FILED
4-24-17
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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company for Authority, Among Other Things, to Increase Rates and Charges for Electric and Gas Service Effective on January 1, 2017. (U39M)	Application 15-09-001 (Filed September 1, 2015)

OPENING COMMENTS ON THE ALTERNATE PROPOSED DECISION OF PRESIDENT PICKER BY COLLABORATIVE APPROACHES TO UTILITY SAFETY ENFORCEMENT ("CAUSE")

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April 24, 2017

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SUMMARY OF RECOMMENDATIONS

CAUSE's timely application to be found eligible for intervenor compensation was not acted on within the statutory timeframe, precluding CAUSE from addressing Rule 20A (undergrounding) and other safety issues that are particularly visible and important to residential ratepayers. This also prevented CAUSE from making an even more substantial contribution on the systemic issues that it did address. CAUSE expected to mitigate this handicap by building the record on safety issues through cross-examination, but the settlement avoided the hearing on the merits.

Notwithstanding the failure to determine CAUSE's eligibility for compensation, CAUSE is attempting to make a substantial contribution regarding this only remaining issue. CAUSE adopts its previous comments to the PD, with the exception of its support of the retention of current budget levels for Rule 20A, which these comments qualify.

Both the administrative record and publicly available information records lack basic information. Local authorities have committed resources to proposing more than 100 projects that PG&E classifies as pre-construction, possibly given false hope by PG&E's website, which promises to convert "many miles" every year. Since last week, the site description admits that PG&E undergrounds only 30 miles annually (one mile for every $3 million in authorized budget).

In many areas, conversion to underground distribution has significant safety benefits, including dramatic improvements in service reliability and mitigation of wildfire risks. However, these benefits may be limited in those parts of PG&E's service area where conversion is economically feasible. The costs are still enormous; if either the budget set by the proposed decision (PD) or the alternate proposed decision (APD) is continued in steady state, depreciation and return charges will increase rates by about one percent – and no conceivable budget can convert a significant percentage of PG&E's overhead facilities. With the exception of some projects along freeways and thoroughfares, the cost of conversion must be justified primarily based on esthetic and development benefits, including the associated increases in property values and tax bases.

CAUSE supports the conclusion in both the PD and APD that an audit of PG&E's Rule 20A program is necessary, and the additional provision in the APD to establish a one-way balancing account. PG&E's costs per mile in San Francisco may have been 22 percent higher than any other project in the nation, the projected cost and duration having tripled. Extensive delays and overruns are endemic, even in small town and suburban projects. The focus of the audit should be to investigate these overruns, recover any funds diverted to other purposes

and ensure that ratepayers get the most possible for their very substantial investment. The "backlog" of intangible work credits is not a critical problem when, year after year, dedicated funds are left unspent.

Assuming that Hayward is willing and able to represent the interests of all California cities and counties, the audit can complete the work planned for a rulemaking abandoned in 2005. CAUSE proposes a return to the original policies toward conversion projects – targeting downtown blight and major thoroughfares, and coordinating with highway projects whenever possible. The Governor's planned $5.2 billion gas tax to fund road improvements provides a time-critical opportunity to achieve more cost-effective undergrounding. Funding should be shared to reflect appropriately the broad public benefit, including impacts on safety. After fulfilling commitments and reasonable expectations of cities who have invested in planning projects under the existing rule, the Commission should prioritize projects to remove poles at the same time that the new state funds are repairing a road. This will increase the potential for cost-effective projects to improve older downtown areas. It can also leverage funds to remove safety risks from freeways, thoroughfares and mass transit, which should not be the responsibility of localities.

Existing projects generally benefit downtown development or a very small number of residences. It will be inappropriate, in Phase II, to allocate these costs to the residential class.

ARGUMENT

I. THE DELAY OF CAUSE's ELIGIBILITY DETERMINATION, AND THE EVENTUAL IMPOSITION OF REQUIREMENTS THAT CAUSE CANNOT MEET, SHOULD BE REVERSED.

Ordering Clauses 19 and 20 deny outstanding motions and summarily affirm all rulings of the Administrative Law Judge (ALJ). CAUSE has asked the ALJ to reconsider a ruling made 14 months after CAUSE filed its Notice of Intent to Claim Intervenor Compensation. The February 2, 2017 ruling held CAUSE ineligible unless it complies with disclosures that are not regularly applied to new intervenors. Under the Corporations Code, CAUSE cannot comply with these conditions. CAUSE had hoped that the motion to excuse these conditions and to find eligibility would have been acted on before these comments were filed. It has not even been accepted for filing or made available on the docket,[1] which deprives the Legislature and the Public of any ability to determine whether the Commission is handling CAUSE's application in a lawful manner.[2] The Commission should maintain a higher standard of transparency and auditability.

