 jurisdictions that have not completed a Rule 20A project since 2005.

⁴ Staff Proposal, at p. 25.

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*, at pp. 26-27.

Section 4.1.E. Minimum Project Distance, Service Laterals, Panel Conversions – Rule 20A Section 3 (Staff Recommendation).

CSAC supports the proposed elimination of the cost cap on meter panel conversions, as set forth in the Staff Proposal.⁸ This proposal lessens the burden on the general ratepayer and incentivizes municipalities to perform undergrounding in older areas of the community where non-standard meters are more common. CSAC also supports the elimination of the 100-foot maximum limit on service laterals, which would provide counties with greater flexibility when developing projects in rural areas where larger lots are more common. Counties commented that the increase in minimum project distance would generally not be problematic, although case-by-case exceptions should be made, especially for projects that will extend or complete undergrounding of corridors adjacent to an existing utility undergrounding district.

Section 4.1.F. Project Viability and Actionability (Staff Recommendation).

CSAC supports the proposed charter; the counties believe that it will help with expeditious completion of undergrounding projects.

V.

**CSAC COMMENTS ON SECTION 4.2 OF THE STAFF PROPOSAL
(RULE 20A WORK CREDIT ALLOCATION METHODOLOGY)**

Section 4.2.C. Modify Rule 20B to Incorporate Tiered Ratepayer Contributions and Sunset the Rule 20A Allocation-Based Program (Staff Recommendation).

CSAC opposes the sunseting of the Rule 20A program and essentially replacing it with a modified Rule 20B program with tiered ratepayer contributions, as the Staff Proposal recommends.⁹ To the extent that there are smaller agencies with limited work credit allocations or disadvantaged communities with limited revenue and staff capacity to complete projects under

⁸ Staff Proposal, at p. 27.

⁹ *Id.*, at pp. 31-33.

the current Rule 20A program, the 20-50 percent ratepayer contribution under the proposed program would exacerbate rather than reduce barriers to completing undergrounding projects.

Section 4.2.D. Incentivize Municipal Undergrounding Surcharge Programs (Staff Recommendation).

The Staff Proposal promotes more projects that can leverage local funding and encourage jurisdictions to impose self-taxation measures.¹⁰ Many jurisdictions, especially disadvantaged communities, may have difficulty passing special tax measures to provide matching costs for electrical undergrounding projects or allocating scarce discretionary revenues to these purposes.

Section 4.2.H. Replace the allocations with a grant program.

CSAC opposes changing Rule 20 to a grant-based program as recommended in the Staff Proposal.¹¹ Such a program could create additional barriers to participation by communities, especially disadvantaged communities and smaller communities with limited staff capacity. Moreover, there would be additional administrative costs to developing and implementing such a program that may not result in additional undergrounding projects.

VI.

**CSAC RESPONSES TO QUESTIONS IN SECTION 4.4 OF THE STAFF PROPOSAL
(OPTIONS FOR OBTAINING ADDITIONAL RULE 20A WORK CREDITS)**

Question 4.4.i. Is 90 calendar days enough time for cities and counties to form a workable underground utility district? Would 90 business days be more appropriate?

180 business days would be more appropriate to allow cities and counties to form a workable underground utility district. This would allow cities and counties time to garner appropriate public support for the underground utility district (UUD) and hold any necessary public outreach meetings.

¹⁰ Staff Proposal, at p. 33.

¹¹ *Id.*, at p. 36.

Question 4.4.v. Should the CPUC continue to allow work credit trading among the companies?

CSAC supports continued work credit trading and opposes limitation on the uses of funds given to a community in exchange for work credits. The process of work credit trading benefits communities that require additional credits in order to complete projects and this process has demonstrated success. This practice could benefit from additional standardization, with an acceptable range of exchange rates, and transparency requirements to disclose exchanges.

CSAC opposes limiting transfers to those occurring within a given county. Counties receive allocations based on the share of meters located within the unincorporated areas, not based on a countywide calculation. In terms of whether ratepayers within a particular jurisdiction benefit from undergrounding projects or not, there is no functional difference between a county-to-city exchange, versus a city-to-city or county-to-county exchange.

VII.

**CSAC COMMENTS ON SECTION 5 OF THE STAFF PROPOSAL
(RULE 20 PROGRAM REPORTING, COMMUNICATION AND TRANSPARENCY)**

Section 5.C. Implement refinements to the allocation letters and reports (Staff Recommendation).

CSAC supports the Staff Proposal's recommendation to refine allocation letters and reports.¹² Counties have noted that it would be helpful for utilities to provide additional information on how their allocation was calculated, the allocation formula for changes from the previous year, recent project costs in nearby communities, and information on work credit reallocation, and the inactive or active status of the community. It would also be helpful if communities were provided with a year-end-summary with an overview of their projects and activity from the year. It would give communities a sense of what their work credit balance is,

¹² Staff Proposal, at p. 47.

whether they have borrowed forward five or more years of allocations, and which work credits were obtained through an exchange with other communities.

Section 5.D. Update and adopt the Rule 20 Guidebook (Staff Recommendation).

CSAC supports the Staff Proposal’s recommendation to better disseminate information about the Rule 20 program through revision and adoption of a Rule 20 Guidebook document.¹³ CSAC can help facilitate participation in the guidebook process by county officials with expertise in undergrounding projects.

Section 5.E. Publish all the relevant program information, documents, and reports on dedicated undergrounding webpages (Staff Recommendation).

CSAC supports the Staff Proposal’s recommendation that the utilities and the Commission develop dedicated undergrounding webpages with information on costs of projects, links to information about undergrounding programs, links to the Rule 20 Tariff, the updated Rule 20 Guidebook and the allocation and completion reports.¹⁴

VIII.

CSAC RESPONSES TO QUESTIONS IN SECTION 5 OF THE STAFF PROPOSAL (RULE 20 PROGRAM REPORTING, COMMUNICATION AND TRANSPARENCY)

Question 5.i. Can the cities and counties sign a non-disclosure agreement with the utilities so they can have access to project bid information and other confidential information?

Counties must comply with the California Public Records Act (Government Code Section 6250, et seq), and as such may not be able to withhold any such records from public disclosure unless there is an applicable statutory exception.

¹³ Staff Proposal at p. 49.

¹⁴ *Id.*, at p. 50.

IX.
CSAC COMMENTS ON SECTION 6 OF THE STAFF PROPOSAL
(RULE 20 PROJECT COMPLETION ISSUES)

Section 6.B. Require cities and counties to be the trench lead by default and allow for them to bid for their own contractors (Staff Recommendation).

CSAC opposes the Staff Proposals' recommendation requiring local agencies to serve as the trench lead.¹⁵ CSAC notes that while urban counties appreciate the opportunity to serve as trench leads, thereby having the ability to conduct their own solicitations and manage their own contracts, rural counties have expressed significant concerns due to lack of specialized expertise in electric utility undergrounding. Rural counties noted that such a requirement would hinder their ability to complete undergrounding projects.

Section 6.D. Delineate costs and responsibility for Rule 20A projects in the Tariff, General Terms and Conditions, and Updated Rule 20A Guidebooks (Staff Recommendation).

CSAC supports the staff recommendation to delineate costs and responsibilities for projects in the Tariff, General Terms and Conditions, and Updated Rule 20A Guidebooks.

X.
CONCLUSION

CSAC appreciates the opportunity to submit these Opening Comments.

Respectfully submitted,

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¹⁵ Staff Proposal, at p. 56