

DATE ISSUED: February 19, 2003

REPORT NO. 03-028

ATTENTION: Honorable Mayor and City Council

SUBJECT: Status of Underground Conversion Program

SUMMARY

THIS IS AN INFORMATION ITEM ONLY. NO ACTION IS REQUIRED ON THE PART OF THE COMMITTEE OR THE CITY COUNCIL.

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.

Council Policy 600-08 requires that not later than January 31st and June 30th of each year, City staff shall report to the City Council the status of all allocated underground conversion projects, as well as the status of expenditures and underground conversion account status.

DISCUSSION

A. Summary Points

1. In January 2002, the City Council approved the terms for the remaining years of SDG&E's franchise agreement with the City.
2. In December 2002, the CPUC approved these terms and the creation of an Underground Surcharge.
3. SDG&E expended approximately \$22M in 2002 on underground conversions, although the terms of ramp up only required SDG&E to spend \$16M.
4. SDG&E has completed the underground conversion expenditures as required in the 1995 agreement.
5. SBC Communications has been unresponsive to repeated requests for schedules and City staff has concerns over SBC Communications's commitment towards an adherence to Council approved Ordinances regarding Underground Conversion Projects. In contrast, Cox Communications and Time Warner have completed all established underground project milestones to date. Currently, the City Attorneys Office is exploring all legal remedies as may be available per San Diego Municipal Code.

6. In 2003 City staff will ask for a change in funding source for \$31.4M in projects previously allocated as CPUC Rule 20A projects.
7. In 2003, the City completed the first underground project funded through community self assessment, Del Mar Terraces, located in District One.
8. In accordance with the MOU between SDG&E and the City of San Diego, SDG&E agreed to provide information and assistance to either the City or a City consultant, for a Value Engineering study to assess SDG&E's construction and project management practices. The City is currently seeking such a consultant.

B. Status of all allocated underground conversion projects

The status of all allocated underground conversion projects can be seen in Attachment #1.

C. Undergrounding Surcharge (Fund 30100)

On December 19th, 2002, the California Public Utilities Commission approved revisions to the Underground Conversion Program in the City of San Diego as proposed by the City and SDG&E. This approval included collecting an underground surcharge from ratepayers through an increase to the existing 1.9% franchise fee differential paid by ratepayers to 5.78%.

Part of the proposed program was for the creation of an Undergrounding Surcharge Fund. This fund would consist of fees paid by SDG&E to the City in an amount equal to 3.53% of gross electric receipts. The estimated annual revenue for this fund is expected to be approximately \$34 million per year.

In accordance with the Memorandum of Understanding between SDG&E and the City, SDG&E is to begin collection of the increased franchise fee differential on the first day of the month following CPUC approval. As such, SDG&E was to begin collection on Jan 1, 2003. Payments would be made to the City quarterly in arrears at the same time SDG&E submits payment of its quarterly franchise fees. The agreement calls for SDG&E to identify and differentiate between franchise fees and undergrounding surcharge funds when making its quarterly payment to the City. To date, no funds have yet to be received to this account. Thus, this report has no status to report regarding Fund 30100.

Also, the CPUC requires that the City and SDG&E submit semi-annual reports to the CPUC Energy Division Director each year in regards to the status of the new Underground Conversion Program until such time that the undergrounding is completed or the franchise fee no longer collected. A copy of the CPUC Resolution is attached here as Attachment #2.

D. Proposed Revised Ramp Up Plan

In order to allow utilities time to ramp up to the desired undergrounding pace, and in accordance with the MOU with SDG&E, undergrounding expenditures for the calendar

years 2002, 2003 and 2004 would be capped at \$16M, \$16M and \$37M respectively.

Of this, it was estimated that only \$17M (from the 2004 expenditures) would be funded through the Undergrounding Surcharge Fund, with the remaining expenditures being funded with CPUC Rule 20A program (approximately \$52M). Any additional collected Underground Surcharge Funds above \$17M would be deferred to 2005. In 2005, SDG&E would be required to make up all deferred allocations.

Thus, the allocation for June 2002, as approved by council, was a total of \$37 million. Of this amount, \$20 million was for CPUC Rule 20A allocation and \$17 million was to be projects funded by the surcharge. It was expected that those projects allocated in June 2002 would begin construction in calendar year 2004. At that time, it was estimated that projects allocated in the years 1999 and 2000 would be sufficient to allow SDG&E to expend \$16M in both 2002 and 2003.

