PUBLIC UTILITIES COMMISSION
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

DATA REQUESTS

Date: October 12, 2021

To: Dan Barcomb, Project Manager
Zayo Group, LLC
Phone: (509) 727-3345
Email: dan.barcomb@zayo.com

From: Connie Chen
Energy Division
Phone: (415) 703-2124
Email: connie.chen@cpuc.ca.gov

Re: Zayo Group, LLC's Prineville to Reno Fiber Optic Line Project (Application A.20-10-008) – Data Request No. 4
Responses Due: October 29, 2021

Dear Mr. Barcomb:

The California Public Utilities Commission's (CPUC's) Energy Division is in the process of completing its California Environmental Quality Act (CEQA) review of Zayo Group, LLC's (Zayo's or Applicant's) Application for Modification (Application) of a Certificate of Public Convenience and Necessity (CPCN) and the Proponent's Environmental Assessment (PEA), filed October 1, 2020 for the Prineville to Reno Fiber Optic Line Project (Project). The purpose of this memorandum is to bring to your attention some significant informational needs that, if left unresolved, may result in delays in processing Zayo's Application.

NEED FOR A CLEAR AND STABLE PROJECT DESCRIPTION

At the most fundamental level, the CPUC remains concerned that we do not have a clear and stable "Project Description," as that term of art is used in CEQA (CEQA Guidelines, 14 CCR §15124). The basic purposes of CEQA are to inform governmental decision makers and the public about the potential, significant environmental effects of proposed activities; identify the ways that environmental damage can be avoided or significantly reduced; prevent significant, avoidable damage to the environment by requiring changes in projects through the use of alternatives or mitigation measures when the governmental agency finds the changes to be feasible; and disclose to the public the reasons why a governmental agency approved the project in the manner the agency chose if significant environmental effects are involved (CEQA Guidelines, 14 CCR §15002(a)(1)-(4).). Informed decision-making cannot be accomplished without a clear and stable Project Description.

As recently as the latest monthly meeting between CPUC and the applicant on September 20, 2021, Zayo and Stantec indicated that the final design and Project Description would not be available until after the Cultural Resources evaluation reports were completed. The Project Description,

including the location of project components and the methods of construction, has been in flux since February 3, 2021, when CPUC deemed Zayo's application/PEA complete based on various partial subsequent submittals in November and December 2020, and February 2021and statements/emails from Zayo/Stantec during this time that the requested information would be provided for use in the Environmental Impact Report (EIR).

The additional details requested by CPUC in formal and informal data requests have resulted in conflicting information. For example, despite assertions in the PEA that the Project components are within a disturbed right-of-way, the information provided by Zayo to date confirms that the area of the right-of-way where construction is proposed is not near the edge of pavement where previous disturbance has occurred. The current proposed alignment and project description would result in direct impacts to 377.11 acres of natural vegetation communities (non-barren, urban, or agricultural areas). The PEA also asserts that all sensitive biological and cultural resources will be avoided through directional drilling or bridge hanging but does not provide details on where and how this will occur. In addition to the foundational issues with the Project Description, there continues to be significant data gaps related to the subject areas of biological resources and cultural resources. Additionally, many of the analysis sections in the PEA are based on outdated information and/or do not evaluate impacts related to the construction footprint and other above-ground components of the Project, instead focusing only on the undergrounded fiber optic line, requiring additional time for information gathering and analysis during EIR preparation.

The CPUC's Information and Criteria List and the Working Draft PEA Checklist were used as the basis for evaluating application completeness and ensuring that sufficient information has been provided to the CPUC to conduct the environmental analysis required by CEQA. Based on the initial review of the PEA, the Energy Division requested that Zayo provide additional data needed to adequately conduct the environmental analysis in a letter dated October 30, 2020. Zayo responded to the request for additional data in submittals dated November 16, December 7, and December 31, 2020. Subsequent to Zayo's responses from November 16 to December 31, 2020, the Energy Division found that the Application and PEA were sufficiently complete to enable environmental analysis of the proposed project to begin. The Energy Division deemed the Application complete on February 3, 2021 and initiated environmental review of the proposed project as required by CEQA. However, although the Application was deemed complete, the Energy Division also indicated at that time that additional information would be required to fully evaluate the Project's impacts on the environment, including data related to cultural resources, project description, and alternatives.

