



DATE ISSUED: April 20, 2006 REPORT NO: 06-042

ATTENTION: Council President and City Council

SUBJECT: Status of Underground Conversion Program

REFERENCE: Council Policy 600-08, Underground Conversion of Utility Lines by Utility Company

REQUESTED ACTION:

This is an information item only. No action is required on the part of the Council.

BACKGROUND

Since 1967, most underground conversions in the State are performed under the direction of California Public Utility Commission (CPUC) Rule 20. Rule 20 has three parts: A, B and C. Under Part A, undergrounding is paid for and performed by the local electric utility, San Diego Gas & Electric (SDG&E), SDG&E is then reimbursed for CPUC approved expenses as part of their periodic electricity ratemaking case. Thus, the cost recovery for SDG&E is embedded within the electricity rates that they charge to all the customers that it serves. As such, SDGE must budget and expend funds in advance. Because part A is the preferred and most used portion of Rule 20, the undergrounding program is often referred to as the “20A program”.

AT&T (formerly SBC) has a similar tariff, Rule 32, which essentially mirrors Rule 20 and states that whenever an electric utility converts under Rule 20, AT&T must convert under Rule 32, and is not reimbursed through phone rates. Cable companies have no state tariffs and are required to underground, at their own cost, per their local franchises.

The CPUC Rules also govern how and for what underground funds are spent; and what types of utility lines can and cannot be undergrounded. While the Rules cite specific criteria, generally speaking, in order to qualify for Rule 20A, a street or road or right of way must meet “general public benefit” criteria, such as those carrying a heavy volume of vehicular or pedestrian traffic. Thus, most residential streets do not qualify under Rule 20A, as such undergrounding would not benefit the general public, but those who live there.

SDG&E’s current franchise agreement was signed in 1970, and contained a provision in regards to an annual allocation budget for underground conversion projects (Rule 20A) within the City of San Diego (City). This provision was for SDG&E to Budget ½ % of its gross revenues per year beginning in 1969; and to increase this budget by ½ % per year until it reached a maximum of 4.5%. The franchise was a 50 year franchise with a re-opener for terms for the final twenty years.

From 1970 until the re-opener in 2000, there were four (4) resolutions passed by the City Council to reduce the undergrounding requirement of SDG&E, (1980, 1984, 1986, and 1995).

Two of these reductions were due to concerns of the financial impacts the undergrounding program was having on the City budget and private property owners; and two of these reductions were part of larger settlements to resolve other disputes between the City and SDG&E.

Historically, Rule 20A undergrounding projects not only cost SDG&E monies in advance of any cost recovery, there are also costs to other parties as well. The City has costs related to the conversion of overhead streetlights, the conversion of traffic signals and the management of the program. Constituents who live within an underground conversion project incur a private cost to convert their own private services, as they are required to do so by Ordinance when an Underground Utility District is created by the City Council.

Although there was, prior to 2003, a CPUC approved reimbursement program paid with 20A funds to help offset these costs to property owners, it was a fixed reimbursement, and did not always ensure 100% reimbursement. Also, the property owner was required to pay in advance in order to be reimbursed at a later time. Finally, the reimbursement program did not always exist. For many years property owners were not reimbursed.

In January 2002, the City Council and SDGE agreed to terms for the final 20 years of SDGE's Franchise Agreement and the City overhauled its City Policies and Undergrounding Ordinances as follows:

1. Restored undergrounding to a rate equal to 4.5% of SDG&E's gross revenues through an increase in franchise fees expressly dedicated for undergrounding on the electric portion of San Diego residents SDG&E bills;
2. Provided undergrounding for residential areas that do not meet Rule 20A criteria;
3. Eliminated the cost burden on the City and private property owners;
4. Provided the City with greater oversight of SDGE's practices and;
5. Provided City oversight over all undergrounding funds.

While the 20A Program remained intact for major roads, the electric surcharge is used for residential areas that do not meet Rule 20A criteria (commonly referred to as the "Surcharge Program.") The Surcharge Program envisioned a complete undergrounding of all residential areas within 25 years and more than quadrupled the pace of undergrounding within the City of San Diego.

