



Town of Paradise Town Council Meeting Agenda 6:00 PM – March 09, 2021

Town of Paradise Council Chamber – 5555 Skyway, Paradise, CA

Mayor, Steve Crowder
Vice Mayor, Jody Jones
Council Member, Greg Bolin
Council Member, Steve “Woody” Culleton
Council Member, Rose Tryon

Town Manager, Kevin Phillips
Town Attorney, Mark A. Habib
Town Clerk, Dina Volenski
Community Development Director, Susan Hartman
Administrative Services Director/Town Treasurer – Vacant
Public Works Director/Town Engineer, Marc Mattox
Division Chief, CAL FIRE/Paradise Fire, Garrett Sjolund
Chief of Police, Eric Reinbold
Disaster Recovery Director, Katie Simmons

1a. Attached are comments, received after the posting of the agenda, regarding the following agenda items:

4. Public Comments

6. Undergrounding of Utilities in the Town of Paradise

From: [John S.](#)
To: [Volenski, Dina](#)
Subject: PUBLIC COMMENT ITEM 4 - Public Communication
Date: Tuesday, March 09, 2021 4:31:27 PM

Your neighbors in Magalia commend the Town government for striving to make things better on this Ridge for current and future residents. We welcome the infrastructure improvements that will attract builders and businesses to Paradise and restore the quality of life we have missed since the Camp Fire.

Since the 2020 fires, the county's focus has shifted away from our Ridge. County staff planned to prioritize CDBG-DR multi-family projects within the burn scar, inside and outside the Town, and the Supervisors shot down that idea. Opposition from certain Chico residents may forestall or scuttle the sewer regionalization project we need for more intensive development up here. Meanwhile state actions like Senate Bill 55 and the Board of Forestry's proposed Fire Safe Regulations threaten our mutual recovery and our neighbors to the east as well.

The Upper Ridge Community Council, which the Supervisors recognized as a representative body last September, wants to do what we can to assist the Town's laudable efforts to make this Ridge stronger than before. Please let us know how we can work with you here locally and be better allies and advocates at other levels of government.

John Stonebraker
Upper Ridge Community Council
Magalia, CA

**DECLARATION OF NOEL J. GOYHENETCHE OF PACIFIC BELL TELEPHONE COMPANY
CONCERNING PROPOSED RESOLUTION TO ESTABLISH UNDERGROUND UTILITY DISTRICT 20-1**

**(ITEM NO. 5C ON AGENDA FOR MEETING OF TOWN OF PARADISE COUNCIL)
(OCTOBER 13, 2020, AT 6:00 P.M.)**

I, Noel J. Goyhenetche, declare as follows:

1. I am a Director of Construction and Engineering for Pacific Bell Telephone Company doing business as AT&T California (“AT&T”), which has communication facilities throughout California.

2. My job responsibilities include oversight of AT&T construction and engineering for Nevada, Northern California, and California’s Central Valley. This thus includes work related to AT&T’s facilities in Paradise, California, (“Paradise”), including AT&T utility poles. My responsibilities included overseeing AT&T’s restoration of its aboveground communications network in Paradise with new utility poles following the 2018 Camp Fire to restore service to the community in the most efficient way possible.

3. Under my supervision, members of the AT&T construction and engineering group took representative pictures of AT&T’s current aboveground facilities in Paradise. True and correct copies of these representative pictures are contained in the “AT&T Presentation” deck submitted concurrently herewith.

4. AT&T’s aboveground facilities in Paradise were destroyed by the Camp Fire caused by PG&E in 2018. Promptly following the Camp Fire, AT&T restored its communications network with new equipment that, among other things, provides broadband services with gigabit speeds. AT&T spent approximately \$30 million replacing its aboveground infrastructure to serve the residents and businesses of Paradise. Prior to the fire, AT&T’s facilities had been in place for decades in Paradise in the same configuration. The facilities installed after the fire are smaller and less obtrusive than those that had been destroyed in the Camp Fire.

5. AT&T’s new aboveground facilities in Paradise are no different than the aboveground facilities in thousands of locations throughout California. They include new, sturdy poles and lines, using fiber optic material in place of the of the copper material cable destroyed in the fire. Fiber optic lines are less conspicuous, smaller, and lighter than the replaced copper lines.

6. Once PG&E’s facilities are removed from the poles as part of its voluntary undergrounding program, the poles will be less cluttered and can be shortened from their current height. In the proposed undergrounding area, there are only a few locations where utility poles are located near pedestrian sidewalks (as shown in the map that is Slide # 35 in AT&T’s presentation), and those poles do not impede pedestrian traffic. The subject poles are also set back from the roads and do not impede vehicular traffic.

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 13th day of October, 2020, at Sacramento, California.



Noel J. Goyhenetche



AT&T

Presentation of Pacific Bell Telephone Company, dba AT&T California (“AT&T”)

Town of Paradise
Town Council Meeting
October 13, 2020



The Fires and Undergrounding of Electrical Facilities in Paradise

- AT&T understands the desire for undergrounding electric facilities
- The Camp Fire was caused by PG&E
 - Cal Fire so determined
 - PG&E has acknowledged responsibility
- Undergrounding of electric facilities
 - PG&E is undertaking voluntary wholesale undergrounding
 - Not as part of a limited undergrounding pursuant to Rule 20A
 - Once PG&E's undergrounding is complete, electrical facilities will not be in a position to cause fires in the affected areas
 - The proposed undergrounding covers about 18 square miles
 - AT&T understands that the proposed underground district covers only the named roads
 - AT&T understands that the proposed underground district does not include other connecting roads in the shaded underground map

AT&T Facilities in Paradise

- AT&T facilities were destroyed by the Camp Fire
- AT&T spent about \$30 million replacing the aboveground AT&T infrastructure
 - New sturdy poles (see slide #s 11-16 for pictures)
 - New lines
 - Fiber optic (see slide #s 11-12 for picture)
 - Not copper
- Restored communications in Paradise, including broadband services with gigabit speeds
- The AT&T facilities do not present a fire risk
 - AT&T is now improperly being engulfed in PG&E's voluntary undergrounding
 - PG&E (or funding established in PG&E's bankruptcy plan) should be responsible for all costs of all undergrounding



