

1 BEFORE THE ARIZONA POWER PLANT LS-362

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 18, 2024

17 Filed: July 24, 2024

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19 REPORTER'S TRANSCRIPT OF PROCEEDINGS

20

VOLUME IX
(Pages 1865 through 2081)

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By: Jennifer Honn, RPR
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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 9:10 a.m. on
6 July 18, 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

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1 CHMN STAFFORD: Let's go back on the
2 record. Before we start with closing arguments, I think
3 the City of Tucson has another exhibit, another letter
4 from Ward 5.

5 MR. LUSK: That's correct, Mr. Chair.
6 Again, that goes to Member Gold's question about the city
7 leadership. City doesn't plan to refer to it or
8 anything. That was just for the informational.

9 CHMN STAFFORD: All right. Will you
10 stipulate to its admission, Ms. Grabel?

11 MS. GRABEL: I do, yes.

12 CHMN STAFFORD: Mr. Dempsey and
13 Ms. De Blasi?

14 MS. DE BLASI: Yes, that's fine.

15 MR. DEMPSEY: Yes.

16 CHMN STAFFORD: Okay. All right. City of
17 Tucson number 11 is admitted.

18 (Exhibit COT-11 was admitted.)

19 MS. GRABEL: And, Mr. Chairman, before we
20 begin closing statements, Mr. Lusk brought it to our
21 attention that the Silverbell case that has been
22 referenced frequently during this decision, there's some
23 controversy over whether TEP was the applicant or the
24 City was the applicant.

25 And he pulled that Decision, and it turns

1 out that TEP was the applicant in that case. So I just
2 thought Mr. Bryner could perhaps go on the record just
3 briefly and discuss the context of that and clarify the
4 record.

5 CHMN STAFFORD: Certainly.

6

7 CLARK BRYNER (recalled),

8 called as a witness on behalf of Applicant, having been
9 previously affirmed or sworn by the Chairman to speak the
10 truth and nothing but the truth, testified as follows:

11

12 MR. BRYNER: You're not done with me yet.

13 So, yeah, just real, real, real quick. So,
14 yeah, not going to argue that TEP, I'm looking at the
15 application right now. It says, "Applicant: Tucson
16 Electric Power, Kevin O'Brien." He's one of our -- or at
17 the time he was one of our environmental and land use
18 planners who filed the application for the Silverbell.

19 But I do want to give just a little bit of
20 context on that. So Silverbell Road, it was a public
21 improvement project. The City was widening, improving
22 that road. Our 46kV facilities were in the way, but
23 those 46kV facilities had been there prior to the road.

24 TEP had an easement for those facilities.

25 We weren't in franchise. And so as a result it was the

1 responsibility of the City to pay the cost to relocate,
2 be it overhead or underground.

3 So in the spirit of collaboration, TEP, the
4 City, and the County worked on that together. The County
5 did a lot of work, the City did a lot of work, and TEP
6 agreed to file the application and do that work to
7 further that process.

8 And so that's kind of how it worked out. I
9 know it might not seem it, based on some of the testimony
10 we've had, but we -- TEP is the electric utility provider
11 in the community.

12 We do try to work with the City, the
13 County, others to find solutions that work in everybody's
14 interest. Sometimes it works out well. Sometimes it
15 doesn't. I would say in this case, it worked out for the
16 mutual benefit of all involved.

17 CHMN STAFFORD: Thank you, Mr. Bryner.

18 Any questions from the other parties on any
19 cross?

20 MR. LUSK: None from the City.

21 CHMN STAFFORD: That's it, Ms. Grabel?

22 MS. GRABEL: That's it. Thank you,
23 Chairman.

24 CHMN STAFFORD: Thank you, Mr. Bryner.

25 All right. With that, I believe we're

1 ready for closing arguments. Ms. Grabel.

2 MS. GRABEL: Thank you, Mr. Chairman,
3 Committee members. As this Committee has witnessed over
4 the past two weeks, the evidence is clear that the
5 Midtown Reliability Project is critically needed to
6 ensure the continued provision of safe and reliable
7 electric service to TEP's customers.

8 The current 46kV system built in the 1950s
9 and '60s -- remember the Jerry Mathers picture -- no
10 longer meets the reliability and evolving energy needs of
11 the City of Tucson.

12 Among other benefits, replacing that system
13 with the Midtown Reliability Project improves
14 distribution reliability for burying or retiring those
15 old wooden poles that we all saw on the tour.

16 And also transmission reliability by
17 creating a loop around Midtown Tucson that will provide a
18 second source of power in the event of a transmission
19 outage.

20 Remember the slides that we saw a week and
21 a half ago now about the quick distribution and
22 transmission outage restoration benefits that inure from
23 this project.

24 Beyond reliability, the project will be
25 engineered to meet today's energy needs, such as

1 accommodating not only the anticipated population growth
2 in Midtown, but also the energy needs of new technologies
3 such as residential solar and energy storage projects as
4 well as electric vehicles.

5 So the record is clear that the Midtown
6 Reliability Project is urgently needed.

7 In addition, Banner, the University of
8 Arizona, and several members of the public support TEP's
9 referred route, although any of our proposed routes can
10 be built.

11 The real issue in this case is whether
12 local laws or plans that might require undergrounding of
13 the transmission line should be preempted by the State
14 under A.R.S. 40-360(D).

15 The City of Tucson takes the position that
16 the portions of the Midtown Reliability Project that run
17 through an area covered by the Uniform Development Code's
18 Gateway Corridor Zone are required to be constructed
19 belowground.

20 Underground Arizona posited that TEP must
21 construct the project belowground, not only in areas that
22 are covered by the Gateway Corridor Zone but also in
23 areas covered by other neighborhood and area plans. The
24 most impactful of which to this project is the University
25 Area Plan.

1 The City testified on Tuesday that unless
2 TEP can successfully receive a variance from or a special
3 exception to the Gateway Corridor requirement, and it
4 declined to commit whether TEP could do so or whether the
5 special exceptions might apply, TEP would not be relieved
6 of the requirements of local ordinance.

7 In addition, because the fact finder in the
8 special exception process would need to find as an
9 initial matter that the route for which a special
10 exception is sought also complies with an applicable area
11 plan, even the preferred route is subject to the
12 possibility that the City would find that the University
13 Area Plan requires undergrounding and could incorporate
14 that requirement as a condition into the special
15 exception decision.

16 To the extent that Mr. Bryner may have been
17 optimistic about receiving a special exception from the
18 Gateway Corridor requirements at the beginning of this
19 hearing, TEP's confidence about that eroded as the
20 hearing continued.

21 Put simply, you heard the City's testimony.
22 The City will not give TEP any comfort that it will
23 approve the special exceptions needed to construct the
24 preferred route aboveground on the needed time line.

25 TEP was made even less comfortable by the

1 City of Tucson's Exhibits 9 and 10, and now this morning
2 11, in which now three members of the city council
3 expressed continued concerns about the selected routes,
4 challenged the location of the Vine Substation, referred
5 to what they view as the requirements of the University
6 Area Plan, and suggested that other routes should be
7 considered.

8 The evidence in the record is clear that in
9 the end the City of Tucson controls its own special
10 exception process and its outcome.

11 TEP cannot go back to the drawing board.
12 TEP went through an extensive public engagement process
13 for which this Committee congratulated Mr. Bryner and the
14 team, and incorporated the public output that we received
15 into the siting process.

16 We also built measures into the project
17 such as the commitment to bury existing overhead
18 transmission lines directly in response to the public's
19 concerns.

20 TEP also examined every route imaginable as
21 you heard Mr. Bryner testify. I feel like we drove every
22 route imaginable when we went on the tour. And we've
23 presented this Committee with numerous options with
24 varying degrees of impact on the Gateway Corridor to this
25 Committee.

1 As Mr. Lindsey testified, if we do not have
2 approval to construct this line in order for it to be in
3 service by 2027, we will have no choice but to just start
4 rebuilding our existing 46kV system, and find other less
5 reliable transmission solutions to solve the transmission
6 reliability needs.

7 TEP's customers would pay more for that
8 outcome than they would for this project, and would be
9 deprived of the significant benefits of the current
10 proposal, which among other things results in a reduction
11 of 32 miles of overhead utility and communications
12 infrastructure, and the significant enhancements to the
13 TEP's ability to accommodate residential solar storage
14 and electric vehicles.

15 This week the City has intimated that TEP
16 could have started the special exceptions process earlier
17 and moved that process in parallel with this, but that's
18 just not realistic.

19 First, TEP's experience with the City
20 through the special exception request it made previously
21 for the Vine Substation taught it that the City wants an
22 approved route before applying for a City permit
23 associated with this line. Here's what the City said in
24 the substation special request proceeding, and I'm
25 quoting from UAZ's Exhibit 22.

1 Quote, this is the zoning examiner, "Given
2 the uncertainty regarding the routes to be selected for
3 the Kino to DMP transmission line project, and the
4 uncertainty of the location of the power lines which will
5 connect to the proposed Vine Substation, compliance with
6 Plan Tucson and University Area Plan cannot be determined
7 on the current record."

8 The zoning administrator then denied the
9 application without prejudice, directing us to refile it
10 after we've had a route selected. The City witness
11 admitted on cross-examination that there's no real
12 distinction between the request for a special exception
13 for the substation, and the special exception for the
14 transmission line that would change the zoning examiner's
15 position. Indeed, the zoning examiner specifically asked
16 for a final transmission line route before making any
17 determination.

18 Given that ruling, it would not have made
19 sense for TEP to apply for special exception for a route
20 that had not yet been approved by the Committee.

21 Second, the special exceptions for the
22 aboveground construction for a transmission line in the
23 UDC were literally pioneered for this project.

24 When the city and TEP were collaboratively
25 looking for funding solutions to the parts of the line

1 that the Gateway Corridor required to be undergrounded,
2 that did not qualify for special exception.

3 When those attempts failed and the City won
4 at the superior court level regarding the applicability
5 of the Gateway Corridor to this project, TEP lost all
6 leverage to prevail what is in the end a City decision
7 from a City-driven process.

8 In that process TEP is at the mercy of the
9 City and its constituents. That is of course completely
10 natural in a political process. But what the City
11 overlooks and what it is important for this Committee to
12 remember, is that this project is one of only billions of
13 dollars of projects that TEP needs to construct in the
14 next five years.

15 It is that big picture that the Arizona
16 Corporation Commission has to consider when TEP comes
17 before it and seeks to move a project into rates in a
18 rate case.

19 And a rate case is also a public process
20 that can be persuaded by public input. As you'll recall
21 from testimony, TEP has a construction budget of
22 \$3.5 billion in the next five years and that is just for
23 regular distribution investments, normal aboveground
24 transmission investments, and generation investments that
25 will support the clean energy transition that is endorsed

1 by the City of Tucson.

2 Adding the cost of undergrounding any of
3 the transmission investments built into this budget
4 exacerbates this figure materially. In this case the
5 cost to construct just 3.2 miles of the preferred route
6 belowground increases the cost of this project by
7 \$65 million. And that is just this project alone.

8 As Mr. Lindsey testified, TEP has future
9 transmission projects in other urban areas such as other
10 parts of Tucson, Marana, Oro Valley, et cetera.

11 The outcome of this proceeding will inform
12 whether TEP may be -- what TEP may be required to do in
13 other parts of the state. Any city or neighborhood
14 paying attention may enact similar undergrounding
15 language in their local ordinances or plans.

16 As Mr. Bakken testified, if TEP was
17 required to pay to underground all of the transmission
18 lines in its Ten-Year Plan, that would add an incremental
19 \$2.4 billion to its construction budget. Even cutting
20 that number in half, it is still an extraordinary amount
21 money to add to customer rates.

22 We've certainly had customer opposition to
23 the aboveground construction of MRP in this case, but
24 that's nowhere near what TEP sees in a rate case. The
25 last TEP rate case docket had seven pages full of

1 customer comments opposing the rate increase. Literally
2 many hundreds of them. By comparison, this docket in its
3 entirety is seven pages long.

4 There is a reason that the Arizona
5 Corporation Commission has a policy advising public
6 service corporations not to construct transmission lines
7 underground for purely aesthetic reasons.

8 In utility ratemaking there's a concept
9 known as rate pressure. Utilities need to make prudent
10 investments to their systems to keep them safe and
11 reliable, but they also need to be cognizant of
12 affordability to ratepayers.

13 Mr. Bakken testified about the importance
14 of affordability to TEP last Monday. This is why the
15 Commission policy cautions against increasing the cost of
16 transmission line construction to customers purely for
17 aesthetic reasons. What is a \$65 million cost
18 differential today will multiply with each new
19 transmission line that TEP may be required by the City of
20 Tucson or any other local ordinance to build belowground.

21 This rate pressure is further pronounced in
22 TEP's service territory in which the uncontroverted
23 evidence showed that 20 percent of its customers are
24 classified as low income under the federal poverty
25 guidelines.

1 These customers will already have to pay
2 for the investment that TEP needs to make in the ordinary
3 course of business. And it's unreasonable to shoulder
4 them with an even higher rate increase by requiring that
5 part of TEP's transmission system should be buried purely
6 for aesthetic reasons.

7 The City's attorney in his questions
8 yesterday appear to criticize TEP for not agreeing to pay
9 to underground the project in light of the reliability
10 impacts, and made light of the attendant expense on the
11 preferred route.

12 That said, neither the City nor any of the
13 neighborhoods that want the line to be undergrounded are
14 willing to cover the cost differential.

15 The evidence was clear that the City
16 received more than \$90 million in franchise fees and
17 utility taxes from TEP since 2021, and that's just
18 through May of this year.

19 TEP did not and does not dictate how the
20 City will spend its money, and we respectfully assert
21 that they should not dictate how TEP should spend ours.

22 As you know, this is not TEP's first bite
23 at the apple. TEP tried for years to work with the City
24 to find a means to construct the project in a way that
25 would honor both the City's interest in building the line

1 belowground, and TEP's and the Corporation Commission's
2 interest in not passing those costs on to customers.

3 As you heard in testimony, that solution
4 that TEP and the City landed on, Proposition 412, was
5 rejected for whatever reason by the voters. We are past
6 the point of further conversation. The City is unwilling
7 to give TEP the guidance it needs in this case as to
8 whether it will be granted a special exception along the
9 preferred route, or whether it would impose a condition
10 on the special exception permit that requiring
11 undergrounding for a portion of the preferred route that
12 runs through the University Area Plan.

13 And no one agrees to pay for the cost
14 differential. TEP is a public service corporation
15 regulated by the Arizona Corporation Commission, which
16 has cautioned that transmission lines should not be
17 constructed belowground at considerable expense purely
18 for aesthetic reasons.

19 I want to note that TEP interacts with the
20 City all the time. We're frequently interacting with
21 them on permit applications and philanthropic efforts
22 with the City of Tucson. And for the most part the City
23 and TEP are not always at loggerheads.

24 I think that the testimony Mr. Bryner just
25 gave is a good example of that. But in this case, the

1 City's unwillingness to give TEP the assurance it needs
2 in this hearing, in which the City has brought no
3 decision-makers to the table, TEP has no choice but to
4 ask you to make a finding under A.R.S. 40-360.06(D) that
5 the undergrounding arrangement is unreasonably
6 restrictive and that compliance with local ordinances
7 requiring undergrounding is infeasible in light of the
8 available technology.

9 As I discussed in my opening, the law
10 interprets feasibility to include economic considerations
11 and the significantly higher cost of constructing even
12 just three miles of the preferred route belowground, a
13 \$65 million increase over the aboveground construction
14 allows you to make this finding in addition to other
15 factors.

16 So please remember that to build this line,
17 time is of the essence, and we respectfully ask the
18 Committee to approve the preferred route and make the
19 findings authorized by the state law that are needed to
20 build it aboveground.

21 The findings that we ask you to make are
22 contained in the last few pages of TEP Exhibit 36, and at
23 a very high level they are as follows.

24 The first -- a lot of them are background
25 so I'm going to highlight the salient ones.

1 The first is that constructing the Midtown
2 Reliability Project belowground is not needed for safety,
3 reliability or other operational reasons. Aboveground
4 construction is just as reliable and safe as belowground
5 would be.

6 Second, a finding about the significantly
7 higher cost of underground construction, as I have said,
8 building just three miles of the preferred route
9 belowground increases the cost by \$65 million.

10 Third, the project is consistent with the
11 goals of the University Area Plan and the Gateway
12 Corridor Zone. Even with the 138kV transmission line
13 being built aboveground, because the project includes the
14 retirement of existing equipment and relocating existing
15 distribution and other utility infrastructure
16 belowground, the project will result in a net reduction
17 of utility lines of 32 miles of overhead infrastructure
18 in Midtown Tucson.

19 Fourth, TEP requested -- testified that the
20 project is required to be in service by 2027 to maintain
21 safe and reliable service without the need for additional
22 investment in the existing system serving the area.

23 If that 2027 in-service date is not met,
24 TEP would need to spend another \$10 million to band-aid
25 its existing system, an outdated 46kV system to maintain

1 the current level of reliability, just until 2030. If
2 the line is not in service by 2030, TEP will need to
3 start rebuilding its existing 46kV system at a cost of
4 more than \$50 million.

5 Operationally, undergrounding the project
6 threatens the 2027 in-service date due to the estimated
7 length of time that the evidence indicates such an
8 undertaking will require. And that time line could be
9 further exacerbated by the likely presence of other
10 utility infrastructure, potential cultural artifacts that
11 could be found beneath the surface.

12 Fifth, the preferred route traverses
13 primarily through areas designated a low income by the
14 City of Tucson. It's unreasonable to require low-income
15 customers to pay for the substantial cost of constructing
16 a portion of the project belowground when doing so will
17 provide only aesthetic benefits to an area of Midtown
18 that is not designated as low income.

19 And finally, I would prefer the Committee
20 to make a finding on the ACC's policy statement, which
21 specifically says as a general matter, utilities under
22 the Commission's jurisdiction should avoid incurring
23 these higher costs unless undergrounding installation of
24 a transmission line is necessary for reliability or
25 safety purposes, or to satisfy other prudent operational

1 needs. Installing a transmission line underground for
2 other reasons such as stakeholder preferences would add
3 unnecessarily to the costs recovered through rates.

4 So at the appropriate time I'm happy to
5 answer any questions associated with the findings I'm
6 asking the Committee to make, and we respectfully ask
7 that these findings and the other background findings
8 spelled out in TEP-36 be approved by the Committee and
9 ultimately the Commission.

10 This is undisputedly an important
11 reliability project, and we need this Committee's help in
12 getting it over the finish line. Thank you.

