

# Department of Water and Power



# the City of Los Angeles

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December 23, 2009

The Honorable City Council  
c/o Office of the City Clerk  
Room 395, City Hall  
Mail Stop 160

Attention: Councilmember Jan Perry  
Chairperson, Energy and Environment Committee

Councilmember Ed P. Reyes  
Chairperson, Planning and Land Use Management Committee

Honorable Members:

Subject: Southern California Joint Pole Agreement

Enclosed is the report from the Los Angeles Department of Water and Power on the Southern California Joint Pole Agreement of the Joint Pole Committee. This report was requested in a motion put forth by Councilmember Janice Hahn, 15<sup>th</sup> District, and referred to the Energy and Environment and Planning and Land Use Management Committees.

If you have any questions or require additional information, please contact me at (213) 367-1338 or have a member of your staff contact Ms. Winifred J. Yancy, Manager of Government and Neighborhood Relations, at (213) 367-0025.

Sincerely,

S. David Freeman  
Interim General Manager

KLJ/DWW:sas

Enclosure

c/enc: Councilmember Janice Hahn, 15<sup>th</sup> District  
Councilmember Bill Rosenthal, 11<sup>th</sup> District  
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Ms. Maria Espinoza, Legislative Assistant  
Ms. Barbara Greaves, Legislative Assistant  
Ms. Patrice Lattimore, Legislative Assistant  
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Commissioner Thomas S. Sayles  
Ms. Winifred J. Yancy

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Southern California Joint Pole Agreement Report  
by the  
Los Angeles Department of Water and Power

At the November 18, 2009, City Council Meeting, the Council passed a motion directing the Los Angeles Department of Water and Power (LADWP) to report on the following:

1. The City of Los Angeles' participation in the Southern California Joint Pole Agreement (SCJPA) of the Southern California Joint Pole Committee (SCJPC).
2. The process for LADWP to opt out of the SCJPA
3. The ramifications of LADWP's withdrawal from the SCJPA
4. The benefits for LADWP's continuing participation in the SCJPA

The responses are as follows:

LADWP's Participation in the SCJPA

The SCJPC is an association of power and communication utilities. It was created to help efficiently utilize overhead corridors by sharing pole lines, thus preventing multiple pole lines going down the street through membership participation in the SCJPC. The SCJPC maintains records for all jointly owned poles and facilitates financial transactions between its members.

Presently, there are 31 members participating in the SCJPC. LADWP has been a member since 1918. Roughly half of the members have joined the SCJPC since the 1990s primarily due to the proliferation of new communication technologies, which are attached to utility poles.

The SCJPA does not require any member to own, sell, purchase, and occupy any particular pole or poles jointly with any other member. Members may set their own poles in proximity to other members' poles if they choose.

There are approximately 1.2 million jointly owned utility poles on record at the SCJPC. LADWP has an interest in 215,000 of the utility poles on record at the SCJPC.

Membership in the SCJPC is equity based. The operating expenses of the SCJPC and voting shares are weighted and divided between the members based on the percentage of non-useable footage owned on jointly owned poles by each utility.

Four primary utilities share the bulk of the operating expenses and voting shares of the SCJPC. They are as follows:

- Southern California Edison - 36 percent
- Verizon California - 24 percent
- AT&T of California - 24 percent
- LADWP - 9 percent
- Other utilities - 6 percent (the other utilities' shares are less than 1 percent each)

Typically, LADWP is assessed approximately \$4,000 per month for its share of the operating expenses of the SCJPC Office. Over the last five years, LADWP has collected over \$12,000,000 from joint pole transactions.

#### Process for Withdrawal from the SCJPA

Any member may withdraw from the SCJPA by giving written notice of withdrawal to all members and to the SCJPC Office at least 12 months prior to the effective date of withdrawal. After the date of withdrawal, the member will continue to jointly own the poles until such time that the withdrawn member no longer has jointly owned poles governed by the SCJPA. The withdrawn member continues to be assessed for operating expenses as previous, but will not be allowed to:

- Attend meetings
- Vote on items before the Administrative Board
- Initiate any Joint Pole Authorizations for any activity that involves purchase of interest

A cost analysis should be undertaken to determine if LADWP's costs and expenses would increase for accessing other poles via a license or permit rather than processing requests through the SCJPC.

