

1 BEFORE THE ARIZONA POWER PLANT LS-360

2 AND TRANSMISSION LINE SITING COMMITTEE

3

4 IN THE MATTER OF THE APPLICATION OF )DOCKET NO.  
 4 TUCSON ELECTRIC POWER COMPANY, IN )L-00000C-24-0118-00232  
 CONFORMANCE WITH THE REQUIREMENTS )  
 5 OF A.R.S. § 40-360, ET SEQ., FOR A )LS CASE NO. 232  
 CERTIFICATE OF ENVIRONMENTAL )  
 6 COMPATIBILITY AUTHORIZING THE )  
 MIDTOWN RELIABILITY PROJECT, WHICH )  
 7 INCLUDES THE CONSTRUCTION OF A NEW )  
 138 KV TRANSMISSION LINE )  
 8 ORIGINATING AT THE EXISTING )  
 DEMOSS-PETRIE SUBSTATION (SECTION )  
 9 35, TOWNSHIP 13 SOUTH, RANGE 13 )  
 EAST), WITH AN INTERCONNECTION AT )  
 10 THE PLANNED VINE SUBSTATION )  
 (SECTION 06, TOWNSHIP 14 SOUTH, )  
 11 RANGE 14 EAST), AND TERMINATING AT )  
 THE EXISTING KINO SUBSTATION )  
 12 (SECTION 30, TOWNSHIP 14 SOUTH, )  
 RANGE 14 EAST), EACH LOCATED WITHIN )  
 13 THE CITY OF TUCSON, PIMA COUNTY, )EVIDENTIARY HEARING  
 ARIZONA. )  
 14 \_\_\_\_\_ )

15 At: Tucson, Arizona

16 Date: July 16, 2024

17 Filed: July 24, 2024

18

19 REPORTER'S TRANSCRIPT OF PROCEEDINGS

20 VOLUME VII  
 21 (Pages 1325 through 1558)

22 GLENNIE REPORTING SERVICES, LLC  
 Court Reporting, Video & Videoconferencing  
 23 1555 East Orangewood Avenue, Phoenix, AZ 85020  
 602.266.6535 admin@glennie-reporting.com  
 24

25 By: Jennifer Honn, RPR  
 Arizona CR No. 50558

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1 BE IT REMEMBERED that the above-entitled and  
2 numbered matter came on regularly to be heard before the  
3 Arizona Power Plant and Transmission Line Siting  
4 Committee at Tucson Reid Park Doubletree, 445 South  
5 Alvernon Way, Tucson, Arizona, commencing at 9:09 a.m. on  
6 July 16, 2024.

7

8 BEFORE: ADAM STAFFORD, Chairman

9 GABRIELA S. MERCER, Arizona Corporation Commission  
10 LEONARD DRAGO, Department of Environmental Quality  
11 NICOLE HILL, Governor's Office of Energy Policy  
12 R. DAVID KRYDER, Agricultural Interests  
13 SCOTT SOMERS, Incorporated Cities and Towns  
14 (via videoconference)  
15 MARGARET "TOBY" LITTLE, PE, General Public  
16 (via videoconference)  
17 DAVE RICHINS, General Public  
18 JOHN Gold, General Public

19 APPEARANCES:

20 For the applicant:

21 Meghan H. Grabel, Esq.  
22 Elias Ancharski, Esq.  
23 OSBORN MALEDON  
24 2929 North Central Avenue  
25 21st Floor  
Phoenix, Arizona 85012

and

21 Megan Hill  
22 Tucson Electric Power Company  
23 88 East Broadway, MS HQE910  
24 P.O. Box 711  
Tucson, Arizona 85702

25 //

1 APPEARANCES: (continued)

2 For Banner University Medical Center and Banner Health:

3 Michelle De Blasi, Esq.  
4 LAW OFFICE OF MICHELLE DE BLASI, PLLC  
5 7702 East Doubletree Ranch Road  
6 Suite 300  
7 Scottsdale, Arizona 85258

8 For City of Tucson:

9 Roi L. Lusk, Esq.  
10 Principal Assistant City Attorney  
11 Jennifer J. Stash, Esq.  
12 Senior Assistant City Attorney  
13 P.O. Box 27210  
14 Tucson, Arizona 85726

15 For Underground Arizona:

16 Daniel Dempsey, Director  
17 737 East 9th Street  
18 Tucson, Arizona 85719

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1 CHMN STAFFORD: Let's go back on the  
2 record.

3 Mr. Lusk, now is the time for you to  
4 present your direct case. If you'll call your witness,  
5 and we'll get him sworn in.

6 MR. LUSK: Thank you, Chairman.

7 The City of Tucson calls Mark Castro.

8 CHMN STAFFORD: Good morning. Mr. Castro,  
9 would you prefer an oath or affirmation?

10 MR. CASTRO: An oath is fine.

11 CHMN STAFFORD: Do you swear the testimony  
12 you will give in this matter will be the truth, the whole  
13 truth, and nothing but the truth so help you God?

14 MR. CASTRO: Yes.

15 CHMN STAFFORD: Please proceed, Mr. Lusk.

16 MR. LUSK: Thank you, Chairman.

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1 MARK CASTRO,  
2 called as a witness on behalf of City of Tucson, having  
3 been affirmed or sworn by the Chairman to speak the truth  
4 and nothing but the truth, was examined and testified as  
5 follows:

6

7

DIRECT EXAMINATION

8 BY MR. LUSK:

9 Q. Good morning, Mark.

10 A. Good morning.

11 Q. Are you comfortable over there?

12 A. A little bit.

13 Q. It's hard for me to see you over there,  
14 actually.

15 Can you introduce yourself to the Committee and  
16 talk a little bit about your -- what you do?

17 A. Sure. Absolutely.

18 Good morning, everyone. My name is Mark Castro.

19 I am a principal planner with the City of  
20 Tucson. I've been working for the City of Tucson for  
21 approximately 19 years. 15 of those years has been with  
22 the planning and development services department.

23 I received my bachelor's degree from the  
24 Northern Arizona University in public planning.

25 My current roles and responsibilities is



1 supervising a team that oversees the processing of these  
2 special zoning-type applications that our department has  
3 as well as manage the board of adjustment, variance  
4 process and site review involving commercial and  
5 residential projects.

6 Q. Thank you, Mr. Castro. Can you talk a little  
7 bit about what the plan review process is?

8 A. Absolutely. So, in general, our department  
9 oversees plan review projects that come in through for,  
10 you know, residential or development projects.

11 It typically goes through a plan review process,  
12 which would be plans for development and new construction  
13 within the City of Tucson. Those are reviewed for  
14 conformance to applicable zoning regulations. And those  
15 applicable zoning regulations may include zoning  
16 districts, overlay zones, permitted uses, use-specific  
17 standards, dimensional standards for structures and  
18 development standards such as required parking and  
19 landscaping.

20 Zoning regulations for the City of Tucson are  
21 contained within the Unified Development Code.

22 Q. And shorthand for that is UDC; correct?

23 A. That is correct.

24 Q. Can you talk a little bit about some of the --  
25 who does those reviews within PDSD?

1 A. So we have the zoning administrator is  
2 responsible for giving final determinations on  
3 substantive provisions of the UDC and their application.

4 We do have the zoning examiner who holds public  
5 hearings for rezonings, special exceptions, expansion of  
6 or substitution of nonconforming uses.

7 And then we have the board of adjustment, which  
8 is a body that hears and decides requests for variances  
9 from the provisions of the UDC. They also hear appeals  
10 of the zoning administrator interpretations and appeals  
11 from administrative design review decisions and limited  
12 notice procedure decisions.

13 Q. And you actually staff that body, correct, the  
14 board of adjustment?

15 A. That is correct.

16 Q. Now, have you had an opportunity to briefly  
17 review the project we're talking about, the Midtown  
18 Reliability Project that TEP has proposed?

19 A. Yes, I have.

20 Q. Can you talk a little bit about what you've --  
21 your initial review determined?

22 A. So just my overall perception it's, you know,  
23 due to the size of the project area, there are applicable  
24 zoning districts along the route that include almost all  
25 of the zoning districts that are contained. So that's

1 your residential zoning such as R-1, R-2, and R-3,  
2 commercial zoning such as C-1, C-2, and C-3, and our  
3 industrial zones.

4 Additionally, the project area implicates  
5 historic preservation, which is an overlay near Speedway  
6 and the Gateway Corridor overlay along Campbell Avenue,  
7 Oracle Road, and Broadway Boulevard.

8 For the purposes of this current proceeding,  
9 this review will focus on the GCZ and its undergrounding  
10 requirements.

11 Q. And can you talk a little bit about where the  
12 GCZ came from and what it is?

13 A. So the GCZ came from the Major Streets and  
14 Routes Plan, which was originally adopted in 1982 as a  
15 way of implementing the transportation policies of the  
16 City of Tucson's general plan.

17 And they do this by classifying the streets into  
18 freeways, arterials, and collectors, designating current  
19 and future right-of-ways, establishing scenic and gateway  
20 routes that are key to the preservation of vistas and  
21 natural vegetation and/or to upgrading the developed  
22 streetscape of the City.

23 As included in Plan Tucson, the Major Streets  
24 and Routes Plan does contain the plan itself and a map  
25 and is implemented in the UDC as three overlay zones.

1 And that's the Scenic Corridor Zone, the Gateway Corridor  
2 Zone, and the Major Streets and Routes setback zone.

3 Q. And just briefly, can we talk a little bit about  
4 what an overlay zone is as opposed to the original zoning  
5 of districts?

6 A. So the overlay zoning is essentially -- it's --  
7 how do I describe this? It's an overlay that goes --  
8 that covers more than just the zoning, you know, for  
9 let's say for an example like residential zoning R-1,  
10 R-2. An overlay zone can encompass all of those zonings  
11 just depending on the area, and it's focused on specific  
12 standards, and it overrides what the underlying zoning  
13 is.

14 So if there's restrictions, typically you get  
15 those from the overlay zones rather than the underlying  
16 zones.

17 Does that make sense?

18 Q. It does.

19 And are there additional requirements for an  
20 overlay zone other than the regular zoning requirements?

21 A. There typically are. That's correct.

22 Q. Thank you. I'm showing a map on the slide here.  
23 Can you describe what that's showing?

24 A. So this is the MS&R plan map. The blue  
25 highlighted routes are -- those are the gateway routes.

1 The green that you see there is the scenic corridor  
2 zones. And then the yellow is, of course, the freeway or  
3 the interstates.

4 CHMN STAFFORD: Mr. Lusk, which -- what are  
5 we looking at? This is slide what of Exhibit 8?

6 MR. LUSK: I apologize, Member. We  
7 couldn't get them to number them. I can -- I can say  
8 that this is COT-5 actually. It's just included in the  
9 slide.

10 CHMN STAFFORD: Okay.

11 BY MR. LUSK:

12 Q. I'm sorry, Mr. Castro. Can you continue?

13 A. Sure. And then also you see on the routes  
14 you'll see some numbers. Those numbers indicate the  
15 future rights-of-way widths of those streets, and there's  
16 also SP you see noted somewhere sometimes on the maps,  
17 and that refers to a specific plan for engineering. And  
18 that's mostly for right-of-way work.

19 Q. And that determines what widths the right-of-way  
20 might be in a particular area and what the goal or the  
21 goal widths are for future reference?

22 A. Correct.

23 Q. Thank you.

24 And for our purposes, I believe, that you  
25 mentioned that the Gateway Corridor -- Gateway Corridors

1 for this project are in blue --

2 A. Yes. Blue.

3 Q. -- in the project area?

4 A. Yes.

5 Q. And would that include Campbell, Oracle, and  
6 Broadway?

7 A. That is correct.

8 Q. And for clarity, Oracle is not a Gateway  
9 Corridor for the entire length?

10 A. That's correct.

11 Q. Okay. Can you talk a little bit about what's  
12 required within the GCZ?

13 A. So what's required in the GCZ. Let me see if I  
14 can get the right slide up here.

15 Did you want to talk about this here?

16 Q. Oh, sure. I'm sorry. I skipped around a little  
17 bit for you.

18 A. Okay.

19 Q. Please talk about your review of the Midtown  
20 Reliability Project as it relates to the GCZ.

21 A. Okay. So this kind of goes with the previous  
22 map, the MS&R map. So we saw that north and south Routes  
23 1, 2, and 6 run parallel to the Gateway Corridor Zone on  
24 Campbell Avenue.

25 The east/west Route D runs parallel to the

1 Gateway Corridor Zone on Campbell Avenue.

2 And all east/west routes, that's A through D,  
3 cross perpendicularly to the GCZ on Oracle Road.

4 All north and south Routes 1 through 6 cross  
5 perpendicularly the GCZ on Broadway Boulevard.

6 And the north/south Route 2 crosses  
7 perpendicularly the GCZ on Campbell Avenue and runs  
8 parallel to Broadway Boulevard.

9 Q. Thank you.

10 And I think there's a map that was prepared by  
11 the applicant included in our slides?

12 A. Here. I think this is it.

13 Q. And what's depicted on this map, if you could  
14 just briefly describe it?

15 A. So what's depicted on this map is the  
16 alternative routes showing the routes. Also the Gateway  
17 Corridor Zone, which is down Kino and Campbell Avenue,  
18 and also the preferred routes that go to DeMoss Petrie.

19 Q. And for the record, this is a slide of TEP-26?

20 A. Yes.

21 Q. There are -- just for clarity, there are some  
22 shaded portions along Campbell, Broadway, and I believe  
23 that's Oracle.

24 Is that the Gateway Corridor Zone?

25 A. Yes, it is.

1 And that's within the it looks like the  
2 University Area Plan. And it looks like Sam Hughes  
3 Neighborhood Plan is in there as well.

4 Q. And those are hatched?

5 A. Correct.

6 Q. There's also shaded areas along or near  
7 Silverbell.

8 Are those Gateway Corridors?

9 A. So along Silverbell, that would be the Scenic  
10 Corridor Zone.

11 Q. So that's a different overlay than the Gateway  
12 Corridor Zone?

13 A. That's correct.

14 Q. Is it similar in its requirements as well?

15 A. Yes, it is. Yes, it is.

16 The Scenic Corridor Zone is really focused on  
17 preservation of views and vistas, but it's ultimately the  
18 requirements are similar.

19 Q. Okay. Thank you.

20 MEMBER LITTLE: Mr. Chairman.

21 CHMN STAFFORD: Yes, is this Member Little?

22 MEMBER LITTLE: Yes.

23 I'm just wondering where Silverbell is --  
24 I'm not that familiar with Tucson -- generally on the map  
25 where it is.



1 CHMN STAFFORD: Yeah. Do you have a  
2 pointer or something you can use for the map?

3 MR. LUSK: I think Mr. Castro does.

4 CHMN STAFFORD: Excellent.

5 Can you see the pointer, Member Little?

6 MEMBER LITTLE: No.

7 CHMN STAFFORD: Okay.

8 MEMBER LITTLE: Just generally where it is.

9 CHMN STAFFORD: I think there's a pointer  
10 that works that you can see.

11 MEMBER LITTLE: Yes. Yes.

12 CHMN STAFFORD: Excellent.

13 MR. CASTRO: There you go. Right here.

14 MEMBER LITTLE: Thank you.

15 MR. CASTRO: Sure.

16 MEMBER LITTLE: Okay.

17 BY MR. LUSK:

18 Q. Thank you, Mr. Castro.

19 A. Sure.

20 Q. Now we can get to what the actual GCZ requires.  
21 Thank you.

22 A. Okay. Okay. So what does the GCZ require?

23 UDC sections of the Tucson Unified Development  
24 Code 5.5.4.B.1.a states that, "New utilities along  
25 gateway routes shall be underground unless relief is

1 otherwise granted pursuant to UDC Sections 5.3.14,  
2 Variances or through a Zoning Examiner special exception  
3 process per Section 4.911.A.12."

4 Upgrades or reinforcements of existing overhead  
5 utilities are allowed. And that's under UDC  
6 Section 5.5.4.B.1.b.

7 The project consists of a new transmission line  
8 proposed in part along the Campbell and Broadway GCZs and  
9 subject to the UDC Section 5.5.4.B.1.a in those areas and  
10 the applicable perpendicular crossings of Oracle,  
11 Campbell, and Broadway.

12 Q. Thank you.

13 Mr. Castro, I want to focus in a little bit  
14 because I know there was a question about there's  
15 currently some overhead lines on Campbell now. I think  
16 they were described as distribution lines yesterday.

17 Those distribution lines, if they existed prior  
18 to the adoption of the MS&R plan, would they be allowed  
19 to be replaced?

20 A. Yes. They would.

21 Q. Under the GCZ requirements?

22 A. Right.

23 Q. Thank you. Can you talk a little bit --

24 MEMBER LITTLE: Chairman.

25 CHMN STAFFORD: Yes, Member Little.

1 MEMBER LITTLE: Could you clarify that last  
2 statement a little bit?

3 Replaced in kind or replaced with other  
4 lines?

5 What does that "replaced" mean?

6 BY MR. LUSK:

7 Q. Mr. Castro, if you could answer that to the best  
8 of your ability.

9 A. Let me pull up that section. Just give me one  
10 second.

11 Q. Sure.

12 MEMBER KRYDER: Mr. Castro, would you speak  
13 a little closer to your microphone for me, please.

14 MR. CASTRO: Sure. Is this better?

15 MEMBER KRYDER: Much better.

16 BY MR. LUSK:

17 Q. And, Mr. Castro, while you're looking at that,  
18 let me see if I can clarify Member Little's question.

19 As it relates to replacement of distribution  
20 poles within the Gateway Corridor Zone, if there are --  
21 if it doesn't increase the number of electrical circuits  
22 or communication lines or moves the pole in any  
23 significant direction, would that be an appropriate  
24 replacement?

25 A. So I believe the answer to the question I have

1 here is sited in this code section. It states that,  
2 "When necessary to serve new development, a new pole set  
3 in line with, but not extending, an existing overhead  
4 system used to serve new development is not considered a  
5 new utility.

6 "Upgrades and reinforcements of existing  
7 overhead facilities are allowed to the extent that the  
8 total number of electrical circuits or communication  
9 cables is not increased."

10 Q. Thank you, Mr. Castro.

11 MR. LUSK: Member Little, does that answer  
12 your question?

13 MEMBER LITTLE: Thank you. Yes.

14 BY MR. LUSK:

15 Q. All right. Moving forward on the -- on your  
16 presentation.

17 Is there relief available from the Gateway  
18 Corridor Zone if required -- if necessary?

19 A. So there is relief provided. We do have the  
20 zoning examiner special exception process. It's listed  
21 in UDC Section 3.4.3.

22 The zoning examiner special exception process  
23 consists of a pre-application conference, an application,  
24 a neighborhood meeting, and a public hearing and zoning  
25 examiner decision.

1 UDC Section 3.4.5 requires that the PDS  
2 director make a finding and a recommendation to the  
3 zoning examiner prior to the zoning examiner's decision.  
4 The zoning examiner may condition any approval on  
5 reasonable and appropriate conditions to ensure  
6 compliance with the criteria for approval.

7 Q. And just for clarity, that's the relief from the  
8 actual undergrounding requirement within the GCZ, is that  
9 right, for new utilities?

10 A. That's correct.

11 Q. Thank you.

12 Are there other -- other ways to get relief?

13 A. There is.

14 It's also the -- there's the board of adjustment  
15 variance procedure. And I can go -- I can speak to that  
16 or we can talk a little bit more about the special  
17 exception.

18 Q. Sure. Are there factors that the zoning  
19 examiner will look at to determine whether it's an  
20 appropriate relief?

21 A. Sure. So for the special exception the request  
22 to relieve undergrounding requirement must meet one or  
23 more than one criterion listed in subsections A through H  
24 below that you see up here on the screen. Let me get  
25 that to the screen. There we go.

1 Q. So can you briefly go through those factors?

2 That's a lot to read, I think.

3 A. Sure. Item A, The proposed overhead  
4 transmission lines are contextually sensitive to adjacent  
5 and surrounding zoning and land uses. Examples of this  
6 may include a proposed location that is industrial zoned  
7 or a proposal that results in a less adverse aesthetic  
8 impact or less adverse impact on viewsheds for  
9 surrounding properties.

10 Q. Mr. Castro, before you go on, I want to be clear  
11 for the record.

12 So this is -- this is a special exception  
13 process specifically to grant relief for undergrounding  
14 of a transmission line within the Gateway Corridor Zone;  
15 is that right?

16 A. That's correct.

17 Q. Okay. Please proceed. Thank you.

18 A. Item B, Requiring underground construction would  
19 cause a significant increase in ground disturbance when  
20 compared to overhead construction in sensitive areas such  
21 as the environmental resource zone or watercourse  
22 amenities, safety, and habitat, wash crossings, or  
23 environmentally and archaeologically sensitive areas.

24 Q. So I'm going to stop you there again. I  
25 apologize.

1 But so in the case of an undergrounding  
2 construction within the Gateway Corridor Zone where there  
3 is found to be archaeologically sensitive materials,  
4 could the applicant proceed through this process and be  
5 granted relief?

6 A. Yes. That's correct.

7 Q. Thank you. Please proceed.

8 A. Item C, That the proposed overhead transmission  
9 line will have minimal impact on residential areas.

10 Item D, That the relief is requested for a  
11 segment that perpendicularly crosses a Gateway Corridor  
12 Zone or a Scenic Corridor Zone.

13 Q. I'm going to --

14 MEMBER KRYDER: Mr. Chairman.

15 MR. LUSK: Oh, please.

16 CHMN STAFFORD: Member Kryder.

17 MEMBER KRYDER: Mr. Castro, could we go  
18 back to Item C for just a moment?

19 MR. CASTRO: Sure.

20 MEMBER KRYDER: Speak with us a bit about  
21 the word "minimal" there.

22 Who measures that and how is it measured?

23 And just fill in the blanks there for us  
24 would you please.

25 MR. CASTRO: Sure, Member, and,

1 Mr. Chairman, and Members of the Committee.

2 So that's a great question. And since this  
3 is part of a special exception procedure, it's ultimately  
4 going to be decided by the zoning examiner whether or not  
5 the application meets those findings.

6 So it really is based on how the  
7 application is presented, what information they have  
8 provided, and what the zoning examiner would determine is  
9 minimal impact.

10 MEMBER KRYDER: So it -- excuse me. So it  
11 finally comes down to what the zoning examiner would say  
12 yes, that's minimal, oops, no, that's not minimal?

13 Is that where we are?

14 MR. CASTRO: That's correct.

15 MEMBER KRYDER: And is there appeal from  
16 that?

17 MR. CASTRO: I believe there is an appeal  
18 process for a zoning examiner special exception. I  
19 believe that does go to mayor and council.

20 I can verify that if you want to give me a  
21 moment.

22 MEMBER KRYDER: Yes, I would.

23 It seems when it finally comes down to a  
24 one-person decision, that's kind of a tough place to be.  
25 Regardless of the outcome somebody always feels like



1 somebody's got their hand in their pocket or whatever.

2 BY MR. LUSK:

3 Q. Mr. Castro, while you're looking at that, if I  
4 can expand upon Member Kryder's question it might be  
5 helpful to discuss the nature of the special exception  
6 process.

7 I think you described it as an application. And  
8 then there's some additional public involvement as well;  
9 is that right?

10 A. Yes. That's correct.

11 There is a pre-application conference required  
12 with the City of Tucson that involves City staff and  
13 their various disciplines. There's also a neighborhood  
14 meeting required, so there is outreach. It's a 400-foot  
15 notice procedure. So that's property owners within  
16 400 feet of the site and all neighborhood associations  
17 within a mile.

18 And then there's the we -- once the application  
19 is submitted, the City does its own mail out using the  
20 same mailing list to those property owners or interested  
21 parties for comment.

22 So there is a comment review period.

23 The director of PDSO does make a recommendation  
24 to the zoning examiner. And then it's up to the zoning  
25 examiner during a public hearing to review all the

1 materials that had been submitted, including any public  
2 feedback when he makes his -- when he makes his final  
3 ruling.

4 Q. And that's a local process, correct, that  
5 happens here in Tucson?

6 A. That is correct.

7 Q. And members -- you said the 400-foot procedure.  
8 Can you briefly describe what that is?

9 A. So the 400-foot procedure is just that. It is  
10 we make a buffer from the property or the project site.  
11 We measure 400 feet out. Any property owners within that  
12 are noticed.

13 And then we do the same for neighborhood  
14 associations. We make a buffer around the project site  
15 or project area, measure a mile out, and then all  
16 neighborhood associations contained within there are also  
17 part of the notification list.

18 Q. And all those persons and neighborhood  
19 associations noticed are able to participate in the  
20 public hearing?

21 A. That is correct.

22 Q. Thank you, Mr. Castro.

23 MEMBER KRYDER: And another question,  
24 please.

25 MR. LUSK: Sure.

1 MEMBER KRYDER: In that is there mitigation  
2 or does it still finally come down to the zoning  
3 inspector says yea or nay?

4 MR. LUSK: Member Kryder, I'm sorry, can  
5 you clarify as to what you mean by mitigation?

6 MEMBER KRYDER: I'm sorry. Looking at what  
7 I just heard Mr. Castro say was that there would be the  
8 community meetings and other pieces and such, and that  
9 would give the zoning inspector -- is that the right  
10 title?

11 MR. LUSK: Examiner I believe is the  
12 correct term.

13 MEMBER KRYDER: That would give that person  
14 the background in order to take a knowledgeable decision.

15 And my question was toward in that is it  
16 still a yes or no answer?

17 Or does when the community speaks or the  
18 community association or anyone who has a voice in this  
19 speaks, can they say, well, if we would do this, would it  
20 be possible if we don't do that, would it be possible?

21 So is there mitigation really is what I was  
22 looking at.

23 MR. LUSK: Thank you, Member Kryder. I  
24 think I understand.

25 //

1 BY MR. LUSK:

2 Q. I think, Mr. Castro, Member Kryder is asking can  
3 the special exception process proceed and the zoning  
4 examiner provide the special exception with conditions?

5 A. Yes. Yes. To answer the question, the zoning  
6 examiner at least in my experience, has always felt, you  
7 know, neighborhood input is important when making a  
8 decision.

9 So if there is some compromise or agreement or  
10 terms that are amenable to both parties, the zoning  
11 examiner, like I said, in my experience has made  
12 conditions of approval based on those.

13 Q. So, for example, if for this particular project,  
14 if the special exception request was to grant relief from  
15 the GCZ underground requirement, this zoning examiner  
16 could consider something like undergrounding  
17 distributions lines in the area as a condition of  
18 approval?

19 A. Yes.

20 Q. Thank you, Mr. Castro.

21 MEMBER GOLD: Mr. Chairman.

22 CHMN STAFFORD: One second, Member Gold.

23 Member Hill had signaled she had a  
24 question.

25 MEMBER HILL: Can you characterize the

1 zoning examiner's qualifications? Is this an employee of  
2 the City? Is it a third party?

3 Can you characterize their qualifications  
4 in that role?

5 BY MR. LUSK:

6 Q. Sure. Mr. Castro, if you know, I believe  
7 they're an employee of PDSD; is that correct?

8 A. Not an employee of the planning development  
9 services, but --

10 Q. I'm sorry. Thank you.

11 A. -- but I believe of the city manager's office.  
12 And I don't -- I can pull that up too.

13 Q. Sure. Take your time.

14 A. If you give me a moment.

15 MR. KRYDER: Okay. So just for  
16 clarification as you're looking that up, Mr. Castro, is  
17 this a single person who has this as a year-round  
18 responsibility, or is this an ad hoc sort of person who  
19 is applied in this case and another person in another  
20 case?

21 MR. LUSK: Sure.

22 BY MR. LUSK:

23 Q. Mr. Castro, I think what the Member Kryder is  
24 asking is is this a person appointed by the city manager  
25 to perform this particular function?

1 A. Yes. That's correct.

2 So the zoning examiner does -- is appointed by  
3 the city manager, and the zoning examiner serves at  
4 pleasure of the city manager.

5 MR. LUSK: Did that answer your question,  
6 Member Kryder?

7 MEMBER KRYDER: Thank you very much. Yes.

8 MR. LUSK: Of course.

9 CHMN STAFFORD: Are you still working on  
10 the answer to Member Hill's question?

11 MR. CASTRO: And, Member Hill, can you  
12 repeat the question, please?

13 MEMBER HILL: Yes. So in some communities,  
14 examiners are a third party, kind of a judicial process  
15 where they're kind of a judge, right, like they collect  
16 and hear from all the interested parties related to an  
17 issue and make a decision.

18 In other communities, it's actually an  
19 employee of the City. And so I was just trying to  
20 understand how Tucson structures their examiners system  
21 and what their qualifications are for that position.

22 BY MR. LUSK:

23 Q. Sure. I think, Mr. Castro, you described that  
24 as they are an employee of the city appointed by the  
25 manager; is that right?

1 A. That's correct.

2 Q. I'm not sure that any qualifications are  
3 indicated within the code itself?

4 A. And I'm not seeing any other than, right, yeah  
5 there are no specific qualifications to holding that  
6 position, and it's just one person.

7 MEMBER HILL: And it is -- it is for all  
8 examination cases or just the GCZs?

9 Is it the same person that does all kind of  
10 the --

11 MR. LUSK: All special exceptions.

12 MEMBER HILL: -- all special exceptions?

13 BY MR. LUSK:

14 Q. Go ahead, Mr. Castro.

15 A. Sure. So the zoning examiner oversees the  
16 rezonings. So he hears the rezonings, also the special  
17 exceptions, and some other cases that are at the city  
18 manager's request.

19 So it's not just the special exceptions. So  
20 there are other hearings that the zoning examiner is  
21 involved in.

22 MEMBER HILL: Thank you.

23 CHMN STAFFORD: Member Gold, you had a  
24 question?

25 MEMBER GOLD: Yes. Thank you,

1 Mr. Chairman.

2 A couple of questions for Mr. Castro first.

3 Do you advise the zoning examiner?

4 MR. CASTRO: I do not.

5 MEMBER GOLD: Who does?

6 MR. CASTRO: So the director of planning

7 and development services makes a recommendation to the

8 zoning examiner. And that's who advises the zoning --

9 MEMBER GOLD: I'm sorry. Say that again?

10 Whom?

11 MR. CASTRO: The planning and development

12 services department director makes the recommendation to

13 the zoning examiner in special exception cases.