13 CHMN STAFFORD: Thank you, Ms. Grabel.

14 Ms. De Blasi.

15 MS. DE BLASI: Thank you, Chairman. Could
16 I please have my slides?

17 Good morning, Chairman and Members of the
18 Committee. I would like to first thank the Committee for
19 their attention to hearing all of the parties' evidence
20 over the past week and a half.

21 On behalf of Banner University Medical
22 Center, I would also like to acknowledge the tremendous
23 amount of work put into this application by TEP,
24 particularly following the amount of work put into the
25 previous application which was pulled from the docket.

1 Banner has been working with the applicant
2 on this line since before the last application was filed,
3 and greatly appreciates the willingness of TEP to hear
4 our concerns and address the constraints presented by
5 this case.

6 The entire TEP team should be commended for
7 the professionalism and expertise in siting this line
8 through this challenging urban environment.

9 As this Committee knows, the development of
10 this project has been a long process. And as I
11 mentioned, Banner has been involved throughout the
12 process.

13 As we heard during the testimony of
14 Mr. Barkenbush, to date Banner has invested over
15 \$700 million in the development of the medical campus. I
16 want to point out that the decisions of the Committee in
17 this case do not just impact Banner, but they also impact
18 the ability of the greater community to receive emergency
19 and medical services from the medical center as a
20 critical resource to the community.

21 Throughout the process of siting these
22 lines, Banner has been consistently opposed to running a
23 route along Ring Road which is their private property.
24 And Banner believes there are other routes, namely
25 preferred Routes B and 4, that avoid all of these issues

1 discussed by Mr. Barkenbush.

2 Again, Banner greatly appreciates TEP's
3 willingness to listen to our significant concerns and to
4 provide the preferred route options that alleviate those
5 concerns impacting both the medical campus and the
6 emergency and medical services provided to the community.

7 As you heard during Banner's testimony, the
8 medical center is a critical medical facility for the
9 City and the region. The medical center is ranked as the
10 number one 1 hospital in Tucson and the number 2 hospital
11 in Arizona.

12 Banner is an Arizona non-profit corporation
13 whose primary mission is to protect the health of
14 populations it serves through the provision of affordable
15 healthcare for such specialty services as comprehensive
16 heart and cancer care, advanced neuroscience techniques,
17 and a multi-organ transplantation program.

18 The medical center is one of only two
19 Level I trauma centers in southern Arizona. Diamond
20 Children's Medical Center located within the medical
21 center provides specialized pediatric services including
22 neonatal and intensive care, emergency medicine and
23 cancer therapies.

24 The medical center is also the primary
25 teaching affiliate of the University of Arizona College

1 of Medicine.

2 As we heard from Banner, the corridor
3 selected for the project is of critical importance to the
4 medical center and will directly impact its operations
5 including emergency services.

6 Due to the medical center's close proximity
7 to the proposed site for construction of the new UA North
8 Vine Substation, there are several proposed routes in
9 this area. However, there are choices to the north and
10 west including applicant's preferred Routes B and 4 that
11 avoid some of the most difficult aspects of the case.

12 For ease of reference we have put together
13 a summary chart with the impacts of the different routes
14 discussed during Banner's testimony. I'm going to walk
15 through each of these issues as we discussed.

16 With respect to emergency flight access, we
17 heard testimony from Banner regarding the detrimental
18 impacts to access for its emergency flight operations for
19 any aboveground lines sited directly to the north and
20 east of the medical campus.

21 Mr. Barkenbush testified that there were
22 approximately 2400 landings and take-offs in 2023,
23 oftentimes can be up to three a day.

24 In City of Tucson Exhibit COT-9, Council
25 Member Uhlich also commented on substantial importance of

1 the emergency flights to the community.

2 Alternative Routes D, 1, and 6 would create
3 obstacles to the north and/or east of the medical center
4 for emergency helicopter access, especially in windy
5 conditions. As Mr. Barkenbush testified, this is the
6 currently-agreed path for the emergency pilots where
7 possible.

8 In addition, the overflow emergency landing
9 area on the corner of Ring Road and Campbell would likely
10 be rendered unusable, given proximity to power lines if
11 sited near Ring or Lester Roads.

12 No matter what experience someone might
13 have riding in a helicopter, it is the pilots for the
14 hospital who literally have patients' lives in their care
15 and should be allowed the most unfettered access to
16 provide their services where seconds count in a patient's
17 life, especially in windy weather conditions that are
18 common in Tucson. This is especially the case where
19 there are many other options including applicant's
20 preferred options that avoid this interference.

21 The Committee is tasked with considering
22 viewsheds impacted by the line alternatives.
23 Mr. Barkenbush testified as to the reasons for siting of
24 the patients' building to be inclusive of a calming view,
25 and to the detrimental impacts to the viewshed for the

1 patients and their family members visiting the hospitals,
2 if alternatives D, 1, or 6 were to be built directly
3 north of the medical campus.

4 Due to the height of these poles, that
5 would be the equivalent of a six- or seven-story
6 building. The hospital viewsheds are uniquely impacted
7 due to the fact that these power lines will be directly
8 at eye level from within the patient and family visitor
9 areas of the hospitals.

10 I will remind the Committee of the
11 testimony that there were 25,858 total admissions to the
12 hospitals in 2023. This viewshed impact would be further
13 impacted by potential route shares immediately to the
14 north of the medical center.

15 With the proximity of the helipads on the
16 hospital to the power lines, any FAA requirements to have
17 bright red blinking lights on poles and red ball markers
18 on wires would have an increased detrimental effect on
19 this viewshed. Preferred Routes B and 4 avoid these
20 impacts.

21 We heard Banner's testimony about their
22 significant outreach to the surrounding neighborhoods,
23 particularly the Jefferson Park neighborhood to the north
24 to address neighborhood concerns under contractual
25 agreement for the creation of a nature buffer to the

1 north of the medical center. And the implementation of
2 significant storm water and drainage improvements.

3 In addition to impacts to the viewshed
4 area, alternative Routes D, 1, and 6 would cause an
5 interference with the purpose of the creation for this
6 nature buffer between the medical center and the
7 Jefferson Park neighborhood. Again, preferred Routes B
8 and 4 avoid these impacts.

9 With respect to construction interference,
10 we heard testimony from Mr. Barkenbush that preferred
11 Routes B and 4 would avoid access interruptions and
12 significant construction noise and other interference
13 during construction of either aboveground or underground
14 power lines near the medical campus.

15 For alternative Routes D, 1, and 6, the
16 construction of aboveground lines would limit access to
17 the hospital for patients, visitors, and the 3200
18 employees if sited along Ring Road, as this is the only
19 access point to the public for the hospitals.

20 This includes those patients who are being
21 brought to the hospital for emergency services by way
22 other than ambulance.

23 Construction of underground lines on Ring
24 Road would completely shut down access to the hospitals
25 for patients, visitors and the 3200 employees for a

1 significant amount of time.

2 There are significant underground
3 infrastructure for storm water that would need to be
4 avoided along Ring Road which would complicate siting a
5 line along the road. These construction restrictions
6 were testified to by both Banner and the applicant's
7 witnesses.

8 Again, Mr. Barkenbush testified that in
9 2023, the hospital had 68,089 total emergency department
10 visits and 25,858 total admissions. These construction
11 issues along Ring Road would cause a significant
12 detriment to the community's ability to access emergency
13 and hospital care. This detrimental impact is not
14 necessary when there are other alternatives, including
15 the preferred routes that would avoid these impacts.

16 With respect to the interference with
17 communication and EMF issues, Mr. Barkenbush testified
18 that the impacts to communications and sensitive
19 equipment from aboveground 138kV power line in close
20 proximity to the hospitals had not been tested.

21 Banner would not want to test this issue if
22 the lines were routed along alternative Routes D, 1, and
23 6. Since preferred Routes B and 4 avoid these potential
24 impacts, Banner supports these preferred routes.

25 In addition to avoiding other impacts to

1 the medical center, the preferred routes avoid impacts of
2 running parallel within a Gateway Corridor Zone, which is
3 a significant issue and controversy in this case.

4 All of alternative Routes D, 1, and 6 run
5 within the Gateway Corridor Zone as well as cross the
6 zones. If these routes are chosen, it is likely that
7 there would be significant delay due to the uncertainty,
8 or this line may not be built at all if required to be
9 undergrounded within those zones.

10 Preferred Routes B and 4 do not run within
11 the Gateway Corridor Zone, but only have crossings.
12 While we acknowledge there is still uncertainty around
13 the crossings, it is possible that they will be easier to
14 resolve than the routes running within the corridor
15 zones.

16 As testified by applicant, there's a
17 potential for a route share along Routes D-6 and D-1
18 which would increase the impacts that are already
19 discussed. Since the preferred Routes B and 4 avoid
20 those impacts, Banner supports the preferred routes.

21 Finally, TEP's request for a 400-foot
22 corridor along Routes D, 1, and 6 could allow TEP the
23 ability to site the lines within Banner's private
24 property, as close as 500 feet from the hospitals.

25 As testified to by Mr. Barkenbush, Banner

1 would contest the condemnation along its road, which
2 would result in further delay in building the project,
3 where TEP has indicated time is of the essence.

4 I have been involved in condemnation
5 litigation for power lines and it's not uncommon for
6 those actions to take up to a year or more to resolve.

7 To be clear, Banner does not want to
8 further delay this process, but it would be forced into
9 the condemnation process to protect its property rights
10 and values if routes crossing its private property were
11 chosen. This an additional reason that Banner supports
12 preferred Routes B and 4.

13 Therefore, Banner requests if one of these
14 routes were to be chosen that the requested corridor in
15 this area be narrowed as it was in other areas to only
16 include the public right right-of-way of Lester Road.

17 Banner still holds its concerns that any
18 aboveground line and potential route share running to
19 the north and east of the hospitals for alternative
20 Routes D, 1 and 6 would have the significant impacts that
21 would be detrimental to the emergency and other medical
22 services that Banner provides to the community.

23 For all of the reasons enumerated, Banner
24 requests that the Committee reject the applicant's
25 alternative Routes D, 1 and 6, and select the applicant's

1 preferred Routes B and 4, or an iteration that avoids the
2 areas to the north and east of the medical center.

3 Again, the impacts along Routes D, 1 and 6
4 are not just to Banner, but to the communities served by
5 Banner for its critical emergency and medical services as
6 a Level I trauma facility including the Diamond
7 Children's Medical Center.

8 We would like to thank the Committee,
9 applicant, and other parties for their time and expertise
10 during this important project.

11 Thank you.

12 CHMN STAFFORD: Thank you. Mr. Lusk.

13 MR. LUSK: If I could just have a moment to
14 get my slides.

15 CHMN STAFFORD: Of course.

16 MR. LUSK: Thank you, Grace.

17 So Mr. Chair, Members of the Committee, my
18 colleagues on the -- representing the various parties.

19 I want to be clear at the outset, and I
20 think I speak for -- I can speak for the City on this one
21 matter and that is that the City is committed to the
22 success of TEP and the Midtown Reliability Project.

23 And I think the testimony's been pretty
24 clear on that from both sides, actually, because
25 Mr. Bakken testified that he sat with the city manager

1 and the city attorney for two years to develop the
2 requested solution.

3 We drafted the new special exception
4 process that applies basically only to TEP, and we, in
5 fact, as part of that solution drafted a new franchise
6 agreement to address the costs for complying with the
7 Gateway Corridor Zone.

8 So the challenge here is not lost on the
9 City. And it's a challenge for everyone involved, right,
10 because the City's challenge is to ensure the code and
11 processes are followed, and that's what we're required to
12 do by our community, and what we've been asked to do by
13 our code and our charter.

14 And TEP's challenge is great. This is
15 something that hasn't happened before. Again, what TEP's
16 challenge is is to get a 138kV line that has never been
17 in the Midtown area into the Midtown area. There's a
18 multitude of challenges and the City doesn't disagree
19 that that is a hard thing to do.

20 What TEP is asking you to do as well is
21 difficult, because what they're asking you to do is to
22 grant a certificate notwithstanding any ordinance, master
23 plan or regulation, exclusive of franchises, of course,
24 and find that the regulation is unreasonably restrictive
25 and compliance therewith is not feasible in view of

1 technology available.

2 So I'm not going to belabor the statute,
3 but I want to be clear, the plain language of the statute
4 does not include cost as a factor in feasibility. The
5 two sections, A subsection A --

6 (Phone interruption.)

7 MR. LUSK: I'm not here.

8 MEMBER KRYDER: Sorry.

9 MR. LUSK: The two subsections that have
10 been referenced in this proceeding are Subsection A as it
11 relates to the factors that are required to find -- for
12 this Committee to find in a -- in the granting of a CEC.
13 And that's in Subsection A.

14 Subsection D does not include those
15 factors. They're separate provisions, and the fact that
16 cost is not mentioned in Subsection D points to its focus
17 on technology rather than cost.

18 All the testimony provided on every route
19 indicates that TEP could have complied with the Gateway
20 Corridor Zone requirements with the technology available.
21 Nobody is disputing that, and that's in the record.

22 So what does the Gateway Corridor Zone
23 require? The testimony has been clear that new utilities
24 are required to be undergrounded in the Gateway routes.

25 So I'm an attorney, so I'm going to walk

1 through the rule, because that's what I look at is the
2 rules; right?

3 So the first thing that has to be found is
4 that the regulation is unreasonably restrictive.

5 The regulation that provides for the
6 Gateway Corridor Zone is UDC Section 5.5.4.B.1.A. it
7 only restricts utilities on select corridors consistent
8 with voter preferences, as expressed in the general plan
9 and the Major Streets and Routes Plan. Both the Arizona
10 Supreme Court and the Arizona legislature recognize that
11 cities can require undergrounding within their
12 boundaries.

13 And this is from a case that I believe all
14 the parties are familiar with, Arizona Public Service
15 Company v. Town of Paradise Valley, where the issue at
16 hand was whether or not the town of Paradise Valley had
17 the authority to require undergrounding within its
18 jurisdiction.

19 And the court found that it did. They
20 stated that, "We believe that the legislature has given
21 cities and towns the power to require the undergrounding
22 of utility poles as part of the Town's zoning powers."

23 Reading the statute 9-462.01.A.3, that the
24 legislative body of any municipality by ordinance may
25 regulate location, height, bulk, number of stories and

1 size of buildings and structures.

2 Jennifer, let me know if I need to slow
3 down.

4 THE REPORTER: Yes, please.

5 MR. LUSK: This statute is a legislative
6 grant to the cities of the authority to regulate the use,
7 location, height and size of utility poles. And we find
8 nothing in the Arizona statutes which exempts utility
9 poles from the grant of authority to the towns to enact
10 zoning laws.

11 So the Arizona Supreme Court looked at what
12 authority a city has and determined through those
13 statutes that were provided by the legislature that we
14 have that authority and the authority is reasonable.

15 So where does the Gateway Corridor come
16 from? And there's been discussion about purely aesthetic
17 reasons in the policy statement. And that is not what's
18 discussed in the implementation of the Gateway Corridor.

19 The Gateway Corridor Zone comes from the
20 Major Streets and Routes Plan as was discussed earlier.
21 And what the Major Streets and Routes Plan says about
22 Gateway Corridors is that the goal is to upgrade the
23 developed streetscape of the city, identify regional
24 corridors.

25 Those corridors that are identified for

1 future street improvement and adjacent development used
2 by visitors reach transportation terminals, hotels,
3 resorts and recreational facilities, and who have average
4 daily volumes generally over 30,000. Those are not
5 necessarily all, in fact, not even a majority of those
6 factors are related to aesthetics. This is how the city
7 moves.

8 This is, again, a description of -- this is
9 a major streets and routes map, and as you can see only
10 two full north-south routes are Gateway Corridor. There
11 are two half corridors, including Oracle and Alvernon,
12 and then east-west there are three full corridors.

13 That in my mind is not unreasonable to
14 restrict in a city, especially a city the size of Tucson.

15 This is the Gateway Corridor Zone within
16 the project area. As you can see, again, those two
17 north-south corridors, Oracle is only half of a corridor,
18 and then Broadway.

19 This shows the routes with the Gateway
20 Corridor Zone imposed as well as the University Area
21 Plan. As you can see, they're not -- the applicant is
22 not restricted from most of their routes.

23 And this, I want to put this up because
24 it's just to clarify what the actual impact of the GCZ
25 is. This was talked about earlier and we don't need to

1 belabor it.

2 So not only is it not every route within
3 the -- within the application or within the city, but
4 even the routes that do -- are impacted by the GCZ,
5 there's a relief allowed under the code through two
6 separate processes, including one developed specifically
7 with the applicant to apply to transmission lines.

8 So, again, this describes, which Mr. Castro
9 testified to, as to what the special exception process
10 is. And there was a discussion -- there was some
11 discussion in the applicant's closing about the City
12 controls the process and its outcome.

13 And I would only -- I would only disagree
14 with that past part. And the discussion that occurred
15 around the special exception process with both the
16 members and the parties seemed to suggest that what
17 should have happened is the special exception process
18 should have been completed within this hearing. And
19 that's just not how those processes work. And we
20 wouldn't expect that to be the case.

21 In the same way that we wouldn't be able
22 to -- we wouldn't be able to prejudge the outcome of this
23 proceeding because it's a deliberative process. And so
24 that is not the goal of this proceeding, and, again, I--
25 I refer back to that difficulty that you're faced with as

1 the Line Siting Committee, and the request from the
2 applicant, because that's not how the Committee works,
3 nor how the special exception process works.

4 Again, I won't belabor the relief available
5 but I will highlight that in the preferred route, and
6 just to be clear the preferred route crosses the Gateway
7 Corridor Zone only, and it crosses it three times.

8 So special exception process would be
9 applicable to those three crossings and is specifically
10 applicable to those three crossings with the language
11 given.

12 And I know there was additional discussion
13 about what the special exception process itself requires
14 and what those findings were. This is -- this slide is
15 just meant to determine or to let the Committee know
16 there are specific time frames involved in the process.

17 So a public hearing must be held within
18 70 days of acceptance of the application, can only be
19 continued for 30 days, and once the public hearing
20 occurs, the decision has to be made within five days.

21 So here are the findings that are actually
22 required for a special exception process, and let me be
23 clear, and I'll discuss this later, but the special
24 exception process, no matter what this Committee does,
25 will have to be gone through for the Vine Substation. So

1 these special exception findings will occur.

2 So the zoning examiner has to find that the
3 standard expressly applied by all adopted -- that it
4 meets the standard expressly adopted by all codes and
5 regulations for that type of land use.

6 That it doesn't adversely affect adjacent
7 land uses. That it provides for adequate and efficient
8 vehicular and pedestrian access and parking. Obviously
9 that's not going to be an issue.

10 And it could be adequately and efficiently
11 served by public facilities. Obviously also not an
12 issue. And that it complies with the general plan and
13 any applicable subregional area, or neighborhood plans.