Further, in June 2003, it was anticipated that staff would ask Council to allocate projects totaling \$51M in June 2003. This amount would represent one full years allocation of the underground surcharge plus all estimated deferred allocations. It was estimated that those projects would begin construction in 2005.

However, the ramp up plan as envisioned was predicated upon the following assumptions: Speedy approval by the CPUC, and collection of underground surcharge funds in 2002; and upon preliminary project estimates as provided by SDG&E for projects allocated by Council in 1998, 1999, and 2000, but which had yet to be designed. Once a project is designed, a more accurate streamlined project estimate can be provided. In addition, SDG&E has since updated its per foot estimated cost numbers.

In calendar year 2002, the first partial year of the new franchise, SDG&E spent more than \$22M in undergrounding. This was by far more than any year since the inception of the underground program in 1968; and was \$6M ahead of the City's ramp up goal of \$16M for 2002.

Due to the fact that the total allocations for all CPUC Rule 20 funded projects currently are estimated at approximately \$69M; and the SDG&E Rule 20A expenditure obligations through calendar year 2004 are \$32M; and that approximately \$25M of surcharge fund allocations from 2003 and 2004 would be deferred until 2005; and given that SDG&E has shown that it has the capacity and willingness to perform more undergrounding in 2003 and 2004 than the expenditure caps allow; such then, staff has been working with the utility companies to devise a plan for a future Council consideration that would:

1. Change the funding source of approximately \$31.4M in Rule 20A projects to be funded with Underground Surcharge Funds. Half of these projects would go to construction in 2003 and half in 2004.
2. Eliminate need to defer Underground Surcharge Fund expenditures to 2005.
3. Have SDG&E expending an amount approaching \$30M on undergrounding in 2003.
4. Allow projects allocated in June 2002 and estimated to begin in 2004 and not be delayed.
5. Allow the allocation of approximately \$10M in CPUC Rule 20A funds to be allocated by Council, in accordance with Council Policy 600-08, in June 2003. Those projects would begin in the latter half of calendar year 2005.
6. Allow the allocation of approximately \$26M in surcharge funds to be allocated by Council, in accordance with Council Policy 600-08, in June 2003. Those projects would begin in the latter half of calendar year 2005.

The proposed 20A projects that would have a change in funding to come from the Undergrounding Surcharge Fund are listed in Attachment #3.

E. New Underground Points to Note:

1. Status of 1995 Agreement

The 1995 agreement required SDG&E to complete \$33M in pipeline projects and complete an additional 55 million in council allocated projects- a total of \$88M - no later than December of 2002. In order to meet the terms of this agreement, SDG&E was required to spend approximately \$14.7M in undergrounding in calendar year 2002.

While SDG&E's annual report to the City regarding expenditures has not been

received as of the date of this writing, it is expected that SDG&E will demonstrate that they have completed the undergrounding terms of this agreement; as SDG&E has indicated that they have spent closer to \$22M in calendar year 2002.

Expenditures reported to the CPUC may indicate lower totals due to the fact that SDG&E only reports completed projects to the CPUC and most projects take about 2 years to complete. To the City, SDG&E submits an expenditure report that indicates all expenditures, including those projects not yet completed.

2. Value Engineering Study of SDG&E's construction practices

In accordance with the MOU between SDG&E and the City of San Diego, SDG&E agreed to provide information and assistance to either the City or a City consultant, for a Value Engineering study to assess SDG&E's construction and project management practices. These studies can be performed not more than once per year, and any information gathered may not be applied retroactively to prior projects.

However, in that regard, the Underground Program is currently working towards hiring a consultant to perform a Value Engineering Study which overall purpose would be to identify ways in which the underground conversion process for electric facilities within San Diego can be streamlined in terms of both time and cost of projects.

The consultant will conduct a thorough review and analysis of the current state of SDG&E's underground conversion program including, but not limited to: project costs, policies, guidelines and methods of procedure. This would include a detailed breakdown and analysis of costs. Also, the consultant will gather data and work with City staff to develop an economic model to accurately forecast project costs.

3. Completion of first underground project funded through community self assessment

In January 2003 the City completed its first underground project funded by an Assessment District. The project was located in Council District One, specifically, the neighborhood of Del Mar Terrace overlooking the Los Peñasquitos Lagoon and was funded by the self assessment of more than 185 property owners.

F. Concerns regarding SBC Communications

For the better part of 2002 the City has been requesting schedules from SBC Communications regarding the completion of all underground conversion projects in construction. With the exception of Camino Del Oro, La Jolla Scenic Drive and 30th Street, to date, no master schedules have been received.

