



April 26, 2023

**VIA ELECTRONIC MAIL**

President Alice Reynolds  
Commissioner Genevieve Shiroma  
Commissioner Darcy Houck  
Commissioner John Reynolds  
Commissioner Karen Douglas  
Director Caroline Thomas Jacobs

California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102

Office of Energy Infrastructure Safety  
715 P Street, 20<sup>th</sup> Floor  
Sacramento, CA 95814

**RE: Implementation of Senate Bill 884 – Ten-Year Undergrounding Plans**

Dear Commissioners and Director Thomas Jacobs:

Public Advocates Office, The Utility Reform Network, and Mussey Grade Road Alliance (Joint Advocates) respectfully urge the California Public Utilities Commission (Commission) and the Office of Energy Infrastructure Safety (Energy Safety) to adopt several key principles and procedures to successfully and efficiently implement Senate Bill (SB) 884 (McGuire, 2022).

SB 884 requires the Commission to establish an expedited undergrounding program for utility distribution infrastructure. SB 884 allows large electrical utilities to propose a plan for Office of Energy Infrastructure Safety's (Energy Safety) review and approval or denial. If Energy Safety approves the plan, SB 884 then requires the utilities to submit a copy of the plan to the Commission for review and conditional approval of the plan's costs.

Among other things, SB 884 requires each plan to specify information for each proposed project, including:

- (1) identification and prioritization of specific undergrounding projects;
- (2) timelines for completion of projects;
- (3) comparison of risk reduction and cost efficiency of undergrounding projects with aboveground hardening and other wildfire mitigation strategies; and
- (4) evaluation of project costs and projected economic benefits over the life of the assets, cost containment assumptions, and economies of scale necessary to reduce wildfire risk and mitigation.

## **I. KEY PRINCIPLES FOR IMPLEMENTATION OF SB 884**

The Joint Advocates recommend the following key policy principles for implementing SB 884:

- An undergrounding project should only be authorized for rate recovery when the utility has demonstrated that, compared to all other wildfire mitigation alternatives, it represents the best choice for the project location.
- Undergrounding should be prioritized for the highest-risk locations, where it is most cost-effective given Commission-defined safety goals.
- Decisions about whether to approve cost-recovery for particular undergrounding projects should be based on up-to-date, location-specific information for risks, costs, and alternative mitigations.
- Utilities must be accountable for their promises regarding reductions in undergrounding costs and cost savings from undergrounding.
- The scope of undergrounding projects approved for rate recovery must reflect bedrock ratemaking considerations such as affordability, the competing demands on ratepayer funds, the effect of elevated electric rates on achieving electrification objectives, and environmental and social justice goals.

Appendix A to this letter provides more explanation of each of these key principles.

## **II. PROCEDURES FOR IMPLEMENTATION OF SB 884**

The Joint Advocates recommend that the Commission and Energy Safety undertake thoughtful preparation now to efficiently implement SB 884. While responsible policy planning will take some time up front, it will likely save more time later by avoiding confusion and points of contention regarding how the language of SB 884 should be interpreted. An especially thorny

issue is how an SB 884 proceeding would relate to rate cases and wildfire mitigation plan proceedings; this should be resolved in advance.

The Joint Advocates recommend that the Commission initiate a rulemaking, which could be completed within nine to ten months. Other stakeholders have also recommended a rulemaking to address SB 884 implementation to Safety Policy Division.<sup>1</sup> A rulemaking is recommended because it provides a procedurally well-defined opportunity, based on party input, to identify the points of SB 884 that require clarification, hear parties' concerns and proposals, and then consider recommendations on how to move forward.<sup>2</sup>

A rulemaking would also be the best vehicle for addressing the challenging issue of how to integrate SB 884 proceedings with rate cases and wildfire mitigation plan proceedings. One way to expedite such a rulemaking would be to start with a staff proposal (ideally prepared jointly by Commission and Energy Safety staff), to which parties could offer comments and improvements. A rulemaking would not slow down Pacific Gas and Electric Company's wildfire mitigation work because PG&E has already applied for rate recovery of wildfire-driven undergrounding work through the year 2026.

An alternative is for the Commission to use an informal decision-making process that ends with adoption of a Commission resolution. If this approach is necessary, we strongly urge this process to begin with issuance of a joint staff proposal for opening and reply comments. This will allow stakeholders to raise policy questions, recommend solutions, and identify any unresolved issues or needed clarifications in the staff proposal, before any draft resolution is circulated. The issue of integrating SB 884 with rate cases and wildfire mitigation plans is too complex to be adequately addressed by allowing only one opportunity for party comments on a draft resolution.