14 And so the discussion has been prior that
15 because of the uncertainty that whether or not
16 this complies -- the request -- requested special
17 exception would -- would comply with the University Area
18 Plan, there's been a discussion that perhaps the -- a
19 condition of the special exception would be that you'd
20 have to underground everywhere within the University Area
21 Plan. And I would suggest that's just a red herring,
22 because here's what could happen and what decision could
23 be made.

24 There are three intersections. The only
25 concern I think I heard from Mr. Bryner is that Broadway

1 intersection as it relates to the University Area Plan,
2 and that is the only intersection within the University
3 Area Plan.

4 A special exception process could be --
5 could proceed on that intersection, and if it fails only
6 underground that intersection. So there is no way in the
7 applicant's preferred route that you would ever have to
8 underground 3.2 miles. In fact, you would never have to
9 underground more than those three intersections.

10 And I think the testimony of Mr. Bryner was
11 his confidence, understandably, might have lessened
12 around that intersection, but it wasn't lessened around
13 the other two intersections in terms of being able to
14 proceed through and be successful in the special
15 exception process.

16 So as it relates -- and then again you have
17 an entirely separate process called the variance. And
18 Mr. Bryner spoke about that this morning. And I agree
19 with everything -- well, almost everything that
20 Mr. Bryner said. As it relates to cost I think we might
21 have a disagreement and who pays that cost, but overall
22 that was a successful process.

23 And what it allows is the same thing as a
24 special exception process allows; it allows a local
25 process to grant relief from the requirements of the GCZ.

1 And that process was available in 2021.
2 Had that process -- had the line siting process continued
3 and a route granted, the variance could have been sought.
4 At that time, and TEP was familiar with the process and
5 had been successful with it. And the City supported TEP
6 in that process.

7 These are some of the findings that are
8 required in the variance. The variance process actually
9 doesn't look at the area plans. So if TEP was
10 unsuccessful in getting the special exception required
11 for the crossing at Broadway, they could also seek a
12 variance. And, in fact, the Gateway Corridor Zone
13 regulation specifically says that a special exception
14 does not preclude a variance.

15 So as you can see, the -- because of the
16 relief available and the limited area in which the
17 Gateway Corridor Zone is drawn, then it's hard to say
18 that that's an unreasonably restrictive ordinance.

19 So then the question is is it feasible with
20 the technology available, and we've already heard that
21 just on technology, the applicant can build the routes,
22 any of the routes. But more importantly as it goes to
23 the preferred routes, there's no reason to presume that
24 cost is a measure of the feasibility.

25 And it's -- even if you did presume that,

1 it wouldn't be the only measure of feasibility, which
2 that is the testimony that you've heard. There's been no
3 one up there that says because of this factor and cost
4 it's not feasible. It's only been cost.

5 And I would suggest that most of the
6 discussion around cost is not about how much it costs,
7 but who pays the costs. And that is not a measure of
8 feasibility either.

9 And you can see that it is feasible for the
10 company because they contemplated it in their franchise,
11 their current franchise, and they also contemplated in
12 the proposed franchise that was voted down.

13 The testimony of Erik Bakken was that the
14 plan going forward for TEP and the City was to proceed
15 with undergrounding some portions of the transmission
16 line with the franchise fees that would have been
17 collected. Clearly, that means it's feasible to do so.

18 And the testimony of Mr. Bakken was also
19 that in that proposal, the idea was that they would
20 collect about 4- to \$6 million per year. That would go
21 for reimbursing the company for undergrounding as it
22 relates to this project.

23 So as we can see, the applicant complied
24 with the GCZ in multiple ways. So they can apply for and
25 receive a special exception process for the crossings in

1 the preferred route, and I think they make a very good
2 case.

3 I don't speak for the City, but I think
4 they make a very good case for receiving the special
5 exception processes especially with, as Ms. Grabel
6 discussed, the reduction in distribution lines in the
7 areas affected. As well as some of the other conditions
8 that they're willing to do.

9 They can build any of the routes and
10 underground where required and they could have done that
11 without your help and been there years ago.

12 They could build the preferred route and
13 underground at the intersections of the GCZ. Three
14 intersections. I think the testimony was about 200 feet
15 per intersection. I don't know because I haven't
16 measured it, but that was just the discussion of
17 yesterday.

18 You can build any of the routes and receive
19 a variance from any or all of the GCZ requirements.
20 Those are the options. That to me does not seem either
21 unreasonably restrictive, nor does it seem infeasible.

22 So what is feasible? The plain language
23 definition is capable of being done or carried out.
24 Obviously there's going to be nuance to that. But the
25 example that I have is until about 2008 it was not

1 feasible to drive an electric car more than 150 miles,
2 with the available technology.

3 It is feasible to do so now. That's a
4 clear distinction, and I think it makes sense when you
5 think about the terms of the statute would say feasible
6 with the technology available.

7 Mr. Jocham did a very accurate portrayal of
8 what was involved in undergrounding a transmission line,
9 including undergrounding a transmission line within an
10 intersection. He provided many slides and a lot of
11 information to the Committee about what that would look
12 like and how it would be accomplished.

13 So just real quickly, I want to -- because
14 there's been some discussion and we've gone down some
15 tangents, but I want to be clear the feasibility is not
16 about whether it's temporarily inconvenient or disrupts
17 traffic.

18 Because those are -- those don't relate to
19 how the thing is getting done and if it can be done.
20 Obviously, if we were to talk about shutting down three
21 roads for months, maybe that's a different story, but
22 that wasn't the testimony. The testimony was that there
23 would be lanes open, that it would be for a short period
24 of time. And you could not -- it could be accomplished.

25 Also, I want to make sure that we're not

1 discounting the testimony of the applicant. It's not the
2 City's preference nor the TEP preference. I'm looking at
3 you, Clark. So Erik Bakken testified if we have to go
4 underground, where does it stop? That's a preference.

5 And Ms. Grabel's characterization about
6 thinking about \$3.5 billion over the next five years is
7 not feasibility. It's not related to how this project
8 gets done. Understandably, TEP is uncomfortable with
9 doing underground transmission lines. They've never done
10 them before and they're difficult to do. That is
11 undisputed. We don't disagree that either.

12 But it also doesn't mean that because
13 they're unfamiliar with it and they don't do it very
14 often and don't want to do it, that it's infeasible. As
15 Mr. Bryner said, we do overhead and that's all we do and
16 they do it well. They do overhead very, very well. And
17 they'd like to continue to do so.

18 But I will remind you that Mr. Bakken's
19 testimony started with idea of modernization. And I
20 think about modernization as looking toward the future.
21 And many, many cities and many, many areas in the country
22 are undergrounding distribution lines and transmission
23 lines for various reasons.

24 To be capable of doing so, if it's
25 necessary, and the City isn't requiring that it do so in

1 every route or at all times or even very much, especially
2 on the preferred route.

3 But it can't be that the applicant is just
4 refusing to underground in any capacity or any way
5 because they're afraid that somebody else is going to ask
6 them to do it, too. That's not feasibility. That's
7 preference.

8 And you can see that by both Mr. Bakken's
9 and Mr. Lindsey's testimony that they don't want to and
10 if they have to go underground they won't. They'll find
11 another way.

12 So it's not only cost to the utility. The
13 only claim made by the applicant as to feasibility is
14 that the additional cost is not borne by another party.

15 Our discussion yesterday, and I apologize
16 to any of the witnesses if they thought I was criticizing
17 them, because I wasn't. What I was really trying to get
18 to was the information that you need to make this
19 decision.

20 This decision is about how this gets done
21 and if it can get done, that means it's feasible. And so
22 if it can get done by undergrounding one intersection,
23 we're done, because that's feasibility. And that doesn't
24 seem like an unreasonable ask. Nor does it seem
25 infeasible either as to cost or to technology available.

1 And, again, I wasn't trying to criticize
2 anybody, but there was a refusal to even discuss that.
3 It's -- there was also sort of a demurral about
4 discussing that with Member Little for the same reason.

5 Again, I think the testimony of Mr. Lindsey
6 was that we don't really want to talk about that because
7 we're afraid that these other cities will ask us to do
8 it -- excuse me -- will ask us to do it as well and we
9 don't want to do that. And it's, again, completely
10 understandable, but not infeasible.

11 This is TEP-31. As you can see, the
12 preferred route presumes no difference in cost because
13 they'll be able to get the special exception.

14 Now, that's not to say that we can prejudge
15 that, and I understand, I completely understand that TEP
16 would like to be certain that they're going to get a
17 special exception, but that's just not how a public
18 process works, and it don't work that way for a
19 particular reason, because it allows flexibility, and it
20 allows input from the community.

21 And there has been some discussion about
22 whether that makes it harder on businesses or not, and I
23 can understand that sentiment, but it also makes it
24 better for our community because our community gets to
25 weigh in on things like this, and this is an important

1 thing, a very important thing for both the applicant and
2 the community itself.

3 Because these -- these power lines are not
4 going to be there for a couple days, they're going to be
5 there I think the testimony was 75 to 100 years.

6 So understanding that, and understanding
7 what the impact of that is a deliberative thing and
8 should be a deliberative process with the community. And
9 the City is committed to that process. And the City is
10 committed to that process with TEP. And I think the
11 efforts that we've made up until this point have shown
12 that and will continue.

13 So I think I've already covered this, but I
14 want to emphasize there is, for the preferred route that
15 I think both Banner and the applicant are in support of,
16 there is no undergrounding of 3.2 miles. It's only of at
17 most in the very worst case, three intersections. And
18 only the Broadway intersection, if you include the UAP.

19 So if you include the UAP and the zoning
20 examiner finds that it requires undergrounding, only the
21 Broadway intersection is impacted.

22 So Mr. Bakken also talked about some of the
23 ways that it can be paid for. Now, assuming the cost is
24 a factor, and I reserve our right to argue that point,
25 assuming that cost is a factor, it's not only that the

1 amount of the requirement, to comply with the
2 requirement, but it's also how it gets paid for and its
3 impact on the applicant. Right?

4 Because I can't afford \$25 million.
5 However, I would hazard a guess that TEP could, as could
6 the City. So if the matter is who pays for it, that's a
7 different question than how much and what the impact is
8 on the applicant.

9 So Mr. Bakken's discussions with the City
10 focused around several ways to pay for the requirements.
11 That included shareholder contribution, which
12 understandably, I understand that TEP does not want to do
13 that.

14 They value their shareholders. I'm sure
15 the shareholders value their company and don't want to
16 add expense if they think they cannot -- get away with
17 not doing it.

18 But assuming that the cost of three
19 intersections is not likely to exceed \$10 million, and I
20 understand TEP's reluctance to give us an exact number on
21 that, but assuming it doesn't exceed \$10 million that's
22 1/25th of the profits of TEP.

23 Assuming also that we go through a
24 ratemaking process and recover it in rates, Member Little
25 calculated a rate impact of about six to seven cents to a

1 hundred dollars. UAZ calculated a rate of about 2.3
2 cents on a hundred dollars.

3 I understand and appreciate the applicant's
4 concern about low-income citizens of Tucson, and I share
5 that concern. I don't know that that impact is going
6 to -- I think that impact is negligible on those
7 particular individuals as well as all the individuals
8 that will be participating in that rate.

9 Franchise fee and financing. So that's my
10 discussion with Mr. Bakken about what the actual point of
11 the new franchise was supposed to be, and his discussion
12 was we were going to recover the amount that we would
13 have to underground through the new fee, and that fee
14 would equal about 4 to \$6 million a year, meaning that
15 they would recover the amount that they were going to
16 recover in 10 years.

17 That's not an exorbitant amount either from
18 the City or from TEP, but more importantly it's not
19 infeasible to accomplish that to get those amounts paid.

20 I'll briefly -- I assume my colleague from
21 UAZ will probably talk about this much more than I would.
22 I want to be clear about what the decision that the
23 Committee has to make.

24 First of all, I've looked at the proposed
25 CEC and I note that there isn't a specific regulation

1 denoted in the findings. It is the idea of
2 undergrounding that is denoted in the findings.

3 I think the City would argue that this is
4 insufficient for this particular finding because the
5 finding requires that you find for a specific ordinance,
6 master plan, or regulation that it is unreasonably
7 restrictive and not feasible with the technology
8 available.

9 So assuming, though, that the Gateway
10 Corridor Zone is the focus of that undergrounding
11 requirement and the University Area Plan is also a focus,
12 I will discuss briefly that the University Area Plan is a
13 policy document that guides local zoning decisions and
14 allows flexibility in a local process to allow both TEP
15 and the community to best decide how to comply with it.

16 Now, I understand that gives TEP a little
17 bit of heartburn because we don't know what that looks
18 like. But, again, we do know the absolute worst outcome
19 that could happen on the preferred route, and that is
20 they would have to either comply with the special
21 exception conditions or they could refuse the special
22 exception and proceed underground.

23 So more important, though, the University
24 Area Plan is not either an ordinance nor a master plan,
25 nor a regulation. Master plan in this context is

1 something like what Banner has, a planned area
2 development, and you heard Mr. Castro talk about that.
3 That is not a neighborhood or a specific plan. Nor is it
4 a regulation. And you heard Mr. Castro talk about that
5 as well.

6 More importantly, even if the Committee
7 makes the finding that the applicant is requesting, the
8 projects will still have to participate in that same
9 local process. As Ms. Grabel described, it is the same
10 local process for the Vine Substation, which is required
11 for the project.

12 So it doesn't make sense to look at the
13 University Area Plan and discount it in any way because
14 they'll have to contend with it in any case.

15 So I'll finish up by I think where we
16 started this morning and I want to thank Mr. Bryner for
17 his discussion of the Silverbell project, but we, the
18 City has and will continue to work with TEP to accomplish
19 the project.

20 There have been many successes. I know you
21 haven't heard a whole bunch of them, but they're there.
22 I enjoy working with my colleagues across the aisle --
23 well, next to me, actually.

24 But more importantly I think we're all
25 committed to a safe, reliable power source for the city

1 of Tucson. We're all committed to working together to
2 make this community better both aesthetically and as a --
3 as the great city it is.

4 So I just wanted to put up from one of the
5 UAZ slides the discussion of Chandler, because we talked
6 about it a little bit here, but I thought this was
7 important.

8 Chandler put this in their promotional
9 materials. They "worked with SRP to meet the City's
10 preference to avoid new overhead transmission lines
11 corridors in residential areas, address conflicts with
12 existing underground utilities and build the project to
13 minimize future neighborhood disruptions."

14 I think that's a great way forward. And I
15 think we can get there because we've begun there. So
16 this is from the Silverbell Road power line relocation
17 that Mr. Bryner discussed this morning.

18 That particular area is rich with
19 archaeologically significant materials. And there's a
20 high density of sites. And both the City of Tucson and
21 TEP were very concerned about the requirements of
22 Silverbell Corridor Zone, which are also the same as the
23 Gateway Corridor Zone in terms of undergrounding
24 utilities. And together we devised the solution to that
25 problem.

1 And I think we can go forward together and
2 do that as well. The finding isn't required. It isn't
3 necessary. It won't fix anything. Right? Because it
4 does not -- well, and I've already discussed, it doesn't
5 preempt local law.

6 I know that's been the request but what it
7 does is allow you to grant the CEC. It does nothing to
8 tell us what happens after that. And the City of Tucson
9 still wants to preserve its authority, as does TEP, and
10 as does this Committee wants to preserve its authority to
11 enforce its own code.

12 So it will not resolve the concerns of
13 either side, or the potential for litigation. And I want
14 to also address there's been a couple comments about
15 leverage. And I understand the desire to do that, but
16 that is not the goal of this legislation, nor is it the
17 goal of this Committee.

18 And I agree with the members that have
19 talked about mediating between the City of Tucson and
20 TEP. I don't think that's necessary. And I don't think
21 it's going to get accomplished in this particular
22 proceeding in this particular way.

23 We have a path forward. There's a
24 preferred route that has minimal issues with the Gateway
25 Corridor Zone and the University Area Plan. And we can

1 get that done. And I'm hoping that the Committee will
2 allow us to do that. Thank you.

3 CHMN STAFFORD: Thank you, Mr. Lusk.

4 Mr. Dempsey.

5 MR. DEMPSEY: Can we take a break first and
6 I can set up slides and --

7 CHMN STAFFORD: Yeah, I think we're --

8 MEMBER LITTLE: Mr. Chairman.

9 CHMN STAFFORD: Yes, Member Little.

10 MEMBER LITTLE: Could I clarify something
11 in Mr. Lusk's closing statement? I'm not sure if that's
12 appropriate or --

13 CHMN STAFFORD: I'll allow it.

14 MEMBER LITTLE: I just wanted to say that
15 the calculation that I did and presented was not a rate
16 impact because that's impossible for any of us to say in
17 advance because ratemaking is so complex.

18 What it really was is a calculation of the
19 increase in the collections, current collections,
20 which -- on a monthly basis of undergrounding under that
21 scenario.

22 CHMN STAFFORD: Thank you very much, Member
23 Little. Since it was a clarification of your own
24 statement, it was more than appropriate for you to make
25 it.

1 MR. LUSK: Agreed, Chair.

2 CHMN STAFFORD: All right. I think with
3 that let's take a brief recess and then we will hear
4 closing arguments from Underground Arizona. We stand in
5 recess.

6 (Recess from 10:20 a.m. to 10:44 a.m.)

7 CHMN STAFFORD: Let's go back on the
8 record.

9 Mr. Dempsey, are you prepared to give your
10 closing argument?

11 MR. DEMPSEY: I think I am, yes.

12 CHMN STAFFORD: Please do.

13 MR. DEMPSEY: Thank you.

14 So I also have a couple of slides, and
15 we're going to try to add them at the last minute, so it
16 might be a little clunky, but bear with me. I'm not
17 ready for them yet, but thanks.

18 TEP keeps acting like it cannot follow the
19 law, but it has not established that it cannot follow the
20 law. In fact, the courts have recently told it that it
21 must follow the law. It also keeps acting like it cannot
22 pay for undergrounding, but it similarly has not
23 established that it cannot pay for undergrounding.

24 I gave many examples of APS and SRP paying
25 for the extra cost of undergrounding. SRP paid about

1 \$20 million in extra costs to underground three miles of
2 a 230-kilovolt transmission line in Chandler, and the
3 Line Siting Committee had no problem with it.

4 APS just paid nearly \$30 million to
5 mitigate only 3 miles of an underground line in central
6 Phoenix. That does not seem to include the cost of
7 reconductoring or any repairs that were required.

8 TEP has not demonstrated that any costs
9 that will be borne by ratepayers here is any more
10 significant than it was in those instances where all of
11 APS and SRP's ratepayers covered the cost.

12 I understand that SRP has a different
13 regulator, but the line siting statutes don't say cost
14 only matters if the ACC is the regulator. My
15 understanding is all of the utilities follow the same
16 standard of just and reasonable cost.