14 MEMBER GOLD: Okay. And they work for the

15 City of Tucson, Mr. Lusk?

16 MR. LUSK: Correct. That's the planning

17 and development service department of the City of Tucson,

18 yes.

19 MEMBER GOLD: Could you have them here as a

20 witness?

21 MR. LUSK: If that's necessary. I think we

22 can provide that, yeah.

23 MEMBER GOLD: Okay. Because they seem to

24 be the ones who do the advice, and it might be a good

25 idea for them to hear what we're debating.



1 MR. LUSK: Well, may I clarify, Member  
2 Gold?

3 MEMBER GOLD: Yes, please.

4 BY MR. LUSK:

5 Q. Mr. Castro, they don't advise the zoning  
6 examiner?

7 They provide a recommendation; is that correct?

8 A. That's correct. It's a recommendation.

9 MEMBER GOLD: Well, for the same semantics,  
10 I would suggest that they have a big part in what's going  
11 on now.

12 And to save time for the applicant later  
13 on, it might be advantageous for them to hear and be a  
14 witness for us.

15 MR. LUSK: So if I clarify, Member Gold,  
16 are you asking for the planning and development services  
17 department to make a recommendation on this project for a  
18 special exception process?

19 MEMBER GOLD: No. To be present so that  
20 they can make a recommendation well in advance.

21 This project has a suspense date of 2027.  
22 That's not a long time.

23 And I think something like that -- if they  
24 are the ones who make the recommendations to the zoning  
25 examiner, I don't know that you would want the zoning

1 examiner here personally, but you can certainly have his  
2 advisors here or his recommenders here as you phrased it.

3 Is that something that's out of line,  
4 Mr. Chairman, asking that person be present or those  
5 people be present?

6 CHMN STAFFORD: Well, it's up to the City  
7 to decide who their witnesses would be.

8 They've got Mr. Castro here.

9 I'm sorry. I forgot what was your title  
10 again, Mr. Castro.

11 MR. CASTRO: Principal planner, sir.

12 CHMN STAFFORD: Principal planner.

13 And you operate independently from the  
14 examiner and the --

15 MR. CASTRO: That's correct.

16 CHMN STAFFORD: But you all report to the  
17 city manager; correct?

18 MR. CASTRO: I report directly to the  
19 director of planning and development services.

20 CHMN STAFFORD: Okay. And so then that's  
21 who makes the recommendation to the examiner; right?

22 MR. CASTRO: That is correct.

23 CHMN STAFFORD: Okay. And then everything  
24 the examiner does is -- can be reviewed by the council  
25 or --

1 MR. CASTRO: If there is an appeal of the  
2 zoning examiner's decision, it can be appealed to mayor  
3 and council.

4 CHMN STAFFORD: Okay. And so currently is  
5 there -- does TEP have -- have they requested a special  
6 exception for any portion of this route yet?

7 MR. CASTRO: We have not received an  
8 application yet.

9 CHMN STAFFORD: Right. Because they  
10 haven't got a route selected, a final route selection.  
11 At which point they would make the application for a  
12 special exception.

13 I guess one of the factors we need to look  
14 at, though, is if we choose the route with the  
15 expectation that they will receive a special exception,  
16 what happens if that's denied from the City?

17 So that's one of the issues.

18 Now, I don't think we can -- I don't think  
19 it's appropriate to drag all the City decision-makers in  
20 and try to get them to tell us what they're going to --  
21 how they're going to, you know, judge a case that hasn't  
22 been -- an application that hasn't been filed yet.

23 But I think that -- you know, I think we  
24 can certainly gain some insight from the City's current  
25 witness about what -- how the process works and what the

1 likelihood of success of TEP would be for one of these  
2 special exceptions.

3 MEMBER GOLD: In that case I can go to my  
4 second question.

5 CHMN STAFFORD: All right. Okay.

6 MEMBER GOLD: In that case -- first of all,  
7 I have a recommendation, that for the sake of getting  
8 this thing done in a timely fashion, which is important  
9 to you, I would have some of those principals present  
10 while we're discussing the whole thing so they don't walk  
11 into this and then need to learn everything that we're  
12 already discussing here. I mean, that's why the  
13 corporation council has us reviewing this before them to  
14 make it simpler and go more smoothly. So it's still just  
15 my recommendation.

16 MR. LUSK: I sure appreciate that.

17 MEMBER GOLD: Now my question for  
18 Mr. Castro then would be what's the City of Tucson's  
19 preference?

20 Do you have a preference of putting power  
21 lines in commercial areas that are sensitive or putting  
22 power lines in residential areas that are sensitive,  
23 including historic districts?

24 What is the City of Tucson's preference --  
25 preference as a city planner?

1 MR. CASTRO: I can't -- I can't say for  
2 certain representing the City.

3 What we are concerned about or what we want  
4 to make sure is that whatever route is chosen if it's a  
5 Gateway Corridor Zone or a Scenic Corridor Zone, that  
6 those criteria are followed, that those standards are  
7 followed.

8 MEMBER GOLD: Okay. I read ahead. I'm  
9 looking at your requirements, and I see a whole slew of  
10 them that apply. So I go back to my original question.

11 Residential areas, voters more important  
12 than commercial areas who also vote?

13 But you have a lot of residential areas  
14 that can be impacted on some of these routes, and these  
15 people have homes that this would impact visually.

16 MR. LUSK: Member Gold, just real quickly.  
17 You said you read ahead.

18 Are you referring to the current slide?

19 MEMBER GOLD: Yes.

20 MR. LUSK: So may I clarify with Mr. Castro  
21 just briefly?

22 MEMBER GOLD: Yes, please.

23 BY MR. LUSK:

24 Q. Mr. Castro, these are not requirements of the  
25 GCZ; correct?

1 A. Correct.

2 Q. They are factors to be considered for granting  
3 of a special exception?

4 A. That is correct. That is correct.

5 Q. Thank you.

6 MEMBER GOLD: So these factors are there  
7 for granting some type of relief?

8 MR. LUSK: From the Gateway Corridor Zone,  
9 that's correct.

10 MEMBER GOLD: Yes.

11 MR. LUSK: The undergrounding requirement.  
12 Sorry.

13 MEMBER GOLD: So right now we're sitting  
14 here saying what's the best route that does, number one,  
15 can be accomplish by a certain date? What's the best  
16 route that is reasonable in price? What's the best route  
17 that is feasible? And what's the best route that has the  
18 least impact on residents who are living in the City and  
19 who vote for the city leadership?

20 So I'm asking what is the City's  
21 preference?

22 Does it come to putting power lines in  
23 commercial areas, or do they prefer putting power lines  
24 in residential areas?

25 I mean, it's a simple question.

1 I have a preference.

2 I'm asking if Mr. Castro has a preference  
3 or perhaps if you have a preference.

4 MR. LUSK: And I would answer, Member Gold,  
5 that neither Mr. Castro nor I can speak for the  
6 leadership of the City.

7 And I think Mr. Castro has suggested that  
8 the preference is not any particular route, but that each  
9 route could --

10 MEMBER GOLD: Why my question, Mr. Lusk.

11 MR. LUSK: Sure.

12 MEMBER GOLD: My question was do you prefer  
13 putting power lines in residential areas or commercial  
14 areas?

15 One or the other because that's going to be  
16 your choice or our choice.

17 MR. LUSK: Are you asking Mr. Castro in his  
18 personal capacity?

19 MEMBER GOLD: Yes.

20 MR. LUSK: He can give an opinion. I don't  
21 know that that represents the City.

22 MR. CASTRO: Well, my opinion would be, of  
23 course, done on the commercial route.

24 MEMBER GOLD: That's what I asked. Thank  
25 you so much, Mr. Castro. That's what I was looking for.

1 MEMBER HILL: Mr. Chair.

2 CHMN STAFFORD: Okay. But I think  
3 Mr. Lusk's point was that that's his representation.  
4 That doesn't -- that's not representative of what the  
5 mayor and city council think.

6 MEMBER GOLD: But he's a city planner.

7 CHMN STAFFORD: Right. But he's --

8 MEMBER GOLD: The mayor and city council  
9 appoint him.

10 CHMN STAFFORD: But he's not the sole  
11 decision-maker.

12 MEMBER GOLD: Right.

13 CHMN STAFFORD: So his preference doesn't  
14 set the policy for everything.

15 MEMBER GOLD: Understood.

16 CHMN STAFFORD: Okay.

17 MEMBER GOLD: Which is the reason why I  
18 said can we have one of the examiner's representatives  
19 here.

20 MR. LUSK: The zoning examiner doesn't  
21 represent the mayor and council either. They are a  
22 separate body.

23 MEMBER GOLD: Then what about the city  
24 manager?

25 MR. LUSK: Again, the city manager would --



1 MEMBER GOLD: He appoints him.

2 MR. LUSK: No, no. The mayor and council  
3 are representatives of the City of Tucson, and so they  
4 are voted by the people of the City of Tucson.

5 MEMBER GOLD: Okay. In the military we  
6 call it an organization chart. And that lists -- in the  
7 military we call an organization chart something that  
8 lists who works for whom, who's responsible for whom.

9 The boss can tell his subordinates what he  
10 wants done. They can make recommendations, but he tells  
11 them what he wants done.

12 I would like -- no, what I'm trying to ask  
13 for, is Mr. Castro, your boss is whom?

14 MR. CASTRO: My boss is the planning and  
15 development services director.

16 MEMBER GOLD: Perfect.

17 And who is his boss?

18 MR. CASTRO: That would be the city  
19 manager.

20 MEMBER GOLD: That's what I --

21 MR. LUSK: I believe it's "her" boss. Is  
22 that correct, Mr. Castro?

23 MR. CASTRO: I'm sorry?

24 MR. LUSK: I believe it's "her" boss; is  
25 that correct?

1 MEMBER GOLD: Oh, his or her. I'm old  
2 school. His occurs in everything. And I apologize if I  
3 offend anybody. It's not intended.

4 MR. LUSK: Sure.

5 MEMBER GOLD: So the city manager, is he  
6 elected or appointed in the City of Tucson?

7 MR. LUSK: He's appointed by the mayor and  
8 council.

9 MEMBER GOLD: So the mayor and council are  
10 all elected?

11 MR. LUSK: That is correct.

12 MEMBER GOLD: They appoint a city manager  
13 who's the professional?

14 MR. LUSK: That is correct as well.

15 MEMBER GOLD: The city manager is then  
16 ultimately your direct -- in your line. He's two levels  
17 above you, but he's your boss?

18 MR. CASTRO: That's accurate.

19 MEMBER GOLD: Okay. And you actually know  
20 him and speak to him?

21 MR. CASTRO: No. I know who he is, but I  
22 don't speak to him on a daily basis.

23 MEMBER GOLD: Okay. So my question to  
24 Mr. Lusk is, the individual who does work for him or his  
25 staff, why aren't they present?

1 MR. LUSK: I don't believe they're  
2 necessary for this proceeding, Member Gold. I understand  
3 what -- I do understand your point.

4 The mayor -- the manager does not make the  
5 determination that the zoning examiner would make.  
6 They're independent of the manager.

7 Although they're appointed by the manager,  
8 they may make a contradictory finding based on the  
9 evidence presented to them within the public hearing.  
10 And I'm not required to follow any dictate of the  
11 manager.

12 The zoning examiner makes an independent  
13 determination based on the public hearing and the  
14 proceedings before him.

15 MEMBER GOLD: And he's appointed at the  
16 pleasure of the city manager; is that correct?

17 MR. LUSK: He is. Yes.

18 MEMBER GOLD: And he can fire him if he  
19 doesn't make a decision he likes?

20 I mean, I've seen this numerous times.

21 MR. LUSK: He could.

22 MEMBER GOLD: But that's not the point.

23 I'm trying to say we'd like this project  
24 finished for your sake, for the City of Tucson, that  
25 happen to live here --

1 MR. LUSK: Sure.

2 MEMBER GOLD: -- by 2027 because we  
3 established previously that we could have serious  
4 implications by then if we don't have sufficient current.

5 What I'm trying to say is for the sake of  
6 efficiency to get this thing on the road and working,  
7 this is a project that you need, you want. We wouldn't  
8 be here if the City of Tucson didn't say they needed more  
9 power.

10 Your experts, Tucson Electric Power, said  
11 that the system right now is pretty much archaic and may  
12 not function in 2027 if there's any serious situation,  
13 which we see happening almost on a daily basis.

14 So what I'm saying is for the sake of  
15 efficiency it would make it easier for you to accomplish  
16 your goal of having the power when you need it in your  
17 city if we had people who are in the chain of command for  
18 this to happen present while we're doing this.

19 If not, great, you and I can agree on  
20 something. And we'll make a recommendation to the  
21 corporation council. And then the whole system has to  
22 start again with the next level who's starting from  
23 ground zero. And all this takes time.

24 Again, I'm not telling you what to do. I  
25 am not in your chain of command, and you certainly aren't

1 in mine.

2 MR. LUSK: Uh-huh.

3 MEMBER GOLD: All I'm saying, for the sake  
4 of efficiency, shouldn't you have more people involved?

5 MR. LUSK: If I can clarify with  
6 Mr. Castro.

7 CHMN STAFFORD: Yes.

8 BY MR. LUSK:

9 Q. Mr. Castro, the special exception process, can  
10 you describe briefly how long that process takes from  
11 application?

12 Obviously the application preparation is on the  
13 party.

14 A. So it really does depend on the zoning  
15 examiner's hearing schedule, but it could take maybe  
16 three months.

17 Q. From start to end?

18 A. Yes.

19 Q. Start to decision?

20 A. Right.

21 That's including the neighborhood meeting that's  
22 required, pre-application conference, all those -- those  
23 steps that are involved prior to submitting an  
24 application.

25 And then, of course, we have the public comment

1 period. And then there's proper notification before a  
2 public hearing.

3 So, you know, including all those factors, and  
4 then going with the zoning examiner's schedule, yeah,  
5 that can be about three months.

6 Q. And the applicant can provide an application for  
7 a special exception process at any point prior to the  
8 construction; is that right?

9 A. That's correct.

10 Q. So they could do that tomorrow, they could do  
11 that today?

12 A. Correct. As long as it's complete.

13 Q. Okay. And there are specific -- there are  
14 specific requirements as to what the application should  
15 contain; is that right?

16 A. Yes.

17 Q. And I'm guessing those include enough detail  
18 within the project area for a special exception -- the  
19 special exception process to be fruitful for the zoning  
20 examiner to understand exactly what's being done?

21 A. Sure. There is -- there is an application. I'm  
22 not sure of what all the requirements are. I should  
23 clarify the special exception is handled through our  
24 entitlements section of planning and development services  
25 department, which I'm not a part of.

1 But I do believe that they have a robust  
2 application where you do need to provide certain  
3 information. And the pre-application meeting prior to  
4 submitting the application lets the applicant know  
5 exactly what they need to include in their application,  
6 so they are well aware of that.

7 Q. Fair to say just a couple things, a site plan  
8 and a specific route would be required?

9 A. Yes.

10 CHMN STAFFORD: Member Hill, you had a  
11 question?

12 MEMBER HILL: Yeah. My question is for  
13 you, Mr. Chair, as the newest member of this Committee.

14 Member Gold made light of this dichotomy  
15 that I feel like I'm kind of stuck in, whether or not we  
16 choose a route that goes through a lot of residential  
17 areas and has residential impacts or whether or not we  
18 choose a route that goes through a commercial area and  
19 has commercial impacts. And this has been my struggle  
20 looking at the routes and hearing from a lot of the  
21 parties.

22 My question to you is do we have to choose  
23 one route, or could we choose maybe two, the least  
24 impactful residential and the least impactful commercial  
25 and then let the parties figure out which one they want

1 to use as long as we're okay with both of them?

2 So my question is, like, do we have to  
3 choose one route, or can we choose a couple of routes  
4 that we're comfortable with?

5 CHMN STAFFORD: Well, I think we could  
6 choose -- I think we should probably choose one main  
7 route and then an alternative route.

8 And I think best, you know, before we --  
9 once we get through all the evidence and before we start,  
10 you know, deliberating what the CEC is going to look like  
11 I think there's some -- a number of issues we'll need to  
12 talk there and such as, you know, do we want to approve  
13 one route, do we want to approve one route with an  
14 alternative?

15 Is there going to be -- could it be just a  
16 lettered -- approve one lettered section and then, you  
17 know, one numbered with an alternate number or vice  
18 versa?

19 I mean, there's different ways to approach  
20 this, and it's going to depend on, you know, what we --  
21 what the evidence we hear from all the parties.

22 We still have, you know, quite a ways to go  
23 with the City of Tucson. We still have Underground  
24 Arizona to present their direct case. And then I think  
25 we're going to have to end up calling back the applicant



1 as we're, you know, talking through the issues to get  
2 factual questions on what -- on what technicals --  
3 technical information about the line and placement of it  
4 and things like that.

5 So I -- I think, yes, we can pick more than  
6 one route, but I think we shouldn't pick so many as to  
7 be -- provide no really direction or -- for example, if  
8 we approved --

9 MEMBER HILL: So if we pick two --

10 CHMN STAFFORD: -- if we approved all of  
11 the alternatives, that would -- we wouldn't really  
12 provide much direction or help to the applicant or the  
13 City I think.

14 MEMBER HILL: I'm not suggesting we choose  
15 all the alternatives.

16 CHMN STAFFORD: Right.

17 MEMBER HILL: And there's a lot of  
18 alternatives.

19 CHMN STAFFORD: Right.

20 So I think we'll need to narrow it down to  
21 one main route with one possible backup of a segment or,  
22 you know, maybe both segments.

23 I don't -- we'll just have to talk about --  
24 once we get -- hear the rest of the evidence, we could --  
25 we'll be in a better position to make a judgment on what

1 that should look like. But I think I see --

2 MEMBER HILL: I think that's helpful as I  
3 hear the rest of the evidence that we don't have -- we  
4 don't -- I'm struggling with just one route, to be  
5 honest.

6 I'm feeling more comfortable with the  
7 ability to choose two and then let the parties work  
8 through that is just what I want to suggest.

9 CHMN STAFFORD: Ms. Hill.

10 MS. HILL: Yeah. Mr. Chair, Member Hill,  
11 so I just wanted to clarify and remind the Committee that  
12 we chose a preferred route. We are -- we will build any  
13 of them. We are here to explain why we chose our  
14 preferred route.

15 However, if the Committee chooses a route,  
16 Routes 1, D, 5, or 6, and we've talked about 5 and 6 in  
17 terms of the railroad, and then, of course, 1 and D that  
18 we also -- that we ask that you also choose an  
19 alternative if you choose any combination of those  
20 specifically because of the level of uncertainty that  
21 you're hearing right now, and we need to get the line  
22 built, so --

23 CHMN STAFFORD: Okay.

24 MEMBER KRYDER: Mr. Chairman.

25 MEMBER HILL: Thank you for indulging me on

1 procedural questions.

2 CHMN STAFFORD: No problem, Member Hill.  
3 Member Kryder.

4 MEMBER KRYDER: Okay. To follow up on  
5 that -- and I think that was a great discussion. That  
6 was certainly insightful for me. I'm not sure whether  
7 this should go to you --

8 MR. LUSK: Mr. Lusk.

9 MEMBER KRYDER: -- or to Mr. Castro.

10 But if there is an exception requested by  
11 the applicant, does it have to be for a single route, or  
12 can they say we'll take A or we'll -- I'm not going to  
13 use A and B -- M and N? We can live with M, we can live  
14 with N.

15 But as I heard the scenario, they need to  
16 file a process. It's a three-month process that  
17 Mr. Castro described.

18 But I heard that it had to be a single  
19 route. Correct me if I'm wrong on that.

20 MR. CASTRO: Member Kryder and Members of  
21 the Committee, Mr. Chairman, so there should be a  
22 preferred route, one route before going to the zoning  
23 examiner -- before applying for the zoning examiner.

24 CHMN STAFFORD: Okay. So it sounds like  
25 the applicant, TEP, would have one route that they would

1 take to the examiner to request the exception. And but  
2 they, I guess, we could -- the Committee could grant them  
3 an alternative, and I guess they would -- they could seek  
4 they could file their application for that or -- well,  
5 let's -- I think we're getting ahead of ourselves here.

6 Because I think the thing is let's try to  
7 focus on one route. And then as we get closer to that,  
8 we may have, okay, we'll have an alternative.

9 Because specifically there's certain  
10 segments if we do choose, the applicant specifically  
11 requests an alternative because there's issues with it.  
12 And off the top of my head 5 and 6 require something from  
13 the railroad, which may or may not be able to be  
14 acquired. So if we pick either one of those, we have to  
15 have another numbered segment because that one may not be  
16 achievable at all. And it has nothing to do with the  
17 City either.

18 So, I mean, it's -- but if we don't pick 5  
19 or 6, then, you know, depending on what route we pick we  
20 may not need an alternative.

21 So I think that -- so I think that we know  
22 we kind of -- we're getting a little ahead of ourselves  
23 on all the possibilities. We just kind of need to get  
24 the -- let's get through the testimony of the City and  
25 hear what -- how the process kind of would work.

1           And then because they're not going to --  
2 because they're not prepared to make a judgment call  
3 where they would grant the exceptions today. They have  
4 to have an actual route and application. But these are  
5 the factors that they'll look at and they'll consider.

6           So, you know, in choosing the route, it's  
7 good that we're aware of these so we can -- you know, we  
8 can think -- well, to us it seems like that's a likely  
9 outcome because of, you know, the way that the -- these  
10 factors would play into it.

11           But we have to -- we have to make our  
12 decision based on the factors in the statute.

13           But it seems like it's going to be -- the  
14 City can't -- they can't today commit that, oh, they're  
15 going to grant the exception.

16           MEMBER KRYDER: Understood. Understood.  
17 And that is also very helpful, Mr. Chairman.

18           The concern I had was the clock is ticking.  
19 We spoke about the process on a good day or on a good  
20 three months would take three months.

21           So please fill in the blank for me, so if  
22 route M was chosen, whatever that might be, and the  
23 applicant went ahead and came to the City, we'd like to  
24 take route M, and you take it through the three-month  
25 process, and at the end of the time they say that dog

1 don't hunt.

2 Okay. Let's try N then. Does that give us  
3 another three months?

4 I mean, is this a perpetual downhill ride  
5 on the -- on the sled? That's what I was looking at.

6 So help me. I'm trying to hold the  
7 calendar back as much as I can because 2027 is right up  
8 the street.

9 MEMBER LITTLE: Mr. Chairman.

10 CHMN STAFFORD: One second, Member Little.  
11 Member Kryder has posed a question to the witness.

12 Mr. Castro, I believe the question is that  
13 say if the applicant requests an exception to -- requests  
14 relief from the GCZ and it's denied, they could submit  
15 another application for a different route, and it would  
16 be another three-month process; correct?

17 MR. CASTRO: That's correct, Mr. Chair.

18 CHMN STAFFORD: Okay.

19 MEMBER HILL: Is that the follow-up?

20 CHMN STAFFORD: That was your question,  
21 right, Member Kryder?

22 MEMBER KRYDER: Yes.

23 MEMBER HILL: As a follow-up to that, the  
24 member could submit two applications at the same time,  
25 one for each route, and hold a hearing on both, and there

1 would be no time lost?

2 MR. CASTRO: I can't speak on behalf of the  
3 entitlement section, how they would -- if they would  
4 accept that. But that is a great question.

5 I don't know if that is a possibility, but  
6 that's a great question that I don't have the answer for.

7 CHMN STAFFORD: All right. Could you  
8 potentially follow up? I mean, is it -- just to know --  
9 I guess the question is is it possible for TEP to submit  
10 two different special exceptions simultaneously and have  
11 them both evaluated at the same time knowing that one  
12 will -- if one is granted, the other one's moot?

13 MR. LUSK: Okay. If I could, Chairman,  
14 Member Kryder.

15 BY MR. LUSK:

16 Q. Mr. Castro, your understanding of the code does  
17 not prohibit that; is that correct?

18 A. That's correct.

19 Q. Thank you.

20 CHMN STAFFORD: Okay. There. Thank you.  
21 There's our answer.

22 MEMBER KRYDER: That's very helpful.

23 MR. LUSK: Sure.

24 MEMBER LITTLE: Mr. Chairman.

25 MEMBER HILL: Member Little --

1 CHMN STAFFORD: Oh, yes, Member Little.

2 MEMBER LITTLE: Excuse me. Along those  
3 same lines, regardless of which route is chosen, TEP will  
4 be -- will need to ask for an exception for the streets  
5 where the line will be crossing perpendicular to those  
6 streets.

7 CHMN STAFFORD: Correct. And that includes  
8 the preferred route.

9 MEMBER LITTLE: Correct.

10 CHMN STAFFORD: Right.

11 MEMBER LITTLE: And so it sounds like, you  
12 know, this process is going to need to be gone through  
13 under any -- regardless of which route is chosen.

14 CHMN STAFFORD: Well, that's not entirely  
15 the case. I mean, the applicant has also requested that  
16 the Committee make a finding that the Gateway Corridor  
17 Zone is unduly restrictive and has asked the Committee to  
18 make the specific finding to issue a CEC notwithstanding  
19 that requirement. That is also the relief that's  
20 requested by the applicant. And we haven't even really  
21 gotten to discussion of that yet. But that that is --

22 MEMBER LITTLE: Okay. Because I would like  
23 some legal information with regard to that statement.

24 But if the -- if TEP does go to the City  
25 for an exception for any part of this regardless of



1 whether it's the perpendicular crossing or whether it is  
2 any of the other exceptions, it is good to know that they  
3 can file several different requests for exceptions  
4 concurrently because I would guess that probably the City  
5 is going to want each perpendicular crossing on a  
6 separate -- a separate application.

7 CHMN STAFFORD: Well, it's --

8 MEMBER LITTLE: In any event.

9 CHMN STAFFORD: They said the code doesn't  
10 prohibit that.

11 Whether I guess the examiner would allow  
12 that is still up in the air, correct, Mr. Castro?

13 MR. CASTRO: That is correct, Mr. Chair.

14 CHMN STAFFORD: Right. There's not a  
15 direct prohibition on, but whether it would be permitted  
16 is still nebulous.

17 MEMBER LITTLE: Thank you.

18 CHMN STAFFORD: But I think I believe  
19 Mr. Castro or Mr. Lusk was going to -- at some break they  
20 could attempt to follow up on and find -- I guess has it  
21 been allowed in the past?

22 Is it something that they do consider, or  
23 is it the policy not to do that even though it's not  
24 necessarily prohibited by the code?

25 MR. LUSK: We can follow up on that, Chair.

1 CHMN STAFFORD: All right. Thank you.

2 All right. Please continue.

3 BY MR. LUSK:

4 Q. Let me see if I can remember where we were.

5 I believe, Mr. Castro, you were discussing  
6 factor D related to perpendicular crossings in the  
7 gateway?

8 A. Okay. So in order to use the special exception  
9 process in the Gateway Corridor Zone, as we discussed  
10 prior, there are several criteria that the request needs  
11 to make.

12 And so Item D talks about that there should be  
13 relief -- the relief is requested for a segment that  
14 perpendicularly crosses a Gateway Corridor Zone or a  
15 Scenic Corridor Zone.

16 And then Item E, for repair or upgrade of  
17 existing facilities similar in size and scale to the  
18 existing facilities being repaired or replaced.

19 Q. Mr. Castro, I'm just going to stop you briefly.  
20 I believe that addresses Member Little's question from  
21 earlier; is that right?

22 A. That is correct.

23 Q. Thank you. Please proceed.

24 A. Item F, the transmission lines are proposed in  
25 an area where there is an existing presence of railroad,

1 highway, and/or bridge crossings or in an area where  
2 underground installation would interfere with other  
3 existing undergrounded utilities.

4 Item G, that the proposed transmission lines  
5 will provide electrical service to critical customers  
6 where overhead lines are strongly recommended for  
7 specialized operations.

8 Item H, in an area where costs to install  
9 underground would have a disparate impact on low-income  
10 residents.

11 All these items, the ZE, the zoning examiner,  
12 shall identify each specific criterion that relates to  
13 the application or project and which are met.

14 Approval of a zoning examiner special exception  
15 will not preclude any other necessary regulatory relief  
16 process such as a variance.

17 Q. Thank you, Mr. Castro.

18 MEMBER HILL: So just a point of  
19 clarification --

20 MR. LUSK: Sure.

21 MEMBER HILL: -- because of how the  
22 previous conversation started.

23 A zoning examiner has to look at all of  
24 these criteria, not just one being minimal impacts on  
25 residential areas, but he has to -- he or she has to look

1 at all of these criteria in issuing and making a  
2 decision.

3 Is that correct, Mr. Castro?

4 MR. CASTRO: Member Hill, Mr. Chair,  
5 Members of the Committee, so in order to use the special  
6 exception process, the zoning examiner is reviewing the  
7 application, and in order for the application to qualify,  
8 it needs to meet one or more of these findings.

9 So he's going to go through all of these  
10 items here and see which ones are applicable to the  
11 request or to the application.

12 MEMBER HILL: Thank you.

13 MEMBER RICHINS: Chairman. Chairman,  
14 hello.

15 CHMN STAFFORD: Yes, Member Richins.

16 MEMBER RICHINS: I don't know if you can  
17 hear this or not.

18 CHMN STAFFORD: Your microphone is not on?  
19 Hang on. Try it now.

20 MEMBER RICHINS: Testing. Testing. Thank  
21 you.

22 CHMN STAFFORD: There you go.

23 MEMBER RICHINS: So the decision is -- on  
24 this application the decision would solely rest on the  
25 zoning examiner for --

1 MR. CASTRO: That's correct.

2 MEMBER RICHINS: And how do politics play  
3 in that decision?

4 I mean, do they get lobbied?

5 Do they get pressure from council members  
6 or the mayor, management?

7 Can you describe that, please?

8 MR. CASTRO: So this is a public process.  
9 Zoning examiner is a public process. So there is public  
10 outreach. There's public involvement in the way of a  
11 neighborhood meeting that's required prior to the zoning  
12 examiner's hearing. And then there's the zoning examiner  
13 hearing itself, which is a public hearing.

14 MEMBER RICHINS: Okay. Sorry if we've gone  
15 over this ground before. I was a little late. I  
16 apologize to the Committee.