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<sup>1</sup> See eg. Verizon Comments on SB 884 Workshop/Questions, March 10, 2023, p. 1. ["Verizon strongly recommends that the Commission...open a rulemaking to address SB 884 implementation and provide notice to all potentially interested parties."] See also, Extenet Comments on SB 884 Workshop, March 9, 2023, p. 2. ["ExteNet requests the Commission to open a rulemaking on SB 884 implementation and to include issues related to the effects of undergrounding on communications attachments. ExteNet submits that a rulemaking will ensure a full and complete record, as well as the opportunity for cross-industry participation."]

<sup>2</sup> See Extenet Comments on SB 884 Workshop, March 9, 2023, p. 2. ["Opening an immediate rulemaking to establish rules for addressing communications provider issues is especially important because the Commission will have only nine months to review 3 proposed undergrounding plans... With such a compressed time frame, it is unlikely that the Commission would be able to adequately consider effects of undergrounding on communications providers without an already-established set of rules, protocols and procedures."]

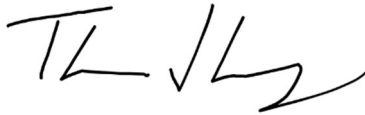
### III. CONCLUSION

In conclusion, the Joint Advocates recommend that the Commission and Energy Safety adopt the five key principles described above, regardless of the procedure chosen. A rulemaking is the best procedural vehicle to ensure SB 884 leads to substantial safety improvements for the public with reasonable costs to utility ratepayers.

Sincerely,



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Deputy Director  
The Public Advocates Office



Thomas J. Long  
Director of Regulatory Strategy  
The Utility Reform Network (TURN)



Diane Conklin  
Spokesperson  
Mussey Grade Road Alliance

cc:

SB884 notification list  
PG&E TY 2023 GRC service list



## APPENDIX A

### KEY PRINCIPLES FOR SB 884 IMPLEMENTATION

Presented by Cal Advocates, MGRA, and TURN

In recognition of the fact that undergrounding is the most complicated to implement and most expensive wildfire mitigation option, SB 884 requires careful and detailed consideration of undergrounding projects by both the Office of Energy Infrastructure Safety (Energy Safety) and the California Public Utilities Commission (CPUC) before a utility undergrounding plan is approved and before rate recovery of undergrounding costs is allowed. Among many other requirements, SB 884 requires that proposed undergrounding projects be compared with all other reasonable alternative mitigation strategies and that the utility demonstrate, for each project, that undergrounding represents the best and most efficient use of ratepayer funds that achieves the safety goals of the Commission and Energy Safety.

Below, we present the most important principles that the CPUC and Energy Safety should keep in mind in designing an SB 884 implementation program.

- **An undergrounding project should only be authorized for rate recovery when the utility has demonstrated that, compared to all other wildfire mitigation alternatives, it represents the best choice for the project location.** The choice of wildfire mitigation strategy depends on many location-specific factors, such as the level of wildfire risk, specific risk drivers in the location, avoidance of risk from PSPS and other outage programs, cost, and feasibility of undergrounding in that location. For example, because of the numerous execution challenges with undergrounding – including land rights acquisition, soil and rock conditions, environmental considerations, and permit acquisition – the schedule for completion of an undergrounding project is generally longer and much more uncertain than other alternatives. In its 2021 WMP (p. 601), PG&E stated that a typical overhead hardening project can be completed in 13-16 months, whereas an underground project can take 18-45 months, depending on the execution risks presented. For this reason, SB 884 requires the undergrounding plans to include detailed project-specific information demonstrating that undergrounding is the superior alternative when these factors are considered. (In the context of a 10-year plan, a *project* is a self-contained set of activities at a circuit or sub-circuit level, which can be independently assessed for its ability to reduce wildfire risk, cost and timing. Projects can be scheduled, mapped and prioritized.) The SB 884 process should require utilities to make this showing for each project before rate recovery for undergrounding is allowed.

- **Undergrounding should be prioritized for the highest-risk locations, where it is most cost-effective given Commission-defined safety goals.** SB 884 prescribes that undergrounding projects be prioritized based on wildfire risk reduction, public safety, cost efficiency, and reliability benefits.<sup>3</sup> The quantitative risk analysis required by the CPUC, as updated in D.22-12-027, accounts for all of these considerations in a numerical measure that allows comparison of the benefits of a proposed mitigation project with its costs. To limit the burden on electricity ratepayers (see the final principle in this list), undergrounding should be reserved for the highest-risk locations within High Fire Threat Districts and rebuild areas, where a project’s benefit-cost ratio exceeds a minimum value determined in the SB 884 process.
- **Decisions about whether to approve cost-recovery for particular undergrounding projects should be based on up-to-date, location-specific information for risks, costs, and alternative mitigations.** Considerations affecting the analysis of undergrounding compared to alternative mitigations are changing rapidly. For example, new and lower-cost technologies are emerging to reduce ignition risk and to mitigate impacts from PSPS events and other outage programs. These technologies, in combination with covered conductor, may achieve levels of protection equivalent to undergrounding. Utilities are also obtaining more extensive and more granular data regarding risk drivers and effectiveness of current mitigations, while wildfire risk models are changing substantively with each new revision. As another example, PG&E’s 2023 Wildfire Mitigation Plan has identified new “high fire risk areas,” representing an additional two million acres (equivalent to an 8% increase to the existing HFTDs) that were not publicly identified until now.<sup>4</sup> <sup>5</sup> In addition, as noted in the first principle above, during the planning for a project, utilities are likely to learn about execution challenges that significantly alter the comparison with alternatives.