The Underground Procedural Ordinance approved by Council in 2002 has interim

milestone dates that utilities must meet. This ensures that projects stay on track as they progress, rather than the City setting just completion dates. The first interim dates were set in June 02. As of this writing, SBC Communications has missed eleven of these dates and are currently three months late in providing designs for ten projects. These are ten projects that the City had hoped to move into construction in 2003.

This failure may cause either a need for double trenching, or an indefinite delay to the schedule while the City waits on SBC Communications to provide the required designs. Even if the City allowed the double trenching so as not to delay the schedule, it would be in violation of City Ordinance requiring joint trenches. Further, the City would still have delays while waiting for SBC Communications to complete these projects in coordination with other utilities.

SBC Communications has informed City staff that they are in disagreement with SDG&E over the current joint trench agreement, and further claim this disagreement is the direct reason why SBC Communications has not submitted the ordinance required designs. This argument could be perceived as a direct challenge to the City's ordinance that requires utilities to be in joint trenches.

Cox Cable and Time Warner Cable are also both involved in the current joint trench dispute with SDG&E. However, both cable companies have submitted every required design by the required milestone dates, so as to be included in the joint trench, while the current dispute is negotiated with SDG&E.

In mid 2002 SBC Communications also had a disagreement (separate from the current disagreement) with SDG&E over joint trench terms. This resulted in SBC Communications having to double trench seven projects because they weren't in the joint trench. As of this writing, of those seven, the joint trench being constructed by SDG&E and the applicable cable company has been completed on all but one (the last one is 75% complete). However, SBC Communications has completed its separate trenching on only two. The rest have not even been started, nor have schedules been provided, despite continued requests from City staff.

Again, Cox cable and Time Warner Cable also had the same joint trench disagreement with SDG&E in mid 2002. Yet, those companies took steps that resulted in only one project between them having to have double trenching and Time Warner completed its separate trench on this one project before SDG&E even got started.

Since November, City staff has repeatedly informed SBC Communications staff, that the City report on undergrounding is due to the City council in January. They were informed that their lack of responsiveness to a request for schedules, and their failure to keep up with the construction schedule was a source of concern which would be addressed in the report. Staff informed SBC Communications in December, that if SBC Communications had comments, concerns or other information they would like staff to include in the report, that they should forward as soon as possible. To date, SBC Communications has been unresponsive to this request.

Some specific projects of note concerning SBC Communications:

- a. **University Avenue (Washington Street to Third Avenue)** - The conduits from the joint trench have been in place since mid 2000. SDG&E finished removal of lines in Oct 2000. Cox finished in early 2001. SBC Communications has not yet started.
- b. **Orange Avenue (40th Street to 33rd Street)** - Joint trench work have been completed since January 2001. SDG&E is finishing in January 2003 (there have been customer delays). SBC Communications has not yet started.
- c. **43rd Street (Delta Street to Logan Avenue)** - SBC Communications has had this half done for over a year and did no work on this in 2002. In addition, new dates are continually promised and then moved out, time and again.
- d. **La Jolla Mesa Drive (Deer Hill Court to La Jolla Scenic Drive South)** - The SDG&E and Time Warner joint trench finished in July 02. SBC Communications was not in the joint trench and has to install a separate trench. SBC Communications has not yet started, nor provided a schedule for doing so.
- e. **CCDC, Area 3, Phase 1, (K Street to National Avenue, 12th Street to 17th Street)** - The SDG&E and Cox Cable joint trench finished in August 02. SBC Communications was not in the joint trench and has to install a separate trench. SBC Communications has not yet started, nor provided a schedule for doing so.
- f. **B Street and C Street (19th Street to 24th Street)** - The SDG&E and Cox Cable joint trench finished in August 02. SBC Communications was not in the joint trench and has to install a separate trench. SBC Communications has not yet started, nor provided a schedule for doing so.
- g. **Streamview Drive (54th Street to College Avenue)** - Currently SDG&E has completed roughly two thirds of the trenching on the joint trench. SBC Communications was able to come to terms with SDG&E, allowing them in the joint trench for half of this project. SBC Communications has not yet started, nor provided a schedule for the 50% they must trench as a second trench.

Respectfully submitted,

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BELOCK/BOEKAMP/NB

Note: The attachments are not available in electronic format. A copy is available for review in the Office of the City Clerk.

- Attachments:
1. Current Status of All Allocated Underground Conversion Projects
 2. CPUC Resolution Approving Surcharge and Underground Program
 3. List of Rule 20A allocated projects that would change funding source to surcharge funded projects