

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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

**RESOLUTION T-17807
February 15, 2024**

RESOLUTION

Resolution T-17807: Approval of Deviation from Section 320 of the Public Utilities Code for the California Advanced Services Fund grant application of Anza Electric Cooperative, Inc. for the ConnectAnza Phase 3 Project.

Summary

Approves a deviation from Public Utilities Code Section 320 of the California Public Utilities Code for Anza Electric Cooperative, Inc. (AEC) to place 3.74 linear miles of fiber on existing pole facilities to construct a fiber-to-the-home project. This action is required for staff to release \$688,431 for the ConnectAnza Phase 3 Project approved by Ministerial Letter dated November 30, 2023, from the California Advanced Services Fund (CASF) Broadband Infrastructure Grant Account. Portions of the project will cross the intersection of Highway 74 (SR 74) and Highway 243 (SR 243), both designated State Scenic Highways, and include the immediate surrounding area going north along McCall Road to Mountain Center. Highway 74 is the main highway feeding the San Jacinto Mountain communities from the west (Hemet), and Highway 243 takes traffic north to the mountain community of Idyllwild.

Pub. Util. Code § 320 required the CPUC to develop a plan to underground electric and communications distribution facilities that would be visible from scenic highways if constructed above ground. The CPUC established a process that allows for deviations from these requirements under certain circumstances. To determine whether a deviation is appropriate, CPUC staff considered the following elements in reviewing AEC's request: 1) the applicability of the California Environmental Quality Act (CEQA) to Phase 3; and 2) the visual and environmental impact of placing aerial facilities within 1,000 feet of designated State Scenic Highways; and 3) the economic feasibility of

placing these facilities underground.

Commission staff have reviewed the proposed ConnectAnza Phase 3 Project and have also obtained an opinion 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 designated State Scenic Highways. The proponent is responsible for complying with any additional requirements of Caltrans.

Background – Connect Anza Phase 1 and 2

The Commission awarded a CASF grant to AEC for the ConnectAnza Phase 1 Project on December 17, 2015, in Resolution T-17503.¹ The Commission awarded a CASF grant to AEC for the ConnectAnza Phase 2 Project on May 31, 2018, in Resolution T-17581.² AEC has since completed both projects.

As a condition of this approval, the Commission also requires that AEC may not begin construction or make claims against the CASF funds for construction until the Commission completed CEQA review of the project.³

Ministerial Review

Per Section 12 of the CASF Broadband Infrastructure Account Guidelines,³ the Commission delegates to Communications Division Staff the authority to approve applications that meet certain criteria, one of which is that the project meets the criteria for a categorical exemption from CEQA.

Proposed Phase 3 Project

In the ConnectAnza Phase 3 Project, AEC will place approximately 3.74 linear miles of

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 Resolution T-17581, “Anza Electric Cooperative’s Connect Anza Phase 2, extended service to over 400 households spread over 69 square miles in the areas of Pinyon and the Santa Rosa Reservation.

³ “CASF - Broadband Infrastructure Account--- Requirements, Guidelines and Application Materials -Updated: May 31, 2023”

fiber in the Mountain Center community of Riverside County. The project is located at the intersection of Highway 243 and Highway 74, and the immediate surrounding area, including further north along McCall Road. CASF will provide funding to serve 28 “Priority Eligible” locations, where Gigabit fiber service will be offered in the AEC service area. These census block groups include both low-income and rural residential housing, with many long-term rental units on single properties that are not reflected on the CASF eligibility layer of the California Interactive Broadband Map. This installation of new fiber cable will be placed on existing utility pole infrastructure; individual locations will be served by fiber connections (“drops”) over private property.

Existing Facilities

AEC⁴ 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, (some steel poles have replaced wood) 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 SR 243. AEC utility easements are roughly parallel to SR 74 and SR 243 in Riverside County. AEC California holds utility easement rights over its entire electrical utilities system.

The project area is rural mountainous terrain. The project area’s ecology is alpine dominated by stands of ponderosa pine. The project area includes a gas station, post office, diner, feed store, church facilities, an animal shelter, a gym, and a small real estate office. Rental properties and single-family residences are spread out along both highways.

Phase 3 Project Facilities Placement

AEC intends to use the existing infrastructure for the installation of a fiber-to-the-premises (FTTP) system in its service area. Existing electric infrastructure with over

⁴ 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.

3.74 miles of line and associated poles provide power to area residents and small businesses.

Installation Activity

The proposed project would be completed within 18 months of the Commission's approval and entails the following activities:

- Installation of 3.74 miles of fiber optic cable on existing utility poles (typically around 45 feet tall), 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. Fiber will be attached at General Order (GO) 95 specified heights, (at least 18' above ground level).
- Installation of no more than 30 above-ground fiber protection pedestals on developed private property in the Mountain Center 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.

