

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

**Communications Division
Carrier Oversight & Programs Branch**

**RESOLUTION T- 17465
January 14, 2016**

R E S O L U T I O N

Resolution T-17465. This Resolution Grants AT&T California Authority to Deviate From the Requirements of California Public Utilities Code § 320 to Relocate Two Poles Along State Scenic Highway 89 in El Dorado County Pursuant to the California Department of Transportation's (Caltrans) Request.

By Advice Letter No. 43222, Filed January 24, 2014.

Summary

This Resolution grants AT&T authority to replace and relocate two poles on Highway 89 to accommodate Caltrans' drainage improvement and pavement rehabilitation project. AT&T California (U-1001-C) (AT&T) filed Advice Letter (AL) 43222 on January 24, 2014 requesting a deviation from California Public Utilities (P.U.) Code § 320 to relocate two poles along state scenic Highway 89 in El Dorado County, pursuant to a Caltrans construction request. AT&T has justified this request with data showing that: a) the cost to underground the two poles would be substantial and more costly than to relocate them; and b) there is no significant aesthetic impact, as the adjacent poles and facilities along this roadway would remain overhead. The Commission finds AT&T's request to be reasonable and approves it.

Background

P.U. Code § 320 states that:

The legislature hereby declares that 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 communications distribution facilities which are proposed to be erected in proximity to any highway designated a state scenic highway pursuant to Article 2.5 (commencing with Section 260) of Chapter 2 of Division 1 of the Streets and Highways Code and which would be visible from such scenic highways if erected above ground. The commission shall prepare and adopt by December 31, 1972, a statewide plan and schedule for the undergrounding of all

such utility distribution facilities in accordance with the aforesaid policy and rules of the Commission relating to the undergrounding of facilities. The commission shall coordinate its activities regarding the plan with local governments and planning commissions concerned. The commission shall require compliance with the plan upon its adoption. This section shall not apply to facilities necessary to the operation of any railroad.

Commission Decision 80864, dated December 16, 1972, implemented P.U. Code § 320. The Decision defined “in the proximity” to mean within 1,000 feet from each edge of the right-of-way of designated state scenic highway. Decision 80864, Ordering Paragraph 3.B states that “[r]espondents shall review with, and seek an expression of opinion from, the appropriate local governmental agency prior to requesting Commission authorization for deviation from the requirements of paragraph 1 of this order.”

On August 30, 2011, Caltrans issued a Notice to Owner and Encroachment Permit requesting that AT&T relocate overhead utility poles along Highway 89 to enable Caltrans to facilitate drainage improvement and pavement rehabilitation adjacent to the highway. AT&T states that Caltrans has asked it to relocate the two poles approximately six feet from their current locations. The electric utility, telecommunications, and cable television facilities attached to the poles would remain in the same position on the replacement poles.

Accordingly, AT&T sought an expression of opinion from the Department of Public Works (DPW) for El Dorado County. The DPW deferred this issue to Caltrans in January 2014 because Caltrans manages the State Scenic Highway program. On January 16, 2014, Caltrans issued a written statement indicating that it had no opposition to AT&T’s plan.¹

On January 24, 2014, AT&T submitted Tier 3 AL 43222, pursuant to D.80864, requesting a deviation from P.U. Code § 320, to relocate and replace the two poles along Highway 89 designated as a state scenic highway in El Dorado County, to accommodate the drainage improvement and pavement rehabilitation.

Caltrans subsequently issued a revised Notice to Owner on May 1, 2014, requesting that AT&T “[r]elocate various telephone overhead and poles throughout project from Tahoma to Tahoe City along HW 89 in El Dorado and Placer county as approved [on] 8/30/11”. Caltrans issued this revised notice at Communications Division (CD) staff’s request so that the specific location of the relocated poles would be included. Finally, AT&T asserts that this two-pole relocation project is categorically exempt from the California Environmental Quality Act (CEQA) per Section 15301 (Class I) – minor

¹ AT&T Advice Letter 43222, Attachment C, Caltrans – Expression of Opinion

alteration of existing facilities. Additionally, AT&T states that relocation of these two poles would not result in damage to scenic resources.

Notice/Protests

Notice of AL No. 43222 was published in the Commission Daily Calendar of January 29, 2014. The Commission received no protests to this AL.

Discussion

CD staff reviewed the process that AT&T undertook to comply with P.U. Code § 320 deviation requirements, and found the following:

Overview

In AL 43222, AT&T states that the two replacement poles would be relocated about six feet from the current placement locations. Photographs provided in AL 43222 indicate that both poles – on opposite sides of the highway – would be removed, with respective replacement poles to be placed approximately six feet to the south of their current placements, while maintaining a six-foot setback from the highway. The replacement poles would be approximately the same size as the existing poles. Additionally, the adjacent poles and facilities along the highway would remain overhead.

Financial Impact

AT&T indicates that it is the sole owner of these poles. Suddenlink Communications and Liberty Utilities (an electric service provider) are tenants on the poles, with respective infrastructure fixtures attached. AT&T contends that the cost to place these facilities underground would be substantial. Table 1 below shows AT&T's estimates provided in AL 43222. The cost of undergrounding is approximately seven times more costly – an approximately 7:1 ratio – compared to replacing and repositioning the poles and facilities, as itemized by cost for each company in this table:

Table 1
Cost Comparison: Undergrounding vs. Overhead Illustrating an Approximately 7:1 Cost Ratio

Description	AT&T	Liberty Utilities	Suddenlink Communications	Total Cost
Overhead Cost	\$4,200	\$1,200	\$1,200	\$6,600
Underground Cost	\$25,000	\$12,000	\$10,250	\$47,250

Based on the cost data and our follow-up discussions with AT&T, CD finds that the cost disparity between the undergrounding and overhead options as illustrated in Table 1 is significant and that above-ground relocation of the two poles is a more cost effective option.

