

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

**Communications Division
Broadband, Video and Market Branch**

**RESOLUTION T-17638
January 31, 2019**

RESOLUTION

Resolution T-17638: Approval of Deviation from Section 320 of the Public Utilities Code for the California Advanced Services Fund grant application of Anza Electric Cooperative, Inc. (U-7297-C) for Phase 2 of the Connect Anza Project.

I. Summary

Approves a deviation from Section 320 of the California Public Utilities Code for Anza Electric Cooperative, Inc. (AEC) to construct fiber on pole facilities for 30 miles along State Route 74 "Pines to Palms" State Scenic Highway, necessary for AEC to complete Phase 2 of its Connect Anza Project. The Commission approved grant funding on May 31, 2018, in Resolution T-17581 in the amount of \$1,796,070 from the California Advanced Services Fund (CASF) Infrastructure Grant Account for the grant application of Anza Electric Cooperative, Inc. to construct the Connect Anza Project, Phase 2. In that resolution, portions of the project were identified as transiting a scenic highway in order to extend a fiber-to-the-premises system into the unincorporated communities of Pinyon Pines, Pinyon Crest, Alpine Village and Ribbonwood (the Pinyon area) and into the Santa Rosa Reservation in western Riverside County east of Anza Valley.

Commission staff reviewed all documents submitted by AEC on July 3, 2018, to comply with Pub. Util. Code § 320 deviation requirements and considered the following elements to review AEC's request: 1) the applicability of the California Environmental Quality Act (CEQA) to Phase 2; 2) the visual and environmental impact of placing aerial facilities; and 3) the economic feasibility of placing these facilities underground. Commission CEQA staff have reviewed the proposed Phase 2 Project and have obtained a concurrence from the California Department of Transportation (Caltrans) Region 8 District Landscape Architect that the Project qualifies for a deviation from the requirements of Pub. Util. Code § 320 governing the placement of overhead facilities within Scenic Highways.

II. Background – Connect Anza Phase I and 2

The Commission awarded a CASF grant to AEC for Phase 1 of the Connect Anza Project, which AEC has since completed.¹ In Phase 1, AEC installed a fiber-to-the-premise system offering broadband internet service at symmetrical speeds of 50 Mbps and above to approximately 3,750 households in the Anza Valley (including the unincorporated communities of Anza, Aguanga, Lake Riverside Estates, and Reed Valley). The Commission awarded a CASF grant to AEC for Phase 2 of its project on May 31, 2018, in Resolution T-17581, to extend service to over 400 households spread over 69 square miles in the areas of Pinyon and the Santa Rosa Reservation.

As a condition of its approval, the Commission also required the Phase 2 Project to undergo review pursuant to the California Environmental Quality Act in *Finding of Fact Number 11* and *Ordering Paragraph Number 4* of Resolution T-17581.² Resolution T-17581 also specified that AEC may not begin construction or make claims against the CASF funds for construction until the CEQA review has been completed.

Finding:

11. *The Commission has determined that the project must undergo CEQA review prior to construction and the Commission cannot release funds for construction activities until CEQA review is complete. AEC is required to comply with the requirements set forth in the CEQA Section of the Resolution. AEC must provide the PEA prior to the first payment.*

Ordering Paragraph:

4. *AEC must submit a full Proponent's Environmental Assessment (PEA) to the Energy Division prior to the first payment of CASF grant funds. No CASF grant funds may be disbursed for construction activities prior to the completion of the CEQA review.*

¹ Resolution T-17503, "Anza Electric Cooperative's Connect Anza Project, extending high-speed broadband service to approximately 3,751 households in the underserved communities of Anza, Aguanga, Lake Riverside Estates, and Reed Valley in Western Riverside County. "

² All CASF grants are subject to (CEQA) requirements unless the project is statutorily or categorically exempt pursuant to the CEQA Guidelines (California Public Resources Code § 21000 et seq.).

III. Proposed Phase 2 Project

AEC will deploy fiber optic cable on existing poles and rights-of-way and will extend the newly completed fiber-to-the-premise network with sufficient capacity to establish broadband internet service for the communities in the Pinyon area and on the Santa Rosa Reservation. AEC estimates that 40 to 60 households in remote locations will be reached through fixed wireless facilities at symmetrical speeds of 50 Mbps.

