



DATE ISSUED: November 22, 2006 REPORT NO: 06-179

ATTENTION: Council President and City Council  
Docket of Nov. 27, 2006

SUBJECT: Status of Underground Conversion Program

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

REQUESTED ACTIONS:

1. Accept the report regarding the status of the City's Utility Undergrounding Program, including status of all allocated underground conversion projects, as well as the status of expenditures and underground conversion account status as provided by City staff in accordance with Council Policy 600-08, section (D)(3).
2. Adopt resolutions that:
  - a. Per Council Policy 600-08, approve a revised master plan for undergrounding of overhead utilities.
  - b. Approve an allocation of CPUC Rule 20-A underground conversion projects estimated at \$10,582,715.
  - c. Amend Council Policy 600-08, Underground Conversion of Utility Lines by Utility Company to:
    - i. Revise section (B)(2) to provide for the Mayor to bring before the City Council an undergrounding master plan every five (5) years, no later than October 31; and
    - ii. Revise section (B)(3) to provide for the Mayor to bring before the City Council an allocation of projects not later than October 31; and
    - iii. Revise section (D)(3) to provide that City staff shall report to City Council the status of all allocated underground conversion projects, as well as the status of expenditures and underground conversion account status not later than March 31 and October 31 of each year.
  - d. States the intent of the Council that the undergrounding of overhead lines outside of the boundaries of any Underground Utility District created by the Council are consistent with the intent of the Council as expressed in Section 61.0508(a) of the San Diego Municipal Code, provided that the newly undergrounded route will vary as little as possible from the existing aerial route, and that those variations which do exist are necessary to make possible the removal of poles and overhead facilities, which is required for the public health, safety, and general welfare.
  - e. Directs the City Attorney to return to the Council within 60 days, for Council considerations, clarifying amendments to Section 61.0508(a) of the San Diego Municipal Code which more clearly states the intent of the Council.

STAFF RECOMMENDATION(S):

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## 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, that essentially mirrors Rule 20 and states that whenever an electric utility converts under Rule 20, then AT&T must convert under Rule

32, and under Rule 32, AT&T 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 a “general public benefit” criteria such as those carrying a heavy volume of vehicular or pedestrian traffic. Thus, most residential streets do not qualify, 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 how much money SDG&E would budget each year to spend on Rule 20A underground conversion projects within the City of San Diego (City). This provision was for SDG&E to Budget ½ % of it’s gross revenues per year beginning in 1969; and to increase this budget by ½ % per year until they 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, 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 the end. 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.

In 2003, 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 entered into dispute 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.

Because the City's proposed Surcharge Program with SDG&E contradicted CPUC 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.

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, the funds are used solely for approved undergrounding expenses and are used to pay all property owner costs and City incurred costs of 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.

Today, approximately 1,200 miles of overhead utility lines still need to be undergrounded. Overall, 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 billion dollars.

Council Policy 600-08 requires that not later than January 31<sup>st</sup> and June 30<sup>th</sup> 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 October 25, 2006, there were 35 underground conversion projects in construction which encompasses over 50.1 miles, 3,997 customers and a combined estimated construction cost of approximately \$101.5 million. Fourteen (14) of these are Rule 20A and 21 are Surcharge-funded projects.

There are no other projects scheduled to begin construction before the end of the current calendar year.

In calendar year 2006, it is estimated that 23 of the surcharge projects totaling 20.7 miles, affecting 1,118 customers and estimated at \$37.4 million will complete construction (with the exception of SBC).

In calendar year 2006, it is expected that 17 Rule 20A projects totaling 18.5 miles, affecting 999 customers and estimated at \$27.1 million will complete construction.

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

**B. Status of Conversion Funds:**

**1. *20A Program***

In calendar year 2006, SDG&E was required to expend \$1,774,942 million in Rule 20A expenditures. As of September 30, 2006 has reported \$11,380,594 in expenditures on CPUC Rule 20A projects within the City.

***Surcharge Program***

As of the quarterly fund report ending September 30, 2006, \$143,712,092 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 \$130,205,227 million in paid expenditures on conversion projects with the Undergrounding Surcharge Fund (30100).

