



Pacific Power

Rule 20

Guidebook

**Overhead to Underground
Electric Power Line
Conversions**

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Table of Contents

Introduction	1
Undergrounding Other Utility Lines	2
Rule 20 Programs at Pacific Power	2
Rule 20A	3
Qualifying Criteria	4
Funding and Work Credits	5
Other Funding Sources	7
Using Allocated Work Credits	7
Consultation, Public Hearings and General Enabling Ordinance	7
Creating Underground Utility Districts	8
Assessment Districts	8
Rule 20A Project Management & Construction	8
Notifying Participating Utility Companies	8
Project Lead	8
Project Phases	9
Service Laterals and Panel Conversion	10
Service Laterals	10
Panel Conversions	10
Encroachment Permits, Paving, Restoration and Right-of-Way	11
Soil Contamination	11
Environmental Concerns	12
Cultural Resources	12
Streetlights	13
Project Completion	13
Project Cost	13
Rule 20B	14
City or County-Initiated and Managed Rule 20B Conversions	15
Neighborhood-Initiated and Managed Rule 20B Conversions	15
Rule 20B Conversion by Assessment District	15
Conversions Required by Public Agencies	16

Developer Contributions	16
Developer Fees	16
Schedule	17
Project Cost.....	17
Rule 20C.....	17
Appendix A – Standard Form of Nondisclosure Agreement	19
Appendix B – Links to Rule 20 Webpages.....	27

RULE 20 GUIDEBOOK

Introduction

In 1967, in response to local government interest in enhancing the aesthetics of their communities, the California Public Utilities Commission (CPUC) established electric tariff Rule 20 (Rule 20). Under Rule 20 are three programs that provide for the undergrounding of existing overhead utility lines, Rule 20A, Rule 20B and Rule 20C.

Rule 20 uses language that may be foreign and even confusing to those unfamiliar with the utility world. Pacific Power has prepared this Electric Rule 20 Guidebook (Guidebook) as an educational tool for Rule 20 applicants and interested parties that may be considering the conversion of existing overhead utility lines to underground.

This Guidebook explains how undergrounding is funded (i.e., who is responsible for the cost), pursuant to each of the three programs of Rule 20. It also presents models for planning a conversion program, and suggests how utilities, city and county governments, developers and even residents and businesses can work together to implement undergrounding of overhead utility lines.

This Guidebook is intended to help Rule 20 applicants and interested parties understand not only the language and procedures of Rule 20, but also the operational aspects of undergrounding. This Guidebook is not intended to serve as legal advice. Local governments should rely upon their own counsel and consult with the CPUC's Energy Division as they proceed. Importantly, though Rule 20 language is very similar for all of the CPUC-jurisdictional electric utilities, each utility may have differences including different labor structures and implementation practices. Consequently, one utility's approach to Rule 20, though similar, may not be the same as another utility's.

The CPUC places limits on the amount of money electric utilities may spend on utility ratepayer-funded underground conversions in the General Rate Case (GRC) process.¹ An appropriate amount is authorized by the CPUC in order to balance the public's interest in this program against the expenditures that may become an undue burden on utility customers. Under Rule 20A, all customers ultimately pay the cost of undergrounding through Pacific Power's rates, regardless of the level of participation by each community. Therefore, the CPUC has taken steps to ensure that Rule 20 includes provisions for communities to expand their conversion programs using other funding sources through the provisions of Rule 20B and Rule 20C.

¹ GRCs are proceedings used to address the costs of operating and maintaining the utility system and the allocation of those costs among customer classes. The GRC is how Pacific Power gets funding for its operations.

Undergrounding Other Utility Lines

Rule 20 governs the state of California’s CPUC-jurisdictional electric utilities. The CPUC jurisdictional telecommunications providers have their own tariffs governing undergrounding. The telecommunications tariffs generally set out the same criteria for undergrounding as does Rule 20. In practice, the telecommunications providers “follow the electric utility into the trench”, meaning the electrical conductor is placed in the trench first and then the telecommunications wires, and if in the same trench, the cable television and internet providers’ lines. Although cable television and internet providers do not have a CPUC undergrounding tariff, they are required to comply with an Underground Utility District and its associated resolution to remove overhead facilities. They generally do so according to the terms of their franchise or other agreements with the cities and counties in which they provide service.

For the purpose of this Rule 20 Guidebook, the term “communication lines” or “communication facilities” will be used to include all non-Pacific Power lines and other equipment attached to Pacific Power’s poles.

Rule 20 Programs at Pacific Power

The rule established by the CPUC for electric utility companies is known as Rule 20. Within Rule 20 there are three distinct categories referred to as Rules 20A, 20B, and 20C.

Each category of Rule 20 addresses different funding mechanisms and qualifications for undergrounding existing overhead utility lines.

Rule	Description of Funding
Rule 20A	Conversion projects under Rule 20A are funded by all of Pacific Power’s ratepayers throughout the service area using Rule 20A work credits but only for projects deemed to create a general public benefit by satisfying at least one qualifying criterion.

Rule 20B	Conversion projects under Rule 20B are funded partially by general ratepayers and partially by those requesting the underground conversion (property owners, municipalities, counties, developers, etc.). This program provides limited ratepayer subsidies for undergrounding utility lines that do not qualify under Rule 20A, or in cases where there are not enough Rule 20A work credits to cover the costs of the project.
Rule 20C	Conversion projects under Rule 20C are funded by those requesting the underground conversion, minus net salvage and depreciation. This program enables property owners to convert overhead lines to underground for conversions which do not qualify under Rule 20A or 20B.

Rule 20A

This section of the Guidebook outlines the underground conversion process and highlights many of the issues that cities and counties must consider when embarking on an underground conversion project. Following is a summary which includes many of the steps of a Rule 20A conversion project.

