

**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)

**LEAGUE OF CALIFORNIA CITIES COMMENTS IN RESPONSE TO
ALJ WANG'S SEPTEMBER 3, 2020 RULING REQUESTING
COMMENTS**

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**COMMENTS OF THE LEAGUE OF CALIFORNIA CITIES ON ALJ
WANG’S SEPTEMBER 3, 2020 RULING REQUESTING COMMENTS**

Pursuant to Rule 6.2 of the California Public Utilities Commission (CPUC) Rules of Practice and Procedure, and Administrative Law Judge (ALJ) Stephanie Wang’s September 3, 2020 email ruling requesting comments (September 3 Ruling), the League of California Cities (League) submits the following comments.

I. Introduction

The September 3 Ruling notes that, “[s]ince comments were filed on the February 13, 2020 Rule 20 staff proposal (February Staff Proposal), Governor Newsom announced major budget revisions on May 14 to address a \$54 billion budget gap brought on by the COVID-19 recession. [And o]n June 29, Governor Newsom signed the 2020 Budget Act, which focuses on responding to the public health and economic crises, emergency preparedness, and protecting critical services.” The September 3 Ruling thus asks

whether, in light of this new information, parties to Rulemaking 17-05-010 wish to change any positions expressed in their comments to the February Staff Proposal.

Although state lawmakers have suggested that we are in the midst difficult fiscal times and a current economic downturn which may last for several budget cycles, the CPUC has not yet made an evidentiary case to link the impact of the downturn in the State's budget cycle to the slightly increased rates paid by utility customers to underground utility lines. While the League and its member cities are acutely aware of the economic impacts brought on by COVID-19, the League does not believe current economic conditions necessitate a change in any positions expressed in the League's comment letter on the February Staff Proposal dated April 20, 2020 (the League's April Comments). To the contrary, these economic conditions exacerbate certain concerns expressed in the League's April Comments. Thus, the League continues to strongly urge the CPUC not to sunset the Rule 20A program and offers the following comments for consideration.

II. Responses to Questions.

1. Impact of the Current Economic Crisis on Continuing the Rule 20 Programs

Question. Several parties commented that Rule 20 is an aesthetics program, and that the Commission has existing safety programs, such as the Wildfire Mitigation Plans, that can more efficiently use ratepayer funds to harden distribution lines for the purpose of improving safety. In light of the scale of the recession, is it reasonable to continue to commit ratepayer funds to an aesthetics program?

Comments. With respect, the League asserts that this question is framed too narrowly. The Rule 20 Program is neither an “aesthetic” program nor a “safety” program. As explained on pages 4 and 5 of the League’s April Comments, Rule 20 advances the public interest generally by promoting four purposes:

1. Enhanced system reliability and lower service costs (by reducing operation and maintenance costs, eliminating tree trimming costs, diminishing storm damage, and reducing the loss of electricity sales caused by power outages);
2. Improved safety and community health (by eliminating or greatly reducing fire hazards, utility-related accidents, safety risks posed by downed lines, possible health risks related to electromagnetic radiation, and road hazards);
3. Enhanced economic development (by encouraging investment in, and improving the appearance of, blighted areas); and
4. Aesthetics.

These purposes have been recognized time and again by both the CPUC and the California State Legislature since Rule 20 was established. (See e.g., CPUC Decision D.73078 (1967) [“The [CPUC] is aware from the record that not only does underground electric and communications construction create considerable aesthetic value, but it includes features which promote safer and more reliable utility service.”]; AB 1149 (Aroner) (Chapter 844, Statutes of 1999) [directing the CPUC to conduct a study to reform Rule 20 in order to improve, among other things, public safety and system reliability]). Notably, these purposes advance the priorities set forth by the Governor in his signing of the 2020 Budget Act, namely responding to the public health and economic

crises, emergency preparedness, and protecting critical services. The League urges the CPUC not to ignore these purposes as it considers changes to Rule 20.

2. Increasing Participation of Underserved and Disadvantaged Communities in Rule 20 Programs in Light of the Economic Crisis

Question. One of the potential objectives of the set of reforms addressed in the February Staff Proposal (see page 32) is to increase participation of communities which have historically been underserved by the program. In light of the recession, if the February Staff Proposal equity criteria for underserved and disadvantaged communities were implemented for the reformed program, would it be feasible for such communities to participate in it?

Comments. In short, no. The League directs your attention to the Constitutional, statutory, and practical restrictions on cities outlined in pages 6 through 12 of the League's April Comments. These restrictions must be considered prior to terminating Rule 20A and relying on Rule 20B and Rule 20C to accomplish undergrounding.

Because ratepayers contribute the bulk of the costs of Rule 20A projects through utility rates, the projects must be in the public interest by meeting one or more of the public interest criteria developed by the CPUC. The determination of "general public interest" under these criteria is made by a city council, after holding public hearings, in consultation with the utility companies. The proposal to terminate Rule 20A, and increase reliance on Rule 20B and Rule 20C, eliminates the voice of the public and converts Rule 20 into a private program with private benefits.

Under the February Staff Proposal’s modifications to Rule 20B, only a portion of the costs of an undergrounding project would be borne by ratepayers generally. The remaining costs would fall to local agencies or private parties. Such a change would highlight income inequality and further disadvantage underserved communities, as only the most affluent California communities would be able raise sufficient funds to cover the “gap” costs not borne by ratepayers. The February Staff Proposal’s suggestion that projects that meet certain equity criteria would be eligible to receive a fifty-percent ratepayer contribution, rather than a twenty- or thirty-percent ratepayer contribution, does little to address the practical challenges of closing the funding gap.

3. Rule 20A Program Wind Down Implementation Details

Question. PG&E made a specific proposal in their April 21, 2020 comments about how to wind down the Rule 20A program within ten years. The Commission's Energy Division staff developed a modified version. This ruling seeks comments on the Staff Wind Down Implementation Proposal in Attachment 1.

Comments. As explained above and in the League’s April Comments, it is essential that the Commission devise an economically and legally feasible alternative to the Rule 20A program before it continues its discussion of winding down the program under either proposal. Without such an alternative, the League and the CPUC are unable to analyze thoroughly the impact of such a wind down.

III. Conclusion

The League appreciates the CPUC’s continued efforts to explore ways to enhance utility undergrounding throughout California. However, the League strongly urges the

CPUC to create a Committee comprised of representatives of local governments, utility companies, and CPUC Staff, to discuss and deliberate on these issues further. A reasonable deadline for completion of such a working group of perhaps 6 months would allow for a more collaborative and informed ruling. Such a committee would ensure that any changes to Rule 20 are made in light of a robust discussion of all foreseeable consequences of such changes and a complete administrative record. The League stands ready and willing to work with the CPUC on improving Rule 20, as we have done in the past.

Dated: October 6, 2020

Respectfully submitted,

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