17 Otherwise, why did Zack Heim of SRP talk
18 about costs in his testimony if the Line Siting Committee
19 is not required to care about cost to SRP ratepayers?

20 The uncertainty here has been created by
21 TEP, not the City. The policy statement on which they
22 rely was created at their request in October of just this
23 last year. It does not prohibit TEP from following the
24 law. It tells us what we already know. Be prudent with
25 your spending.

1 Do not underground arbitrarily past the
2 CEO's house. Undergrounding where required by law is not
3 arbitrary.

4 As to TEP's cost estimates, they're at the
5 high end of the range because they include add-ons like
6 spare conductors that other comparable projects have not
7 used.

8 This system will be part of a loop. An
9 expensive spare can be ordered as needed instead of aging
10 in a warehouse.

11 It also included double vaults, which I
12 similarly have not seen in a comparable project.

13 Sargent & Lundy uses a conductor size in
14 their estimate that may not be necessary if the depth of
15 the project turns out to be closer to the surface. All
16 of these little adjustments serve to inflate the cost.

17 In their original estimate Sargent & Lundy
18 put undergrounding from Broadway to Grant at only
19 \$16 million total, the whole thing. I understand that it
20 was preliminary, but it has gone up over five times -- by
21 over five times.

22 Yes, there has been inflation, but not
23 500 percent inflation. Okay. Now we can do the slides.
24 I want to quickly walk you through the updated Sargent
25 & Lundy table. This is the table using the \$2.9 million

1 per mile for overhead instead of the erroneous
2 \$4.1 million per mile.

3 This gets us to a low-end project cost
4 differential of about \$22 million. And this is the table
5 assuming a \$500,000 per mile cost for underground
6 right-of-way. It's entirely impossible there will be no
7 right-of-way cost if TEP can stay within the road
8 right-of-way. So we're still in the ballpark of about
9 \$20 million in extra cost, which works out to a total
10 cost per mile of \$12.8 million.

11 Now, I use the low end because the Intel
12 HIP SRP project was only about \$10 million per mile for
13 about three miles of length or \$30 million total. And
14 this is from an actual legal contract which you can read
15 in Exhibit UAZ-6.

16 There's absolutely nothing -- there's
17 absolutely no reason why the cost here should exceed the
18 Intel HIP SRP project. Our project is a lower voltage, a
19 shorter distance, and involves one less duct bank.

20 The extra cost should absolutely not be
21 double or triple as TEP's application estimates.

22 There has been inflation, but copper prices
23 are flat to down since that time period. If the SRP
24 undergrounding project was feasible for SRP at nearly
25 \$30 million, then surely this project must be feasible

1 for TEP.

2 We are using TEP's own figures even though
3 we disagree with them.

4 As to urgency, TEP has testified that it
5 would not let the system fail. Instead of undergrounding
6 the project, it will spend 60 million more dollars in
7 addition to the 10 million it has already spent to do the
8 necessary repairs on the existing facilities to keep the
9 community safe while it continues to fight to not spend
10 the \$20 million extra cost to underground.

11 How \$70 million -- how spending \$70 million
12 to not spend \$20 million feasible makes absolutely no
13 sense to me.

14 We also want this done as soon as possible.
15 And we believe the most surefire way of ensuring that is
16 for TEP to follow the law using Route 1-A. There's way
17 too much uncertainty in these other areas that cross
18 through neighborhoods and historic districts zoning that
19 will slow down this process even further.

20 The University Area Plan is far from the
21 only obstacle to building high voltage transmission lines
22 in historic and residential areas.

23 Still another concern is the impact of
24 construction on Campbell. Broadway, an adjacent major
25 arterial road, was recently reduced to two lanes for

1 multiple years. For Campbell, we're talking about less
2 than half the amount of time, and it will be done in
3 sections, and the road should have three or more lanes
4 still open.

5 For homeowners, the increased construction
6 noise will be partially offset by reduced traffic noise,
7 and only a handful of businesses will be affected at all
8 because few businesses reside on either side of Campbell
9 from Broadway to the entry of Banner and beyond.

10 As to Proposition 412, the Prop 412 voter
11 packet, which is COT Exhibit 4, mentions nothing about
12 undergrounding. TEP was asking for a large rate increase
13 at the same time as it was asking for a large franchise
14 fee increase. The current franchise agreement which was
15 passed by voters includes an entire section on
16 undergrounding wherein TEP agreed to underground at its
17 own expense where required by law. This is Section 21 of
18 UAZ Exhibit 12.

19 So the voters have had something to say on
20 this issue before, and they adopted that language.

21 If the Committee is to reach a finding of
22 infeasibility due to the cost as stated by TEP, there
23 must be a means by which the Committee determines a cost
24 infeasible. This is why we presented evidence of the
25 clearly affordable amount of the requirements costs

1 relative to comparable projects and relative to TEP's
2 present revenues received from ratepayers and relative to
3 TEP's overall projected capital expenditures.

4 Sorry, Member Little, but I'm going to use
5 you as well.

6 To use Member Littles' apples-to-apples
7 calculation and TEP's cost, the cost increase due to the
8 requirement would amount to about six or seven cents out
9 of every \$100 received from ratepayers, which amounts to
10 just under one dollar per year relative to the payment of
11 an average ratepayer.

12 And this is the worst-case scenario. It
13 may cost closer to \$0.10 per year or less. This is much
14 less than Prop 412 would have cost maybe by an order of
15 magnitude.

16 Regarding overall capital expenditures
17 using the low end of Sargent & Lundy numbers, the cost
18 would be about \$20 million to TEP's \$3.5 billion in
19 projected capital expenditures over the next five years.

20 This is about half of 1 percent of its
21 projected spending. Such a financial cost incurred from
22 the project meeting the required undergrounding we
23 believe cannot be considered so significant or even
24 nearly so as to render the project infeasible.

25 Okay. Sorry.

1 And these cost figures exclude savings to
2 TEP that will come from retiring other facilities. They
3 also exclude the substantial financial risk to TEP that
4 overheading the route through the center of the City are
5 likely to bring from lawsuits by private property owners
6 as well as the risks of sizable costs connected to
7 overhead facilities from worsening weather conditions.
8 Not the mention the legal costs and delay TEP incurs from
9 continuing to fight our local regulations.

10 TEP also ignores a substantial amount of
11 high-density infill development that has occurred, which
12 its lines would substantially alter. The issue here is
13 not merely aesthetics. It's about land use in the
14 densest area of town. It is also about long-term
15 reliability.

16 In our view, the City has been completely
17 reasonable but -- reasonable but has a few red lines.
18 TEP continues to ignore those red lines hoping to do an
19 end around through first the courts and now the Line
20 Siting Committee.

21 As far as I can tell the City has believed
22 itself to have these powers for at least the last
23 40 years. APS versus Town Paradise Valley was decided in
24 1980. The City has not abused this power thus far. To
25 believe that the City will now start abusing the power to

1 the tune of billions of dollars is hyperbolic and
2 unfounded.

3 As to the line siting statutes, they
4 clearly do not put costs on a pedestal. A utility can
5 spend more to protect certain areas as APS and SRP have
6 done throughout the Phoenix metro.

7 Central Tucson is long protected by
8 ordinances and plans. This should not have been a
9 surprise to TEP. If these were planning errors, those
10 are at -- those are its costs to bear and should not be a
11 reason to be allowed to ignore local laws. Otherwise,
12 why will a utility ever respect a City's laws if they can
13 get a hall pass for the delays caused by their own
14 preferences?

15 Finally, there's TEP's claim that the
16 project construction overhead will remove more poles than
17 it erects. The fact is that how many poles will exist
18 after this project is a complete unknown. TEP has no
19 control over what communications and other companies will
20 decide or how many service drops will have to be added.
21 Not to mention that fewer poles but much larger ones
22 would for many be worse and certainly no better than a
23 tradeoff.

24 The UAP policy calls for undergrounding
25 lines, not putting taller ones up while reducing smaller

1 ones. In any case, no matter what conclusion one reaches
2 regarding much taller but fewer poles or any other
3 visibility issue, it does not warrant calling the project
4 infeasible given the available technology.

5 As far as I can tell, 100 percent of TEP's
6 customers live in the extended Tucson metro region. This
7 is the economic heart of that region. As it grows, so
8 does the metro area. Pretending that these are discrete,
9 separate areas belies reality.

10 If you remove the university and downtown
11 Tucson, the entire metro area would suffer greatly
12 economically. So too will it suffer if you allow TEP
13 unrestrained placement of poles and wires.

14 The underground lines in central Phoenix
15 are not just for the benefit of the people that live in
16 central Phoenix. And the underground lines at Tempe Town
17 Lake aren't just for the benefit of those that live
18 there.

19 Undergrounding did not become required here
20 to benefit the central neighborhoods. It was done
21 because the city council believed it benefitted the
22 entire metro area to protect the city center.

23 Our bottom line is that undergrounding is
24 clearly feasible. Moreover, none of the line siting
25 factors favor this -- favor the project as it is

1 currently proposed.

2 To help TEP not have to start over we
3 suggest choosing Route 1-A. This would eliminate the
4 legal challenges it may otherwise face.

5 I'm going to close by repeating what I
6 opened with. TEP keeps acting like it cannot follow the
7 law, but it has not established that it cannot follow the
8 law. It is not prohibited by any law or the ACC from
9 following local laws. All it points to is a policy
10 statement which is not a law that it created.

11 In fact, the courts have told it that it
12 must follow local laws.

13 Similarly, TEP keeps acting like it cannot
14 pay for undergrounding, but, once again, it has by no
15 means established that it cannot pay using its normal
16 process. If it can spend \$70 million to not follow the
17 law, why can it not spend \$20 million to follow the law?

18 The cost based on TEP's own estimates is
19 clearly feasible by almost any definition of the word in
20 our view. Other Arizona utilities have done similar
21 projects and paid for undergrounding with the line --
22 with the Line Siting Committee's blessing. Therefore,
23 the cost must be feasible.

24 As Mr. Lusk said -- we agree with Mr. Lusk.
25 The community will also continue to work with TEP. We've

1 proposed many -- we've had many ideas. We've tried to
2 come up with solutions such as the halfway solution and
3 other solutions.

4 So we'll continue to do that. And I have a
5 great working relationship with the people at TEP. I
6 like them, and I think we're congenial, and it's great.
7 So I agree with Mr. Lusk.

8 But anyways, that's where I want to end it.
9 So thank you for your time and all of your thoughtful
10 questions.

11 CHMN STAFFORD: Thank you, Mr. Dempsey.

12 All right. Members, are we prepared to
13 discuss the various routes to see if we can agree on
14 which one? Or I guess we could pick more than one. We
15 can give them a main route and an alternative route.

16 MEMBER GOLD: Mr. Chairman.

17 CHMN STAFFORD: Yes, Member Gold.

18 MEMBER GOLD: If I may, just sort of
19 anecdotal story before we start looking at routes.

20 Many years ago I got involved in overcoming
21 an impasse between the federal government on a critical
22 project. The project at the time was propellers for our
23 nuclear submarines.

24 Nobody would bid on them. And even though
25 it wasn't my area of expertise, I got the call and said,

1 Jon, can you try to help. Foundries are in your area.

2 I went to the different foundries and said,
3 Would you bid on this project?

4 Now a propellor for a nuclear submarine is
5 unique. It's got to be made in such a fashion, and it's
6 big, that it doesn't cavitate, meaning make bubbles when
7 it's spinning at higher speeds under water because then
8 you can spot the submarine by its trail.

9 And each of the foundries I went to simply
10 said, No. There is no way you can get us to bid on this
11 project. We don't like working with the federal
12 government. The bureaucracy is impossible. We're not
13 going to do it.

14 But one of the foundries was at least
15 courteous when we were speaking. And I said, Look, we
16 have to get propellers for our nuclear submarines for our
17 own national safety. Would you consider putting in a
18 bid? He says, No.

19 I said, Well, if you would consider putting
20 in a bid, how much would a bid be for a blank number of
21 these propellers? And he did his computations, and he
22 came up with a number.

23 And I said, So would you put in a bid for
24 that number? And he said, Absolutely not.

25 I said, Okay. Would you double that

1 number?

2 He says, Double the number?

3 I said, Yeah, just double the number. And
4 he did.

5 I said, Would you put in a bid for that
6 much? He says, That's not a reasonable bid.

7 I said, But would you put it in?
8 Absolutely not. I do not want to work with the
9 government.

10 I said, Okay. Double it again.

11 He says, Four times? Yeah.

12 He did. He's looking at the number. I'm
13 looking at him. I said, Would you put in a bid? He
14 says, That's a stupid bid.

15 I said, Would you put it in? He said,
16 Still, no, I'm not interested. Don't want to work with
17 the federal government.

18 I said, Double it again. He looks at that
19 number, and he says, This number is ridiculous.

20 I said, Great. I'm not asking you to win
21 the bid. I'm asking you to put in a bid because that's
22 my requirement.

23 He says, Yeah, for this amount of money
24 I'll put in the bid. I'll never get it. I'll pull it
25 in.

1 Months later I get a phone call, Jon, we
2 won the bid. I said, You've got to be kidding me.

3 He says, Nope. We're going to make
4 propellers.

5 I said, So what was the problem?

6 He said, Well, with these types of
7 propellers in order to make the propellor and get it out
8 of the mold we have to break the mold. And dealing with
9 the federal government who changes parameters as we're
10 working, it's a nightmare. But for this amount of money,
11 yeah.

12 A month later I get a call, Jon, we figured
13 out a way to get the propellor out of the mold without
14 breaking it.

15 The bottom line is, you're at an impasse.
16 It's not that there's no solution. It's we haven't come
17 to a solution. I believe this Committee will make
18 recommendations for a solution. I don't know if it will
19 be one recommendation or multiple recommendations.

20 But the requirement is there. You need the
21 power. The City knows that. TEP wants to provide it.
22 The question is how and what cost and what time frame.

23 The only issue we have is the suspense
24 date. In military terminology that means you have to
25 complete it by such and such a date.

1 What considerations are there? Well,
2 there's always the knowns and the unknowns. There's the
3 commercial. There's the residential. There's the -- a
4 ton of things that you know better than I.

5 All I'm saying is what you have done in
6 these two weeks we've been here is very impressive for
7 all of you. You've made your cases.

8 And also a couple of hundred people who
9 came to speak made their case. And I'm going to read one
10 to you that says, "The concept that the State of Arizona
11 or any of its agencies, including the Corporation
12 Commission, would allow a privately owned utility to
13 place high-powered aboveground electrical lines directly
14 above residential homes is insane."

15 So nobody wants it in their backyard. But
16 there still is a path forward. I commend you on all your
17 expertise. And now I think it's up to us to take the
18 next step. So thank you again for your professionalism
19 even though it's been two weeks. Thank you again.

20 CHMN STAFFORD: Thank you, Member Gold.

21 If we could get the slide up on the screen
22 of the map that shows the -- there you go. That's the
23 one that shows the Gateway Corridor Zones and the area
24 plans.

25 All right. Thank you. Well, you know

1 what, I think they've established that we have a need for
2 this project. I mean, the applicant has clearly
3 established that they have to have it, and time is of the
4 essence.

5 So it's a matter of -- so we have to
6 approve -- the Committee has to approve a route. Denial
7 of the CEC is not an option for the Committee.

8 Before we get into addressing the elephant
9 in the room, which is the undergrounding requirement, I
10 think that I'd like to ask the members if we can -- if
11 there's a couple of routes that we could just take off
12 the table to start with.

13 My suggestion would be that routes 5 and 6
14 due to the issues with the railroad and the fact that if
15 we approve either, we'd still have to approve another
16 route as an alternate. There's kind of potential for
17 endless delay with the railroad. I think that routes 5
18 and 6 are out of consideration.

19 MEMBER KRYDER: Mr. Chairman.

20 CHMN STAFFORD: Yes, Member Kryder.

21 MEMBER KRYDER: I move that the Line Siting
22 Committee disregard routes 5 and 6 in our deliberations.

23 MEMBER GOLD: Second.

24 CHMN STAFFORD: All in favor.

25 (A chorus of "ayes.")

1 CHMN STAFFORD: Opposed?

2 (No response.)

3 CHMN STAFFORD: All right. 5 and 6 are off
4 the table.

5 All right. So the big issue is the
6 requirement for undergrounding imposed by City plans or
7 the Gateway Corridor. And I guess the big driving factor
8 for the applicant is the fact that the Commission has the
9 policy -- I'll turn to it -- that, you know, the
10 utilities under the Commission's jurisdiction, which TEP
11 is clearly, is they should avoid siting -- placing
12 high-voltage transmission lines underground for aesthetic
13 purposes. It has to be for reliability and safety
14 purposes or to satisfy other prudent operational needs.

15 It seems to me, and I'd like to hear from
16 my fellow members about this, is that the undergrounding
17 requirements imposed by the City relate largely to
18 aesthetics, and they're not required for safety or
19 reliability. I mean, the line is required for
20 reliability. That much is clear. But whether it's
21 aboveground or underground I think does not have an
22 affect on its reliability or safety.

23 Do my fellow members have any thoughts on
24 that issue?

25 MEMBER KRYDER: Mr. Chairman.

1 CHMN STAFFORD: Yes, Member Kryder.

2 MEMBER KRYDER: We've listened to six and a
3 half -- no, seven and a half days of testimony that I
4 believe supports that position that you've just stated.
5 And therefore, it seems to me we've talked about
6 reliability, you did. We've talked about safety, we did.

7 And so we're not -- those two things are,
8 as you stated, off the table. And I would support the
9 position that you stated about a minute ago.

10 CHMN STAFFORD: Okay. All right. We've
11 talked about --

12 MEMBER LITTLE: Mr. Chairman.

13 CHMN STAFFORD: Yes, Member Little.

14 MEMBER LITTLE: Would you restate your
15 position, please. I was looking for something when you
16 were talking. I apologize.

17 CHMN STAFFORD: Oh, I think -- I think that
18 the undergrounding requirements do not relate to --
19 where's it at? I'm looking at the Commission policy. It
20 doesn't have -- it's a policy statement to provide
21 guidance to public service corporations like TEP.

22 And it says as a general matter they
23 shouldn't -- they should avoid incurring the higher costs
24 of undergrounding unless it's necessary for safety or
25 reliability purposes or to satisfy other prudent

1 operational needs and that they shouldn't be done for to
2 accommodate stakeholder preferences, you know, looking at
3 aesthetic reasons.