- **Work Credits:** Work credits were allocated up through the year 2022. A community’s current Rule 20A work credits will not increase going forward. However, work credits may be donated within a county from a community having credits to a community needing additional credits towards a Rule 20A conversion. Typically, this is from the county to a city, subject to approval by the county commissioners.
- **Conversion Plan** (optional): A conversion planning committee of a city or county begins to plan specific conversion projects, including rough budgets and timelines, and builds consensus among city or county leaders.
- **Using Work Credits:** Pacific Power provides an estimate of the cost of potential Rule 20A undergrounding projects and informs the city or county of the project cost and their available work credits.
- **Ordinance/Resolution:** City or county passes an ordinance and/or resolution for a specific undergrounding project, and the boundaries of the project are described within these documents.
- **Engineering:** Engineering includes completion of all documents and construction drawings necessary to construct a new underground electrical system. This may include the replacement of streetlights, undergrounding of services on private property and the modification of customer’s service panels

to accept underground service. Rights-of-way may need to be secured for which Pacific Power will help prepare the necessary documents. Pacific Power budgets the project up to the amounts provided in Rule 20 and completes engineering.

- **Construction:** Construction includes but is not necessarily limited to trenching, backfill, trench restoration, pulling cable, service conversions, energizing underground system and removal of overhead electrical facilities (poles, wires, transformers, etc.).
- **Close Project:** Pacific Power determines the final project costs and reports to the city or county and to the CPUC.

Undergrounding (overhead to underground conversion work) under Rule 20A may be undertaken for any of the five reasons listed in the rule (see **Qualifying Criteria** below). Rule 20A capital improvement projects are only one of the Pacific Power’s many capital improvement projects. Like most utility infrastructure investments, the cost of undergrounding for a Rule 20A conversion is borne by all ratepayers. If undergrounding existing overhead electrical lines and facilities are a priority for a local government, it is critical to begin working with Pacific Power on planning a city or county’s underground conversion well in advance. Preliminary estimates will help the community determine the cost of the conversion and evaluate it against their work credits. Once a city or county has evaluated the costs, funding, and other commitments, and determines to move ahead with the conversion, the project may be scheduled as part of Pacific Power’s capital improvement plan.

Qualifying Criteria

Rule 20A underground conversion projects are funded by all of Pacific Power’s ratepayers, not just those in the affected area, and are intended to underground existing distribution voltage lines (below 50 kilovolts) in areas that benefit the “public interest” as defined in criteria set by the CPUC.

To underground utility lines under Rule 20, the governing body of the city or county in which the lines are located has:

1. Determined, after consultation with Pacific Power and after holding public hearings on the subject, that such undergrounding is in the general public interest for the following reasons, at least one of which must be met:
 - a. Such undergrounding will avoid or eliminate an unusually heavy concentration of overhead lines.
 - b. The street, road, or right-of-way is extensively used by the general public and carries a heavy volume of pedestrian or vehicular traffic.
 - c. Wheelchair access is limited or impeded in a manner that is not compliant with the Americans with Disabilities Act.

- d. The street, road or right-of-way adjoins or passes through a civic area or public recreation area or an area of unusual scenic, cultural, and/or historic interest to the general public.
 - e. The street or road or right-of-way is considered an arterial street or major collector as defined by the California Department of Transportation's California Road System functional classification system.
2. Designated a project where the undergrounding extends for a minimum distance of one block or 600 feet, whichever is the shorter distance.
3. Adopted an ordinance and/or resolution creating an underground district in the area of the existing overhead lines and where the new underground lines will be located. The new district must require that:
 - a. All existing overhead communication and electric distribution lines in such district shall be removed,
 - b. Each property served from such electric/communication overhead lines shall have installed, in accordance with the utility company's rules for underground service, all electrical/communication line changes on the premises necessary to receive service from underground facilities as soon as it is available, and
 - c. Utility companies are authorized to discontinue and remove their overhead service by a mutually agreed date.

Funding and Work Credits

Pacific Power is authorized to make Rule 20A expenditures by the CPUC. These expenses are included in the utility's GRC and are recovered from customers through electricity rates.

Rule 20A previously required that each year the utility budget an amount for the program. CPUC's Decision (D.)21-06-013 issued on June 3, 2021, required Pacific Power to discontinue allocating new Rule 20A work credits after December 31, 2022. Pacific Power's last allocation of work credits was, therefore, a 2022 allocation added to city and county work credit balances in January of 2022. Cities and counties will continue to be able to complete Rule 20A projects using their available work credit balances.

Although Rule 20A uses the term "budgeted amount" and "allocation", and this Guidebook uses the term "work credits", the "allocations" themselves are not actual dollars. They are not deposited into bank accounts for each city and county, and they do not earn interest. Rather, in order to fund construction of a Rule 20A conversion project, Pacific Power recovers costs through the General Rate Case process which authorizes Pacific Power to collect revenues related to, among other things, the amount spent for Rule 20A projects. Once a project is completed, the actual conversion cost is added to the utility rate base through the rate case process and is then paid

back by all of the utility's customers through their rates over the life of the investment. No money is collected from utility customers until the underground conversion is completed.

If work credits are "unspent" in any year, the allocations roll over to the next year. Historically allocations were accrued each year until a community had enough to pay for a project. However, the last new allocations were made in 2022. Thus, the maximum work credits are now set and do not increase going forward.

As per Decision D.23-06-008 of the CPUC, effective June 8, 2023, Rule 20A is being discontinued and work credits expired as explained below.

In order to use existing credits, a community has until June 8, 2025, to enter into a signed resolution with Pacific Power for a Rule 20A, overhead to underground conversion. A project entered into within that time frame will be designated an "active" project. No resolutions for any Rule 20A projects will be entered into after June 8, 2025, and all work credits not assigned to an active project will be expired.

If an active project is stopped for an indeterminate amount of time due to the community possessing insufficient work credits to fund the entire project, the project will be placed in a "hold" status. The community may choose to contribute financially to fund the difference between the project cost and the available work credits and proceed with the project. All work credits not deducted by December 31, 2033, will expire.