AT&T Is Not Responsible for Undertaking and Paying for Undergrounding of Its Facilities

- AT&T did not cause the Camp Fire
 - AT&T should not have to spend tens of millions of dollars for undergrounding
 - AT&T already spent about \$30 million restoring its aboveground network
 - Unlike PG&E, AT&T does not have captive ratepayers to absorb any of the costs of undergrounding
- But for PG&E causing the Camp Fire, there would be no undergrounding in these areas
- Tariff Rule 32 governs AT&T's obligations to underground its facilities and is inapplicable



Tariff Rule 32 Has No Application

- Given that PG&E is not undergrounding pursuant to Rule 20A where the ratepayers bear the cost, AT&T Tariff Rule 32 is not implicated
 - Tariff Rule 32 was designed to work in tandem with limited undergrounding undertaken by PG&E pursuant to Rule 20A
 - Tariff Rule 32 was not designed for wholesale undergrounding as part of voluntary undergrounding by PG&E
- Also, even when potentially implicated, Rule 32 only requires AT&T to underground if the undergrounding is in the “general public interest”

Tariff Rule 32 Has No Application (cont'd)

- The “general public interest” only applies if:
 - There is an “unusually heavy concentration of aerial facilities”
 - The area has a “heavy volume of pedestrian or vehicular traffic”
 - The area is “a civic area or public recreation area or an area of unusual scenic interest to the general public”
- None of the 3 bases for undergrounding of AT&T facilities applies
 - Prior to the fire, AT&T facilities had been in place for decades in the same configuration
 - At no point was it suggested that undergrounding was warranted under Rule 32
 - The facilities installed after the fire are smaller and less obtrusive
 - The proposed resolution of the Town of Paradise only references the first two bases under Rule 32, but without evidentiary support



There Is Not An “Unusually Heavy Concentration Of Aerial Facilities”

- The new poles and lines replaced facilities that were in place for decades in the same configuration
- AT&T has the right to install and maintain its poles and lines per Section 7901 of the Public Utilities Code
 - That right was granted by the California Legislature over 100 years ago
 - The new facilities are not “unusual”
 - The new facilities are no different than in thousands of locations throughout California (See Slide #s 11-34 for representative pictures)

There Is Not An “Unusually Heavy Concentration Of Aerial Facilities” (cont’d)

- There will actually be less of a concentration with the new facilities
 - The AT&T fiber optic lines are less conspicuous (See Slide #s 11-12)
 - The fiber optic facilities are smaller and lighter
 - The PG&E facilities will be removed and placed underground
 - The poles will be shorter and less cluttered (See Slide #s 11-16 for pictures of poles without PG&E facilities)
- The record is devoid of evidence that the poles carrying AT&T lines in this ~18 square mile area constitute an “unusually heavy concentration of aerial facilities”
 - The record simply makes unsupported conclusory statements
 - The record does not focus on any specific areas

The Area Does Not Have A “Heavy Volume Of Pedestrian Or Vehicular Traffic”

- The new poles and lines replaced facilities that were in place for decades
- The new poles and lines have no adverse impact on pedestrian traffic
 - There are only a few locations where poles are near pedestrian sidewalks (See map, Slide # 35, with sidewalk locations highlighted)
 - The poles that are near the sidewalks do not impede pedestrian traffic (See Slide #s 14-17, 24-27 for pictures with locations of poles, depicting that the poles do not involve or impede heavy pedestrian traffic)
 - The pictures in Slide #s 14-17, 24-27 do not even include a single pedestrian in the middle of the day
 - The record is devoid of evidence concerning pedestrian traffic anywhere, let alone everywhere in the 18 square mile area

The Area Does Not Have A “Heavy Volume Of Pedestrian Or Vehicular Traffic” (cont’d)

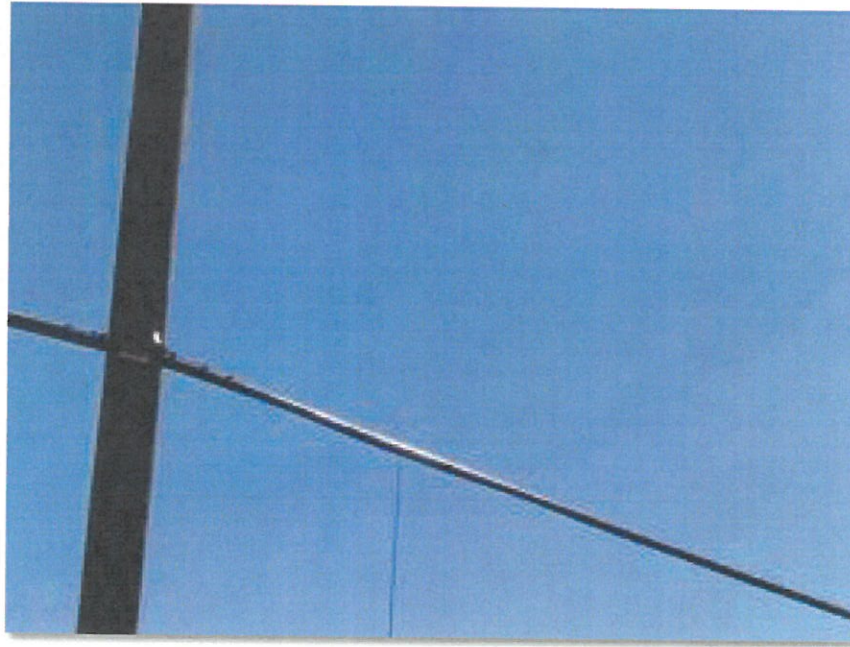
- The new poles and lines have no adverse impact on vehicular traffic
 - The poles are set back from the roads (See Slide #s 11-16, 18-34 for pictures with typical locations of poles adjacent to streets and showing the absence of traffic even in mid-day)
 - Paradise has not identified any poles that impact traffic
 - The record is devoid of evidence concerning vehicular traffic volumes anywhere, let alone everywhere in the 18 square mile area
- The poles were installed with appropriate approvals in the first instance