Existing Facilities

AEC³ currently owns and distributes electricity using over 700 miles of line in Southwest Riverside County covering the areas of Anza, Garner Valley, Pinyon, Alpine Village, Royal Carrizo and parts of Aguanga. AEC's existing land-based electric utilities system consists of wooden utility poles, approximately 35 to 45 feet in height with single- or three-phase cross-arm-mounted distribution lines attached. The existing poles currently carry three electric power distribution lines: Circuit #001 (34 kV), Circuit #1100 (12.4 kV), and Circuit #2100 (12.4 kV). The existing electrical utilities system components are located primarily within the Right-of-Way of State Route (SR) 74 and AEC utility easements that roughly parallel SR 74 in the Pinyon and Santa Rosa Reservation areas of Riverside County, California. AEC holds utility easement rights over its entire electrical utilities system.

The Project site includes the existing electrical utilities system components (poles and wires) along the approximate 30-mile-long corridor along SR 74, plus the local roadways that will be used for access for the installation of the new fiber optic cable. The existing route encompasses three separate lines: Circuits #001, #1100, and #2100. The Project area is defined as the 50-foot wide access corridor along SR 74 and the 40-foot wide local roadways and the existing AEC electrical utilities system access roads.

Phase 2 Project Facilities Placement

AEC's current phase of the Connect Anza Project entails the installation of 373 miles of fiber optic cable on existing electricity poles. The Project which would be implemented and operated by AEC, would extend high-speed internet service to approximately 400 households in an area approximately 70 square miles in size. The Project components would be located primarily along a 30-mile stretch of the ROWs of SR 74, the "Pines to Palms" State Scenic

³ AEC is an incorporated non-profit 501(c) (12) electricity (member-owned) cooperative. According to the AEC website (<http://www.anzaelectric.org/content/about-us>), AEC provides power to 3900 homes, schools, businesses and 20 irrigation loads.

Highway, between Mountain Center and approximately two miles south of Cahuilla Hills in western Riverside County, California. Along this 30-mile stretch, electricity poles run mainly adjacent to the roadway. Pole locations vary but are generally located approximately 20 to 1,800 feet off SR 74. Additional Project alignment would be located within Riverside County road ROWs and AEC's existing utility easement that roughly parallels SR 74. Pole locations are distributed throughout the Project area, along SR 74, SR 371, and local roadways.

Installation Activity

The Proposed Project would consist of one phase to be completed within 24 months from CPUC approval, and entails the following activities:

- Installation of 373 miles of fiber optic cable on existing electricity poles along existing utility rights-of-way, via pulling the cable from one pole to the next and connecting the cable to the pole clamp on each pole prior to pulling to the next pole.
- Installation of no more than 30 above-ground fiber protection pedestals on developed private property in select areas in the Pinyon and Santa Rose Reservation areas to connect residents and businesses to the broadband internet service.

The new fiber optic cable would be installed with connections to above-ground fiber protection pedestals that provide direct service to residential and commercial customers. Installation of the fiber optic cable would not involve excavation of any sort. No new poles would be installed, nor would any existing poles be replaced, as part of the Project. Equipment required for this operation includes trailers to transport the cable and truck-mounted mechanical pulling equipment.

Traffic control may be required during work on utility poles in the vicinity of traffic lanes or road shoulders to ensure worker safety. Where necessary, one lane of traffic along SR 74 or local roadways may be occupied by AEC vehicles and personnel during installation activities. Where no existing compacted roadways or access roads provide necessary access to a given existing utility pole, crews will carry the cable on foot to the pole and string the cable by hand. As such, no heavy equipment will be used in any areas outside the existing roadway.

No more than 30 above-ground fiber protection pedestals would be installed as part of the Project. Pedestals would be installed on developed private property in the Pinyon and Santa Rosa Reservation areas to connect residents and businesses to the broadband internet service. Installation of the above-ground fiber protection pedestals would occur throughout the Project site and would not involve excavation of any sort.

Project Schedule

Installation of the fiber optic cable and the above-ground fiber protection pedestals is expected to take approximately 10 months to complete. The Proposed Project would consist of one phase to be completed within 24 months from CPUC approval. AEC will limit Project installation activities to between 7:00AM to 6:00PM on weekdays and Saturdays, per Riverside County Noise Regulation Code. No installation activity would occur on Sundays or holidays. AEC will comply with conditions and work timeframe restrictions that the California Department of Transportation (Caltrans) or Riverside County may impose.

Safety Issues

The Commission's General Order (G.O.) 95 contains safety directives concerning overhead utility lines. Specifically, G.O. 95, Section 1, Rule 11 states: "The purpose of these rules is to formulate for the State of California, requirements for overhead line design, construction and maintenance, the application of which will ensure adequate service and secure safety to persons engaged in the construction of, maintenance and operation or use of overhead lines and to the public in general."⁴ Anza Electric Cooperative is subject to General Order 95 and all installations on AEC facilities will comply with GO 95 standards.