CEQA REVIEW SCHEDULE DEPENDENT ON A CLEAR AND STABLE PROJECT DESCRIPTION

Furthermore, although the CPUC has, in good faith, initiated the CEQA process through publishing of a Notice of Preparation, scoping, and initiation of the preparation of the EIR, delays in receipt of project-specific information, as described in this data request, continue to delay the publication of a Draft EIR. The initial Project schedule assumed that all Project information would be complete by April 2021 and that the Draft EIR would be released in October 2021. Subsequent to the Applicant's estimates of the timing of submittal of the Cultural Resources inventory and evaluation reports by August 31, 2021, the schedule was revised in May 2021 to include preparation of all EIR sections except Cultural Resources and Tribal Cultural Resources, with the intent of preparing those sections after the Cultural Resources reports were received. This schedule estimated

publication of the Draft EIR in December 2021. The current schedule, revised in September 2021, estimates publication of the Draft EIR in February 2022 based on receipt of Cultural Resources reports and final Project alignment by October 29, 2021. It should be noted that this schedule assumes that all other information requested in the attached data requests are supplied by October 29, 2021, including a final project alignment and map of construction techniques (e.g., where the line will be plowed, trenched, and bored), and that minimal changes/re-analysis is required for other resources based on the new information.

Accordingly, in order for the Energy Division to effectively analyze the impacts of the project on environmental resources as well as the effectiveness of the proposed avoidance and minimization measures, responses to the attached Data Requests must be provided to the Energy Division by October 29, 2021 to allow us to move forward with the next milestone of publishing the Draft EIR.

DATA REQUEST #4 AND ATTACHMENTS

The data requests are detailed in the attachments, but include requests for:

- A detailed Project Description that identifies the locations of all project components;
- Information disclosing the locations of all resources that may be affected by the potential impacts of the Project;
- A detailed description of the proposed measures to avoid or minimize potentially significant effects; and
- Where potentially significant effects cannot be avoided or minimized, the information to allow the decision-making agency to balance the economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project against its unavoidable environmental risks when determining whether to approve the project.

Attachment 1 includes our Data Requests related to Project Description, which will also inform Alternatives. Attachment 2 includes our Data Requests related to Biological Resources and Attachment 3 focuses on Cultural Resources.

If you have any questions regarding the contents of this letter or these Data Requests, please direct all questions to me at (415) 703-2124 or connie.chen@cpuc.ca.gov.

Sincerely,

Connie Chen

Connie Chen Project Manager
Public Utilities Regulatory Analyst
Infrastructure Planning & CEQA, Energy Division

CC:

Mary Jo Borak, Supervisor. Infrastructure Planning & CEQA, Energy Division, CPUC
Michelle Kito, Program Manager, Infrastructure Planning and Permitting, Energy Division, CPUC
Jack Mulligan, Attorney, CPUC
Suman Mathews, CPUC Administrative Law Judge
Anne Surdzial, AICP, ECORP Consulting, Inc.

ATTACHMENT 1:
PROJECT DESCRIPTION
DATA REQUESTS

INSTRUCTIONS

You are instructed to answer the following data requests with written, verified responses per Public Utilities Code § 314, and Rule 1.1 of the Commission's Rules of Practice and Procedure. For any questions, contact the CPUC staff persons listed above.

Please identify the person providing the answer to each data request and his/her contact information. Responses should be provided in original electronic format. All electronic documents submitted in response to this data request should be in readable, downloadable, printable, and searchable formats, unless use of such formats is unfeasible. Each page should be numbered. If any of your answers refer to or reflect calculations, please provide the calculations in traceable formats such as Excel-compatible spreadsheets or computer programs, with data and formulas intact and functioning. Documents produced in response to the data request should be Bates-numbered, and indexed if voluminous. Responses to data requests that refer to or incorporate documents should identify the particular documents referenced by Bates-numbers or Bates-range.

