

DATE ISSUED: March 13, 2002

REPORT NO. 02-053

ATTENTION: Honorable Mayor and City Council
Docket of March 18, 2002

SUBJECT: Time Warner Cable and Cox Cable Franchise Agreements

SUMMARY

Issue - Should the City Council:

- (1) Adopt ordinances amending the Time Warner Cable and Cox Cable franchises in which the City of San Diego will pay for some costs associated with the proposed increase to the Underground Utility Conversion Program with funds from the proposed undergrounding surcharge.

Manager's Recommendation -

- (1) Adopt ordinances amending the Time Warner Cable and Cox Cable franchises in which the City of San Diego will pay for some costs associated with the proposed increase to the Underground Utility Conversion Program with funds from the proposed undergrounding surcharge.

Other Recommendations:

- (1) Do not adopt ordinances amending the Cable franchises.

Fiscal Impact - The underground utility surcharge fund is expected to generate approximately \$36 million per year. It is estimated that such amendments to the cable franchises will require the expenditure of approximately one million dollars per year for both of the franchises combined from the Underground Utility Conversion Fund. These changes would be contingent upon the approval by the CPUC of the proposed expanded underground program.

BACKGROUND

On January 28, 2002 the City Council approved ordinances relative to the SDG&E franchise. A provision of these actions provided that SDG&E would implement an electric surcharge and agree to other actions to provide funding and necessary mechanisms to ensure undergrounding of utility lines occur at a yearly rate equal to 4.5% of gross electric revenues.

The proposed increase in undergrounding approved by the City Council would increase the undergrounding of electric lines from the current \$10 million dollar per year level to approximately \$36 million per year. This would represent a sharp increase in expenses to other utilities who must also underground their facilities when SDG&E converts utilities to underground.

Currently, SDG&E performs underground utility conversions at a rate of \$10 million per year within the structure of CPUC Rule 20. Per this tariff, utility companies with overhead utilities in locations where SDG&E undergrounds are required to also underground at company expense.

DISCUSSION

The City Manager, Cox Cable and Time Warner Cable have been discussing the impact of the undergrounding provisions of the electric franchise and its impact on other utilities. Through these discussions the City of San Diego would pay SDG&E, or whomever is responsible for the joint trench, all costs associated with extra depth required to accommodate the cable facilities and all costs with installing the conduit and other substructures necessary to enable the cable company to convert their facilities to underground.

The City or its contractor (presumably SDG&E) would not be responsible for providing, or even purchasing, conduit or other substructures associated with the conversion. The City would however pay its contractor, at no cost to the cable company, for the installation of the conduit and associated substructures.

These changes would be contingent upon the approval by the CPUC of the proposed expanded underground program.

These provisions would not apply to the following:

- (1) These provisions would not apply to the installation of additional conduits or substructures to accommodate any upgrade of facilities or a future upgrade of facilities.
- (2) These provisions would not apply to existing or future CPUC Rule 20 projects. This program currently performs undergrounding at a rate of \$10 million per year. The rate of funding for Rule 20 projects will continue at this fixed amount of \$10 million per year for the duration of the current SDG&E franchise.
- (3) These provisions would not apply to *any* portion of an underground utility conversion project that is outside of the joint trench.

In lieu of these provisions both Time Warner and Cox would agree to the following:

- (1) The cable companies would agree that all work will be done pursuant to City Council Policy 600-8, *Underground Conversion of Utility Lines by Utility Company*, and San Diego Municipal Code, Chapter 6, Article 1, Division 5, *Underground Utilities Procedural Ordinance*.
- (2) The cable companies would agree not to protest the Advice letter at the CPUC in regards to the SDG&E franchise agreements, specifically the underground surcharge, as well as all other underground program provisions.
- (3) The cable companies would agree to not pass through other costs associated with an expanded underground conversion program, but would absorb those costs as a shareholder cost.

In order to effect such a policy, changes must be made relative to the franchise agreements of Cox Cable and Time Warner Cable.

Per City Charter section 103, this item requires 6 votes.

ALTERNATIVES

Do not approve this proposal.

Approve other or modified proposal.

Respectfully Submitted,

George Loveland
Senior Deputy City Manager