17 MR. CASTRO: That's okay.

18 BY MR. LUSK:

19 Q. Mr. Castro, can I follow up just a little bit on  
20 that?

21 The zoning examiner operates independently of  
22 the mayor and council; is that correct?

23 A. That is correct.

24 Q. And even could and might operate independently  
25 of the city manager; is that correct?

1 A. That's correct.

2 Q. And during their deliberation process -- now,  
3 we've already talked about several of the factors that  
4 they consider -- there are specific findings that have to  
5 be made in writing I assume by the zoning examiner in  
6 order to proceed on a special exception process?

7 A. Yes. That is correct.

8 Q. Thank you.

9 Are there other ways to get relief from the  
10 underground requirement from the Gateway Corridor Zone?

11 A. There is. It's the board of adjustment variance  
12 process. This is under UDC Section 3.10.1. This  
13 variance process allows to seek relief from the UDC  
14 provisions through the board of adjustment. There's also  
15 it includes a review by the design review board and the  
16 public hearing.

17 The board of adjustment variance process  
18 consists of a pre-application conference, a neighborhood  
19 meeting, an application, design review board review, a  
20 public hearing, and then the board of adjustment  
21 decision.

22 Q. And the board of adjustment is an independent  
23 body of the City?

24 A. That is correct. There are seven members, and  
25 they are appointed by their respected ward offices.

1 Q. Okay. Can you -- I believe the applicant has  
2 actually participated in the variance process prior to  
3 this hearing; is that correct?

4 A. That is correct. There was the Silverbell  
5 request. This was done back in 2021. Silverbell, as we  
6 mentioned earlier, is in the Scenic Corridor Zone which  
7 requires that all transmission lines be undergrounded.

8 In this scenario, the applicant, TEP, had  
9 good -- good arguments for requesting to leave the  
10 power -- power transmission lines aboveground. What they  
11 presented was the -- that there were some cultural,  
12 archaeological sensitive areas within the route. There  
13 were also some washes that crossed Silverbell, so that  
14 would have an impact on any underground facilities.

15 So it was in -- the board of adjustment found  
16 that there was reasonable physical circumstances and that  
17 what they were asking for was the minimum necessary to  
18 afford relief, and so that variance request was granted.

19 Q. And you said that was in 2021?

20 A. That is correct.

21 Q. And that process is available also for the  
22 Gateway Corridor Zone as well?

23 A. Yes, it is.

24 MEMBER GOLD: Mr. Chairman.

25 CHMN STAFFORD: Yes, Member Gold.

1 MEMBER GOLD: How long did that process  
2 take?

3 MR. CASTRO: This particular process, it  
4 was continued several times through the DRB. I think it  
5 was continued twice during DRB and then --

6 CHMN STAFFORD: DRB, what is that? Oh,  
7 design --

8 MR. CASTRO: I'm sorry. Design review  
9 board. So that was the design review board continued the  
10 case twice, board of adjustment hearing.

11 So, you know, it was over three months. I  
12 would have to say it was over three months for that  
13 particular case.

14 But typically board of adjustment variance  
15 cases are, again, the same time line as special  
16 exceptions. They run about three months.

17 BY MR. LUSK:

18 Q. Mr. Castro, and just for clarity, I know we  
19 discussed in this hearing a prior application for this  
20 particular project back in 2021.

21 Was that variance process available at that  
22 time?

23 A. Yes, it was.

24 MEMBER KRYDER: Mr. Castro or Mr. Chairman.

25 CHMN STAFFORD: Yes, Member Kryder.



1 MEMBER KRYDER: You said that the variance  
2 process I thought I heard you say it was over three  
3 months.

4 Would that be over three months but under a  
5 year or under six months or --

6 MR. CASTRO: Under six months.

7 MEMBER KRYDER: Okay. Thank you.

8 So just for my clarification again, it is  
9 possible that the applicant could make two applications  
10 for not a variance but for the review at the same time;  
11 is that correct?

12 MR. LUSK: I believe the testimony was that  
13 the code does not prohibit that, yes.

14 MEMBER KRYDER: It did not prohibit it.

15 Okay. And this as an alternative to that,  
16 could that be begun at the same time?

17 I mean, can we look at three different  
18 opportunities, three different pathways to take a look  
19 at --

20 CHMN STAFFORD: Do you mean --

21 MEMBER KRYDER: Somehow I'm trying to look  
22 at this 2027 and the fact that the City of Tucson appears  
23 to need a bunch of power.

24 MR. LUSK: Sure.

25 CHMN STAFFORD: I guess, Member Kryder, I

1 mean, are you asking could they seek a special exception  
2 and a variance concurrently?

3 MEMBER KRYDER: Yes. Thank you. You're a  
4 good attorney.

5 MR. LUSK: My understanding is they could  
6 and they could have received -- they could have requested  
7 a variance in 2021.

8 MEMBER GOLD: Mr. Chairman.

9 CHMN STAFFORD: Member Gold.

10 MEMBER GOLD: Mr. Lusk, you just said that  
11 this thing started in 2021.

12 MR. LUSK: The previous application was in  
13 2021.

14 MEMBER GOLD: For the same power; correct?

15 CHMN STAFFORD: Not entirely. Let me --

16 MR. LUSK: Please.

17 CHMN STAFFORD: Member Gold, Tucson  
18 Electric Power filed a line siting application in a prior  
19 case for this same project but with different routes.  
20 The routes that we have today were not the ones proposed  
21 in that case.

22 I think there was some overlap, some of the  
23 segments are the same, but they ended up withdrawing the  
24 application and then re-filing this one. And that one  
25 never went to hearing.

1                   There was a -- they had some -- they  
2 started, but they were trying to work something out with  
3 the City, and I think there was a -- I think they've  
4 already previously testified that the franchise amendment  
5 failed, so that kind of that necessitated the TEP to file  
6 a new application with the amended routes.

7                   And I think they proposed a significant  
8 amount -- significantly many more segments this time than  
9 they did previously.

10                   MEMBER GOLD: So if I understand that  
11 correctly, Mr. Chairman -- again, I wasn't on the  
12 Committee in 2021.

13                   CHMN STAFFORD: Nor was I.

14                   MEMBER GOLD: So this is something that  
15 started -- '21, '22, '23, '24 -- four years ago when the  
16 suspense date was seven years away. Now we're four years  
17 later the suspense date -- the suspense completion  
18 date -- forgive me for using terminology you may not be  
19 familiar. The completion date is now three years away.

20                   Have you and TEP discussed which routes you  
21 may prefer?

22                   Or going back to my original question to  
23 Mr. Castro, do you prefer routes through residential  
24 areas or commercial areas?

25                   Has this been discussed with -- between

1 Tucson and TEP prior to them filing this latest  
2 application?

3 MR. LUSK: If I can answer appropriately,  
4 Member Gold.

5 I wasn't a direct part of those  
6 negotiations during that process.

7 I can only say that the eventual  
8 determination was to attempt to pursue the franchise  
9 agreement route prior to this application. That did  
10 fail, as the Chairman suggested, and now we're here.

11 As far as these -- what these -- these  
12 relief processes are, I was simply suggesting with  
13 Mr. Castro that these relief processes -- at least one of  
14 these relief processes has been available in the prior  
15 years.

16 MEMBER GOLD: I understand what you're  
17 saying, but it doesn't really answer my question. Now  
18 you're part of it, so the ball is in your court.

19 Have you coordinated with TEP to make this  
20 process go smoother and given them guidance as to what  
21 you prefer, commercial or residential routing?

22 MR. LUSK: We have through both individual  
23 negotiations and through litigation exerted our position  
24 to TEP that we don't have a preference for the route. We  
25 have a preference that they follow our code.

1 MEMBER GOLD: Well, that doesn't really  
2 help the situation.

3 Now I'm looking at a situation where I know  
4 what Banner University's preference is. She's made that  
5 very clear.

6 The City of Tucson has not done due  
7 diligence, in any opinion, for a project that you need,  
8 which means I understand bureaucracy and I understand  
9 necessity.

10 Just an example, in the military if you are  
11 in a wartime situation and a company commander at the  
12 company level on the frontline facing an enemy force  
13 requests artillery from a division which can be three or  
14 four levels above his command, the request doesn't go  
15 through every level for approval. It simply says if you  
16 disapprove, you interrupt. If not, you let the request  
17 go directly to the artillery so that they can get the  
18 mission accomplished in a timely fashion.

19 I'm asking at this point in time have you  
20 done that with Tucson Electric Power?

21 I realize you're apparently new in the  
22 position also. You're not new in the position.

23 CHMN STAFFORD: I guess no -- I mean, he's  
24 a city attorney, so he's -- he has --

25 MR. LUSK: Well, let me clarify that.

1 CHMN STAFFORD: Oh.

2 MR. LUSK: I am not the city attorney.

3 CHMN STAFFORD: Oh, you're an employee of  
4 the city?

5 MR. LUSK: I'm employed by the city  
6 attorney.

7 CHMN STAFFORD: And you're an attorney?

8 MR. LUSK: Okay. Correct.

9 CHMN STAFFORD: Okay. But you're not the  
10 city attorney?

11 MR. LUSK: Yes.

12 CHMN STAFFORD: Yes. I said "a" city  
13 attorney, not "the" city attorney.

14 MR. LUSK: Thank you.

15 CHMN STAFFORD: So but, yeah, so he's  
16 not -- up until now I don't think he's been really  
17 substantially involved in the negotiations, so I think  
18 you're probably better to address your questions to the  
19 witness as opposed to the lawyer.

20 MEMBER GOLD: Thank you, Mr. Chairman.

21 CHMN STAFFORD: But I think we're coming up  
22 on 90 minutes, and I think the court reporter is ready  
23 for a break.

24 But, yeah, if you want to -- I think we're  
25 kind of getting sidetracked by what happened in the past.

1                   There's been negotiations between the City  
2 and the utility that have broken down. They couldn't  
3 agree on a route. The City wants to see it  
4 undergrounded. The company thinks it costs too much.

5                   And so now we're here to kind of -- to try  
6 to figure out what -- where the line should go.

7                   And then once we make our decision, it will  
8 go to the Corporation Commission.

9                   And then, you know, if the City and the  
10 utility can work things out, then great. Otherwise,  
11 they'll have to settle their dispute in potentially a  
12 different venue.

13                   Because I think we've already -- as for an  
14 example, the applicability of the Gateway Corridor Zone  
15 was recently adjudicated in superior court. I guess  
16 we'll have to see if that gets appealed, or I guess it  
17 could depend on the result of this proceeding.

18                   But I think we're getting a little bit  
19 ahead of ourselves.

20                   But I think we're ready for a brief recess.  
21 Let's take a 15-minute break. We stand in recess.

22                   (Recess from 10:23 a.m. to 10:45 a.m.)

23                   CHMN STAFFORD: Let's go back on the  
24 record.

25                   Mr. Lusk, please continue.

1 MR. LUSK: Thank you, Mr. Chair.

2 BY MR. LUSK:

3 Q. Before we jump on our discussion of area plans  
4 and PADs, Mr. Castro, there was a discussion earlier  
5 about whether a special exception process application  
6 could be filed for multiple areas at a time. Is that  
7 your understanding -- is that available?

8 A. Okay. So it is available. It is possible to do  
9 that.

10 Q. All right. Thank you, Mr. Castro.

11 There was a question, I believe it was yesterday  
12 from one of the members, about the difference between an  
13 area plan and a planned area of development. Can you  
14 discuss that briefly, please?

15 A. Sure. Area plans are the -- neighborhood plans  
16 are specific plans meant to implement general plan  
17 policies on a more localized level. These plans contain  
18 detailed policies related to land use, future  
19 development, transportation.

20 MEMBER KRYDER: Into your microphone just a  
21 little more, please.

22 MR. CASTRO: Okay. Sorry.

23 These plans contain detailed policies  
24 related to land use, future development, transportation  
25 and connectivity, open space, and other topics that are



1 adopted separately from the general plan.

2 A PAD is essentially just another zoning,  
3 like an R-1, R-2, R-3, but it allows greater flexibility  
4 in uses and development than the standard zones.

5 PADs are generally a zone that the  
6 applicant -- it's like a customized zone. It's got  
7 different development standards than there would be in  
8 the other zoning standards. So that's why a lot of  
9 applicants prefer to use a PAD -- PAD zoning than a  
10 typical underlying based zone like R-1, R-2, R-3.

11 BY MR. LUSK:

12 Q. And a PAD might include something like a  
13 hospital or a mall or something like that?

14 A. That's correct.

15 Q. All right. Thank you, Mr. Castro.

16 MR. LUSK: I don't have any further  
17 questions for this witness at this time.

18 CHMN STAFFORD: Are you going to cover your  
19 exhibits?

20 MR. LUSK: Yes. If we can, I believe we  
21 submitted Exhibits 1 through 7 -- or excuse me --  
22 1 through 8, including Mr. Castro's testimony.

23 In addition, the City would like to reserve  
24 the right to admit two additional exhibits. We have some  
25 exhibits coming from City leadership that they would like

1 to submit either today or tomorrow.

2 CHMN STAFFORD: Does that sound fine to all  
3 the parties?

4 MS. HILL: We would just like to see them.

5 CHMN STAFFORD: Yes. Okay. All right. So  
6 your exhibit COT-1, the Sargent & Lundy underground cost  
7 analysis report.

8 MR. LUSK: Correct. That was discussed  
9 with Mr. Jocham.

10 CHMN STAFFORD: Right. And which version  
11 of that is this one? I seem to recall there were several  
12 different version talked about. Which one is this?

13 MR. LUSK: This is Revision 4.

14 CHMN STAFFORD: Okay. Is that the latest  
15 one or --

16 MR. LUSK: It is not. Well, I guess the  
17 final version is the latest one. There are seven  
18 revisions and then the final. Revision 4 comes from the  
19 prior application.

20 CHMN STAFFORD: Oh, so it's, you said it's  
21 Revision 4 of 7.

22 MR. LUSK: Correct. Of 8, I believe.

23 CHMN STAFFORD: Of 8.

24 MR. LUSK: Sorry.

25 CHMN STAFFORD: And then COT-3, the City of

1 Tucson Major Streets and Routes Plan.

2 MR. LUSK: That's correct.

3 CHMN STAFFORD: What is that? Why is that  
4 an exhibit?

5 MR. LUSK: That was what Mr. Castro  
6 described in his testimony as -- it's the basis for the  
7 Gateway Corridor Zone.

8 CHMN STAFFORD: Okay. And that is a part  
9 of the UDC?

10 MR. LUSK: It is not part of the UDC. It  
11 is a streets and routes plan similar to the general and  
12 specific plans we've discussed.

13 CHMN STAFFORD: Okay. So that's in  
14 addition to the UDC, but it's the Major Streets and  
15 Routes Plan that contains the Gateway Corridor Zone?

16 MR. LUSK: That's correct.

17 CHMN STAFFORD: Okay. And then Exhibit 4,  
18 that was the Prop 412, that was the franchise proposal  
19 that was voted down.

20 MR. LUSK: That's correct. That was at the  
21 Committee's request we submitted that exhibit, yes.

22 CHMN STAFFORD: Okay. And is your witness  
23 prepared to answer some questions about the Proposition  
24 412?

25 MR. LUSK: I don't believe Mr. Castro is

1 the correct witness to do that. If there are questions,  
2 we can provide additional information if necessary.

3 CHMN STAFFORD: Okay. All right. And then  
4 Exhibit COT-6 is just a link to the City of Tucson  
5 general plan and sustainability plan?

6 MR. LUSK: Correct. I believe that was in  
7 response to Member Richins' question about the general  
8 plan.

9 CHMN STAFFORD: Okay. And then Exhibit 7  
10 was the superior court ruling.

11 MR. LUSK: Correct. And that was also in  
12 response to the Chairman's request.

13 CHMN STAFFORD: I guess, could you answer  
14 some questions about that?

15 MR. LUSK: If the Committee wishes I can.

16 CHMN STAFFORD: Legal questions, not --

17 MR. LUSK: Sure.

18 CHMN STAFFORD: -- facts of it. So I  
19 guess --

20 MEMBER RICHINS: Chairman, I had one  
21 question for the witness before -- are we ready to  
22 dismiss the witness?

23 CHMN STAFFORD: No, not yet.

24 MEMBER RICHINS: Okay.

25 CHMN STAFFORD: I'm trying to -- I'm going

1 through the exhibits here, and I want to just go ahead  
2 and ask Mr. Lusk a couple questions about the actual  
3 superior court ruling, and I was going to open up the  
4 witness for questioning from the members.

5 MEMBER LITTLE: Mr. Chairman, I have a  
6 question about the exhibits.

7 CHMN STAFFORD: All right. One second.  
8 I'm about to ask about the superior court case, and then  
9 I will turn it over to members starting with you, Member  
10 Little.

11 All right. So the issue in the superior  
12 court case was just the Gateway Corridor Zone; correct?

13 MR. LUSK: That's correct, yes.

14 CHMN STAFFORD: And so the sole issue  
15 decided was that the Gateway Corridor Zone applies to the  
16 project, and that superior court said that the TEP had to  
17 comply with that and underground in the zones and  
18 underground where it crosses perpendicularly unless it  
19 qualified for a special exception or a variance; correct?

20 MR. LUSK: My recollection, Mr. Chair, is  
21 that the perpendicular crossings weren't at issue. The  
22 main issue was whether or not anywhere in the Gateway  
23 Corridor Zone the applicant would have to underground  
24 under our current code.

25 CHMN STAFFORD: Okay. And I'm looking to

1 Ms. Hill and Ms. Grabel, that is also your understanding  
2 of what the superior court decision means?

3 MS. HILL: So, Mr. Chair, so first of all I  
4 want to be very clear that the company has not yet  
5 decided whether it's going to exercise its appellate  
6 rights here.

7 And so just keeping that mind in, we still  
8 have several weeks before -- two weeks, two and a half  
9 before we have to make that decision.

10 So we have not yet determined that. So  
11 what it does do, though, is it does make a finding of  
12 fact that this project is not an upgrade as contemplated  
13 in UDC, and that it applies for a variety of reasons.

14 Rather than having our -- I believe there's  
15 some possibility Mr. Lusk and the company will disagree  
16 on nuances of it. And so I'm going to say that the  
17 Committee members are welcome to read it. It's an  
18 exhibit. But generally we agree that this ruling was in  
19 the City's favor, yes.

20 CHMN STAFFORD: Okay. All right. Member  
21 Little, you had a question and then Member Richins, you  
22 had questions. Okay.

23 MEMBER LITTLE: My question is just if and  
24 when the remaining exhibits from the City of Tucson  
25 numbers 4 through 8 will be filed in the docket, because

1 I don't have copies of them.

2 MR. LUSK: If I may, Member Little, we  
3 apologize for that. There's sort of a slight difficulty  
4 that actually we were talking with the other intervenors  
5 in that we're in Tucson and we file them in Tucson and  
6 they take a little bit of time to get up to Phoenix.

7 We can provide those -- I thought they were  
8 e-mailed to the Committee and the chair, but I'll verify  
9 that and get those to you today.

10 CHMN STAFFORD: Did you send them to Tod?

11 MR. LUSK: I think we did but I'll have to  
12 verify that.

13 MEMBER LITTLE: I checked about 30 or  
14 45 minutes ago and I did not have any e-mail from him.  
15 But it could have come through since then.

16 CHMN STAFFORD: We'll follow up and make  
17 sure you get them, because there's a total of eight  
18 exhibits. Make sure you have all of them.

19 MR. LUSK: And Mr. Chair, Member Little,  
20 Ms. Hill has graciously agreed that they will e-mail them  
21 as well because they have access to them.

22 CHMN STAFFORD: Excellent. Problem solved.

23 MEMBER LITTLE: Thank you.

24 MR. LUSK: Thank you.

25 CHMN STAFFORD: All right. Member Richins.

1 MEMBER RICHINS: Just a couple questions  
2 for Mr. Castro.

3 Is the GCZ, I think we call it, is that an  
4 area or neighborhood plan?

5 MR. CASTRO: Mr. Richins and Mr. Chair,  
6 members of the Committee, so the GCZ is an overlay zone.  
7 It is not an area or a neighborhood plan.

8 MEMBER RICHINS: And could you again  
9 describe how that was approved?

10 MR. CASTRO: So the how the -- is your  
11 question is how is the GCZ approved?

12 MEMBER RICHINS: Yes, sir.

13 MR. CASTRO: Okay. So the GCZ is part of  
14 the MS&R plan. The MS&R map identifies which corridors  
15 are -- lie within the GCZ.

16 If that corridor lies within the GCZ, then  
17 it translates over to the UDC. The UDC has the standards  
18 that apply to the -- anything that's -- any construction  
19 in the GCZ. So there are those -- there's standards  
20 there. And that's how the GCZ is implemented is through  
21 the UDC.

22 MEMBER RICHINS: And you mentioned another  
23 acronym, MSR.

24 MR. CASTRO: I'm sorry, that's the Major  
25 Streets and Routes Plan map.



1 MEMBER RICHINS: And how is that map  
2 approved?

3 MR. CASTRO: So that map was approved in  
4 1982, that was adopted.

5 MEMBER RICHINS: By whom?

6 MR. CASTRO: Mayor and council.

7 MEMBER RICHINS: And then the UDC?

8 MR. CASTRO: The UDC was adopted, the  
9 current, 2013 I believe.

10 MEMBER RICHINS: And that's approved by  
11 who?

12 MR. CASTRO: Mayor and council.

13 MEMBER RICHINS: And the general plan?

14 MR. CASTRO: That's also mayor and council.

15 MEMBER RICHINS: Does that -- any of those  
16 plans go before the voters for approval?

17 MR. CASTRO: Yes, they do.

18 MEMBER RICHINS: Can you describe which  
19 ones.

20 MR. CASTRO: I don't have the specifics,  
21 but I don't know if Mr. Lusk --

22 MR. LUSK: Just to clarify, Member Richins,  
23 if I understand your question. The UDC, the general  
24 plan, and the MS&R plan are all approved by mayor and  
25 council, not by voters.

1 MEMBER RICHINS: The general plan does not  
2 get put to voters? Are you sure?

3 MR. LUSK: There's some --

4 MEMBER RICHINS: Because you're wrong. The  
5 general plan does go before voters, so --

6 MR. LUSK: There's an alternative. Sorry.  
7 If I may, just to clarify. There's an ultimate approval  
8 process for the mayor and council and then it's -- you're  
9 correct, it does go before the voters once it's  
10 ultimately approved by mayor and council.

11 MEMBER RICHINS: Okay. So in that  
12 clarification, then are any of these other plans put to  
13 the voters, or is that part of the general plan approval  
14 by voters?

15 So the UDC, the streets plans, the specific  
16 plans, the neighborhood and area plans, those are all  
17 approved by council only?

18 MR. LUSK: So -- so if I can clarify your  
19 question just so I understand all of those other plans.  
20 Your -- the UDC is a code, so that's approved by mayor  
21 and council. The Major Streets and Routes Plan was  
22 approved by mayor and council in 1982 and has been  
23 amended subsequently by mayor and council.

24 And then you also mentioned the specific  
25 area and neighborhood plans. Those are also approved by

1 mayor and council.

2 MEMBER RICHINS: And then the general plan  
3 is approved by council and voters?

4 MR. LUSK: Correct.

5 MEMBER RICHINS: But that's the only plan  
6 that also has both mayor and council and voter approval?

7 MR. LUSK: As far as I'm aware, yes.

8 MEMBER RICHINS: Okay. Thank you.

9 MR. LUSK: We can verify that, though, for  
10 you.

11 MEMBER RICHINS: I think that's sufficient.  
12 Thank you.

13 MR. LUSK: Thank you, Mr. Richins.

14 CHMN STAFFORD: So I heard you say that the  
15 Major Streets and Routes is implemented through the UDC?

16 MR. LUSK: That's correct.

17 CHMN STAFFORD: All right. In the  
18 application's a number of village neighborhood plans. I  
19 guess the issue was that do those -- so do those in  
20 themselves have -- are they -- do they require the  
21 undergrounding that's part of the -- because the plans  
22 provide that the neighborhoods shall pursue things to  
23 provide undergrounding utilities.

24 Does the City have a position on whether  
25 these neighborhood plans actually have that effect?

1 MR. LUSK: If I can ask Mr. Castro.

2 BY MR. LUSK:

3 Q. Mr. Castro, can you discuss how the planning and  
4 development services department uses specific plans in  
5 the processes we've talked about so far?

6 A. So to be clear, the area and specific plans are  
7 applied to rezonings, plan amendments, and special  
8 exceptions. That's also stated in the Unified  
9 Development Code. When you look at the approval  
10 procedures for rezoning, like I said, rezoning plan  
11 amendments and special exceptions.

12 Q. So, and I guess for this particular proceeding,  
13 the process we're discussing now is the special exception  
14 process.

15 So the zoning examiner can consider neighborhood  
16 and specific plans in granting a special exception?

17 A. That is correct.

18 Q. Okay. Thank you.

19 MR. LUSK: Does that answer your question,  
20 Mr. Chair?

21 CHMN STAFFORD: I think so. I guess -- I  
22 should be more specific, I guess. Because like the  
23 application, it's flagged a number of potential  
24 requirements for undergrounding. And I wanted to find  
25 out what the City's position was on them.

1                   So for -- I'm just going to go through the  
2 application.

3                   MR. LUSK: Sure.

4                   CHMN STAFFORD: There's a list of, for  
5 example, the Broadmoor-Broadway Village Neighborhood  
6 Plan. Does that plan require undergrounding of  
7 utilities?

8                   MR. LUSK: If I may, Mr. Chair, I don't  
9 know if Mr. Castro is able to speak to every  
10 neighborhood, because there's 50 neighborhood plans --

11                   MR. CASTRO: Right.

12                   MR. LUSK: -- as to the contents of them.

13 BY MR. LUSK:

14           Q. I can only suggest that maybe, Mr. Castro, if  
15 you could talk about sort of how the policies of any  
16 particular neighborhood plan would be applied in that  
17 special exception process. Is it something that's  
18 applied in the same way as the Gateway Corridor Zone?

19           A. So the way this would work is if there is any  
20 relief sought through the special exception process in  
21 the application, and let's just say we're talking about a  
22 crossing, and that crossing happens to be in the  
23 Broadway-Broadmoor area plan, planning and development  
24 services would review the application for compliance to  
25 the goals and policies to the area plans and neighborhood

1 plans.

2 That's just part of a requirement that we need  
3 to make.

4 So I don't know if that answers your question  
5 specifically, but like Mr. Lusk said, there are 50 plans  
6 out there. And just depending on the neighborhood area  
7 plan, what it says, what the policies and goals say.

8 So I don't know if specifically if the  
9 Broadway-Broadmoor area plan says you must underground.  
10 It just depends on the plan.

11 Q. And Mr. Castro, assuming it does say that, is  
12 that the -- in terms of what the zoning examiner can do,  
13 the zoning examiner can take that into account and has  
14 flexibility to implement that policy in different ways;  
15 is that correct?

16 A. That's correct.

17 Q. However, in relation to the Gateway Corridor  
18 Zone, does the zone examiner have to apply that as it is  
19 in the code?

20 A. That is correct.

21 Q. Thank you.

22 CHMN STAFFORD: Okay. All right. So let  
23 me see. I think the applicants raised a number of plans  
24 that could -- that I think could potentially require  
25 undergrounding. So first was the Broadmoor-Broadway

1 Village Neighborhood Plan.

2 I think the Major Streets and Routes Plan,  
3 that only requires undergrounding through the Gateway  
4 Corridor Zone. There is a Scenic Corridor Zone that's  
5 not applicable for this application, but it would also  
6 apply.

7 MR. LUSK: That's correct, Mr. Chair. So  
8 the scenic -- the project area does not include a Scenic  
9 Corridor Zone. That's the Silverbell area that we  
10 discussed earlier.

11 And as far as the other area plans, my  
12 understanding is that those area plans -- that the area  
13 plans in which the applicant is seeking a finding for, I  
14 believe they generally say that underground -- utilities  
15 should be undergrounded where possible.

16 CHMN STAFFORD: Okay. And that's the MSRP,  
17 right?

18 MR. LUSK: Well, the MS&R plan actually  
19 implemented in the UDC as the Gateway Corridor Zone, the  
20 Scenic Corridor Zone, and the Major Streets and Routes  
21 setback zone.

22 CHMN STAFFORD: And this is also the Sam  
23 Hughes Neighborhood Plan?

24 MR. LUSK: Again, the similar -- I believe  
25 it's similar language. I think Mr. Dempsey will speak to

1 specifics of that language. I think it might be slightly  
2 different. But it's those plans are not implemented in  
3 the UDC in the same way that the Gateway Corridor Zone  
4 is.

5 CHMN STAFFORD: Okay. And then there's the  
6 University Area Plan.

7 MR. LUSK: Same with that. It's not  
8 implemented in the UDC. But it does, I believe, say that  
9 utilities should be undergrounded.

10 CHMN STAFFORD: Okay. All right. Any  
11 other questions from members?

12 MEMBER LITTLE: Mr. Chairman, I have one  
13 question.

14 CHMN STAFFORD: Yes, Member Little.

15 MEMBER LITTLE: Has TEP applied for any  
16 exceptions to date with respect to the Midtown project?

17 MR. CASTRO: No, they have not.

18 MEMBER LITTLE: Thank you.

19 CHMN STAFFORD: I believe they're -- they  
20 need a specific route to do that.

21 MEMBER LITTLE: Thank you.

22 CHMN STAFFORD: Did you receive your  
23 exhibits yet, Member Little?

24 MEMBER LITTLE: Let me look.

25 MS. HILL: My information is they were just



1 sent to Tod.

2 MEMBER LITTLE: I got them. Thank you very  
3 much.

4 CHMN STAFFORD: Excellent.

5 MEMBER HILL: Mr. Chair, I have a  
6 procedural question.

7 We've talked about TEP witnesses coming  
8 back at some point so we could ask questions. Does that  
9 apply to all witnesses in all of the parties to this? So  
10 I have another question about the City stuff or City  
11 exhibits, then someone would be present to answer that  
12 question as well?

13 CHMN STAFFORD: Well, they're going -- if  
14 they're going to add additional exhibits I think they're  
15 going to have to -- unless they're all stipulated to, I  
16 want to lay a foundation and establish what they are and  
17 allow the members and parties to ask questions about  
18 them.

