

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**



FILED

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Order Instituting Rulemaking on the Commission's Own Motion into the Application of the California Environmental Quality Act to Applications of Jurisdictional Telecommunications Utilities for Authority to Offer Service and Construct Facilities.

R.06-10-006
(Filed October 5, 2006)

**MOTION OF THE LEAGUE OF CALIFORNIA CITIES,
THE CALIFORNIA STATE ASSOCIATION OF COUNTIES, AND SCAN
NATOA, INC. FOR LEAVE TO FILE A REPLY TO THE OPPOSITION TO
THEIR MOTION FOR AN IMMEDIATE STAY OF DECISION 10-12-056**

Pursuant to Rule of Practice and Procedure 11.1(f) of the California Public Utilities Commission (the "Commission"), the California State Association of Counties, and SCAN NATOA, INC. (collectively the "Local Governments"), file this motion for leave to file a reply to the opposition to their motion for an immediate stay of Decision 10-12-056.

Local Governments requested leave to file this reply from the Assigned Administrative Law Judge (Maribeth A. Bushey). In an email message dated February 17, 2011, Assistant Chief Administrative Law Judge Jacqueline A. Reed informed the attorneys for Local Governments that ALJ Bushey did not have authority to address this request because this matter is currently with the Commission's Appellate Section. She instructed Local Governments to file a motion for leave with the response to the opposition.

There is good cause for the Commission to grant this motion. Local Governments demonstrated in their motion that the Commission must stay the Decision pending resolution of the Application because: (1) Local Governments and the public will suffer serious and irreparable harm unless the Decision is stayed; (2) Local Governments have demonstrated a probability of succeeding on the merits of the underlying claims in the accompanying application for rehearing; (3) granting the stay will not create any harm to either the public interest or any other interested party; and (4) granting the stay will ensure judicial and administrative

efficiency and allow the Commission to address the lack of due process afforded to Local Governments.

The Competitive Carriers and the California Wireless Association filed oppositions to Local Governments' motion. The Competitive Carriers argue that the Commission should deny the motion because: (1) Local Governments have not established irreparable harm; (2) it is highly unlikely Local Governments will prevail on their Application; and (3) the balance of harms do not support the stay. CalWA argues that Local Governments' concerns can be addressed through ministerial permits.

Local Governments respectfully request that the Commission grant them leave to file their reply to the opposition to their motions. As discussed in Local Governments' reply filed herewith, the motion satisfies all of the legal requirements for staying the enforcement of a Commission decision while an application for rehearing is pending. None of these arguments present good grounds for the Commission to deny Local Governments' motion for a stay.

Dated: February 18, 2011

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CERTIFICATE OF SERVICE

I, **PAULA FERNANDEZ**, declare that:

I am employed in the City and County of San Francisco, State of California. I am over the age of eighteen years and not a party to the within action. My business address is City Attorney's Office, City Hall, Room 234, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102; telephone (415) 554-4623.

On February 18, 2011, I served: **Motion of the League of California Cities, the California State Association of Counties, and SCAN NATOA, Inc. for Leave To File a Reply to the Opposition to their Motion for an Immediate Stay of Decision 10-12-056** by electronic mail on the attached Service List, Proceeding No. R06-10-006.

The following addressee(s) without an email address were served:
BY UNITED STATES MAIL: Following ordinary business practices, I sealed true and correct copies of the above documents in addressed envelope(s) and placed them at my workplace for collection and mailing with the United States Postal Service. I am readily familiar with the practices of the San Francisco City Attorney's Office for collecting and processing mail. In the ordinary course of business, the sealed envelope(s) that I placed for collection would be deposited, postage prepaid, with the United States Postal Service that same day.

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I declare under penalty of perjury pursuant to the laws of the State of California that the foregoing is true and correct.

Executed February 18, 2011, at San Francisco, California.

/s/
PAULA FERNANDEZ



California Public
Utilities Commission

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