If a request, definition, or an instruction is unclear, please notify the CPUC staff noted above as soon as possible. Please answer the request to the fullest extent possible, specifying the reason for your inability to answer the remaining portion of the data request.

For confidential documents, provide both the confidential version(s) and the public/redacted version(s) and clearly mark and label according to the Commission's rules established in D.06-06-066 and successor decisions.

BACKGROUND:

The Proponent's Environmental Assessment (PEA) states that Project components are within disturbed right-of-way. However, the information provided by Zayo to date shows that the area of the right-of-way where construction is proposed is not near the edge of pavement where previous disturbance has occurred. The delays in the receipt of the final Project description, along with the cultural resources information, are having the most serious impacts to the Project schedule.

We understand that the fiber optic line would be constructed near the right-of-way fence, approximately 50 feet from the center line and 25 feet from edge of pavement, in areas that are not disturbed and that are within or adjacent to areas with sensitive biological and cultural resources. Additionally, many project components (in line amplifiers [ILAs], staging areas, materials storage yards) are not within the right of way at all.

The PEA also asserts that the Project will completely avoid all sensitive resources through moving the Project alignment or through directional bore methods. However, the PEA also acknowledges that, for some resources, avoidance may not be possible and so proposes to mitigate for disturbance or destruction of these resources through permits, plans, and data collection. The PEA and the materials submitted since PEA submittal do not show how and which resources would be avoided and which resources will need permits or data collection.

Requests for Project construction detail on how sensitive resources would be avoided have been made several times, including the initial completeness review on October 30, 2020, CPUC's review of Zayo's submittals dated December 18, 2020, CPUC's review of Zayo's submittals dated January 25, 2021, CPUC's completeness letter dated February 3, 2021, and Data Request 2 dated March 1, 2021. Since February 3, 2021, revised GIS files for the project alignment have been submitted three times: on July 29, 2021, August 30, 2021, and September 23, 2021. Construction design drawings for the alignment, including traffic control, were requested on July 15, 2021. CAD drawings in PDF form dated June 1, 2021 were submitted by the applicant on July 22, 2021. The profiles in these CAD drawings show proposed borings under culverts and existing gas lines only; no resource avoidance locations are shown. Electronic files of the layers used to create the CAD drawings were not submitted.

On August 25, 2021, a request for revised profiles to show all boring locations was submitted to the applicant. On August 27, 2021, CPUC received the following email response on the request for revised GIS and CAD files: "GIS/CAD will be available once we have a final alignment that takes into consideration the results of the cultural site testing. Only then will we know exactly where all project components will be situated." On September 20, 2021, revised GIS files were provided showing the latest proposed boring locations, with the notation that these locations may change based on the cultural resources results.

On September 22, 2021, CPUC's consultant, ECORP, emailed Zayo and Zayo's consultant, Stantec, to clarify the depth and length of the bores proposed for the Project. The bore depths in the description of directional boring in the Project Description Section 3.5.5.1 state that the bore depth will be 36-52 inches deep. The boring depth in APM BIO-13 states that minimum bore depth will be up to 30 feet deep below tree-dominated vegetation communities, the bore depth described in the Impact Memo submitted July 23 states that bores could be up to 15 feet below the water body bed, and APM CR-2 states that bores will be a minimum of 1 meter below maximum depth of the resource.

A response from Stantec on September 22 stated that the maximum depth of the bore could be up to 30 feet but did not clarify if the bore would be deeper to avoid cultural resources. The response also said that the 750-maximum depth was a "rule of thumb" but the Project could avoid any resource that's less than 2,500 feet long.

