

**California Public Utilities Commission and Office of Energy
Infrastructure Safety Joint Workshop on Senate Bill 884 for Expedited
Utility Distribution Infrastructure Undergrounding Program**

Workshop Questions and Background

February 23rd Update

To support the Joint Workshop scheduled for February 24, 2023, CPUC and Energy Safety Staff have prepared this set of representative discussion questions, followed by background information and the text of Senate Bill 884.

Representative Questions for the Workshop Panels

Panel-Led Discussion 1: Regulatory and Approval Process Issues

- The statute establishes minimum requirements for 10-year undergrounding plans to be submitted to Energy Safety. Are these requirements sufficient, or are there additional elements that should also be included? Do any of the statutory requirements require further elaboration or clarification? Why or why not?
- Should the expedited undergrounding program process align with the Wildfire Mitigation Plan and/or General Rate Case processes? If so, what specific aspects should be aligned, and how should the alignment be effectuated?
- What are other questions, considerations, or potential complexities should the Commission consider in establishing the program?

Panel-Led Discussion 2: Wildfire Risk and Project Assurance Issues

- The statute requires electrical corporations to compare undergrounding to other system hardening alternatives emphasizing both the risk reduction and the cost effectiveness of undergrounding for the projected useful life of the undergrounding project versus the alternatives.
 - What analytical approach and decision-making framework should be employed by the electrical corporations in their plans to justify their undergrounding proposals?
 - What level of detail should be provided in the plans and why?
- Legislation provides for an annual report by an independent monitor and a 6-month progress report from the electrical corporation.
 - How can these reports be maximized for accountability?
 - Are there additional accountability tools and procedures to consider to ensure that projects are completed on-time, on-budget, and are actually reducing risk?
- The undergrounding plans are 10-year plans.
 - How should the evolving understanding of risk and ever-changing methods of calculating risk be accounted for in the plans?
 - Should flexibility be built into the plans to account for uncertainty in long term risk forecasting?
 - Would a mechanism to alter an approved plan be needed? Why and how?

Introduction and Background

Senate Bill 884 (McGuire, 2022) was signed by the Governor on September 29, 2022. The bill added section 8385.5 to the Public Utilities Code, requiring the Commission to establish an expedited electric utility distribution infrastructure undergrounding program for large electrical corporations.

To participate in the program, large electrical corporations must submit a distribution infrastructure undergrounding plan for projects located in tier 2 or tier 3 high fire-threat districts or rebuild areas it intends to construct within a ten-year period to Energy Safety. After receiving the plan, Energy Safety must approve or deny the plan within nine months.

Upon Energy Safety approving its plan, the large electrical corporation must submit a copy and an application requesting review and conditional approval of the plan's costs. The Commission must then approve or deny the plan within nine months.

The bill requires electrical corporations with approved plans to file progress reports, include additional information in Wildfire Mitigation Plans, hire independent monitors to review and assess their compliance with its plan, apply for available federal, state, and nonratepayer funds throughout the approved plan, and use those nonratepayer funds to reduce program costs. The Commission may assess penalties on electrical corporations failing to substantially comply with a commission decision approving its plan.

SB 884 provides a general outline for the plans and approval process. The Commission and Energy Safety must implement the statute by enumerating the specific requirements, processes, and mechanisms necessary for a functional program.

Elements of the Plans Articulated in Statute

Public Utilities Code § 8385.5 (c), specifies that the plan submitted to Energy Safety must include the following elements:

- (1) A 10-year plan for undergrounding distribution infrastructure.
- (2) Identification of the undergrounding projects that will be constructed as part of the program, including a means of prioritizing undergrounding projects based on wildfire risk reduction, public safety, cost efficiency, and reliability benefits. Only undergrounding projects located in tier 2 or 3 high fire-threat districts or rebuild areas may be considered and constructed as part of the program.
- (3) Timelines for completing identified and prioritized undergrounding projects, unit cost targets, and mileage completion targets for each year covered by the plan.
- (4) A comparison of undergrounding versus aboveground hardening of electrical infrastructure and wildfire mitigation for achieving comparable risk reduction or any other alternative mitigation strategy, such as covered conductor and rapid earth fault current limiter devices, for those prioritized undergrounding projects, evaluating the scope, cost, extent, and risk reduction of each activity, separately and collectively, over the duration of the plan. The comparison shall emphasize risk reduction and include an analysis of the cost of each activity for reducing wildfire risk, separately and collectively, over the duration of the plan.
- (5) A plan for utility and contractor workforce development.

