



**BOARD OF SUPERVISORS
AGENDA LETTER**

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: P&D
Department No.: 053
For Agenda Of: 4/5/16
Placement: Departmental
Estimated Time: 45 minutes
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors

FROM: Department Glenn Russell, Ph.D., Director, 568-2085
Director
Contact Info: Dianne Black, Assistant Director, 568-2086

**SUBJECT: Provide Direction on Potential Amendments to the Telecommunications Ordinance
Related to Natural Gas Communication Facilities – All Supervisorial District**

County Counsel Concurrence

As to form: Yes

Auditor-Controller Concurrence

As to form: N/A

Recommended Actions:

- a) Receive this report on the process to consider changes to the telecommunications section in the County’s zoning ordinances to exempt communication facilities associated with public gas company operations; and
- b) Provide direction to staff regarding initiation of this work effort and either:
 - i. Decline to move forward with the requested ordinance amendment; or,
 - ii. Initiate the ordinance amendment process; and,
- c) Determine pursuant to California Environmental Quality Act (CEQA) Guideline 15378(b)(5) that this is not subject to CEQA review because it is an administrative activity that will not result in direct or indirect physical changes to the environment.

Summary Text/Background

By letter dated February 29, 2016, the Southern California Gas Company (SCGC) has requested that the County process an ordinance amendment to exempt the Company’s Data Collection Units (DCU) component of their Advanced Meter project from the telecommunications provisions in County’s Land Use and Development Code and the Montecito Land Use and Development Code (See Attachment 1).

SCGS has not requested amendments for facilities in the Coastal Zone. Instead, SCGC plans to submit Conditional Use Permits for the facilities in the Coastal Zone.

The Advanced Meter project involves upgrading existing natural gas meters with a communication device that automatically reads and transmits gas usage data. The upgrade includes installation of an Advanced Meter Communications Device at each existing residential gas meter that sends gas data to a pole mounted Data Collection Unit (DCU). SCGC expects to install pole mounted DCUs at approximately 105 sites throughout the County, with approximately 90 mounted on newly constructed poles. Pole height is normally required to be about 30 feet. The project would involve poles throughout the County, including in the Coastal, inland and Montecito areas. Each site provides service coverage for a radius of about 600 feet, depending on the area's topography and the density of users. Attachment 2, the SCGC PowerPoint Presentation dated 5/4/14, provides more information on the details of the program.

This request comes after several years of discussion between County and SCGC staff regarding the permit process for the Advanced Meter project. Under the County's zoning ordinances, these facilities are considered telecommunication facilities, defined as:

A facility that transmits or receives electromagnetic signals, for communication purposes including data transfer. It includes antennas, microwave dishes, horns, and other types of equipment for the transmission or reception of such signals; telecommunication towers or similar structures supporting said equipment; equipment buildings; parking areas; and other accessory development. It does not include facilities staffed with other than occasional maintenance and installation personnel or broadcast studios.

The zoning ordinances include a four-tiered system for permitting telecommunications facilities, with the permit level commensurate with the level of development. Without a specific project description to analyze, it is not possible to determine the Tier the SCGC project would require, but it is likely to include components which require a Tier 4 process, which is a Conditional Use Permit. The County's discretion on telecommunications facilities is limited to appropriate siting and design primarily to address visual concerns, as well as site impacts to resources such as biology and cultural resources. SCGC has indicated that they seek an entirely ministerial process for approval of their project in the inland area pursuant to their franchise agreement with the County.

In order to exempt communication facilities associated with the SCGC Advanced Meter project, P&D staff would process zoning ordinance amendments to the County Land Use and Development Code and the Montecito Land Use and Development Code. The amendment process would involve the following steps:

- Conduct Stakeholder/Community Outreach (including community organizations and the County's Boards of Architectural Review)
- Develop Ordinance Language
- Prepare Environmental Document (Exemption, Mitigated Negative Declaration or EIR)
- Prepare Montecito and Planning Commission staff reports
- Complete Montecito and County Planning Commission hearings
- Prepare Board Agenda Letter

- Complete Board of Supervisors Hearing

This item would require between 200 and 500 hours of staff time, and with a range of cost between \$18,000 and \$120,000, depending on the level of environmental review required and time associated with public hearings. Presently, P&D does not have sufficient detail regarding the location and extent of the project to determine whether or not the amendments would be exempt from environmental review.

Staff is requesting direction regarding the request of the Gas Company and has identified two main options regarding direction:

1. Decline to move forward with the requested ordinance amendment.
2. Initiate the ordinance amendment process:
 - a. Immediately by:
 - i. Diverting resources from an existing work program item; or
 - ii. Adding resources for a consultant to work on the ordinance amendment.
 - b. As part of the Long Range Planning Work program for 2016-17 by:
 - i. Considering adding the project to the Long Range Work Program project during budget workshops the week of 4/11/16; or,
 - ii. Direct staff now to include the request in the projects to be initiated in FY 16-17 in the Long Range Planning Work Program.

Performance Measure: N/A

Fiscal and Facilities Impacts:

Budgeted: No. This work effort is not included in the FY 15-16 P&D budget. Staff time is estimated to range from 200 to 500 hours. Environmental review costs would range from \$1,000 to \$75,000 depending on the type of environmental document required, for a total cost ranging from \$18,000 to \$120,000. Funding for this work effort could be included in the 2016-17 Planning and Development Work Program.