*The status of the Undergrounding Surcharge Fund (30100) as of September 30, 2006 can be seen in Attachment 2.*

**C. Utilities Undergrounding Acceleration:**

Summary of completed undergrounding in the City of San Diego since the beginning of the SDG&E franchise agreement and the subsequent implementation and ramp up of the City's Surcharge Program:

***Rule 20A Projects Only:***

1970 to 1979	10 years	80 miles
1980 to 1989	10 years	60 miles
1990 to 1999	10 years	61 miles
2000 to 2003	3 years	28 miles

From 1970 to 2003 private property owners on underground utility projects were required to perform the undergrounding of their properties to the street to their homes and businesses, including all trenching, conduit, electrical panel work, including all permits and inspections for electrical, telephone and cable TV service. The City of San Diego did not provide this for property owners until 2003. Also, the City did not resurface or slurry seal trenched roads, install street trees, curb ramps, and only installed minimal street lighting in order to maintain public safety.

In July 2003, construction began on the first Surchage funded projects, since then the following has been completed (includes both Rule 20A and Surchage Projects):

***Expanded program (includes those completed except for AT&T)***

2004	1 year	9 miles
2005	1 year	15 miles
2006 (est.)	1 year	39 miles

The expanded program allows the Underground Surchage Fund to provide for all work on private property at no cost to property owners. The City's Utilities Undergrounding Program performs all necessary work on behalf of any property owner who takes advantage of this offer. The City's expanded underground program also provided that the Underground Surchage fund will resurface or slurry seal curb to curb all trenched streets, provide street trees to those property owners willing to care for it, provide for new streetlights in accordance with the street design manual current standards (including mid-block lighting), and provides for any missing curb ramps.

In this regard, for 2004, 2005 and 2006, the Utilities Underground Program has also completed the following (includes both Rule 20A and Surchage Projects – completed projects only):

- Completed 328,359 feet of utility undergrounding (62.1 miles) –30.6 of these miles yet to be completed by AT&T
- Converted 3,498 Private Properties
- Installed 939 New Streetlights
- Installed 559 New Street Trees;
- Installed 706 New Curb Ramps
- All Roadway Resurfacing/Slurry Sealing Curb to Curb (62.1 miles)
  
- Total combined Rule 20A and Surchage Expenditures combined is \$187.9 million (est.)

D. **Undergrounding Master Plan:**

Prior to 2003, the City of San Diego had no master plan for undergrounding of overhead utilities nor had no idea of the scope of existing overhead which existed in the City. As part of the terms of SDG&E's amended franchise agreement approved by the City Council in 2002, SDG&E provided necessary information in order for the City to determine the extent of the amount of overhead utilities and to derive a master plan to underground them all.

The first prioritized master plan to completely underground the all overhead utilities within City streets and alleys was approved by Council along with the allocation of the first residential surcharge blocks in October 2003. Minor modifications to this first master plan was approved by the City Council in 2004 and 2005.

A significant amount of resources was dedicated over the last 12 months to update the master plan to a significantly higher level of preliminary engineering to more accurately define all project boundaries necessary to underground the entire City as well as the project attributes that would enable more accurate estimate of the scope of necessary work to underground all lines and the costs of such an endeavor. As such, staff is recommending that Council Policy 600-08 be modified to change Council approval of the master plan from an annual basis to every five (5) years.

Upgrades to the master plan for FY 2007 include improved and expanded project details showing the limits of each project, and standardization of the symbols through out the manual. Other improvements include better labeling of street names, address hundred blocks, easier to read legends, estimated number of customers affected, estimated trench footages and other attribute data. Overall, finding information in the master plan is now much simpler and user friendly. The entire master plan will be available for viewing on the City's Utilities Undergrounding Program web upon Council approval.

It is now estimated that at the current rate of revenue and expenditures, the undergrounding of the entire City will be completed in approximately 53 years at a cost of approximately \$2.8 billion (in 2006 dollars), with all major and collector roadways completed in the next 19 years at a cost of approximately \$210 million.

*The FY2007 Master Plan can be seen in Attachment 3.*

*A summary of the FY2007 Master Plan can be seen in Attachment 4.*

E. **FY 2007 Allocation of Projects:**

*Surcharge Allocations:* For the FY 2007 Allocation of Projects, staff recommends no new surcharge projects. This 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 where any new FY 2007 allocated projects would have been scheduled to start.

*CPUC Rule 20-A Allocations:* For the FY 2007 Allocation of Projects, staff recommends

an allocation of projects estimated at \$10,582,715.

*The recommended FY 2007 Allocation of Projects can be seen in Attachment 5.*

F. **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](http://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. In January, AT&T submitted a more detailed proposal. In April, the ALJ issued a scoping memo and evidentiary hearings were held May 15-17. In June opening briefs were filed by the parties and in July, the parties submitted reply briefs.

On October 30, the ALJ issued a draft decision which granted AT&T the requested surcharge, but changed it from a flat charge, per customer, per month, to a surcharge based on a percentage of customer phone bills. The Commission may hear the matter and vote on a final decision as soon as November 30, 2006.