The information received to date shows 11 crews operating in three separate areas along the alignment, the need for a large number of borings, a limit on boring lengths, and the high potential for unanticipated discovery of special-status plant species and special-status wildlife species, including listed and Fully Protected species. Therefore, complete avoidance of significant impacts on special-status plant species, special-status wildlife species, wetlands, cultural resources, and tribal cultural resources does not appear to be feasible. If the Project is analyzed using the information provided to date, it appears that impacts on biological resources and cultural resources/tribal cultural resources may likely be deemed significant and unavoidable, requiring Statements of Overriding Considerations, without additional and more specific information on where and how the avoidance will occur.

PROJECT DESCRIPTION DATA REQUESTS

Data Request PD-1

Please provide a map showing the final route Zayo intends to build (hard copy and GIS). Where Zayo does not commit to place the Project elements within the paved right of way, the route map should include identification of any resources, particularly biological resources or cultural resources, that may be impacted (directly or indirectly) by the Project and show the location of measures Zayo intends to use to avoid these known resources. For each water crossing please identify which ones will be bridge attachments, ones will be bored, and which will be trenched. In areas where resources will be avoided by directional bore, identify where the bore entrance and exits will be, how deep will they be, and if the bore needs to be split. If the bore needs to be split, identify where will the split occur.

Data Request PD-2

Please clarify the following statement: "The shorter the bore, the smaller the setup area (15 to 20 feet for short bores, up to 60 feet for large bores)." Is this referring to the width of the setup area or length? If the locations of the setup areas for the larger bores will be outside the width of the Area of Direct Impact (ADI), please identify those locations on a map.

Data Request PD-3

It is still unclear whether splicing would be required for borings greater than 750 feet. Can a boring be completed up to 2,500 feet in length without the need for splicing? If splicing is required, what is the typical area of disturbance associated with the splice?

Data Request PD-4

Please clarify the exact width of the ADI, as it is reported in the PEA's Glossary of Terms as "generally" 20 feet in width? Does the ADI include the area where trucks and equipment will drive along the alignment, since "no overland travel or new access roads" are proposed? Will it need to be adjusted to avoid sensitive resources? If so, where and how?

Data Request PD-5

Please provided detailed CAD drawings including profiles showing the final proposed alignment of the fiber optic line, all proposed boring locations and bridge hanging locations, and showing the proposed ADI. This information is necessary to determine the potential for impacts on listed and Fully Protected species and protected wetlands, and to complete the impact analysis on biological, cultural, and tribal cultural resources, the alternatives analysis, and cumulative impact analysis for the Project. Please provide the electronic files used to create the CAD drawings.

Data Request PD-6

Please provide information regarding the feasibility of constructing the fiber optic line within existing paved areas in order to avoid direct impacts on sensitive biological and cultural resources. It is our understanding that the alignment is being constructed in pavement outside of California and that Caltrans has stated that, while not preferred, construction in pavement would be allowed to avoid sensitive resources.

ATTACHMENT 2:
BIOLOGICAL RESOURCES
DATA REQUESTS

INSTRUCTIONS

You are instructed to answer the following data requests with written, verified responses per Public Utilities Code § 314, and Rule 1.1 of the Commission's Rules of Practice and Procedure. For any questions, contact the CPUC staff persons listed above.

Please identify the person providing the answer to each data request and his/her contact information. Responses should be provided in original electronic format. All electronic documents submitted in response to this data request should be in readable, downloadable, printable, and searchable formats, unless use of such formats is unfeasible. Each page should be numbered. If any of your answers refer to or reflect calculations, please provide the calculations in traceable formats such as Excel-compatible spreadsheets or computer programs, with data and formulas intact and functioning. Documents produced in response to the data request should be Bates-numbered, and indexed if voluminous. Responses to data requests that refer to or incorporate documents should identify the particular documents referenced by Bates-numbers or Bates-range.

If a request, definition, or an instruction is unclear, please notify the CPUC staff noted above as soon as possible. Please answer the request to the fullest extent possible, specifying the reason for your inability to answer the remaining portion of the data request.

For confidential documents, provide both the confidential version(s) and the public/redacted version(s) and clearly mark and label according to the Commission's rules established in D.06-06-066 and successor decisions.