19 MEMBER HILL: Okay.

20 CHMN STAFFORD: Unless they're like totally  
21 noncontroversial, yes, it is a document, it says what it  
22 says. The authenticity is not questioned or anything  
23 like that.

24 MEMBER HILL: But we can recall any witness  
25 from any party when we -- when we get to that point.

1 CHMN STAFFORD: We'll ask all the questions  
2 we need to make a reasonable decision.

3 MEMBER HILL: Okay. Thank you.

4 CHMN STAFFORD: All right. Any other  
5 questions from members?

6 (No response.)

7 CHMN STAFFORD: Are you done with your  
8 direct, Mr. Lusk?

9 MR. LUSK: Yes, thank you.

10 CHMN STAFFORD: All right. Well,  
11 Mr. Castro is now available for cross-examination.

12 MS. GRABEL: Thank you, Mr. Chairman.

13

14 CROSS-EXAMINATION

15 BY MS. GRABEL:

16 Q. Good morning, Mr. Castro. My name is Meghan  
17 Grabel. I am outside counsel for Tucson Electric Power  
18 Company.

19 So sitting here this morning, it sounds like the  
20 City cannot make any commitments today whether TEP would  
21 be granted a special exception if it applied for one;  
22 correct?

23 A. That is correct.

24 Q. And if we could pull up the City of Tucson's, I  
25 believe it's Exhibit 8, it's your PowerPoint

1 presentation. And turn to the slide that I believe it  
2 says, "Relief from the GCZ underground requirements  
3 continued," where you list out the various special  
4 exceptions.

5 A. Do I have access to that?

6 Q. I think they're loading it for you.

7 A. Oh, okay. Okay. Is that COT-8?

8 MR. LUSK: That is, yes. And just for  
9 clarity, Mr. Castro, I believe it's the slide with the  
10 criteria.

11 MS. GRABEL: There we go. Perfect.

12 BY MS. GRABEL:

13 Q. So I believe you characterized the Gateway  
14 Corridor -- the Gateway -- I'm going to call it GCZ  
15 because it's easier -- the GCZ special exceptions as  
16 factors indicating that they are somehow discretionary.  
17 But when I look at the language, it specifically says  
18 that, "A special exception request to relieve the  
19 undergrounding requirement in the GCZ must meet one or  
20 more than one criterion listed in subsections A through H  
21 below."

22 So that language sounds mandatory to me.

23 Would you agree with that?

24 A. Yes. I would agree.

25 Q. I mean, it's TEP's position that the special

1 exception criteria are not black and white. Does the  
2 City agree that the project would meet the criteria for a  
3 special exception along the Campbell route?

4 A. I don't feel comfortable responding to that  
5 question.

6 Q. Because you don't know what the City's  
7 position --

8 A. Sure.

9 Q. -- would be on any of the special exceptions?

10 A. Sure. Sure. That's right.

11 Q. So would that same answer apply to whether the  
12 City -- if TEP applied for a special exception on the  
13 preferred route?

14 A. That's correct, yep.

15 Q. Okay. And before TEP can even get a special  
16 exception, the zoning administrator has to make a finding  
17 that the request complies with the general plan and any  
18 applicable subregional area or neighborhood plan.

19 Is that correct?

20 A. So it's not the zoning administrator that would  
21 make that. It's -- the application is reviewed by the  
22 entitlement section of the planning and development  
23 services, so they would review the application for  
24 compliance or conformance with the general and area  
25 plans, policies and goals.

1 Q. Okay. But under the UDC 3.4.5, the  
2 decision-maker cannot actually grant a special exception  
3 request unless a finding is made that the special  
4 exception complies with any area plan; is that correct?

5 A. That's correct.

6 Q. So there are perpendicular crossings even along  
7 the preferred route that may implicate the University  
8 Area Plan.

9 Would the applicable decision-maker be able to  
10 make that finding if TEP were to request a special  
11 exception along that route?

12 A. I can't say for sure.

13 Q. Okay. We've tried hard to figure out what the  
14 boundaries are of the University Area Plan and have come  
15 up a little short. Are you able to tell us what the  
16 boundaries are of the University Area Plan?

17 A. I cannot answer that.

18 Q. Can anyone in the City tell what us what the  
19 boundaries are?

20 A. I believe so. I believe it's a possibility.

21 Q. Is that information that you'd be willing to  
22 provide to TEP?

23 A. Yes. Yes. I can follow up with that.

24 Q. Okay. Thank you.

25 And if you'll look at special exception

1 number 8, it says that a special exception can be granted  
2 in an -- I'm sorry, H -- in an area where costs to  
3 install underground would have a disparate impact on  
4 low-income residents. How does the city interpret what a  
5 disparate impact on low-income residents is?

6 A. That's a great question, but I unfortunately  
7 don't have an answer to that. I don't know how they  
8 would determine that.

9 Q. Okay. Would it be helpful if the Line Siting  
10 Committee were to make that finding for the City? And  
11 this is specifically applicable along the Campbell route?

12 A. I think it would be acceptable to have  
13 supporting information, but I think the decision would  
14 ultimately lie with -- with the City to make that  
15 determination. But I'm sure they would be welcome to any  
16 kind of data or information that they could provide.

17 Q. Okay. You indicated that TEP can apply for a  
18 special exception at any time. Do I recall that  
19 testimony correctly?

20 A. Yes.

21 Q. Okay. I'm going to have my colleague, Eli  
22 Ancharski, hand you Underground Arizona's Exhibit No. 22.

23 And if we could pull it up on the screen, Grace.

24 Do you have that exhibit, Mr. Castro?

25 A. Yes.

1 Q. Have you seen this document before?

2 A. No, this is my first time.

3 Q. Okay. Well, this is the zoning examiner's  
4 decision dated May 13, 2021, on TEP's special exception  
5 application for a special exception land use for the Vine  
6 Substation.

7 And if you turn to page 8 in the document and  
8 I'll ask Grace to turn to page 8 as well. Thank you.

9 If you look at the one, two, three, fourth  
10 paragraph from the top, the third line, the zone examiner  
11 specifically says, "Given the uncertainty regarding the  
12 routes to be selected for the Kino DMP transmission line  
13 project, and the uncertainty of the location of the power  
14 lines which will connect with the proposed Vine  
15 Substation, compliance with PT and UAP cannot be  
16 determined on the current record. The zoning examiner  
17 denies the special exception request without prejudice to  
18 the applicant to resubmit its request when the additional  
19 information discussed above is available."

20 Would you agree that the zoning examiner  
21 required a route to have been determined at the time it  
22 makes its special exception determination?

23 A. I would agree.

24 Q. And would there be any reason to doubt that  
25 would be his position if we were to apply for a special

1 exception today as well?

2 A. No.

3 Q. You testified earlier that the special exception  
4 process takes about three months; is that correct?

5 A. Yes.

6 Q. So in TEP's experience, four and a half months  
7 is the fastest the company has ever received a special  
8 exception and six months is much more typical. Do you  
9 have any reason to disagree with that?

10 A. No. It is a possibility that it could take  
11 longer simply because of, again, the zoning examiner's  
12 schedule. That's something that I'm not privy to, or I  
13 don't work in the entitlement section so I'm not sure.

14 So this was just really just -- just thinking  
15 about what the requirements are for time line and meeting  
16 legal deadlines and that's pretty much how I came up with  
17 three months.

18 Q. So it's just kind of your best guess?

19 A. Yes.

20 Q. Okay. And the special exceptions criteria that  
21 were actually listed on your slide in COT-8 are recently  
22 enacted, are they not?

23 A. I'm sorry. Can you repeat the question?

24 Q. Certainly. So the special exceptions that you  
25 went through in your testimony with respect to the



1 ability to build a transmission line aboveground are  
2 recently enacted, are they not?

3 A. That's correct.

4 Q. And, in fact, they were negotiated as part of  
5 the prior iteration for this project when TEP was trying  
6 to build its Kino to DMP line between Tucson Electric  
7 Power and the City; correct?

8 A. I believe so.

9 Q. Okay. Has there ever been an application on  
10 these new special exceptions?

11 A. Not to my knowledge.

12 Q. Okay. So the time line on these brand new  
13 special exceptions is unknown; correct?

14 A. That is correct.

15 Q. Okay. So you indicated -- you indicated that  
16 the special exception process and determinations are  
17 independent of the City. Did I hear that testimony  
18 correctly?

19 A. That is correct.

20 Q. But the process to obtain a special exception is  
21 guided by recommendations from City staff; is it not?

22 A. That is correct.

23 Q. And that it can be appealed to the mayor and  
24 council; is that correct?

25 A. The zone examiner's decision can be appealed to

1 mayor and council.

2 Q. And all of those determinations are subject to  
3 quite a public process; correct?

4 A. It is.

5 Q. So would you agree that it likely has a  
6 political aspect to it?

7 A. I cannot say.

8 Q. Okay. You also indicated that we can apply for  
9 a variance from the Gateway Corridor Zoning overlay for  
10 the project, and you gave the Silverbell application as  
11 an example. Do you recall?

12 A. Yes.

13 Q. Do you recall that the City was actually the  
14 applicant for a variance in that Silverbell project?

15 A. Yes.

16 Q. And, in fact, the City required that variance  
17 because it was doing a public improvement and was  
18 requiring TEP to move its lines and the City would  
19 therefore have been required to pay for the  
20 undergrounding; correct?

21 A. That is true.

22 Q. So in granting the variance you were actually  
23 benefitting the City, were you not?

24 A. Sure.

25 Q. Okay. I believe you responded in a request --

1 in response to a question from Mr. Lusk that TEP could  
2 have received a variance from its past Kino to DMP  
3 project. Did you -- do you recall that testimony?

4 A. Yes.

5 Q. And I believe you testified earlier that the  
6 special exceptions that you just went through were part  
7 of negotiations with TEP and the City; is that correct?

8 A. Yes.

9 Q. In fact, TEP's head executive, Erik Bakken, who  
10 this Committee had the opportunity to hear from just a  
11 little over a week ago, your city manager and your city  
12 attorney negotiated the special exceptions process;  
13 correct?

14 A. Yes.

15 Q. And they were also looking for a funding  
16 mechanism to potentially bury part of the routes that  
17 were not subject to special exceptions?

18 A. I'm not sure about that part.

19 Q. Okay. Well, against all of that backdrop, do  
20 you think it's likely that TEP would have been granted a  
21 variance from the DMP to Kino line had it applied for  
22 one?

23 A. I cannot say really because it's really based on  
24 the application, and then the board is the ones who are  
25 making the decision based on what's submitted.

1 Q. Okay. So we talked a lot, you testified a lot  
2 about the Gateway Corridor Zones. To what extent and I  
3 think the Chairman was getting at this a little, and TEP  
4 would really like an answer, to what extent does the City  
5 believe that the historic overlay zone would require the  
6 current, the Midtown Reliability Project, to be built  
7 belowground?

8 A. I'm not sure. I can't answer that question.

9 Q. Can anyone at the City answer that question?

10 A. Sure. I'll follow up with that.

11 Q. So the same question with respect to  
12 neighborhood plans. To what extent does any neighborhood  
13 plan require the undergrounding of the current Midtown  
14 Reliability Project?

15 A. I'm not sure of which specific area plans.  
16 Again, it all just depends, you'd have to look into each  
17 area plan that the route crosses or is included in that  
18 plan. So I don't have any specific answers to those.

19 Q. What about the Sam Hughes Neighborhood Plan  
20 specifically?

21 A. The Sam Hughes area plan, I'm not a  
22 hundred percent sure. I'd have to look it up.

23 Q. Okay. Is that something you'd be willing to do  
24 and come back on a break?

25 A. Sure.

1 Q. Okay. Thank you. The University Area Plan has  
2 probably the greatest implication because of the -- it  
3 impacts all of the routes here, so does the City believe  
4 that the University Area Plan requires TEP to underground  
5 the rights that traverse through it?

6 A. Again, I'm not sure.

7 Q. Okay. I'm actually going to bring up the  
8 University Area Plan. And this is -- let's see if I can  
9 find my notes. It's Underground Arizona Arizona's  
10 Exhibit 19. And it's attached to that Exhibit as  
11 Exhibit N. And I believe you have that in front of you,  
12 and I'm going to ask Grace to please turn to 5, Grace or  
13 whoever's manning the screens, to turn to page 5?

14 CHMN STAFFORD: Excuse me. What is UAZ-19?

15 MS. GRABEL: UAZ-19 is a compilation of  
16 various plans, and Exhibit N is specifically the  
17 University Area Plan.

18 MR. DEMPSEY: It's -- you can use 24.  
19 Sorry. You can use 24.

20 MS. HILL: There's only a -- it's only a  
21 one-pager in 24.

22 MS. GRABEL: Yeah, we want to show the  
23 entire context, which is UAZ-19.

24 CHMN STAFFORD: That's the entire  
25 University Area Plan?

1 MS. GRABEL: Correct.

2 BY MS. GRABEL:

3 Q. So, Mr. Castro, are you ready?

4 A. Yes.

5 Q. Okay. I'm going to read to you from the third  
6 paragraph through the fourth paragraph and then ask you a  
7 question.

8 So it says, "The University Area Plan provides  
9 general guidance for noncampus land uses throughout the  
10 university area, while three adopted neighborhood plans,  
11 West University, Blenman Vista and Sam Hughes, offer more  
12 specific direction for land use in each respective  
13 neighborhood. While the policies of the University Area  
14 Plan and the three neighborhood plans are intended to  
15 work together, the neighborhood plans would be  
16 controlling where they provide more specific policy  
17 direction than the University Area Plan."

18 And then I'll skip down to the fifth paragraph.

19 "The University Area Plan will play a key role  
20 in the review of new development in the university area.  
21 The mayor and city council will make decisions on  
22 specific land use proposals based on the direction  
23 established by the University Area Plan, adopted  
24 neighborhood plans, and the professional recommendations  
25 of City staff, et cetera."

1           From the language that I just read to you, isn't  
2 it the case that the University Area Plan doesn't provide  
3 any, you know, actual regulation unless it's adopted as  
4 part of an application for a specific land use proposal  
5 such as a zoning decision?

6           A.    That would be fair to say.

7           Q.    Thank you.  And now I'll ask you to turn to  
8 page 35.  No, page 30.  I'm sorry.  35 is --

9           And this is where the language regarding  
10 undergrounding is found.  And it's entitled under -- it's  
11 in a section entitled "Public Services."  And if you'll  
12 see, it says, "Goal is to ensure an adequate supply of  
13 high-quality public services to meet the current and  
14 projected needs of university areas and residents."

15           And if you hop down to 6 it says, "Wherever  
16 possible place utility and service equipment underground  
17 or in visually screened locations."

18           Would you agree that that language does not  
19 mandate the underground construction of transmission  
20 lines?

21           A.    I would say so.

22           Q.    Would you also -- are you familiar with the fact  
23 that a large portion of this project will be -- will  
24 actually bury existing distribution lines and, in fact,  
25 there'll be a net reduction in overhead utility poles as

1 part of this project?

2 A. Can you repeat that again?

3 Q. Certainly. It was probably poorly stated.

4 Are you aware that part of this project actually  
5 relocates or buries underground many existing  
6 distribution lines that are currently on City of Tucson  
7 streets?

8 A. Yes. I believe so. Yep.

9 Q. And are you aware that's actually going to be a  
10 net reduction of utility infrastructure as a result of  
11 this project once it's complete?

12 A. That, I'm not sure.

13 Q. Okay. Well, take that as an assumption. I'm  
14 assuming that is true. Would you believe that that fact  
15 meets the spirit of the University Area Plan and, in  
16 fact, potentially the language?

17 A. It's possible. Again, I don't feel comfortable  
18 stating my position.

19 Q. Okay. Hold on one second.

20 MS. GRABEL: Nothing else. Thank you.

21 CHMN STAFFORD: All right. Banner Health.

22 MS. DE BLASI: Mr. Chair, Banner does not  
23 have any questions for the witness.

24 CHMN STAFFORD: All right. Mr. Dempsey.

25 MR. DEMPSEY: Underground Arizona does not



1 have any questions for the witness.

2 CHMN STAFFORD: All right.

3 MEMBER HILL: Mr. Chair.

4 CHMN STAFFORD: Yes, Member Hill.

5 MEMBER HILL: I appreciated Ms. Grabel's  
6 line of questioning on Section 30, or page 30 of that  
7 report. Can we bring it back up, possibly? And this is  
8 a question for the City.

9 If we go back to that page 30.

10 In this, and I don't have all the context  
11 because I don't know what the header was above the  
12 Section 6, Public Services, but there's a goal. We  
13 talked about the spirit. But then there's a word called  
14 "Policies." And I'm just wondering if the City can  
15 explain the difference between the spirit of the plan,  
16 the goal of a Section 6, and the policies. What do  
17 the -- what does -- specifically what does "policies"  
18 mean.

19 MR. CASTRO: The best way I can answer that  
20 is think of policies as a way of -- I don't want to say  
21 implementing, but sort of suggesting how to accomplish  
22 the goals that are stated under that section.

23 So you may have policies suggesting and not  
24 mandating -- these are, again, these are just policies  
25 suggesting support, you know, for example, whenever

1 possible like we talked about place utility and service  
2 equipment upgrades underground or in other visually  
3 screened locations. So that is a policy.

4 Again, that's the best way I can explain it  
5 is that it's a suggestion. Does that make sense?

6 MEMBER HILL: Yeah, I think as a layperson  
7 I think of policies as mandates and not as suggestions.  
8 So that's helpful, because I do feel like most of these  
9 feel a little suggestive rather than mandates. And so I  
10 just wanted to know if there was anything that I needed  
11 to be aware of around the use of the word policy, so  
12 that's helpful.

13 MR. LUSK: Member Hill, if I could clarify.  
14 Excuse me.

15 Mr. Castro, can you maybe describe how  
16 particular policies might be utilized in the special  
17 exception process as opposed to something like a code  
18 section?

19 MR. CASTRO: Right. So anything in the UDC  
20 is code, it's mandated. Whereas anything in the -- like  
21 here, the policies in this University Area Plan, they're  
22 not under the UDC so it's not something that would be  
23 mandated or required. So that's probably -- is that what  
24 you're getting at, Mr. Lusk?

25 MR. LUSK: Sure. And so for clarity,

1 assuming there's a special exception process in this  
2 case, the zoning examiner could look at that policy and  
3 determine for themselves whether or not the overall  
4 project meets that policy.

5 Does that sound right?

6 MR. CASTRO: That's correct.

7 MR. LUSK: And they could find either way?  
8 They could find either that it does meet that policy or  
9 it does not, or there is some combination?

10 MR. CASTRO: That is correct.

11 MR. LUSK: Thank you, Mr. Castro.

12 Does that answer --

13 MEMBER HILL: Thank you, Mr. Lusk. That's  
14 what I was trying to understand, how it applies.

15 MR. LUSK: Of course.

16 MEMBER HILL: Thank you.

17 MR. LUSK: Thank you, Member Hill.

18 CHMN STAFFORD: Member Richins.

19 MEMBER RICHINS: That was going to be my  
20 questioning so it's now covered. Thank you.

21 CHMN STAFFORD: Other members? Questions?

22 (No response.)

23 CHMN STAFFORD: All right. With that,  
24 Exhibits COT-1 through 8 are admitted.

25 (Exhibits COT-1 through COT-8 were

1 admitted.)

2 CHMN STAFFORD: Any redirect, Mr. Lusk?

3 MR. LUSK: Just a couple questions.

4

5

REDIRECT EXAMINATION

6 BY MR. LUSK:

7 Q. Mr. Castro, as it relates to the Silverbell  
8 variance that the City sought in 2021, would that  
9 variance process have been available to TEP had they  
10 identified it?

11 A. Yes. It would.

12 Q. Okay. And in 2021, would it have been available  
13 for the Gateway Corridor Zone as well?

14 A. Yes. It would.

15 Q. All right. Thank you.

16 MR. LUSK: That's all I had.

17 CHMN STAFFORD: Thank you. Mr. Dempsey,  
18 are you ready to call your witness?

19 MR. DEMPSEY: Yeah, I'm calling myself but  
20 can I have a few minutes to get technically prepared?

21 CHMN STAFFORD: Okay. Great. Let's take a  
22 brief recess for probably five to ten minutes. We stand  
23 in recess.

24 (Recess from 11:28 a.m. to 11:42 a.m.)

25 CHMN STAFFORD: Let's go back on the

1 record.

2 Now it's time for Underground Arizona to  
3 present its witness. That will be you, Mr. Dempsey?

4 MR. DEMPSEY: Correct.

5 CHMN STAFFORD: Do you prefer an oath or  
6 affirmation?

7 MR. DEMPSEY: The oath.

8 CHMN STAFFORD: Do you swear the testimony  
9 you will give in this matter will be the truth, the whole  
10 truth, and nothing but the truth, so help you God?

11 MR. DEMPSEY: I do.

12 CHMN STAFFORD: All right. You have quite  
13 a number of exhibits here.

14 MR. DEMPSEY: Yeah. I don't know that  
15 we're going to get to all of them, but yes.

16 CHMN STAFFORD: In the interest of time, is  
17 there any reason the parties can't stipulate to the  
18 admission of these or do we need to go through them?

19 I do see that Mr. Dempsey did take his 19  
20 off the list, his updated list, but that's already been  
21 covered by Ms. Grabel in her cross of City.

22 MR. DEMPSEY: It's because that exhibit was  
23 500 pages, so I kind of broke it out into the  
24 supplementals.

25 CHMN STAFFORD: All right, now what -- I

1 think you referred to, what, 24, does that contain the  
2 section that Ms. Grabel --

3 MR. DEMPSEY: I don't -- I don't recall  
4 exactly what sections it has. I could make it the full.

5 MS. GRABEL: Mr. Chairman, we just referred  
6 to the University Area Plan which is only 50 pages, so  
7 perhaps TEP could just make that our own exhibit.

8 CHMN STAFFORD: All right. Yeah, because  
9 it's previously referred to as his UAZ-19.

10 MS. GRABEL: Correct.

11 CHMN STAFFORD: But that's blank on my list  
12 now. Looks like he said it was 500 pages, though.

13 MS. HILL: UAZ-24 only contains the policy  
14 statement. So it only contains one page of what  
15 Ms. Grabel referred to. So we'll just make it our  
16 exhibit.

17 CHMN STAFFORD: Okay.

18 MS. HILL: We'll just make the entire plan  
19 our exhibit.

20 MS. GRABEL: If I could just make a  
21 request. So the University Area Plan is publicly  
22 available online. So that we waste 50 pages times 25,  
23 can we just file one page that refers to the URL address  
24 where the University Area Plan is contained?

25 CHMN STAFFORD: That makes sense to me.

1 MS. GRABEL: Okay. Great. Thank you.

2 CHMN STAFFORD: There'll be a supplemental.  
3 Let's see. Let me get your exhibit list out.

4 MS. GRABEL: It will be TEP-35.

5 CHMN STAFFORD: 35. What's 34? I don't  
6 have a 34 for y'all.

7 MS. GRABEL: That's because we have not yet  
8 talked about it. But I think we did file it in the  
9 docket yesterday. Did we? Yes, we did.

10 CHMN STAFFORD: Okay.

11 MS. GRABEL: It is some excerpts from an  
12 SRP hearing that may be responsive to testimony  
13 Mr. Dempsey puts on today.

14 CHMN STAFFORD: What line siting case was  
15 that?

16 MS. GRABEL: That was the SRP H-I-I-P  
17 Case 195.

18 CHMN STAFFORD: 195. Okay. And then 35 is  
19 going to be the University Area Plan?

20 MS. GRABEL: Correct.

21 CHMN STAFFORD: Okay. That'll just be a  
22 link, okay.

23 MEMBER GOLD: Mr. Chairman.

24 CHMN STAFFORD: Yes, Member Gold.

25 MEMBER GOLD: I'm not finding this on my

1 screen.

2 CHMN STAFFORD: Which one?

3 MEMBER GOLD: The TEP-35 is not there yet.

4 CHMN STAFFORD: Yeah it's just going to be  
5 the link here. They've already referred to it. It's a  
6 500-page document, so instead of handing a big, giant --  
7 another binder with 500 pages, they just provide a link  
8 to it. They've already referred to it. It was  
9 previously numbered as an exhibit for UAZ, but he pulled  
10 19 and instead offered UAZ-24, which is just excerpts  
11 which contained less than the portion that Ms. Grabel  
12 referred to in her cross of the City.

13 MEMBER GOLD: Okay. And next question, the  
14 undergrounding portion, where's that on this screen?

15 CHMN STAFFORD: Oh, his exhibits, if you go  
16 to the -- scroll down to the bottom it's the last folder  
17 there, the blue folder.

18 MEMBER GOLD: Is that Bates?

19 CHMN STAFFORD: Yes.

20 MEMBER GOLD: Underground Arizona. Got it.  
21 Thank you.

22 CHMN STAFFORD: All right. I'm going to go  
23 ahead and admit TEP-35, seeing as how you already covered  
24 it.

25 (Exhibit TEP-35 was admitted.)



1 MS. GRABEL: Thank you.

2 CHMN STAFFORD: And then, so Mr. Dempsey,  
3 did you have a presentation or did you just want to go  
4 through your exhibits?

5 MR. DEMPSEY: Yeah, I have slides.

6 CHMN STAFFORD: Okay. Do you -- I guess,  
7 to the parties, do we want to just stipulate to his  
8 exhibits or do you want -- or are some of them not going  
9 to be necessary, Mr. Dempsey?

10 MR. DEMPSEY: It's possible some of them  
11 won't be necessary.

12 CHMN STAFFORD: Okay. All right. I'll let  
13 you provide your testimony.

14 MR. DEMPSEY: Okay. Thank you.

15

16 DANIEL DEMPSEY,  
17 called as a witness on behalf of Underground Arizona,  
18 having been previously affirmed or sworn by the Chairman  
19 to speak the truth and nothing but the truth, was  
20 examined and testified as follows:

21

22 MR. DEMPSEY: I appreciate everybody's  
23 time. I'm sorry this is taking so long. My testimony  
24 was supposed to be a lot shorter, but --

25 MS. GRABEL: Mr. Chairman? I'm sorry.

1 CHMN STAFFORD: Yes, Member Grabel --

2 Ms. Grabel.

3 MS. GRABEL: I'd love to be Member Grabel.

4 If he's providing testimony, do you need to  
5 swear him in?

6 CHMN STAFFORD: I already did.

7 MS. GRABEL: Oh, I'm sorry. I wasn't  
8 paying attention. My apologies.

9 CHMN STAFFORD: I made sure I did that  
10 first thing.

11 MS. GRABEL: Sorry.

12 CHMN STAFFORD: Please proceed,  
13 Mr. Dempsey.

14 MR. DEMPSEY: Okay. So before I get into  
15 my testimony, my prepared testimony, this is also  
16 prepared, I want to address a few things.

17 It's the next slide after this, actually.  
18 I believe. Or go back. Maybe it's the slide before.  
19 There you go.

20 So, I want to address a few things.

21 CHMN STAFFORD: And this is?

22 MR. DEMPSEY: This is TEP-16, slide 11, I  
23 believe.

24 So in my world, to calculate a  
25 differential -- or I'm sorry, let me back up.

1                   So here -- am I supposed to push this  
2 button? All right. So I'll just do it in person.

3                   So what Mr. Jocham did in calculating the  
4 differential is he divided this number by this number,  
5 and that's a perfectly acceptable way of doing it.

6                   The mistake that he made from the world I  
7 come from, and this may be a difference between engineers  
8 and financial people, is he did not subtract by 1. My  
9 experience is that you subtract by 1, and you do that  
10 because, to put it simply, the differential between two  
11 numbers that are the same amount, like say \$2 million, is  
12 not 1, it's zero.

13                   So that's the only difference that I could  
14 find between his calculations and mine. I could not find  
15 any errors in my calculations. If you want to add a 1 to  
16 all of my differentials or subtract a 1 from his, go for  
17 it. It does not materially change anything that I'll be  
18 presenting or have presented.

19                   And as for the rest of his comments from  
20 yesterday, I'm going to walk you through that here in a  
21 few moments.

22                   Now I want to briefly talk about slide --  
23 or TEP-8, Slide 19.

24                   MEMBER LITTLE: Mr. Chairman.

25                   CHMN STAFFORD: Yes, Member Little.

1 MEMBER LITTLE: I'm sorry to whine again  
2 but I don't have his exhibits.

3 CHMN STAFFORD: TEP-8?

4 MEMBER LITTLE: No, no. The Underground  
5 Arizona exhibits.

6 MR. DEMPSEY: I did not send them to Tod.  
7 I did not know about Tod. That may be the issue.

8 CHMN STAFFORD: Okay. Yeah, that's going  
9 to be --

10 MR. DEMPSEY: You can -- you were CC'd so  
11 we could forward --

12 CHMN STAFFORD: I'd have to pull up my --

13 MR. DEMPSEY: I can try to do that real  
14 quick.

15 CHMN STAFFORD: It was a zip file or  
16 something, wasn't it?

17 MR. DEMPSEY: Yeah, it was a zip.

18 MS. GRABEL: Mr. Chairman, we can do it.

19 CHMN STAFFORD: Yeah. All right. Yeah.  
20 Just forward to Member Little and then Member Somers,  
21 too.

22 MS. GRABEL: We'll forward it to Tod.

23 CHMN STAFFORD: Okay.

24 MEMBER LITTLE: Thank you very much.

25 CHMN STAFFORD: Sorry, Tod.

1 MEMBER LITTLE: I appreciate it. I'm sorry  
2 to be a pain.

3 MR. DEMPSEY: No, you should have them,  
4 absolutely. That's my mistake.

5 So I want to talk about this slide which is  
6 what we called the halfway solution. We recognized early  
7 on -- or not early on, I guess it was last year that TEP  
8 is predisposed to fight about all these issues for  
9 another decade and we proposed a temporary solution of  
10 only connecting Vine to DeMoss Petrie to increase  
11 capacity to the area while TEP continued to fight.

12 TEP has already done this for Kino and  
13 Irvington, and it's how its sister company runs Nogales.  
14 I understand this is not their preference, but if we're  
15 talking about emergency triage, it is an available  
16 option.

17 It would only require a half mile of  
18 undergrounding along Vine and would resolve any urgent  
19 capacity issue for the area while allowing TEP to keep  
20 fighting all the City laws that it does not like.