Scenic/Environmental Impact

AT&T states that: a) the replacement poles would be similar in size as the current ones; b) the facilities attached to the poles would remain the same and in the same relative position on the replacement poles; c) because these relocations are minor alterations to existing facilities, such relocations are categorically exempt from CEQA requirements per §15301 (Class I); and d) the pole relocations would not have a significant visual impact and would not result in damage to scenic resources. Consequently, AT&T maintains that the aesthetic impact of relocating the poles would be insignificant. AT&T provided a picture of the current pole locations with the proposed relocations superimposed on the picture.²

On December 3rd, 2014, CD staff requested that AT&T provide a copy of the environmental study confirming its CEQA-exempt claim. As Caltrans was the initiator of this project by ordering AT&T to relocate the poles, Caltrans provided a link to its Initial Study/Mitigated Negative Declaration (“MND”).³ Caltrans confirmed with CD staff that the study document included the proposed location of the pole relocations. The MND determined that the proposed project will not have a significant effect on the environment.⁴

Community Impact

CalTrans does not object to AT&T’s plan to reposition and replace the poles by approximately six feet.⁵

Safety Considerations

It is the carrier’s responsibility to comply with all Commission rules, decisions, General Orders and statutes including P.U. Code § 451 to “furnish and maintain such adequate, efficient, just, and reasonable service, instrumentalities, equipment, and facilities, including telephone facilities, as defined in Section 54.1 of the Civil Code, as are necessary to promote the safety, health, comfort, and convenience of its patrons, employees, and the public.” Further, General Order 95, Rule 31.1 requires “electrical

² *Id.*, AT&T AL 43222, Attachment B.

³ <http://www.dot.ca.gov/dist3/departments/envinternet/Pla89-2/pla89final.pdf>

⁴ *Id.*

⁵ AT&T AL 43222, Attachment C.

supply and communications systems [to] be designed, constructed, and maintained for their intended use, regard being given to the conditions under which they are to be operated, to enable the furnishing of safe, proper, and adequate service.”

Relocation and replacement of these two poles will enhance public safety because Caltrans’ proposed construction will improve the drainage system, rehabilitate pavement along this section of highway, and move the respective poles back from the highway an additional six feet.

Conclusion

CD staff has reviewed AT&T’s proposal and justification for requesting a P.U. Code § 320 deviation for this project. CD agrees that the comparative cost of undergrounding versus replacing poles with overhead construction justifies this request in showing that the undergrounding option is not feasible. Additionally, staff has reviewed the MND, and agrees with Caltrans’ determination that the proposed project will not have a significant effect upon the environment. Therefore, CD recommends that the Commission approve AT&T request for a P.U. Code § 320 deviation.

Comments

In compliance with P.U. Code § 311(g), the Commission emailed a notice letter on December 9, 2015, informing all parties on the service list for the resolution T-17465 of the availability of this resolution for public comments at the Commission’s website www.cpuc.ca.gov. The notice letter also informed parties that the final conformed resolution adopted by the Commission will be posted and available at this same website. The Commission received no comments addressing this resolution.

Findings and Conclusions

1. AT&T filed Advice Letter 43222 requesting a deviation from California Public Utilities Code § 320, to relocate two poles along state scenic Highway 89 in El Dorado County, pursuant to a Caltrans construction request.
2. Commission Decision 80864, dated December 16, 1972, implemented P.U. Code § 320 and defined “in the proximity” to mean within 1,000 feet from each edge of the right-of-way of designated state scenic highway.
3. Caltrans issued a Notice to Owner and Encroachment Permit, requesting that AT&T relocate poles along state designated scenic Highway 89 to accommodate Caltrans’ drainage improvement and pavement rehabilitation project.

4. AT&T's proposed relocation involves replacing two poles of approximately the same size to a distance of about six feet from the current locations with all telecommunications, electric utility, and cable television facilities on the replacement poles remaining in the same position.
5. CalTrans issued an expression of opinion indicating that it had no opposition to AT&T's plan.
6. AT&T submitted Tier 3 AL 43222 pursuant to D.80864, requesting a deviation from P.U. Code § 320, to relocate and replace the two poles to accommodate Caltrans' drainage improvement and pavement rehabilitation project.
7. AT&T estimates that the cost of undergrounding is approximately seven times more costly – an approximately 7:1 ratio – compared to replacing and repositioning the poles and facilities.
8. AT&T states that the aesthetic impact of relocating the poles would be insignificant.
9. Caltrans' Initial Study/Mitigated Negative Declaration found that the project will not have a significant effect on the environment.
10. We have considered the findings and conclusions in Caltrans' Initial Study/Mitigated Negative Declaration and they reflect our independent judgment.
11. The Initial Study and Mitigated Negative Declaration is adequate for our decision-making purposes pursuant to CEQA.
12. CD recommends that the Commission approve AT&T's request to deviate from provisions of P.U. Code § 320 to relocate and replace two poles along scenic Highway 89 in El Dorado County, in consideration of financial, environmental, community and safety impact.
13. On December 9, 2015 the Commission emailed a draft of this resolution to service list for the resolution T-17465 for public comments.
14. The Commission received no comments addressing this resolution.

THEREFORE, IT IS ORDERED that:

1. AT&T's request to deviate from the provisions of Public Utilities Code Section 320 to relocate and replace two poles and associated facilities, to be set approximately six feet to the south of their current locations, while maintaining a six-foot setback along state scenic Highway 89 in El Dorado County, is herein approved .

This Resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on January 14, 2016. The following Commissioners approved it:

TIMOTHY J. SULLIVAN
Executive Director