CAUSE's timely application to be found eligible for intervenor compensation was not acted on within the statutory timeframe, preventing CAUSE from addressing many of these issues and from making an even more substantial contribution in the issues that it did address. CAUSE complied with requests for information that the Commission had seldom, if ever,

[1] The most recent documents are available on PGE&E's website only.

[2] receipt for Motion; receipt for NOI ("Request"). Corresponding entries from CAUSE filing history

106705	03/24/17 02:33 PM	A1509001	Motion	IN QUEUE (29 days)
107037	04/05/17 04:59 PM	A1509001	Request	IN QUEUE (17 days)

Prior filings have been rejected without a receipt or explanation. Transactions 92409, 95344, 95346, 95084.

required of other start-up intervenors, but its application was still in suspense in August 2016. Without an assurance of eligibility, CAUSE concluded that it could not present an effective case on revenue requirement, and reluctantly became the last active party to settle. This irreversible prejudice is precisely the situation that SB-512 instructs the Commission to avoid.

In D.03-12-035 at 76, the Commission modified a proposed settlement and reversed a procedural ruling that had denied eligibility for compensation to an intervenor represented by the undersigned. See *Id.*, Ordering Clause 17. The undersigned testified before the Senate Utilities Subcommittee that eligibility determinations should not be delayed and withheld, especially when the effect is to prevent an intervenor from building a record that may question a settlement.[3] To withhold the preliminary ruling on eligibility for more than a month not only violates the statute, and the Commission's commitment to the State Auditor[4], but it is fundamentally unjust. The undersigned has advanced all of CAUSE's expenses and spent considerable professional time. Especially now that the Legislature has enacted SB-512 (2016), directing it to streamline and simplify the preliminary showing, Public Utilities Code 1801.3(c), and to end the "go-along, get-along [practice] to encourage intervenors to enter into settlements in order to receive intervenor compensation" (Senate Floor Analysis at 5), the Commission should grant eligibility and ensure that CAUSE is fairly compensated.

CAUSE filed testimony focused on management systems designing to improve safety and regulatory compliance within PG&E. It intended to conduct discovery, retain multiple

[3] http://seuc.senate.ca.gov/december82003hearinginformation
[4] State Auditor Report 2012-118, Response to Rec. #1 at 17, 35.

witnesses and prepare much more extensive testimony on safety. In particular, CAUSE intended to examine specific safety issues that are highly visible to residential ratepayers and the localities in which they live – such the undergrounding of electric distribution and the removal of vegetation to protect or provide access to pipelines and polls. CAUSE was particularly concerned with the rate impact of safety improvements, which in the case of undergrounding, can be significant.

II. UNDERGROUNDING HAS SAFETY BENEFITS, WHEN IT IS ECONOMICALLY FEASIBLE.

In 1999, Governor Brown (as mayor of Oakland) asked the Legislature to enact AB 1149 (Stat. 1999, Ch. 844), which directed the Commission to study ways of increasing Rule 20A projects to promote safety and improve reliability. AB 1149, §1(a)(2) & (3). According to PG&E, overhead distribution is the largest single category of safety mitigation expenditures, both capital ($605 million) and expenses ($193 million).[5] There are at least four ways in which underground conversions can improve safety.

- Wildfires induced by overhead conductors is the highest risk category in electric operations, with a Risk Evaluation Tool score of 626.[6] (However, PG&E has declined to implement a fire prevention plan in Northern California. Advice 4167-E.)
- Downed electrical wires create serious additional risks in populated areas, and are PG&E's most highly weighted electric safety metric. PGE-2 at AtchA-1. Downed wires on freeways and other thoroughfare can cause fatalities, accidents, and massive delays.[7] Last month, most of the BART system was shut for over an hour during the morning commute when a

[5] SED Risk Assessment Section Staff Report PG&E 2017 GRC, Figure 5.1 (first of two) at 40, citing PG&E-4 WPs supporting chapter 1A, and 2 - 12, Pg. Table 2-7 and Table 2-8, WP2-31 thru 44.
[6] m GRC-2017-PhI _DR_ORA_025-Q11, Attachment 1.
[7] http://sanfrancisco.cbslocal.com/2017/01/10/downed-wires-halt-i-880-traffic-in-both-directions-in-oakland/; http://www.ksbw.com/article/downed-power-line-on-highway-101-causes-traffic-mess-in-gilroy/9280504; http://people.com/human-interest/california-man-beheaded-freak-motorcycle-accident/ ; http://sanfrancisco.cbslocal.com/2017/02/17/downed-power-lines-interstate-880-bascom-san-jose-bay-area-storm/

car hit a power pole and sent electrified wires onto the track.[8]