As a result, it is important that Energy Safety and the CPUC require utilities to compare undergrounding with alternative mitigations based on the most up-to-date information possible before regulators authorize cost recovery for a particular undergrounding project. Otherwise, ratepayers are likely to be burdened with projects that have already proven to no longer be the most cost-effective option by the time they are completed. Consistent with the “conditional approval” language in SB 884, any final approval of cost recovery should be contingent on an

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<sup>3</sup> SB 884 also limits ten-year undergrounding plans to CPUC-designated high fire threat districts and rebuild areas, which indicates the legislature’s intention of concentrating on high-risk locations.

<sup>4</sup> See PG&E’s 2023-2025 Wildfire Mitigation Plan, March 27, 2023, p. 98.

<sup>5</sup> SB 884 mandates that only undergrounding projects in tier 2 and 3 HFTDs or fire rebuild areas may be considered. Accordingly, if PG&E submits a SB 884 plan it must exclude these 2 million acres from its consideration.

updated showing that the project is superior to the alternatives. The CPUC's general rate case (GRC) process can and should be used for this purpose.

- **Utilities must be accountable for their promises regarding reductions in undergrounding costs and cost savings from undergrounding.** In their advocacy for undergrounding, utilities assert that unit costs for undergrounding will decline significantly, thereby increasing its cost-effectiveness. They also contend that the benefits of undergrounding include cost savings from curtailing existing programs such as vegetation management. At this point, we do not know whether these utility assumptions and targets will be realized. Shareholders, not ratepayers, should be held responsible for ensuring that these targets are met and should shoulder the risk of the utility falling short in meeting these goals. Energy Safety and the CPUC can satisfy this principle by imposing steadily declining unit cost caps for undergrounding consistent with utility targets. Energy Safety and the CPUC should also require utilities to propose additional ratemaking mechanisms to ensure that utilities deliver to ratepayers the promised cost savings from other programs.

Certain additional provisions of SB 884 require such accountability. For example, Cal. Pub. Util. Code Section 8388.5(i)(2) provides that the Commission may assess penalties on a large electrical corporation that fails to substantially comply with a Commission decision approving its plan. The Commission can and should also impose penalties against a utility if it fails to meet the targets, including cost reduction goals, that it sets out in its plan. As another example, Pub. Util. Code Section 8388.5(f)(1) requires that if Energy Safety and the Commission approve a plan, the electrical corporation must file a progress report with both agencies every six months, include ongoing work plans and progress in annual wildfire mitigation plan filings, and hire an independent monitor to review and assess compliance with the plan. The Commission should require each utility to include the independent monitor's assessment in each progress report, and should also use that assessment for purposes of holding the utilities accountable as discussed above.

- **The scope of undergrounding projects approved for rate recovery must reflect bedrock ratemaking considerations such as affordability, the competing demands on ratepayer funds, the effect of elevated electric rates on achieving electrification objectives, and environmental and social justice goals.** SB 884 does not change the fundamental requirements of Public Utilities Code Sections 451 and 454 that, before any costs may be added to rates, the CPUC must find those costs to be just and reasonable. Thus, the CPUC is already legally obligated to carefully consider all factors affecting whether rates resulting from an approved undergrounding program would be just and reasonable, including all of the considerations listed above.

Affordability and the avoidance of disconnections must also be considered under Pub. Util. Code Sections 382, 718 and 739.13. These are particularly important considerations given the extensive and costly undergrounding programs proposed by certain utilities. These considerations should ensure that the potential mitigation of harm from wildfire and PSPS risk exceeds the harm that may be inflicted on low-income and vulnerable populations by the rate increases necessary to support the undergrounding program. The SB 884 implementation process must ensure that these statutory requirements for the approval of undergrounding-related cost and rate increases are satisfied. CPUC general rate cases are designed to meet these requirements; they can and should be used to ensure that all relevant considerations are taken into account before approving rate recovery for undergrounding programs.