Phase 2 will provide safety and health benefits including, but not limited to, resilient high capacity broadband infrastructure that will provide access to emergency services and information, e-health services and voice service that will meet all safety standards, including E911. Parts of the Phase 2 Project area are classified as high to very high fire hazard severity zones, as specified by the California Department of Forestry and Fire Protection (CAL FIRE).⁵ Reliable and ubiquitous broadband internet will assist emergency responders and local government in responding to wildfire conditions. AEC further proposes to provide voice service which will be required to meet all safety standards, E911 data and access to local public-safety answering points (PSAPs).

⁴ D.12-01-032, January 12, 2012.

⁵ http://www.fire.ca.gov/fire_prevention/fire_prevention_wildland_statewide

IV. Anza Connect Phase 2 and CEQA

Environmental Impact Avoidance

Details on the Proposed Project are contained in the *AEC Connect Anza Project Detailed Project Description (July 2018)*. It includes information on the Proposed Project, Project Components, Installation Methods, Staging Areas, Ground Disturbance, Surface Restoration, Operations and Maintenance, Project Schedule, and Applicant-Proposed Measures such as: Pre-installation Environmental Training, Traffic Control, Noise Control, Dust Suppression, Erosion Controls, and a Hazardous Materials Spill Prevention and Contingency Plan.

Exemption from CEQA

The Energy Division CEQA staff coordinated with AEC in the environmental review of Phase 2 of the Connect Anza Project throughout late 2017 and early 2018 to establish the level of CEQA review appropriate to the Project.

The Connect Anza Phase 2 Project would have allowed AEC to construct the Proposed Project without any further CEQA review except for a single factor: the proposed Phase 2 Project is located along a designated California Scenic Highway, Highway 74 (SR 74). This factor was considered an exceptional circumstance preventing the carrier from relying on a CEQA exemption. CEQA Guidelines Section 15300.2(d) states: "*Scenic Highways. A categorical exemption shall not be used for a project which may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway...*" However, as explained below, CPUC staff has confirmed that this Project would not result in damage to scenic resources along a Scenic Highway corridor.

V. Public Utility Code Section 320

Pub. Util. Code § 320 states that:

The legislature hereby declares that it is the policy of this state to achieve, whenever feasible and not inconsistent with sound environmental planning, the undergrounding of all future electric and communication distribution facilities which are proposed to be erected in proximity to any highway designated a state scenic highway pursuant to Article 2.5 (commencing with § 260) of Chapter 2 of Division 1 of the Streets and Highways Code and which would be visible from such scenic highways if erected above ground.

The Commission is responsible for the administration of Pub. Util. Code § 320. After hearings conducted in Case 9364, the Commission implemented § 320 in Decision 80864 on December 19, 1972, which states:

In order to facilitate administration, letter requests for deviations will be accepted, reviewed by the Commission staff and, where appropriate, approved by Commission resolution.

Decision 80864 states that no communications or electric utility shall install overhead distribution facilities “in proximity to” and “visible from” any prescribed corridor on a designated scenic highway in California unless a showing is made before the Commission and the Commission finds that undergrounding would not be feasible or would be inconsistent with sound environmental planning. The Decision defines “in proximity to” as being within 1,000 feet from each edge of the right-of-way of designated state scenic highways. Decision 80864 requires that all communications or electric utilities facilities within 1,000 feet of a scenic highway be undergrounded.

Decision 80864 further states that when repairs or replacement of existing overhead facilities in the same location do not significantly alter the visual impact of the scenic highway, they should not be considered as new construction and need not be converted to underground. Therefore, based on D.80864, deviations from § 320 may be permitted when undergrounding would not be *economically feasible* and would not significantly alter the *visual impact* of the scenic highway.

Public Utilities Code Section 320 Deviation

California Pub. Util. Code § 320 essentially requires all new utilities to be undergrounded on Scenic Highways. The California Department of Transportation (Caltrans) has primary jurisdiction over scenic highways. Absent a deviation from Pub. Util. Code § 320, AEC would have to underground the Phase 2 Project. Decision 80864 established two requirements for a deviation from Pub. Util. Code § 320: confirmation that the Project (1) would not have a visual impact on a Scenic Highway; and (2) would not be economically feasible if undergrounded.

