

A. Revisions we recommend to TEP's proposed criteria:

12-d. "Overhead lines located on non-Gateway or non-Scenic corridor route that perpendicularly crosses a Gateway Corridor or Scenic Corridor Zone."

We ask that this be amended to add at the end, "..., with no less than 150-foot setback on the perpendicular route from the point of its entry into or exit from the Gateway or Scenic route."

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.

We do not believe that 25% larger in height and width is "similar in size and scale," which is the condition that the criterion specifies must be met to permit an exception. In our view, a 10% leeway would be closer to "similar in size and scale". There are existing structures already along many parts of the gateway and scenic corridors. Allowing them to be exchanged for structures that are 25% higher and wider, anywhere, and everywhere along a route, would diminish the very purpose of the corridors. We propose either a leeway of 10% or, if 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.

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.

We have a concern regarding, "... 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 the criterion's application, 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. However, the meaning of the words "area where costs to install underground have a disparate impact on low-income residents" in the criterion are not clear. How is such an area defined and what sort of costs are being referred to? Clarification is needed. This is especially so because it might be argued that all projects of any utility will have a disparate impact on low-income residents, regardless of the area, if the projects are financed by rates spread across all ratepayers. If so, such a reading of this criterion could nullify the gateway and scenic routes' mandate that new utilities be placed underground because the extra cost shared across ratepayers will have a disparate impact on low-income residents. For this reason, there may need to be limiting language added to this criterion. One alternative might

be to add the word “substantial” before the word “disparate.” (We mention here that, currently, TEP already 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”, granting significant discounts to such ratepayers to offset rising costs. It cuts up to \$18 per month, more than \$200 per year, off of each participating ratepayer’s bill.)

B. Edits we suggest to two of the new criteria that we proposed be inserted:

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.

This criterion is crucial to protect the routes from piecemeal destruction, or from one sweeping exception, and we are pleased and grateful that the 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. They are intended to set a high bar reaching far beyond the ordinary difference between the cost to underground and the cost to overground. To signal this, we would like the word ‘clearly’ to be italicized (it is not italicized in the Planning Commission’s submission).

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

We ask that the word “positioned” be added to this criterion so as to read: “Any new above-ground utility that is permitted must be designed, constructed, positioned, and maintained to be as unobtrusive as possible.” If a utility is going to be given an exception to overground along a gateway or scenic route, they should be required to take care to position the structures so as to be as unobtrusive as possible, not simply design, construct, and maintain them that way.

C. Our responses to issues raised by TEP regarding our proposed criteria:

1. As to TEP’s question of appropriate placement of our three new criteria (12-I, j, and k) now included in the list, we have no objection to our criteria being placed on top as conditions that must be met before permitting any exception. We also have no objection to leaving them in the list of criteria. If they remain in the list of criteria, we ask that the present 12-i (protecting the purpose and integrity of the routes) be placed as the final criterion.

2. TEP objected to one of our three new criteria (12-k), the one involving prohibition of transmission lines above ground in historic areas, on grounds that the criterion would greatly expand the area protected by the Gateway and Scenic Corridor Zones. We disagree. Our addition, as written, does protect areas defined by official bodies as historic places, properties, or districts, all 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%.

3. We will be asking that Mayor and Council insert and include the original fourth new criterion that we proposed, which the Planning Commission set aside. The criterion said something to the effect that “a utility cannot obtain relief from a gateway or scenic corridor regulation requiring undergrounding by routing through nearby neighborhoods.”

We believe that this issue may be urgent. To understand its urgency requires discussion of the implications of TEP’s proposed criterion 12-i, which the Planning Commission also struck, but the implications of that criterion are still alive and they still apply. TEP’s criterion would permit an exception to allow it to overground on gateway/scenic 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 and deference to the City and its ordinances by undergrounding the transmission lines along a gateway or scenic route, it would instead overhead along an alternative neighborhood route. It is indicating that it would do so even if, by its own admission, its overheading there would have still worse effects that ought to be avoided. Such outcomes would be highly undesirable. They leave either all surrounding locales or the gateway routes themselves terribly vulnerable.

The fourth new criterion that we originally recommended proposed a solution to prevent such actions, but it was deemed to lie outside the jurisdiction of the regulation and so was excluded. As mentioned, the criterion specified that a utility could not obtain relief from a gateway or scenic corridor regulation requiring undergrounding by alternative routing through nearby neighborhoods. We propose that a criterion (or condition) of this kind be added and inserted. Either that or some other solution is required unless there is something already in the present code that would prevent TEP or other utilities from engaging in such destructive behavior by overgrounding in alternative neighborhood routes areas near to the protected corridors.