A city may be assigned work credits from the county in which they are located, or other cities or towns within the county as provided for in Rule 20, Section A.2.c.

Additionally, the Company may reallocate work credits from inactive communities to Active Rule 20A Projects with insufficient work credits in accordance with D.23-06-008, provided that priority is given as follows:

The reallocation of work credits is made first to either (1) Active Rule 20A Projects located in a city, unincorporated county, or tribal jurisdiction that has not completed a Rule 20A project since 2004 or (2) Active Rule 20A Projects where at least 50 percent of the main line trench distance will be located within Environmental and Social Justice Community census tract(s). An Environmental and Social Justice Community census tract shall be defined as a census tract that meets one of the following criteria: (i) scores in the top 25 percent of CalEnviroScreen 4.0, along with those that score within the highest 5 percent of CalEnviroScreen 4.0's Pollution Burden but do not receive an overall CalEnviroScreen score; (ii) located in any federally-recognized tribal lands; or (iii) where aggregated household incomes are less than 80 percent of area or state median income..

Other Funding Sources

Cities and counties may use Rule 20A work credits in conjunction with non-utility funding and various combinations of Rules 20B and 20C.

Cities and counties can generate local, non-utility funding for the Rule 20B or 20C portion of conversion projects with many of the same tools used to fund other local improvements. These include:

- Assessment Districts
- Developer Contributions
- Development Fees
- Other city or county funds

In addition, individual property owners can be required, by ordinance, to pay certain costs of converting utility lines on private property necessary for them to receive underground service.

Using Allocated Work Credits

Once the city or county has decided on a project, they should meet with Pacific Power to ensure that it qualifies as a Rule 20A project and that there are enough work credits to cover the estimated cost of doing the project.

Consultation, Public Hearings and General Enabling Ordinance

In order to initiate/formalize an underground conversion, a city or county must do the following things:

- Consult with Pacific Power and call public hearings to determine whether the removal of poles, overhead wires, and associated overhead structures within a proposed underground utilities district is justified by the general public's interest (as listed in the **Qualifying Criteria** section above).
- Adopt an ordinance designating the Underground Utility District (UUD) requiring that all existing overhead electrical and communications facilities be removed, and any new future facilities be placed underground.
- Require property owners in the UUD to install, in accordance with Pacific Power's requirements for underground service, all electrical facility changes necessary to receive service from the new underground system as soon as it is available.
- Authorize Pacific Power to discontinue its overhead service.

Creating Underground Utility Districts

Once a city or county has adopted a General Enabling Ordinance, it can proceed with the creation of individual underground utility districts through passage of a resolution. This generally consists of the following steps:

1. City or county works with utility to develop a project boundary and proposed timeline.
2. The area to be converted is clearly defined by a boundary map.
3. Pacific Power verifies the availability of Rule 20A work credits.
4. City or county to distributes notices to affected property owners and holds a public hearing.
5. City or County informs the affected property owners of their responsibilities and how their service conversions will be paid.

The city or county adopts a resolution creating the underground utility district, including setting the date by which property owners must be ready to receive underground utility service and specifying whether it will use Rule 20A work credits to cover the installation of service laterals and trenching and panel conversions on private property.

Prior to the city or county adopting a resolution, they should work together with participating utilities to develop realistic project timelines. To ensure participating utilities have sufficient resources (e.g., budget, materials, staff, time) to complete the project, the local government should adopt the resolution 2–5 years in advance of the desired project construction start date. This will give participating utility companies sufficient lead time to budget, coordinate, and schedule their work.

Assessment Districts

Pursuant to the Street Improvement Act of 1911, assessment districts may be created by the city or county to pay for city or county costs, such as a city or county-owned street lighting system to be installed in conjunction with a Rule 20A project.

Rule 20A Project Management & Construction

Notifying Participating Utility Companies

Once the conversion project has cleared the public hearing process and has received formal approval by the city or county, the participating utility companies will need to be notified. Pacific Power will need a copy of the resolution and boundary map and other documents as specified. The Rule 20A project will then be scheduled.

Project Lead

Cities contemplating an undergrounding project, if Rule 20A funds are to finance the utilities' work which are ultimately borne by ratepayers, should understand that this is

ultimately their project and will require the support of public works and other staff to manage these projects.

It is important to establish who will serve as the “lead agency” responsible for trench design, including composite drawings and documents which delineate the costs for each trench participant. The lead agency is also responsible for the construction of the project. However, lead agency responsibilities may be separated with one agency responsible for design, and another responsible for construction.

The electric utility is typically the lead agency. In some cases, the lead agency may be the city or one of the other project participants taking into account such factors as:

- Extent and nature of other street improvements such as street widening or storm drain upgrades being done by the city or county
- Amount of utility conversion work being required of a private developer
- Experience and resource capabilities of the other project participants

The selection of the lead agency is agreed upon by the city or county and the utilities.

The lead agency also has the responsibility for the oversight of activities performed by project participants working in the same area. This is necessary to assure the safety of the general public and to provide each participant with the opportunity to complete its work with minimal disruption.

Each utility will be responsible for system design and installation of its own cables, wires, and pad-mounted fixtures for the new underground system. A utility composite drawing may be created wherein the electric utility creates its design, then hands off its design drawings to the telecommunications utility, which in turn hands off to the cable company.

Project Phases

A Rule 20A project may be defined as having five phases. Depending on the size and complexity of the conversion these phases may, for a larger project be distinct separate steps, or for a smaller project some phases may be blended together.

Planning Phase: (3 to 12 months)

The Planning Phase includes all activities necessary to deliver a city approved project to the affected utilities. In this phase the project is identified, consultation with the affected utilities is held, the resolution or ordinance is created and approved, and other aspects of the job are prepared in readiness for the next phase.