Visual Impact

Considerable consultation between AEC, Energy Division staff, Legal Division staff, and staff from Caltrans took place in 2018. It was determined by the Caltrans Landscape Architect for Region 8 that the Connect Anza Phase 2 Project would not create a significant adverse impact on scenic resources. The Caltrans Region 8 Landscape Architect provided the CPUC with a

written determination about the visual impacts of the project, finding:⁶ the “addition of a singular fiber optic line would not add a significantly noticeable visual change to the site and it would not change the character of the visual corridor.” Subsequent to this concurrence, on July 3, 2018, AEC submitted a letter to the CPUC Energy Division staff requesting a deviation from § 320 of the Pub. Util. Code for the Phase 2 Project including an initial environmental assessment of the Proposed Project and an analysis of the economic feasibility of undergrounding.

Economic Feasibility

AEC’s letter of July 3, 2018 stated that the cost of undergrounding fiber is \$16.1M, and aerial placement costs are \$1.8M, a 1:9 ratio. The estimated cost calculation for completing this project using the aerial versus underground cost inputs are shown below. Detailed cost inputs are outlined in Appendix A.

Summary Cost Table and Ratio

	<u>Overhead</u>	<u>Underground</u>
Estimated Costs:	\$1,800,000	\$16,100,000
Cost Differential:	1:9	

Recommendation

Based upon the above factors, CPUC staff find that the information provided by Caltrans eliminates the exceptional circumstance presented by Highway 74 -- a Scenic Highway. Thus, the Project may be constructed relying on the following CEQA categorical exemptions: CEQA Guidelines Sections:

“15301. Existing Facilities - Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency’s determination...[Including,] (b) Existing facilities of both investor and publicly-owned utilities used to provide electric power, natural gas, sewerage, or other public utility services...” and

“15304. Minor Alterations to Land - Class 4 consists of minor public or private alterations in the condition of land, water, and/or vegetation which do not involve removal of healthy, mature, scenic trees except for forestry or agricultural purposes. [Including,] (f) Minor trenching and backfilling where the surface is restored...”

⁶ Written communication by email from Ms. Rose Bishop, Caltrans District 8 Landscape Architect, to Mr. Jack Mulligan, CPUC Legal Division, April 11, 2018.

Additionally, the staff find that the economic cost of requiring undergrounding for the Anza Connect Project Phase 2 would be prohibitive. Therefore, AEC may proceed with construction of the Proposed Project without any further CEQA review, and the staff will recommend that the Commission grant AEC a deviation from Pub. Util. Code § 320 for the proposed Connect Anza Phase 2 Project.

VI. Comments on Draft Resolution

In compliance with Pub. Util. Code § 311(g)(1), a Notice of Availability was e-mailed on December 31, 2018, informing all parties on the CASF Distribution List of the availability of the draft of this Resolution for public comments at the Commission's website at <http://www.cpuc.ca.gov/> and is available for public comments. This letter also informed parties that the final conformed Resolution adopted by the Commission will be posted and available at this same website. No comments were received.

VII. Conclusions

Staff has reviewed the documents submitted by AEC and recommends that the Commission approve AEC's request for a deviation from the requirements of Pub. Util. Code § 320 to construct new overhead fiber facilities along State Scenic Highway 74 in Riverside County.

VIII. Findings

1. The Commission previously approved funding on May 31, 2018, in Resolution T-17581 in the amount of \$1,796,070 from the CASF Infrastructure Grant Account for the grant application of Anza Electric Cooperative, Inc., to construct the Connect Anza Project, Phase 2.
2. AEC proposes to extend a fiber-to-the-premises system capable of symmetrical 50 Mbps download/upload service to upwards of 413 households into the unincorporated communities of Pinyon Pines, Pinyon Crest, Alpine Village and Ribbonwood (the Pinyon area) and into the Santa Rosa Reservation in western Riverside County east of Anza Valley.
3. The Proposed Project is a continuation of the successfully completed Phase 1 and will extend service to over 400 households spread over 69 square miles in the areas of Pinyon and the Santa Rosa Reservation.