(6) An evaluation of project costs, projected economic benefits over the life of the assets, and any cost containment assumptions, including the economies of scale necessary to reduce wildfire risk and mitigation costs and establish a sustainable supply chain.

Summary of Requirements of Senate Bill 884 (McGuire, 2022)

Below is a description of the requirements of SB 884. Areas where staff have identified a need for further clarification are shown in boldface.

Energy Safety

The statute does not include or preclude a process for verifying the completeness of a Plan before accepting a submittal. It states that when Energy Safety receives the plan from the electrical corporation, they shall publish it for public comment and then, within “nine months, review and approve or deny the plan.”

The bill also states that Energy Safety “may only approve the plan if the large electrical corporation has shown that the plan will substantially increase electrical reliability by reducing the use of public safety power shutoffs, enhanced powerline safety settings, deenergization events, and any other outage programs, and substantially reduce the risk of wildfire.”

The bill further says that before approving the plan, Energy Safety “may require the large electrical corporation to modify the plan.”

The plan must include the six key elements listed in the “Elements of the Plan” section above.

The Commission

Upon Energy Safety approving its plan, the IOU has 60 days to submit “a copy of the plan and an application requesting review and conditional approval of the plan’s costs...”

The bill does not require conditional approval of the plan’s costs upon accepting the application for review.

In addition to a copy of the plan approved by Energy Safety the electrical corporation must include the following information about the plan:

- (1) Any substantial improvements in safety risk and reduction in costs compared to other hardening and risk mitigation measures over the duration of the plan.
- (2) The cost targets, at a minimum, that result in feasible and attainable cost reductions as compared to the large electrical corporation’s historical undergrounding costs.
- (3) How the cost targets are expected to decline over time due to cost efficiencies and economies of scale.
- (4) A strategy for achieving cost reductions over time.

Upon receiving the application, the Assigned Commissioner may waive requirements in [Public Utilities Code § 1703.1](#) (b), (d), (f), and (i). These are provisions related to the presence of hearing officers and Commissioners and the right of parties to present oral arguments.

Upon reviewing the application, the Commission shall facilitate a public workshop to present the plan and allow at least 30 days for public comment. **The statute does not say how long the workshop must take place after the electrical corporation submits the application.**

The Commission then has nine months to review and approve or deny the application. The Commission may require the large electrical corporation to “modify or modify and resubmit the application.”

The Commission shall consider whether to revisit “cost or mileage completion targets approved, or pending approval, in the electrical corporation’s general rate case or a commission-approved balancing account ratemaking mechanism for system hardening.”

The bill also requires the Commission to “consider continuing or extending an existing commission-approved balancing account ratemaking mechanism for system hardening for the duration of a plan.” The Commission shall “authorize recovery of recorded costs that are determined to be just and reasonable.”

Electrical Corporation Accountability

Following approval of 10-year plan, the bill requires two biannual reports from the utility, an update to be included in the annual wildfire mitigation plan filing, and a report from an independent monitor selected by Energy Safety and hired by the electrical corporation.

The statute doesn’t describe any accountability mechanism associated with the biannual reports. The information submitted regarding progress on the 10-year plan part of the wildfire mitigation plans would be subject to an annual compliance review by energy safety. However, the statute places the most emphasis on the report submitted by the independent monitor.

The independent monitor shall assess whether or not the electrical corporation is meeting the objectives of their plan and “specify any failure, delays, or shortcomings of the large electrical corporation and provide recommendation for improvements to accomplish the objectives set forth in the plan.” Energy Safety shall post these reports on its website. The large electrical corporation will have “180 days to correct and eliminate any deficiency specified in the independent monitor’s report.”

The statute does not provide the means for IOUs to dispute findings or provide explanations or clarifications for the independent monitor’s report. Energy Safety shall then consider “whether the large electrical corporation has cured any deficiencies and may recommend penalties to the Commission.”

The Commission “may assess penalties on a large electrical corporation that fails to substantially comply with a commission decision approving its plan.”

Finally, each “large electrical corporation participating in the program shall apply for available federal, state, and other nonratepayer moneys throughout the duration of its approved undergrounding plan, and any moneys received as a result of those applications shall be used to reduce the program’s costs on the large electrical corporation’s ratepayers.”

