



General Assembly

January Session, 2013

Amendment

LCO No. 8719

HB0640108719HDO

Offered by:

REP. WILLIS, 64th Dist.
REP. HADDAD, 54th Dist.
REP. LEMAR, 96th Dist.

To: Subst. House Bill No. 6401

File No. 129

Cal. No. 111

"AN ACT CONCERNING INTERCONNECTED VOICE OVER INTERNET PROTOCOL SERVICE AND INTERNET PROTOCOL-ENABLED SERVICE."

1 After the last section, add the following and renumber sections and
2 internal references accordingly:

3 "Sec. 501. Subsections (a) and (b) of section 16-50p of the general
4 statutes, as amended by section 61 of substitute house bill 6360 of the
5 current session, as amended by house amendment schedule A, are
6 repealed and the following is substituted in lieu thereof (*Effective July*
7 *1, 2013*):

8 (a) (1) In a certification proceeding, the council shall render a
9 decision upon the record either granting or denying the application as
10 filed, or granting it upon such terms, conditions, limitations or
11 modifications of the construction or operation of the facility as the
12 council may deem appropriate.

13 (2) The council's decision shall be rendered in accordance with the
14 following:

15 (A) Not later than twelve months after the deadline for filing an
16 application following the request for proposal process for a facility
17 described in subdivision (1) or (2) of subsection (a) of section 16-50i or
18 subdivision (4) of said subsection (a) if the application was
19 incorporated in an application concerning a facility described in
20 subdivision (1) of said subsection (a);

21 (B) Not later than one hundred eighty days after the deadline for
22 filing an application following the request for proposal process for a
23 facility described in subdivision (4) of subsection (a) of section 16-50i
24 and an application concerning a facility described in subdivision (3) of
25 said subsection (a), provided the council may extend such period by
26 not more than one hundred eighty days with the consent of the
27 applicant; and

28 (C) Not later than one hundred eighty days after the filing of an
29 application for a facility described in subdivision (5) or (6) of
30 subsection (a) of section 16-50i, provided the council may extend such
31 period by not more than one hundred eighty days with the consent of
32 the applicant.

33 (3) The council shall file, with its order, an opinion stating in full its
34 reasons for the decision. The council shall not grant a certificate, either
35 as proposed or as modified by the council, unless it shall find and
36 determine:

37 (A) Except as provided in subsection [(b) or] (c) of this section, a
38 public need for the facility and the basis of the need;

39 (B) The nature of the probable environmental impact of the facility
40 alone and cumulatively with other existing facilities, including a
41 specification of every significant adverse effect, including, but not
42 limited to, electromagnetic fields that, whether alone or cumulatively
43 with other effects, impact on, and conflict with the policies of the state

44 concerning the natural environment, ecological balance, public health
45 and safety, scenic, historic and recreational values, forests and parks,
46 air and water purity and fish, aquaculture and wildlife;

47 (C) Why the adverse effects or conflicts referred to in subparagraph
48 (B) of this subdivision are not sufficient reason to deny the application;

49 (D) In the case of an electric transmission line, (i) what part, if any,
50 of the facility shall be located overhead, (ii) that the facility conforms to
51 a long-range plan for expansion of the electric power grid of the
52 electric systems serving the state and interconnected utility systems
53 and will serve the interests of electric system economy and reliability,
54 and (iii) that the overhead portions, if any, of the facility are cost
55 effective and the most appropriate alternative based on a life-cycle cost
56 analysis of the facility and underground alternatives to such facility,
57 are consistent with the purposes of this chapter, with such regulations
58 or standards as the council may adopt pursuant to section 16-50t,
59 including, but not limited to, the council's best management practices
60 for electric and magnetic fields for electric transmission lines and with
61 the Federal Power Commission "Guidelines for the Protection of
62 Natural Historic Scenic and Recreational Values in the Design and
63 Location of Rights-of-Way and Transmission Facilities" or any
64 successor guidelines and any other applicable federal guidelines and
65 are to be contained within an area that provides a buffer zone that
66 protects the public health and safety, as determined by the council. In
67 establishing such buffer zone, the council shall consider, among other
68 things, residential areas, private or public schools, licensed child day
69 care facilities, licensed youth camps or public playgrounds adjacent to
70 the proposed route of the overhead portions and the level of the
71 voltage of the overhead portions and any existing overhead
72 transmission lines on the proposed route. At a minimum, the existing
73 right-of-way shall serve as the buffer zone;

74 (E) In the case of an electric or fuel transmission line, that the
75 location of the line will not pose an undue hazard to persons or
76 property along the area traversed by the line;

77 (F) In the case of an application that was heard under a consolidated
78 hearing process with other applications that were common to a request
79 for proposal, that the facility proposed in the subject application
80 represents the most appropriate alternative among such applications
81 based on the findings and determinations pursuant to this subsection;