Representative Photographs of AT&T Facilities, October 2020



Almond Street & Birch Street

Representative Photographs of AT&T Facilities, October 2020



Detail of Fiber Optic Line at
Almond Street & Birch Street

Representative Photographs of AT&T Facilities, October 2020



Almond Street & Fir Street

Representative Photographs of AT&T Facilities, October 2020



Birch Street & Black Olive Street

Representative Photographs of AT&T Facilities, October 2020



770 Birch Street

Representative Photographs of AT&T Facilities, October 2020



5595 Black Olive Drive

Representative Photographs of AT&T Facilities, October 2020



5595 Black Olive Drive

Representative Photographs of AT&T Facilities, October 2020



5595 Black Olive Drive

Representative Photographs of AT&T Facilities, October 2020



Paradise Charter Middle School
6491 Clark Road

Representative Photographs of AT&T Facilities, October 2020



Paradise Charter Middle School
6491 Clark Road

Representative Photographs of AT&T Facilities, October 2020



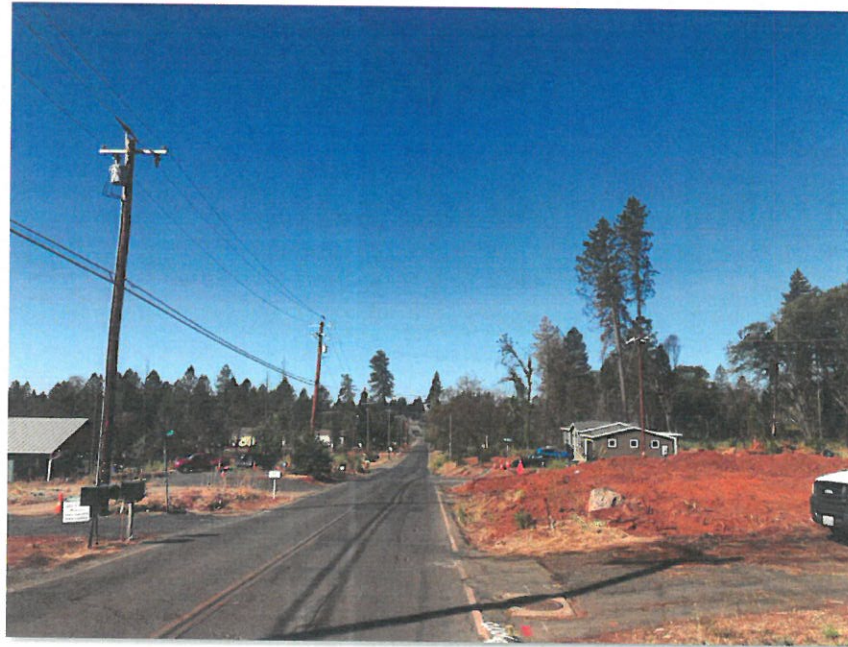
1847 Dean Road

Representative Photographs of AT&T Facilities, October 2020



826 Elliot Road

Representative Photographs of AT&T Facilities, October 2020



1319 Elliot Road

Representative Photographs of AT&T Facilities, October 2020



Oliver Road West of Skyway Road

Representative Photographs of AT&T Facilities, October 2020



Paradise High School
5811 Maxell Drive

Representative Photographs of AT&T Facilities, October 2020



Paradise Town Hall
5555 Skyway Road

Representative Photographs of AT&T Facilities, October 2020



Paradise High School across from
5888 Maxwell Drive

Representative Photographs of AT&T Facilities, October 2020



6947 Pentz Road

Representative Photographs of AT&T Facilities, October 2020



7134 Pentz Road

Representative Photographs of AT&T Facilities, October 2020



7745 Skyway Road

Representative Photographs of AT&T Facilities, October 2020



8959 Skyway Road

Representative Photographs of AT&T Facilities, October 2020



9141 Skyway Road

Representative Photographs of AT&T Facilities, October 2020



9268 Skyway Road

Representative Photographs of AT&T Facilities, October 2020



1550 Wagstaff Road

Map Showing Sidewalk Locations

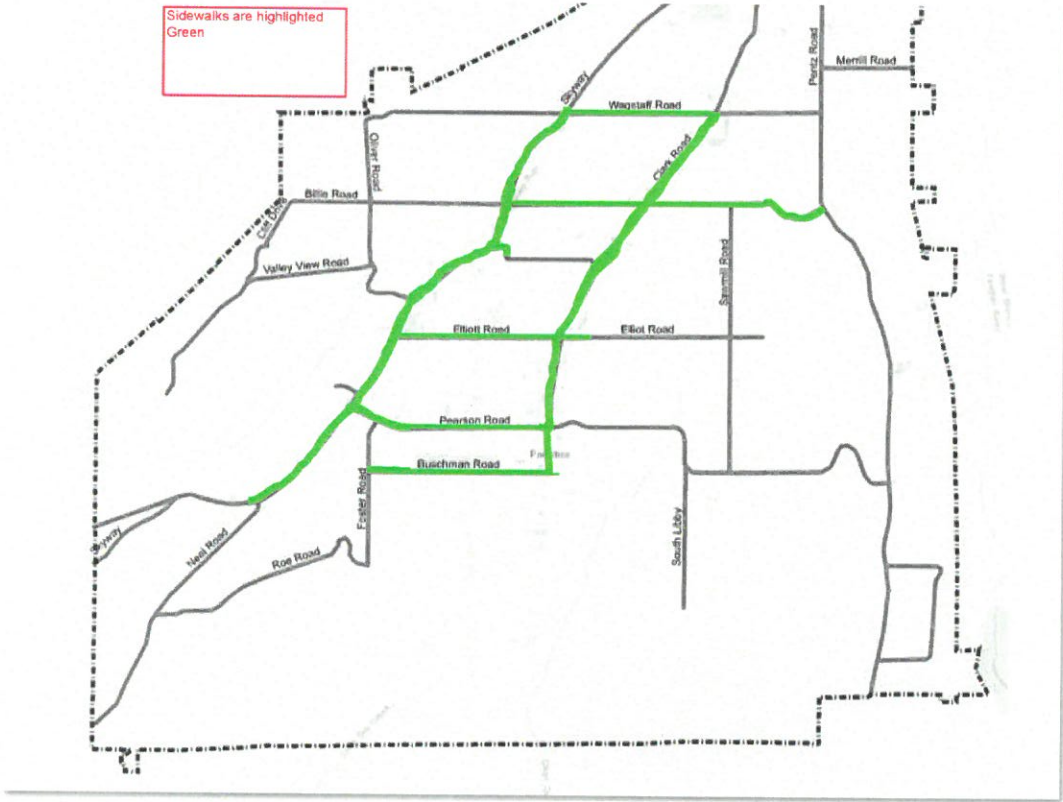


EXHIBIT C



TOWN OF PARADISE
Public Works Department
5555 Skyway
Paradise, CA 95969
(530) 872-6291