Attachments:

1. SoCalGas letter dated February 29, 2016.
2. PowerPoint Presentation from Southern California Gas Co. dated 5/4/14.
3. Southern California Gas Co. maps dated 3/14/16 (County-wide and Supervisorial District maps).

Authored by:

Dianne Black



Tony Tartaglia
*Regional Public Affairs Manager
Northern Region*

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Gas Company**
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February 29, 2016

Mona Miyasato
Chief Executive Officer
Santa Barbara County
105 East Anapamu Street
Santa Barbara, California 93101

Re: Installation of Southern California Gas Company's Advanced Metering
Infrastructure Data Collector Units

Dear Ms. Miyasato:

I am writing concerning Southern California Gas Company's planned installation of Data Collector Units ("DCU") in Santa Barbara County necessary to complete the company's Advanced Metering Infrastructure ("AMI") program.

SoCalGas has appreciated working with you and your staff over the past several months on these issues and we look forward to continuing to work with the County to implement this important CPUC-approved safety and efficiency program. We write today to offer suggested revisions to the County's Telecommunications Facilities Ordinance ("Ordinance") to avoid confusion regarding the Ordinance's application to this program and to ensure efficient and expeditious installation of the DCUs so that the County's residents can benefit from the safety and efficiency benefits that the program brings.

The installation of AMI technology is a critical component of California's and the California Public Utilities Commission's long term goals to develop more efficient delivery of electricity and gas and improved customer-side management that will enable greater conservation and efficiency. In 2003, the CPUC directed investor-owned utilities, like SoCalGas, to design and implement a pilot program for deploying advanced metering and demand response technologies. SoCalGas' AMI program is one of those programs.

SoCalGas' AMI program will automatically read and securely transmit hourly gas usage information to SoCalGas. This information may then be accessed by customers to better manage energy use and costs. The DCUs will also be used to



monitor the operations and safety of the natural gas pipeline system and to quickly determine if a leak or loss of pressure occurs. For example, this monitoring will allow SoCalGas and customers to identify sudden usage spikes that could indicate a leak or other unusual gas consumption.

To collect and transmit this information, the AMI program requires the installation of: (1) gas meters with communication modules, and (2) DCUs. Installation of AMI facilities in SoCalGas service territory began in October 2012. These DCUs may be attached to existing light poles or be freestanding units. Attached is a photograph showing a unit as installed and a diagram illustrating how the AMI system works.

We understand that there continues to be disagreement over whether the Ordinance applies to these DCUs. As we've discussed, it is SoCalGas' position that the Ordinance does not apply to the DCUs and that no discretionary permits are required for the installation of the DCUs because of the CPUC's exclusive jurisdiction over utility systems.

SoCalGas separately possesses the right to locate and construct DCUs by virtue of the company's franchise agreement with the County. The franchise agreement expressly allows SoCalGas to install "a gas and transmission system" and "appurtenances" within the County in exchange for the payment of an annual franchise fee to the County. The DCUs are "appurtenances" to SoCalGas' gas system, as the DCUs will be used to monitor the operations and safety of the natural gas pipeline system and have no capacity or capability to be used for non-utility telecommunications systems. Accordingly, further discretionary permits would unreasonably interfere with the company's contractual rights to install appurtenances, as set forth in the franchise agreement.

In light of these considerations, we recently discussed the possibility of amending the Ordinance to clearly exempt the DCUs from it. We are concerned that the Ordinance, as applied, could hinder SoCalGas' ability to install and maintain the necessary DCUs and conflict with the rights and obligations set forth in SoCalGas' franchise agreement. DCUs are not traditional telecommunications facilities, which it appears the Ordinance was intended to regulate, but are key components of the existing natural gas distribution system that the CPUC has directed SoCalGas to install. Given their purpose, method of operation, and limited numbers, DCUs operate as merely an extension of SoCalGas' existing infrastructure.

Confirming that DCUs are clearly exempt from the Ordinance will ensure that SoCalGas will be able to install the units quickly and efficiently and in compliance with the CPUC's direction. We propose the following modification to Section 35.44.010 of the Santa Barbara County Code:



Affected facilities and equipment. The provisions of this Section shall apply to commercial telecommunications facilities that transmit or receive electromagnetic signals (e.g., radio, television, and wireless communications services including personal communication, cellular, and paging). This Section shall not be construed to apply to handheld, vehicular, or other portable transmitters or transceivers, including cellular phones, CB radios, emergency services radio, and other similar devices, or to natural gas and appurtenant communications facilities that have been approved pursuant to the California Public Utilities Commission's exclusive jurisdiction.

Note that this amendment would be exempt from environmental review under the California Environmental Quality Act pursuant to the Class 3 exemption for small new equipment and facilities in small structures. *See* CEQA Guidelines § 15303. This exemption has been used successfully for the installation of utility cabinets in other jurisdictions and we would be happy to discuss this issue with you further.

Notwithstanding the CPUC's exclusive jurisdiction and SoCalGas' contractual rights conferred by the franchise agreement, SoCalGas appreciates the County's interest in the time, manner, and place of installation for SoCalGas' DCUs. SoCalGas will, of course, secure all applicable ministerial permits and abide by the County's reasonable time, manner, and place requirements for installing DCUs.

Thank you for your assistance in this matter. We look forward to speaking with you soon about this proposal.

Sincerely,

A handwritten signature in black ink, appearing to read "Tony Tartaglia".

Tony Tartaglia
Regional Affairs Manager, SoCalGas

cc: Renee Bahl, Assistant County Executive Officer
Rachel VanMullem, Esq.
Albert Garcia, Esq., SoCalGas