

**Subject:** [EXTERNAL] Response to TEP position regarding the revised exceptions criteria  
**Date:** Monday, June 13, 2022 at 10:04:47 AM Mountain Standard Time  
**From:** COLLEEN NICHOLS  
**To:** PlanningCommission, Daniel Bursuck  
**CC:** John Schwarz, Bill Craig

Dear Members of the Planning Commission:

As the Steering Committee of the Undergrounding Coalition, we write again regarding the TEP's Kino to Demoss-Petrie project. We would like to respond to TEP's recently expressed position regarding the three new criteria that the Undergrounding Coalition proposed, and which the Planning Commission's staff saw fit to insert into the criteria for exceptions.

We interpret TEP's comments to say that TEP does not object to the substance of our proposed "i" and "j" (involving the overall integrity of routes and the upkeep of structures), but TEP believes that they are requirements and not criteria for exceptions. We do not disagree with TEP. The revisions instead, both "i" and "j", could well be placed at the head of Attachment J as qualifiers that must be met before any exception can be approved. Another alternative would be to place them in the UDC with reference to them in Attachment J.

TEP does object to the content of our third proposed new criterion, "j-k" having to do with historic areas. They respond that, like the two others, "j-k" is a requirement (to that response we would propose that it be placed at the head of Attachment J or in the UDC). They go on to say, however, that the language would greatly expand the Gateway and Scenic Corridor Zones and therefore, the addition should be entirely removed. We disagree. Our addition, as written, protects areas defined by official bodies as historic places, properties, or districts, extremely sensitive locales, from overhead transmission lines. At the same time, those locales cover only a small portion of the entire City, and also of the gateway and scenic routes, we would estimate around or beneath 15%.

Turning to TEP's own proposed criteria, we have serious concerns regarding TEP's recommendation on criterion "e" that existing structures may be replaced with structures up to 50% larger than the existing structures. The criterion specifies that structures be "similar in size", but TEP's proposed 50% larger is not of similar size. There are existing structures already along many parts of the gateway and scenic corridors. Allowing them to be exchanged for structures 50% higher and bigger undermines the very purpose of these corridors. We also believe that staff's recommendation of 25% larger falls outside the words "similar in size". We propose either a leeway of 10% or, if staff's 25% is adopted, that it be accompanied by a requirement that the utility provide a similar offset by way of either undergrounding or lowering of some existing structures elsewhere along the same corridor.

Finally, we have concerns about TEP's request to reinsert its former criterion "i" that staff deleted. It involves permitting overgrounding on gateway routes to avoid worse adverse effects of overheading on alternative routes. The express purpose of the gateway and scenic corridor regulation is to avoid having adverse effects along the routes. TEP is implying here that rather than show community spirit or any deference to the City and its ordinances by undergrounding the transmission lines along a gateway or scenic route, it would instead overhead along alternative neighborhood routes. It would do so even if, by its own admission, its overheading there would have still worse effects that ought to be avoided. Such an outcome would be highly undesirable. It would leave either all surrounding locales or the gateway routes themselves terribly vulnerable. Earlier, we proposed a solution by way of the fourth new criterion that we originally recommended, but it was deemed to lie outside the jurisdiction of the

regulation. We suggest that that solution or some other solution is needed.

We thank you for your consideration. We are adding a P.S. below that reprints the email we sent you on May 31, 2022. It provides our response to the staff's recommendations with respect to criteria 12-e, 12-f, 12-h, and 12-i.

Best regards,

John Schwarz, Colleen Nichols, and Bill Craig

P.S.

May 31, 2022

Dear Members of the Planning Commission:

As members of the Undergrounding Coalition Steering Committee, we would like to thank the Commission for its recent actions regarding the gateway and scenic route issue this past May 11, to hold another discussion on June 1, and to ask staff both to consider our four new criteria regarding the gateway and scenic route issue, and to come back with revised language for the four criteria from TEP that we questioned. We are also very grateful to staff that they have responded by accepting and inserting three of our four proposed new criteria and for the revisions that staff has now proposed regarding TEP's criteria.

We have had the opportunity to review the proposed changes to the criteria prepared by the Planning and Zoning staff for the upcoming June 1 meeting. We agree with your staff that one of our four proposed new criteria should be eliminated, for the reasons staff stated, and we agree with all the other revisions staff proposes except for concerns we have about the following criteria:

*12-e. Repair or upgrade of existing facilities where proposed facilities are similar in size and scale to the existing facilities being repaired or replaced. Replacement facilities may not be any larger than 25% the height or width of existing facilities being replaced.*

Although the planning staff is responding to a request by the Commissioners to be a bit more definitive about similarity in size and width, a 25% increase is not clearly similar in our view. A 10% leeway would be closer to a similar size.

*12-f. Transmission lines are proposed in an area where there is an existing presence of railroad, highway and/or bridge crossings, or in an area where underground installation would interfere with other existing undergrounded utilities.*

Where "underground installation would interfere with other existing undergrounded utilities," such underground utilities could easily exist in many locations along a route. In that case, a literal interpretation of this criterion could end up being applied almost everywhere. For this reason, the criterion needs some modification, limiting application of the criterion, for example, to areas where addressing the interference underground is clearly not possible.

*12-h. Proposed project in an area where costs to install underground would have a disparate impact on low-income residents.*

We agree with the sentiment behind this criterion. It could be argued, though, that all projects of every

utility will have a disparate impact on residents with limited income if the projects are financed by rates spread across all ratepayers. If so, a literal reading of this criterion could nullify the gateway and scenic routes' mandate requiring that all new utilities be placed underground. If TEP were to apply this same criterion to all of its own activities, it could not carry out any projects. For this reason, there needs to be limiting language added to this criterion. One alternative might be to add the word "substantial" before the word "disparate." We should also mention here that, currently, TEP carries out a program open to every one of its ratepayers with income at 200% of the Federal poverty line or below, called "The Lifeline Program", that cuts \$18 per month, more than \$200 per year, off of each participating ratepayer's bill.

*12-i. The effects that can be expected from permitting any of the exceptions listed herein or any combination of those exceptions when added together must remain consistent with the overall purpose and integrity of the gateway/scenic route, unless it is technologically impossible and/or clearly financially cost prohibitive.*

We are pleased and appreciative that this criterion is included. However, as the authors of the criterion, we want it to be understood that the words "clearly financially cost prohibitive" at the conclusion of the criterion mean exactly that, setting a high bar far beyond the ordinary difference between the cost to underground and the cost to overground.

We hope that you will review our recommendations and truly consider our concerns regarding the four criteria. Thank you.

Sincerely yours,

Colleen Nichols, John Schwarz, and Bill Craig