Because the City's proposed Surcharge Program was not in accordance with the CPUC's Rules concerning undergrounding, the City and SDG&E sought CPUC approval for the Surcharge Program, and in December 2002, the CPUC approved a deviation from its own rules and tariffs for SDG&E and AT&T, in order that the program and the surcharge could be implemented. Also in 2002, the City agreed to terms with Cox Cable and Time Warner Cable that secured their participation in the surcharge program. Unfortunately, the City and AT&T disagreed over AT&T's required participation in the Surcharge Program. A settlement agreement mediated by CPUC Commissioner Geoffrey Brown was approved by the City Council in December 2004 that secures AT&T's participation in the Surcharge Program upon approval of a cost recovery application which was submitted to the CPUC in March 2005.

Under the Surcharge Program, the ratepayer stills pays the electric utility for undergrounding, but it is not embedded in electricity rates, but through a surcharge stated on the monthly bill as part of the franchise fee differential. SDG&E then passes these funds on to the City with the quarterly remittance of franchise fees.

Thus, the City is no longer restricted as to which types of streets, alleys or overhead lines can be undergrounded. Per the Memorandum of Understanding with SDG&E approved by the CPUC, and City Council Policy (CP No. 600-08), the Surcharge funds are used solely for approved undergrounding costs including property owner costs associated with their property's electrical service conversion, and City's cost related to undergrounding. In addition, the City has the option to hire outside contractors to perform any and all aspects of this work; and the City has greater authority to monitor reported expenses to ensure funds are spent as efficiently as possible.

Presently, approximately 1,500 miles of overhead utility lines still need to be undergrounded. The City currently spends approximately \$52 million per year to place overhead systems underground. It is estimated that all major and collector streets will be completed in about 20 years under the Rule 20A program and nearly all residential areas will be completed within the next 25 to 30 years at an approximate cost of \$1.5 to 2 billion dollars, in today's cost.

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 the Undergrounding Surcharge Fund 30100.

DISCUSSION

A. Status of Active Allocated Projects:

As of March 29, 2006, there were 41 underground conversion projects in construction which encompasses over 52 miles, 3,959 customers and a combined estimated construction cost of approximately \$100.3 million. Fifteen (15) of these are Rule 20A and 26 are Surcharge-funded projects.

Another 13 projects (6 Rule 20A, and 7 surcharge) encompassing 28.3 miles, 2,695 customers, and estimated construction costs of approximately \$74.1 million are scheduled to begin construction before the end of the current calendar year.

In calendar year 2006, it is estimated that 30 of the surcharge projects totaling 32.2 miles, affecting 1,725 customers and estimated at \$56.3 million will complete construction (with the exception of AT&T).

In calendar year 2006, it is expected that 21 Rule 20A projects totaling 20.2 miles, affecting 1,116 customers and estimated at \$35.4 million will complete construction.

In October 2005 the first large residential block projects which were allocated in FY 2004 began construction with Talmadge Block 3FF (32,000 ft/ 770 customers), and in January 2006, Serra Mesa Block 6Z (33,000 ft/ 879 customers) started construction. Remaining

residential project blocks in Council Districts 1, 2, 4, 7, and 8 will begin before the end of calendar year 2006.

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

A summary of work completed for 2005 can be seen in Attachment 2.

A summary of historical miles completed by Council District can be seen in Attachment 3.

B. Status of Conversion Funds:

1. *20A Program*

In calendar year 2005, SDG&E was required to spend \$11,573,519 million in Rule 20A allocation. SDG&E well surpassed that mark and have reported \$17,532,502 in expenditures on CPUC Rule 20A projects within the City.

In calendar year 2006, because of excess expenditures in 2005, SDG&E is only required to spend \$1,774,942. Nevertheless, SDG&E has indicated that they intend to start most of the projects which have been scheduled for 2006, meaning they will well surpass the required expenditures again in 2006.

2. *Surcharge Program*

As of the quarterly fund report ending December 30, 2005, \$113,950,799 million in Surcharge revenues has been deposited into the Undergrounding Surcharge Fund (30100) since collection began in January 2003.

For the same period, the City has spent \$95,554,183 million in paid expenditures on conversion projects with the Undergrounding Surcharge Fund (30100).

The status of the Undergrounding Surcharge Fund (30100) as of December 30, 2005 can be seen in Attachment 4.

C. Undergrounding Master Plan:

The first prioritized master plan to completely underground the approximately 1,500 miles of overhead utilities within City streets and alleys was approved by Council along with the allocation of the first residential surcharge blocks in October 2003.