- Overhead connections create additional risks of fire and electric injuries for residential and business customers.[9] Homeowners can come into contact with overhead wires while doing yardwork.[10] Even when fires begin inside, they can cause overhead wires to separate from the structure and become additional hazards.[11] A Santa Clara County fire captain was electrocuted in the dark by a falling wire in 2005.[12]
- Residential outages also create dangers, especially for vulnerable populations. PG&E's outage benchmarks are in mid-second quartile, and would be very substantially improved by undergrounding.[13] A government study attributed 90 deaths to a two-day blackout in New York City during August 2003.[14] Older persons face increased falling risks in the dark. Medical equipment may not function. Spoiled food may cause bacterial poisoning. While many businesses have backup power, sustained outages create risks in commercial areas and at hospitals.

In Northern California, however, undergrounding may not always be the most cost-effective means of mitigating some of these injuries, especially in residential areas. In the areas where conversions are feasible, weather is not extreme, so risks such as exposure during an outage are lower. Vegetation management, while less popular, is much more cost-effective. Some of the wildfire risk relates to transmission and cannot be mitigated by undergrounding distribution alone. Downed wires and outages remain significant hazards in downtown commercial areas and along freeways. But cost still disqualifies many of these projects in the

[8] http://www.masstransitmag.com/news/12319944/downed-power-line-halts-bart-service-during-morning-commute

[9] https://www.osha.gov/OshDoc/data_General_Facts/downed_electrical_wires.pdf; https://www.pge.com/en_US/safety/electrical-safety/what-to-do-if-you-see-a-downed-power-line/what-to-do-if-you-see-a-downed-power-line.page

[10] http://www.srpressgazette.com/1.201765

[11] http://www.firerescuemagazine.com/articles/print/volume-5/issue-12/training-0/mitigating-electrical-hazards-on-the-fireground.html

[12] http://www.fireengineering.com/articles/print/volume-159/issue-6/features/electrical-safety-on-the-fireground.html

[13] For national average SAIDI (yearly outage minutes) and SAIFA (yearly number of outages), see NRECA 2015 Reliability Study at 3-4.

[14] https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3276729/

absence of other very significant economic benefits.

Projects that focus on residential areas create problems of economic efficiency and equity. In some cases, Rule 20A funds are combined with parcel taxes collected from Mello-Roos districts. Oakland, for example, allows its work credits to be combined with assessments to remove poles from the Piedmont Pines neighborhood, so that homeowners pay only 20 percent of the cost. These arrangements occur only in wealthy communities, because the assessed portions alone can be as high as $20,000.[15] In Contra Costa county, a project in a non-commercial section of Moraga Road connects 27 suburban homes in an area without elevated fire risk; here homeowners pay nothing.[16] In both cases, homeowners (many of whom have assessments below market) experience windfall appreciation that is generally not even subject to incremental reassessment. In east Contra Costa, most homes were built after 1967, so they do not need undergrounding, but they face a far greater risk: the fire district has closed six of nine stations.[17] Several of its municipalities narrowly failed to pass utility taxes to restore fire protection in the last election[18], which would be a far more efficient use of funds than subsidizing conversion projects in older, but wealthier jurisdictions.

III. THE PROPOSED AUDIT NEEDS TO EXPLAIN PG&E's UNDERGROUNDING COSTS, WHICH MAY BE THE HIGHEST IN THE NATION.

On its 50th anniversary, Rule 20A has undergrounded only 2500 miles statewide (about

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[15] http://www.ci.piedmont.ca.us/committees/ccasc/meeting_docs/2011-01-26/chiang_draft.pdf#page=14 (survey of projects in Bay Area combining 20A and 20B funds); http://www.cityofbelvedere.org/DocumentCenter/View/1884 (description of 20B process); http://www.latimes.com/tn-dpt-me-0215-utility-undergrounding-20150214-story.html

[16] Maraga City Engineer Memo, March 5, 2015, at 6 (the city is paying $1500 per home for connections costs)

[17] ECFPD FY2017 Budget showing station closures

[18] Election results of utility tax for fire district (questions A,E,G,Z)