BACKGROUND:

To date, preliminary results of the impact analysis indicates that the proposed alignment would result in the following potential impacts on biological resources:

- Effects to special status plant species,
- Indirect and direct effects to special status wildlife species
- Temporal loss of habitat during the time between Project construction and full restoration
- Indirect and direct effects to wetlands

Additionally, the following potential impacts were identified by the California Department of Fish and Wildlife (CDFW) in their scoping letter.

- CDFW identifies that the loss of habitat between Project construction and full restoration is a long-term impact and could be considered permanent if the habitat takes a long time to restore (for example, sagebrush takes many decades to restore). The temporal loss of habitat over approximately 194 miles may be significant. Table 5.4-3 in the PEA shows that 507.99 acres will be disturbed for construction; 100.43 acres are urban/barren, meaning over 400 acres of habitat will be lost pending restoration.

- CDFW requested clarification which watercourses would be trenched, bored under, or crossed using bridge hangings.
- CDFW references Section 3.6.3 of the PEA and if construction traffic, parking, and staging along access roads is included in the 20-foot ADI.
- CDFW discusses impacts to sensitive species that are mentioned in the BRTR but missing in the PEA analysis. Permits may be required for take of these species.

Because of the nature and extent of the resources, these impacts would be potentially significant and require mitigation. The information provided to date does not demonstrate complete avoidance of these resources.

Data Request Biological Resources-1 (BR-1)

Please confirm if the factual summary in the statement below is correct or provide a description of the biological resources potentially impacted and specific methods (including maps) showing how Zayo will avoid or minimize potential impacts to those resources.

- A total of 37 special-status plant species were observed in the Caltrans right-of-way. The proposed alignment avoids impacts to 11 of these species. A total of 20 special-status plant species population locations are in the ADI of the Project. Under the current proposed alignment and project description, the project would result in direct and permanent impacts on approximately 5.3 acres of special-status plant populations. To avoid impacts to these resources, it appears that there would be a need for approximately 144 borings, or 288 entry and exit pits along the proposed alignment.
- Even with 2,500-foot maximum bore lengths with no splicing, it still appears that it will not be possible to bore under certain populations of the following special-status plant species, resulting in direct impacts to these populations:
    - Williams's combleaf (*Polyctenium williamsiae*) (California Rare Plant Rank [CRPR] 1B.2/BLM Sensitive and US Forest Service Sensitive) (one location);
    - Raven's lomatium (*Lomatium ravenii var. ravenii*) (CRPR 1B.3/BLM Sensitive) (8 locations);
    - Spiny milkwort (*Polygala subspinosa*) (CRPR 2B.2) (1 location);
    - Sickle saltbush (*Atriplex gardneri var. falcata*) (CRPR 2B.2) (2 locations); and
    - Canby's lomatium (*Lomatium canbyi*) (CRPR 4.3) (2 locations).

Data Request BR-2

Please confirm if the factual summary in the statement below is correct or provide a description of the biological resources potentially impacted and specific methods (including maps) showing how Zayo will avoid or minimize potential impacts to those resources.

- An additional 40 special-status plant species have historically been observed in the Caltrans right-of-way according to CNDDB records, and therefore, have a high potential to occur in the Project area. The current proposed alignment and project description would result in direct impacts to 377.11 acres of natural vegetation communities (non-barren, urban, or agricultural areas). Given the lack of presence/absence surveys for these species (i.e., wandering transects rather than parallel transects and lack of positive reference population

confirmation), these species are assumed to occur in the Project area and could be directly or indirectly affected by Project construction. These include the following listed species:

- Webber's ivesia (*Ivesia webberi*) (Federally Threatened, CRPR 1B.1/US Forest Service Sensitive) (occurring in Great Basin scrub); and
- Boggs Lake hedge-hyssop (*Gratiola heterosepala*) (State Endangered/1B.2/BLM Sensitive) (occurring in wetlands and wetland-riparian areas).