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. No new poles would be installed, nor would any existing poles be replaced, as part of the Project. However, if there is a need to replace any additional utility poles, or place fiber in any new areas where they cross the roadway, Caltrans District 8 would need to review the changes in the project scope to extend concurrence.

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 and public safety. Where necessary, one lane of traffic along SR 74 and SR 243 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 place the cable by hand. As such, no heavy equipment will be used in any areas outside the existing roadway.

Pedestals would be installed on developed private property in the Mountain Center area to connect residents and businesses to the broadband internet service. Installation of the above ground fiber pedestals would occur throughout the Project site and would not involve excavation.

Miles 1 through 3.74 will consist of adding aerial fiber optic cable to existing utility poles in the project area. After the distribution fiber is placed on the existing infrastructure (poles), fiber drops to individual residences and businesses will be installed to provide service on private property.

Project Schedule

Installation of the fiber optic cable and the above-ground fiber pedestals is expected to take approximately 4 months to complete following receipt of permits and within 18 months after Commission approval of CEQA exempt status. AEC will limit project installation activities to between 7:00 AM to 6:00 PM 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 Caltrans or Riverside County may impose.

Safety Issues

The Commission's General Order (GO) 95 contains safety directives concerning overhead utility lines. Specifically, GO 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."⁵ Anza Electric Cooperative is subject to GO 95 and all installations on AEC facilities will comply with GO 95 standards.

The Phase 3 Project 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 3 Project area are classified as high to

⁵ D.12-01-032, January 12, 2012.

very high fire hazard severity zones, as specified by the California Department of Forestry and Fire Protection (CAL FIRE).⁶ 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, including E911 data and access to local public-safety answering points (PSAPs.)

Anza Connect Phase 3 and CEQA

Environmental Impact Avoidance

Details on the Proposed Project are contained in the *AEC Connect Anza Project Detailed Project Description (June 2023)*. 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.

The CPUC requires compliance with the environmental impact avoidance measures, which includes avoiding any unknown historical or cultural monuments that are discovered. Therefore, the applicant must adhere to Public Resources Code § 5097.98, which specifies a protocol to be followed when the Native American Heritage Commission receives notification of a discovery of Native American human remains from a county coroner.

Exemption from CEQA

The Energy Division CEQA staff coordinated with AEC in the environmental review of Phase 3 of the Connect Anza Project throughout late 2023 to determine if the project meets the criteria for a categorical exemption under CEQA.

Staff determined the proposed Phase 3 Project is located within 1000 feet of Designated California Scenic Highways, Highway 74, and Highway 243. This factor was

⁶ <https://osfm.fire.ca.gov/what-we-do/community-wildfire-preparedness-and-mitigation/fire-hazard-severity-zones>

considered an exceptional circumstance – potentially making a CEQA exemption inapplicable. 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. Thus, the project qualifies for the CEQA exemptions listed below.

Public Utilities Code Section 320 Deviation

California Pub. Util. Code § 320 requires all new electric and telecommunications distribution facilities to be undergrounded within 1,000 feet of designated Scenic Highways, unless a deviation is granted from the CPUC. Absent a deviation from Pub. Util. Code § 320, AEC would have to underground the Phase 3 Project. Commission 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 the infrastructure were undergrounded.

Visual Impact

Considerable consultation between AEC, Energy Division, Legal Division, and Caltrans staff took place beginning in June 2023. In a written determination, the Caltrans Landscape Architect for District 8 determined that the Connect Anza Phase 3 Project would not create a significant adverse impact on scenic resources: the “addition of a singular fiber optic line [on existing towers] would not add a significantly noticeable visual change to the site, and it would not change the character of the visual corridor.” After this concurrence, AEC submitted a letter to the Energy Division staff requesting a deviation from § 320 of the Pub. Util. Code for the Phase 3 Project, including an initial environmental assessment of the Proposed Project and an analysis of the economic feasibility of undergrounding.

Economic Feasibility

CASF Phase 3 Estimated Costs	Overhead	Underground
Full Engineering and Design	\$19,200	\$19,200
Road Crossing inc. Permit Application Fees	\$33,000	\$550,000
Permit Support	\$4,800	\$15,000

CEQA Study and Compliance			\$2,500,000
Pole Attachments inc. Upgrades		\$400,000	
Fiber installation		\$97,527	\$21,388
Trenching Backbone			\$427,740
Total		\$554,527	\$3,533,328
<i>Items where costs are equal</i>		\$133,904	\$133,904
	Summary Cost Table and Ratio		
		Overhead	Underground
Estimated Total Costs:		\$688,431	\$7,200,560
Cost Differential:		1:10.46	

Recommendation

Based upon the above factors, Commission staff finds that the information provided by Caltrans demonstrates that the project would not have a visual impact on Designated Scenic Highway 74 and Highway 243. Additionally, staff found that the cost of requiring undergrounding for the ConnectAnza Phase 3 project would be over 10 times as expensive. Furthermore, the Project may be constructed relying on the following CEQA categorical exemptions: CEQA Guidelines Section: "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 section: "15303. New Construction or Conversion of Small Structures, involving construction, installation, and/or conversion of limited numbers of new and/or existing facilities/structures."