1.5% of the state's overhead distribution lines).[19] While 60% of distribution is underground in the rest of the state, only 20% is in PG&E's service area.[20] There are 113,000 miles left to convert. No conceivable budget can realize universal undergrounding or even remove a significant percentage of remaining poles. Unfortunately, the discovery taken submitted by the Office of Ratepayer Advocate (ORA) does not appear to include information about the costs per mile of projects or the associated economic and safety benefits. At $1 million per mile, which may be optimistic, PG&E's budget proposal (adopted in the PD) would convert 0.07% annually compared about 0.05% under the APD. But either budget, in steady state, would generate almost one percent of the revenue requirement in annual charges for depreciation and return on investment. As such, these investments should be made in a manner than benefits the largest number of ratepayers, with priority given to safety benefits.

Since 1967, the Commission had required utilities to underground distribution for most new construction, given its conclusion that "cost differential between [new] overhead and underground facilities has virtually been eliminated." D.73078.[21] The highest priority went to undergrounding in connection with road improvements (*id.* at 34), but municipalities determined where remaining funds would be spent. In 1967, PG&E expected to have active conversion programs in every jurisdiction and agreed to dedicate two percent of revenues,

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[19] Policy & Planning Division Program Review Rule 20A (Jan. 2017) at iv.

	PG&E		other	
Underground	28,400	20%	59,157	60%
Total	141,400		98,157	

[20] sources: ORA 207-Q05 (PG&E); http://www.cpuc.ca.gov/General.aspx?id=4403 (statewide)

[21] At the time, PG&E estimated a new underground connection at $54. Most utilities also supported the dedication of 2 percent of utility revenues to the conversion of existing facilities.

which it absorbed without raising rates due to the falling cost of electricity. *Id.* at 5.[22] The Commission called the two-percent rule, a "long-run proposal" under which "remainder of this century might not be a long enough period to produce spectacular results." *Id.*, at 33. By 1982, trenching costs had almost quadrupled, and the Commission reiterated the need to coordinate conversions with road improvements. D.82-12-069 at 3. In this rate case, PG&E proposed (and the PD would have require) that about one percent of revenues be dedicated to Rule 20A.[23]

Governor Brown's 1999 legislation suggested that Commission restrictions caused a piecemeal approach to projects that was a significant driver of cost overruns. In response to the legislation, the Commission began a rulemaking, R.00-010-005, which led to interim rule revisions designed to increase local flexibility (adding arterial and feeder streets to the eligible areas, allowing projects to combine 20A and "20B funds" from special districts or localities, and provided for the 5-year mortgage of future work credits). D.01-12-009, at 28-29. But the decision created only interim rules because the "surprising" lack of data made a second phase necessary.[24]

> Among the categories of data lacking were: per mile data, data about the correlation of undergrounding and reliability, and the tracking of the varying technologies that had been implemented. Without this data, the Commission could not pursue such policy determinations as to whether or not third parties could perform undergrounding

[22] San Francisco thought this was adequate (id. at 23), but Oakland did not (id.), and Berkeley wanted PG&E to dedicate 4.5% (id. at 6).
[23] D.82-12-069 required PG&E to negotiate an escalation factor with the cities, but after the supply crisis in 2000, it rose less quickly than utility bills. By 2010, the Rule 20A budget had fallen to 1.4% of revenue requirement, and the 2011 rate case cut the budget in half, so it was only 0.6% of the new revenue requirement. PG&E's proposal (adopted in the PD) restores the 2010 level in nominal dollars, which is now one percent of revenue requirement.
[24] In 2002, Resolution E-3767 made minor clarifications that may have resulted in increasing the number of neighborhood projects.

> cheaper, if undergrounding improves reliability, or which technologies should be pursued because they achieved the greatest cost/benefit…
> The goal of the data tracking and standardized reporting is to allow the utilities, the Commission, and interested parties, to track the safety, service reliability, and lifetime costs for both overhead and underground projects and make valid and reliable comparisons. Id., at 29.[25]

The Commission did not submit the report required by AB 1149, but the assigned Commissioner wrote the Legislature that its goal of universal undergrounding was impossible. "Many ratepayers will contribute their entire lives to Rule 20 funds, yet never reap the benefit of conversion projects in their community or neighborhood." Id., Att. 3 at 3. In April 2005, the Commission closed the rulemaking, continuing the interim rules. D.05-04-038. The prior decision directed the utilities to update the 1996 Underground Planning Guide, but CAUSE has not been able to locate any version of this document.