ENCROACHMENT PERMIT APPLICATION
SEE PAGE 2 FOR GENERAL CONDITIONS

Date: 12/26/2018

Permit No. EM19-00002

Owner Information	
Name:	AT&T
Street Address:	2700 Watt Ave., RM 3473-26
City, State, Zip:	Sacramento, CA 95821
Fax No.:	Telephone No.: 916-484-2420 (Line)
	Mobile No.: 916-281-8780

Submittal Requirements	
<input checked="" type="checkbox"/>	Application
<input checked="" type="checkbox"/>	Traffic Control Plan
<input type="checkbox"/>	Insurance Certificates
<input type="checkbox"/>	Bond

Contractor Information	
Name:	
Street Address:	
City, State, Zip:	Telephone No.:
Fax No.:	Mobile No.:

Fees	
Filing	
Inspection	
Tech/Gen.	
Total	

CONTRACTORS LICENSE LAW

I DECLARE UNDER PENALTY OF PERJURY (CHECK ONE):

I AM LICENSED UNDER PROVISIONS OF CHAP. 9, DIV. 3 OF THE BUSINESS AND PROFESSIONS CODE AND MY LICENSE IS IN FULL FORCE AND EFFECT.
LICENSE # _____ CLASS: _____

I, AS THE OWNER, OR MY EMPLOYEES WITH WAGES AS THEIR SOLE COMPENSATION, WILL DO THE WORK, AND THE STRUCTURE IS NOT INTENDED OR OFFERED FOR SALE. (SEC. 7044)

I AM EXEMPT UNDER SEC. _____, BUSINESS AND PROFESSIONAL CODE FOR THIS REASON _____

WORKERS COMPENSATION INSURANCE

I DECLARE UNDER PENALTY OF PERJURY (CHECK ONE):

THE PERMIT IS FOR \$500.00 (VALUATION) OR LESS.

I HAVE PLACED ON FILE WITH THE TOWN OF PARADISE INSPECTION DEPARTMENT A CERTIFICATE OF WORKERS COMPENSATION INSURANCE OR A CERTIFICATE OF CONSENT TO SELF-INSURE.

I SHALL NOT EMPLOY ANY PERSON IN ANY MANNER SO AS TO BECOME SUBJECT TO THE W.C. LAWS OF CALIFORNIA.

NOTICE TO APPLICANT: IF, AFTER MAKING THIS STATEMENT, SHOULD YOU BECOME SUBJECT TO W.C. PROVISIONS OF THE LABOR CODE, YOU MUST FORTHWITH COMPLY WITH SUCH PROVISIONS OR THIS PERMIT SHALL BE DEEMED REVOKED.

Project Information	
Contractor Job No.:	Blanket Restoration Permit
Location of Work:	Various locations within Paradise
Work Description:	Placement of cabinets on existing pads, minimal trenching or boring, placement of 4" conduit only if necessary. Aerial and underground placement of fiber facilities to restore services to those areas affected by CAMP fire.

Type of Work (Check all which apply):

Driveway
Culvert Yes No
Size & Location to be approved by Town Engineer

Public Right-of-Way Improvements

Utility

Other _____

NOTE: WHEN ANY EXCAVATION IS TO TAKE PLACE WITHIN 300 FEET OF A SIGNALIZED INTERSECTION, PERMITTEE SHALL SECURE LOCATION SERVICE OF SIGNAL LOOP AND WIRING FROM REPUBLIC ELECTRIC (1-800-544-4876) AND SHALL BE REQUIRED TO PAY FOR THAT SERVICE.

NOTE: A MINIMUM OF 24-HOURS NOTICE IS REQUIRED TO SCHEDULE AN INSPECTION BY THE TOWN IN CONNECTION WITH THIS ENCROACHMENT PERMIT.

NOTE: THIS PERMIT EXPIRES ONE (1) YEAR FROM THE APPROVAL DATE UNLESS OTHERWISE NOTED. IF YOU REQUIRE AN EXTENSION OF TIME, PLEASE CONTACT THE TOWN ENGINEERS OFFICE.

I CERTIFY THAT I HAVE READ THIS APPLICATION AND STATE THAT THE ABOVE INFORMATION IS CORRECT. I AGREE TO COMPLY WITH THE GENERAL CONDITIONS (SEE PAGE 2) AND TO ALL TOWN ORDINANCES, TOWN STANDARDS, STATE AND FEDERAL LAWS RELATING TO CONSTRUCTION, AND HEREBY AUTHORIZE REPRESENTATIVES OF THE TOWN OF PARADISE TO ENTER UPON THE ABOVE MENTIONED PROPERTY FOR INSPECTIONS PURPOSES. I ALSO AGREE TO WAIVE, INDEMNIFY AND KEEP HARMLESS THE TOWN AND ITS AGENTS AGAINST ALL LIABILITIES, JUDGMENTS, COSTS, AND EXPENSES WHICH MAY IN ANY WAY ACCRUE AGAINST SAID AGENCY IN CONSEQUENCE OF THE GRANTING OF THIS PERMIT

Vide Marano
Applicant Signature

Date

Owner / Contractor / Agent
(circle one)

Approval Special Conditions:

Approved by: KEVIN PEPPAS

Date: 1-2-19

Inspection Contact No: (530) 872-6291

Rev 01/13

EX 108 1 of 2

**DECLARATION OF NOEL J. GOYHENETCHE OF PACIFIC BELL TELEPHONE COMPANY
CONCERNING PROPOSED “ORDINANCE ADDING CHAPTER 13.13 TO THE PARADISE MUNICIPAL
CODE RELATING TO UNDERGROUNDING NEW UTILITY INFRASTRUCTURE”**

**(ITEM NO. 6(B) ON AGENDA FOR MEETING OF TOWN OF PARADISE COUNCIL)
(MARCH 9, 2021, AT 6:00 P.M.)**

I, Noel J. Goyhenetche, declare as follows:

1. I am a Director of Construction and Engineering for Pacific Bell Telephone Company doing business as AT&T California (“AT&T”), which has communication facilities throughout California.
2. My job responsibilities include oversight of AT&T construction and engineering for Nevada, Northern California, and California’s Central Valley. This thus includes work related to AT&T’s facilities in Paradise, California, (“Paradise”), including AT&T utility poles. My responsibilities included overseeing AT&T’s restoration of its aboveground communications network in Paradise with new utility poles following the 2018 Camp Fire to restore service to the community in the most efficient way possible.
3. I previously gave a declaration in connection with a proposal before the Paradise Town Council in October 2020 to establish an Undergrounding District in a portion of Paradise. A true and correct copy of my prior declaration is attached as Exhibit A, and a true and correct copy of AT&T’s presentation regarding the proposal is attached as Exhibit B. I respectfully request that the Town Council include my prior declaration and the prior presentation, as well as this one, in the record regarding Item No. 6(b) concerning an “Ordinance Adding Chapter 13.13 to the Paradise Municipal Code Relating to Undergrounding New Utility Infrastructure” (the “Ordinance”).
4. As I previously declared, AT&T’s aboveground facilities in Paradise were destroyed by the Camp Fire caused by PG&E in 2018. Promptly following the Camp Fire, AT&T restored its communications network with new equipment that, among other things, provides broadband services with gigabit speeds. AT&T spent approximately \$30 million replacing its aboveground infrastructure to serve the residents and businesses of Paradise. Prior to the fire, AT&T’s facilities had been in place for decades in Paradise in the same configuration. The facilities installed after the fire are smaller and less obtrusive than those that had been destroyed in the Camp Fire.
5. I understand that certain proponents of the Ordinance believe that AT&T’s restored facilities are “temporary.” This is not correct. AT&T did move extremely rapidly in order to restore service, and was able to bring Paradise live on its systems by April 25, 2019, approximately six months after the Fire. But AT&T’s facilities were always designed to be permanent in nature. The poles used standard-issue utility poles, designed to be in place for 40 years or more. Those replacement poles that were installed by PG&E, on which AT&T shared the cost, were presented to AT&T under the Joint Pole Agreement as permanent facilities. PG&E further demonstrated the intended permanence of the poles by hanging 750-ground wire from the new poles (which it would not do on temporary poles), and any nearby trees were

trimmed to allow access and maintenance as part of a permanent aerial infrastructure. While PG&E subsequently determined to underground its facilities, the build-out in which AT&T shared the costs was always designed to be permanent in nature.

6. AT&T's work to rebuild its aerial infrastructure was permitted by Paradise. A true and correct copy of Paradise Permit No. EN 19-00002 is attached as Exhibit C. AT&T submitted the permit on December 26, 2018, and it was approved on January 2, 2019. It permitted "[a]erial and underground placement of fiber facilities to restore services to those areas affected by the CAMP fire." It was not limited to temporary placements.

7. AT&T's new aboveground facilities in Paradise are no different than the aboveground facilities in thousands of locations throughout California. They include new, sturdy poles and lines, using fiber optic material in place of the of the copper material cable destroyed in the fire. Fiber optic lines are less conspicuous, smaller, and lighter than the replaced copper lines. The photos of the new fiber lines at Almond and Birch Streets and contained in AT&T's submission are representative of the small footprint of the new, post-Fire AT&T facilities. The Almond and Birch photos are representative of many of the areas where the proposed Ordinance would compel AT&T to underground.

8. Once PG&E's facilities are removed from the poles as part of its voluntary undergrounding program, the poles will be less cluttered and can be shortened from their current height. Poles with PG&E equipment typically are 45-to-60 feet high, with PG&E's equipment at the topmost level of the poles. Now that PG&E has elected to remove its facilities, the poles will be "topped" at two to three feet above the AT&T fiber cable, for a total height of about 20 to 25 feet. The poles are also set back from the roads and do not impede vehicular traffic.

9. In response to the October proposal for an Undergrounding District, AT&T proposed a mediation before the CPUC. I understand that the Town agreed to that mediation and has been participating in it. AT&T's settlement proposal, made in the CPUC proceedings, would result in undergrounding 16 miles of arterial and collector streets that were identified by the Town. This proposal addressed concerns raised by Town Staff over ingress and egress during an emergency.

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 9th day of March, 2021, at Sacramento, California.



Noel J. Goyhenetche



AT&T

Presentation of Pacific
Bell Telephone
Company, dba AT&T
California (“AT&T”)

Town of Paradise
Town Council Meeting
March 9, 2021



AT&T's Continuing Response to the Fires and the Undergrounding of Electrical Facilities in Paradise

- AT&T proposed the mediation to which Paradise agreed and the CPUC then ordered
- As part of that mediation, AT&T has offered to cooperate with the previously proposed Underground District on 16 miles of undergrounding of the arterial and collector roads
- AT&T is willing to make this commitment even though, under the governing CPUC Tariff Rule 32, AT&T is not required to underground
- AT&T would like to continue with the mediation
- AT&T respectfully submits that it makes no sense for the Town to go forward with an ordinance contrary to California law while the parties are making progress in the mediation



Undergrounding Non-Electrical Facilities Does Not Make Sense and Is Contrary to California Law