Design Phase: (6 to 18 months)

The Design Phase includes all engineering and design work necessary to construct the new underground system and remove existing overhead facilities. Each participating utility will design its own system.

Pre-Construction Phase: (6 to 24 months)

The Pre-construction phase includes all activities necessary to prepare and allow for construction. This includes obtaining all necessary easements, permits and environmental clearances. There may be a coordinated joint bid process for the civil work for all the utilities to a single contractor.

Construction Phase: (3 to 18 months)

The Construction phase includes all construction necessary to install and place in service the new underground system. This includes all necessary work on private property, both service laterals and building wiring/service panels.

Closing Phase: (6 to 12 months)

The Closing phase includes the activities necessary to complete the project. Included are the removal of the existing overhead facilities, updating Pacific Power's mapping and inventory, determination of final costs and updating of work credit balances, and close out of Pacific Power's work orders and accounting.

Service Laterals and Panel Conversion

Service Laterals

Service laterals or services extend from the point of connection at Pacific Power's secondary junction point to the service delivery point on the customer's premises. Rule 20A allows work credits to be used for this work, but not to exceed 100 feet. This work is to be addressed as part of the resolution or ordinance for the project. The city will be charged for any excess of 100 feet, and they may collect the excess from the property owner or other responsible party.

If the city or county does not choose to include service laterals under its work credit funding, the property owner is responsible for the trench and installation of the service conduit from the service panel to the property line.

Trenching on private property includes restoring the property to pre-existing condition.

Panel Conversions

Rule 20A work credits may be used to replace or modify a customer's electrical panel to accept service from the new underground electric system. A limit should be set by the ordinance as to the maximum work credits to be used per panel conversion. Any excess of the limit is to be billed to the city, and they may collect the excess from the property owner or other responsible party.

Any modifications required by the city or county to clear violations of codes or ordinances are the responsibility of the property owner and are not to be funded by work credits. This includes upgrades from 2-wire to 3-wire service, and panel relocations for safety, access or other purposes.

Encroachment Permits, Paving, Restoration and Right-of-Way

The acquisition of rights-of-way that are satisfactory to the utility is a condition of any undergrounding project. However, since undergrounding projects under Rule 20A are not utility-initiated projects, but are initiated by cities or counties, the CPUC has opined that cities and counties may not charge a fee for such public improvement work nor charge inspection or other administrative costs against Rule 20A work credits. For the same reasons the city or county must provide encroachment permits and inspections without fee.

Cities and counties must also waive any street cut moratoriums and paving restoration that would obligate Pacific Power to do more by way of post-project street repair than simply restoring the project trench or agree to schedule the project after the moratorium has expired. Rule 20A funds may not be used to subsidize public street improvements such as pavement restoration and slurry seal beyond the project trench.

Where utility facilities must be installed, and the public right-of-way is not available, joint utility rights-of-way must be obtained. Pacific Power will prepare the necessary legal documentation including plans and legal descriptions needed to acquire an easement for any facilities on private property and will contact and meet with the affected customers to secure the easement. Should a customer fail to sign the easement documents, Pacific Power will notify the governing agency or jurisdiction for their assistance. It is important for Pacific Power to gain the rights-of-way to the “ultimate plan line” of a street from the city or county. This becomes extremely important if the city or county is planning to widen the street.

Although electric utilities cannot pay compensation to property owners for rights-of-way, they may modify construction slightly in order to allay legitimate concerns of property owners. Such modifications commonly include retaining walls surrounding the equipment, or the selection of alternate standard equipment.

Additionally, Pacific Power cannot exercise its right of eminent domain to obtain an easement across private property to facilitate a Rule 20 project because this is a city or county project, not a utility project, and the customer is already being provided electric service.

Soil Contamination

Soil contamination may be present in any location, although the probability is greater in older, established commercial or industrial areas, redevelopment areas or along

major urban thoroughfares. Various types of contaminants may be found, the most prevalent being hydrocarbons perhaps from former or existing gas station sites.

For purposes of a utility undergrounding project, there are only two types of contaminated soil – known and unknown. While both types are problematic, known contamination is far easier to contend with because it may be addressed during the project planning phase with no delay or additional cost during later construction. Addressing soil contamination during the planning phase maximizes the options available and increases the potential for completing the project without undue delay.

Some options in dealing with soil contamination include:

- Establish proper precautions for workers and public safety, using the contaminated soil as the trench backfill material².
- Redesign the project to avoid the contaminated area.
- Remediate the contamination prior to the start of construction. Remediation is the responsibility of the local governments and may also be the responsibility of the underlying property owner or responsible party.

It is important to remember that improvements to public lands or infrastructure, such as activity associated with soil contamination remediation, cannot be funded under CPUC-regulated tariffs. Rule 20A provides that allocated conversion funding be used only for the undergrounding of overhead utility lines. However, this does not preclude the use of such funding to design a project to avoid an area of contamination – even if this means that the underground lines are extended, and the project costs increased.

Environmental Concerns

As with soil contamination issues, environmental issues such as protected and endangered species must be identified as early as possible. It is the responsibility of the city or county to identify these concerns and work with Pacific Power to plan the project to mitigate any environmental consequences. It may be decided that an undergrounding project is not suitable for an area due to site-specific environmental concerns.

Cultural Resources

Any cultural resource findings in connection with the undergrounding project must be managed and paid for by the city or county. Rule 20A funding and allocations may not be used to fund the excavation, recovery, removal or relocation of cultural, archeological or paleontological resources.

² According to the U.S. Environmental Protection Agency, a public utility that temporarily relocates soil within an area of contamination and then re-deposits the soil in the same trench will not be subject to the requirements of the Resource Conservation and Recovery Act, under Title 40 of the Code of Federal Regulations (CFR) parts 239 through 299.