Upgrades to the Master Plan in FY 2007 will include improved and expanded project details showing the limits of each project, various stages of each project (design, construction, and completion), and standardization of the symbols through out the manual. Other improvements that will take place are: better labeling of street names, address hundred blocks, easier to read legends, estimated number of customers affected, estimated trench footages and other data attribute. New data will be added and introduced to make finding information in the Master Plan much easier. These upgrades will simplify and will greatly improve the value of this manual. The Master Plan will be available for viewing on the City's Utilities Undergrounding Program web site in July 2006.

D. **FY 2007 Annual Allocation:**

As part of the FY 2007 Master Plan update that will be brought before Council in June 2006, staff will be recommending no new surcharge project allocations for FY 2007. New Rule 20A project Allocations are possible, but it is undetermined at this time at what level.

This is due to multiple factors, but most significantly it is due to substantial across the board construction costs increases over the last two years which have caused several projects to have their anticipated construction start dates delayed to the time period when sufficient surcharge funds are made available, and would therefore push out allocating funds for new FY 2007 projects.

E. **AT&T's (formerly SBC) Participation in City's Expanded Underground Program:**

In December 2004, the City Council approved a settlement agreement with AT&T California [AT&T] that would secure AT&T's participation in the Surcharge Program. This agreement is contingent upon the CPUC's approval of a cost recovery mechanism for AT&T.

The Agreement required AT&T to file an Application with the CPUC for permission to collect a surcharge from its customers to cover AT&T's undergrounding costs. AT&T did so on March 3, 2005. AT&T estimates the cost to be \$0.94 per month per customer. The monthly surcharge would be adjusted annually by the CPUC to reflect AT&T's actual costs. The monthly surcharge will be marked on AT&T telephone bills as a *City of San Diego undergrounding surcharge*.

While the Application is pending, the City has been, and will continue to pay, AT&T to design their underground conduit which the City will install in conjunction with the relocation of SDG&E and cable company lines. This avoids the need to re-trench City streets when the time comes to relocate AT&T facilities. If the Application is approved, AT&T will be allowed to accumulate six months worth of surcharge funds before it begins to remove its overhead lines. The oldest projects are anticipated to be converted first, as AT&T hires additional staff over four years to keep pace with the City's expanded program. AT&T will purchase the conduit previously installed by the City while the Application was pending. The City will absorb the conduit installation costs, including AT&T's share of the joint trench costs, as the City now does for Cox and Time-Warner. This is estimated to be approximately \$2 million per year, and will be paid from SDG&E franchise fee funds.

If the Application is not approved by the CPUC, or approved for only a portion of AT&T's actual costs, then the City and AT&T will meet to discuss other alternatives to secure AT&T's participation in the Underground Utility Program.

A copy of the settlement agreement and a link to this proceeding on the CPUC web site can be accessed on the Utilities Undergrounding Program web page (www.sandiego.gov/undergrounding).

Current Status of AT&T Cost Recovery Application at CPUC

SBC (now AT&T) submitted the application for cost recovery to the CPUC in March 2005. In June 2005, the Administrative Law Judge (ALJ) in the proceeding bifurcated the matter because the CLECS (companies who lease SBC lines and then re-sell them), UCAN and the Office of Ratepayer Advocates (ORA), challenged the application on grounds that it violated Federal and State telecommunications law. The ALJ decided to make that legal determination before proceeding with the substantive portion of the proceeding. Thus, motions and pleadings of this matter consumed most of 2005. In late October 2005, the Commission Ruled that the application did not violate Federal and State Law and that the Commission could consider the application.

In December 2005 a second pre-hearing conference was held with the ALJ and the interested parties and a tentative schedule was set by the ALJ at that time. The schedule discussed at the pre-hearing conference gave SBC until February 15, 2006 to submit a more detailed proposal and the opponents until April 14, 2006 to respond to it. AT&T then has until May 5, 2006 to submit rebuttal arguments to the ALJ. The ALJ directed AT&T to work with the opponents in order to narrow the number of issues to be dealt with. AT&T submitted their more detailed proposal nearly a month early (January 15), but only as a draft to get the opponents comments and then to refine it (which they haven't yet). The ALJ has scheduled evidentiary hearings for May 15-17, but decided that she won't rule as to whether or not they are needed until May 1. On April 4, 2006, the ALJ issued a scoping memo and schedule for this proceeding.

*AT&T's more detailed proposal submitted January 15, 2006 can be seen as attachment 5
The Scoping Memo for AT&T's cost recovery application can be seen as attachment 6*

F. Public Outreach:

As part of the recent acceleration of undergrounding projects, and the fact that work must occur on private property, the Underground Program has taken several important steps to increase Public Outreach and education.

