

PUBLIC UTILITIES COMMISSION

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September 29, 2023

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RE: Telecommunications Leases to Verizon Wireless and T-Mobile

Purpose

California Water Service Company (Cal Water) submitted Advice Letter 2493 complying with General Order 173 on September 1, 2023, requesting approval to lease space on Cal Water's property to Sacramento-Valley Limited Partnership, dba Verizon Wireless (VZW) and T-Mobile West, LLC (TMO) (together the Carriers) so they may construct an elevated fake water tank (the Fake Tank) to hold telecommunications equipment. The term and net present value of lease fees for each lease under the proposed transactions are a 15 year term for \$554,000 with VZW, and a 20 year term for \$659,242 with TMO, for a cumulative net present value of \$1,213,242.00.

Description of Property (location, condition, and use):

The Property is situated at Cal Water's Station 104_008, at the intersection of E. 6th Ave. and Oleander Ave., in Chico, California 95926 (APN 003-041-002-000) within the Chico District. This property spans approximately 0.41 acres or 17,860 square feet. At this location, Cal Water currently operates and maintains an approximately 122-foot tall, elevated tank, plus a nearby well and pump house that are to the west of the property. To the east of the existing elevated tank there is a portion of vacant land available that Cal Water does not use.

Currently, at this property, Cal Water leases tower and ground space to the Carriers. The Carriers have attached their antennas and telecommunications equipment to the existing elevated tank and related equipment occupies approximately 312 square feet of ground space, per an existing lease.

Water Division's Analysis

General Order No. 173 provides for a regulatory review of an advice letter submitted under Public Utilities Code § 851. Specifically, Rule 7.a (5) outlines the procedure to be followed for a review by either the Executive Director or an Industry Division Director:

If an unprotested advice letter is not rejected for any of the reasons stated above and does not require environmental review by the Commission as a Responsible Agency under CEQA, the Executive Director or the Director of the appropriate Commission Industry Division may issue a disposition letter, which either grants, modifies, or denies the advice letter. The disposition letter shall include a supporting analysis by the Industry Division. A copy of the disposition letter shall be served on all persons on whom the advice letter application was served, and the results of the disposition letter shall be posted on the Commission website.

The Water Division is the appropriate Commission Industry Division for water companies under the jurisdiction of the Commission. General Order No. 173, Rule 3, outlines the criteria for review of advice letters for transactions which require Commission approval under Public Utilities Code § 851. Below are the eleven criteria for a § 851 review by advice letter, along with Water Division's analysis and findings.

- 1- *The activity proposed in the transaction will not require an environmental review by the Commission as a Lead Agency under the California Environmental Quality Act (CEQA).*

The proposed license allows the Carriers continued access to and use of the property consistent with its current use, which has been operating since approximately 2002. This proposed license, including the process related to constructing the Fake Tank, is not considered a "project" under Public Resource Code § 20165, as it does not cause a direct physical change in the environment or a reasonably foreseeable indirect physical change, nor are the Carriers public agencies or the activity being supported by public agencies, and the project is not for use by public agencies. Per these conditions, the license satisfies the General Order 173, Rule 3a(2) condition of "not a project under CEQA". Therefore, no environmental review is necessary.

- 2- *The transaction will not have an adverse effect on the public interest or on the ability of the utility to provide safe and reliable service to customers at reasonable rates.*

The transaction involves granting leases with the Carriers to continue occupying a portion of Cal Water's property and constructing a Fake Tank to house communications antennas and equipment. The Fake Tank and ground equipment would be located within a portion of the property that Cal Water does not currently use and has no known plans of future use. Neither the Fake Tank nor related equipment operated by the Carriers would interfere with Cal Water's facilities or operations. Approval of the proposed transaction would: not affect the public interest or service to customers, enable Cal Water to continue its process of decommissioning its older existing tank, align with the local residents' preference of keeping the aesthetic of the site by installing an elevated fake water tank rather than a monopole,¹ and create additional ground space for Cal Water to consider for the future installation of a well or treatment facility.

¹ According to Cal Water, the staff of the City of Chico Planning Department support the idea of the Fake Tank (Advice Letter 1493 at p.1).