Senate Bill No. 884

CHAPTER 819

An act to amend Section 8385 of, and to add Section 8388.5 to, the Public Utilities Code, relating to electricity.

[Approved by Governor September 29, 2022. Filed with Secretary of State
September 29, 2022.]

legislative counsel's digest

SB 884, McGuire. Electricity: expedited utility distribution infrastructure undergrounding program.

Existing law vests the Public Utilities Commission with regulatory authority over public utilities, including electrical corporations. Under existing law, it is the policy of this state to achieve, whenever feasible and not inconsistent with sound environmental planning, the undergrounding of all future electric and communication distribution facilities that are proposed to be erected in proximity to designated state scenic highways and that would be visible from those highways if erected above ground. The Commission's existing Electric Tariff Rule 20 establishes policies for the undergrounding of electrical facilities and includes, among other programs, the Rule 20A undergrounding program that requires electrical corporations to convert overhead electrical facilities to underground facilities when it is in the public interest for specified reasons.

This bill would require the Commission to establish an expedited utility distribution infrastructure undergrounding program, and would authorize only those electrical corporations with 250,000 or more customer accounts within the state to participate in the program. In order to participate in the program, the bill would require a large electrical corporation to submit a distribution infrastructure undergrounding plan, including the undergrounding projects located in tier 2 or 3 high fire-threat districts or rebuild areas that it will construct as part of the program, to the Office of Energy Infrastructure Safety, which would be required to approve or deny the plan within 9 months. If the office approves the large electrical corporation's plan, the bill would require the large electrical corporation to submit to the Commission a copy of the plan and an application requesting review and conditional approval of the plan's costs and would require the Commission to approve or deny the plan within 9 months. If the plan is approved by the office and Commission, the bill would require the large electrical corporation to file specified progress reports, include additional information in its wildfire mitigation plans, hire an independent monitor to review and assess its compliance with its plan, apply for available federal, state, and other nonratepayer moneys throughout the duration of the approved plan, and use those nonratepayer moneys to reduce the program's costs on

its ratepayers, as specified. The bill would authorize the Commission to assess penalties on a large electrical corporation that fails to substantially comply with the commission decision approving its plan.

Under existing law, a violation of any order, decision, rule, direction, demand, or requirement of the Commission is a crime.

Because a violation of a commission action implementing this bill’s requirements would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 8385 of the Public Utilities Code is amended to read:

8385. (a) For purposes of this chapter, the following definitions shall apply:

- (1) “Compliance period” means a period of approximately one year.
- (2) “Deenergization event” means the proactive interruption of electrical service for the purpose of mitigating or avoiding the risk of causing a wildfire.
- (3) “Electrical cooperative” has the same meaning as defined in Section 2776.
- (4) “Large electrical corporation” has the same meaning as defined in Section 3280.
- (5) “Office” means the Office of Energy Infrastructure Safety, within the Natural Resources Agency.

(b) Beginning July 1, 2021, the office shall supervise an electrical corporation’s compliance with the requirements of this chapter pursuant to the Public Utilities Act (Part 1 (commencing with Section 201) of Division 1). Nothing in this chapter affects the Commission’s authority or jurisdiction over an electrical corporation, electrical cooperative, or local publicly owned electric utility.

SEC. 2. Section 8388.5 is added to the Public Utilities Code, to read: 8388.5.

(a) The Commission shall establish an expedited utility distribution infrastructure undergrounding program consistent with this section.

- (b) Only a large electrical corporation may participate in the program.
- (c) In order to participate in the program, a large electrical corporation shall submit to the office a distribution infrastructure undergrounding plan that shall address or include, at minimum, all of the following components:
 - (1) A 10-year plan for undergrounding distribution infrastructure.

(2) Identification of the undergrounding projects that will be constructed as part of the program, including a means of prioritizing undergrounding projects based on wildfire risk reduction, public safety, cost efficiency, and reliability benefits. Only undergrounding projects located in tier 2 or 3 high fire-threat districts or rebuild areas may be considered and constructed as part of the program.

(3) Timelines for the completion of identified and prioritized undergrounding projects, and unit cost targets and mileage completion targets for each year covered by the plan.