Streetlights

Pacific Power will provide power to its existing Pacific Power owned overhead fed streetlights from the new underground distribution system on its Rule 20A projects consistent with Pacific Power standards and applicable Department of Transportation requirements. Should the city or county request additional streetlights or choose ornamental or decorative streetlights, the costs will be invoiced to and paid for by the requesting city or county.

Project Completion

When a Rule 20A undergrounding project has been completed, Pacific Power will provide the city or county with a final cost accounting of work credits used to complete the project and the remaining allocation balance. When all work orders associated with the project have been closed, Pacific Power will include the project in its "Completion Report for the Underground Conversion of Overhead Electric Facilities" filed annually with the CPUC.

Rule 20A work credit balances are charged for Pacific Power's actual expenditures to design and construct a new underground electrical system as well as remove Pacific Power's existing overhead facilities. Actual costs consist of direct and indirect costs. The direct costs are the labor charge using the actual hours of the crew doing the work and the actual material used. The crew rate is an activity rate that includes their salary and the other costs of those employees including benefits, an allocated portion of supporting clerical and management costs, and vehicle and tools costs. The indirect costs are calculated as a percent of the direct costs and are charged as an overhead. They include a capital surcharge, estimating, and stores expense not otherwise directly charged to Pacific Power's projects. In this manner, Pacific Power recovers its actual overhead costs by allocating them to all capital and O&M work, including Rule 20 projects. More detail around Pacific Power's actual overhead allocations can be provided should a customer request project documentation. Local governments or ratepayer advocates may request copies of project related documentation, referenced in D.21-06-013, by completing the Nondisclosure Agreement found in Appendix A.

Project Cost

Rule 20A project costs can vary significantly depending upon the size and length of the project and the number of customers and services included in the project that must be converted to underground service. In addition to the overall scope of the project, the location of the project, soil type and condition, permit conditions and work hour restrictions can also have an impact on the project schedule and costs.

When a Rule 20A project is contemplated by a community, they can initiate discussions with Pacific Power to obtain a non-binding ballpark estimate of the costs. If the community then decides to move ahead with a project more detailed

costs will be provided.

Rule 20B

Underground conversion projects carried out under the provision of Rule 20B may be funded by ratepayers and property owners; ratepayers and cities or counties; or by developers. In the case of Rule 20B projects funded by ratepayers and property owners or cities and counties, this program provides for two credits subsidized by all ratepayers. The first credit is the applicant is not charged for the removal of the existing overhead system. The second credit is for the amount of what constructing a new overhead system would have cost, not to exceed the Pacific Power's actual cost of completing the new underground system.

The affected customers must pay for the cost to underground in advance. These advances paid to the electric utility are non-refundable.

Under Rule 20B, the utility will replace its existing overhead lines with underground lines along public streets and roads or other locations mutually agreed upon when requested. However, the following conditions must be met:

1. a) All property owners served from the overhead lines to be removed first agree, in writing, to have the wiring changes made on their premises so that service may be furnished from the underground distribution system in accordance with the utility's rules, and that the utility may discontinue its overhead service upon completion of the underground facilities; or
b) Suitable legislation is in effect requiring such necessary wiring changes to be made and authorizing the utility to discontinue its overhead service.
2. The Applicant (city, county, property owners, developer) has:
 - a) Furnished and installed the pads and vaults for transformers and associated equipment, conduits, ducts, boxes, pole bases and performed other work related to structures and substructures including breaking of pavement, trenching, backfilling and repaving required in connection with the installation of the underground system, all in accordance with the utility's specifications, or, in lieu thereof, paid the utility company to do so.
 - b) Transferred ownership of such facilities, in good condition, to the utility.

- c) Paid a nonrefundable sum equal to the excess, if any, of the estimated costs, exclusive of transformers, meters, and services, of completing the underground system and building a new equivalent overhead system.
 - d) The cost of removal of the overhead poles, lines, and facilities are the cost responsibility of Pacific Power and other facilities' owners and will be paid by them. Such payments shall not operate to reduce Rule 20.A allocations.
3. The area to be undergrounded includes both sides of the street for at least one block or 600 feet, whichever is the lesser, and all existing overhead communication and electric distribution facilities within the area will be removed.
4. All existing overhead communication and electric distribution lines within the area will be removed.

City or County-Initiated and Managed Rule 20B Conversions

A city or county may wish to convert an area using a combination of Rule 20A and Rule 20B funds to apply to contiguous project areas. Rule 20B funds are normally acquired from the city or county's general fund, through the formation of a local assessment district or from a developer improving property adjacent to the conversion project.

A city or county may also utilize Rule 20B to carry out undergrounding of projects that would qualify for Rule 20A funding but where the city or county does not have sufficient allocations to pay the cost. Rule 20B is also the mechanism used by cities or counties in support of neighborhoods that do not qualify for Rule 20A funding. These are typically residential neighborhoods. In this case, the mechanism used to pay for the project – which is not discussed in Rule 20 itself – is an assessment district. The city or county would initiate the project with the utilities. This approach imposes administrative cost on the city or county and requires a public vote.

Neighborhood-Initiated and Managed Rule 20B Conversions

Property owners along one block or more who agree to pay for an underground conversion may either form an assessment district or enter into written agreements with the involved utilities.

Rule 20B Conversion by Assessment District

In 1966, state legislation was passed which provides that the conversion of overhead electric and communication facilities can be accomplished through an assessment district under the Improvement Act of 1911 (refer to Streets and Highways Code, Sections 5896.1 through 5896.17; 10102.1; and 5132). The formation of an assessment district involves added costs to the applicants but may be necessary in

cases where unanimous agreement of the affected property owners cannot be obtained.