In 2005, the Underground Program had in construction work that affected approximately 4,500 property owners, had projects in Design affecting approximately 3,500 property owners and held Public Hearings at Council affecting approximately 3,000 property owners. As a result the Underground Program mailed approximately 30,000 pieces of U.S. Mail, tracked and documented return forms, and assisted property owners through the underground process.

In order to accommodate a high volume of inquiries to the program, a telephone hotline was previously established to directly provide information and referral to people interested in obtaining undergrounding information. In calendar year 2005, the information line took nearly 2,800 calls. In order of magnitude, the calls break down as follows:

2,085	75.0 %	Questions regarding schedules
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301	10.8 %	Question regarding Permit to Enter Form
107	3.8 %	General Underground Program question
40	1.4 %	Concern relating to new street lighting
33	1.2 %	Concern not related to Underground Program
31	1.1 %	Question about a community presentation
30	1.1 %	Concern related to new street trees
19	0.7 %	Concern related to utility box location

In addition to this, the Underground Program recently completed a yearlong project of setting up a page on the City’s web site dedicated exclusively to undergrounding issues in order to adequately accommodate those who prefer obtaining information via the internet.

People are able to go on-line and learn about the undergrounding master plan and where their properties lie within the master plan, get project schedules and updates (updated each month), learn about the public hearing process, pre-construction notifications, and locations for the replacement of streetlights. Customers can also see a list of all active projects, see which projects the City has undergrounded since 1970, view the current quarterly reports regarding surcharge revenues and expenditures, get a detailed history of undergrounding in San Diego, view Underground Program Status Reports, see documents such as the AT&T Settlement Agreement, and more. The web address is www.sandiego.gov/undergrounding.

In addition, residents living within an underground conversion project are now able to sign up via email to receive automatic email updates and schedules for any project. Residents are now also able to send correspondence regarding concerns about projects, or even general inquiries via email on the web directly to the Underground Program Public Information Officer.

In 2005, the Underground Program also completed an informational brochure to educate the public about the undergrounding process and to provide access information to our website and information line.

Beginning in July 2005, the Underground Program began hosting a monthly informational seminar at the Balboa Park War Memorial. The event is hosted and repeated on the third Thursday of each month from 4 pm to 6 pm. While the event is open to the public, residents living within areas scheduled for undergrounding are invited via U.S. Mail approximately six months prior to the construction start dates on their streets. Representatives from the local Community Planning Group as well as the relevant City Council Office are also invited. The event is hosted by the City Underground Program staff, but representatives from each utility company also attend to answer questions.

The events focus on answering questions about schedules, giving residents information about how and where they can continue to monitor a project that is affecting their properties, answer questions about what residents can expect during construction, the type of work that will happen on their properties and who they can contact if concerns arise during construction.

G. **SDG&E Audit of Expenses:**

The process of hiring an outside auditor to perform a periodic review and audit of SDG&E's stated underground costs to date for both the Rule 20A program, and the Surcharge Program has been delayed from its target start date of July 2005. As the City only received one response to the RFQ for this work, it was determined to be in the best interests of the City to re-advertise after the beginning of the new calendar year in the hopes that more than one qualified firm would be interested. Requests for Qualification will be re-advertised by the City in April 2006. The audit is estimated to begin in July 2006.

H. **Awards**

In September 2005, the San Diego/ Imperials County Chapter of the American Public Works Association presented its 2005 annual awards. The City of San Diego Engineering and Capital Projects Department received 11 awards for various engineering projects, and one of the two personal awards presented by APWA.

The 2005 award for Outstanding Service in the Public Agency was presented to Nathan Bruner, Program Manager of the Utilities Undergrounding Program, for his role in shaping the City's Utilities Underground Program and the creation of a strong public-private partnership with SDG&E, Cox Communications, Time Warner Cable and AT&T; all partners in the undergrounding effort.

Afshin Oskoui
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Attachments:

- (1) [Status of all allocated underground conversion projects](#)
- (2) [Summary of work completed for 2005](#)
- (3) [Summary of historical miles completed by Council District](#)
- (4) [Status of the Undergrounding Surcharge Fund \(30100\) as of December 30, 2005](#)
- (5) [AT&T's proposal for undergrounding surcharge submitted to CPUC January 15, 2006](#)
- (6) [CPUC Scoping Memo for AT&T's cost recovery application](#)