



City of Needles
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April 2, 2024

The Honorable Cottie Petrie-Norris
Chair, Assembly Utilities and Energy Committee
1021 O Street, Suite #4230
Sacramento, CA 95814

RE: AB 2221 (J. Carrillo): Broadband projects: electric power design approval
OPPOSE (As amended on 3/21/24)

Dear Chair Petrie-Norris,

The **City of Needles** must respectfully **oppose** AB 2221 (J. Carrillo), which would establish a series of shot clocks for local publicly owned electric utilities (POUs) to approve or deny a broadband provider's power design application for telecommunications infrastructure on POU utility poles.

Specifically, this bill would create a 45-day shot clock for POUs to approve or deny a completed power design application from a broadband provider, or the application will be deemed approved, and a 10-day shot clock for the POU to determine if the applicant's application is incomplete or not. The bill would also lay out a series of additional shot clocks for the POU to create various things for the broadband provider applicant, such as cost estimates and notices of incompleteness. Lastly, the bill requires the POU to adopt, publish, and make easily accessible to the public, including broadband provider applicants, all rules, requirements, and standards applicable to applications submitted to the electric utility 12 months in advance of the submission of the application.

POUs support and encourage the development and deployment of broadband infrastructure on our utility poles and collaborate closely with broadband providers to do so. However, POUs cannot jeopardize the safety of our utility workers or our public utility infrastructure for the sake of expediency. This bill is unnecessary due to sufficient and straightforward timelines and procedures in existing law and would pose significant challenges for POUs to implement if signed into law in its current form. Below, we outline some of the major concerns with this proposal.

The Bill is Unnecessary Due to Existing Law

In 2011, the California Legislature and the Governor passed and signed AB 1027 (Buchanan)¹, which laid out timelines and procedures for POUs to follow for the deployment and permitting of wireline and wireless broadband infrastructure. Section 9511(b)(1) of the bill states that a POU "shall respond to a request for use by a communications service provider of a utility pole or support structure owned or

¹ https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=201120120AB1027

controlled by the local publicly owned electric utility within 45 days of the date of receipt of the request, or 60 days if the request is to attach to over 300 poles.” Furthermore, section 9511(c) allows a POU to deny an application for use of a utility pole “because of insufficient capacity or safety, reliability, or engineering concerns.” AB 2221 would remove the ability of a POU to take these key safety factors into consideration when accelerating the review of a power design application, which puts utility workers and our utility infrastructure at risk. There are already policies and procedures in place that POUs must follow when reviewing applications. The current law that guides POUs’ decision-making process is sufficient. The result of this bill would be to introduce safety risks to utility workers and infrastructure that are unwarranted for the sake of expediency.

Deemed Approved Shot Clocks Could Jeopardize Worker Safety

POU application review processes are designed to ensure that the broadband infrastructure deployed on our utility poles is safe and meets the appropriate building codes. In the current version of the bill, if a POU does not approve or deny an application within 45 days, that application is deemed approved. This could create scenarios where broadband infrastructure is deployed on our utility poles incorrectly and does not comply with safety codes. Our utility workers are required to be able to climb our poles to inspect the infrastructure and if equipment is installed incorrectly, it can put those workers at risk of electrocution when they climb the poles.

The safety of our workers and our utility infrastructure is paramount to our operations, and that is why we must be able to review and approve these applications in a way that ensures all the correct criteria are met.

Utility Infrastructure Safety Could Be at Risk

In addition to putting the safety of our utility workers at risk, this bill would also put our utility infrastructure at risk. POUs must ensure that our utility poles can withstand natural disasters, such as wind and rainstorms. If infrastructure is added to our poles without the proper wind shear calculations, it can cause the utility pole to fail. A utility pole failing could lead to an ignition that can cause a wildfire. Given that POUs are subject to California’s strict liability standard of inverse condemnation, it is critical to ensure that any infrastructure added to our utility poles is safe and that the utility pole itself can handle the additional weight and in conformance with California Public Utility Commission General Order 95 (GO 95).

While the deployment of broadband is of vital importance, the electric utility industry must also grapple with the changing climate and the ongoing efforts to prevent and mitigate the risks of utility-ignited wildfires. To that end, POUs work closely with our broadband provider partners to deploy this infrastructure to serve our communities, but it must be done in a way that provides for the appropriate safety and engineering review.

The Bill Poses Serious Implementation Challenges

Throughout this bill, there are numerous requirements that are vague and would cause serious challenges to implement if signed into law. For example, as previously mentioned, the bill requires POUs to adopt, publish, and make easily accessible to the public, including broadband provider applicants, all rules, requirements, and standards applicable to applications submitted to the electric utility 12 months in advance of the

submission of the application. If a POU needed to update its ordinances or the building code changed, how could a POU post those 12 months in advance of the application being submitted? Additionally, there are concerns about ambiguities around when an application is considered “submitted” and the shot clock begins.

We also have concerns about the requirement to have a POU determine if an application is complete or incomplete within 10 days. Given that information sometimes must be verified to determine if it is complete, we fear that the 10-day threshold would become the de facto timeline that we would need to follow instead of the 45-day shot clock. This would significantly reduce our time to review and approve these applications. All these questions call into doubt how this would be implemented and if our safety standards could be met.

We appreciate the desire for the quick deployment of broadband infrastructure to connect our communities and help our local businesses thrive. However, we have serious concerns over the implementation of the bill and how it would pose risks to the safety of our workers and infrastructure. For these reasons, **City of Needles opposes** AB 2221. If you have any questions, do not hesitate to contact Rainie Torrance at rtorrance@cityofneedles.com

Sincerely,

Terry Campbell
Board of Public Utilities Board Chair

cc: The Honorable Assemblymember Juan Carrillo
Members, Assembly Utilities and Energy Committee
California Municipal Utilities Association