4 And I think that the City requirement is to
5 underground. I think it's they don't relate to safety
6 and reliability or operational needs. It relates more to
7 aesthetic choices of the City and the people that live
8 there because they prefer not to see the lines. It looks
9 better if you can't see the high-voltage transmission
10 aboveground. I think that's --

11 MEMBER LITTLE: Mr. Chairman.

12 CHMN STAFFORD: Yes, Member Little.

13 MEMBER LITTLE: I think that the Commission
14 statement of guidance is somewhat in conflict with what
15 we as a Committee are required to do.

16 My position, I was appointed to represent
17 the public. And while safety, reliability, all of those
18 issues are certainly primary considerations in looking
19 out for the public, I think that visual and aesthetic and
20 all of the issues that have been discussed here are also
21 considerations of the public and that I have a
22 responsibility in the position that I was appointed to to
23 consider those.

24 CHMN STAFFORD: I agree. Yes, I think we
25 have to consider that.

1 MEMBER HILL: Mr. Chair.

2 CHMN STAFFORD: Yes, Member Hill.

3 MEMBER HILL: I agree with some of what you
4 said. I do think that some of the Gateway Corridor goals
5 include aesthetics. But I also heard from the City that
6 these corridors are designed to move people and for
7 mobility. And so these corridors should be available for
8 pedestrian traffic, bicycle traffic, transit. And so
9 there's other infrastructure in these corridors that may
10 not be compatible with the power lines is what I heard.

11 So it's not a function of just aesthetics.
12 I think that Tucson is trying to maintain its character,
13 which you might call aesthetics. I think they're trying
14 to maintain a quality of life, which I think is beyond
15 aesthetics. And I think that some of the businesses in
16 this corridor are probably trying to maintain some
17 integrity in the value of their property and viewsheds
18 like Banner.

19 So while I hear you on -- while I hear you
20 on the aesthetic piece, I do think that it amounts to
21 something larger. It is the identity of the City in
22 these corridors that they're trying to maintain. And I
23 think that the power lines could detract from that either
24 from an infrastructure perspective, a quality of life
25 perspective, an aesthetic perspective.

1 And so I just want to be careful that this
2 is -- that's the only reason that these corridors exist
3 and that we apply the Corporation Commission's guidance
4 in a way that is respectful of the other components of
5 what makes Tucson Tucson and a community that we're
6 making a decision about.

7 CHMN STAFFORD: And I think that's all
8 correct, but the issue is that -- and the Commission, its
9 policy doesn't say they can't underground it. They're
10 just -- it's to provide guidance that it shouldn't be
11 paid for just generally through rates as the -- as a
12 regular aboveground transmission line would be.

13 It seems to be -- and it specifically
14 points out that if they want to do it, they should
15 appoint a district pursuant to A.R.S. 48-620.

16 MEMBER HILL: But how it gets paid for
17 isn't our jurisdiction, is it?

18 CHMN STAFFORD: No. But under the statute
19 it does say we are to consider the estimated cost of the
20 facilities and site as proposed by the applicant and the
21 estimated cost of the facilities and site as recommended
22 by the Committee.

23 So if -- and that's what's giving me pause.
24 That's why we're talking about this is because it's --

25 MEMBER HILL: I didn't hear pause from you.

1 I heard some direction and position.

2 CHMN STAFFORD: I'm just saying we have to
3 consider the Commission's policy because they set the
4 rates for TEP. And then they provide this guidance to
5 say about how it should be done.

6 Now, at the end of day we'll vote and we'll
7 make a decision. And then the Commission will deal with
8 the ramifications of that. And I just want to kind of
9 talk through how this would work and the things we need
10 to consider.

11 MEMBER HILL: Okay.

12 CHMN STAFFORD: Because again I think
13 that you --

14 MEMBER HILL: That is a very helpful
15 clarification. And sorry, Jennifer, for talking over the
16 Chair.

17 CHMN STAFFORD: Because, you know, the
18 factors in 40-360.06, existing plans of the state, local
19 government and private entities. We have local
20 government private entities here, and they've expressed
21 their conditions. We have fish, wildlife, and plant life
22 not so much because it's an urban setting.

23 Noise levels. Availability to site the
24 public for recreation. Existing scenic areas. Historic
25 sites and structures or archaeological sites. You know,

1 scenic areas, that's -- that is an aesthetic factor.

2 And the total environment of the area and
3 how many lines, how many things are there that are
4 occupying the same space.

5 Then we have, you know, seven, the
6 technical practicability of achieving the proposed
7 objective. You know, that's another thing we need to
8 consider because TEP hasn't undergrounded any
9 high-voltage transmission lines. They don't have any in
10 their system. So that's another factor.

11 And then, like I said, the estimated cost.
12 And that's -- when you look at that and that's like -- I
13 think this is what the Commission's getting at with its
14 policy is you look at --

15 MEMBER HILL: So the Commission doesn't
16 cite any of the other criteria that the state law
17 requires us to consider. They have just -- they have
18 just included tech and cost is that what I'm hearing from
19 you?

20 CHMN STAFFORD: Right. Yes.

21 MEMBER HILL: Okay.

22 CHMN STAFFORD: The policy statement
23 addresses the costs of undergrounding. And its policy is
24 that it should be -- you know, it's fair to make all the
25 ratepayers of a utility pay for the cost of a line that

1 doesn't necessarily serve them individually but it
2 serves -- it enhances the system reliability and improves
3 the -- all the service as a whole for everybody.

4 Whereas undergrounding tends to benefit
5 specific persons near to where the line is. But
6 everyone -- but this is like for reliability it benefits
7 all the customers of TEP, this line will. And so they'll
8 pay -- they'll all pay for that. It's the -- it's the
9 marginal costs of the undergrounding that the Commission
10 is concerned with that policy.

11 And with just looking at the facts,
12 especially when you look at the comparisons from the TEP
13 Exhibit 31, if you -- just looking at the proposed route,
14 as proposed by the applicant, the cost of it -- I didn't
15 add what they came up -- but the difference between the
16 cost of undergrounding if -- if, you know, you have to
17 underground pursuant to the Gateway Corridor and the
18 University Area Plan, you're looking at the total cost of
19 the project is, like, \$63,000,699 and 35 cents more.
20 That's -- I think that's what the policy of the
21 Commission is intended to address.

22 MEMBER LITTLE: Mr. Chairman.

23 MEMBER HILL: Thank you for that. I
24 understand that. I just --

25 CHMN STAFFORD: Yes, Member Little.

1 MEMBER HILL: Go ahead.

2 MEMBER LITTLE: The decision that adopts
3 this policy, was that -- is that a ratemaking case? I
4 can't remember.

5 CHMN STAFFORD: No. It was a generic
6 docket about line siting policies. But this is more of a
7 ratemaking policy than a line siting policy. And --

8 MEMBER LITTLE: I understand that. That's
9 why I'm asking that question.

10 CHMN STAFFORD: Right. It was couched in
11 the -- it's the docket was a line siting generic docket.
12 That's where they -- because they issued along with two
13 other policy statements. One about using hybrid
14 meetings, which we're doing right now, and then the other
15 one was -- what was it?

16 MS. HILL: Substations, I believe,
17 Mr. Chair.

18 CHMN STAFFORD: Yes. These are saying that
19 the substations are not part of the Committee and the
20 Committee's jurisdiction because they're not included in
21 the definition. They are excluded. Which --

22 MEMBER LITTLE: So does this policy --
23 well, I don't think it does. But this policy does not
24 supersede state law; correct?

25 CHMN STAFFORD: No. No it does not.

1 But the policy --

2 MEMBER LITTLE: We exist under the state
3 law.

4 CHMN STAFFORD: Correct.

5 MEMBER LITTLE: And it's what it says
6 explicitly.

7 CHMN STAFFORD: Correct.

8 And under state law, like I just said,
9 factor subsection number 8 requires us to consider the
10 cost of the facilities and site proposed by applicant
11 compared with what the Committee adopts.

12 And so my point is that if we -- and that's
13 assuming that -- well, the evidence is in the record.
14 These numbers I think are fairly reliable. And we're
15 going to rely on them even if they're -- I guess we'll
16 have to weigh them, but they're in the record.

17 So based on the evidence presented and just
18 looking at the preferred route, but the cost
19 difference -- okay. There's several things. If we make
20 the finding that's requested under the statute by the
21 applicant, and that means that they don't have to comply
22 with the City regulations, and I believe Mr. Lusk pointed
23 out that may be up in the air, the statute's clear that
24 allows us to issue the CEC, notwithstanding those
25 requirements because the first part of that statute says

1 we have to -- every CEC we issue has to have as a
2 condition that they must require with all applicable
3 ordinances, master plans, and regulations of the state
4 county, or incorporated city or town.

5 So if we make the finding they don't have
6 to comply with it, then we can issue the CEC. That much
7 is clear from the statute.

8 And there's a difference of opinion between
9 what the applicant says that they -- they interpret that
10 to mean they could build without complying with those
11 undergrounding requirements. And the City says, well,
12 they disagree. And I guess it would ultimately be up to
13 a court to decide whether they could build without
14 compliance.

15 But it does allow us to issue the CEC --
16 that much is clear -- without requiring them to comply
17 with those ordinances, plans, or regulations.

18 MEMBER GOLD: Mr. Chairman.

19 CHMN STAFFORD: Yes, Member Gold.

20 MEMBER GOLD: I'm looking at Route C.

21 Like Member Little I'm also here to
22 represent the people.

23 And I'm looking at Route C. And I see
24 Route C is nobody's favorite and seems to have the most
25 impact on residential areas.

1 I move that to make the process of choosing
2 what we're going to do more simple like we removed
3 routes 5 and 6, could we also remove Route C from
4 consideration?

5 MEMBER HILL: Second. If that's a motion,
6 I'd like to second it.

7 CHMN STAFFORD: All in favor.

8 (A chorus of "ayes.")

9 MEMBER RICHINS: Can you repeat the routes,
10 please?

11 MEMBER GOLD: Route C.

12 MEMBER RICHINS: Just Route C? You didn't
13 say another numbered route?

14 MEMBER GOLD: No.

15 CHMN STAFFORD: 5 and 6 have already been
16 eliminated. He repeated those ones.

17 MEMBER RICHINS: Oh, okay. That's what it
18 was.

19 Okay. So just we're just voting on Route
20 C?

21 MEMBER GOLD: Route C.

22 CHMN STAFFORD: All right. So we've
23 knocked three out of consideration.

24 So we're down to A, B, D, and then 1, 2, 3,
25 4.

1 MEMBER KRYDER: Mr. Chairman.

2 CHMN STAFFORD: Yes, Member Kryder.

3 MEMBER KRYDER: Being partially color blind
4 it's difficult for me to identify clearly Route C. Would
5 someone use the magic ball and trace it for me? I don't
6 want to look at it on there. I want somebody to trace it
7 on the map, if they would, please.

8 CHMN STAFFORD: Can you see the cursor?

9 MEMBER KRYDER: Okay.

10 CHMN STAFFORD: It starts at DeMoss Petrie
11 substation.

12 MEMBER KRYDER: Okay. Into your mic.

13 CHMN STAFFORD: I can't do both.

14 MEMBER KRYDER: Oh, you can't do both.
15 Okay.

16 MEMBER HILL: It starts at the DeMoss
17 Petrie Substation, and it runs along Grant, and then
18 turns south onto Stone Avenue and across Speedway
19 Boulevard.

20 MEMBER KRYDER: Okay.

21 MEMBER HILL: And then bops up through the
22 neighborhood along Park and then across Adams to the Vine
23 Substation.

24 MEMBER KRYDER: Okay. Thank you.

25 MEMBER HILL: Teamwork makes the dream

1 work.

2 MEMBER KRYDER: Thank you very much. That
3 is incredibly helpful.

4 CHMN STAFFORD: Thank you for the assist,
5 Member Hill.

6 I can't hear you, Mr. Lusk.

7 MR. LUSK: I don't think my mic is on. Oh,
8 maybe it is on. Sorry.

9 Just as a point of order, was there a vote
10 on the last motion?

11 CHMN STAFFORD: Yes. We've eliminated 5,
12 6, and C from consideration.

13 MR. LUSK: Thank you. I just didn't hear.
14 It sorry.

15 CHMN STAFFORD: Okay. All right. Now,
16 there's been talk about the Supreme Court case, the APS
17 v. Paradise Valley. And it affirmed the City's right to
18 require undergrounding of utilities.

19 I just wanted to point out that they did
20 reference A.R.S. 40-360, but they found it not applicable
21 because the lines that they were talking about in that
22 case were 12kV up to 69kV, which are below the 110kV
23 threshold for jurisdiction of this Committee and the
24 Commission on the matter. And they said that -- so that
25 wasn't applicable.

1 And they said, "In the absence of a clear
2 statewide preemptive policy not shown here, local
3 governments can prescribe undergrounding within their
4 boundaries."

5 So I guess an issue of law before the
6 Committee is does that finding -- is that a preemptive
7 policy, or does it just allow the Committee to issue the
8 CEC?

9 MEMBER RICHINS: Chairman, I think the law
10 that talks about our requirement to consider local plans
11 is -- isn't that prevailing?

12 CHMN STAFFORD: It's a factor to consider.

13 MEMBER RICHINS: Is that part of that
14 factor?

15 CHMN STAFFORD: Yes, it is.

16 MEMBER RICHINS: Yeah. And, I mean, I
17 think I'd be less interested in the Paradise Valley case
18 and more interested in how our law has been interpreted
19 in that issue.

20 I have a real reluctance to supersede local
21 authority in this particular matter because there's a lot
22 of unique circumstances. And just as we're considering
23 ACC policy where they really hinge that policy on putting
24 aesthetic costs into the ratemaking, we also have
25 policies that were shared with us by the City of Tucson

1 that they have lots of policies as well.

2 And so, you know, which policies do we
3 ignore, which laws do we get to -- you know, and so if
4 we're going to accept the ACC policy on aesthetics and
5 rates, then we also have to accept the University Area
6 Plan, which is a policy not a law, the -- all these other
7 plans. So, you know, we have to be fair I think.

8 And so for me, you know, I would prefer to
9 be completely silent on the matter of undergrounding or
10 not and let's decide our routes. And I think that the
11 applicant and the City of Tucson have a fair amount of
12 work to do on the issues outside of that.

13 And if the City -- they need to come to
14 some agreement on whether or not they're going to be
15 required to underground and how that's going to get paid
16 for because that's governed in their franchise agreement
17 not by us pretty explicitly.

18 So, you know, for us let's stay focused on
19 routes and less so on undergrounding even small portions
20 of undergrounding until we get the routes decided, and
21 then let's maybe address those other issues if we would
22 like to.

23 However, I'm going to state my reluctance
24 to do that. I've never required an applicant to
25 underground. I won't require an applicant to

1 underground. But I do respect local jurisdiction in this
2 particular matter in this unique circumstance.

3 CHMN STAFFORD: Thank you.

4 MEMBER GOLD: Mr. Chairman.

5 CHMN STAFFORD: Yes, Member Gold.

6 MEMBER GOLD: And following along with what
7 Member Richins has said, I would like to recommend that
8 we eliminate -- I would like to recommend that we
9 eliminate routes 2 and 3 extending from the Vine
10 Substation down to Kino because they do the same thing.

11 They go through a whole bunch of
12 residential areas. They go on circuitous routes and
13 nobody seems to like them. The hospital doesn't like it.
14 It interferes with the -- it bypasses a portion of the U
15 of A but not all of it. I just don't think that those
16 routes should be considered. We have far better ones to
17 consider.

18 CHMN STAFFORD: Which route? You're
19 talking about 2?

20 MEMBER GOLD: 2 and 3.

21 2 goes from Vine to Park down to Euclid.
22 Then cuts into Highland, zigzags down to Kino.

23 And Route 3 -- and I may have the numbers
24 in order -- starts at Vine, drops down I think that's
25 Adams Street and Vine Street, but I'm not sure of the

1 names of them. Cuts across the Gateway Corridor at
2 Campbell, goes down Tucson Boulevard. Then cuts again
3 cross the Gateway Corridor or parallels it down to Kino.

4 I think those are routes that we could
5 easily just discard as not being efficient and there's
6 better routes available to do less -- less harm at least
7 to residents, the University Area Plan, and the
8 hospital's preferences.

9 MEMBER HILL: Mr. Gold.

10 MEMBER LITTLE: Mr. Chairman.

11 CHMN STAFFORD: Yes, Member Little.

12 MEMBER LITTLE: I would agree with the
13 exception of the fact that I would like to see the
14 section of Route 2 between Vine and Campbell remain under
15 consideration in support of Member Hill's suggestion that
16 we alter Route 1 from Vine to Campbell --

17 CHMN STAFFORD: Right. That would -- okay.

18 MEMBER LITTLE: -- using Route 2 direction.

19 CHMN STAFFORD: Right. I think just taking
20 the entirety of Route 2 out doesn't preclude us from
21 saying, okay, we want to amend Route 1 to encompass that
22 section of Route 2.

23 But 2 overall as a route is what Member
24 Gold is proposing to remove from consideration.

25 MEMBER GOLD: Yes, Mr. Chairman.

1 CHMN STAFFORD: Okay.

2 MS. DE BLASI: Mr. Chairman. Michelle De
3 Blasi.

4 CHMN STAFFORD: Yes, Ms. De Blasi.

5 MS. DE BLASI: Just a point of
6 clarification because I want to make sure all routes can
7 be, you know, considered.

8 Mr. Barkenbush testified that Banner does
9 not have a position on routes 2 and 3. So just want to
10 make sure that's clear.

11 CHMN STAFFORD: All right. Thank you.

12 MEMBER GOLD: For the benefit of -- okay.
13 Do any of routes 2 or 3 touch that route
14 that the hospital didn't like, that loop?

15 CHMN STAFFORD: No.

16 MS. DE BLASI: No, Member Gold, they do
17 not.

18 MEMBER GOLD: Okay. In that case I just
19 think the routes are extremely circuitous going through
20 residential areas, crossing a Gateway Corridor at least
21 twice that's not necessary for anything else. I would
22 say these are two routes that would help us if we just
23 excluded them.

24 CHMN STAFFORD: Which one is that besides
25 2?

1 MEMBER GOLD: 2 and 3.

2 CHMN STAFFORD: 2 and 3.

3 MEMBER HILL: Mr. Chair, I make a motion
4 that we exclude the totality of routes 3 and 2 for
5 consideration as a route for the CEC.

6 MEMBER GOLD: I guess I second it.

7 CHMN STAFFORD: All in favor?

8 (A chorus of "ayes.")

9 CHMN STAFFORD: Opposed?

10 (No response.)

