



**Constance Turner**  
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August 24, 2018

Ms. Jacki Bacharach  
Executive Director  
South Bay Cities Council of Governments  
20285 S. Western Avenue  
Torrance, CA 90501

Re: Trenching/Dig-Once Policy

Dear Jacki:

On behalf of Southern California Edison, thank you for sending us a draft of the COG's draft proposal regarding new requirements for utilities when undergrounding utilities. SCE has already discussed this issue with several jurisdictions. It is SCE's position that the subject proposal is neither practical, workable nor legally enforceable for several reasons. As a threshold matter, SCE's ratepayers cannot be required either directly or indirectly to take on any form of cost (including without limitation special benefits associated with SCE's contractor pricing) for the installation of third party conduit. On a practical level, the schedule and planning for excavation varies considerably depending on the nature of the work. In the usual course, by the time SCE presents an undergrounding work plan to the jurisdiction, considerable engineering work has been performed. Requiring that SCE supplement its design (even with pre-set standards) would require a significant disruption to SCE's planning processes which would both delay our work and shift considerable cost to our ratepayers. As an example, SCE maintains long-standing agreements with contractors and vendors which do not contemplate this scope of work. Finally, SCE believes such requirements would be legally unenforceable because they regulate the design of SCE's facilities which is squarely within the purview of the California Public Utilities Commission (CPUC) (the jurisdiction would be preempted) **and** because the imposition of such requirements adds cost and/or delay to our activities, thereby violating our franchise agreements.

Courts have routinely stricken requirements adding new cost or delay to utilities activities as being violative of SCE's franchise rights. Although adopted by ordinance and reserving certain regulatory powers to the jurisdiction, courts have found franchises to be contracts. This is so because the utility is required to accept the terms of the franchise. In recent years, jurisdictions have attempted to pass certain costs on to the utilities, adopted requirements requiring further permits and review, and mandated undergrounding. In all such instances, the courts have determined the requirements to be unenforceable.

Notwithstanding the utility's position, it should be noted that a number of the impacts the proposal intends to address can be resolved through improved coordination by and between the jurisdiction and utility. To that end, SCE offers the opportunity to provide regular utility briefings wherein SCE staff will provide information regarding forecasted/planned excavation work. When this information is provided, the jurisdiction is free to evaluate whether there may be benefits associated with coordinating the installation of its own conduit at or prior to the utility's installation of its systems.

Thank you for considering our position. We look forward to meeting with you and the membership. In the interim, please do not hesitate to contact me should you have any questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Constance Turner". The signature is fluid and cursive, with a long horizontal stroke at the end.

Constance Turner  
Government Relations Manager  
Local Public Affairs

cc: Mark A. Rothenberg, SCE, Law Department  
Scot Snyder, SCE, Transmission & Distribution