Data Request BR-3

Please confirm if the factual summary in the statement below is correct or provide a description of the biological resources potentially impacted and specific methods (including maps) showing how Zayo will avoid or minimize potential impacts to those resources.

- An additional 37 special-status plant species have a moderate potential to occur in the Project area given the presence of suitable habitat. The current proposed alignment and project description would result in direct impacts to 377.11 acres of natural vegetation communities (non-barren, urban, or agricultural areas). These species cannot be confirmed absent from the Project area and therefore, must be presumed to be potentially present and could be directly or indirectly affected by Project construction.

Data Request BR-4

Please confirm if the factual summary in the statement below is correct or provide a description of the biological resources potentially impacted and specific methods (including maps) showing how Zayo will avoid or minimize potential impacts to those resources.

- The current proposed alignment and project description would result in direct impacts to 377.11 acres of natural vegetation communities (non-barren, urban, or agricultural areas). A total of 16 special-status wildlife species are present in or adjacent to the Study Area including the following listed species or species with limited mobility occurring in the ADI and that could be directly impacted by construction:
  - American badger (*Taxidea taxus*) (California Species of Special Concern [SSC]); and
  - Nesting Greater sandhill crane (*Antigone canadensis tabida*) (State Threatened [ST], California Fully Protected, BLM Sensitive and US Forest Service Sensitive).
- The following listed species are also known to occur very close to the ADI where they may be significantly indirectly affected by construction noise and activities:
  - Nesting tricolored blackbird (*Agelaius tricolor*) ST, SSC, BLM Sensitive (nesting colony); and
  - Nesting Swainson's hawk (*Buteo swainsoni*) ST, BLM Sensitive (nesting).

Data Request BR-5

Please confirm if the factual summary in the statement below is correct or provide a description of the biological resources potentially impacted and specific methods (including maps) showing how Zayo will avoid or minimize potential impacts to those resources.

- An additional 19 special-status fish and wildlife species have historically been observed in the Caltrans right-of-way according to CNDDB records, and therefore, have a high potential

to occur in the Project area. The current proposed alignment and project description would result in direct impacts to 377.11 acres of natural vegetation communities (non-barren, urban, or agricultural areas). Given the lack of presence/absence surveys for these species, these species are also assumed to occur in the Project area. These include the following listed species or species with limited mobility that could be directly or indirectly impacted by construction:

- Carson wandering skipper (*Pseudocopaeodes eunus obscurus*) (Federally Endangered [FE]);
- Nesting bank swallow (*Riparia riparia*) (ST, BLM Sensitive);
- Nesting burrowing owl (*Athene cunicularia*) SSC, Bird of Conservation Concern (BCC), BLM Sensitive (burrowing sites and some wintering sites); and
- Nesting greater sage-grouse (*Centrocercus urophasianus*) (SSC, BLM Sensitive and US Forest Service Sensitive).

Data Request BR-6

Please confirm if the factual summary in the statement below is correct or provide a description of the biological resources potentially impacted and specific methods (including maps) showing how Zayo will avoid or minimize potential impacts to those resources.

- An additional 25 special-status fish and wildlife species have a moderate potential to occur in the Project area given the presence of suitable habitat. The current proposed alignment and project description would result in direct impacts to 377.11 acres of natural vegetation communities (non-barren, urban, or agricultural areas). These species cannot be confirmed absent from the Project area and therefore, must be presumed to be potentially present and could be directly or indirectly affected by Project construction.

Data Request BR-7

Please confirm if the factual summary in the statement below is correct or provide a description of the biological resources potentially impacted and specific methods (including maps) showing how Zayo will avoid or minimize potential impacts to those resources.

- Even with 2,500-foot maximum bore lengths with no splicing in between, directional boring will not be feasible for large areas of four riparian fresh emergent wetland complexes, four fresh emergent wetland complexes, one wetland swale complex, and two seasonal wetland complexes that span lengths greater than 2,500 feet. The current proposed alignment and project description would result in direct impacts to 2.64 acres of "other waters." Therefore, temporary and permanent impacts would occur.