11 MR. KRYDER: Mr. Chairman. Oh, no, sir.

12 CHMN STAFFORD: Hearing none, 2 and 3 are
13 removed.

14 Yes, Member Kryder, you have a question?

15 MEMBER KRYDER: Just for clarification.

16 We've eliminated some. I want to make sure that I'm up
17 to speed on which ones are still on the table.

18 CHMN STAFFORD: All right. That's a nice
19 segue. Thank you.

20 So there's obviously the preferred Route
21 B-4 is still an option.

22 And A-1 is an option.

23 And then we have D is also an option.

24 So let's talk about those. We have -- I'm
25 going to look at the place here.

1 So let's talk about the northern portion
2 first where we have the -- for the DeMoss Petrie
3 Substation to the Vine Substation.

4 The preferred route is B. So we're coming
5 down Grant. They all have to come down Grant. That's
6 just how to get there.

7 So the issue's going to be where do you
8 head south? Is it going to be on Park or on Vine? And
9 they're both through neighborhoods.

10 I guess -- well, I guess the third one is
11 1 -- is D because that goes all the way to Campbell and
12 down, but then you have to go along Vine into the
13 hospital drive into the substation.

14 But that's the only route that completely
15 avoids residential areas.

16 MEMBER HILL: Mr. Chair.

17 CHMN STAFFORD: Yes, Member Hill.

18 MEMBER HILL: I have to admit I don't have
19 a preference between A and B. I feel like giving the
20 flexibility to the applicant and the City to work with
21 that neighborhood because that -- both routes affect the
22 neighborhood, working with that neighborhood to figure
23 out what works best for the utility and the neighborhood
24 or the City is probably the -- a flexibility that I'm
25 willing to offer. I don't have a preference there.

1 CHMN STAFFORD: Okay. And then looking at
2 it, I mean, coming down Vine is certainly the most direct
3 route, but I think for me the big striking difference
4 that I saw was that Park already has considerable -- it
5 has the 46kV subtransmission lines already running down
6 the street. Whereas on Vine, there are no transmission
7 lines running parallel, but they do cross perpendicularly
8 through the alleyways.

9 But I guess Vine is the more direct route,
10 but it would put poles now where there aren't any poles.
11 Whereas the Park Avenue route has existing poles.

12 But then, again, with the Route B you're
13 going to add new poles to Adams Avenue to get to the
14 substation. So there's going to be new poles somewhere
15 either way.

16 MEMBER GOLD: Mr. Chairman.

17 CHMN STAFFORD: Unless, of course, it's all
18 undergrounded.

19 MEMBER LITTLE: Mr. Chairman.

20 CHMN STAFFORD: I don't think it's -- these
21 areas aren't required to be undergrounded based on, I
22 guess, unless the University Area Plan would apply.

23 MEMBER GOLD: Mr. Chairman.

24 CHMN STAFFORD: Yes, Member Gold.

25 MEMBER GOLD: First of all, would you

1 repeat that so I can understand it.

2 CHMN STAFFORD: Okay.

3 MEMBER GOLD: And, second, did you say that
4 route Vine, B, has utility poles on it already or Park
5 has utility poles on it?

6 CHMN STAFFORD: Park has utility poles on
7 it.

8 MEMBER GOLD: So there are no utility poles
9 on Vine right now?

10 MEMBER HILL: Or Adams.

11 CHMN STAFFORD: Or Adams.

12 MEMBER GOLD: Or Adams, which is?

13 CHMN STAFFORD: From the substation to
14 Park.

15 MEMBER GOLD: Substation to Park.

16 CHMN STAFFORD: To your left. There you
17 go. Yes.

18 MEMBER GOLD: Okay. So if we take line
19 Route B out.

20 CHMN STAFFORD: A.

21 MEMBER GOLD: This is A?

22 CHMN STAFFORD: No. That's B.

23 MEMBER GOLD: That's B.

24 CHMN STAFFORD: B is on Park.

25 MEMBER GOLD: So B has no --

1 CHMN STAFFORD: B has poles.

2 MEMBER GOLD: B has poles? A has no poles?

3 CHMN STAFFORD: Correct.

4 MEMBER GOLD: So B doesn't --

5 MEMBER HILL: I just want to correct the
6 record that B does have sections that do not have poles.
7 Like Adams Street does not have poles.

8 CHMN STAFFORD: Yes. But we're talking
9 about Park Avenue from Grant to Adams there's an existing
10 46kV line. That's where, remember, during the tour, we
11 drove down, and on the east side there's the existing
12 46kV structures that would be removed and replaced with
13 the slightly taller 138kV structures that would be taller
14 and further apart. But then you'd have to add new poles
15 on Adams. So you're going to have to add new poles
16 somewhere in there either way.

17 And then because where, like, Park turns to
18 Adams, that was the apartments -- or they had surfboards
19 mounted to the wall on the outside. I remember seeing
20 that thing several times.

21 MEMBER GOLD: Mr. Chairman, then for the
22 sake of reducing options, can we have just members'
23 opinions do we like the Park Avenue route?

24 Do we like the Vine Avenue route?

25 They appear to be the same, just one block

1 apart from each.

2 One has poles. But if we go across from
3 Park to the substation, we're adding poles. But if we go
4 down on Vine Street from Grant, we're adding poles.

5 CHMN STAFFORD: Right. So poles are added
6 either way. The only -- I think that would make -- and B
7 is the preferred route. I think --

8 MEMBER GOLD: Let's delete Route A.

9 CHMN STAFFORD: Huh?

10 MEMBER GOLD: Let's delete Route A.

11 CHMN STAFFORD: I'm not ready to eliminate
12 Route A yet.

13 MEMBER LITTLE: Mr. Chairman.

14 CHMN STAFFORD: Yes, Member Little.

15 MEMBER LITTLE: I would just like to say
16 that I am also in favor of approving both A and B.

17 C I have mixed feelings about.

18 But A and B to enable the utility to work
19 with the neighborhoods --

20 CHMN STAFFORD: Right.

21 MEMBER LITTLE: -- to choose a route.

22 CHMN STAFFORD: And I think that -- another
23 thing that seems to make A slightly preferable is that --
24 the fact that they're retiring their 46kV system, so the
25 pole -- the existing poles on Park would leave either

1 way, I believe.

2 Is that accurate, Ms. Grabel?

3 MS. GRABEL: Can you repeat that,
4 Mr. Chairman?

5 CHMN STAFFORD: If Route A were selected
6 and the line were running down Vine to the Vine
7 Substation, because I remember when we looked -- did the
8 tour of Park there's existing 46 poles and those would be
9 used or I think replaced with the 138kV poles, but they
10 would be taller and further apart and that the 46 would
11 be undergrounded and the other things that are there
12 would be undergrounded, but the 46kV is going to be --
13 that system's going to be moved out eventually.

14 So at some point, if you add poles to Vine,
15 at some point the poles on Park would be taken down.

16 MS. GRABEL: I'm going to let Mr. Bryner
17 respond.

18 MEMBER LITTLE: No.

19 Mr. Bryner: So it would only be the 46kV
20 portion of those poles, not -- they have the distribution
21 underbuild, that would remain if we didn't go down that
22 route.

23 CHMN STAFFORD: Okay. So maybe something
24 to consider would be a condition that they underground
25 the distribution there to eliminate the -- so you'd have

1 a -- Park would gain and Vine would have -- Park would
2 lose poles and Vine would gain poles, but they'd still
3 have -- they'd still have the -- that would be the 14kV
4 that was going to be in there, right? That's my
5 recollection. I think that's correct. That's the
6 distribution that would remain because they're taking the
7 46kV out.

8 MEMBER GOLD: Mr. Chairman.

9 CHMN STAFFORD: Yes, Member Gold.

10 MEMBER GOLD: TEP prefers the Park route.

11 CHMN STAFFORD: Correct.

12 MEMBER GOLD: Why does TEP prefer the Park
13 route over the Vine route?

14 CHMN STAFFORD: I believe the record showed
15 that it was -- I think the fact that the poles were
16 already there was a factor in it.

17 Mr. Bryner: So that was a factor was the
18 fact there are poles along Park, there's not on Vine.
19 Also a community preference is especially for Jefferson
20 Park is Park over Vine.

21 MEMBER GOLD: Then, Mr. Chairman, I would
22 move that we delete the Vine route, you know, for the
23 sake of making shorter recommendations. So that would
24 mean delete Route A.

25 MEMBER KRYDER: Second.

1 CHMN STAFFORD: All in favor.

2 (A chorus of "ayes.")

3 MEMBER HILL: We get to discuss, right,
4 before we vote?

5 MEMBER LITTLE: Wait. How about opposed?

6 CHMN STAFFORD: Opposed?

7 (A chorus of "ayes.")

8 MEMBER HILL: Aye.

9 MEMBER LITTLE: Aye.

10 CHMN STAFFORD: Just one opposed. All
11 right. So we're down --

12 MEMBER LITTLE: Two. Me too.

13 MEMBER RICHINS: Roll call.

14 CHMN STAFFORD: Roll call vote on removing
15 A.

16 Member Kryder.

17 MEMBER KRYDER: I'm sorry?

18 CHMN STAFFORD: Roll call vote on removing
19 A.

20 There was some confusion with that last
21 vote.

22 MEMBER KRYDER: Yes.

23 CHMN STAFFORD: Use your mic, please.

24 MEMBER KRYDER: Yes. I favor coming down
25 Park per the recommendation from TEP.

1 CHMN STAFFORD: Member Mercer.
2 MEMBER MERCER: Yes.
3 CHMN STAFFORD: Member Gold.
4 MEMBER GOLD: Yes.
5 CHMN STAFFORD: Member Drago.
6 MEMBER DRAGO: Yes.
7 CHMN STAFFORD: Member Hill.
8 MEMBER HILL: No.
9 CHMN STAFFORD: Member Richins.
10 MEMBER RICHINS: No.
11 CHMN STAFFORD: Member Little.
12 MEMBER LITTLE: Explain my vote,
13 Mr. Chairman?
14 CHMN STAFFORD: Sure. Absolutely.
15 MEMBER LITTLE: As a utility planner, I --
16 in my past life I prefer more direct routes all things
17 considered, and A is a much more direct route.
18 It also I don't believe installs any more
19 poles along a more accessible route than B does because
20 of the section along Vine. So I am against eliminating
21 it at this point.
22 CHMN STAFFORD: Member Somers.
23 MEMBER SOMERS: Sorry. I was having a
24 little trouble. Aye.
25 CHMN STAFFORD: For the removal of A?

1 MEMBER SOMERS: Yes.

2 CHMN STAFFORD: Okay. Well there we go. A
3 is removed.

4 MEMBER HILL: Mr. Chair, did you vote?

5 CHMN STAFFORD: Okay. Well, I'll vote to
6 not remove it then.

7 MEMBER HILL: I just didn't --

8 CHMN STAFFORD: It was five to three. So
9 that was by -- so the "ayes" have it.

10 So I guess the last one is going to be
11 Route D.

12 MEMBER KRYDER: Will you summarize the vote
13 for me, Mr. Chairman, please. Brief interpretation.

14 CHMN STAFFORD: Yes. Members Kryder,
15 Mercer, Gold, Drago, Somers voted to remove A from
16 consideration.

17 And then Members Richins, Hill, Little, and
18 Stafford voted to keep it.

19 The "ayes" have it.

20 MEMBER GOLD: Mr. Chairman.

21 CHMN STAFFORD: Yes, Member Gold.

22 MEMBER GOLD: For clarification, I would
23 vote for one or the other. And my purpose was to simply
24 narrow down the choices.

25 So had it been the other way around, I

1 would not have objected to that either, just for the
2 record.

3 CHMN STAFFORD: All right. Then so we're
4 down to two for the first top of the route. We have it's
5 going to be B, the preferred route, or D.

6 MEMBER GOLD: Mr. Chairman.

7 CHMN STAFFORD: Those are the two left.
8 Yes, Member Gold.

9 MEMBER GOLD: Route B goes through a
10 residential area, and I represent Route B goes through
11 residential areas but bypasses a Gateway Corridor.

12 CHMN STAFFORD: Yes.

13 MEMBER GOLD: The Gateway Corridor is a
14 commercial area, but that route bypasses almost all of
15 the residential areas.

16 CHMN STAFFORD: Yes.

17 MEMBER GOLD: If I'm correct in that
18 assumption, I would suggest that it is more important for
19 people who live in an area and have to look at those
20 overhead lines every day. They are closer to the
21 electromagnetic flux.

22 There weren't lines in a lot of those
23 neighborhoods that would now be placed in those
24 neighborhoods. They would be affecting property values
25 whether we want to admit it or not.

1 A lot of those neighborhoods are, I guess,
2 historic. I may not be using the right word. And they
3 pay less in rent and have smaller houses to keep them
4 historic, which I think puts them in a lower income area.

5 There's a lot of reasons why a lot more
6 people are in those areas who would be affected directly
7 as opposed to the commercial area that we see already is
8 a commercial area, looks like a commercial area, would be
9 affected by people who transit it on a daily basis, but
10 we would have large poles high up at great distances.

11 I don't know that it would affect the
12 shopkeepers. It would be farther from the buildings that
13 are in that area. And I think it's a good option to keep
14 both. One is through residential areas. One is through
15 commercial gateway areas.

16 CHMN STAFFORD: I would agree. I would
17 suggest that we keep A and D both as -- no, B and D,
18 excuse me, as options so there's one that goes through
19 the neighborhood and one that circumvents the
20 neighborhood, although it will annoy the hospital, but it
21 doesn't run through neighborhoods.

22 So I think for now we'll keep those two
23 options on the table, Members? Okay.

24 MEMBER GOLD: Mr. Chairman, I make a motion
25 we keep option B and D on the table.

1 MEMBER MERCER: Second.

2 CHMN STAFFORD: Further discussion?

3 (No response.)

4 CHMN STAFFORD: All in favor say "aye."

5 (A chorus of "ayes.")

6 CHMN STAFFORD: Opposed?

7 (No response.)

8 CHMN STAFFORD: Hearing none, okay, B and

9 D, they are for the northern half of the route.

10 Now. Moving on, we have -- for the rest of
11 it, we have still have routes --

12 MEMBER GOLD: 1 and 4, Mr. Chairman.

13 CHMN STAFFORD: 1 and 4.

14 MEMBER GOLD: Let's look at those.

15 CHMN STAFFORD: And, Member Hill, you had a
16 suggestion. Are you going to proposed to change the 1 to
17 include the section of 2 that runs from the substation,
18 the Vine Substation, to Speedway over to --

19 MEMBER HILL: Yeah.

20 MEMBER LITTLE: Mr. Chairman.

21 CHMN STAFFORD: Member Little.

22 MEMBER LITTLE: I would suggest that we
23 have a 1 -- Route 1 and a Route 1-A that is modified as
24 Member Hill suggested.

25 This would give the applicant the option of

1 using 1-A if they could not negotiate something with the
2 hospital to use. What is that? I can't remember the
3 name of that street.

4 MEMBER GOLD: Where is 1-A?

5 MEMBER LITTLE: Not Ring Avenue, but the
6 one that's north of that, but choose that route, the Ring
7 route.

8 MR. LUSK: I think that's Lester.

9 CHMN STAFFORD: That's Lester.

10 MEMBER LITTLE: Lester. Thank you.

11 CHMN STAFFORD: And, again, I thought the
12 point of doing that was to avoid going into the
13 neighborhood. If they have to go to Lester instead of
14 Ring, then they're in the neighborhood anyway.

15 MEMBER LITTLE: Right. But my point is
16 that if it looks like from a timeliness perspective they
17 would be better off to choose that little portion of what
18 was Route 2, it would at least give them both options if
19 Route 1 was selected.

20 So I move that we have Route 1 and
21 Route 1-A on the table.

22 CHMN STAFFORD: Can we call it something
23 other than 1-A because 1-A would be a route on both
24 sections --

25 MEMBER LITTLE: Oh, yeah. That's right.

1 CHMN STAFFORD: 1.02?

2 MEMBER LITTLE: Or 1.1?

3 CHMN STAFFORD: 1.2 or 1.1?

4 What was that, Member Richins?

5 MEMBER RICHINS: I'm just popping off.

6 MEMBER DRAGO: Mr. Chairman.

7 CHMN STAFFORD: Yes, Member Drago.

8 MEMBER DRAGO: Can we use the laser to
9 outline both routes we're proposing or Member Little is
10 before we vote.

11 CHMN STAFFORD: Yeah, but the Route 1.1
12 would be -- instead of coming from the substation on Vine
13 and heading east along Ring Road it would head south on
14 Vine, I believe, and jog over to Maple and then down.

15 MEMBER HILL: To Speedway.

16 CHMN STAFFORD: There's another street
17 name. I can't remember what it was.

18 MEMBER HILL: It's Cherry.

19 CHMN STAFFORD: Cherry to Speedway and then
20 over to Campbell. And then the rest of the route would
21 be the same as Route 1.

22 MEMBER GOLD: Mr. Chairman.

23 CHMN STAFFORD: Yes, Member Gold.

24 MEMBER GOLD: Route 1.1 that Member Hill is
25 proposing does not appear to go through residential

1 areas. It appears to go through the university whatever
2 that --

3 CHMN STAFFORD: Yes.

4 MEMBER GOLD: -- zone is called. It's the
5 university -- what's that area called? The University
6 Plan?

7 CHMN STAFFORD: It's the University Plan.
8 It's University Area Plan. It's indicated by the right
9 descending hashmark.

10 MEMBER GOLD: So this goes further
11 through -- well, actually it's a little more circuitous.

12 Question to TEP, is there a reason why you
13 did not prefer Route 1.1?

14 MS. GRABEL: So any route that goes down 1
15 is going to be on the Gateway Corridor, and that presents
16 a significant challenge to building that line without a
17 finding from this Committee.

18 And so our preferred route is a route that
19 we can construct not in the Gateway Corridor, at least
20 that requires the minimum amount of special exceptions.

21 So, I mean, I would suggest to this
22 Committee if you do choose a route that runs parallel
23 down a Gateway Corridor, which either 1 or 1.1 do, that
24 you either also make a finding or give us an alternative
25 that we can build more cost effectively.

1 MEMBER GOLD: Still not answering my
2 question.

3 MS. GRABEL: Okay.

4 MEMBER GOLD: Why did you choose the direct
5 east-west route on Route 1 instead of going down Vine to
6 that little other street instead of going this way?

7 MS. GRABEL: I gotcha. Go ahead.

8 CHMN STAFFORD: I'm going to go out on a
9 limb and guess it's because of the undergrounding cost
10 because it's in the University Area Plan, and they would
11 be required to underground it to go that way.

12 Mr. Bryner: So to clarify, we're talking
13 1.1 versus 1. Why did we not choose 1.1?

14 MEMBER GOLD: Yes.

15 Mr. Bryner: Okay. It was really simply
16 put that if we were allowed to go down Campbell in an
17 overhead fashion, we figured why wouldn't we go down all
18 the way surface we could go and then cut in the most
19 direct route as opposed to winding through on the 1.1
20 route. No other reason.