The formation of an assessment district generally involves the following:

- The signing of a petition for underground conversion by the affected property owners.
- The adoption of a resolution of intention to form an assessment district by the council or board of supervisors.
- Public hearing on the resolution of intention.
- A decision and resolution by the council or board of supervisors forming the assessment district.
- The negotiation of an agreement between the assessment district and each affected utility which includes, among other things, the responsibility for the following:
 - plans and specifications
 - labor and materials
 - payment for the work performed

Conversions Required by Public Agencies

Under existing law, no town, city, county, redevelopment agency, aviation, scenic highway or coastal commission, nor any other public agency may require a regulated private utility to convert its facilities to underground contrary to a utility's tariffs on file with the CPUC. Such agencies may, however, require applicants for building permits to arrange for undergrounding as a condition of issuance of the permits. Some cities and counties require either the undergrounding or the installation of conduit for future undergrounding use from the service entrance to the public right of way.

Developer Contributions

In most cities and counties, the development of private property along a major street triggers some form of contribution from the developer for related street improvements.

In these cases, there is no equivalent overhead system cost.

Developer Fees

Some cities and counties have adopted underground conversion fees that apply to new developments in much the same manner as park fees and street improvement fees. Keep in mind that a fee-supported plan should include:

- The manner in which conversion fees are to be collected
- The purpose for which fees may be used by the city or county

The creation of a revolving fund is generally an integral part of any conversion fee program to provide a funding pool into which fees can be deposited and conversion project costs withdrawn.

The adoption of conversion fee program often raises sensitive issues that can only be addressed at the local level. For instance, the community will need to decide whether the collection of conversion fees is triggered solely by new construction or includes the rehabilitation or expansion of existing properties.

Schedule

In California the schedule for a typical Rule 20B project is generally shorter than a Rule 20A project due primarily to a smaller scope of work. While a Rule 20B project may approach a small to medium Rule 20A project in terms of scope and size, the typical developer driven Rule 20B is smaller in size and scope, and therefore a lesser schedule duration.

However there are things that can impact the schedule duration of Rule 20B projects.

- Assessment District projects, involving an Engineering Assessment phase as well as a vote by the affected property owners.
- The time associated with the customer's decision and approval to move forward with the project. Customers typically use the utility's "bid price" after design has been completed to determine the projects economic viability.
- Changes in the economy can impact a customer's decision to move forward, with projects sometimes being deferred for several years until economic conditions improve before the utility is notified to move forward.
- The customer's option to perform the trenching, duct and structure installations and provide those facilities to the utility can also affect the schedule duration of projects.

These differences can impact the overall project timeline.

Project Cost

Rule 20B project costs can also vary significantly depending upon the size and length of the project and the number of customers and services included in the project that must be converted to underground service. In addition to the overall scope of the project, the location of the project, soil type and condition, permit conditions and work hour restrictions can also have an impact on the project schedule and costs.

Rule 20C

This underground conversion program is almost entirely funded by those requesting the underground conversion. This program enables property owners to pay for the cost of undergrounding distribution lines if neither Rule 20A nor Rule 20B applies to a specific case.

Under Rule 20C, the benefiting party pays the cost of the conversion. Specifically, the applicant requesting the changes pays, in advance, a nonrefundable sum equal to the estimated cost of:

- the new underground facilities,
- plus removal of the existing overhead,
- plus rearrangements and any necessary right-of-way,
- less the net salvage value of the removed facilities,
- less depreciation of the removed facilities.

The Customer will furnish and install the pads and vaults for transformers and associated equipment, conduits, ducts, boxes, pole bases and perform other work related to structures and substructures including breaking of pavement, trenching, backfilling and repaving required in connection with the installation of the underground system, all in accordance with Pacific Power's specifications, or, in lieu thereof, will pay Pacific Power's to do so.

Underground services will be installed and maintained as provided in the utility's applicable rules.

Rule 20C is used during home modifications when an overhead service is converted to underground.

Schedule

The schedule for a typical Rule 20C project is almost always shorter than a Rule 20B project due to a smaller scope of work. Most Rule 20C projects can be completed in less than 12 months. The customer's decision to move forward with a Rule 20C project after design has been completed and contracts drawn can also impact the overall schedule.

Project Cost

Rule 20C project costs vary depending upon the size and length of the project.

Appendix A – Standard Form of Nondisclosure Agreement

Contained in this appendix is a sample of the standard form of nondisclosure agreement (NDA) for local government or ratepayer advocate to request documents related to Rule 20 projects.

A blank template of the NDA form can be accessed from the Pacific Power Rule 20 website noted in Appendix B.

[Remainder of page intentionally left blank]

RULE 20 NONDISCLOSURE AGREEMENT

This Rule 20 Nondisclosure Agreement (“Agreement”) is entered into as of the ____ day of _____, 202_, (the “Effective Date”) by and between PacifiCorp, d/b/a Pacific Power, an Oregon corporation (“PacifiCorp”), and _____, a _____, (“Recipient”), each a “Party” and together the “Parties.”

RECITALS

- A. PacifiCorp’s Tariff Rule 20, Replacement of Overhead with Underground Electric Facilities, (Rule 20), sets forth the requirements for certain projects (Rule 20 Projects).
- B. California Public Utilities Commission (Commission) Decision (D.) 21-06-013, Ordering Paragraph (OP) 16, requires PacifiCorp to provide any local government or ratepayer advocate, within thirty (30) days of a written request that encloses a signed Rule 20 Nondisclosure Agreement, the Documents related to such Rule 20 Project(s) identified by such entity in its written request.
- C. Pursuant to D.21-06-013, OP 16, Recipient would like to obtain Documents from PacifiCorp regarding the following Rule 20 Project(s), located at _____ (Rule 20 Project Request).
- D. PacifiCorp desires that any Confidential Information (as defined below) that may be provided by it or on its behalf to Recipient or its respective Authorized Parties (as defined below) will be kept confidential by Recipient and its Authorized Parties.