Commission staff recommends that AEC may proceed with construction of the proposed Project without any further CEQA review and that the Commission grant AEC a deviation from Pub. Util. Code § 320 for the proposed ConnectAnza Phase 3 Project. The visual quality findings of Staff's recommendation only relate to PUC Section 320 deviation process and do not preclude additional visual analysis which may be required as part of the Caltrans Encroachment Permit process. Staff recommends that the Commission release CASF construction funds for Phase 3 of its ConnectAnza Project on February 15, 2024, in Resolution T-17807.

Comments on Draft Resolution

In compliance with Pub. Util. Code § 311(g)(1), a Notice of Availability was e-mailed on December 8, 2023, 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 <https://docs.cpuc.ca.gov/> and is available for public comments. This letter also informed the parties that the final confirmed Resolution adopted by the Commission will be posted and available at this same website. The Commission received no public comments.

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 and Highway 243 in Riverside County.

Findings

1. The Commission previously approved funding for the ConnectAnza Phase 3 Project by Ministerial Letter dated November 30, 2023, from the California Advanced Services Fund (CASF) Infrastructure Grant Account in the amount of \$688,431.
2. AEC proposes to extend a fiber-to-the-premises system capable of symmetrical installation at the intersection of Highway 74 and Highway 243, into the small community of Mountain Center and the Mountain Center community in Riverside County east of Anza Valley.
3. Approximately 3.74 miles of new fiber optic cable would be installed on existing utility poles, along rights of way, 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. No new poles would be installed, nor would any existing poles be replaced, as part of the Project, and no heavy equipment is planned to be used in any areas outside the existing roadway.
4. Anza Electric Cooperative is subject to GO 95 and all installations on AEC facilities must comply with GO 95 standards.

5. Anza's ConnectAnza Phase 3 project 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.
6. California Pub. Util. Code § 320 requires all new electric and communication distribution facilities to be placed underground on Scenic Highways unless a deviation is granted by the CPUC. Commission Decision 80864 requires all communications or electric utilities facilities within 1,000 feet of a scenic highway be placed underground. Per Decision 80864, deviations from Pub. Util. Code § 320 may be permitted if undergrounding would not be economically feasible and would not significantly alter the visual impact of the scenic highway.
7. AEC's application dated June 1, 2023, (updated November 13, 2023), stated that the cost of placing fiber underground is \$7,200,560, and aerial placement costs are \$688,431, a 1:10.46 ratio. Staff find that the economic cost of requiring undergrounding for the ConnectAnza Phase 3 project would be prohibitive.
8. AEC submitted an application to the Commission's Communications Division staff requesting a deviation from Pub. Util. Code § 320 for the Phase 3 Project, including an initial environmental analysis of the Proposed Project and of the economic feasibility of undergrounding.
9. Commission staff reviewed the proposed Phase 3 Project and all documents submitted by AEC by October 9, 2023, to comply with Pub. Util. Code § 320 deviation requirements. Caltrans has primary jurisdiction over scenic highways. Absent a deviation from Pub. Util. Code § 320, AEC would have to underground the Phase 3 Project.
10. 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." The Architect's review was specifically related to the project's potential visual effect on State Route 74 and Highway 243. The visual quality findings of this review only relate to PUC Section 320 and do not preclude additional visual analysis which may be required as part of the Caltrans Encroachment Permit process.

11. The Commission 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 complied with the requirements set forth in the CEQA Section of the Resolution.⁷
12. AEC may proceed with construction of the Proposed Project without any further CEQA review. It can now be processed as a Ministerial Project: per Decision 22-11-023, issued on November 17, 2022.
13. 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 and Highway 243 in Riverside County. Commission staff find that the information provided by Caltrans demonstrates that the project would not have a visual impact on Highway 74, and Highway 243. Furthermore, the Project may 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, to support the 320 Deviation.
14. A notice letter was e-mailed on January 12, 2024, 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. <https://docs.cpuc.ca.gov/>. This letter also informed parties that the final confirmed Resolution adopted by the Commission will be posted and available at this same website.
15. The Commission received no public comments.

⁷https://www.conservation.ca.gov/calgem/CEQA/Documents/CEQA_Handbook_2023_final.pdf

THEREFORE, IT IS ORDERED that:

1. Anza Electric Cooperative's request for a deviation from Public Utilities Code § 320 and Decision to construct new overhead fiber facilities on existing utility poles along State Scenic Highway 74 and Highway 243 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:

Rachel Peterson,
Executive Director