It is estimated that as of December 31, 2006 approximately 39 projects over approximately 30.6 miles and affecting approximately 2,025 property owners will have been completed except for the undergrounding of the AT&T lines.

*The CPUC's draft decision regarding AT&T's Surcharge Application can be seen in attachment 6.*

**G. Public Outreach:**

From January 1 to October 31, 2006, the Underground Program had in construction work that affected, to one degree or another, approximately 5,000 property owners; and had projects in various stages of design or public hearings affecting an additional 8,657 property owners. As a result the Underground Program has mailed approximately 7,600 pieces of U.S. Mail, tracked and documented return forms, and assisted property owners through the underground process.

The utilities undergrounding program maintains a published telephone information line on all project correspondence and project signs, established to directly provide information and referral to people interested in obtaining undergrounding information. All calls are catalogued, and all complaints are tracked and reviewed for identification of systemic issues. During this same period, the information line took 2,063 calls. In order of magnitude, the calls break down as follows (includes repeat calls and multiple calls for the same issue):

1,391	66.7 %	Questions regarding schedules
238	11.4 %	Question regarding Permit to Enter Form
79	3.8 %	Concern not related to Underground Program
51	2.4 %	Concern relating to new street lighting

51	2.4 %	Concern related to utility box location
27	1.3 %	Concern related to new street trees
20	1.0 %	General Underground Program question
20	1.0 %	Concern related to street resurfacing
17	0.8 %	Question about a community presentation

In addition to this, the Underground Program maintains a comprehensive 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.

Constituents are able to go on-line and learn about the undergrounding master plan and where their properties lie within the master plan, see individual project updates (updated each month), learn about the public hearing process, pre-construction notifications, and locations for the replacement of streetlights. The public 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](http://www.sandiego.gov/undergrounding).

In addition, residents living within an underground conversion project are able, and encouraged, to sign up via email to receive automatic email updates and schedules for any project. Once construction begins, email updates are sent every 2-3 weeks regarding the status of the project, where the contractors are working and where contractors are heading to next. Detailed maps are included with email updates.

Residents are 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.

Approximately six months prior to the construction start dates on their streets, affected residents within areas scheduled for undergrounding are invited via U.S. Mail, to an informational seminar at the Balboa Park War Memorial. 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 have an hour-long power-point and photo presentation and 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. Feedback surveys are collected concerning the presentation and its usefulness.

Finally, at the completion of the trenching phase and again at the completion of conversion projects, residents are mailed a customer satisfaction survey. The results of

those surveys are compiled and shared with the appropriate council office, SDG&E and their contractors.

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

The 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 is underway. A contract is currently routing for Mayoral approval and the audit is expected to begin in December 2006 or January 2007. The audit will cover all completed Rule 20A and Surcharge projects from 2004 to present.

I. **Modification of Council Policy 600-08**

City staff is recommending that the Council Amend Council Policy 600-08. Section D. of this report has discussed the reasons for bringing the master plan for council approval every five (5) years versus annually as the policy currently states.

Staff is recommending the bi-yearly staff reports regarding the status of the Utilities Undergrounding Program, and corresponding project allocations, be moved from January 31<sup>st</sup> and June 30<sup>th</sup> to March 31 and October 31 respectively. This would bring the policy more in line with practice.

Currently, accounting information needed to draft the reports for the City of San Diego fiscal year end is not available until mid August and December 31 is the fiscal year end for SDG&E. Thus, needed SDG&E fiscal reports are not available until February.

*The Proposed Modifications (strikeout format) for Council Policy 600-08 can be seen in Attachment 7*

Submitted by:

Approved by:

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Afshin Oskoui  
Originating Department

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Richard Haas  
Deputy Chief/Chief Operating Officer

Reviewed by:

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Patti Boekamp

Director

- Attachments:
- (1) [Status of all allocated underground conversion projects](#)
  - (2) [Status of Undergrounding Surcharge Fund \(30100\) as of September 30, 2006](#)
  - (3) [FY 2007 Utilities Undergrounding Master Plan \(available at the City Clerk's Office\)](#)
  - (4) [Summary of the FY2007 Master Plan](#)
  - (5) [Recommended FY 2007 Allocation of Projects](#)
  - (6) [CPUC Draft Decision Regarding AT&T's Surcharge Application](#)
  - (7) [Council Policy 600-08 Proposed Modifications \(strikeout format\)](#)
  - (8) [San Diego Municipal Code Section 61.0508\(a\) Proposed Modifications \(strikeout format\)](#)