In January 2017, after the record closed in the current rate case, the Policy and Planning Division (PPD) issued a Program Review of Rule 20A, but the only data it provides on unit costs was a 2012 national survey showing a range from $93,000 to $5 million per mile.[26] This conflicts with a 2007 claim by the City of San Francisco claimed that PG&E costs in the city had exceeded $5.6 million per mile (2006$). Adjusted by the construction cost index, this was 22 percent higher than any cost found anywhere in the nation by EEI and PPD - and would be $7.1 million today. Chart Sources[27]

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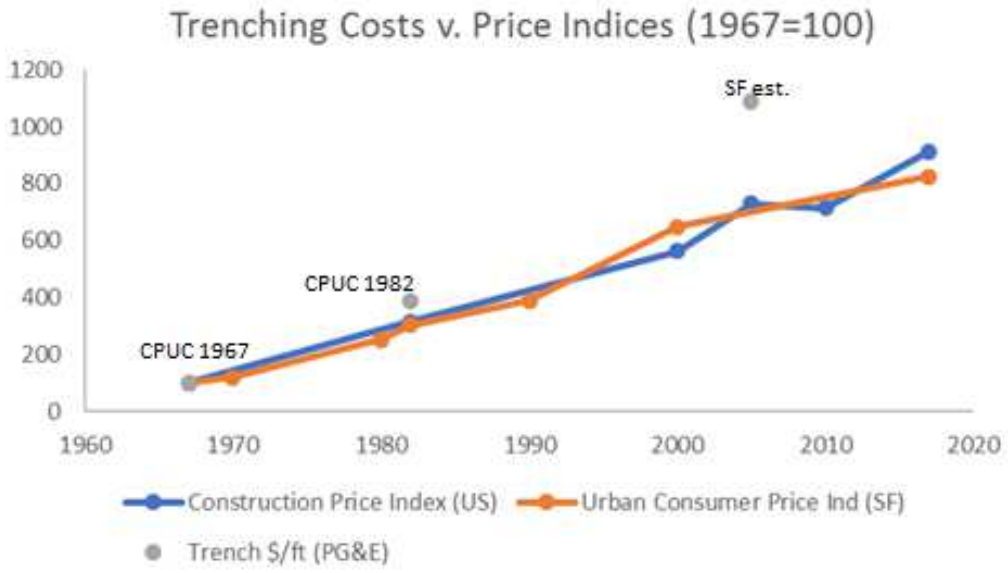
[25] The decision noted the disputed claim that costs were $1 million/mile, and that only 130 to 180 miles per year were being converted statewide, (*Id.*, at 19). This is far higher than most years since 1967. http://www.cpuc.ca.gov/General.aspx?id=4403

[26] Policy & Planning Division Program Review Rule 20A (Jan. 2017) at 1. citing Hall, "Out of Sight, Out of Mind," at 31 (EEI, 2013).

[27] Sources: D.82-12-069 at 4 (1967, 1982 prices, cities' advocacy for use of construction price index) UUTF Report at 24 (2005 prices); https://data.bls.gov/pdq/SurveyOutputServlet (SF consumer price index); Census Bureau Construction Price Index



The EEI study may be the only data gathered by the Commission since 1982, when it found that trenching costs per foot had almost quadrupled during the first 15 years of the rule. San Francisco claims that PG&E's 2005 cost per foot was $311 (for each side of the street). If comparable to the early Commission values, this escalation was more than twice as rapid as the construction index that PG&E was using to escalate work credits.

PG&E conversion projects have been plagued by long delays and cost overruns. In 1997, San Francisco had accrued $24 million in work credits and was allowed to use $18 million expected to accrue by 2001 to fund a 45-mile project. The project was not completed until 2005, when it had more than quadrupled in price, exhausting credits through 2019. In 2014, a $12 million overrun in St. Helena depleted work credits for all of Napa County until 2093. In 2014 alone, four other PG&E projects had overruns totaling $7.5 million.[28]

IV. GIVEN ENDEMIC OVERRUNS AND DELAYS, THE WORK CREDIT

[28] Policy & Planning Division Program Review Rule 20A (Jan. 2017) at Table 9 at 9.

PROCESS SIMPLY DOES NOT WORK.

The work credit system was adopted to allocate undergrounding projects when it became apparent that not every jurisdiction had the scale, need, or ability to justify dedicating two percent of its utility payments to the undergrounding. Initially, every jurisdiction got an allowance of "paper" credit based on the number of stations; then the number of stations not yet undergrounded was given additional weight, increasing the allocation to rural areas. The Commission suggested that jurisdictions without projects could sell their credits to those who needed more, which is sound economics. But this has not become a common practice, perhaps because for the selling municipality to divert the funds to any purpose other than a utility rebate (even fire safety) would be the equivalent of a utility users' tax imposed without voter approval.