(4) A comparison of undergrounding versus aboveground hardening of electrical infrastructure and wildfire mitigation for achieving comparable risk reduction, or any other alternative mitigation strategy, such as covered conductor and rapid earth fault current limiter devices, for those prioritized undergrounding projects, evaluating the scope, cost, extent, and risk reduction of each activity, separately and collectively, over the duration of the plan. The comparison shall emphasize risk reduction and include an analysis of the cost of each activity for reducing wildfire risk, separately and collectively, over the duration of the plan.

(5) A plan for utility and contractor workforce development.

(6) An evaluation of project costs, projected economic benefits over the life of the assets, and any cost containment assumptions, including the economies of scale necessary to reduce wildfire risk and mitigation costs and establish a sustainable supply chain.

(d) Upon a large electrical corporation submitting a plan to the office, the office shall do both of the following:

(1) Publish the plan for public comment.

(2) Within nine months, review and approve or deny the plan. The office may only approve the plan if the large electrical corporation has shown that the plan will substantially increase electrical reliability by reducing the use of public safety power shutoffs, enhanced powerline safety settings, deenergization events, and any other outage programs, and substantially reduce the risk of wildfire. Before approving the plan, the office may require the large electrical corporation to modify the plan.

(e) (1) Upon the office approving a plan pursuant to paragraph (2) of subdivision (d), the large electrical corporation shall, within 60 days, submit to the Commission a copy of the plan and an application requesting review and conditional approval of the plan's costs and including all of the following:

(A) Any substantial improvements in safety risk and reduction in costs compared to other hardening and risk mitigation measures over the duration of the plan.

(B) The cost targets, at a minimum, that result in feasible and attainable cost reductions as compared to the large electrical corporation's historical undergrounding costs.

(C) How the cost targets are expected to decline over time due to cost efficiencies and economies of scale.

(D) A strategy for achieving cost reductions over time.

(2) The assigned commissioner may waive the requirements of subdivisions (b), (d), (f), and (i) of Section 1701.3 for an application submitted to the Commission pursuant to paragraph (1).

(3) In reviewing an application submitted to the Commission pursuant to paragraph (1), the Commission shall consider not revisiting cost or mileage completion targets approved, or pending approval, in the electrical corporation's general rate case or a commission-approved balancing account ratemaking mechanism for system hardening.

(4) Upon the Commission receiving an application pursuant to paragraph (1), the Commission shall facilitate a public workshop for presentation of the plan and take public comment for at least 30 days.

(5) On or before nine months, the Commission shall review and approve or deny the application. Before approving the application, the Commission may require the large electrical corporation to modify or modify and resubmit the application.

(6) The Commission shall consider continuing an existing commission-approved balancing account ratemaking mechanism for system hardening for the duration of a plan, as determined by the Commission, and shall authorize recovery of recorded costs that are determined to be just and reasonable.

(f) If the plan is approved by the office and Commission, the large electrical corporation shall do all of the following:

(1) Every six months, file a progress report with the office and the Commission. The large electrical corporation and the office shall publish these progress reports on their internet websites.

(2) Include ongoing work plans and progress in annual wildfire mitigation plan filings.

(3) Hire an independent monitor, selected by the office, to review and assess the large electrical corporation's compliance with its plan and submit a report with the office each December 1 over the course of the plan.

(g) (1) In reviewing and assessing the large electrical corporation's compliance with its plan pursuant to paragraph (3) of subdivision (f), the independent monitor shall assess whether the large electrical corporation's progress on undergrounding work has been consistent with the objectives identified in its plan. The independent monitor's report shall specify any failure, delays, or shortcomings of the large electrical corporation and provide recommendations for improvements to accomplish the objectives set forth in the plan.

(2) The large electrical corporation shall have 180 days to correct and eliminate any deficiency specified in the independent monitor's report.

(3) On or before December 1 of each year the plan is in effect, the independent monitor shall submit the report to the office.

(h) The office shall publish reports received pursuant to paragraph (3) of subdivision (g) on its internet website.

(i) (1) The office shall consider the independent monitor's report and whether the large electrical corporation has cured any deficiencies, and may recommend penalties to the Commission.

(2) The Commission may assess penalties on a large electrical corporation that fails to substantially comply with a commission decision approving its plan.

(j) Each large electrical corporation participating in the program shall apply for available federal, state, and other nonratepayer moneys throughout the duration of its approved undergrounding plan, and any moneys received as a result of those applications shall be used to reduce the program's costs on the large electrical corporation's ratepayers.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.