

MODIFIED BY EI 82-004  
EFFECTIVE 1/15/82

# ENGINEERING INSTRUCTION

YORK STATE DEPARTMENT OF TRANSPORTATION

SUPERSEDED BY EB 82-018  
EFFECTIVE 4/26/82

RELOCATION OF UTILITY POLES

Subject Code: 7-30

Distribution:

Main Office

Regions

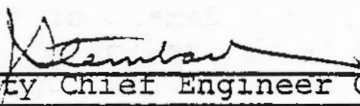
Special

Code: EI-80-22

Date: 04-21-80

Supersedes:

APPROVED:

  
Deputy Chief Engineer Construction Subdivision

The Department, through the Office of Legal Affairs, is prepared to ask the Attorney General to bring action against a utility company that refuses to comply with a relocation request where the present location of its poles is deemed to interfere with the free and safe flow of traffic and/or conflicts with the clear roadside policy of the State.

Prior to the Department's pursuing the relocation through the courts, the Region should proceed as follows:

1. The Region should make a formal written request to the utility company asking that the poles be relocated, in much the same manner as is presently done.
2. If the utility company fails to reply to the written request or indicates that it will not relocate its facilities in a timely manner, the Region should forward to the utility company a written formal demand that the poles be relocated. The demand, sent registered mail return receipt requested, should at a minimum:
  - a) identify the poles in question;
  - b) indicate why the locations of the poles identified do not meet State and/or Federal Standards; e.g., the poles are located within the guiderail deflection distance;
  - c) indicate that the removal and relocation of the poles shall be at the utility company's expense, unless the utility qualifies for funding under subdivision 24-b of Section 10 of the Highway Law;
  - d) state that the request for relocation is being made pursuant to Part 131 of the Department's rules and regulations;
  - e) ask the utility to provide, within 10 days of its receipt of the demand, a letter indicating whether it intends to comply with the department's request, and advise that a lack of response within the time period specified will be taken to mean that the utility has no intention of cooperating;

- f) request that the utility either provide a timetable, setting forth a schedule for its relocation work at the same time that it indicates its intention to comply, or that the utility indicate in its response when a timetable is forthcoming;
  - g) provide any other pertinent information.
3. After a reasonable time period of 2 weeks, if the utility company does not reply to the written demand or fails to provide the information requested, the region should forward to the Office of Legal Affairs, with copies to the Construction Subdivision and the Utility Section, a request that further action be pursued through the courts. The requesting memorandum to the Office of Legal Affairs should include or have attached to it:
- a) a copy of the written request (1 above) sent to the utility company;
  - b) a copy of the written demand (2 above) sent to the utility company;
  - c) the attached form containing the information described:
    - (1) a list of the utility poles for which relocation was required and that have not yet been relocated.
    - (2) The poles should be identified by number, station and offset;
    - (2) a right-of-way map showing the location of the poles, the former highway boundary, and new R.O.W. line;
    - (3) the ownership of each pole;
    - (4) whose facilities these poles carry;
    - (5) the location of each of the above poles in relation to the adjacent guiderail; i.e., indicate whether the pole is between the guiderail and highway or behind the rail and if so, the distance between the face of pole and back edge of guiderail;
    - (6) the type of guiderail adjacent to each of the above poles and post spacing and the minimum deflection distance for that type of guiderail;
    - (7) a list of those poles that would have to move off the ROW or have the facilities placed underground in order to meet the deflection requirements.

The Office of Legal Affairs intends to pursue this matter with the Attorney General through the Courts and hopefully obtain a declaratory judgement in the Department's favor.

Attachment