As a result of the endemic overruns, almost every proposed project encounters delays, often leading to one of these undesirable outcomes: (1) cancellation or indefinite deferral, often after substantial municipal planning expenses; (2) staged, piecemeal completion, increasing costs and often taking decades; (3) overruns that occur during the construction phase, which are completed by "advancing" work credits (*e.g.*, banning Napa County projects for 80 years). In each of these cases, the current system produces both inefficiency and distribution inequity (not to mention frustration by officials and residents) because the jurisdiction has <u>too few</u> credits, not too many.

The audit should confirm that the projects are equitable distributed and provide a better understanding of their economic benefits to specific businesses and residents, and to the public

at large. PG&E posts the project queue online, but it does not indicate the size or details of each project (and does not include Hayward). Here are the number of projects by region and stage as of December 2016. More data is needed to understand why so few progress to construction.

	Plan	Engineer	Constructic	Close	TOTAL
Bay - East	7	11	2	2	22
Bay - North	7	2			9
Bay - South	9	12	2	3	26
Central Valley	7	8	1		16
Central Coast	12	6		5	23
Sierra	13	5	1	3	22
Northwest		2			2
TOTAL	55	46	6	13	120

The audit needs to develop a better system of selecting projects. There is an apparent inequity because rural and remote areas are underrepresented. However, according to the EEI study cited by the Policy Division in January, 40 percent of rural ratepayers would pay **nothing** to have their wires undergrounded. Op. cit. fn. 26 at 2 (Fig.1.3). Regardless of their geographic location, all ratepayers have a common interest in safety systemwide. Many Central Valley ratepayers have an interest in transportation to and within the Bay Area, including avoidance of congestion spillover from stoppages on BART and major arterials caused by downed wires. Rural projects generally involve town centers, which may be the only cases in which undergrounding is economically feasible. Coordinating funds with road projects in downtowns and along arterials will lead to a more equitable distribution than conversions in residential neighborhoods, even when (as has been the case in Oakland) the city endorses them.

There is a tension between the substantive policies of the Commission (giving priority

to safety, blight, and concurrent transportation projects) and its mandate to give flexibility to municipalities. But the ambiguities burden the local jurisdictions that are intended to accommodate. When years of costly litigation ensue[29], the false promise of the work credits become a curse, not a blessing. Given that the mileage converted annually is so extremely limited, the cities and counties need to collaborate in order to propose a system to identify those few that can realistically be pursued to construction.

Both the PD and the APD criticize the unauthorized diversion of Rule 20A funds for other purposes. They propose an audit, and the APD adds a balancing account. The audit should be retrospective. Unless the Commission excuses a specific past diversion of funds to an unauthorized purpose, any previously authorized funds should be spent on undergrounding. Ultimately, the economies that become available by improved coordination with the heightened level of road repairs may be more consequential than the difference between $83.7 million and $60 million, as budgeted by the PD and APD respectively.

V. SAFETY BUDGETS SHOULD NOT BE ALLOCATED AMONG POLITICAL ENTITIES.

The resolution should not be a precedent for Southern California utilities, where fire risk is so extreme that it is a basis for undergrounding distribution and transmission facilities. After five of the 2007 Santa Ana wildfires were attributed to overhead powerlines, the Commission opened a four-year rulemaking on fire prevention that culminated in D.12-01-032. That decision concluded that the purpose of Rule 20 was aesthetic and "unrelated to fire

[29] Piedmont (pop. 11,000) suffered $2.4 million in taxpayer bailouts and seven years of litigation. (city documents; press account of settlement)

prevention." Id. at 162.[30] It also observed that undergrounding "was perhaps the most expensive fire prevention tool available."

CAUSE strongly agrees with its reasoning: "GRCs are a superior regulatory mechanism for selecting and funding fire-prevention measures compared to the ad hoc allocation of ratepayer funds for fire-prevention projects under Tariff Rule 20." Id. at 163.[31] However, the Commission indicated that it would consider an application by SDG&E for a new rule addressing conversions based on fire risk. *Id*. at 164, fn. 144. In a subsequent application on SDG&E's marginal costs, cost allocations, and rate designs, D.14-01-002 (at 35) adopted an uncontested settlement adopting Rule 20D. It differed from Rule 20A in several respects. It allocated a fixed budget among jurisdictions based on the number of miles within the Fire Threat Zones previously designated by the Commission. Up to five years of anticipated allocations could be advanced to the extent that funds were available. Each project would have to fund undergrounding high-voltage transmission as well.

