

[EXTERNAL] Response to Revised Criteria, 2022-5-31

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Tue 5/31/2022 9:42 AM

To: PlanningCommission <PlanningCommission@tucsonaz.gov>; Daniel Bursuck <Daniel.Bursuck@tucsonaz.gov>; Koren Manning <Koren.Manning@tucsonaz.gov>

Cc: John Schwarz <jes@email.arizona.edu>; Bill Craig <wjcmay@gmail.com>

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

Attachment J – Redlined changes to proposal made between May 11, 2022 and June 1, 2022

12. Transmission lines may be relieved of their requirement to be underground per UDC section 5.3, Scenic

Corridor Zone (SCZ) or section 5.5, Gateway Corridor Zone (GCZ) in accordance with UDC section 3.4.3 *Zoning Examiner Special Exception Procedure*. Except for subsection I, ~~h~~ in addition to the required findings of UDC section 3.4.5, the Special Exception request must meet more than one criterion and will be evaluated pursuant to the following:

- a. Proposed overhead transmission lines are contextually sensitive to adjacent and surrounding zoning and land uses. Examples of this may include a proposed location that is industrially zoned or a proposal that results in a less adverse aesthetic impact or less adverse impact on viewsheds for surrounding properties.
- b. Underground construction causes significant increase in ground disturbance when compared to overhead construction in sensitive areas such as Environmental Resource Zone (ERZ) or Watercourse Amenities, Safety and Habitat (WASH) wash crossings or environmentally and archeologically sensitive areas,
- c. Minimal impact on residential areas

~~e.d.~~ Overhead lines located on non-Gateway or non-Scenic corridor route that perpendicularly crosses a Gateway Corridor Zone or Scenic Corridor Zone,

~~f.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,

TEP comment: Recommend increasing this to 50% to provide flexibility to meet NESC structural and clearance requirements. This change also aligns with other local jurisdictions such as Oro Valley.

~~g.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,

~~h.g.~~ Proposed transmission lines provide electrical service to critical customers where overhead lines are strongly recommended for specialized operations; examples include but are not limited to: provision of electricity to Davis Monthan AFB or other installations necessary to the national defense,

~~i.~~

TEP comment: Prefer to maintain this exception to allow for overhead construction within GCZ/SCZ to avoid constructing overhead transmission in neighborhoods.

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

TEP comment: As written, this is a requirement and not an exception. This should be removed from this section of the code.

j. Any new above-ground utility that is permitted must be designed, constructed, and maintained to be as unobtrusive as possible,

TEP comment: As written, this is a requirement and not an exception. This should be removed from this section of the code.

j.k. In the area where the applicant is seeking relief, above ground transmission lines are not allowed in or alongside historic areas (as defined by or listed in the National Register of Historic Places, properties or districts, City of Tucson Historic Preservation Zones, City of Tucson Historic Landmarks, or Neighborhood Preservation Zones),

TEP comment: This requirement (not exception) significantly increases the Gateway and Scenic Corridor Zones, expands well beyond the intent of the GCZ/SCZ, and should be removed.

k.l. A Special Exception request to relieve the requirement to underground transmission lines that meets the findings established by UDC section 3.4.5, Findings and which also meets criteria a, ed, and or g-f of this subsection is deemed to presumptively meet the required findings for approval may only require one criterion for approval when no other criterion apply to the project.

The ZE findings shall identify each of the specific criterion that relate to the application/project, and which are met. Approval of a Zoning Examiner Special Exception shall not preclude any other necessary regulatory relief process such as a Variance.