- 3- *Any financial proceeds from the transaction will be booked to a memorandum account for distribution between shareholders and ratepayers during the next general rate case or other applicable proceeding for that utility.*

Under General Order 173, Cal Water must meet several requirements, including Rule 3.c, which states:

Any financial proceeds from the transaction will be either:

- (1) Booked to a memorandum account for distribution between shareholders and ratepayers during the next general rate case or other applicable proceeding for that utility, or
- (2) Immediately divided between shareholders and ratepayers based on a specific distribution formula previously approved by the Commission for Cal Water.

Cal Water opted to meet the second requirement by forecasting the unregulated revenue the company will receive from the Carriers in the test year and apply 30% of those revenues as an offset to the forecasted expenses for the Chico District. In addition, requirement “(2)” states that proceeds should be “immediately” divided between the shareholders and the ratepayer without providing a specific definition to the word “immediately” or a specific timeline. Water Division finds dividing the proceeds in the next general rate case satisfies the immediacy requirement defined in the General Order. This request is determined to be reasonable based on previous precedence and meeting the General Order requirement above.

- 4- *If the transaction results in a fee interest transfer of real property, the property does not have a fair market value in excess of \$5 million.*

The transaction does not involve a fee interest transfer of real property. The transaction involves a lease, which is less than fee interest in real property, with a fair market value that is less than \$5 million. The net present value of the lease fees through the anticipated expiration of the proposed lease is \$554,000 for VZW and \$659,242 for TMO, or a total of \$1,213,242.00.²

- 5- *If the transaction results in a sale of a building or buildings (without an accompanying fee interest transfer of the underlying land), the building(s) does not have a fair market value in excess of \$5 million.*

The transaction does not involve the sale of a building or buildings, rather it involves leasing the use of the Fake Tank space and ground space to the Carriers for up to 20 years. The net present value of the lease through the anticipated expiration of the proposed lease is \$1,213,242.00.³

² AL 2493: Lease for use of Fake Tank space and ground space to the Carriers, page 5

³ Ibid

- 6- *If the transaction is for the sale of depreciable assets (other than a building or buildings), the assets do not have a fair market value in excess of \$5 million.*

The transaction does not involve the sale of a depreciable asset. It encompasses leasing the use of the Fake Tank space and ground space to the Carriers for up to 20 years. The net present value of the lease through the anticipated expiration of the proposed lease is \$1,213,242.00.⁴

- 7- *If the transaction conveys an easement, right-of-way, or other less than fee interest in real property, the fair market value of the easement, right-of-way, or other interest in property does not exceed \$5 million.*

The proposed lease is made pursuant to the authority of and upon and is subject to the conditions prescribed by General Order No. 69-C of the Commission dated and effective July 10, 1985, which is incorporated by this reference. General Order 69-C provides in part that all public utilities covered by the provisions of Public Utilities Code §851:

... are authorized to grant easements, licenses or permits for use or occupancy, on, over or under any portion of the operating property of said utilities for rights of way, private roads, agricultural purposes, or other limited uses of their several properties without further special authorization by this Commission whenever it shall appear that the exercise of such easement, license or permit will not interfere with the operations, practices and services of such public utilities to and for their ... consumers. ... Provided, however, that each such grant ... shall be made conditional upon the right of the grantor, either upon order of this Commission or upon its own motion to commence or resume the use of the property in question whenever, in the interests of its service to its patrons or consumers, it shall appear necessary or desirable so to do.

The net present value of the lease through the anticipated expiration of the proposed lease is \$1,213,242.00.⁵

- 8- *If the transfer is a lease or a lease-equivalent, the total net present value of the lease payments, including any purchase option, does not have a fair market value in excess of \$5 million, and the term of the lease will not exceed 25 years.*

Cal Water plans to grant a lease for the use of Fake Tank space and ground space to the Carriers for a maximum period of 20 years. The fee to be paid to Cal Water under the proposed transactions have a 3% annual consumer price index (CPI) increase and are based on current and comparable telecommunications leasing rates available from publicly available information

⁴ Ibid

⁵ Ibid

provided by the state of California.⁶ If these proposed transactions are approved, base rates for the leases will be the no less than the amounts as follows:

VZW Lease

<u>Period:</u>	<u>Minimum Annual Rent</u>
2023-2028	\$49,376.39
2028-2033	\$57,240.31
2033-2038/Expiration/Renewal	\$66,357.73