Generally, CAUSE would argue that the selection of safety-justified projects should be based strictly on the most effective reduction in risk, without an allocation among political

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[30] TURN had opposed using fire and earthquake risks as criteria for undergrounding in the rulemaking on AB 1149. D.02-11-019 at 7.

[31] "The GRC process has several advantages over Tariff Rule 20 in terms of allocating funds for fire-prevention purposes. First, a GRC enables the utility, the Commission, and interested parties to identify the highest priority fire-prevention projects and to allocate ratepayer funds to those projects. In contrast, Tariff Rule 20 contains no procedures for identifying high priority fire-prevention projects and no mechanism for ensuring that such projects are funded. Each city and county would have discretion to use its allotted funds for lower priority fire-prevention projects in its own jurisdiction ahead of higher priority projects in other jurisdictions…
Fire risk should be assessed from the standpoint of the utility's entire service territory, and not from the piecemeal and narrow geographical perspectives of individual jurisdictions. The utility can assess wind conditions, vegetation type, population density, and other factors to identify the portions of its service territory where the risk of power-line fires is greatest. While this can be done in a GRC proceeding, it is not possible with Tariff Rule 20". …

entities.

CONCLUSION

Given the state of the record in this rate case, supervision through the audit and balancing account may be an effective method to implement Commission policy. In PG&E's service areas, undergrounding should focus on rehabilitating older downtowns and protecting mass transit and critical thoroughfares from downed wires, with safety always paramount. In such cases, priority should be given to realizing economies by working with concurrent road projects. Given the extremely limited capacity for conversions, other projects for which the primary basis is safety or scenic values should be identified on a systemwide basis, without regard for political apportionment.

Dated: April 24, 2017

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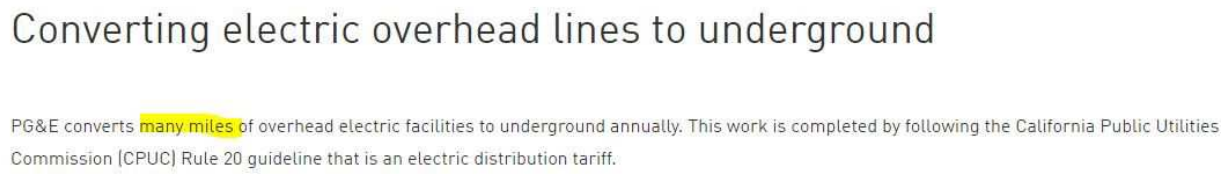
EXHIBIT

PG&E's "Electric Undergrounding Program" page

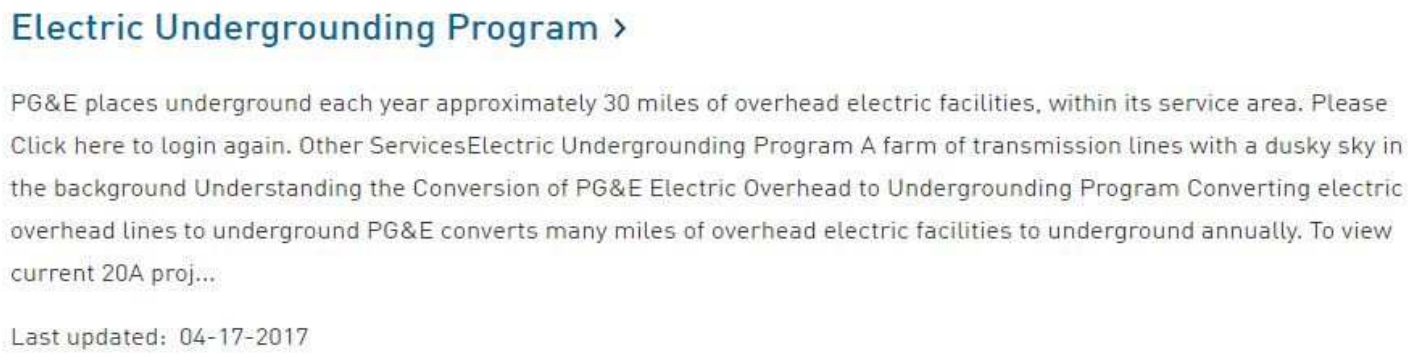
https://www.pge.com/en_US/residential/customer-service/other-services/electric-undergrounding-program/electric-undergrounding-program.page



Converting electric overhead lines to underground

PG&E converts many miles of overhead electric facilities to underground annually. This work is completed by following the California Public Utilities Commission (CPUC) Rule 20 guideline that is an electric distribution tariff.