21 I'm a pragmatist. I -- this is far from  
22 the only idea we've proposed. I want to be sure that you  
23 understand the context of how we operate. Moreover, I'm  
24 not a fan of how TEP is trying to use any urgency created  
25 by its decision to not follow local laws as an excuse to

1 be given permission to not follow those laws. If you  
2 reward that kind of behavior, you're asking for even more  
3 trouble in the future.

4 So we can switch to my slides now.

5 CHMN STAFFORD: And your slides are  
6 Exhibit UAZ --

7 MR. DEMPSEY: You can go to the first slide  
8 or I can go to the first slide. Sorry.

9 CHMN STAFFORD: Which exhibit is your slide  
10 show?

11 MR. DEMPSEY: 62, I believe. I e-mailed it  
12 to you and I actually included Tod.

13 So first off I want to thank my family for  
14 letting me do this. This has taken up many nights and  
15 weekends and my wife has been amazingly supportive.

16 I'm doing that purely as an unpaid  
17 volunteer in my spare time because I love Tucson and I  
18 love Arizona. We can protect these and other parts of  
19 Arizona for what are relatively trivial amounts of money.  
20 I want to thank the many hundreds of Tucsonans from all  
21 over the city who have voluntarily spent days and nights  
22 putting a lot of their time and work into this effort.

23 So Underground Arizona was formed to inform  
24 the public about underground electric lines in Arizona.  
25 There is a dearth of organized information in this space.

1 We figured others would find our organizing  
2 this information to be useful including the utilities  
3 themselves. Underground Arizona is not the Underground  
4 Coalition. However, it is supported by the Underground  
5 Coalition, as well as many individuals and businesses.  
6 And it's not just limited to Tucson. Tucson is merely  
7 our origin story. We have been talking to members of  
8 other communities around the whole state.

9 So, sorry, I have different ones here.

10 My career began 20 years ago as a research  
11 assistant for Citigroup's investment bank, covering  
12 energy companies. I held four FINRA licenses, including  
13 licenses 86 and 87, which are required to be a research  
14 analyst.

15 I have included in UAZ Exhibit 51 extensive  
16 details about what research analysts do in the financial  
17 industry. Since then I have performed a similar role  
18 in the real estate industry for very large investors.

19 This is my most -- this is my most directly  
20 relevant experience, but it's far from my only  
21 experience. For example, I served on a New York  
22 University board where we built a cogeneration plant in  
23 Greenwich Village in the middle of New York City, and it  
24 was a very similar process.

25 Anyways, as a research analyst, I would

1 evaluate the financial performance decisions and strategy  
2 of a company's management in order to reach a decision on  
3 whether their securities or a project they were proposing  
4 was a good or bad investment.

5 A company like TEP or Fortis would come to  
6 us and say they needed \$500 million in debt or equity to  
7 do a project. We would evaluate their financial  
8 documents and claims and approve or deny investment.

9 When you evaluate a project, you verify not  
10 just the claims made by the company but the experience of  
11 nearby comparable companies.

12 You also look for material omissions and  
13 potential legal and regulatory hurdles which increase  
14 cost and risk. Evaluating a project like TEP's and the  
15 strategy of its management team is something that I have  
16 done hundreds of times.

17 For regular clients we would spend months  
18 recreating their entire business as a simulation in  
19 spreadsheets or code so that we could simulate how  
20 different assumptions or projections would affect their  
21 business. From commodity prices to customer demand and  
22 growth to competition from new technologies, we would  
23 simulate various scenarios to understand financial risk  
24 and reward. And so we would model out literally every  
25 revenue item and every expense item to great detail.



1 My understanding of TEP's application is as  
2 follows: The City of Tucson has decades-old plans and  
3 ordinances which I'll just call laws, that require the  
4 undergrounding of electric lines in strategically and  
5 historically important areas.

6 TEP claims that the cost of undergrounding  
7 in those areas is so high that the project is not  
8 feasible and the ACC must take the extraordinary step of  
9 superseding those laws under Arizona Revised Statutes  
10 40-360.06(D) as in David, which I'll call subsection D.

11 This subsection D requires a finding that  
12 the City of Tucson's laws are, "Unreasonably restrictive  
13 and compliance therewith is not feasible in view of the  
14 technology available."

15 Subsection A of the same statute contains  
16 nine factors that must be considered when approving the  
17 utilities application. The cost is factor 8. The other  
18 factors include factor 1, the existing plans of a city,  
19 factor 5, existing scenic and historic areas, and factor  
20 6, the total environment of the area.

21 I can find nothing that assigns the cost  
22 factor any more significance than the other factors. And  
23 as far as I can tell, the City of Tucson's laws exist to  
24 protect those other factors. Therefore, it is not at all  
25 certain that these laws can be determined "unreasonably

1 restrictive." The statute clearly considers certain  
2 restrictions to be reasonable.

3           However, setting aside that question for  
4 now, we can examine the costs claimed in TEP's  
5 application to see if the cost factor is significant and  
6 would render the project infeasible.

7           On page 28 of its application, TEP claims,  
8 "The clear and longstanding practice in Arizona has been  
9 that the proponent of undergrounding, rather than the  
10 utility, pays for the extra cost of undergrounding."

11           To verify the veracity of this claim we  
12 look at recent Arizona projects and the experience of  
13 other utilities in dealing with municipalities,  
14 regulators and the courts.

15           In support of its claim that proponents pay  
16 for the extra costs of undergrounding rather than the  
17 utility, TEP cites line siting cases 175, 195 and 198.  
18 In reviewing these cases, contrary to TEP's claim in  
19 cases 175 and 195, SRP, the utility, paid for the extra  
20 costs of undergrounding, using its municipal aesthetics  
21 program. While SRP allocates funds to cities through the  
22 program, the funds are still coming from the utility.  
23 And in none of these cases were there any laws that I'm  
24 aware of requiring the undergrounding of transmission  
25 lines to protect historic or other sensitive areas.

1                   This is SRP's 2024 budget from UAZ  
2 Exhibit 9. It exhibits -- or I'm sorry, it budgets  
3 \$18 million per year in 2024 and 2025 to aesthetics,  
4 including undergrounding transmission and distribution  
5 lines. At some point in the past the SRP board  
6 determined that paying for undergrounding even where not  
7 required by law was prudent.

8                   Currently, APS is refurbishing and  
9 reconductoring roughly three miles of an 11-mile,  
10 230-kilovolt high-pressure fluid-filled underground line  
11 in central Phoenix. And I'm going to call it an HPFF  
12 line just for preference.

13                   As far as I can tell, the cost of doing  
14 this is being covered by ratepayers even though an  
15 aboveground line might be cheaper. In its 2023 FERC  
16 Form 1 filing, which is UAZ Exhibit 36 under,  
17 "Construction work in progress," APS included two line  
18 items seemingly related to this project. HPFF mitigation  
19 phase zero and phase 1. They total \$29.3 million. Given  
20 the timing and wording it is highly likely that this  
21 expense is related to this project.

22                   If so, it is possible that the mitigation  
23 costs alone are over \$8 million per mile.

24                   Which according to TEP is far more than  
25 aboveground line and should be unrecoverable from

1 ratepayers.

2 We will know much more about this in APS's  
3 next annual FERC filing, which is like March of next  
4 year.

5 I found many more examples of utilities  
6 paying for the extra costs of undergrounding, including  
7 some in the table below or above, or here.

8 I can find no evidence of these projects  
9 being paid for by third parties. That does not mean it's  
10 not possible, but this is a process of falsifying. And  
11 if I cannot find evidence of anyone else paying I have to  
12 assume the utility paid.

13 In addition, distribution undergrounding  
14 being required by law is extremely common in Arizona. In  
15 fact, I could not find a single municipality that did not  
16 require it. Now, most of it happens during new  
17 developments, and is paid for by the developer. But  
18 that's not necessarily always the case.

19 TEP has demonstrated that in this very case  
20 by volunteering to underground 6.4 miles of distribution,  
21 even if it's on the opposite side of the street -- I  
22 phrased that wrong -- but APS has \$3.5 billion of  
23 underground distribution assets on its balance sheet.  
24 This is net of contributions in aid of construction which  
25 means net of third-party funds. Undoubtedly some,

1 perhaps a lot of these balances were costs wholly  
2 incurred by ratepayers.

3 So back to TEP's application.

4 For support for its argument that  
5 undergrounding is prohibited by the ACC, TEP cites policy  
6 statement 79140. As you can see highlighted here in  
7 green, it says, "As a general matter utilities under the  
8 Commission's jurisdiction should avoid incurring higher  
9 costs unless underground installation of a transmission  
10 line is necessary to satisfy other prudent operational  
11 needs."

12 In my professional opinion following the  
13 law is a, quote, prudent operational need.

14 As we can see in the current case, not  
15 following the law has wasted years and over \$10 million  
16 and may end up wasting over \$20 million because the issue  
17 here is laws and not mere preferences. Policy statement  
18 79140 is unhelpful to TEP's claim.

19 Moreover a policy statement is not law. It  
20 cannot change the law to make costs more important than  
21 the other factors. I know that from -- I know that from  
22 my experience having an Arizona real estate broker's  
23 lines. I recall a time when the Arizona Department of  
24 Real Estate put out a policy statement that the attorney  
25 general did not like. Anyway, that's just an aside.

1                   While I'm not going to get into it here, I  
2 need to note for the record that I'm still not convinced  
3 that the Line Siting Committee has jurisdiction over  
4 anything more than the routing of the transmission lines.  
5 If a local law precluded certain routing, then I believe  
6 the Line Siting Committee would have jurisdiction to  
7 supercede that law. But that's not the issue here. The  
8 issue here is the location of above or belowground within  
9 a route.

10                   CHMN STAFFORD: Can you please slow down,  
11 Mr. Dempsey.

12                   MR. DEMPSEY: Thank you.

13                   CHMN STAFFORD: The court reporter is  
14 having trouble keeping up.

15                   MR. DEMPSEY: Sorry. I apologize. I'm  
16 used to going fast.

17                   All right. Finally, it is important to  
18 understand how previous disputes between cities and  
19 utilities have been resolved.

20                   In APS versus Town of Paradise Valley in  
21 1980, the Arizona Supreme Court determined that, "Local  
22 governments can prescribe undergrounding within their  
23 boundaries," which is the first. The second is,  
24 "Alternative funding mechanisms do not prevent the town  
25 from mandating the undergrounding at utility expense."

1                   And three, "The line siting statute  
2 evidences a legislative recognition that the cities and  
3 towns have the power to act on high-energy transmission  
4 lines."

5                   And in the recent court decision against  
6 TEP, the superior court said -- am I going fast again?  
7 I'm sorry.

8                   The superior court said, "The court finds  
9 that as a matter of law, the City has the authority to  
10 require undergrounding of transmission lines."

11                   Therefore it is neither clear nor  
12 longstanding practice that proponents rather than the  
13 utilities pay for the extra costs of undergrounding. In  
14 fact, utilities regularly pay the extra cost, and cities  
15 can legally mandate that the utilities pay for it as the  
16 case here.

17                   It is TEP's resistance to these laws that  
18 has caused and will continue to cause delay. Embracing  
19 these laws is the only surefire way to get this timely.

20                   Again, as an example, TEP keeps glossing  
21 over the historic and neighborhood preservation zoning  
22 ordinances.

23                   These neighborhoods take this stuff very  
24 seriously. As you can see at Speedway and Euclid where  
25 the developer was moving historic homes to build a new

1 tower. There was also a lengthy fight about 5G poles.

2 The idea that TEP is going to quickly or  
3 ever get a variance to build through these historic areas  
4 is I think based on its own inexperience, and I fear that  
5 lack of awareness is because they have not tried to build  
6 anything significant through these areas in decades.  
7 Maybe none of the people that currently work there.

8 So the shortest path to getting this  
9 project done is for TEP to stop fighting local laws. The  
10 City cannot simply stop enforcing its laws because TEP  
11 does not like them. Even if the Line Siting Committee  
12 supercedes a few ordinances and plans, in some of these  
13 areas there are four or five layers of challenges that  
14 TEP may need to overcome.

15 So TEP cost claim number two.

16 On page 29 of its application, TEP claims,  
17 "This independent study by Sargent & Lundy showed an  
18 estimated cost for engineering material procurement" --  
19 well, I cut it down there, sorry -- "and construction of  
20 \$25 million per mile for an underground line."

21 To verify the veracity of this claim we  
22 will look at Sargent & Lundy's studies nearby a recent  
23 comparable data and the testimony of utilities in other  
24 line siting cases.

25 So I'm going to spend a minute establishing



1 an overhead cost for TEP for the most reasonable  
2 undergrounding route, which is Route 1 along Campbell  
3 because it is the shortest route and it is the widest  
4 right-of-way.

5 So TEP claims that to go 2.9 miles along  
6 Route 1 will cost \$11.8 million. This works out to  
7 \$4.1 million per mile. I'm going to use this figure in  
8 my next table.

9 TEP's application claims undergrounding  
10 costs \$25 million per mile. It makes no mention about it  
11 being a range or anything else. It then says,  
12 "Undergrounding will cost \$67 million extra." Before  
13 you is a table of calculations based on some of  
14 Sargent & Lundy's nine reports, or eight reports,  
15 whatever it was.

16 So on line 1 is its very first estimate  
17 from 2020 where it put the base cost of undergrounding at  
18 \$9.1 million per mile. This is UAZ Exhibit 1.

19 This included jack and bore. It then  
20 removed jack and bore to get a new base estimate of  
21 \$8.2 million per mile. This is UAZ Exhibit 54.

22 The base cost in its latest revision is  
23 \$17.8 million per mile. That is TEP Exhibit 17.

24 If we assume 30 percent, the 30 percent  
25 savings that Mr. Jocham mentioned is the new policy of, I

1 guess, engineering estimates, we get to \$12.5 million per  
2 mile. I'm going to be referencing this table a lot as I  
3 move forward.

4 To get an idea of whether these costs are  
5 reasonable, we can look at recent nearby comparables in  
6 this table, or in this table is recent undergrounding  
7 projects in Arizona taken from public records as  
8 referenced in the bottom left corner. They are UAZ  
9 Exhibits 36 to 41.

10 The SRP data is derived from their ACC  
11 report -- from their ACC hearings which are UAZ Exhibit 5  
12 and UAZ Exhibit 58.

13 Most every utility has to file an annual  
14 report with FERC. One of the data points that they must  
15 report is transmission lines added during the year along  
16 with the cost of what those transmission lines were.

17 This data -- the data on this table is  
18 taken from those reports. SRP does not report this data  
19 to FERC or at least I could not find it quickly.  
20 69-kilovolt lines are reported here as transmission. So  
21 that's why you see a lot of 69-kilovolt.

22 So the average cost for 69 kilovolts over  
23 all these projects is \$3.9 million per mile.

24 And the average cost for 230-kilovolt is  
25 \$11.8 million per mile. This is in line with the

1 testimony of Zack Heim, SRP's director of transmission  
2 line design, construction and maintenance, from line  
3 siting case 195 where he said, "We find that the  
4 per-circuit-mile equivalent of underground 230-kilovolt  
5 line is in the 10 to \$15 million per range" -- range, not  
6 per range.

7           As a quick aside, a problem is that Zack  
8 Heim also says overhead 230-kilovolt costs 1- to \$1.5  
9 million per mile, and the cost differential is therefore  
10 10 to 15 times.

11           He does not caveat this as omitting  
12 material cost information. Later in his presentation, he  
13 shows that SRP is paying \$56 million for about seven  
14 miles of overhead 230-kilovolt double circuit  
15 transmission, which works out to \$4 million per mile per  
16 circuit. So the differential is actually a lot less than  
17 10 to 15 times.

18           Unfortunately, this 10 to 15 time  
19 differential becomes a talking point used with the  
20 general public and the Line Siting Committee that omits  
21 this material information about overhead costs. Which is  
22 that the right-of-way -- sorry. I have some typos here.  
23 Just a second.

24           So a key difference between overhead and  
25 underground lines is that underground lines can use the

1 entire right-of-way and don't need room for blowout. As  
2 where poles can only go a few places and private property  
3 frequently abuts right-of-ways without any setbacks.

4 So underground lines tend to be cheaper  
5 from a land acquisition cost standpoint.

6 So getting back on track here. And to  
7 illustrate a concept. Here's the same data from the  
8 prior table in a scatter plot with costs per circuit on  
9 the Y axis and voltage on the X axis. Because the cost  
10 of a transmission line generally increases with voltage,  
11 we would expect the cost of 138-kilovolt line to fall in  
12 between the costs of a 69-kilovolt line and a  
13 230-kilovolt line. If we take the line between those two  
14 averages we get a midpoint of about 7.9 million dollars  
15 per mile.

16 MS. HILL: I'm sorry, Mr. Chair. Could  
17 Mr. Jocham [sic] slow down a little bit? We're trying to  
18 take some notes.

19 MR. DEMPSEY: Sure. I'm sorry.

20 MS. HILL: I'm sorry, not Mr. Jocham.  
21 Mr. Dempsey. I was -- I happened to be looking at  
22 Mr. Jocham at that moment. I apologize.

23 CHMN STAFFORD: Yeah, please slow down,  
24 Mr. Dempsey.

25 MR. DEMPSEY: I'm sorry. Yeah, just -- I

1 need like a light you guys can flash at me.

2 MS. HILL: And if he could repeat what he  
3 just said about the costs in the plot chart with this  
4 slide, that would be helpful because he sped up and I  
5 can't -- I couldn't track it.

6 MR. DEMPSEY: You want to me to go back to  
7 this slide?

8 CHMN STAFFORD: You're on Slide 29 of your  
9 UAZ-62.

10 MS. HILL: I think this is where I lost  
11 him.

12 MR. DEMPSEY: I'll repeat this -- what I  
13 have for this slide.

14 Because the cost of a transmission line  
15 generally increases with voltage, we would expect the  
16 cost of a 138-kilovolt line to fall in between the costs  
17 of a 69-kilovolt line and a 230-kilovolt line. If we  
18 take a line between the averages, we get a midpoint of  
19 7.8 or \$7.9 million per mile between 69 kilovolts and 230  
20 kilovolts.

21 And if we give ourselves a buffer, we would  
22 get to a reasonable expectation of something like this.  
23 Ideally I would have more data and I could create a  
24 regression, standard deviations and all that kind of  
25 stuff, but I only have only have so much time and this is

1 not my job. I'm just showing you a concept.

2 And from here we can plot what TEP said it  
3 would cost in its application. Which is \$25 million per  
4 mile. And then we can plot the Sargent & Lundy base cost  
5 from its latest report which is \$17.8 million per mile.  
6 And here is Sargent & Lundy using the 30 percent discount  
7 from its tables which is \$12.5 million per mile. And  
8 here is Sargent & Lundy's estimated base cost in 2020  
9 which was \$8.2 million per mile.

10 MEMBER KRYDER: Mr. Chairman.

11 CHMN STAFFORD: Yes, Member Kryder.

12 MEMBER KRYDER: Dare I pause the  
13 conversation now with a question or shall I wait at the  
14 end?

15 CHMN STAFFORD: Is it about this particular  
16 slide or something more general?

17 MEMBER KRYDER: This particular slide.

18 CHMN STAFFORD: Then please ask your  
19 question, Member Kryder.

20 MEMBER KRYDER: I don't know very much  
21 about electrical transmission, point in fact. However, I  
22 know a little bit about technology, and I -- excuse me --  
23 and I find that drawing a straight line between a 69kV  
24 and a 230kV and saying cost estimates ought to just  
25 follow that straight line stretches my understanding.

1 MR. DEMPSEY: So I'll explain and -- I'll  
2 explain.

3 MEMBER KRYDER: Give it to me, then.

4 MR. DEMPSEY: So -- well, if you let me  
5 continue on and then -- then I'll see if I answer your  
6 question.

7 So, okay, so let me explain how this would  
8 work. If we were at the bank; right, if we were at  
9 Citigroup and you came to us, what we would do is we  
10 would do about 10, 20 different analyses to try to figure  
11 out whether or not, you know, you're full of baloney,  
12 which I'll explain in a minute. Slow down? Sorry.

13 So we would do a whole bunch of analyses.  
14 This is just one. And you try to see, okay, is what  
15 they're asking for reasonable. Because what you're  
16 worried about at the bank or for any investment or any  
17 investor is -- I'm not saying this is at all what TEP is  
18 doing, I don't think this is what they're doing.

19 Is you're worried about being taken  
20 advantage of. You don't want someone to give you a cost  
21 that's way above something so that they can kind of  
22 pocket the difference. So at the bank you'd be like,  
23 okay, so what would, they're saying this, but what would  
24 we expect it to be based on these other things.

25 And this is, as I said, a concept of how we

1 would do it. I -- this is my job, I don't have all the  
2 data to do it in a super detailed way, but it would be  
3 approximately like this:

4           You would plot out the different projects,  
5 and then you would figure out, okay, why are they two or  
6 three times recent projects? And that would be a red  
7 flag, and then we would -- as I'm going to explain in  
8 just a minute, then we would bring in a third party and  
9 say, "Hey, what's up with this?" An arm's length third  
10 party, not somebody that's employed by the -- by the --  
11 by the company, we would bring in an arm's length third  
12 party, maybe multiple arm's length third parties. And  
13 then we would figure out what's going on.

14           And we turn down half of the things we look  
15 at for similar sorts of problems.

16           MS. GRABEL: Mr. Chairman, if I may make a  
17 quick suggestion, just for efficiency. I can save it for  
18 redirect, but there's no time line for these projects on  
19 this slide. And that information is certainly relevant  
20 to the costs, and so that's information Mr. Dempsey might  
21 want to provide as well.

22           CHMN STAFFORD: Right. It's provided in  
23 the -- I look at the bottom of the slide and it says the  
24 source of the information. But --

25           MR. DEMPSEY: It's a table.



1 CHMN STAFFORD: Right, it's from the --

2 MR. DEMPSEY: It's the same table plotted.  
3 I just threw some stuff in the middle. So normally  
4 before I revise my slides I went straight into that, but  
5 I added this little Zack Heim discussion in the middle.  
6 So -- now they're kind of disconnected. I'm sorry.

7 MEMBER KRYDER: May I reply with another  
8 question?

9 MR. DEMPSEY: Yes.

10 MEMBER KRYDER: I know a little bit about  
11 agriculture. And there's a great deal of difference if  
12 you take certain seeds and then the seeds that have come  
13 out in genetic modification, to use that example.

14 The technology is significant move from  
15 just an easy seed, something you'd grow in your garden  
16 and you'd capture it and replant it, to one that you put  
17 in years and many dollars of research to genetically  
18 modify. And this is what troubles me about the straight  
19 line thing of saying 69, draw a straight line up to 235,  
20 just doesn't register with me.

21 MR. DEMPSEY: So I think the way I could  
22 have done this better, again, you can see I just drew  
23 that line with, like, my hand basically. I didn't have a  
24 lot of time.

25 So what I would have liked to have done is

1 essentially make like a cone between the top and the  
2 bottom. You know, there's other ways to display this  
3 data. That's why I explained that it's a concept, it's  
4 not -- but, yeah, yes, there are other ways to display  
5 this that might be a little better, I agree.

6 And one of the other criticisms that  
7 someone might have is, well, yeah, but those projects  
8 weren't, you know, this is downtown or Central Tucson.  
9 Some of these projects are in central Phoenix. So I feel  
10 like there's enough data here that you can kind of  
11 control a little bit, but yeah, it would be great to have  
12 a whole lot more data.

13 MEMBER KRYDER: Okay. I'll let you pass  
14 here, but that really troubles me. Thanks.

15 MR. DEMPSEY: Okay.

16 CHMN STAFFORD: Ms. Grabel, did you find  
17 the information you wanted on his Slide 23, which is the  
18 basis for that chart on Slide 33?

19 MS. GRABEL: I do see what's referenced.  
20 Thank you, Mr. Chairman.

21 CHMN STAFFORD: Okay. Please proceed,  
22 Mr. Dempsey.

23 MR. DEMPSEY: And so, yeah, so all of these  
24 are recent projects. I mean, 2018 and newer projects.

25 MS. HILL: I have a -- I'm sorry, I do have

1 one question to clarify the slide if I could.

2 CHMN STAFFORD: Normally I'd make you wait  
3 till cross, but --

4 MS. HILL: No, no, no. It's --

5 CHMN STAFFORD: You're asking for  
6 clarification of this particular slide, it's already been  
7 coming up, so I'll allow it.

8 MS. HILL: That's it. Were either of the  
9 Scottsdale projects the Raintree project?

10 MR. DEMPSEY: I'm not sure.

11 MS. HILL: Okay. Thank you.

12 CHMN STAFFORD: Please proceed,  
13 Mr. Dempsey.

14 MR. DEMPSEY: All right. Hold on.

15 CHMN STAFFORD: So you're back at slide 33.

16 MR. DEMPSEY: Really what I'm trying to  
17 display here is that their number is way out of -- it  
18 would be an outlier. If this was a regression it would  
19 be an outlier.

20 MEMBER KRYDER: And that's what I would see  
21 in what we just saw back a couple of slides, that it  
22 would be incredibly unlikely --

23 MR. DEMPSEY: Right.

24 MEMBER KRYDER: -- following the technology  
25 from a land raise to a genetically modified seed, you

1 can't draw a straight line.

2 MR. DEMPSEY: Fair. Thank you.

3 Let's see. Some of this I already said, so  
4 I'm going to repeat myself. Given Sargent & Lundy's  
5 estimates, nearby comparables and the continued testimony  
6 of SRP TEP's claim that undergrounding 135-kilovolt cost  
7 \$25 million per mile is incredibly unlikely and would be  
8 a huge red flag for a bank.

9 There's been inflation but not 300 percent  
10 inflation. And it's a red flag because you're always  
11 worried that someone is trying to overstate costs to  
12 pocket the difference. I'm not suggesting that that is  
13 what TEP is doing here. What I'm suggesting, however, is  
14 that we would get a second or third opinion and talk to  
15 some contractors that have done these other jobs.

16 If TEP's cost estimates were more in line  
17 with comparables, we might not ask for that additional --  
18 those additional opinions. This is not unlike what you  
19 would do if you were building a home.

20 If the architect said it would cost three  
21 times as much as what your neighbor just built their  
22 house for, you'd start to wonder about your architect's  
23 numbers.

24 So on page 29 of its application TEP  
25 claims, "The extra cost is significant and will result in

1 higher rates for all TEP customers if included in the  
2 rate base. To verify the veracity of this claim, we can  
3 do some research and some math.

4 "According to Sargent & Lundy's latest  
5 estimates to comply, the City of Tucson laws would  
6 require 2.8 miles of 138-kilovolt undergrounding. While  
7 we think Sargent & Lundy's numbers are high, if we use  
8 the lower end of \$12.5 million per mile, and assume an  
9 aboveground cost of \$4.1 million per mile as TEP has  
10 estimated, the total extra cost to comply with the law is  
11 \$19.1 million."

12 CHMN STAFFORD: Is that per mile, total  
13 cost?

14 MR. DEMPSEY: Total cost.

15 CHMN STAFFORD: Total cost for the project.

16 MR. DEMPSEY: Whole project. Well, for the  
17 differential, the undergrounding differential.

18 CHMN STAFFORD: For which route is that?

19 MR. DEMPSEY: I think whatever they had --

20 CHMN STAFFORD: The preferred route.

21 MR. DEMPSEY: It's whatever their estimate  
22 was was 1-B or -- they had 1 and 2 and 3, it's B-1 and 3  
23 or 1 and 2.

24 CHMN STAFFORD: B-4 was the preferred  
25 route.

1 MR. DEMPSEY: Yeah, it's not --

2 CHMN STAFFORD: Because it's A, B, C, D  
3 were the first segments from DeMoss Petrie to Vine and  
4 then 1, 2, 3, 4, 5, 6 from Vine to Kino.

5 MEMBER GOLD: Mr. Chairman, I think what  
6 he's referring to is D-6.

7 CHMN STAFFORD: D-6, is that the one you're  
8 referring to?

9 MEMBER GOLD: That's the one on Campbell.

10 MR. DEMPSEY: I think it's 1-B or 1-A --  
11 I'm not sure, it's whatever Sargent & Lundy has in their  
12 report. I think it's 1 --

13 CHMN STAFFORD: Okay.

14 MR. LUSK: If I may, Mr. Chair, I believe  
15 the report was comparing B-4 with D-1.

16 CHMN STAFFORD: Okay.

17 MR. DEMPSEY: Sorry. Yeah.

18 CHMN STAFFORD: Please proceed,  
19 Mr. Dempsey. And just take a breath --

20 MR. DEMPSEY: Okay.

21 CHMN STAFFORD: And slow down a little bit,  
22 please.

23 MR. DEMPSEY: So the question is is this  
24 cost -- is this extra cost significant to ratepayers? To  
25 answer this question, we need to find an underground

1 asset depreciation rate, and TEP's ratepayer collection  
2 amount. We can also look at TEP's capital expenditures  
3 to see whether this is a significant additional cost.

4 First things first. Let me quickly try to  
5 explain depreciation. According to the law, an asset has  
6 to be expensed over its useful life, which is in part to  
7 protect ratepayers from overzealous utility cost  
8 recovery.

9 It's set by FERC, it's set by the ACC. And  
10 depreciation is a moving target. As the technology  
11 improves and operators learn to operate it responsibly it  
12 can last longer and longer. Notably, recent studies show  
13 that current vintage XLPE may last for 100 years or more  
14 if it is responsibly operated. 40 years may end up being  
15 on the low end for most operators. A 100-year asset life  
16 would equate to a depreciation rate of 1 percent. We're  
17 not going to use that. We're going to use some APS, some  
18 current APS figures.

19 CHMN STAFFORD: Member Hill, do you have a  
20 question?

21 MEMBER HILL: Yeah. Mr. Dempsey, because  
22 this is your exhibit I want to ask this question. I know  
23 it was asked of Mr. Jocham. Is this a peer-reviewed  
24 research paper?

25 MR. DEMPSEY: From my understanding it was

1 presented at a conference and it's from a -- I think  
2 Mr. Jocham said it's from a manufacturer. I'm not sure.  
3 But --

4 MEMBER HILL: So it's conference  
5 proceedings summary, not a peer-reviewed paper.

6 MR. DEMPSEY: And it's an engineering -- I  
7 don't know if its peer reviewed. I have no idea.

8 MEMBER HILL: That's just a significant  
9 factor as working for a science-based organization. So  
10 that data is much more valuable when the industry has  
11 done peer review around it. So anyways, that's why I  
12 asked the question. I just want to be clear.