21 MEMBER GOLD: Thank you.

22 MEMBER LITTLE: Mr. Chairman.

23 CHMN STAFFORD: Yes, Member Little.

24 MEMBER LITTLE: I would agree with that.

25 However 1.1 does take care of the issue with the

1 hospital.

2 CHMN STAFFORD: Yes, that is a --

3 MEMBER GOLD: Mr. Chairman.

4 CHMN STAFFORD: Yes, Member Gold.

5 MEMBER GOLD: Might I ask Ms. De Blasi what
6 her preference is for the hospital?

7 MS. DE BLASI: As opposed to route -- let
8 me make sure I'm getting this right.

9 MEMBER GOLD: Let me show you. I'll get
10 this thing working. As opposed to going directly from
11 here to here --

12 MS. DE BLASI: Correct.

13 MEMBER GOLD: -- go circuitously down away
14 from the hospital and then cut in here.

15 MS. DE BLASI: Right. I was trying to pick
16 up the -- where we are with the route numbers. For 1.2
17 or --

18 CHMN STAFFORD: 1.1.

19 MS. DE BLASI: 1.1, for sure the hospital
20 would prefer to not go along Ring Road for all the
21 reasons enumerated, particularly related to condemnation
22 delays. That would not be a route that would impact the
23 hospital operations.

24 MEMBER GOLD: So if I understand that
25 correctly, the hospital prefers 1.1?

1 MS. DE BLASI: Correct.

2 MEMBER GOLD: And TEP just chose 1 because
3 it was a straight line?

4 MS. DE BLASI: And to the extent that any
5 of the Campbell corridor within that Gateway Corridor
6 Zone caused delays, I think Mr. Barkenbush's testimony
7 stands.

8 But in terms of between Ring Road and 1-A
9 definitely -- or 1.1 definitely the hospital would prefer
10 1.1.

11 MEMBER GOLD: Mr. Chairman.

12 CHMN STAFFORD: Yes, Member Gold.

13 MEMBER GOLD: In that case I would suggest
14 going along with Member Little's suggestion, and we add a
15 1.1 as an option.

16 CHMN STAFFORD: I agree.

17 Member Hill?

18 MEMBER HILL: I agree.

19 CHMN STAFFORD: Member Richins?

20 MEMBER RICHINS: Sure.

21 CHMN STAFFORD: All right. He indicated he
22 supports that.

23 I don't think we need to take a formal
24 vote, but at this point now we're just trying to talk
25 about -- talk through what we're doing.

1 MEMBER HILL: Mr. Chair, I do want to check
2 in with Member Little because I heard her suggestion a
3 little bit differently, and I just want to make sure I
4 understood it.

5 Member Little, you might have even made a
6 motion when I -- when I reflect on the conversation.

7 Do you want to -- was it that you wanted to
8 preserve the opportunity to do -- to include Route 1 and
9 1.1 to provide more flexibility to the utility and the
10 City to figure out what works best, or did you just
11 intend to add Option 1.1?

12 MEMBER LITTLE: I intended to add 1.1 but
13 also retain 1.

14 MEMBER HILL: That's what I heard.

15 CHMN STAFFORD: Okay.

16 MEMBER LITTLE: And so we would have both,
17 1 and 1.1.

18 CHMN STAFFORD: And then --

19 MEMBER LITTLE: And 4 is still on the
20 table.

21 CHMN STAFFORD: And 4. Yeah, I think we
22 should keep 4 on the table as well. I think that should
23 be --

24 MEMBER LITTLE: Oh, absolutely.

25 CHMN STAFFORD: Yes.

1 MEMBER LITTLE: Absolutely.

2 MEMBER HILL: I agree.

3 CHMN STAFFORD: Okay. All right. So we
4 have -- it looks like we're aligned -- for the upper
5 alignment we're looking at B and D, and for the lower we
6 have 1, 1.1 and 4; correct? Is that --

7 MEMBER KRYDER: I concur, Mr. Chairman.

8 CHMN STAFFORD: All right. Excellent. All
9 right.

10 Well, that's bringing us --

11 MEMBER LITTLE: Mr. Chairman.

12 CHMN STAFFORD: Yes, Member Little.

13 MEMBER LITTLE: I would like to make a
14 motion if it's appropriate that we include in the CEC all
15 of the routes that you have just -- that you just said
16 are still on the table, that we actually approve all of
17 those routes, which would give the applicant and all
18 parties flexibility, which I believe they need under the
19 circumstances of this case.

20 CHMN STAFFORD: All right. That's -- did
21 you want to make the motion?

22 MEMBER LITTLE: Yes.

23 MEMBER KRYDER: Mr. Chairman.

24 CHMN STAFFORD: One second. She's about to
25 make a motion.

1 MEMBER LITTLE: I did.

2 CHMN STAFFORD: Okay. You did?

3 MEMBER LITTLE: Yes.

4 CHMN STAFFORD: Yes. Thank you.

5 MEMBER LITTLE: Yes.

6 CHMN STAFFORD: Member Kryder.

7 MEMBER KRYDER: I need to hear the motion.

8 I was thinking along a different line.

9 CHMN STAFFORD: Okay. Her motion is that
10 we keep Routes B and D, 1.1, 1, and 4 as the routes for
11 the Committee to approve.

12 MEMBER HILL: So I'll second that if it is
13 a motion.

14 CHMN STAFFORD: It was.

15 MEMBER KRYDER: Thank you very much. That
16 clarifies it for me, and that also takes care of my
17 question.

18 CHMN STAFFORD: Okay. Further discussion?

19 MEMBER GOLD: Yes, Mr. Chairman.

20 CHMN STAFFORD: Yes, Member Gold.

21 MEMBER GOLD: If we include B, D, 1.1, 1,
22 and 4, can we also state that undergrounding is still on
23 the table?

24 CHMN STAFFORD: We're going to have to
25 circle back to that. That's a whole -- I think we need

1 to -- we'll have to vote and discuss that because I think
2 Route 1 and 1.1 without that finding aren't going to be
3 viable options.

4 MEMBER LITTLE: Right.

5 CHMN STAFFORD: So it doesn't make any
6 sense to include them as an alternative without the
7 finding, I think.

8 But let's -- we're coming up on the noon
9 hour, and I think the court reporter is ready for a
10 break. I know I am.

11 And so now we've narrowed the scope of the
12 routes we're looking at, so we can focus our discussions
13 more on the implications of undergrounding versus not
14 undergrounding and then what the will of the Committee is
15 going to be to make a finding or not make a finding.
16 Because that's going to be --

17 MEMBER LITTLE: Mr. Chairman, we need to
18 vote on --

19 CHMN STAFFORD: One second, Member Little.
20 I'm still making a point.

21 Because the thing is if we end up not
22 making the finding, there's no point in keeping routes
23 1.1 or 1 on the table.

24 MS. DE BLASI: Mr. Chair, I think that
25 would also include Route D.

1 CHMN STAFFORD: Yeah. Yes. Well, I think
2 also D, yes. Because if we don't -- if we do make the
3 finding, we are in reality only approving the preferred
4 route, and so that's -- that'll be the next step I think
5 of our analysis.

6 MEMBER GOLD: So by accepting B, D, 1.1
7 and 4, we're not precluding the other option of an
8 undergrounding?

9 CHMN STAFFORD: Well, I mean, the thing is
10 some of --

11 MEMBER GOLD: We're discussing the
12 undergrounding.

13 CHMN STAFFORD: Right. We haven't -- we
14 haven't -- the Committee hasn't decided whether to make
15 the specific finding requested by the applicant that the
16 undergrounding requirements are unduly restrictive and
17 not feasible in light of current technology or available
18 technology. I have to look at the statute, but, yeah, I
19 think it's pretty close.

20 That's -- we're going to have to vote and
21 make that determination. And once we do that -- and like
22 I just pointed -- my point was that if we do -- do not
23 make the finding, then it's I think 1.1 and 1 are both
24 really not very viable options. But we're going to talk
25 about what that looks like and then what potential

1 implications of that are.

2 So but think we need to -- I think it's
3 time for the lunch break. Let's go ahead and -- we'll do
4 that.

5 MR. LUSK: Mr. Chair, I think --

6 CHMN STAFFORD: When we come back, we'll
7 have that discussion.

8 Yes, Member Lusk.

9 MR. LUSK: Not yet.

10 CHMN STAFFORD: Mr. Lusk.

11 MR. LUSK: I think Member Little had a
12 question as to whether there was an actual vote on the
13 last motion.

14 CHMN STAFFORD: Yes, Member Little.

15 MEMBER LITTLE: I don't believe we voted.

16 CHMN STAFFORD: For?

17 MEMBER LITTLE: The motion I made and
18 Member Hill seconded.

19 MEMBER GOLD: She's correct.

20 CHMN STAFFORD: What was the motion again?

21 MEMBER LITTLE: That we keep -- keep
22 Route B, Route D, Route 4, Route 1, and Route 1.1 on the
23 table.

24 CHMN STAFFORD: Oh, yeah, we had -- I
25 thought it was moved, seconded, and we were in the middle

1 of further discussion. I hadn't called for the vote yet.

2 MR. RICHINS: That's correct.

3 MEMBER LITTLE: Yes.

4 CHMN STAFFORD: Okay.

5 MEMBER RICHINS: She's calling your
6 question is what she's doing.

7 MEMBER LITTLE: Yes.

8 CHMN STAFFORD: Yes. Yes.

9 All in favor say "aye."

10 (A chorus of "ayes.")

11 CHMN STAFFORD: Opposed?

12 (No response.)

13 CHMN STAFFORD: Okay. None.

14 The motion carries.

15 We have Options B, D, 1.1, 1, and 4 under
16 consideration.

17 All right. Anything further before we take
18 a break from the members?

19 Hearing nothing, we stand in recess.

20 (Recess from 12:01 p.m. to 1:32 p.m.)

21 CHMN STAFFORD: Let's go back on the
22 record.

23 Now we're going to discuss the request by
24 the applicant for a specific finding that the
25 undergrounding provisions are unreasonably restrictive.

1 Member Somers.

2 MEMBER SOMERS: I am here.

3 CHMN STAFFORD: As a sitting city council
4 member, I'm interested in your perspective on this.

5 MEMBER SOMERS: You know, my perspective on
6 this as a sitting council member is I don't like the idea
7 of this Committee even becoming involved in this.

8 I know -- the issue I have is that the
9 local government, the government that's closest to the
10 people, who -- this is important to them, are duly
11 elected officials who create these ordinances, that's
12 where this argument really should be had.

13 There's -- we heard a lot of testimony
14 about cost and aesthetics, but what we didn't hear a lot
15 about was arguments about, you know, how economic -- a
16 little bit more on economic development.

17 There's some comments that are made in the
18 exhibits presented by the City of Tucson where the city
19 council members laid out some of that, and how we either
20 hang or underground power lines really affects economic
21 development and the prosperity of the community beyond
22 the aesthetics.

23 But I think this really, the best place for
24 this argument to be had is with the City itself. And
25 part of one of the testimony by the applicant was that we

1 couldn't get the City to give us permission to put a line
2 through here.

3 But then the City would come back with,
4 well, we can't do that until we know what the route is.
5 And that's the unfortunate truth. There's a cart-horse
6 problem here. I think once this Committee has settled on
7 making a -- making a determination of the route, I think
8 then the City process that was put in place to provide
9 relief should it prove to be either technologically or
10 financially unfeasible to underground this line, can play
11 itself out in a much more rapid fashion than what we have
12 seen before.

13 And based on the ordinance or what I had
14 discussed yesterday is that clearly it showed that both
15 technological and financial considerations would be made
16 in making the decision whether something had to be
17 undergrounded or not.

18 I'm very -- very wary of the Committee --
19 none of us are elected to the Committee, we were
20 appointed. Having a Committee like this make that
21 determination, I don't know, it speaks a little bit to
22 the discussions of shadow government that everybody's
23 really concerned about.

24 Let this play out in the public sphere
25 really where it belongs, and I understand the angst of

1 Tucson Electric Company and not having that degree of
2 certainty.

3 But this -- there's no question that this
4 system needs to be upgraded. It is woefully inadequate
5 for 21st century economic development, the technologies
6 that are emerging, everything, you know, everything from
7 the economic development and new technologies, data
8 centers that drive our everyday life, half the people
9 seem to have a plug-in car nowadays or soon will, and the
10 systems that created those legacy systems that are in
11 existence really do need to be replaced. So that part I
12 support.

13 I think it's imperative that the City of
14 Tucson move this through their process as quickly as
15 possible and find an agreement that is satisfactory to
16 all the parties, the residents and the community and the
17 power company so this project gets done.

18 But I would hope that this Committee treads
19 a little bit carefully on anything that would look like
20 we're making a decision towards that. Let's focus on the
21 best route and a route that has flexibilities for the
22 party to work with so they can get their job done.

23 So let them do their jobs is what I would
24 think. Thank you, Mr. Chair.

25 CHMN STAFFORD: And so I had another

1 follow-up question for you. How does City of Mesa handle
2 the cost difference between undergrounding and overhead?

3 MEMBER KRYDER: A little closer into your
4 mic.

5 CHMN STAFFORD: How does the City of Mesa
6 handle the cost difference between undergrounding and
7 overhead, because I think that is kind of the crux of the
8 issue here is that the utility, I think they're perfectly
9 willing to underground any and all facilities that the
10 City requests as long as the difference in cost is picked
11 up by the City and not passed through to ratepayers.

12 And my understanding with the SRP
13 undergrounding, I think the difference was paid for
14 either by Intel or -- oh, Chandler? Intel and Chandler.
15 And then I think there was some also undergrounding in
16 Mesa for the data center out there.

17 Do you know how they -- and they had to
18 underground some lines for that, too. Do you know how
19 that was handled, Member Somers?

20 MEMBER SOMERS: Again, that's going to be a
21 decision between the parties. Because the data center, I
22 mean, that's a private entity. So they were going to --
23 they're going to make that agreement with the private
24 company to underground that. We have a substantial
25 number of new power lines going up actually not too far

1 from my house that -- they are aboveground. But they're
2 up against a freeway and there are a number of lines that
3 are aboveground there. It's a corridor that's existed
4 for a very long time.

5 So that really hasn't been an issue. Where
6 we have seen any undergrounding, that was between the two
7 parties.

8 But, again, Tucson being a party to this, I
9 agree if you're going to -- if they're going to
10 underground it, then that has to be part of the
11 discussion between the City of Tucson and the power
12 company on how that's going to get paid for.

13 Because I do believe we heard some
14 testimony about private entities are able to underground
15 power if they pay for it. So whether we should wade into
16 that conversation or just kind of push it back on their
17 plate, where I think firmly it belongs.

18 If this were in Mesa and we wanted it
19 undergrounded I think this would have to be something the
20 City of Mesa discusses with SRP on how we are going to
21 pay for it.

22 Having this Committee make a
23 recommendation, I just -- I don't think that's the right
24 direction to go. I think their thing is to just, based
25 on what we do well -- well, mostly what you all do well,

1 I'm just joining you, to select a route, give enough
2 flexibility in that route so that the power company can
3 get the lines up and then let them hash it out with the
4 City.

5 MEMBER RICHINS: Chairman.

6 CHMN STAFFORD: Member Richins.

7 MEMBER RICHINS: Member Somers and I
8 served, overlapped a couple years on the Mesa council and
9 there is a unique tale I think within what he's trying to
10 say. Part of Mesa is Mesa Electric Company, so the City
11 owns its own electric company. And so, of course, you
12 know, it's ratepayers, taxpayers, they're all the same.

13 CHMN STAFFORD: Exactly.

14 MEMBER RICHINS: An instructive tale I
15 think in this instance is when we did the rebuild of Mesa
16 Drive from US 60 to Main Street, we had set a general
17 policy that the City of Mesa electric utility would
18 underground when other -- when happening with other
19 projects. So when we'd open the street up we'd do all
20 that kind of stuff. So, but we recognized an economic
21 and aesthetic and evaluation benefit to the city for
22 those projects.

23 The poles come right off -- as TEP has
24 described, they're not on the main arterial, they don't
25 cross the main arterial, but there's a pole that

1 immediately goes up at the first set of houses, and the
2 distribution runs down. It looks fine. You hardly
3 notice it.

4 And so I think TEP absolutely successfully
5 could do stuff like that if they need to. But there is
6 tangible economic benefits to -- to undergrounding.

7 But, you know, in those instances where you
8 have the same party that we're all paying, with SRP a lot
9 of it's done with the aesthetics fund that SRP has
10 already established. Just not a mechanism here.

11 CHMN STAFFORD: SRP isn't subject to the
12 Corporation Commission, so that policy has no bearing on
13 them.

14 MEMBER RICHINS: And to me that franchise
15 agreement is an important document. If they do not get a
16 franchise agreement approved, they lose their right to be
17 in the right-of-way, I believe.

18 I mean, you can continue to operate what
19 you're operating but going forward they're not going to
20 be doing anything. So I don't know how you would even
21 construct this project if you don't a franchise
22 agreement.

23 And therein lies the strongest possibility
24 for them to resolve this issue outside of dealing with
25 this Committee. It's a local issue, let the local folks

1 make that decision.

2 CHMN STAFFORD: And do I -- I seem to
3 recall the testimony or -- was that the current franchise
4 requires a cost sharing for undergrounding. Did it?

5 MR. LUSK: May I respond, Mr. Chairman?

6 CHMN STAFFORD: Mr. Lusk.

7 MR. LUSK: I think that -- I think that the
8 applicant and the City can agree that it does allow for
9 undergrounding where either the City is not responsible,
10 but there are areas where the City would be responsible
11 in certain cases.

12 CHMN STAFFORD: Ms. Grabel or Ms. Hill, you
13 concur with that statement?

14 MS. HILL: That is correct. And the
15 franchise agreement, the current franchise agreement even
16 speaks to the amount of the franchise fee that is paid to
17 the City by city of Tucson ratepayers that could be used
18 for it. But it's not mandatory --

19 CHMN STAFFORD: Okay.

20 MS. HILL: -- that that be used. But there
21 are certain circumstances where the City would be
22 responsible for the cost.

23 CHMN STAFFORD: All right. Any other
24 questions or comments from members?

25 MEMBER LITTLE: Mr. Chairman.

1 CHMN STAFFORD: Yes, Member Little.

2 MEMBER LITTLE: What are those
3 circumstances? Just an example.

4 MR. LUSK: So Member Little, the franchise
5 calls for if there's a city capital improvement project
6 and they're not already required to underground, we can
7 provide -- we can ask them to underground and then they,
8 we would have -- we would have to pay for that.

