

A T T A C H M E N T A

January 13, 2011

**CEQA Addendum
California Public Utilities Commission
A.09-03-007**

NextG Network of California, Inc. Distributed Antenna System Project (Huntington Beach)

The following changes to the Negative Declaration are adopted:

Page 4-51

The last sentence before the chart, beginning with “As indicated...” is deleted and replaced with the following: “As indicated in Table 4.9-1, the project would be consistent with all applicable land use polices, zoning codes, and local regulations, with the exception of the fact that installation of the three poles constitutes a minor conflict with the Huntington Beach Undergrounding Ordinance (Municipal Code 17.64.050). However, to the extent this ordinance is in conflict with the project approved the Commission, it is preempted. Therefore, impacts would be less than significant.”

Page 4-53, Table 4.9-1

The last sentence in the text in the last box under “Consistency Determinations,” beginning with “The project would not...” is deleted and replaced with the following: “The project would not result in a significant change from existing conditions, and although the installation of the three poles conflicts to some extent with Municipal Code 17.64. To the extent the Municipal Code conflicts with the project as approved by the Commission, it is preempted.” For these reasons, the conflict with the Municipal Code is not considered to be a substantial conflict, and does not result in a significant impact.

Attachment 2, Responses to Comments, page 49

The last sentence in Response C-2 is deleted and replaced with, “To the extent the undergrounding ordinance conflicts with the project as approved by the Commission, it would be a minor conflict and those provisions of the ordinance are preempted.”

The first sentence in Response C-4 is deleted and replaced with, “As stated in response C-2, although the proposed project has a minor conflict with the undergrounding ordinance, the ordinance is not an “applicable” regulation, because the ordinance is preempted to the extent it conflicts with the project as approved by the Commission. Therefore, any conflict with the ordinance does not result in a significant impact. The cases cited by Huntington Beach fail to support its contention.”

Response C-5 is deleted and replaced with, “To the extent the undergrounding ordinance conflicts with the project as approved by the Commission, it is preempted and does not apply to the project. In any event, there is no support for Huntington Beach’s contention that any conflict, with a local land use ordinance, regardless of degree, must be treated as a potentially significant impact.”

Because this addendum is only clarifying certain legal rationale, and there is no change in the project or the surrounding circumstances, no recirculation or further analysis is required. (See CEQA Guidelines § 15164 (b).)