13 MR. DEMPSEY: And I want to be clear that  
14 I'm not claiming these are going to last a hundred years.  
15 I'm just showing you an example of how depreciation rates  
16 can come down over time, as technology improves, as they  
17 learn how to -- you know, they learn how to get out  
18 defects, you know.

19 MEMBER HILL: I agree with that. Thank  
20 you.

21 MR. DEMPSEY: Okay. So where was I?  
22 According to APS public filings, it depreciated  
23 underground conduit at 1.55 percent per year, and  
24 underground conductors at 1.33 percent per year. For the  
25 sake of conservatism, we will use the higher figure of



1 1.55 percent.

2 To avoid arguments about what it should be  
3 I want to be clear that if we move it up or down slightly  
4 it will fundamentally change our conclusions.

5 And according to TEP's SEC filings it  
6 collected \$1.3 billion from ratepayers in 2023. Billion.

7 In addition, as Erik Bakken said in his  
8 testimony, TEP expects to spent \$3.5 billion on capital  
9 expenditures over the next five years.

10 So we first multiply the extra costs to  
11 underground, which is \$19.1 million by this depreciation  
12 rate of 1.55 percent to get an annual depreciation  
13 expense of \$296,000 -- or \$296,050.

14 We then divide this depreciation expense  
15 into TEP's annual ratepayer collections of \$1.3 billion  
16 to get cost as a fraction of ratepayer collections, which  
17 is 0.000023 or 23 hundred-thousandths. And I suppose  
18 there's some debate as to whether it's hundred  
19 thousandths or 10 thousandths.

20 To illustrate on a hundred electric bill, a  
21 ratepayer might pay an extra 2.3 cents. Even TEP's  
22 worst-case scenario cost of three times more, even with  
23 TEP's worst-case scenario cost of three times more, we're  
24 talking about only six or seven cents. TEP recently got  
25 two rate increases that increased bills by roughly \$10

1 each, or \$20 total. You can read about these in UAZ  
2 Exhibits 47 and 48.

3 According to Erik Bakken's testimony, its  
4 \$3.5 billion in projected capital expenditures may result  
5 in similar rate increases over the coming year.

6 I think most people in the area would say,  
7 "Hey, if you're going to increase my rates \$10 every few  
8 years I'd appreciate it if you could put a few pennies  
9 into protecting the city center and university which is  
10 important to bringing in jobs to the whole region."

11 I say they might pay 2.3 cents more because  
12 there are dozens of factors that could offset this  
13 increased cost. For example, in its application TEP  
14 claims to be retiring 19 miles of 46-kilovolt lines and  
15 eight substations. Ratepayers are currently paying for  
16 those lines and substations. When they are retired  
17 they're removed from the rate base.

18 It is possible that their removal will save  
19 ratepayers more than the cost of this project. This data  
20 is not publicly available, so I cannot provide a  
21 calculation.

22 TEP just invested another \$10 million and  
23 has spent millions fighting Tucson's laws. Those are  
24 also cost to ratepayers that I would assume -- have to be  
25 recovered for seemingly no long-term benefit.

1 MEMBER KRYDER: Mr. Chairman.

2 CHMN STAFFORD: Yes, Member Kryder.

3 MEMBER KRYDER: One quick question,  
4 Mr. Dempsey. When you talk about ratepayers, you mean  
5 that all TEP ratepayers including me down in Green Valley  
6 should pay for Central Tucson.

7 MR. DEMPSEY: So I'm going to get into  
8 that. But --

9 MEMBER KRYDER: Well, you already have.

10 MR. DEMPSEY: Well, I'll get into it --  
11 I'll explain exactly that.

12 MEMBER KRYDER: Okay.

13 CHMN STAFFORD: I guess basically in this  
14 calculation it assumes that it's spread evenly throughout  
15 all ratepayers and not allocated only to city residents.  
16 He hasn't made -- he hasn't commented yet whether that's  
17 what it should be. That's just his initial starting  
18 point for showing the cost of it.

19 Is that correct, Mr. Dempsey?

20 MR. DEMPSEY: Yeah. I'll explain. I'll  
21 address that exact thought. I appreciate it.

22 Okay. So.

23 CHMN STAFFORD: Now, we're on page 46 of  
24 your presentation, moving on to 47. Okay.

25 MR. DEMPSEY: So in addition, recent

1 industry studies show that the long-term cost savings of  
2 underground lines can more than offset the higher upfront  
3 cost resulting in a net saving to ratepayers over the  
4 life of the underground asset, compared to an aboveground  
5 asset. See for example UAZ Exhibit 56.

6 The biggest long-term cost advantage for  
7 underground lines is protection from severe weather and  
8 other hazards like wind, lightning, fires, wildlife,  
9 trees, accidents, vandalism.

10 Moreover according to the National Oceanic  
11 and Atmospheric Administration, in the last 20 years and  
12 after controlling for inflation, the number of severe  
13 weather events costing \$1 billion or more has tripled.  
14 See UAZ Exhibit 13.

15 Downed power lines also create hazards to  
16 people and property as evidenced recently in California  
17 and Hawaii, which increases insurance costs. That is why  
18 I ask my question about fire, not because I think it is  
19 likely but because the cost to insure overhead lines is  
20 starting to go up relative to cost to insure underground  
21 lines.

22 You can look at Exhibit -- UAZ Exhibit 14  
23 for a discussion on that.

24 These risks do not exist at nearly the same  
25 levels with undergrounding. According to the studies

1 over the 60-plus-year life of an underground asset, the  
2 cost from repairs and liabilities after only a few severe  
3 storms can be substantial, and that is why strategic  
4 undergrounding programs are happening all over the  
5 country and not just with distribution lines.

6 Just a moment here. So this is a slide of  
7 a few examples of undergrounding programs. Distribution  
8 and transmission throughout the country at different  
9 utilities. And these studies are a mix of distribution  
10 and transmission. It's hard to find ones that are  
11 strictly one or the other, but they're really interesting  
12 reads.

13 As one additional example, according to the  
14 Energy Information Administration, which is UAZ  
15 Exhibit 15, average electricity outage time due to major  
16 weather events has been steadily growing. As such, in my  
17 professional opinion, underground lines can be justified  
18 as a prudent long-term investment regardless of the other  
19 line siting factors.

20 So I'm going to jump ahead here and then  
21 I'm going to come back. So --

22 CHMN STAFFORD: Jumping ahead to which  
23 slide?

24 MR. DEMPSEY: 62.

25 So in addition, TEP underestimates its risk

1 of private property owner lawsuits. If a property owner  
2 sues for a loss of value, as it has been explained to me,  
3 it goes before a jury --

4 CHMN STAFFORD: Hold on a second here. I'm  
5 looking at the -- hang on. The 62 in my tablet doesn't  
6 match up to 62 on the screen.

7 MR. DEMPSEY: So you might -- I think I  
8 gave her updated slides. She probably loaded the slides  
9 last night or this morning.

10 CHMN STAFFORD: Okay. Well. It helps to  
11 have the same set where we're all on the same page. This  
12 is page 61, what's on the tablet.

13 MR. DEMPSEY: Okay. That's --

14 CHMN STAFFORD: What's the exhibit that the  
15 court reporter has?

16 MR. DEMPSEY: She doesn't have it yet. She  
17 will.

18 CHMN STAFFORD: Okay. Well, hey, how much  
19 -- okay. Let's get --

20 MR. DEMPSEY: I'm --

21 CHMN STAFFORD: It's 12:36. I think I'm  
22 starting to get hungry here. Let's take the lunch recess  
23 and let's get your exhibits sorted out so it's all the  
24 same thing. Because we have -- the page, the exhibit  
25 that I'm looking at has a missing page.

1 MR. DEMPSEY: All I did is add this exhibit  
2 which is TEP's service area. I mean, this slide. That's  
3 the only difference. That's why yours is one more.

4 CHMN STAFFORD: So go back up to 54.

5 MR. DEMPSEY: 54.

6 CHMN STAFFORD: 54. At this point it  
7 appears the presentations are the same, it's that you  
8 added a new 55 that throws the numbering off.

9 MR. DEMPSEY: I did.

10 CHMN STAFFORD: Okay. Let's take the lunch  
11 recess. We'll get that sorted out over the lunch break  
12 and then we'll come back with you on page -- let's go  
13 back to page 54 to make sure we're synced up with the --  
14 so we all have the same exhibit.

15 MR. DEMPSEY: I was only on 50.

16 CHMN STAFFORD: Right. But then you jumped  
17 ahead and it was --

18 MR. DEMPSEY: I was going to come back to  
19 here.

20 CHMN STAFFORD: And the number, the break  
21 point is 54. So I want to just make sure we're looking  
22 at the same exhibit. Because that's going to be  
23 difficult with the transcript if it's -- we're talking  
24 about one set of pages on the transcript and the actual  
25 exhibit that gets filed is a different number.

1 MR. DEMPSEY: She'll absolutely have the  
2 right one.

3 CHMN STAFFORD: Okay. Let's take a recess  
4 till approximately, let's say let's come back at 1:45.  
5 We stand in recess.

6 (Recess from 12:38 p.m. to 1:50 p.m.)

7 CHMN STAFFORD: Let's go back on the  
8 record. Mr. Dempsey, you got your slide show all squared  
9 away, ready to go? Please proceed.

10 MR. DEMPSEY: Thank you. Excuse me.

11 So this is where we left off, I'm going to  
12 start from the beginning.

13 In addition, TEP underestimates its risk of  
14 private property owner lawsuits. If a private property  
15 owner sues for loss of value as it has been explained to  
16 me, it goes before a jury. And while TEP will obviously  
17 claim there is no loss of value, the plaintiff will have  
18 their own expert to claim there is a large loss in value.

19 Now, where the jury will land is anyone's  
20 guess. But the idea that it will land at no damage is  
21 optimistic at best.

22 TEP is trying to go through the densest  
23 part of town where a lot of investment is happening.  
24 What this table is showing you is that if a jury lands at  
25 5 percent property value damage with a corridor width of



1 600 feet, the extra cost to TEP and ratepayers could be  
2 \$4 million per mile.

3 If it lands -- if it lands at a 1,000-foot  
4 corridor and 10 percent property damage, the extra cost  
5 could be \$13.2 million per mile.

6 I say this not because I know what will  
7 happen, but because it is a very large risk that TEP  
8 fails to account for. Moreover, property owner lawsuits  
9 could slow down the project even further given how narrow  
10 the right-of-way is on, for example, Euclid.

11 A lot of investors and homeowners have  
12 invested in these areas because they believe the views  
13 were protected from new overhead lines by local laws. If  
14 suddenly they have a high-voltage transmission line  
15 outside their window or above their house, they may very  
16 well sue.

17 There are dozens of studies on this topic  
18 that show damage as high as 20 percent and corridors as  
19 wide as 2,000 feet. The higher the population density  
20 and value of property, the bigger the risk is to TEP. A  
21 study of studies was performed by UNS Electric and is  
22 available as UAZ Exhibit 43.

23 Once again, these property value risks do  
24 not exist at least not in any study I have seen with  
25 underground lines.

1 On another note, I want to quickly address  
2 the question of ratepayers paying for infrastructure that  
3 will not benefit them or that they will not use.

4 That is TEP's entire business model.  
5 Ratepayers in Tucson city limits pay for new or improved  
6 infrastructure in Marana, even though they may never go,  
7 and people in Marana are paying for loops in east Tucson.

8 If TEP wants costs to only be borne by a  
9 city, it's arguing against its own business model, and  
10 for city-run utilities like is done for sewer and water.

11 Moreover, the Tucson metro is not just the  
12 Tucson city limits, it is the unincorporated foothills  
13 and all the exurbs and all the cities around Tucson that  
14 depends on the city center for jobs and prosperity.

15 As far as I know the Tucson metro is TEP's  
16 entire service area. Protecting the city center and  
17 university brings value to the entire region. I believe  
18 this is the calculation APS made in Phoenix when it  
19 undergrounded 11 miles 50 years ago and decided to  
20 refurbish it again today.

21 And that was made in Tempe adjacent to ASU  
22 in the earlier 2000s. And this was all before these  
23 places were as dense as they are now. The trend is  
24 toward increasing density in city centers and university  
25 areas. This is also, I believe, why SRP now deems it

1 prudent to use utility money to pay for transmission  
2 undergrounding even where it is a mere preference. The  
3 economic benefits of undergrounding in strategically  
4 important areas can pay for themselves multiple times  
5 over. Even for the utility.

6           Given that the cost of ratepayers is  
7 insignificant, assets are being retired, underground  
8 lines may save ratepayers a substantial amount of money  
9 over the next century, and TEP may be massively  
10 underestimating its underground costs, TEP's claim that  
11 underground lines would, quote, would result in higher  
12 rates relative to aboveground lines, is at best a guess.

13           It may end up being right, but it may also  
14 end up being very wrong. And the statute allows for  
15 higher spending to protect Arizona's assets.

16           I focused my testimony on the most  
17 important claims TEP makes in its application. In my  
18 professional opinion, so many of TEP's cost claims fail  
19 to withstand scrutiny that were this an investment before  
20 Citigroup or investor client, we would decline to invest  
21 in it without major corrections or additional information  
22 from arm's length third parties.

23           The risks of drawn-out litigation and a  
24 loss are simply too great. TEP's application fails to  
25 respect at least line siting factors 1, 5, and 6. They

1 make a big deal out of 8, but the cost of complying with  
2 local laws are significant neither to TEP nor ratepayers.

3 As TEP has established, there are a  
4 substantial number of city plans and ordinances that TEP  
5 hopes it will get excepted from or variances from. TEP  
6 is trying to make land use decisions that will  
7 significantly affect the property owners and businesses  
8 in the most rapidly densifying area of the city for the  
9 next 75 years.

10 And that's just not TEP's role. That is  
11 the City's role. The City regularly has large trenching  
12 projects on major streets. Route 1 on Campbell works  
13 well because it is a six-lane road with a median, and on  
14 the west side of the street is a 20-foot or larger  
15 setback in some places.

16 None of these areas have similar width or  
17 such large setbacks. Euclid had no setbacks and the  
18 adjacent property is the most strictly regulated property  
19 in the city.

20 People and businesses have invested in that  
21 historic area because it is so fiercely protected. So  
22 factor 1 disfavors the project.

23 Given decades-old scenic and historic  
24 protections in these areas that are fiercely defended and  
25 enforced, factor 5 also disfavors the project. Frankly,

1 if factor 5 is not intended to protect exactly this type  
2 of area, then what is it intended to protect?

3 And if you look at the total environment of  
4 the area, which includes substantial infill development,  
5 the university and its importance to the state's economy,  
6 historic areas, the scenic areas and so much more, factor  
7 6 also disfavors the project.

8 I asked about blowout, because TEP's  
9 project will reduce the amount of a property owner's  
10 usable land. If you have a 200-foot-long property and  
11 you lose 15 feet, you lose 3,000 square feet. And if you  
12 lose 10 stories you lose 30,000 square feet.

13 These kinds of differences can make or  
14 break a project. Transmission lines can also affect  
15 whether someone is interested in infill development to  
16 begin with. As Mr. Barkenbush testified, UMC Banner  
17 invested in a view. Others have and will make the same  
18 investment with the expectation that the City will  
19 enforce its laws.

20 Listed here are a couple of recent news  
21 articles on high-density development in the area. These  
22 are UAZ Exhibits 44 to 46.

23 TEP has tried to claim there will be a  
24 reduction in poles, but it cannot guarantee that, and  
25 there may be a significant increase in poles as

1 communication providers and service drops need new poles.

2 The city's laws require the undergrounding  
3 of new lines, not a reduction in poles. The transmission  
4 line is a new line. It's not even clear that reducing  
5 pole counts while increasing pole heights is a visual  
6 improvement. That's a highly subjective determination.  
7 It's a highly subjective determination.

8 According to the courts, a city is legally  
9 allowed to do what the City of Tucson has done in  
10 protecting strategically important areas. And these  
11 protections perfectly align with the line siting factors.

12 I can find nothing that says even if you  
13 accepted TEP's cost arguments that cost supercedes the  
14 other factors. So at best TEP can hope only one of the  
15 factors favors the project.

16 Beyond that, however, under subsection D,  
17 TEP is asking that you determine the City of Tucson's  
18 laws to be unreasonably restrictive and compliance  
19 therewith not feasible in view of the technology  
20 available.

21 The City of Tucson's laws do not prohibit  
22 the routing of transmission lines through any of these  
23 areas. What they do do, however, is tell TEP that if you  
24 want to go through these areas with new transmission  
25 lines, you're going to have to go underground.

1           TEP could have chosen not to go through  
2 these long-protected areas for its looping. However, it  
3 has done so, and the cost of changing its plans are  
4 surely higher than the cost undergrounding the few miles  
5 required here.

6           The City of Tucson's laws are not  
7 unreasonably restrictive. Indeed, in my opinion they are  
8 completely reasonable given the area and its importance  
9 to south Arizona and all of Arizona in its competition  
10 with other states for business and tourism. These are  
11 not laws that require undergrounding through a cotton  
12 field.

13           Furthermore, the cost is feasible any way  
14 you look at it. It is not even a rounding error to TEP's  
15 ratepayer collections or projected capital expenditures.  
16 Moreover, undergrounding happens regularly throughout the  
17 state, even where it's not required by law, and it's  
18 successfully recovered from ratepayers as prudent  
19 spending.

20           As Mr. Bakken testified, he's unaware of  
21 the ACC ever denying ratepayer recovery for the extra  
22 cost of an underground line. I similarly can find no  
23 such occurrence.

24           If, as Mr. Robinson testified, the ratio of  
25 transmission to distribution is 15 to 1, then for every

1 one million in dollars in extra costs for undergrounding  
2 a distribution line, \$15 million towards undergrounding a  
3 transmission line should be recoverable using the same  
4 principle.

5 If cost recovery is indeed a real issue,  
6 TEP should be fighting the ACC alongside the City of  
7 Tucson for recovery instead of fighting the City of  
8 Tucson.

9 As a legal argument about prudent spending,  
10 I believe TEP would win.

11 I'd like to close -- I'd like to close by  
12 emphasizing two prior points, and then suggesting an  
13 alternative.

14 The first point is that the low end of  
15 Sargent & Lundy's estimates -- using the low end of  
16 Sargent & Lundy's estimates, the differential cost to  
17 construct the Midtown Reliability Project underground in  
18 the required location is approximately 2.3 cents on a  
19 hundred dollar customer invoice.

20 In our view this cannot be defined as a  
21 significant cost, let alone infeasible.

22 Second point is that there numerous ways to  
23 handle the issue of the need for the completion of the  
24 project by 2027. There's the halfway solution, for one.  
25 Which I talked about at the beginning.



1 Another way is for TEP to continue to  
2 repair the present system for a year or 18 months as it  
3 is doing now, which would cost \$9.5 million and get us to  
4 2030.

5 Then there's a third alternative. This  
6 third alternative would be for the Line Siting Committee  
7 to approve the shortest route which I believe is  
8 Route 1-A, and not vote to supersede any local laws.  
9 This would give TEP an opportunity to follow the laws  
10 without having to start this process all over again.

11 In my professional opinion, following the  
12 law and undergrounding where it requires is a just and  
13 reasonable expense as is required by the ratemaking  
14 statute for the following reasons:

15 One, the line siting factors favor  
16 protecting the area;

17 Two, the City of Tucson's laws require  
18 undergrounding to protect the area;

19 Three, the existing case law and now this  
20 recently decided case allow cities to mandate  
21 undergrounding;

22 Four, existing ACC precedent and policies  
23 allow utilities to recover the cost of undergrounding  
24 especially where required by law;

25 Five, the costs are relatively

1 insignificant to TEP or ratepayers;

2 Six, studies show that undergrounding lines  
3 can increase reliability and save money over their  
4 lifetime;

5 And, seven, continuing to fight is wasteful  
6 and will result in more expense than following the law  
7 costs and TEP may lose in the end anyways.

8 In conclusion, if you do not choose  
9 Route 1-A, then you should deny TEP's application so it  
10 can find the least-cost underground route through the  
11 area or an alternative.

12 Please deny TEP's request to supersede  
13 certain local laws. TEP has not even asked you to  
14 supersede all of the possible local conflicts, only some  
15 of them.

16 TEP continues to have huge blind spots to  
17 the reality it finds itself in. The most surefire way to  
18 push TEP toward a speedy resolution is to deny its  
19 request to supersede and encourage it to follow the law.  
20 If it had done so from the beginning this project would  
21 be nearly done by now.

22 Thank you for your time.

23 CHMN STAFFORD: Mr. Dempsey, there's a  
24 number of slides left in the presentation. Are you not  
25 going to use those?

1 MR. DEMPSEY: No. Not unless I need to for  
2 rebuttal or something like that.

3 CHMN STAFFORD: Rebuttal?

4 MR. DEMPSEY: I'm used to giving investor  
5 presentations and then you have a bunch of slides in the  
6 back that you might have to refer to if a question comes  
7 up.

8 CHMN STAFFORD: If you're going to use  
9 them, now is the time to use them.

10 MR. DEMPSEY: Then we don't -- I'm not  
11 going to use them.

12 CHMN STAFFORD: Okay. Because, like, it's  
13 typically only the applicant, the applicant has the  
14 burden so they'd get the rebuttal.

15 MR. DEMPSEY: I mean in response to  
16 rebuttals, like if they're asking me questions and I can  
17 respond using a slide.

18 CHMN STAFFORD: Oh, you mean like during  
19 your cross?

20 MR. DEMPSEY: Yeah.

21 CHMN STAFFORD: Oh, okay. I guess okay.  
22 All right. Fine. Any questions from members before  
23 Mr. Dempsey's available for cross-examination?

24 MEMBER GOLD: Mr. Chairman.

25 CHMN STAFFORD: Yes, Member Gold.

1 MEMBER GOLD: A quick question. If I  
2 understood you correctly you said this would affect  
3 ratepayers in the entire TEP region.

4 MR. DEMPSEY: That's correct.

5 MEMBER GOLD: But it will only benefit the  
6 ratepayers in the specific areas.

7 MR. DEMPSEY: That's --

8 MEMBER GOLD: If there was another option  
9 where they to do something, just charge those areas a  
10 different rate? What did you mean by that?

11 MR. DEMPSEY: So, I mean, so I would  
12 disagree in the sense that I don't believe it benefits  
13 just this area. I believe it benefits the whole region  
14 because this area is the heart of the whole region.

15 So just like as they protected, as APS  
16 protected central Phoenix or APS protected ASU, I believe  
17 you should protect the university and southern Arizona in  
18 the center of town.

19 And I don't -- I think it's a little bit  
20 overstated that it's for the benefit of the people just  
21 in this area. I think it's for the benefit of everybody.

22 MEMBER GOLD: Okay. And you also said that  
23 this is something that the utility should pay for, not  
24 the City of Tucson, but the utility. And it should be --  
25 it should affect all the ratepayers, then. Would you

1 just repeat how much you think it should affect the  
2 ratepayers?

3 MR. DEMPSEY: So worst-case scenario is a  
4 few cents per month.

5 MEMBER GOLD: I'm sorry?

6 MR. DEMPSEY: Worst-case scenario is a few  
7 cents per month.

8 MEMBER GOLD: Per hundred dollars of bill?

9 MR. DEMPSEY: Yes. Yeah. And that's not  
10 including retirement, asset retirement, everything else  
11 which would reduce that amount. And also this is  
12 simplistic, because it has to be, but, for example,  
13 commercial ratepayers pay more than residential  
14 ratepayers, so if you're a residential ratepayer it would  
15 be less to you anyways just because of the ratios  
16 involved.

17 MEMBER GOLD: Okay. And when --

18 CHMN STAFFORD: That's if the charge is  
19 assessed on a kilowatt basis; correct?

20 MR. DEMPSEY: Yeah. However.

21 CHMN STAFFORD: Because, like, yeah, it can  
22 be a flat fee or -- typically it's the volumetric charge  
23 collects the bulk, so -- and typically adjusters are  
24 fueled off the kilowatt hours, the volumetric charge.

25 MEMBER GOLD: Thank you.

1 CHMN STAFFORD: So it would vary. If you  
2 use more you'll pay more for whatever that charge is.

3 MEMBER GOLD: Understood. A few cents per  
4 month is what he says, so I wrote that down.

5 MR. DEMPSEY: And can I add to that? So  
6 that's actually what the University of Arizona has told  
7 me is that they are completely great with undergrounding,  
8 they just want to pay it through their rates.

9 MEMBER GOLD: Okay. Now you said  
10 undergrounding along Route 1, is that about 1.8 miles in  
11 the commercial area? Campbell.

12 MR. DEMPSEY: Yeah, it's Campbell, yeah  
13 because it's --

14 MEMBER GOLD: 1.8 miles commercial. What  
15 about crossing the other gateway areas? Would you go  
16 underground there or would --

17 MR. DEMPSEY: No, I would assume they would  
18 get an exception since probably going underground would  
19 be worse than -- because you have to put the risers and  
20 everything.

21 MEMBER GOLD: Understood. So you're pretty  
22 much saying only undergrounding in the Campbell gateway  
23 area.

24 MR. DEMPSEY: Yeah, if you choose Route 1-A  
25 which I think -- and I say because it's the shortest

1 route, simplest thing to do for all of this.

2 MEMBER GOLD: Understood. Route 1-A.

3 MR. DEMPSEY: And I don't have a strong  
4 opinion about after -- like the after -- if they have a  
5 different -- I don't have a position on Ring Road and all  
6 that kind of stuff. I'm just --

7 MEMBER GOLD: Understood. Understood. And  
8 what are you saying the cost to underground that  
9 1.8 miles will be and how does that compare to TEP's cost  
10 estimate?

11 MR. DEMPSEY: Well, I'm using TEP's cost  
12 estimate. I'm using the low end. They only talk about  
13 the high end.

14 MEMBER GOLD: So what was the range?

15 MR. DEMPSEY: It was -- \$19 million is the  
16 low end.

17 MEMBER GOLD: Up to --

18 MR. DEMPSEY: That's to do the whole thing.  
19 I didn't calculate it per section.

20 MEMBER GOLD: So 19 million for the entire  
21 area.

22 MR. DEMPSEY: The 2.28 miles, which is  
23 column 3.

24 MEMBER GOLD: Oh, it's 2.28 miles.

25 MR. DEMPSEY: Yeah.

1 CHMN STAFFORD: You're looking at slide  
2 number 37 of UAZ-62; correct?

3 MEMBER GOLD: That's on page 37. Let me  
4 jump over there. I'll get it. Let me go over here. So  
5 that's Sargent & Lundy's estimate, underground and  
6 overhead combination, 19.14 million as opposed to what  
7 was the total cost for just over -- overhead?

8 I have it. I think I can look that up.

9 MR. DEMPSEY: Oh, I have it all the way at  
10 the beginning.

11 MEMBER GOLD: So the overhead cost,  
12 overhead cost was -- that's per mile. Overhead. Where's  
13 overhead cost?

14 MR. DEMPSEY: 11.8. That's for Route 1. I  
15 don't know.

16 MEMBER GOLD: For Route 1, so it's versus  
17 11.8.

18 MR. DEMPSEY: Yeah. The 19 is subtracting  
19 out the 11.8.

20 MEMBER GOLD: So if they were to go  
21 strictly overhead it would be 11.8 million on this route.  
22 But to go --

23 MR. DEMPSEY: Well, so wait. Let me -- let  
24 me correct you. Let me correct myself. That's the whole  
25 Route 1. We're only talking about undergrounding a



1 portion of Route 1.

2 MEMBER GOLD: Yes.

3 MR. DEMPSEY: So that's why you have to do  
4 it per mile.

5 It's only a little more than half.

6 MEMBER GOLD: Okay. Let me rephrase it,  
7 and anybody who can answer this question correctly,  
8 please help me.

9 To underground Route 1, just Route 1, okay,  
10 that's just the southern portion, green on my place,  
11 would cost 19 million. Is that correct?

12 MR. DEMPSEY: According to the low end of  
13 their estimates.

14 MEMBER GOLD: So that's TEP low end.

15 MR. DEMPSEY: Yep. If it was based on our  
16 analysis it would be even lower than that. But I used  
17 their numbers just to be conservative.

18 CHMN STAFFORD: You're talking about the  
19 numbers on Slide 16 of UAZ-62; correct? Okay. Now  
20 you're moving to Slide 17.

21 MR. DEMPSEY: This is the one we're talking  
22 about. I was just telling you how I got the 4.1 million.

23 MEMBER GOLD: Okay. Well, you're doing per  
24 mile and I'm trying to keep apples with apples.

25 MEMBER KRYDER: Mr. Chairman.

1 MEMBER GOLD: So what I want to know is if  
2 you didn't underground it, if they get variances and they  
3 can go strictly aboveground on that same route, how much  
4 would that cost? Just Route 1. I saw a chart that had  
5 it before. I think it's presented by TEP.

6 MR. DEMPSEY: I think right there it says  
7 6.1. 6.1.

8 MEMBER GOLD: So overhead total versus  
9 6.1 --

10 MR. DEMPSEY: It's right here.

11 MEMBER GOLD: -- million, so the difference  
12 is 13 million.

13 MR. DEMPSEY: Well, wait a second. I'm  
14 sorry. It's right here. 9.3 would be the overhead cost  
15 through that area.

16 MEMBER GOLD: Let me change it to 9.3. So  
17 that would be roughly \$10 million difference. And you're  
18 saying --

19 MR. DEMPSEY: No, so the difference is, so  
20 we're subtracting the total cost is 28 and we are  
21 subtracting 9 to get to the 19.

22 MEMBER GOLD: Okay. And if you didn't do  
23 the undergrounding it would be 9.3? If it was all over.

24 MR. DEMPSEY: Yeah, according to their  
25 estimate, yeah.

1 MEMBER GOLD: Okay. So that's a difference  
2 of 10 million. So you're saying that the 10 million  
3 would involve pennies per hundred dollars or for kilowatt  
4 hours.