Data Request BR-8

Please confirm if the factual summary in the statement below is correct or provide a description of the biological resources potentially impacted and specific methods (including maps) showing how Zayo will avoid or minimize potential impacts to those resources.

- Some of the biological resources in the Project area are California Fully Protected Species. There is no mechanism for a take permit for these species and impacts to these species may not have a feasible mitigation that would reduce impacts to a less-than-significant level.

Data Request BR-9

For each water crossing, please identify which crossings will utilize bridge attachments and which crossings will be bored or trenched. Please confirm where the bore entrance and exits will be, how deep will they be, and will the bore need to be split. If the bore needs to be split, identify where the split will occur.

ATTACHMENT 3:
CULTURAL RESOURCES
DATA REQUESTS
INSTRUCTIONS

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Please identify the person providing the answer to each data request and his/her contact information. Responses should be provided in original electronic format. All electronic documents submitted in response to this data request should be in readable, downloadable, printable, and searchable formats, unless use of such formats is unfeasible. Each page should be numbered. If any of your answers refer to or reflect calculations, please provide the calculations in traceable formats such as Excel-compatible spreadsheets or computer programs, with data and formulas intact and functioning. Documents produced in response to the data request should be Bates-numbered, and indexed if voluminous. Responses to data requests that refer to or incorporate documents should identify the particular documents referenced by Bates-numbers or Bates-range.

If a request, definition, or an instruction is unclear, please notify the CPUC staff noted above as soon as possible. Please answer the request to the fullest extent possible, specifying the reason for your inability to answer the remaining portion of the data request.

For confidential documents, provide both the confidential version(s) and the public/redacted version(s) and clearly mark and label according to the Commission's rules established in D.06-06-066 and successor decisions.

BACKGROUND:

The location, extent, and sensitivity of cultural resources are still unknown to date and pending completion of testing and evaluation. Although the Proponent's Environmental Assessment (PEA) states that all cultural resources can be avoided, the final alignment cannot be developed until the location and extent of sensitive cultural resources is known. As a result, the final alignment of the fiber optic line is still unknown and engineering design drawings showing the Project profile are also still pending. The Project has not identified the location and extent of these resources, how they will be avoided, and if changing the Project alignment to avoid these resources will affect other resources. The CPUC's Native American consultation process has identified an interest in the precise location of the Project and what resources will be affected. CPUC cannot answer those questions to continue with Native American consultation with the data received to date from the Applicant; therefore, impacts to Tribal Cultural Resources are also unknown.

The submittal date for cultural resources data has slipped numerous times since October 2020. No cultural resources information was submitted with the Application and PEA. Energy Division has provided specific cultural resources data requests on December 17, 2020, March 1, 2021, and October 4, 2021. These requests are repeated here. During a Project meeting with Zayo Group, LLC (Zayo or Applicant) in April 2021 it was indicated that the cultural resources testing reports were "a couple of months out." At the September 2021 meeting, the Energy Division was informed that the

cultural resources testing reports have been pushed to October. The delays in the receipt of the cultural resources reports and the final Project alignment are having the most serious impacts to the Project schedule.

Data Request Cultural Resources-1 (CR-1)

The table below provides a summary of the cultural resources reports received as of October 4, 2021. Please provide the estimated date of completion for the final reports that have not yet been submitted.