TMO Lease

<u>Period:</u>	<u>Minimum Annual Rent</u>
2023-2033	\$49,376.39
2023-2038	\$64,507.98
2038-2043/Expiration/Renewal	\$74,782.43

The total value of the monthly rent, considering their present worth until the final term of the proposed transactions is \$554,000 for VZW and \$659,242 for TMO, or a cumulative \$1,213,242.00, which is provided in further detail below:

VZW Net Present Value Rent Details

Present Value: \$554,000.00
 Years: 15
 Starting Monthly Rent: \$4,114.00
 CPI Growth Factor: 3%
 Discount Rate: 7.05%

TMO Net Present Value Rent Details

Present Value: \$659,242.00
 Years: 20
 Starting Monthly Rent: \$4,000.00
 CPI Growth Factor: 3%
 Discount Rate: 7.05%

9- This transaction will not materially impact the rate base of the utility.

The Carriers will be responsible for covering all costs and expenses associated with the use of the property, including utilities, services, taxes, and costs related to the telecommunications equipment, or improvements. In addition, the Carriers will be responsible for removing the communications facility and restoring the premises to a pre-installation condition. Cal Water will not bear or pay any costs or expenses on behalf of the Carriers. The continued use of the property and construction of the Fake Tank will not impact the rate base of the Chico District. Approval of the proposed transactions would not affect the public interest or service to customers, and instead would enable Cal Water to decommission its older tank, keep the aesthetic of an elevated water tank in the surrounding neighborhood, and create additional ground space for Cal Water to consider for the future installation of a well or treatment facility.

⁶ <https://www.dgs.ca.gov/RES/RESOURCES/Page-Content/Real-Estate-Services-Division-Resources-List-Folder/Telecom-Lease-Rate-Guideline>

10- If the transaction is a transfer or change in ownership of facilities currently used in regulated utility operations, the transaction will not result in a significant physical or operational change in the facility.

The Fake Tank will not be owned or used by Cal Water, and therefore approval of the proposed transaction will have no significant physical operational change to Cal Water's system. Additionally, the lease agreement clearly states under *the Installation and Construction Obligations* section:

- *Tenant shall perform all construction and installation work for the Communications Facility, or cause it to be performed, (a) at Tenant's sole cost and expense, (b) in a good and workmanlike manner, in accordance with Tenant's specifications set forth in Exhibit C and Tenant's plans and specifications approved by Landlord pursuant to this Section 7, and (c) in compliance with all applicable governmental permits and requirements.⁷*
- *Tenant shall conduct all installation and construction activities in a manner which will result in the least reasonable disruption or inconvenience to Landlord and the owners and occupants of property adjacent to Landlord's Property. Tenant shall not cause or permit any disruption of utility service to Landlord's Property or any adjacent property or any impairment of access to such properties.⁸*

11- The transaction does not warrant a more comprehensive review that would be provided through a formal Section 851 application.

Other than the issues discussed above, this request for approval of the proposed license does not merit a more comprehensive review that would be provided through a formal Section 851 application.

Notice and Service of Advice Letters

The submittal of Advice Letter No. 2493 is consistent with the provisions of General Order No. 96-B, Rule 4.2, and General Order No.173, Rule 5. In accordance with Rule 5 of General Order 173, a copy of this advice letter was transmitted electronically on September 1, 2023 to interested parties that have requested such notification for the Chico District (on the mandated advice letter service list), the Water Division, the Public Advocates Office, the Energy Division, and relevant departments of the city and county in which the real property involved in the transaction is located. Water Division did not receive any protests to Advice Letter No. 2493 during the protest period ending September 21, 2023.

⁷ AL 2493: Attachment A – T-Mobile and Verizon Proposed Transactions, page 12.

⁸ Ibid

Water Division has served a copy of this disposition letter on all parties to whom the advice letter was served. Water Division has posted the results of this disposition letter in the Commission's Daily Calendar.

Conclusion

Water Division has reviewed Cal Water's Advice Letter 2493 and finds that General Order Nos. 96-B and 173, governing the requirements and process for Section 851 advice letters, have been met. Cal Water's Advice Letter No. 2493, submitted on September 1, 2023, requesting approval for telecommunications leases to Verizon Wireless and T-Mobile, is approved.

Sincerely,

Terence Shia

Terence Shia, Director
Water Division

Cc: Advice Letter No. 2493 Service List