5 MR. DEMPSEY: Yes, pennies or less, yes.

6 MEMBER GOLD: And it would avoid lawsuits  
7 and it would avoid breaking all the laws. But you didn't  
8 address disruption to the businesses, to the street. I  
9 mean --

10 MR. DEMPSEY: That's fair.

11 MEMBER GOLD: -- and the time frame. So  
12 TEP said roughly one mile per -- per year, one mile per  
13 certain amount of months. Do you remember that number?

14 MR. DEMPSEY: A hundred feet a day, I  
15 think.

16 MEMBER GOLD: So there's 5,000, roughly  
17 5,280 feet per mile. A hundred per day would be 528 days  
18 to go one mile.

19 MR. LUSK: I believe --

20 MEMBER GOLD: Am I correct so far?

21 MR. LUCK: If I may, Roi Lusk, City of  
22 Tucson. If I may, Member Gold, I believe the testimony  
23 yesterday was it's approximately 95 days to go 1.8 miles.

24 MEMBER GOLD: Was that for overhead or for  
25 underground?

1 MR. LUSK: That was underground at a  
2 hundred feet a day for the excavation.

3 MEMBER KRYDER: Three months?

4 CHMN STAFFORD: Can you --

5 MEMBER GOLD: Wait a second. A hundred  
6 feet per day is 5,280 feet per mile. If you take off two  
7 zeros --

8 MR. LUSK: It's 52 days.

9 MEMBER GOLD: 5,280.

10 CHMN STAFFORD: That's right. 5,280  
11 divided by 100 is 52.8.

12 MEMBER KRYDER: 52 work days.

13 MEMBER GOLD: So 52 work days assuming no  
14 problems. Correct?

15 MR. LUSK: If you want to make that  
16 assumption, sure.

17 MEMBER GOLD: We'll, let's assume we're  
18 going to look at a best-case scenario. So you would be  
19 disrupting Campbell Avenue for roughly 52 days. It could  
20 be double that. It could be is a hundred days. But  
21 still doable in the time frame. They don't have to go to  
22 court. They don't have to worry about going through  
23 neighborhoods with lawsuits that were possibilities.

24 The big drawback is they're spending an  
25 extra \$10 million.

1 MR. DEMPSEY: 19.

2 MEMBER GOLD: Up front, because that's the  
3 numbers I just came up with. Now, they can save it or  
4 portions of it over the long run with maintenance and  
5 everything else. But we're still talking \$10 million to  
6 the utility to put this in.

7 MR. DEMPSEY: Right.

8 MEMBER GOLD: And taking roughly -- let's  
9 look at worst-case scenarios and triple that. And that  
10 would be 150 days. So that would be -- I'm going to say  
11 six months is a worst-case scenario because you not only  
12 have to do it, you've got deal with problems, you've got  
13 to deal with -- what law -- what legal ramifications are  
14 they going to have or could you foresee them having if  
15 they have to tear up Campbell Avenue, one half of it at a  
16 time for roughly half a year?

17 MR. DEMPSEY: I'm not -- I'm not  
18 familiar -- I wouldn't expect -- I would expect City --

19 MEMBER GOLD: Well, how did the store  
20 owners react in the cities that did it? Were they  
21 comparable size streets in business districts?

22 MR. DEMPSEY: I think so.

23 MEMBER GOLD: I saw one thing up there that  
24 was.

25 MR. DEMPSEY: Yeah, I think some of them in

1 downtown Phoenix, or whatever, central Phoenix were  
2 smaller streets, yeah. It's -- it would be disruptive, I  
3 don't deny that.

4 MEMBER GOLD: So you have a disruptive  
5 factor there going underground.

6 MR. DEMPSEY: Right.

7 MEMBER GOLD: And also we heard testimony  
8 earlier that Tucson would have to job this out. They  
9 couldn't do it themselves.

10 MR. DEMPSEY: Yeah, and that's what they --  
11 all the companies do that. Not just TEP.

12 MEMBER GOLD: And your \$19 million includes  
13 jobbing it out.

14 MR. DEMPSEY: I assume so. It's their --

15 CHMN STAFFORD: You're using the figures  
16 from the Sargent & Lundy estimate, then?

17 MR. DEMPSEY: Yes.

18 CHMN STAFFORD: Whatever assumptions they  
19 had, he's using the same ones if he's using their  
20 numbers.

21 MEMBER GOLD: Okay. So the advantage of  
22 this is you're not breaking any of Tucson's laws, it's  
23 underground.

24 The disadvantage of this is it costs a lot  
25 more, takes a lot more time, and is it -- do they still

1 have to do inspections on underground stuff periodically  
2 that will disrupt traffic?

3 MR. DEMPSEY: Well, I believe -- I believe  
4 it's not all that different than a pole -- inspecting a  
5 pole or --

6 MEMBER GOLD: You don't got to close the  
7 street to inspect a pole, but if you got to go into those  
8 tunnels that are in the streets, you have to close the  
9 street.

10 MR. DEMPSEY: This is, to me is more an  
11 engineering question because there are parts of Campbell  
12 where I'm not sure they'll even have to put them on the  
13 street, the vaults and stuff may be in a side, in the  
14 setbacks. So it's possible they won't have to close the  
15 streets.

16 MEMBER GOLD: Are you saying that the  
17 undergrounding can be done in setbacks and not on the  
18 street?

19 MR. DEMPSEY: It's possible. And some of  
20 those setbacks on Campbell are very big.

21 MEMBER GOLD: I'm not an expert.

22 MR. DEMPSEY: No.

23 MEMBER GOLD: No knowledge of this. I'm  
24 relying on you as the expert.

25 MR. DEMPSEY: So it's possible. The

1 setbacks are very large in some of the areas. Some of  
2 them, not so much, but maybe they can, you know, put the  
3 vaults in those larger areas.

4 MEMBER GOLD: Let's assume we're going into  
5 the setbacks, then you have to have arrangements with all  
6 the people who own the store fronts.

7 MR. DEMPSEY: They're not -- it's  
8 residential. There's nothing. It's just a fence.

9 MEMBER GOLD: Campbell Avenue --

10 MR. DEMPSEY: Between Broadway and 6th,  
11 yeah.

12 MEMBER GOLD: It's just residential?

13 MR. DEMPSEY: Yeah.

14 MEMBER GOLD: Are you -- are you talking  
15 about undergrounding in the residential area or the  
16 commercial area? Now I'm confused.

17 MR. DEMPSEY: Just Campbell.

18 MEMBER GOLD: All of Campbell?

19 MR. DEMPSEY: From Broadway to Banner.

20 MEMBER GOLD: So from Broadway to Banner to  
21 the best of my recollection is all commercial.

22 MR. DEMPSEY: I guess it depends on which  
23 side of the street you're on and stuff like that.  
24 There's residential, there's commercial. It's a mix of  
25 things. There's the University of Arizona.



1 MEMBER GOLD: Well, the university is  
2 commercial.

3 MR. DEMPSEY: Okay. That's a huge -- I  
4 mean, that's the biggest stretch. You're correct. So  
5 from -- yeah, I would say yes, okay, I see where you're  
6 going -- what you're -- where you're at, yes. I would  
7 say the majority of it is commercial.

8 MEMBER GOLD: Okay. So it's commercial up  
9 until you get to the university, but I thought we heard  
10 testimony earlier that said by the university area the  
11 streets aren't wide enough, there's not enough area to go  
12 underground there because there's no setback.

13 MR. DEMPSEY: Well, that's the area they've  
14 been proposing for the last four years to do it in. And  
15 I -- I mean I -- it's the widest area through this --  
16 it's the widest, as far as I know it's the widest --  
17 widest right-of-way that goes north-south. Like I think  
18 Euclid's like half the size of --

19 MEMBER GOLD: Oh, I agree. Euclid is half  
20 the size.

21 MR. DEMPSEY: Yeah.

22 MEMBER GOLD: All right. I think you've  
23 given the pros of undergrounding and some cons. But  
24 you've given a great detail of information. Thank you  
25 for your expertise.

1 MR. DEMPSEY: To address one of your  
2 questions or your comments. So I believe what TEP is  
3 saying is that there's going to be disruption, they want  
4 to underground the distribution so there's going to be  
5 disruption either way in terms of the roadway.

6 MEMBER GOLD: Well, what -- TEP doesn't  
7 want undergrounding, TEP wants to go aboveground for the  
8 whole thing. Except they're not going to disrupt traffic  
9 to nearly the extent that undergrounding will if you're  
10 doing it on the roadway. That's what I heard.

11 MR. DEMPSEY: Except for distribution, they  
12 were going to underground distribution as well.

13 MEMBER GOLD: I don't think distribution  
14 goes on the street. I think distribution goes from their  
15 pole in.

16 CHMN STAFFORD: Member Gold, I recall the  
17 testimony being that they're -- where they're going to  
18 erect the high-voltage transmission line, the  
19 distribution lines that would -- that it would run over  
20 would be undergrounded. So they're going to underground  
21 the distribution lines in the same locations where they'd  
22 be putting overhead high-voltage line.

23 MEMBER GOLD: Yes, I understand that.

24 CHMN STAFFORD: Because a big chunk of the  
25 47kV will be eliminated. That will be taken away, and

1 what's going to be undergrounded won't be 46kV, it will  
2 be I believe 14kV or 14kV capable. But I think the  
3 distribution system -- and I'm just going off memory here  
4 -- I think is about 4kV. And that's what they'll operate  
5 at, but it will be capable at 14kV to accommodate the  
6 anticipated growth.

7 MEMBER GOLD: Understood. But that's going  
8 to be not in the street. That's going to be from the  
9 position of the utility poles toward the customers.

10 CHMN STAFFORD: Someone is going to run  
11 parallel to the transmission lines, I understand.

12 MEMBER GOLD: Again, it's not going to --

13 CHMN STAFFORD: It won't be attached to the  
14 transmission lines but it will be undergrounded. But,  
15 again, I think --

16 MEMBER GOLD: Will it be in the street or  
17 will it be in the setback?

18 CHMN STAFFORD: It depends on where, which  
19 street we're talking about, I think.

20 MEMBER GOLD: I'm talking only Campbell.

21 MEMBER HILL: Mr. Chair.

22 CHMN STAFFORD: Yes, Member Hill.

23 MEMBER HILL: I'd like an answer to this  
24 question, but I think we need to hear it from TEP. I  
25 think the franchise agreement will dictate to some extent

1 where it's going to be, and that is typically in the road  
2 right-of-ways of the city. So it may be in the road  
3 right-of-way.

4 CHMN STAFFORD: Right. I would anticipate  
5 that. Do we have any other further questions for  
6 Mr. Dempsey?

7 And then because we're not going to start  
8 questioning TEP yet now, because they're going to have  
9 their chance to cross-examine him and a lot of your  
10 questions may probably be answered during that.

11 But -- and then I think at some point  
12 after, you know, all the parties have put their direct  
13 cases on we'll have to recall witnesses from TEP and  
14 possibly other parties as we start to kind of talk  
15 through the issues and figure out the course of action  
16 that this Committee will take.

17 But let's finish up with questions for  
18 Mr. Dempsey.

19 MEMBER GOLD: And I have one more question  
20 for Mr. Dempsey.

21 CHMN STAFFORD: Okay.

22 MEMBER GOLD: Based on what you just  
23 brought up.

24 Mr. Dempsey, the distribution cables that  
25 are going to be undergrounded, are they going to be in

1 the street or are they going to be on the sidewalk, or  
2 are they going to be in some area closer to the  
3 buildings? From your experience with the other cities.

4 MR. DEMPSEY: My understanding is it would  
5 be where they currently are, they would just go  
6 underground. But I don't -- that's something they would  
7 have to answer. I don't know.

8 MEMBER GOLD: Then I'll call that question  
9 later.

10 MR. DEMPSEY: I think -- again, I think  
11 what the answer would be, I'm guessing is they have to do  
12 detailed engineering, because they don't know what  
13 obstacles they have and they have to figure all that out.

14 So I don't even know that they know yet  
15 exactly -- I think they would try to put them in the  
16 setbacks, but will they be able to? We don't know what's  
17 there.

18 MEMBER GOLD: I'll ask TEP when we get a  
19 chance later. Thank you.

20 CHMN STAFFORD: Member Mercer, you had a  
21 question?

22 MEMBER MERCER: Yes, it's in the same line.  
23 So the distribution lines versus the whole project, I  
24 understand the underground is a humongous task, so would  
25 it be different for the distribution lines, like a

1 smaller scale?

2 CHMN STAFFORD: I believe, the testimony  
3 that I recall is that it costs less and is less of a  
4 hassle to underground distribution as opposed to  
5 high-voltage transmission lines.

6 MR. DEMPSEY: It was still only a hundred  
7 feet a day.

8 CHMN STAFFORD: I don't recall what the  
9 rate for the distribution undergrounding was, but I'm  
10 sure it has -- they both are, they move more slowly than  
11 putting -- installing overhead lines. I'm pretty sure  
12 that was what the testimony was.

13 MEMBER MERCER: I would like a  
14 clarification for that.

15 MS. HILL: I'm sorry, what was the  
16 clarification?

17 MEMBER MERCER: The difference between the  
18 distribution lines versus the high voltage.

19 MS. HILL: Do you mean in terms of time or  
20 in cost?

21 MEMBER MERCER: Both, and construction.

22 CHMN STAFFORD: I think we were talking  
23 about the difference in undergrounding distribution as  
24 opposed to high voltage.

25 MS. HILL: Okay. So I do -- just for the

1 cost, just to give you a very quick, Mr. Robinson  
2 testified that undergrounding distribution is typically,  
3 I think he said one and a half to three times the cost of  
4 an overhead distribution.

5 And in terms of timing, I don't think that  
6 we have specific testimony on that, so we could always  
7 recall.

8 And then the differences, we did have a  
9 discussion yesterday about it, and you're talking about  
10 in terms of the actual mechanics of it, just so I can  
11 make sure that we're efficient.

12 MEMBER MERCER: The disturbing of the land  
13 or --

14 MS. HILL: Sure. Okay. All right.

15 CHMN STAFFORD: Yeah, I seem to recall  
16 Mr. Robinson testifying about the difference in depth,  
17 required depth to install distribution as opposed to high  
18 voltage.

19 MS. HILL: Yes, and there was also some  
20 testimony about width, I believe, but we can -- we can  
21 bring them back and do a shorter, more succinct version.

22 CHMN STAFFORD: All right. Well, with  
23 that, Mr. Dempsey is available for cross-examination  
24 beginning with the applicant. Looking at you,  
25 Ms. Grabel.

1 MS. GRABEL: Thank you, Mr. Chairman.

2 CHMN STAFFORD: Are you going to take it?

3 MS. GRABEL: I am, yes.

4

5

CROSS-EXAMINATION

6 BY MS. GRABEL:

7 Q. If we could go back to Slide 16 on UAZ-62. You  
8 were just testifying and kind of having a colloquy with  
9 Member Gold about these figures. You pulled the  
10 \$4.1 million per mile from the information provided by  
11 TEP; is that correct?

12 A. Yep.

13 Q. And TEP's table of overhead construction that  
14 results in a \$4.1 million per mile figure includes  
15 right-of-way acquisitions and the cost of burying  
16 distribution lines; correct?

17 A. Correct.

18 Q. Okay. And then you used the Sargent & Lundy  
19 cost for undergrounding; is that correct?

20 A. Correct.

21 Q. And do you recall that those lines do not  
22 include the cost of right-of-way and burying the  
23 underground distribution lines?

24 A. Right. They're the only numbers that I have.

25 Q. Okay. So this is not an apples-to-apples



1 comparison; correct?

2 A. It's not apples-to-apples but it's also not that  
3 different, because you shouldn't have a lot of additional  
4 costs in right-of-way.

5 Q. Well, do you recall where the discussion  
6 yesterday that the overhead construction drops to  
7 \$1.2 million per mile if you do not include the  
8 right-of-way and burying the distribution lines  
9 belowground?

10 A. Say that again.

11 Q. The \$4.1 million per mile drops to 2 -- I mean  
12 \$1.2 million per mile if you do not include the  
13 right-of-way acquisition cost and the cost to bury the  
14 distribution facilities?

15 A. I don't recall.

16 Q. That's in the record.

17 A. Okay. Yeah. I'm not representing that the  
18 Sargent & Lundy numbers include right-of-way acquisition.

19 Q. But your analysis does not compare  
20 apples-to-apples and therefore does not give this  
21 Committee an accurate depiction of what the costs would  
22 be?

23 A. Well, the difference is that the right-of-way  
24 cost relative --

25 Q. It's a yes-or-no question, Mr. Dempsey.

1 A. Can I explain?

2 Q. Just answer yes or no first.

3 CHMN STAFFORD: Please answer yes or no.

4 MR. DEMPSEY: What was the question?

5 BY MS. GRABEL:

6 Q. Would you agree that the cost because you are  
7 not using an apples-to-apples comparison, you did not  
8 give the Committee an accurate depiction of the cost per  
9 mile?

10 A. No. I disagree.

11 Q. Okay. We'll let the Committee decide.

12 CHMN STAFFORD: Ms. Grabel, is there a  
13 specific exhibit you can refer to with the numbers you're  
14 talking about?

15 MS. GRABEL: Certainly, in our discussion  
16 yesterday -- you can look at the Sargent & Lundy report  
17 which actually gives this analysis. I believe that's TEP  
18 Exhibit 17.

19 And we clarified on the record yesterday  
20 that the Sargent & Lundy report which results in the  
21 multiplier of 14 percent to 22 percent difference uses  
22 figures both for overhead and underground construction  
23 that do not include right-of-way acquisitions or the cost  
24 of burying distribution lines belowground.

25 And that analysis shows the Sargent & Lundy

1 costs depicted here, and a \$1.2 million per mile figure  
2 for overhead construction. That's apples-to-apples, just  
3 comparing purely underground for the same distance of  
4 segment as the overhead.

5 What is depicted on Mr. Dempsey's slide is  
6 mixing the two. So they're using the Sargent & Lundy  
7 underground fee, which is low because it doesn't include  
8 right-of-way and buried distribution lines, and the  
9 overhead transmission, which is high because it does  
10 include that amount. And in doing so, because they're  
11 not using apples-to-apples figures, the analysis misleads  
12 this Committee.

13 CHMN STAFFORD: Okay. Was that also  
14 addressed in your Exhibit 31?

15 MS. GRABEL: It was, yes.

16 MEMBER HILL: Mr. Chairman.

17 MEMBER LITTLE: Mr. Chairman.

18 CHMN STAFFORD: Okay. I hear voices, let's  
19 start with order they came. I'll start with Member Hill.

20 MEMBER HILL: I was going to let Little go  
21 first.

22 I think this goes to Mr. Gold's question  
23 about where construction will happen. I would like to  
24 understand from TEP, do they need to purchase more  
25 right-of-way as a function of overheading, because

1 undergrounding could actually go in the roadbed and be  
2 part of the franchise agreement, but I'm wondering if  
3 because the poles need to be on the side of the road,  
4 they might actually need to acquire a little -- I don't  
5 mean to speculate here. I just kind of want to  
6 understand what we're talking about in terms of  
7 right-of-way.

8                   So maybe the undergrounding number, we're  
9 not comparing apples-to-apples, I agree. But maybe the  
10 undergrounding number is much closer to being accurate  
11 because they don't need as much right-of-way.

12                   So I just want to understand that a little  
13 bit better. And when we bring folks back it would be  
14 helpful to walk through that.

15                   MS. GRABEL: Member Hill, I do think there  
16 was testimony put on the record yesterday, but we can  
17 certainly reiterate it and answer your question.

18                   MEMBER HILL: Thank you.

19                   MS. GRABEL: You're welcome. Member  
20 Little, did you have questions?

21                   CHMN STAFFORD: Yes, Member Little.

22                   MEMBER LITTLE: Yes, I just -- using the  
23 information on TEP-31, which was the total cost of  
24 various routes summarizing and comparing those overhead  
25 or total cost as proposed with overhead construction or

1 total cost underground -- undergrounding those areas that  
2 were -- are required or may be required to be  
3 undergrounded by the University Area Plan, using those  
4 numbers and using the same methodology that underground  
5 Underground Arizona used, because those numbers are a  
6 great deal higher, they do include, I understood to  
7 include right-of-way, to include all of those kinds of  
8 costs.

9 I come up with about between a six- and  
10 seven-cent increase on bills. And, you know, I'm going  
11 to caution that that is just using his methodology and  
12 one never knows exactly in ratemaking how costs are going  
13 to be allocated. But using his methodology and using  
14 TEP's numbers, it is about a six-cent increase on a  
15 hundred dollar bill.

16 CHMN STAFFORD: Thank you, Member Little.  
17 Do you have additional questions?

18 MEMBER LITTLE: I do not.

19 CHMN STAFFORD: Okay. Thank you.

20 MEMBER LITTLE: Thank you.

21 CHMN STAFFORD: All right. Ms. Grabel,  
22 please continue.

23 BY MS. GRABEL:

24 Q. So Mr. Dempsey, if I heard you correctly, you  
25 suggested that the area from along Campbell from Broadway

1 to Grant is the heart of the whole Tucson region. Did I  
2 hear your testimony correctly?

3 A. From Broadway to Grant it's -- yeah, it's the  
4 university area.

5 Q. And you said that's the heart of the whole  
6 Tucson region?

7 A. Yes. It's the center.

8 Q. Well, would you agree that South Tucson also has  
9 culturally rich areas?

10 A. I definitely was not saying there are not  
11 culturally rich areas in other parts of Tucson or the  
12 area.

13 Q. What about the east side of Tucson where there  
14 are national parks?

15 A. Absolutely.

16 Q. You also suggested that TEP is fallacious in  
17 saying that utilities typically take the position that  
18 the cost of undergrounding should be borne by third  
19 parties. Do you remember saying that?

20 A. I said -- yes, I don't know that I said it was  
21 fallacious.

22 Q. You said it was not true; correct?

23 A. Yes. It does not seem to be common. I mean,  
24 does not seem to be. It's a mix.

25 Q. And you used the SRP HIP project as an example.

1 That's line siting case number 195; correct?

2 A. Yes.

3 Q. Okay. I'd like you to turn -- have we handed  
4 out TEP-34? Okay. I'd like you to take a look at TEP-34  
5 which is being distributed right now.

6 And this is the transcript from the SRP High  
7 Tech Interconnection Project, which is case number 195.  
8 Let the Committee members get it. And if you'll turn to  
9 page 233 of this excerpt, and I'm going to start reading  
10 from line 23, and this is the testimony of Zack Heim.

11 And Mr. Heim says, "SRP is funding the  
12 transmission line costs associated with this project.  
13 Now, when I talk about transmission line costs what I'm  
14 saying is that we are funding the overhead equivalent  
15 cost of transmission, so if we were going to build the  
16 project overhead, that's the cost that SRP is funding.

17 "As we talk about undergrounding, SRP's standard  
18 and position on this project and any project prior to  
19 this one has been that we are happy to construct projects  
20 underground if a third party will fund the cost  
21 difference for that undergrounding. So that's what we'll  
22 see on this project as well."

23 And he goes on to discuss the contributions from  
24 Intel, which was \$36 million and from the City of  
25 Chandler, which was \$31 million.

1 Did I read that correctly?

2 A. I believe so. I wasn't following. I was  
3 listening.

4 Q. Do you believe that SRP would have testified  
5 incorrectly under oath?

6 A. If SRP is claiming that --

7 Q. Mr. Dempsey, that was also a yes-or-no question.

8 A. Am I -- I'm not allowed to expand on any  
9 answers?

10 CHMN STAFFORD: Answer yes or no first and  
11 then --

12 MR. DEMPSEY: So ask the question.

13 BY MS. GRABEL:

14 Q. Do you believe the SRP was misstating its --  
15 lied under oath, essentially?

16 A. I don't believe they lied. I believe they're --  
17 it's -- it's -- SRP pays for the -- it's not Chandler  
18 paying for it. It's SRP paying for it.

19 Q. Okay. You also give many examples of APS 69kV  
20 lines as examples of how the utility funds the  
21 underground construction; correct?

22 A. Say that again.

23 Q. You also give many examples of APS 69kV lines as  
24 examples of how the utility pays to underground the  
25 construction of a project; correct?



1 A. I don't know that I gave the examples in that  
2 context. I was using them for a comparison. What I was  
3 saying was that I couldn't find evidence of all of them  
4 being paid for by third parties. It didn't --

5 Q. Okay. Well, if, as part of your exhibit, I  
6 guess you haven't offered it, but Exhibit 19 and  
7 Exhibit H to your Exhibit 19, you include a discussion of  
8 the Raintree 69kV project which is the business project  
9 from 2018 that's discussed on your tables. Are you  
10 familiar with that project?

11 A. Yes, I am.

12 Q. And that exhibit shows that the cost  
13 differential between undergrounding and overhead was  
14 actually paid for by an underground improvement district?

15 CHMN STAFFORD: One second, Ms. Grabel. I  
16 don't have -- there is no UAZ Exhibit 19.

17 MS. GRABEL: That's because he did not  
18 admit it.

19 CHMN STAFFORD: He hasn't offered it. It  
20 wasn't -- it's not even on the list -- the list of  
21 exhibits that I have.

22 MS. GRABEL: Is it Exhibit 11, perhaps? I  
23 might have misstated what the number was.

24 MR. DEMPSEY: I'm familiar with it.

25 //

1 BY MS. GRABEL:

2 Q. Okay. So the project I'm talking about you're  
3 familiar with?

4 A. Yes.

5 Q. And would you agree that the cost difference  
6 between aboveground and belowground construction was paid  
7 for by an underground improvement district?

8 A. Yes, it was.

9 Q. Okay. So your own exhibits do provide evidence  
10 that other utilities have required third parties to pay  
11 for undergrounding?

12 A. Yes. It's happened all different ways.

13 Q. Did you and your neighbors participate in any  
14 discussion regarding funding forming an underground  
15 improvement district for this project, the Midtown  
16 Reliability Project?

17 A. I don't recall. I don't believe -- I'm not  
18 sure. I don't remember discussing it myself. I know  
19 there's been a lot of discussions and I was busy and I  
20 was not involved in everything.

21 Q. If you're interested in undergrounding this  
22 project, is that something you and your neighborhood  
23 would be interested in discussing?

24 A. The fundamental problem with that is that the  
25 University of Arizona pays the largest property tax or is

1 the largest landowner and they are unwilling to do that.

2 Q. Okay. You also provided testimony earlier today  
3 about the costs of the SRP HIP project, so, again, that's  
4 case number 195, of 10 to \$15 million per mile. Do you  
5 recall that?

6 A. I said that? You mean, I showed what Zack Heim  
7 said?

8 Q. Correct?

9 A. Yes.

10 Q. Okay. Do you recall that that project was built  
11 in 2021?

12 A. I don't. That's maybe when it was approved. I  
13 don't know if it's finished yet.

14 Q. You're absolutely right. That's when the  
15 approval was, 2021.

16 Do you recall testimony from Mr. Jocham about  
17 the substantial increase in the cost of copper from 2018  
18 to today?

19 A. Yes.

20 Q. In fact, the cost was \$2.50 per pound in the  
21 2018-2020 time frame and the cost is now \$4.59 today;  
22 correct?

23 A. I don't know.

24 Q. Okay. You defer to Mr. Jocham in that?

25 A. Not necessarily. I'm not sure I have -- I

1 actually have a chart, but I -- I don't know the exact  
2 amounts.

3 Q. Okay. Do you recall Mr. Jocham's testimony that  
4 just the CPI increased general inflation from 2020 to  
5 2024 is about 21 percent?

6 A. I have no idea.

7 Q. Okay. So costs will have increased from the  
8 2018 to the 2020 time frame to today; correct?

9 A. Yes.

10 Q. So if we'll turn to your slide 30. You refer  
11 to -- sorry. Thank you.

12 So this plot chart you kind of went back a few  
13 times and this is -- the figures calculated here on  
14 slide 30 are based on several older 69kV lines; correct?

15 A. I don't know what you mean when you say older.  
16 These are all brand new. These all have been put in in  
17 the last five years.

18 Q. Okay. Let's go back to maybe, is it 27 that  
19 shows the projects that are the basis of that chart?  
20 Maybe go back again. There's another slide. Maybe you  
21 can help me, Mr. Dempsey. Which is the chart that shows  
22 the projects that --

23 MR. DEMPSEY: Can I control or no?

24 BY MS. GRABEL:

25 Q. Sure.

1 A. Does it let me?

2 Q. Here we go. Is that it?

3 A. I think so.

4 Q. Okay. So those are the various projects and it  
5 looks to me that the years of those projects vary, range  
6 from generally 2018, 2019, and 2020 time frame?

7 A. Right.

8 Q. With just a couple in 2023 and 2024; is that  
9 correct?

10 A. Correct.

11 Q. Okay. And most of those, at least the first  
12 one, two, three, four, five, six, seven, if my eyes are  
13 correct, are 69kV lines; correct?

14 A. Correct.

15 Q. And would you agree that a 69kV line is much  
16 smaller than a 138kV line?

17 A. Yeah. I guess. It depends on the -- I guess  
18 you could have a 69kV kc -- 6,000 kcmil. I don't know.  
19 That's -- actually I don't know the answer to that  
20 question.

21 Q. Okay. So in your website you refer to the  
22 business project 2018 case, and if you kind of dig into  
23 the links there, that project uses 2500-kcmil cables.  
24 Are you familiar with that?

25 A. A 2500 kcmil would be less.

1 Q. Okay. Great. And this project uses two  
2 6,000-kcmil cables; correct?

3 A. Yes. As proposed, yeah. I mean, you could  
4 presumably do less than that if you can -- you don't have  
5 to go as deep as worst case.

6 Q. Okay. Do you have any reason to disagree with  
7 testimony that larger cable is more expensive than  
8 smaller cable?

9 A. No.

10 Q. Did you hear Mr. Jocham's testimony that 69kV  
11 cables are more standard than 138kV cables?

12 A. Yes.

13 Q. Any reason to disagree with Mr. Jocham in that  
14 regard?

15 A. No.

16 Q. And did you hear Mr. Jocham's testimony that  
17 69kV cables can be installed by utilities and don't  
18 require installation by a specialized contractor?

19 A. That's one thing he said. He also said that he  
20 wasn't -- he had no direct knowledge --

21 Q. Do you have any reason to dispute that  
22 statement?

23 A. He backed out of that statement himself.

24 Q. The cost of underground projects depend on  
25 several factors such as topography and cable size;

1 correct?