Based on the foregoing recitals, which are incorporated into the Agreement by this reference, and in consideration of and as a condition for furnishing the Confidential Information, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, agree as follows:

ARTICLE 1 – DEFINITIONS

Section 1.1 Certain Defined Terms: For the purposes of this Agreement, the following terms shall have the following meanings:

- (a) “Authorized Parties” means the officers, directors, employees, legal counsel, or accountants, of Recipient.

- (b) “Confidential Information” means information that is not publicly available, obtainable, or observable, and which may compromise PacifiCorp’s ability to compete fairly or may otherwise pose a business risk if such information, including, but not limited to numbers, planning details, or commercially sensitive information is disclosed. Confidential Information does not include information or technical data which: (i) is in the possession of the Recipient at the time of disclosure as shown by the Recipient's files and records immediately prior to the time of disclosure; (ii) prior or after the time of disclosure becomes part of the public knowledge or literature, not as a result of any inaction or action of the Recipient; (iii) becomes available to the Recipient on a non-confidential basis from a person other than the PacifiCorp or any of its Representatives, provided that to the Recipient’s knowledge the person is not bound by a confidentiality agreement, or other contractual, legal or fiduciary obligation of confidentiality regarding the information; (iv) is approved for release by the PacifiCorp in writing; or (v) the Recipient is required to disclose by statute or judicial decree under Section 2.2 herein.
- (c) “Documents” mean, with respect to a Rule 20 Project, only the following information: (1) project bids; (2) purchase orders; (3) contracts; (4) invoices; (5) payments; and (6) calculations of overhead costs and any other charges for PacifiCorp’s work on such Rule 20 Project by line item.
- (d) “Representatives” mean the officers, directors, employees, legal counsel, accountants, advisors, or other agents of a Party.

ARTICLE 2 –CONFIDENTIALITY

Section 2.1 Confidential Obligations. Except as otherwise expressly agreed in writing by PacifiCorp, and except as otherwise agreed in Section 2.2 below, Recipient shall, and shall cause its Authorized Parties to, for a period of two (2) years from receipt of the Confidential Information, (A) keep strictly confidential and take necessary precautions and implement all requisite procedures and practices to protect against the disclosure of all Confidential Information, and (B) use all Confidential Information solely for the purposes of evaluating the Project and not for any other purpose. Notwithstanding anything contained herein to the contrary, Recipient may disclose Confidential Information to those of its Authorized Parties who have a strict need to know the information for the purposes of directly evaluating the Rule 20 Project if, prior to being given access to Confidential Information, those Authorized Parties are informed of the information’s confidential nature and the requirements of this Agreement, and are directed to comply with the requirements of this Agreement, and Recipient uses reasonable efforts to prevent or limit the disclosure of Confidential Information by such Authorized Parties. Recipient and its Authorized Parties who receive Confidential Information in accordance with this Section shall each hold Confidential Information in confidence with at least the same degree of care with which it protects its own confidential and proprietary information. Recipient will be responsible for any breach of the Agreement by its Authorized Parties.

Section 2.2 Mandatory Disclosure. In the event that Recipient is requested or required by law, rule, applicable regulation, interrogatories, subpoenas, civil investigative demands or other similar legal processes stock exchange rules or disclosure requirement of a governmental authority or agency including, but not limited to the Federal Energy Regulatory Commission or any state or local public service commission (collectively, “Applicable Law”) to disclose any of the Confidential Information, Recipient shall (to the extent legally permitted) promptly notify PacifiCorp of such request or requirement prior to disclosure so that PacifiCorp may seek an appropriate protective order or other remedy and/or waive compliance, in whole or in part, with the terms of this Agreement, as applicable. In any such event, Recipient shall reasonably cooperate with PacifiCorp at PacifiCorp’s expense to the extent permitted by Applicable Law with respect to taking available actions to ensure that all Confidential Information that is so disclosed shall be accorded confidential treatment and Recipient shall furnish only that portion of the Confidential Information that it is advised by Recipient’s counsel is legally required to be disclosed. Notwithstanding the foregoing, if Recipient is a public entity subject to the California Public Records Act (California Government Code Section 6250 et seq.) (“CPRA”), Recipient acknowledges that PacifiCorp may submit information to Recipient that PacifiCorp considers confidential, proprietary, or trade secret information pursuant the Uniform Trade Secrets Act (Cal. Civ. Code section 3426 et seq.), or otherwise protected from disclosure pursuant to an exemption to the CPRA, and: (1) Recipient shall provide Notice to PacifiCorp of any disclosures required in accordance with the CPRA, (2) Recipient shall redact all Confidential Information, that is protected from disclosure pursuant to an exemption to the CPRA, contained within any disclosed documents prior to any such disclosure, and (3) Recipient shall afford PacifiCorp a reasonable opportunity to review such redactions and propose additional redactions.

Section 2.3 Ownership and Return of Materials. All written documents of any nature furnished to the Recipient under this Agreement and all copies, extracts and other reproductions thereof, including copies in the possession of any of its Authorized Parties, are and shall remain the property of PacifiCorp. Recipient shall promptly, following written request by PacifiCorp, return or destroy (at Recipient’s option) all copies of Confidential Information, including material prepared by the Recipient that include the Confidential Information, in Recipient’s possession or in the possession of its Authorized Parties. The foregoing notwithstanding, (a) Recipient may retain one (1) copy of the material prepared by the Recipient that include the Confidential Information in a secure archive file; (b) Recipient may retain Confidential Information to the extent required by its internal records retention policies or Applicable Law; and (c) Recipient may retain electronic copies of Confidential Information that have been created pursuant to Recipient’s regularly generated automatic electronic archiving and back-up procedures; provided that in either (a) or (b) Recipient shall maintain such materials and Confidential Information in confidence in accordance with the terms of this Agreement even after expiration of this Agreement. Upon written request of PacifiCorp, an officer of Recipient shall certify in writing its and its Authorized Parties’ compliance with this paragraph. Notwithstanding the return or destruction of the Confidential Information, Recipient

shall continue to be bound by its obligations hereunder. The provisions of this paragraph notwithstanding, Recipient shall not be required to destroy any Confidential Information or to take any action pursuant to this paragraph to the extent prohibited by Applicable Law.

