

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



May 31, 2023

Subject: Purpose and Preparation of Senate Bill (SB) 156 Exemption Report for the Prineville to Reno Fiber Optic Project

The California Public Utilities Commission (CPUC) has prepared the Senate Bill (SB) 156 Exemption Report to support the statutory exemption from California Environmental Quality Act (CEQA) for Zayo Group, LLC's Prineville to Reno Fiber Optic Project (Proposed Project).

Zayo Group, LLC Application

On October 1, 2020, Zayo Group, LLC (Applicant or Zayo) filed Application (A.) 20-10-008 (Application) for modification of its existing certificate of Public Convenience and Necessity (CPCN) in connection with its proposed Prineville to Reno Fiber Optic Project for the construction of a fiber optic cable and specified telecommunication network facilities. The Proposed Project segment located within California subject to the jurisdiction of the CPUC is approximately 194 miles, extending from the California-Oregon border, across Modoc County (59.8 miles) and the City of Alturas (1.6 miles), through Lassen County (129.6 miles), and into the eastern edge of Sierra County (3.1 miles) before crossing into Nevada. In accordance with CEQA, the CPUC, as the Lead Agency, is required to conduct a review of the environmental Impacts of the Proposed Project. CPUC published a Notice of Preparation (NOP) on March 8, 2021 and began preparing an Environmental Impact Report (EIR).

SB 156 Statutory Exemption

Governor Gavin Newsom signed legislation in July 2021 regarding service of Broadband in California, which is identified as Senate Bill 156 – Chapter 112, Statutes of 2021 (SB 156). The purpose of this legislation is to help bridge the digital divide, provide reliable and affordable internet access to all Californians, expand the State's broadband fiber infrastructure, and increase internet connectivity for families and businesses. SB 156 also created a statutory exemption from the requirements of the CEQA for qualifying middle-mile projects.

Zayo's Motion

On April 28, 2022, Zayo filed a Motion to Amend the Assigned Commissioner's Scoping Memo and Ruling and Find Project Exempted from CEQA under Public Resources Code Section 21080.51, and states that Zayo's Proposed Project tracks one of the middle-mile network routes and satisfies the other requirements required by Section 21080.51 of the Public Resources Code for the CEQA exemption.

Statutory Exemption from CEQA for Qualifying Middle-Mile Projects

The Draft EIR (DEIR) prepared for Zayo's Prineville to Reno Fiber Optic Project confirms that the Project meets the requirements under Public Resources Code Section 21080.51 for the SB 156 CEQA Exemption. Thus, the CPUC will not issue a final EIR, but will use the DEIR as an SB 156 Exemption Report demonstrating compliance with the following exemption requirements.

Mitigation measures identified in the DEIR will now be considered by the CPUC as conditions of approval of Zayo's CPCN modification (Conditions of CPCN approval).

Requirements under Public Resources Code Section 21080.51:

- (1) The Project is located in an area identified by the Public Utilities Commission as a component of the statewide open-access middle-mile broadband network pursuant to Section 11549.54 of the Government Code.

The Prineville to Reno Fiber Optic Project has been designated as part of CPUC statewide open-access middle-mile network locations, as specified in Government Code Section 11549.54. See Middle-Mile Locations Analysis – May 2021 Network Locations <https://middle-mile-broadband-initiative.cdt.ca.gov/pages/data-and-analysis>

- (2) The project is constructed along, or within 30-feet of, the right-of-way of any public road or highway.

The majority of the Proposed Project alignment (185.6 miles) would be within the U.S. Highway 395 (US 395) right-of-way, which is managed by Caltrans. A portion of the line between the communities of Standish and Buntingville in Lassen County, California, would follow the county roads Standish Buntingville Road (Lassen County Road A3) for 7.35 miles and Cummings Road for 1.15 miles before returning to the right-of-way parallel to US 395. See Section 2.0 Project Description of the SB 156 Exemption Report.

- (3) The project is either deployed underground where the surface area is restored to a condition existing before the project or placed aerially along an existing utility pole right-of-way.

Upon adoption of the SB 156 Exemption Report, the mitigation measures developed for the DEIR would become conditions of CPCN approval – environmental measures. The environmental measures require Zayo to restore any underground or above ground disturbance along an existing utility pole right-of-way to condition existing project construction. See Draft Conditions of CPCN Approval – Environmental Measures of the SB 156 Exemption Report.

- (4) The project incorporates, as a condition of project approval, measures developed by the Public Utilities Commission or the Department of Transportation to address potential environmental impacts. At minimum, the project shall be required to include monitors during construction activities and measures to avoid or address impacts to cultural and biological resources.

Upon adoption of the SB 156 Exemption Report, the mitigation measures developed for the DEIR would become conditions of CPCN approval – environmental measures. The Environmental Measures would address potential environmental impacts, including those related to cultural and biological resources. Additionally, these measures would be incorporated in a Construction Monitoring, Compliance, and Reporting Plan (CMCRP) to be prepared by the prior to project construction.

- (5) The project applicant agrees to comply with all conditions otherwise authorized by law, imposed by the planning department of a city or county as part of a local agency permit process, that are required to mitigate potential impacts of the proposed project, and to comply with the Keene-Nejedly California Wetlands Preservation Act (Chapter 7 (commencing with Section 5810) of Division 5), the California Endangered Species Act

(Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), as applicable, other applicable state laws, and all applicable federal laws.

In its Motion to Amend (filed on April 28, 2022), Zayo states it would comply with Public Resources Code Section 21080.51(a)(5). Additionally, upon adoption of the SB 156 Exemption Report, the mitigation measures developed for the DEIR would become conditions of CPCN approval – environmental measures. The Environmental Measures would address potential environmental impacts, including those related to cultural and biological resources.

Availability of SB 156 Exemption Report

The SB 156 Exemption Report is available for review on CPUC's project website:
<https://ia.cpuc.ca.gov/environment/info/ecorp/prineville/index.html>