2 A. Yes.

3 Q. So you pay more for a project if you need more  
4 current; right?

5 A. I would assume so, yes.

6 Q. So in that regard, the project size is not  
7 linear as you depict on -- or the project cost, rather,  
8 is not linear as you depict on Slide 30?

9 A. No. Absolutely not. It's -- it's a range.

10 Q. Thank you. So you also used in your cost  
11 analysis an APS project in which APS is replacing the  
12 cable on a 230kV line in the downtown Phoenix area. Do  
13 you recall that project?

14 A. Yes.

15 Q. Would you agree that that underground line going  
16 through downtown Phoenix is already installed?

17 A. Yes.

18 Q. Would you also agree that the piping is not  
19 going to be replaced as part of that project? It's just  
20 the conduit?

21 A. That's actually -- that's part of the project  
22 they're looking at, whether the piping has to be replaced  
23 in sections, or repaired. That's part of the expense.

24 Q. Are the roads going to be ripped up and --

25 A. It's possible.

1 Q. -- redo all that civil work?

2 A. It says on the page that it's possible, if they  
3 have to fix any pipe or replace any pipe.

4 CHMN STAFFORD: It says on what page?

5 MR. DEMPSEY: On the APS project page.

6 CHMN STAFFORD: And what exhibit is that?

7 MR. DEMPSEY: I don't know if it's an  
8 exhibit.

9 BY MS. GRABEL:

10 Q. The estimate that they would have provided to  
11 FERC would not have included costs that did not know  
12 whether they would apply. Would you agree with that?

13 A. They don't provide estimates to FERC. Those are  
14 actual costs.

15 Q. But those wouldn't have included costs that they  
16 had not yet incurred because they didn't know whether  
17 they existed; correct?

18 A. No. I don't believe so.

19 Q. Okay. You gave a lot of legal testimony in your  
20 testimony earlier today. You're not a lawyer; correct?

21 A. Nope.

22 Q. Okay. You testified that the neighborhood and  
23 area plans in Tucson require undergrounding. Did I  
24 understand you correctly?

25 A. Say it again.



1 Q. Sure. You testified, I believe, that the  
2 neighborhood plans and the area plans in Tucson -- some  
3 of them, for example, the University Area Plan and the  
4 Sam Hughes Neighborhood Plan require that the Midtown  
5 Reliability Project be undergrounded?

6 A. Yes. In some circumstances, absolutely.

7 Q. Okay. Did you hear the City of Tucson's  
8 testimony this morning that the University Area Plan does  
9 not have the force of regulation without being included  
10 as part of a City of Tucson land use decision such as a  
11 zoning change?

12 A. Yes.

13 Q. Do you have any reason to dispute the City's  
14 interpretation of its plan?

15 A. That's not all he said. He said a lot more than  
16 that.

17 Q. He answered my question in a yes or no fashion.

18 A. He also said that the -- so TEP needs a special  
19 exception process for Vine. It also might need  
20 variances. Those special exception processes and  
21 variances bring in the plans. If you don't need to do  
22 any of that, then, yeah, they probably wouldn't matter.  
23 But you do have to do that under your current design.

24 Q. Did you hear testimony, Mr. Dempsey, from  
25 Mr. Bryner on Monday that no zoning change is required

1 for the Midtown Reliability Project?

2 A. You need a special exception for Vine  
3 Substation.

4 Q. A special exception is not a zoning change, is  
5 it?

6 A. I don't know.

7 Q. Okay. You also gave an estimate of a ratepayer  
8 impact. Do you have any experience in cost of service  
9 ratemaking?

10 A. No, I don't. I have experience with  
11 depreciation. I don't know that I have experience with  
12 what you just said.

13 Q. Cost of service ratemaking. Do you have any  
14 experience calculating utilities' revenue requirements?

15 A. Yes.

16 Q. As part of a rate case proceeding?

17 A. No, not as part of a rate -- as part of building  
18 a model of a utility company for an investment bank.

19 Q. Do you have any experience in allocating the  
20 cost of service to various classes?

21 A. You mean just normal business? Company  
22 operations? Yes.

23 Q. No, I mean cost of service allocation within a  
24 ratemaking context for utilities.

25 A. I'm not sure I understand the question.

1 Allocating cost is something that's done commonly. I  
2 don't know why it would be any different in ratemaking.

3 Q. It's very different in ratemaking.

4 A. Well --

5 Q. Do you have any experience calculating the  
6 operation and maintenance costs that goes into rates in a  
7 ratemaking context?

8 A. Say it again.

9 Q. Do you have any experience calculating the  
10 operation and maintenance costs that goes into rates in a  
11 ratemaking context?

12 A. No, I do not.

13 Q. Okay. Your experience is in private equity. Is  
14 that correct?

15 A. Some.

16 Q. Would you agree that that's a lot different from  
17 a regulated environment where all the books and records  
18 of the utility are subject to scrutiny from, in this  
19 case, the Arizona Corporation Commission and the Federal  
20 Energy Regulatory Commission?

21 A. Not necessarily, no.

22 Q. Okay. You gave engineering testimony as well.  
23 You're not an engineer, are you?

24 A. I am not an engineer.

25 Q. Okay. My last question. Do you see any benefit

1 to Tucson communities relating to TEP's commitment to  
2 underground the existing distribution and communication  
3 infrastructure as part of this project?

4 A. If you get all the exceptions and everything  
5 else, then that's better than not having that, yeah.

6 MS. GRABEL: Thank you. Nothing further.

7 CHMN STAFFORD: All right. Mr. Lusk -- oh,  
8 excuse me. Ms. De Blasi. I think you already said you  
9 don't have any questions.

10 MS. DE BLASI: I don't have any questions.  
11 Thank you, Chairman.

12 CHMN STAFFORD: Yeah. Mr. Lusk, now it is  
13 your turn.

14 MR. LUSK: Thank you, Chair. If I could  
15 just have a moment. I'm trying to see if I have any  
16 questions.

17 CHMN STAFFORD: Well, let's take a brief  
18 recess while you're getting set up.

19 MR. LUSK: I don't think I have any  
20 questions.

21 CHMN STAFFORD: Oh, no questions. All  
22 right. Well, that concludes Mr. Dempsey's testimony. Do  
23 you have any redirect, Mr. Dempsey?

24 MR. DEMPSEY: The only few things that I  
25 would say is, I guess it's TEP Exhibit 34 or 31, it's

1 hard -- so I -- as Member Hill mentioned the assumption  
2 is that if you underground a transmission line you can  
3 mostly use the right-of-way. You don't have to acquire  
4 private property, you use the road. Because you can use  
5 the whole road; right? Essentially.

6 And obviously you don't want to use the  
7 whole road, you try to use a part of it. So you save a  
8 lot of land costs or property acquisition costs.

9 So the assumption -- so, yes, my numbers  
10 don't have that because their numbers didn't have it.  
11 They now have these updated numbers that I didn't have  
12 time to go through and figure out, like, they're using  
13 the high end of range. I couldn't figure all that out  
14 right away.

15 It wasn't in any way -- I don't think our  
16 numbers at all are misrepresentative or misleading, if  
17 you add a half a million dollars or a million dollars it  
18 doesn't change fundamentally the case that I've made. So  
19 that's all I have.

20 CHMN STAFFORD: All right. Let's -- for  
21 your exhibits, let's see here. I think the ones I've  
22 seen referred to that we should admit I guess UAZ-1  
23 through 17, those were all addressed in your  
24 presentation. I will admit UAZ-1 through 17.

25 (Exhibits UAZ-1 through UAZ-17 were

1 admitted.)

2 CHMN STAFFORD: You didn't reference your  
3 Exhibit 18.

4 MR. DEMPSEY: No, I don't need --

5 CHMN STAFFORD: Yeah.

6 MR. DEMPSEY: Go ahead.

7 CHMN STAFFORD: You didn't reference your  
8 Exhibit 18; correct?

9 MR. DEMPSEY: No.

10 CHMN STAFFORD: And then for 19 you didn't  
11 offer it.

12 MR. DEMPSEY: No, we -- no.

13 CHMN STAFFORD: And then UAZ-20 and 21, I  
14 didn't --

15 MR. DEMPSEY: UAZ-21 we have used  
16 elsewhere, others have used it. UAZ-20 we have not used.

17 CHMN STAFFORD: Was UAZ-21 -- let me  
18 refresh my memory here. I think that was --

19 MS. HILL: The franchise agreement.

20 CHMN STAFFORD: Was that -- was that a TEP  
21 exhibit or was that a --

22 MS. GRABEL: No.

23 CHMN STAFFORD: It was not.

24 MR. DEMPSEY: I believe they referenced it  
25 or somebody referenced it.

1 CHMN STAFFORD: Is it the existing one or  
2 is it the Prop 4 --

3 MR. DEMPSEY: It's the year 2000 one, yes,  
4 it's the existing one.

5 CHMN STAFFORD: It's the existing one?

6 MR. DEMPSEY: Yes.

7 CHMN STAFFORD: Okay. I don't think that  
8 one's been referenced. The one that the -- the proposal  
9 that was rejected by voters, that was an exhibit from the  
10 City.

11 MR. LUSK: That's correct.

12 CHMN STAFFORD: But this one --

13 MR. DEMPSEY: This is the current franchise  
14 agreement, yes.

15 CHMN STAFFORD: Okay. So that's your 21?

16 I guess we could admit that, I guess. It's  
17 a copy of the franchise that's currently in effect;  
18 correct?

19 MS. GRABEL: Yes, it's currently in effect.

20 CHMN STAFFORD: Okay.

21 MR. LUSK: I think we can stipulate to the  
22 admission of that exhibit.

23 MS. HILL: Right. Just in case there is a  
24 Committee member that has a question about it.

25 CHMN STAFFORD: Right. And I'm thinking

1 it'll probably come up at some point in the Committee's  
2 discussion of the matter. They may have questions. So  
3 I'll admit UAZ-21.

4 (Exhibit UAZ-21 was admitted.)

5 CHMN STAFFORD: Let's see. So then UAZ-22,  
6 that one was referenced.

7 MR. DEMPSEY: I -- I believe that TEP  
8 referenced it.

9 CHMN STAFFORD: Right. I believe  
10 Ms. Grabel brought that up when she was --

11 MS. GRABEL: Asking about.

12 CHMN STAFFORD: -- cross-examination of the  
13 City, I believe.

14 MS. GRABEL: Yes, that's correct.

15 CHMN STAFFORD: So I'll admit UAZ-22.

16 (Exhibit UAZ-22 was admitted.)

17 CHMN STAFFORD: 23, 24, and 25, those  
18 weren't used.

19 Your 26 is with -- is not -- it's  
20 withdrawn, it's not on my list of exhibits.

21 MR. DEMPSEY: Yeah, so I would say the only  
22 ones remaining that I actually used was UAZ-30.

23 CHMN STAFFORD: We'll get to those in a  
24 second, but for these ones here, the last one admitted  
25 was 22. Do the parties -- do you need or want to



1 stipulate to 23, 24, 25? I believe 24 is moot because  
2 the full --

3 MS. GRABEL: We used that one.

4 CHMN STAFFORD: -- university plan, wasn't  
5 that -- isn't that TEP-35?

6 MS. GRABEL: Yes, it's an excerpt from  
7 that. We don't have an objection to that.

8 CHMN STAFFORD: Okay. So we'll admit the  
9 excerpt, UAZ-24.

10 (Exhibit UAZ-24 was admitted.)

11 CHMN STAFFORD: What about UAZ-25?

12 MR. DEMPSEY: Are you asking me?

13 CHMN STAFFORD: Yeah, that one wasn't  
14 referenced. Do you want to have that admitted?

15 MR. DEMPSEY: It doesn't -- if you want to  
16 admit it that would be great, but it doesn't -- as you  
17 said, I did not reference it.

18 MS. GRABEL: I mean, if he doesn't care,  
19 it's not really relevant, so I would prefer not to admit  
20 it.

21 MR. DEMPSEY: So let's actually admit that  
22 one. And then let's -- we don't have to admit the Plan  
23 Tucson one, the next ones.

24 CHMN STAFFORD: 25. So that's the Tempe  
25 Town Lake conversion project slides. Let me see here.

1 MS. GRABEL: Mr. Chairman, I struggle to  
2 stipulate to admitting evidence that he didn't talk about  
3 and, therefore, I didn't have the opportunity to  
4 cross-examine him on.

5 CHMN STAFFORD: Unless of course it's  
6 something that -- like a franchise agreement, which is  
7 what it is.

8 MS. GRABEL: Right. It is what it is.  
9 Exactly.

10 MR. DEMPSEY: I did mention the Tempe Town  
11 Lake undergrounding in my testimony. I just didn't put a  
12 slide up, I guess.

13 CHMN STAFFORD: Right. So we don't -- we  
14 don't need to admit the exhibit. It's just whatever your  
15 testimony was is what your testimony was. That's in the  
16 record.

17 MR. DEMPSEY: Okay.

18 CHMN STAFFORD: Okay. 26, you withdrew  
19 that because I have a blank on the list of exhibits.

20 And then we have 27, which is the Plan  
21 Tucson Goals and Policies. And then UAZ-28 is the Plan  
22 Tucson Chapter 3, and then UAZ-29 is a time line of  
23 events by Underground Arizona.

24 MR. DEMPSEY: UAZ-30 is the only one out of  
25 those that I think --

1 CHMN STAFFORD: And that's a statute. We  
2 don't need it.

3 MR. DEMPSEY: Okay. Then we don't need any  
4 of the rest of that.

5 CHMN STAFFORD: Okay. So none of those.  
6 And then we have -- you referenced 34, 36,  
7 37, 38, 39, 40, 41. Those are all the basis for some of  
8 the slides in your presentation.

9 MR. DEMPSEY: Yes, and 42 and 43.

10 CHMN STAFFORD: Right. And then 44, 45,  
11 46, 47, 48.

12 MR. DEMPSEY: Yeah. I referenced all  
13 those.

14 CHMN STAFFORD: The only one I didn't get  
15 was 35.

16 MR. DEMPSEY: 35?

17 CHMN STAFFORD: That's an -- is that -- let  
18 me pull it up.

19 MR. DEMPSEY: It's an except from their SEC  
20 10-K filing. I believe I was going to use that for a  
21 slide and I ended up using the forward -- I was going to  
22 use backward-looking cash flow and I ended up using  
23 forward-looking cash flow, so it doesn't -- it's not  
24 necessary.

25 CHMN STAFFORD: But it is what it is. It's

1 a --

2 MR. DEMPSEY: Oh, yeah.

3 CHMN STAFFORD: It's a Form 10-K. I  
4 mean -- all right. So I'll admit UAZ-34 through 48.  
5 (Exhibits UAZ-34 through UAZ-48 were  
6 admitted.)

7 CHMN STAFFORD: The next one that was  
8 referenced was 51.

9 MR. DEMPSEY: Yeah.

10 CHMN STAFFORD: I believe Ms. Grabel  
11 referenced that one. That's admitted.

12 (Exhibit UAZ-51 was admitted.)

13 CHMN STAFFORD: 53.

14 MR. DEMPSEY: So 53 is foundation for APS's  
15 Mid or Central Phoenix undergrounding.

16 CHMN STAFFORD: Right. That's an excerpt  
17 from their Ten-Year Plan.

18 MR. DEMPSEY: Yes, where they talk about  
19 all the undergrounding that they're planning in Central  
20 Phoenix.

21 CHMN STAFFORD: They filed that in the  
22 docket so we'll admit 53.

23 (Exhibit UAZ-53 was admitted.)

24 CHMN STAFFORD: 54, that's part of your CEC  
25 application case 192. That is what it is. We'll admit

1 that.

2 (Exhibit UAZ-54 was admitted.)

3 CHMN STAFFORD: 55 was not mentioned.

4 MR. DEMPSEY: Yeah, you don't need that.

5 CHMN STAFFORD: Okay. And then 56.

6 MR. DEMPSEY: That was mentioned.

7 CHMN STAFFORD: And that was the study,  
8 underground power lines, that was -- oh, that was the  
9 article you referenced. I think you had a page of that  
10 in the presentation. Is that the article that was from  
11 the trade show and not --

12 MR. DEMPSEY: No, that's a different -- we  
13 already went past that.

14 CHMN STAFFORD: Okay. What's this one  
15 here? This is from an Electric Journal article. We can  
16 stipulate to that, can't we?

17 MS. GRABEL: Yes.

18 CHMN STAFFORD: Okay. 56. And 57, that's  
19 the court case, you don't need to have that as an  
20 exhibit.

21 MR. DEMPSEY: Yeah, I just wasn't sure if I  
22 needed it for reference.

23 CHMN STAFFORD: No, no, you don't need  
24 those. You don't need to refer to those.

25 And then so 58 was excerpts from the SRP

1 exhibits from line siting case 175.

2 MR. DEMPSEY: I believe I used that.  
3 There's so many little excerpts here I can't remember  
4 which one is for which.

5 CHMN STAFFORD: Yeah, that was -- it was  
6 referenced but I'm looking at the parties. You can also  
7 stipulate to that, can't you? It's a --

8 MS. GRABEL: Yes.

9 CHMN STAFFORD: It's an excerpt of an SRP  
10 line siting case.

11 And then 59 is the tables from Sargent  
12 & Lundy and comparables.

13 MR. DEMPSEY: You can skip that since it's  
14 in my slides, which will be an exhibit of themselves.

15 CHMN STAFFORD: Okay. And then we had 60  
16 and 61 were not mentioned.

17 MR. DEMPSEY: 61, let me look real quick.  
18 It might be foundation -- that's -- I do not believe I  
19 referred to it.

20 CHMN STAFFORD: Again, it's --

21 MR. DEMPSEY: It's public record.

22 CHMN STAFFORD: It's part of transcript  
23 from the APS case 195. I'll admit that, but if the  
24 applicant or any other party, if they feel the need to  
25 introduce more of the transcript, then they're free to do

1 so.

2 MS. GRABEL: Okay. Thank you. I thought  
3 that the 195 was the SRP case.

4 And then I'm not sure what UAZ-60 is. Are  
5 we not admitting that one?

6 CHMN STAFFORD: No, that was never offered,  
7 never discussed. That one's not in --

8 MS. GRABEL: Okay. Good.

9 CHMN STAFFORD: 62 was a slide  
10 presentation. That's admitted. So let me -- do I need  
11 to go through this again to make sure you got them?

12 You want me to start from the beginning or  
13 just start from the second page? Looking at you,  
14 Jennifer.

15 THE COURT REPORTER: The last one I have  
16 is 54.

17 CHMN STAFFORD: Okay. You have 54. Then  
18 after that was 56, 58, 61, and 62. Those are all  
19 admitted, yes.

20 (Exhibits UAZ-56, UAZ-58, UAZ-61, and  
21 UAZ-62 were admitted.)

22 CHMN STAFFORD: The ones that I didn't  
23 specifically say were admitted were not admitted, and  
24 some of them were actually withdrawn and not even  
25 offered.

1                   So, all right. That concludes the parties'  
2 direct cases.

3                   I guess my question now is to you,  
4 Ms. Grabel, you had on your exhibit list testimony and  
5 property evaluation study that you had potentially  
6 sought -- were considering offering as rebuttal  
7 testimony.

8                   Do you intend to offer those or not?

9                   MS. GRABEL: We do, Mr. Chairman. We did  
10 not anticipate today would go so quickly, and she is  
11 available tomorrow morning, so I wonder if this is a good  
12 time for a TEP cleanup panel. Or do you want to take a  
13 break?

14                  CHMN STAFFORD: Actually I think I'm  
15 inclined to recess for the day and come back in the  
16 morning and then I think at that point the members and I,  
17 we can talk through how we want to proceed and what  
18 questions we're going to need answered by whom.

19                  MS. GRABEL: Okay.

20                  MS. HILL: Would -- and I think that's  
21 fair. I just -- is anyone on the panel interested in  
22 hearing from Mr. Bakken again? Because it's likely he  
23 will have to be remote and I'll have to do some  
24 scheduling around that.

25                  So if there's anyone that would like to



1 hear anything regarding Mr. Bakken's testimony, he was  
2 the one that discussed rates and things, if you'll  
3 recall.

4 CHMN STAFFORD: Right.

5 MS. HILL: I would like to be able to bring  
6 him back if you would like it.

7 CHMN STAFFORD: Right. I don't think --  
8 we're not going to need him tomorrow, I don't think,  
9 because we need to discuss about how deep into the weeds  
10 this Committee should be on rates.

11 I think that, you know, we certainly have  
12 to consider the costs, but the rate implications, that is  
13 the plenary authority of the Commission. So not even the  
14 legislature has authority over that. That's the  
15 Commission's authority.

16 So I think we need to have a discussion  
17 about the Commission's position on rates. I think the  
18 actual rate impacts is something, I don't know that this  
19 Committee needs to get too far into the weeds on that.

20 I think we need to have a discussion about  
21 costs, rate impacts, and then at that point we may decide  
22 we need to hear from Mr. Bakken, but I do not anticipate  
23 needing to hear from him tomorrow.

24 MS. HILL: Thank you very much. We just  
25 didn't -- we're trying to move this along and so we're

1 not objecting at times when we would like to ordinarily  
2 preserve our record about what we believe the  
3 Commission's authority is versus Committee's inquiry.

4 And so I just wanted to -- I don't disagree  
5 with what you're saying in any way, Chairman Stafford,  
6 and so -- but I just wanted to make sure that if you are  
7 going to want to hear from him that I can have him  
8 available.

9 CHMN STAFFORD: Right. And so you might  
10 want to consider having him on speed dial for Thursday.  
11 But I think it's safe to say we won't need him tomorrow.  
12 I think we need to have -- talk about it, but I think  
13 that -- I don't think we'll need to get any specifics  
14 from him until -- certainly not tomorrow.

15 MS. HILL: Thank you.

16 CHMN STAFFORD: Because while it's the  
17 purview of the Commission, we certainly -- we need to  
18 build a factual record for them to base whatever decision  
19 they're going to make on. But, again, this is not a rate  
20 case. This is not -- this is not going to turn into a  
21 rate case. But I think that we do need to have the  
22 discussion.

23 I think there's quite a bit of evidence in  
24 the record about the rate implications as it is. Again,  
25 I haven't had a chance to review the transcripts, but --

1 so I don't -- I can't quote what exactly is there, but I  
2 think I do have some recollection of it and I think we  
3 can -- if we do have additional questions, but they won't  
4 be tomorrow.

5 MS. GRABEL: Thank you, Mr. Chairman. I  
6 would say that I think TEP disagrees with the information  
7 that's in the record from the other parties on the  
8 average bill impact to customers, the pennies, whatever.  
9 So if that -- if that influences the Committee at all we  
10 would like to present evidence.

11 CHMN STAFFORD: Certainly. And if you want  
12 to plan on having Mr. Bakken come back on Thursday, with  
13 his evaluation.

14 MS. HILL: So I think -- I mean, I think --  
15 and Ms. Grabel's correct when she says we think we  
16 disagree with that. However, I think bringing him back  
17 to discuss it is pretty much subject to the conversation  
18 you said you were going to have tomorrow which it is our  
19 position, quite frankly, that is not a ratemaking process  
20 and monthly bill impacts are a very, very difficult and  
21 complex process that we all know all of us that have been  
22 involved in rate cases know that. It requires a lot of  
23 assumptions, and honestly I think we would have to -- I  
24 think we would object.

25 CHMN STAFFORD: Well, the thing is it's not

1 going to be -- I mean, there's so many moving parts, it's  
2 not going to be -- it would be ballparking it at best.

3 MEMBER HILL: Mr. Chair.

4 CHMN STAFFORD: And I think that if at some  
5 point the Committee may decide that it wants some kind of  
6 ballpark. But at this -- it's not going to be tomorrow.  
7 I mean, we may decide tomorrow that we need a ballpark.  
8 But I'm saying we haven't had the conversation yet.

9 But it's a preliminary matter. We're not  
10 going to -- we don't expect to see competing figures of  
11 rate impacts tomorrow.

12 Member Hill, you had a comment or a  
13 question?

14 MEMBER HILL: I just have a question. I  
15 mean, we've seen a range of costs associated with  
16 different routes and different methods and different  
17 technologies. But as the Chair, can you direct us to  
18 focus on those numbers as cost assessments rather than  
19 rate -- rate-related things? I mean, I feel like you  
20 could direct us to consider those things rather than the  
21 rate piece and just keep the rate discussion out of the  
22 conversation.

23 CHMN STAFFORD: Yeah, I mean, the statute  
24 requires to look at the costs and then --

25 MEMBER HILL: We'll consider costs.

1 CHMN STAFFORD: -- the costs by implication  
2 will affect the rates, but it's not -- but there's  
3 different rate treatments that -- things the Commission  
4 could do with that. We might want to talk about that,  
5 and say, oh, for example, apparently franchise fees are  
6 not paid across all TEP's customers, they're allocated to  
7 the customers inside the city.

8 That was testimony, I specifically remember  
9 asking that question to Mr. Bryner because that was one  
10 of the issues, oh, the undergrounding, it's going to  
11 be -- the costs will be allocated to the entire rate base  
12 even though people who don't live in the City of Tucson  
13 didn't vote for these requirements.

14 MEMBER HILL: Okay. Maybe we do need a  
15 longer conversation tomorrow before we make a decision.

16 CHMN STAFFORD: Right. That's what I'm  
17 saying. I think we need to think about it tonight, I  
18 need to kind of try to put together how to approach this  
19 for us, because there's several conversations we need to  
20 have, and several -- sometimes the decision we make may  
21 moot later conversations depending on what we decide. So  
22 I think that's the conversation we'll have tomorrow.

23 MEMBER HILL: Okay.

24 CHMN STAFFORD: We're not going to get into  
25 detail of rate impacts or anything. That's for sure.

1 And I think, you know, ultimately we don't need that to  
2 decide, but I think that at the margin, a ballpark figure  
3 may be helpful to some members to decide. That's all I'm  
4 saying.

5 Ms. Hill, you look like you want to say  
6 something.

7 MS. HILL: I do. I do want to say  
8 something. But I don't think it's fully formed yet and I  
9 can presumably give my input tomorrow.

10 However, a ballpark figure is -- in putting  
11 something like that together very quickly for rates, for  
12 rate purposes, for assumptions over the course of many,  
13 many years and potentially many, many rate cases,  
14 different ROEs, different -- a variety of things, it  
15 could end up being wildly inaccurate potentially if  
16 you're looking at something in a really long-term way.

17 CHMN STAFFORD: Right. And what I'm  
18 thinking more of is not so much an analysis of these  
19 costs on like it's a two-cent-per-month bill impact if  
20 you're using a hundred kilowatt hours.

21 I'm thinking more of -- the questions that  
22 I would probably be more inclined to ask would be in the  
23 TEP's current rates, how are the franchise -- how much of  
24 the franchise fees and how are those allocated.

25 MS. HILL: So I actually believe that you

1 mean how are the franchise fees allocated? You mean  
2 within the City of Tucson customers?

3 CHMN STAFFORD: Right.

4 MS. HILL: Okay. And I'm just paring this  
5 down so I make sure that we answer the right question.

6 So in terms of the franchise fees  
7 themselves for the city of Tucson customers, is the  
8 question about what is the assessment per hundred dollar  
9 or mill?

10 CHMN STAFFORD: No, what is -- what does  
11 TEP pay to the city, how does TEP collect that money from  
12 its customers.

13 MS. HILL: So if you'd like, I can answer  
14 at a high level here as -- okay.

15 So that is a fee that is passed on, and  
16 it's a line item on the bill of City of Tucson customers.  
17 And it says franchise fee on it. That money is paid to  
18 TEP.

19 TEP then I believe quarterly passes that  
20 along to the City of Tucson.

21 CHMN STAFFORD: Right, and that is -- is  
22 that a flat rate or a per kilowatt hour rate?

23 MS. HILL: It's a -- I'd have to look.  
24 I'll double-check that. I didn't give you that exact --

25 CHMN STAFFORD: Simple factual questions

1 about that I think will be helpful to inform the  
2 Committee's discussion about this case.

3 MS. HILL: Sure. Sure. And then we can  
4 also give, I think Mr. Bakken in the record testified  
5 that it's about -- between the utility tax because we  
6 also collect the utility tax on behalf of the City from  
7 the ratepayers and pass that through. Between the  
8 utility tax and the franchise fee in 2023 we paid about  
9 30 million, ratepayers paid about 30 million to the city.

10 Where the City designates that is up to  
11 them. It's 100 percent within their discretion, and they  
12 have a lot of needs that, you know, that money goes  
13 towards.

14 We do have the figures for prior years as  
15 well, if that is something for comparison purposes the  
16 Committee is interested in.

17 CHMN STAFFORD: Potentially. I think I --  
18 there's some of that I might be interested -- I  
19 wouldn't -- we don't need a treatise on, but I'm just,  
20 you know, be able to kind of at a high level address the  
21 concepts and some of the actual numbers from the past  
22 that, you know, that aren't subject to speculation.

23 MS. HILL: Sure.

24 CHMN STAFFORD: Okay. All right. Well,  
25 anything further from members before we recess for the



1 day?

2 MEMBER RICHINS: Chairman, I think a clear  
3 understanding of what findings TEP is wanting us to make  
4 would be really helpful in making those decisions based  
5 on -- I know they're ballpark rates, but like, if I can  
6 understand what findings of fact I'm supposed to evaluate  
7 because we've had a lot of testimony here.

8 CHMN STAFFORD: Right.

9 MEMBER RICHINS: Everybody has done a  
10 really great job, but --

11 CHMN STAFFORD: They have a draft CEC as  
12 Exhibit TEP --

13 MS. GRABEL: Mr. Chairman, actually we've  
14 been working on another one that includes exactly what  
15 Mr. Richins -- what Member Richins -- I'm sorry -- is  
16 asking for. We will work on that the bulk of today and  
17 have it docketed tomorrow.

18 CHMN STAFFORD: Even better. Thank you.  
19 All right. Anything further?

20 (No response.)

21 CHMN STAFFORD: All right. With that, we  
22 recess until tomorrow morning at nine a.m.

23 (Proceedings recessed at 3:14 p.m.)

24

25

1 STATE OF ARIZONA )  
 )  
2 COUNTY OF MARICOPA )

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15 Dated at Phoenix, Arizona, July 25, 2024.

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