Link to this page with description and revision date



Electric Undergrounding Program ›

PG&E places underground each year approximately 30 miles of overhead electric facilities, within its service area. Please Click here to login again. Other ServicesElectric Undergrounding Program A farm of transmission lines with a dusky sky in the background Understanding the Conversion of PG&E Electric Overhead to Undergrounding Program Converting electric overhead lines to underground PG&E converts many miles of overhead electric facilities to underground annually. To view current 20A proj...

Last updated: 04-17-2017

REQUEST FOR LIBERAL CONSTRUCTION OF RULES OF PROCEDURE OR DEVIATION THEREFROM

Pursuant to Rule 1.2, CAUSE requests that the Commission construe its rules (or permit deviations therefrom) to permit these Comments. CAUSE also seeks to avoid repetition of an unjust interpretation of the rules that prevented CAUSE from filing comments on the settlement. The complete exclusion from the docket of CAUSE's attempt to comment on the settlement (and of the rationale for doing so) have compromised the integrity of the administrative record and violated the Commission's commitment to transparency.[32]

(1) Rule 14.3(c) requires these comments to "focus on factual, legal, or technical errors" in the Alternative Proposed Decision (APD) and precludes the Commission from according any weight to comments that do not do so. This excludes these comments, to the extent that they are substantially devoted to accepting portions of the APD that modify the settlement. The settling parties' joint comments are entirely devoted to this purpose, which is the exact opposite of identifying errors. It is clearly useful to the Commission to know that the parties will not seek further relief if the settlement is modified, and these concessions should be included in the public record.

Rule 14.3 also requires "specific references to the record or applicable law." Apart from the impromptu testimony at the post-settlement hearing, and the testimony of ORA and PG&E, which is cited as appropriate, there is a very limited record on Rule 20a. Wherever

[32] The undocumented ruling was antithetical to "liberal[] construc[tion] to secure just, speedy, and inexpensive determination of the issues presented" promised by Rule 1.2.

possible, the Comments cite Commission decisions and official documents of municipalities and other jurisdictions that may be considered "applicable law" or subject to judicial notice. As noted in the table of authorities, there are some cites to additional publications for background facts.

(2) CAUSE's comments on the settlement do not even appear in the docket due to an interpretation of the rules that contradicts common practice in most tribunals and has not been applied consistently in this very proceeding. CAUSE submitted comments on economic issues raised by the settlement jointly with TURN, and filed comments on safety issues on its own behalf. The time to prepare these comments was extremely short, so such action was necessary to meet CAUSE's obligation to avoid duplication with other intervenors. CAUSE actively contributed to comments written jointly with an allied party. As required by intervenor compensation rules, CAUSE waited until finalizing these joint comments devoted to economic concerns to edit its own comments on safety to eliminate any duplication. The docket office provided a "courtesy notice" stating: "Rule 12.2 provides the parties with the ability to file Comments and Reply Comments ' . . . contesting all or part of the Settlement.' It does not confer upon any party the right to file Comments twice, first, with another party and then, individually, for obvious reasons." The ALJ rationalized: "Docket Office is correct, a party cannot file 2 sets of comments on the same set of issues. Sometimes in a proceeding[,] parties will file joint comments, and then one of the parties also files separate comments on an entirely separate issue, but this is not the case here." Neither the rejected comments, nor the

emails excluding them from the record, are available for public and judicial review. They are available only here,[33] on PG&E's website.

There is nothing "obvious" about this interpretation, which has no textual basis and contradicts subsequent practice. PG&E and other parties, many of which are not encumbered by the obligations to demonstrate substantial contribution and to avoid duplication, have filed multiple comments on the same "issues." There is no apparent logical distinction that can preclude CAUSE from filing safety comments, after joining in economic objections, but then allow PG&E to file consensus procedural objections with one group of parties and then multiple policy positions with various subsets of those parties -- all regarding the subsets of the exact same provisions. If there is some predictable principle, the Commission should make its precedents available, as opposed to allowing the docket office to announce ad hoc rejections in private emails. The Commission should post rejected filings, so that the public can verify that they are being rationally applied.

[33] https://pgera.azurewebsites.net/Regulation/ValidateDocAccess?docID=383220