4. Approximately 373 miles of new fiber optic cable would be installed on existing utility poles, along ROWs, with connections to above-ground fiber protection pedestals that provide direct service to residential and commercial customers. Installation of the fiber optic cable would not involve excavation of any sort. No new poles would be installed, nor would any existing poles be replaced, as part of the Project, and no heavy equipment will be used in any areas outside the existing roadway.
5. Anza Electric Cooperative is subject to General Order 95 and all installations on AEC facilities must comply with GO 95 standards.
6. Anza Connect Phase 2 will also provide substantial safety and health benefits including, but not limited to, resilient high capacity broadband infrastructure that will provide access to emergency services and information, e-health services and voice service that will meet all safety standards, including E911.
7. The initial staff determination regarding CEQA for Connect Anza Phase 2 was that the Proposed Project would qualify for a CEQA categorical exemption.
8. The Connect Anza Phase 2 Project would have allowed AEC to construct the Proposed Project without any further CEQA review except for a single factor: the proposed Phase 2 Project is located along a designated California Scenic Highway, Highway 74. This factor was considered an exceptional circumstance preventing the carrier from relying on a CEQA exemption.
9. California Pub. Util. Code § 320 essentially requires all new utilities to be undergrounded on Scenic Highways. The Commission is responsible for the administration of Pub. Util. Code § 320.
10. Commission Decision 80864 requires that all communications or electric utilities facilities within 1,000 feet of a scenic highway be undergrounded. Decision 80864 also states that deviations from Pub. Util. Code § 320 may be permitted subject to two requirements: undergrounding would not be *economically feasible* and would not significantly alter the *visual impact* of the scenic highway.
11. On July 3, 2018, AEC submitted a letter to the CPUC Energy Division staff requesting a deviation from Pub. Util. Code § 320 for the Phase 2 Project including an initial environmental assessment of the Proposed Project and an analysis of the economic feasibility of undergrounding.

12. Commission staff reviewed the proposed Phase 2 Project and all documents submitted by AEC on July 3, 2018, to comply with Pub. Util. Code § 320 deviation requirements.
13. The California Department of Transportation has primary jurisdiction over scenic highways. Absent a deviation from Pub. Util. Code § 320, AEC would have to underground the Phase 2 Project.
14. The Caltrans Region 8 Landscape Architect provided the CPUC with a written determination about the visual impacts of the project, finding: *“the addition of a singular fiber optic line would not add a significantly noticeable visual change to the site and it would not change the character of the visual corridor.”*
15. CPUC staff find that the information provided by Caltrans eliminates the exceptional CEQA circumstance presented by Highway 74, and the Project may therefore be constructed relying on the following CEQA categorical exemptions: CEQA Guidelines Section 15301 – Existing Facilities – Class 1; and Section 15304 – Minor Alterations to Land – Class 4.
16. AEC’s letter of July 3, 2018 stated that the cost of undergrounding fiber is \$16.1M, and aerial placement costs are \$1.8M, a 1:9 ratio.
17. The staff find that the economic cost of requiring undergrounding for the Anza Connect Project Phase 2 would be prohibitive.
18. AEC may proceed with construction of the Proposed Project without any further CEQA review.
19. Staff has reviewed the documents submitted by AEC and recommends that the Commission approve AEC’s request for a deviation from the requirements of Pub. Util. Code § 320 to construct new overhead fiber facilities along State Scenic Highway 74 in Riverside County.
20. A notice letter was e-mailed on December 31, 2018, informing all applicants filing for CASF funding, parties on the CASF distribution list of the availability of the draft of this Resolution for public comments at the Commission’s website <http://www.cpuc.ca.gov/PUC/documents/>. This letter also informed parties that the final confirmed Resolution adopted by the Commission will be posted and available at this same website. No comments were received.

THEREFORE, IT IS ORDERED that:

1. Anza Electric Cooperative's (U-7297-C) request for a deviation from Public Utilities Code § 320 and Decision 80864 to construct new overhead fiber facilities on existing utility poles along State Scenic Highway 74 in Riverside County, California, is approved.

This Resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on _____. The following Commissioners approved it:

Alice Stebbins
Executive Director

Appendix A
Resolution T-17638 Connect Anza Project, Phase II

Economic Analysis Comparison

Task	Estimated Cost	
	Overhead	Underground
CEQA/NEPA: IS/MND/PEA	\$45,000	n/a
CEQA/NEPA: EIR/EIS	n/a	\$250,000
Engineering	n/a	\$100,000
Air Quality/Greenhouse Gas Analysis	n/a	\$5,000
Noise and Vibration Analysis (blasting)	n/a	\$5,000
Biological Resources Assessment	\$22,000	complete
Biological Focused Surveys, Jurisdictional Delineations, Agency Coordination	n/a	\$200,000
Cultural and Tribal Resources Assessment	\$22,000	complete
Cultural and Tribal Resources Phase II	n/a	\$1.4 Million
Biological Monitoring	n/a	\$600,000
Cultural Monitoring	n/a	\$1 Million
Agency Permitting	n/a	Unknown
Material and Installation costs	\$1.7 Million	\$12.6 Million
Attorney Assistance Fees	\$20,000	\$85,000
Estimated Costs	\$1.8 Million	\$16.1 Million plus
Cost Differential	1:9 plus	