



# Scenic Highways

The CPUC's Role in Reviewing  
Deviation Requests to PU Code §320

California Public Utilities Commission  
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## Public Utility (PU) Code §320

- The CPUC regulates undergrounding of utility facilities along scenic highways since December 31, 1972.
- PU Code §320:  
([http://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=320.&lawCode=PUC](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=320.&lawCode=PUC))
  - “... it is the policy of this state to achieve, whenever feasible and not inconsistent with sound environmental planning, the undergrounding of all future electric and communication distribution facilities which are proposed to be erected in proximity to any...scenic highway...and which would be visible from such scenic highways if erected above ground.” (PUC § 320)
  - “In Proximity To” shall mean within 1,000 feet from each edge of the right-of-way of designated State Scenic Highways.





## Deviation Request Process

- Utility companies with projects along scenic highway which disturb overhead equipment must comply with PU Code §320, or demonstrate why they cannot meet its requirements by submitting a “deviation” request to the Commission.
- Please review [Article 11.5. Applications for Exemption from Undergrounding Rules 7171](#) of our [Rules of Practice and Procedure](#) (Rule 3.12) to determine application procedures for a PU Code Section 320 Exemption.
- Decision 80864 resulted from an Order Initiating Investigation (OIR) defined common factors in the evaluation process.





## Deviation Request Process (Cont.)

- Deviation Process<sup>1</sup>
  - Application
  - Notice/Protests
  - Decision by the Commission
  - Total Process Time Frame
    - 6 months to 1 year
- Or*
- Advice letter process (3 months)
  - Commission Resolution to dispose of the request

<sup>1</sup> Commission staff conducts an onsite inspection to evaluate the deviation request.





## Common Factors on Evaluation

- Cost discrepancies
  - Undergrounding vs. aerial
  - The cost to comply with PU Code §320 compares to the total project cost (including compliance with §320)
- Visual impact (equipment size, length, color, types, location, and visual mitigation measure)
  - Existing facilities
  - New construction vs. relocation/ repairs
- Local government Opinion
- Caltrans consultation
- Public benefit (Safety, Reliability)
- Technical Requirements (Antenna can't underground)
- Environmental complications (CEQA)





# Information Required in an Advice Letter (AL)

## Project Description

- Descriptions of the nature, locations, schedules, and funding sources of the project, the reason for a PU Code § 320 deviation. These include estimated starting and completion dates for overhead and underground alternatives.
- Specifications of equipment used for overhead and/or underground installations (sizes, length, color, types, etc.).
- Drawings, maps, photographs related to the project. Please clearly indicate existing and proposed cables, poles, equipment, etc. on submittals.
- State whether this is a permanent or temporary deviation. If temporary, the approximate period such facilities will be in place before permanent underground facilities are constructed. Relocation cost in the case of a temporary deviation.





## Information Required in an AL (Cont.)

### **Environment and Aesthetic**

- Any Environmental Impact Statement, Environmental Impact Report, or Negative Declaration prepared by any public agency having permit authority over the project.
- The effect of the project on the visibility and aesthetic of the scenic highway and mitigation measures.

### **Local Government**

- Review and expressed opinion of the local government planning commission on the project.





# Information Required in an AL (Cont.)

## **Project Costs**

- “Please provide cost information in the table below (administrative, labor, and material).”

Options	Total Project Cost (including compliance with PU Code §320)	Electric Related Cost	Telephone Related Cost	Cable (TV) Related Cost	Total Cost (Sum of Columns 3-5)
Overhead					
Underground					

Example of an application (and approval) may be found at  
[https://www.pge.com/nots/rates/tariffs/tm2/pdf/ELEC\\_4029-E.pdf](https://www.pge.com/nots/rates/tariffs/tm2/pdf/ELEC_4029-E.pdf)





## Example – Approval

- Next G Networks, Inc. (2006)
  - Fiber optic cable and related facilities on existing poles along Highway 50
  - Approved based on:
    - Cost difference:
      - Undergrounding: \$2.2 million
      - Aerial: \$370 thousand
    - Public benefit
      - Access to wireless services
    - Technical Requirements
      - Line-of-sight requirements for fiber





## Example – Approval

- Caltrans (2003)
  - Relocation of electric, telephone, and cable television facilities
  - Approved based on:
    - Cost difference:
      - Undergrounding: \$1.7 M
      - Aerial: \$287,000
    - Visual Impact
      - Relocation will not adversely affect visibility or aesthetics
    - Environmental complications
      - Bed rock, terrain, etc.





## Example – Denial

Denial of deviation request when the cost to comply with PU Code §320 is only a small fraction of the total project cost (including compliance with §320).

- Verizon California Inc. (2009)
  - Construction of overhead telecommunication facilities along Hwy 1 in Santa Barbara county
  - No CEQA documentation or request for deviation filed until after construction
  - CPUC required Verizon to underground a portion of the line due to visual impacts
  - \$5,000 fine also levied





## Cable and Video

- Internet Service Providers and Cable and Video providers are subject to PU Code §320, but require more local coordination to ensure compliance because of differing regulatory frameworks from traditional telecommunication carriers. However, the above submittal requirements are still required as part of a joint application package with other utilities.





## For More Information

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