

Study EmH-451

June 23, 1999

First Supplement to Memorandum 99-34**Condemnation by Privately Owned Public Utility: Comments of PUC Staff**

Attached to this memorandum is a letter from Public Utilities Commission staff members on issues raised in Memorandum 99-34. We will address their comments at the Commission meeting.

Respectfully submitted,

Nathaniel Sterling
Executive Secretary

STATE OF CALIFORNIA

GRAY DAVIS, Governor

PUBLIC UTILITIES COMMISSION505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

June 22, 1999

VIA EXPRESS MAIL AND FASCIMILE

Nathaniel Sterling, Executive Secretary
California Law Revision Commission
4000 Middlefield Road, Room D-1
Palo Alto, California 94303-4739

Re: Memorandum 99-34 Condemnation by Privately Owned Public Utility: Revised Draft

Dear Mr. Sterling:

The following are the comments of the staff of the Legal and Telecommunications Divisions of the California Public Utilities Commission (CPUC) on the policy issues raised in Memorandum 99-34. The Commission itself has not reviewed Memorandum 99-34.

We support the Memorandum's recommendation to eliminate the requirement for CPUC approval of all compensation agreements between telephone corporations and building owners. We see no reason for specific CPUC approval of all such agreements; that would impose an excessive workload on the CPUC without any corresponding benefit. Proposed section 7915 provides the CPUC with sufficient tools to deal with any issues that may arise, by establishing regulations governing the payment of compensation and by resolving specific disputes.

We see no problems with the Memorandum's recommendations with regard to removal of wiring and the limited elimination of eminent domain authority.

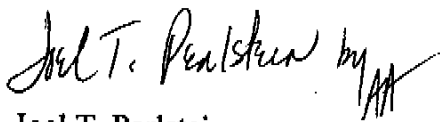
We do have one concern with the Memorandum's recommendation concerning the obligation to provide service. The CPUC should be able to limit that obligation to situations where there is a potential customer who actually wants service from the telephone corporation. Typically, a telephone corporation provides service to a building's tenants, not to the owner. The proposed language appears broad enough to allow the CPUC to limit the obligation to provide service to situations where there is a customer who wants service. However, some clarifying language would be helpful. Rather than changing the statute, it might be best to make an

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addition to the comments, specifying this as an example of the kind of regulation the CPUC could adopt.

Because the Memorandum recommends that the Law Revision Commission (LRC) defer further action on this topic until after the Legislature has acted, we do not submit any comments at this time on the various technical and minor substantive revisions made in the Revised Draft. If and when the LRC returns to this topic, we may have additional comments to make on various details of the draft.

Very truly yours,

Handwritten signature of Joel T. Perlstein in cursive script.

Joel T. Perlstein
P.U. Counsel IV, Legal Division

Handwritten signature of Karen Jones in cursive script.

Karen Jones
PURA V, Telecommunications Division