- Despite the ongoing mediation, the Council Agenda for tonight's meeting proposes to have the first reading of Town Ordinance No. 604
- The Ordinance would compel the undergrounding of **ALL** aerial utilities within town limits—on public and private roads—including all current and future facilities of AT&T
- AT&T understands the desire for undergrounding **electric** facilities of PG&E after the Camp Fire, and PG&E is apparently willing to do so voluntarily
- But AT&T cannot and does not agree that the Town has the power to compel AT&T to pay for the undergrounding of AT&T's facilities (including new facilities), as they will not cause fires

Under California Law, AT&T is Granted the Right to Erect and Maintain Poles and Lines *Aboveground*

- Under sections 7901 and 7901.1 of the California Public Utilities Code, AT&T has the right to erect poles and lines aboveground in the public right-of-way, as the City has recognized in the past
- The California Supreme Court has consistently held that, based on section 7901, the construction and maintenance of telephone lines in the public right-of-way is a matter of state, not local, concern. *Pac. Tel. & Tel. Co. v. City & County of San Francisco*, 51 Cal. 2d 766, 774 (1959).
- Once a carrier (such as AT&T) constructs poles in the public right of way, it has a “vested right” under section 7901 to continue to use them. *County of Los Angeles v. S. Cal. Tel. Co.*, 32 Cal. 2d 378, 384 (1948).
- Under CPUC Tariff Rule 32 (which applies to AT&T), AT&T can only be forced to pay for undergrounding of its facilities in very limited circumstances, which are not applicable here
- The record is devoid of evidence supporting the undergrounding of AT&T facilities
- On its face, and as applied to AT&T, the proposed undergrounding is illegal



PG&E Is the Cause of the Fires, and the Undergrounding of PG&E's Electrical Facilities in Paradise *Is* Appropriate

- The Camp Fire was caused by PG&E
 - Cal Fire so determined
 - PG&E has acknowledged responsibility
 - AT&T's facilities were not the cause of the Fire
- PG&E is undertaking voluntary wholesale undergrounding
 - Not as part of a limited undergrounding pursuant to CPUC Tariff Rule 20A (normally governing PG&E undergrounding)
 - Once PG&E's undergrounding is complete, electrical facilities will not be in a position to cause fires in the affected areas
- PG&E, not AT&T, should pay for the undergrounding
 - PG&E has the ability to pass along all its costs of undergrounding to its customers
 - AT&T does not have the same ability



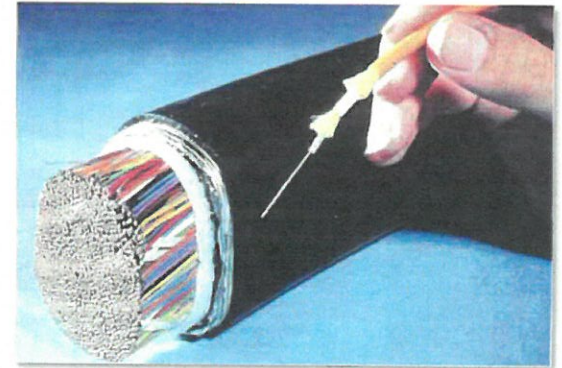
After the Camp Fire, AT&T Immediately and Permanently Rebuilt Its Facilities in Paradise

- AT&T has served the Town for many years with aboveground utility poles and distribution lines, that were properly approved and permitted
- Following the Camp Fire, AT&T rebuilt those facilities that had been destroyed
- AT&T has a vested right under California law to continue to use the aboveground facilities



After the Camp Fire, AT&T Immediately and Permanently Rebuilt Its Facilities in Paradise

- AT&T spent about \$30 million to do a permanent (not temporary) rebuild to replace the aboveground AT&T infrastructure
 - New sturdy poles (see slide #s 16-17 for pictures) designed to last over 40 years
 - New lines
 - Thin fiber optic (see slide #s 16-17 for picture of fiber in place in Town)
 - Not bulky copper as in the previous infrastructure (see comparison at right)



After the Camp Fire, AT&T Immediately and Permanently Rebuilt Its Facilities in Paradise

TOWN OF PARADISE
Public Works Department
5555 Skyway
Paradise, CA 95969
(530) 872-6291

ENCHANCERMENT PERMIT APPLICATION
SEE PAGE 2 FOR GENERAL CONDITIONS

Date: 12/28/2018 Permit No. EM 12202

Owner Information		Independent Regulator/Inspector	
Name: AT&T	Street Address: 2702 West Ave., RM 3473-26	<input checked="" type="checkbox"/> Application	<input type="checkbox"/> Traffic Control Plan
City, State, Zip: Sacramento, CA 95821	Telephone No.: (916) 484-2420 (Ext.)	<input type="checkbox"/> Insurance Certificates	<input type="checkbox"/> Bond
Fax No.:	Mobile No.:	Fee	
Contractor Information		Filing	Inspection
Name:	Street Address:	Technical	Total
City, State, Zip:	Telephone No.:		
Fax No.:	Mobile No.:		

CONTRACTOR LICENSE LAW

I DECLARE UNDER PENALTY OF PERJURY (CHECK ONE):

I AM LICENSED UNDER PROVISIONS OF CHAPTER 4, SECTION 4 OF THE BUSINESS AND PROFESSIONS CODE AND MY LICENSE IS IN FULL FORCE AND EFFECT.

I, AS THE OWNER OR MY EMPLOYEE WITH WRITING AS THE SOLE AUTHORITY, WILL DO THE WORK, AND THE STRUCTURES IS NOT SUBJECT TO THE LICENSE OF CALIFORNIA.

I AM EMPLOYED UNDER THE BUSINESS AND PROFESSIONS CODE FOR THIS REASON.

WORKERS COMPENSATION INSURANCE

I DECLARE UNDER PENALTY OF PERJURY (CHECK ONE):

I HAVE PLACED ON FILE WITH THE TOWN OF PARADISE INSPECTION DEPARTMENT A CERTIFICATE OF WORKERS COMPENSATION INSURANCE OR A CERTIFICATE OF SELF-INSURANCE.

I SHALL NOT EMPLOY ANY PERSON IN ANY MANNER SO AS TO BECOME SUBJECT TO THE LICENSE OF CALIFORNIA.