Report		**Appendix**	**What CPUC Currently Has**	**Current Status**
(1)	Inventory Report, Volume II, California	Main Body Report	Report is not dated, but we received it in November 2020.	Not finalized, awaiting finalization of ASR.
		Appendix A – Applegate BLM Inventory	Draft dated September 18, 2020 and Final dated May 10, 2021.	No further versions expected.
		Appendix B – Eagle Lake BLM Inventory	Final dated August 24, 2021.	No further versions expected.
		Appendix C – Sierra Field Front BLM Inventory	Draft dated September 18, 2020 and Final dated September 2, 2021.	No further versions expected.
		Appendix D – XL Ranch BIA Inventory	Draft dated September 18, 2020 and Final dated May 31, 2021.	No further versions expected.
		Appendix E – Ethnographic Overview	Undated draft and Final dated January 29, 2021.	No further versions expected.
		Appendix F – Caltrans Archaeological Survey Report and HRCR	Nothing received to date.	Awaiting Caltrans review to finalize.
		Appendix G – USFS Inventory	Final dated June 15, 2020.	No further versions expected.
(2)	Inventory Report Addendum 1 Memorandum		Nothing received to date.	In preparation.
(3)	Applegate BLM Testing Report		Nothing received to date.	In preparation.
(4)	Eagle Lake BLM Testing Report		Nothing received to date.	In preparation.
(5)	XL Ranch BIA Testing Report		Final dated March 5, 2021	No further versions expected.

Report		Appendix	What CPUC Currently Has	Current Status
(6)	Extended Phase I (XPI) Report		Nothing received to date.	In preparation.

Data Request CR-2

Upon receipt of the technical documentation from Data Request CR-2, the reports will be evaluated relative to Attachment 3 of the CPUC Guidelines for Energy Project Applications Requiring CEQA compliance. Attachment 3 to the Guidelines contains some specific information requirements that were not included in the PEA submittal, such as the need to address eligibility as unique archaeological resources, the need to address eligibility under all four criteria, project location and survey coverage maps (some appendices did not include those in the first submittal), and other specified information. All evaluation statements should be expressed as recommendations from Stantec, rather than as "potentially eligible," which suggests that additional effort is necessary to come to a recommendation of eligibility.

Data Request CR-3

In order to make a finding of effect in the CEQA document, documentation and justification for avoidance and characterization of impacts will need to be provided. Please provide Project plans that overlay the cultural resources data set at a scale that is closer to 1:100 or 1:200. If detailed engineering plans are not available, then a map book of that scale that shows restricted areas from project activity due to the presence of cultural resources is necessary at a minimum.

If cultural resources will be avoided using directional boring, please confirm where the bore entrance and exits will be and will the bore need to be split. If the bore needs to be split, identify where the split will occur. Identify the depth of the resource and if the depth of the bore will avoid the resource, particularly for bores that need to be split.

Data Request CR-4

To determine whether staging is considered an activity with indirect effect instead of being in the area of direct impact (like trenching and grading is), additional details need to be provided about capping or other methods to prevent crushing or displacement of surface artifacts. Otherwise, staging areas and all Project use, regardless if permanent or temporary, will be considered in the area of direct impact for purposes of CEQA. Please provide information indicating how surface artifacts will be treated during staging activities.

Data Request CR-5

With submittal of the testing reports, please provide a separate comprehensive spreadsheet for all cultural resources sites located within California that provides the following information in tabular format, which can be sorted and filtered by CPUC staff and consultants during the preparation of the cultural resources chapter of the CEQA document:

- Primary Number
- Trinomial
- Temporary Field Number

- Property Ownership (so staff can look up the site in the right appendix for more information on the site description and constituents; all "unknown" ownership questions should be resolved)
- Component (Prehistoric, Historic, or Multicomponent)
- Type (Site or Isolate)
- Archaeological, Built Environment, or Other (e.g., TCP if known)
- Contributing Element to District? (if so, name of district)
- NRHP/CRHR Eligible – A/1? (Y or N)
- NRHP/CRHR Eligible – B/2? (Y or N)
- NRHP/CRHR Eligible – C/3? (Y or N)
- NRHP/CRHR Eligible – D/4? (Y or N)
- Unique Archaeological Resource? (Y or N)
- Retains Sufficient Integrity? (Y or N)
- Direct APE or Indirect APE?
- Proposed for Avoidance (Y or N)
- Proposed for Direct Impact? (Y or N; if Y, describe as one or two words and indicate estimated percentage of impact for sites that extend across the APE boundary)
- Recommended Treatment Method (ESA fencing, capping, data recovery, etc.)
- Remarks (anything that may be useful to CPUC to know, such as known human remains or named historic-era resources, etc.)