82 (G) In the case of a facility described in subdivision (6) of subsection
83 (a) of section 16-50i that is (i) proposed to be installed on land under
84 agricultural restriction, as provided in section 22-26cc, that the facility
85 will not result in a material decrease of acreage and productivity of the
86 arable land, or (ii) proposed to be installed on land near a building
87 containing a school, as defined in section 10-154a, or a commercial
88 child day care center, as described in subdivision (1) of subsection (a)
89 of section 19a-77, that the facility will not be less than two hundred
90 fifty feet from such school or commercial child day care center unless
91 the location is acceptable to the chief elected official of the municipality
92 or the council finds that the facility will not have a substantial adverse
93 effect on the aesthetics or scenic quality of the neighborhood in which
94 such school or commercial child day care center is located, [or (iii)
95 proposed to be installed on land owned by a water company, as
96 defined in section 25-32a, and which involves a new ground mounted
97 telecommunications tower, that such land owned by a water company
98 is preferred over any alternative telecommunications tower sites
99 provided the council shall, pursuant to clause (iii) of this
100 subparagraph, consult with the Department of Public Health to
101 determine potential impacts to public drinking water supplies in
102 considering all the environmental impacts identified pursuant to
103 subparagraph (B) of this subdivision. The council shall] provided the
104 council shall not render any decision pursuant to this subparagraph
105 that is inconsistent with federal law or regulations; and

106 (H) That, for a facility described in subdivision (5) or (6) of
107 subsection (a) of section 16-50i, the council has considered the
108 manufacturer's recommended safety standards for any equipment,
109 machinery or technology for the facility.

110 (b) (1) Prior to granting an applicant's certificate for a facility
111 described in subdivision (5) or (6) of subsection (a) of section 16-50i,
112 the council shall examine, in addition to its consideration of
113 subdivisions (1) to (3), inclusive, of subsection (a) of this section: (A)
114 The feasibility of requiring an applicant to share an existing facility, as
115 defined in subsection (b) of section 16-50aa, within a technically
116 derived search area of the site of the proposed facility, provided such
117 shared use is technically, legally, environmentally and economically
118 feasible and meets public safety concerns, (B) whether such facility, if
119 constructed, may be shared with any public or private entity that
120 provides telecommunications or community antenna television service
121 to the public, provided such shared use is technically, legally,
122 environmentally and economically feasible at fair market rates, meets
123 public safety concerns, and the parties' interests have been considered,
124 (C) whether the proposed facility would be located in an area of the
125 state which the council, in consultation with the Department of Energy
126 and Environmental Protection and any affected municipalities, finds to
127 be a relatively undisturbed area that possesses scenic quality of local,
128 regional or state-wide significance, and (D) the latest facility design
129 options intended to minimize aesthetic and environmental impacts.
130 The council may deny an application for a certificate if it determines
131 that (i) shared use under the provisions of subparagraph (A) of this
132 subdivision is feasible, (ii) the applicant would not cooperate relative
133 to the future shared use of the proposed facility, or (iii) the proposed
134 facility would substantially affect the scenic quality of its location or
135 surrounding neighborhood and no public safety concerns require that
136 the proposed facility be constructed in such a location, [or (iv) no
137 public safety concerns require that a proposed facility owned or
138 operated by the state be constructed in that location. In evaluating the
139 public need for a cellular facility described in subdivision (6) of
140 subsection (a) of section 16-50i, there shall be a presumption of public
141 need for personal wireless services and the council shall be limited to
142 consideration of a specific need for any proposed facility to be used to
143 provide such services to the public.]

144 (2) When issuing a certificate for a facility described in subdivision
 145 (5) or (6) of subsection (a) of section 16-50i, the council may impose
 146 such reasonable conditions as it deems necessary to promote
 147 immediate and future shared use of such facilities and avoid the
 148 unnecessary proliferation of such facilities in the state. The council
 149 shall, prior to issuing a certificate, provide notice of the proposed
 150 facility to the municipality in which the facility is to be located. Upon
 151 motion of the council, written request by a public or private entity that
 152 provides telecommunications or community antenna television service
 153 to the public or upon written request by an interested party, the
 154 council may conduct a preliminary investigation to determine whether
 155 the holder of a certificate for such a facility is in compliance with the
 156 certificate. Following its investigation, the council may initiate a
 157 certificate review proceeding, which shall include a hearing, to
 158 determine whether the holder of a certificate for such a facility is in
 159 compliance with the certificate. In such proceeding, the council shall
 160 render a decision and may issue orders it deems necessary to compel
 161 compliance with the certificate, which may include, but not be limited
 162 to, revocation of the certificate. Such orders may be enforced in
 163 accordance with the provisions of section 16-50u.

164 Sec. 502. Section 62 of substitute house bill 6360 of the current
 165 session, as amended by house amendment schedule A, is repealed.
 166 (*Effective June 30, 2013*)"

This act shall take effect as follows and shall amend the following sections:		
Sec. 501	<i>July 1, 2013</i>	16-50p(a) and (b)
Sec. 502	<i>June 30, 2013</i>	Repealer section