NOTICE TO APPLICANTS: AFTER MAKING THIS STATEMENT, SHOULD YOU BECOME SUBJECT TO THE PROVISIONS OF THE LABOR CODE, YOU MUST IMMEDIATELY COMPLY WITH SUCH PROVISIONS OR THE PERMIT SHALL BE REVOKED.

Project Information

Contractor Job No.: Blanket Restoration Permit APN (if applicable):

Location of Work: Various locations within Paradise

Work Description: Placement of cabinets on existing pads, minimal trenching or boring, placement of 4" conduit only if necessary. Aerial and underground placement of fiber facilities to restore services to those areas affected by CAMP fire.

Type of Work (Check all which apply):

Delivery Cabinet Yes No
See 4.1.1.1 as approved by Town Engineer

Public Right-of-Way Impairment

Utility Other

I CERTIFY THAT I HAVE READ THIS APPLICATION AND STATE THAT THE ABOVE GROUP PAGE 2 AND TO ALL TOWN ORDINANCES, TOWN EXHIBITS, STATE AND FEDERAL LAWS OF THE TOWN OF PARADISE TO BECOME SUBJECT TO THE ABOVE REFERENCED PERMIT AND I AGREE TO BE BOUND BY THE TOWN AND ITS AGENTS' ALL APPLICABLE LAWS, ORDINANCES, CODES AND REGULATIONS OF THE TOWN OF PARADISE.

Applicant Signature: M. De Mando Date: _____

Approved Special Conditions: _____

Approved by: KEVAN PEPPAS Date: 1-2
441123

- AT&T's work to do a permanent rebuild was permitted by the Town, as was the original installation of the poles prior to the Fire
- AT&T's rebuild was substantially complete by April 2019



After the Camp Fire, AT&T Immediately and Permanently Rebuilt Its Facilities in Paradise

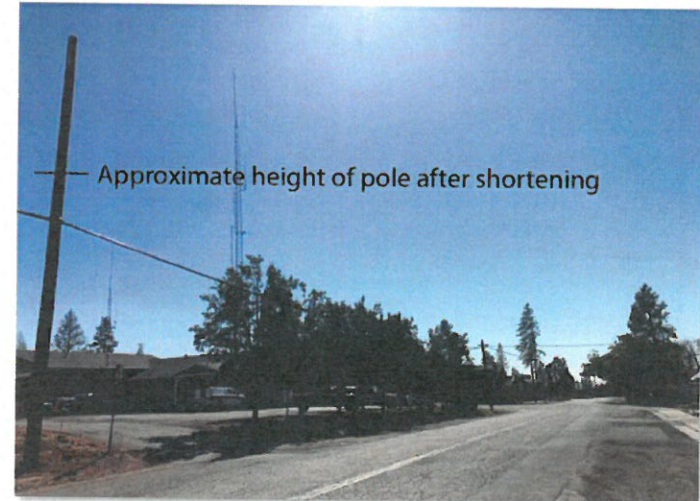
- AT&T's rapid work restored communications in Paradise, now with broadband services with gigabit speeds
- The current AT&T facilities do not present a fire risk
 - AT&T is now improperly being driven into PG&E's voluntary undergrounding
 - PG&E (or funding established in PG&E's bankruptcy plan) should be responsible for all costs of all undergrounding
- AT&T has no objection to undergrounding if others are covering the associated costs



AT&T's Current Facilities Could Not Cause The Problems Of Concern To The Town



Pre-Fire Pole With PG&E Electrical Equipment



Post-Fire Pole With No PG&E Equipment

- AT&T's new poles are designed to be permanent, and will be shortened now that PG&E's equipment has been removed
- AT&T's new poles do not carry PG&E equipment, and do not "incommode the public use," let alone create a public hazard



It Would Be Both Illegal and Inequitable to Compel AT&T to Undertake and Pay for Undergrounding Its Facilities

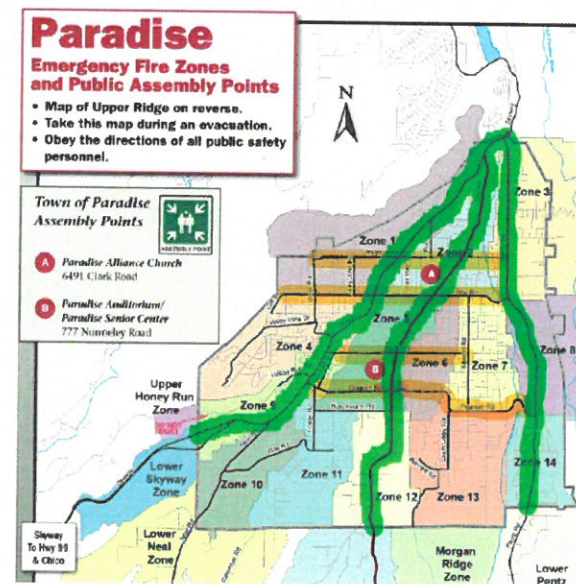
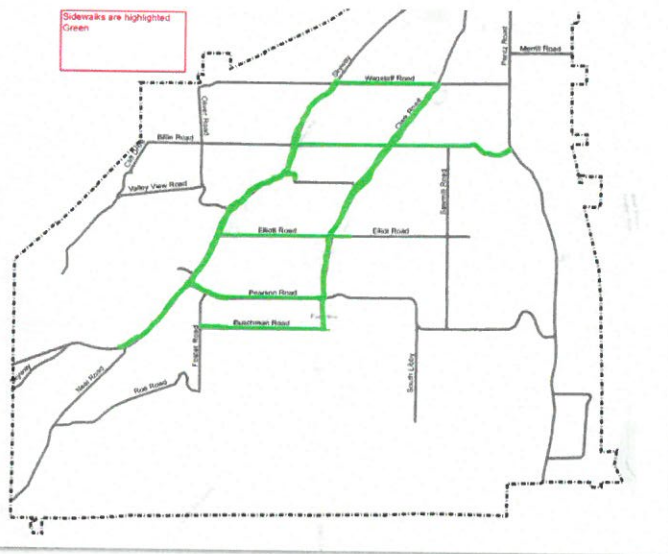
- AT&T did not cause the Camp Fire
 - AT&T should not have to spend tens of millions of dollars for undergrounding
 - AT&T already spent about \$30 million restoring its aboveground network—an expenditure that would be wasted if AT&T is required to tear it all down
 - Unlike PG&E, AT&T does not have captive ratepayers to absorb the costs of undergrounding
- But for PG&E causing the Camp Fire, there would be no undergrounding in these areas