#### Ramifications of LADWP's Withdrawal from the SCJPA

This would have a negative impact due in part to the following reasons:

- LADWP's withdrawal from the SCJPA will not result in LADWP regaining 100% interest in existing joint poles
  - Existing joint poles would remain so until they are replaced with LADWP solely owned poles and space leased to other utilities
  - The other utilities could choose not to lease space from LADWP and set their own pole
  - Withdrawal may reduce LADWP's ability to access other utilities poles if such direct requests to the pole owner are denied
- LADWP would still be responsible for the operating expenses of the SCJPC until it no longer has jointly owned poles. It would be decades before LADWP would not have interest in the existing joint poles.
- LADWP would not have voting privileges in the SCJPC.
- LADWP would have to lease space from other utilities to attach to their poles or license interest in LADWP solely owned poles to other utilities to avoid having multiple pole lines installed.
- The California Public Utilities Code Section 7901 and Section 7901.1 would still be in effect, thus negating the impact of LADWP withdrawing from the SCJPA for the purpose of limiting pole access for other utilities. Other utilities would still be able to install equipment on their poles or jointly owned poles.

California Public Utilities Code

Section 7901 - Telegraph or telephone corporations may construct lines of telegraph or telephone lines along and upon any public road or highway, along or across any of the waters of lands within this State, and may erect poles, posts, piers, or abutments for supporting the insulators, wires, and other necessary fixtures of their lines in such a manner and at such points so as not to incommode the public use of the road or highway or interrupt the navigation of waters.

Section 7901.1

- a) It is the intent of the Legislature, consistent with Section 7901, that municipalities shall have the right to exercise reasonable control as to the time, place, and manner in which roads, highways, and waterways are accessed
- b) The control, to be reasonable, shall, at a minimum, be applied to all entities in an equivalent manner.
- c) Nothing in this section shall add to or subtract from any existing authority with respect to the imposition of fees by municipalities

Benefits for LADWP's Continued Participation in the SCJPA

LADWP will continue, as it has for over 90 years, to be partner with other utilities in limiting the visual and financial impact of electrical and communication facilities to the public. This is accomplished by sharing interest in poles.

Dennis W. Walls  
December 23, 2009

MOTION

The City of Los Angeles for many years now has had problems regulating new telecommunication units installed throughout the City. These large objects can be installed on private property, public right of way and the most unrestricted has been utility poles.

The outstanding problems that remain to be unsolved are the regulatory options the City may have on restricting location and design of new wireless fixtures. Public right of way installments are regulated through our Above Ground Facilities Ordinance (AGF), yet our authority has been restrained due to the Telecommunications Act of 1996.

Sprint vs. San Diego and Palos Verdes vs. Sprint have brought forth new case law that may give municipalities more authority over the placement of new wireless units in their districts. These cases will allow us to amend our AGF Ordinance to better restrict new locations and design. This is being evaluated through CF 08-2440 and 09-2645.

In the meantime there has been very little discussion on how to restrict and enforce regulatory schemes on new technology being installed on our utility poles. Any units placed on utility poles have gone unregulated due in part to our participation in the Joint Pole Agreement.


The Joint Pole Authority is a coalition of 10 southland cities, governmental agencies and telecommunications companies charged with negotiating 30-year leases for new cell phone antennas. Decisions on location and the appearance of new cell towers are approved by the Joint Pole Authority without any required public hearing.

As we move forward in amending our AGF Ordinance we must simultaneously work to implement policy which will allow us to have more rule over the use of our utility poles. Moving forward without this piece would inherently pose a bigger problem in the near future, encouraging cell unit installations on top of utility poles without City regulation.

I THEREFORE MOVE for Council to request the City Attorney, along with Department of Water and Power, to report on the City's participation in Southern California's Joint Pole Agreement and the process on how to opt out of such an agreement, as well as the ramifications such a decision may pose along with the benefits for continuing participation.

I FURTHER MOVE for Council to instruct the Chief Legislative Analyst to report on the current policies and regulations adopted by surrounding cities that pertain to public notification, placement of new telecommunication units on private property, the public right of way, and more importantly on utility poles.

PRESENTED BY:

  
JANICE HAHN

Councilmember, 15<sup>th</sup> District

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