Section 2.4 No Representations or Warranties. PacifiCorp makes no representations or warranties pursuant to this Agreement with respect to the accuracy or completeness of the Confidential Information, and shall have no liability to the Recipient or any of its Authorized Parties resulting from the use of the Confidential Information provided pursuant to this Agreement.

ARTICLE III – MISCELLANEOUS

Section 3.1 Governing Law; Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

Section 3.2 Assignment; Successors and Assigns. This Agreement may not be assigned (or any obligations hereunder delegated) by either Party without prior written consent of the other Party and the assigning or delegating Party shall remain responsible for all of its obligations hereunder. Any assignment or delegation in violation of this Section shall be null and void ab initio and of no force nor effect. This Agreement shall be binding upon and inure to the benefit of both parties and their legal representatives, successors, and permitted assigns.

Section 3.3 Term. This Agreement is effective as of the Effective Date. This Agreement may be terminated by mutual agreement or by either party (by notice thereof to the other party) at any time prior to expiration. Expiration or termination of this Agreement will not affect the rights and obligations with respect to Confidential Information disclosed or received under this Agreement prior to such expiration or termination.

Section 3.4 Notices. Any notice or other communication required under this Agreement must be in writing, shall be delivered per the contact information below, and shall be deemed properly give: (1) upon delivery if delivered in person, (2) three days after deposit in the mail, if sent by first class United States mail, postage prepaid, or (3) upon delivery if delivered by commercial courier service.

a. Contact information:

Recipient:
[INSERT]
[CONTACT]
[INFORMATION]

PacifiCorp
Legal Department
PacifiCorp
825 NE Multnomah St.
Suite 2000
Portland, Oregon 97232
Email:

- b. Either Party may change or add to its contact information specified above by giving the other Party notice of the change.

Section 3.5 Amendment and Waiver. This Agreement may only be amended by a writing signed by both Parties. Any waiver of the requirements and provisions of this Agreement must be in a writing signed by the Party waiving its rights hereunder. The failure of either Party to enforce at any time any of the provisions of this Agreement or to require at any time performance by the other Party of any of such provisions shall in no way be construed as a waiver of such provision or a relinquishment of the right to enforce such provision thereafter. If any provision of this Agreement shall for any reason be adjudged to be void, invalid or unenforceable, the remainder of this Agreement shall continue and remain in full force and effect.

Section 3.6 Successors or Assigns. This Agreement shall be binding upon, and inure to the benefit of, the Parties and their respective successors and assigns. Rights and obligations under this Agreement shall not be assignable by either Party or their successors or assigns without the prior written consent of the other Party. This Agreement is not intended to confer any rights or remedies upon any other Persons other than the Parties.

Section 3.7 Remedies. Each party agrees that its obligations under this Agreement are necessary and reasonable in order to protect PacifiCorp and its business, and expressly acknowledge that legal remedies would be inadequate to compensate the other party for any breach by either party of any covenants and agreements set forth herein. Both Parties therefore agree that either shall be entitled to equitable relief, including injunction and specific performance, in the event of any breach of the provisions of this Agreement, in addition to all other remedies available to them at law or in equity. TO THE FULLEST EXTENT PERMITTED BY LAW, EACH OF THE PARTIES HERETO WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT. EACH PARTY FURTHER WAIVES ANY RIGHT TO CONSOLIDATE ANY ACTION IN WHICH A JURY TRIAL CANNOT BE OR HAS NOT BEEN WAIVED. If a waiver of jury trial is deemed by any court of competent jurisdiction to not be enforceable for any reason, then to the fullest extent permitted by law, each of the Parties hereto agree to binding arbitration. Such arbitration shall be in accordance with the rules and procedures of the American Arbitration Association (AAA). Notwithstanding any AAA rules and procedures, or any other provision of any state or federal laws, the Parties agree that the arbitrators shall not consider or award punitive damages as a remedy. Upon the Company's request, AAA shall provide the Parties a list of arbitrators each of whom have experience and expertise applicable to this Agreement. Upon each of the Parties' receipt of such lists, each Party shall have ten (10) days to select an arbitrator. The two selected arbitrators shall then select a third arbitrator within thirty (30) days from the date the initial two arbitrators were selected and the matter subject to arbitration shall be arbitrated and a decision of the arbitrators issued within sixty

(60) days after the selection of the third arbitrator

Section 3.8 No Waiver of Privileges. Nothing in this Agreement is intended to waive any attorney-client, work-product, or other privilege applicable to any statement, document, communication or other material of a Party or the Parties.

Section 3.9 No Agency. Nothing in this Agreement shall be construed to render either Party an agent, employee, representative, joint venturer, or partner of the other Party.

Section 3.10 Complete Agreement. This Agreement constitutes the entire agreement between the parties regarding the treatment of Confidential Information relating to the Rule 20 Project and shall inure to and be binding upon the parties and their respective successors and permitted assigns. This Agreement supersedes any prior agreements or understandings regarding the same subject matter.

Section 3.11 Authority. The signatories hereto represent that they have been duly authorized to enter into this Agreement on behalf of the Party for whom they sign.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their respective duly authorized representative as of the Effective Date.

PacifiCorp d/b/a Pacific Power

[RECIPIENT NAME]

Sign Name: _____

Sign Name: _____

Print name: _____

Print name: _____

Title: _____

Date: _____

Title:

Date:

Appendix B – Links to Rule 20 Webpages

Website Owner	Website URL
California Public Utilities Commission	https://www.cpuc.ca.gov/industries-and-topics/electrical-energy/infrastructure/electric-reliability/undergrounding-program-description
Pacific Power	https://www.pacificpower.net/working-with-us/municipalities/California_Rule_20.html