The Law Preempts the Town's Attempt to Compel Town-Wide Undergrounding

- PG&E is not being compelled to underground pursuant to Rule 20A, and AT&T cannot be compelled under Rule 32 to bear the cost of joining PG&E underground
- The special circumstances required to obligate AT&T under Rule 32 do not apply even to the proposed October ordinance to establish an Underground District
- In the spirit of cooperation with the stated desires of the Town, AT&T nevertheless has (in the context of settlement) proposed to underground 16 miles of arterial and collector roads covering the identified evacuation routes from the Town.
 - The Town has not responded to that proposal
 - Instead, the Town has moved away from the prior proposal and seeks to compel the undergrounding of all 200 miles of aerial facilities within Town limits
- The proposed ordinance which calls for mass undergrounding is preempted
 - Local legislation that impairs a carrier's rights under sections 7901 and 7901.1 is void and preempted. *See, e.g., City of Los Angeles*, 44 Cal. 2d at 277; *see also Apartment Ass'n of Los Angeles v. City of Los Angeles*, 136 Cal. App. 4th 119 (2009)
 - Also, the CPUC preempted such a mass undergrounding when the CPUC adopted Tariff Rule 32.
- The Town does not attempt to justify the undergrounding under Rule 32

The Scope of the Undergrounding Has Massively Expanded

- Proposed Ordinance No. 604 would massively expand AT&T's undergrounding obligation beyond even the now abandoned October 2020 proposal
- The proposal is far beyond what a company like AT&T (which cannot pass the cost on to customers) should pay
- The Town has no evidence in the record that any AT&T facilities "incommode the public use"
- October scope on left; new scope on right



Paradise Relies on Misplaced Arguments to Justify the Ordinance

- Section 2902 of the Public Utilities Code does not support the legality of the Ordinance.
 - *S. Cal. Gas Co. v. City of Vernon*, 41 Cal. App. 4th 209, 215-18 (1996)
 - Section 2902 does not confer any powers upon a municipal corporation over the design and construction of a utility's facilities.
 - Section 2902 only allows a municipality to control the location of utilities in the right-of-way to address traffic and use and repair of streets.
- Section 7901.1 does not authorize a blanket prohibition.
 - The poles and lines of AT&T do not "incommode the public use," as the City recognized in allowing the facilities for years and in issuing permits.
 - As explained the Supreme Court has ruled, the State Legislature, in enacting section 7901, "obviously" knew that "the placing of poles, etc., in a street would of necessity constitute some incommmodity to the public use, but the restriction necessarily is limited to an unreasonable obstruction of the public use." *Pac. Tel. & Tel. Co. v. City & County of San Francisco*, 197 Cal. App. 2d 133, 146 (1961).



AT&T Requests That the Town Re-engage in the Mediation Process Ordered by CPUC

- AT&T has reviewed the version of the town-wide undergrounding ordinance, No. 604, from the February 23 Special Meeting
- The version published in the Special Meeting agenda appears different than the one being discussed by the Councilmembers at that meeting, which is contrary to the Brown Act
- The February 23 version before the Councilmembers does not appear to be available to the public, which is contrary to the Brown Act
- The new ordinance labelled No. 604 in the Council Agenda for March 9 appears to be a redline of the version being discussed orally by Councilmembers on February 23 but not published
- All three different ordinances envision acts of the Council that would be preempted by the CPUC in promulgating Tariff Rule 32
- The noticed description for the March 9 first reading is insufficient to disclose the scope of the Ordinance
- Rather than consider at a first reading an ordinance that could never be enforced, the Town should return to discussions with AT&T in the CPUC mediation

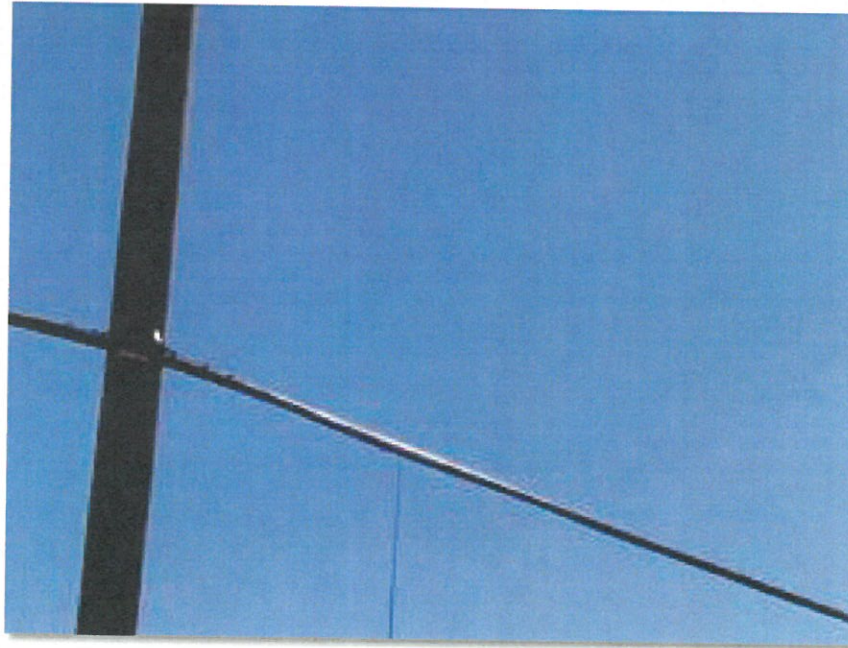


Representative Photographs of AT&T Facilities, October 2020



Almond Street & Birch Street

Representative Photographs of AT&T Facilities, October 2020



Detail of Fiber Optic Line at
Almond Street & Birch Street