9 CHMN STAFFORD: All right. So if we don't
10 make the finding, then the City's free to require TEP to
11 underground whatever parts of the project are subject to
12 the requirement either through the Gateway Corridor or
13 area plan without having to share the cost. But --

14 MEMBER HILL: Mr. Chair, can I add to that
15 statement? Because I think what you just said is correct
16 but I want to acknowledge that there are relief
17 mechanisms there. Okay.

18 CHMN STAFFORD: Yes, that's what I'm
19 saying. But that doesn't necessarily mean that they
20 would have to. I think it's a problem of which party the
21 burden is on. Because say hypothetically that we did
22 make the finding, then the City -- I mean TEP could argue
23 that they can build it aboveground, but that if they came
24 to an arrangement with the City, they could underground
25 it. But it would have to involve the costs, the City

1 somehow paying for the cost above the overhead line.

2 If we don't make the finding, TEP can
3 either not build the line or they could build the line
4 and underground it, and then they're -- I think their big
5 issue then would be cost recovery from the Commission,
6 and the Commission would have to address that.

7 And I was interested to learn that the
8 franchise fees for the City of Tucson is not shared by
9 all ratepayers. It's -- I recall the testimony that it
10 was paid for by the residents of Tucson.

11 So I think theoretically the Commission
12 could allocate the underground costs the same way through
13 rates, or they could disallow those costs and force the
14 company to bear them.

15 But I'm -- that would be a tough spot at
16 the court of appeals, I think, because how can the
17 Commission maintain that it's not reasonable and prudent
18 if it was required by the City?

19 MEMBER HILL: Mr. Chair, my head is
20 swimming in numbers. I do feel like there are a lot of
21 scenarios that could play out. And so I appreciate you
22 walking us through some of the scenarios. But do you
23 want to put all the scenarios on the table? What is your
24 thinking at this point?

25 CHMN STAFFORD: If you have -- if you

1 have --

2 MEMBER RICHINS: He's thinking out loud.

3 CHMN STAFFORD: Yeah, I'm just thinking out
4 loud how this will go, because, I mean, the line needs to
5 get built, but I think it's --

6 MEMBER HILL: I think findings that state
7 that the line does need to get built, that this is a
8 priority, that it's important to reliability, I think --
9 I mean, one of the things that I've been concerned about
10 is the Vine Substation, all of our routes depend on the
11 Vine Substation.

12 So reinforcing the importance of the Vine
13 Substation, even though we don't have jurisdiction over
14 substations, I think is important. I think we can put a
15 lot of findings in here and evaluate whether we -- you
16 know, I tend to agree with Member Somers that, you know,
17 not all of the relief options have been finalized or
18 evaluated, and so I'm hesitant to supersede a local
19 government process that hasn't occurred yet.

20 And so -- but I think we can do a lot of
21 findings that reinforce the importance of this system,
22 that frankly speak directly to the City of Tucson and the
23 utility about finding a workable solution here and what
24 the Committee thinks are priorities and reasons for
25 moving forward.

1 MEMBER GOLD: Mr. Chairman.

2 CHMN STAFFORD: Yes, Member Gold.

3 MEMBER GOLD: I understand what is being
4 said. But they've been working on this since 2001; is
5 that correct?

6 MR. LUSK: No.

7 CHMN STAFFORD: Mr. Lusk.

8 MR. LUSK: I think you said 2001.

9 MEMBER GOLD: I'm trying to figure out how
10 long you've been doing that.

11 MR. LUSK: That's 24 years.

12 MEMBER GOLD: I'm still trying to ask a
13 question. How long have you been going at this?

14 MR. LUSK: I think only since 2019.

15 MEMBER GOLD: So 2019, '20, '21, '22, '23
16 and '24. So I'm assuming you've been doing this for five
17 years. Even being aware of the slowness of bureaucracies
18 you seem to be at an impasse. Now, I'm not going to ask
19 why you're at an impasse, that's your business and that's
20 the utility's business. But you seem to be at an impasse
21 and we've already stated that this needs to be
22 accomplished.

23 MR. LUSK: If I may, Member Gold. I don't
24 know that we are at an impasse. I think I am only here
25 as a representative of the City of Tucson as it relates

1 to our code. I think we have been continuing to work and
2 we will continue to work to get this line done. And I
3 think everybody here at the table is committed to that.

4 MS. GRABEL: If I may jump in,
5 Mr. Chairman. Member Gold, to your question, I would
6 agree with you that TEP does believe we are at an
7 impasse. I mean, we tried this project five years ago,
8 we withdrew the application, we worked hard to find both
9 the special exceptions that we've talked about ad nauseam
10 and the funding solution.

11 We talked about all of those various
12 options, we're here before you today, and we see the
13 decision-makers at the table, the city council members
14 filing letters in this docket continuing to express
15 concerns about the location of the Vine Substation, the
16 route that the line traverses through the University Area
17 Plan, it's the same thing that's been happening for five
18 years.

19 So with all due respect, I understand
20 saying this is something between the City and TEP, and
21 you can work it out. I think that we're at an impasse,
22 and I appreciate a lot of what Mr. Lusk is saying. But
23 he is not a decision-maker. He's an attorney for the
24 City.

25 And to give us the comfort we need to build

1 this route on time, if you choose a route that traverses
2 through a Gateway Corridor, I don't think we have a
3 choice but to ask you for that finding. I don't think
4 it's realistic to think the line will be built.

5 And we won't build it belowground because I
6 do think there's a substantial business risk in doing so.
7 If it goes before the Commission that has enacted a
8 policy that says don't build, because it says you may
9 risk recovery of cost of the differential between
10 aboveground construction and belowground construction,
11 and that's our prime concern.

12 And it would also be difficult in terms of
13 timing, because the time we would have to appeal any
14 adverse decision here and have the special exception
15 process play out at the same time, the timing does not
16 align.

17 MEMBER RICHINS: Chairman.

18 MEMBER GOLD: That sounds like an impasse
19 to me. I mean, intentions are good and I understand
20 intentions are good, but intentions -- good intentions
21 don't solve problems. You have to actually solve the
22 problem.

23 MR. LUSK: And just to -- just really
24 quickly to follow up, Member Gold. This finding would
25 not change that.

1 MEMBER GOLD: That's okay. But you still
2 haven't solved the problem.

3 MR. LUSK: I agree. And I think we can
4 solve the problem. But I'm saying that the finding that
5 TEP is asking you to make is not going to change that
6 impasse, the impasse that she just described.

7 MEMBER GOLD: Let's put it this way.
8 Something has to happen. You need the power. Everybody,
9 you agree with that?

10 MR. LUSK: I agree, yes.

11 MEMBER GOLD: And you haven't come up with
12 a viable solution in five years.

13 MR. LUSK: I think we have a viable
14 solution right now.

15 MEMBER GOLD: And what's that?

16 MR. LUSK: The preferred route.

17 MEMBER GOLD: Okay. Thank you.

18 CHMN STAFFORD: Now, quick follow-up and
19 then I'll get to your questions in a second, Member
20 Richins.

21 Now, with the preferred route, it only --
22 it crosses one, two, three -- it has three crossings of
23 the Gateway Corridor. And so -- and I think one of
24 them -- one of them was -- two are highly likely to
25 probably get special exceptions. But one was iffy.

1 I think the big issue is more the
2 University Area Plan because that would require large
3 sections of the line to be undergrounded, so that would
4 require another special exception or variance I think the
5 testimony was.

6 MR. LUSK: If I may, Mr. Chair.

7 CHMN STAFFORD: Yes, Mr. Lusk.

8 MR. LUSK: Both are available for that
9 crossing.

10 CHMN STAFFORD: Okay. What about the
11 preferred route going through -- down Euclid Avenue -- I
12 mean, an entire preferred route north of Broadway looks
13 like it's in the area plan. And I think my understanding
14 from testimony from the applicant was that if they
15 have -- if the area plan requires undergrounding, that's
16 not a viable route for them.

17 MS. GRABEL: That is correct. Without a
18 variance, if that line applies, then we have no ability
19 to build that route if the City will not allow us to do
20 so aboveground.

21 MR. LUSK: If I may briefly respond,
22 Mr. Chair.

23 CHMN STAFFORD: Yes, Mr. Lusk.

24 MR. LUSK: And I think we clarified that
25 with the testimony that the University Area Plan applies

1 in a zoning decision. There wasn't a zoning decision
2 other than the special exceptions.

3 MS. GRABEL: So actually my recollection of
4 my cross-examination of the City's witness, so that's the
5 facts that are in the record, is that he could not commit
6 to whether or not the special exception process might
7 bring in the University Area Plan as a condition.

8 I heard what Mr. Lusk said during his
9 opening statement, and that gave us I think greater
10 comfort, but Mr. Lusk is not -- he's not a witness. He
11 cannot commit the City. And that's our continued
12 concern.

13 CHMN STAFFORD: Right. Well, I'm trying to
14 think of a way that we can split the baby, so to speak.

15 MEMBER RICHINS: Well, Chairman.

16 CHMN STAFFORD: If -- oh, yes.

17 MEMBER RICHINS: I mean, I disagree with
18 Member Gold that we are at an impasse. And a lot of the
19 reason that we're not at an impasse sits between Mr. Lusk
20 and Ms. Grabel over there. The outreach that's been
21 performed by this company, which we have lauded on the
22 record and off record a few times, and should be held up
23 as a case study. It's been so well done, there's
24 probably not -- if you don't know that this project is
25 happening in Midtown you're dead, or you just moved here.

1 So I think the amount of goodwill that has
2 been built up by this company in this area is tremendous.
3 And I think it presents an opportunity in time here.
4 This Committee is not making findings of fact that are
5 indeed, you know -- I'm just not sure. You know, there's
6 a lot of ways we can go with those.

7 But I think what I'm getting at here is
8 they have a franchise agreement, they have to have all on
9 the ballot within the next two or three years, they will
10 be before the voters that includes their funding
11 mechanisms, their priorities for undergrounding, all of
12 those things are going to have to get reagreed to. And
13 if they don't like what we decide, they're going to do,
14 what, two things, appeal to the full ACC or to court.
15 And so that --

16 CHMN STAFFORD: Or both.

17 MEMBER RICHINS: Or both. And so I don't
18 think these decisions are getting made in this room today
19 or tomorrow anyway.

20 I do want to accomplish two things. One, I
21 want to make sure we respect local control and the
22 sovereignty to make some of these decisions.

23 Two, we do need to preserve the right that
24 in the rare instance we do need to make a ruling about
25 undergrounding, that we preserve the right to do so in

1 this Committee. I just think the circumstances in this
2 are so unique because of what's happening and the timing
3 of it, that I don't think we need to really make a
4 finding like that.

5 CHMN STAFFORD: Regardless what we do today
6 the statute will remain, and it's still possible for this
7 Committee, future Committees to make a specific finding
8 whether or not we make that specific finding.

9 But it seems to be that the issue is paying
10 the cost differential. Because I think what the
11 applicant has asked for is that we make the finding and
12 then they would be free to install the lines overhead and
13 not underground it at all. But if we were -- but the
14 real issue is the funding of it, the difference.

15 So if the finding was that if the
16 requirement doesn't -- is made without the City covering
17 the difference in cost between aboveground and
18 underground, only then would it be unreasonably
19 restrictive.

20 Because if the utility and the applicant
21 work out a way to share the cost because the utility's
22 going to have to pay out of its own pocket and recover
23 from ratepayers the entire cost of the line if it's
24 installed aboveground, if the City is responsible for the
25 difference in payment for the undergrounding of it, they

1 could underground the entire line if that's what the City
2 wanted. As long as they agreed to fund the difference.

3 Because the utility is not going to do it
4 because they're afraid they're going to have to eat that
5 entire cost, which is as we've talked about, it's the
6 preferred route.

7 If they had to do everything underground
8 you're looking at an additional \$63.7 million more. So I
9 think that's what's giving them the heartburn and not --
10 and why they're unwilling to try to build it underground
11 without some assurances from the City. Does that make
12 sense to you, to the members?

13 MEMBER GOLD: Well, Mr. Chairman, that does
14 make very much sense to me. The only thing is I just
15 heard Ms. Grabel say that we are at an impasse. You
16 can't say you're at an impasse and then we tell you
17 you're not at an impasse.

18 Five years and no forward movement is an
19 impasse. Something has to be done to accomplish the
20 mission, for the good of the City, for the good of the
21 residents, and so TEP can accomplish what it's required
22 to accomplish.

23 And if you can't do it on your own,
24 somebody has to push so that it's accomplished. You
25 either do it overground or somebody pays for underground,

1 so you split the cost for underground.

2 But the point is, you haven't done it on
3 your own in five years. That is the definition of an
4 impasse. And this has to be resolved, and we're here.
5 The only reason we're here is to help resolve this
6 because nobody else has.

7 MS. GRABEL: Member Gold, I agree with you
8 and I think a lot of -- we've gotten where we are with
9 the City today and we're hearing Mr. Lusk say the things
10 he's saying because we had to initiate litigation after
11 five years. We had to come here and ask you to make a
12 finding, and that finally brought the City to the table
13 after the failure of Proposition 412, and I think that in
14 order to give us any kind of leverage and continue
15 negotiations with the City we do need some kind of
16 finding. But Mr. Chairman, I think that your proposal
17 does make good sense.

18 CHMN STAFFORD: Because that way it's not
19 saying the City doesn't have the right to do it. It's
20 just saying that it's only -- that the requirement to
21 underground it in and of itself is not unreasonably
22 restrictive. It's that they -- it's if it's a
23 requirement for the utility to absorb all the cost is
24 unruly restrictive and not feasible.

25 MEMBER RICHINS: Agree. No, I don't think

1 anybody is arguing that. I just think that they have a
2 few things at play here, goodwill, they have a franchise
3 agreement that could provide a funding mechanism.

4 They're both going to have to put their
5 back into an election and convince the citizens that they
6 have been -- the citizens have been approving these plans
7 all these years and are putting undergrounding,
8 undergrounding, undergrounding in their plans and codes.

9 Then at some -- the citizens need to
10 acknowledge that they have to also be able to recover
11 those costs. So whether it's a ratepayer or a taxpayer,
12 it's the same damn person, and we parse over that.

13 It's basically the people, whoever collects
14 it, it could be the City, it could be the utility,
15 whatever collects it, I don't care. But there is a great
16 opportunity here.

17 I just, you know, I hear what Ms. Grabel is
18 saying, but they withdrew this application and they have
19 not -- they've put applications into the city process but
20 they needed a route. Here's your route. Now they have
21 the opportunity to actually go through the City process.
22 We have to recognize Tucson's sovereignty that they have
23 to go through and check out boxes at the City as well.

24 MS. GRABEL: Chairman Stafford, if I may
25 real quickly, just to address that.

1 CHMN STAFFORD: Yes.

2 MS. GRABEL: We only have 20 days to seek
3 rehearing on whatever decision you make today. A city
4 process is going to take at least 90 days to go through,
5 if not more. And so I just don't think that the timing
6 aligns the way you're suggesting, Member Richins.

7 MEMBER HILL: Thank you, Ms. Grabel. We
8 heard that in the testimony.

9 MEMBER GOLD: Mr. Chairman.

10 CHMN STAFFORD: Yes, Member Gold.

11 MEMBER GOLD: Just one correction. The
12 ratepayer and the taxpayer are not the same people.

13 CHMN STAFFORD: Well, in this situation
14 because you have ratepayers that are -- because TEP has a
15 greater service area than the City of Tucson.

16 MEMBER GOLD: Exactly.

17 CHMN STAFFORD: So that's the difference
18 here.

19 But what I'm proposing is not making the
20 finding that the applicant has suggested, but making it
21 conditional on what the City does.

22 MR. LUSK: Mr. Chair, just so I can clarify
23 for the record, you're -- and here's where I want to make
24 sure I understand the conversation that you're having,
25 and I appreciate you having it.

1 The regulation that you're suggesting the
2 finding would be based on would be what?

3 CHMN STAFFORD: Well, any regulation, any
4 ordinance, master plan, regulation that requires
5 undergrounding and the utility to bear all the costs --
6 let me rephrase that.

7 Any ordinance, master plan or regulation
8 that requires undergrounding -- that requires the utility
9 to pay the difference between overhead and underground
10 costs would be unreasonably restrictive.

11 MR. LUSK: So and the struggle, and again,
12 I appreciate the split the baby. I understand where
13 you're trying to go.

14 But the struggle I have at least from a
15 record perspective is there isn't a regulation that does
16 that, because there's no discussion whatsoever as to in
17 the Gateway Corridor Zone about who pays for
18 undergrounding.

19 CHMN STAFFORD: I'm not entirely sure
20 that's correct. Ms. Hill.

21 MS. HILL: I'm sorry. So I'm not going to
22 correct what Mr. Lusk says about the Gateway Corridor
23 Zone. I'm not.

24 I think what I'm going to say is I don't
25 think you need to get there. I don't think you need to

1 go surface Mr. Lusk is asking you.

2 And the reason is because you have
3 statutory authority to make a finding. And there may be
4 other -- like I am hoping against hope that the
5 technology gets cheaper and that things get easier to do,
6 so that this is not something that causes more conflict
7 in the future.

8 But what you're proposing is something that
9 Arizona state law specifically allows you to do when
10 there is a local ordinance in play. And that's what
11 we're asking for here.

12 And I -- so I don't think that you have to
13 get surface what the UDC says about who pays for it or
14 whatever. I think that a finding that requiring the
15 utility to pay for it in its entirety is unduly
16 restrictive and not feasible in light of the technology
17 available, because the cost really is technology driven.

18 I believe that that has -- that that fits
19 what state law allows you to do. And it allows the City
20 to continue to do what is -- I don't think it's in
21 conflict with Paradise Valley.

22 I don't think it's in conflict with the
23 possibility that somebody would form an undergrounding
24 district. I don't think there's any of that.

25 And it is a case-specific finding. This is

1 not a broad statement that we're asking you to make.
2 There are going to be projects in the future, I'm
3 certain, where there will be safety or reliability
4 reasons.

5 Copper prices could fall significantly, the
6 insulators could change. The way that the vaults are
7 built could change. All sorts of things as this
8 technology evolves could change. So I just want to be
9 very clear that TEP really isn't asking you to make a
10 blanket statement about undergrounding.

11 CHMN STAFFORD: Thank you.

12 MR. LUSK: If I may, Mr. Chair.

13 CHMN STAFFORD: Yes, Mr. Lusk.

14 MR. LUSK: I think that's what's exactly in
15 the CEC, though. There is no regulation cited in the
16 CEC, there's only undergrounding. And so -- and if --
17 and I understand where you're trying to go, Mr. Chair,
18 and I don't necessarily have a problem with that other
19 than the fact that, again, the regulations we've been
20 discussing through this entire proceeding, the UAP and
21 the Gateway Corridor Zone, neither of them discuss who
22 pays for what's required.

23 So in order to make a finding that, and
24 even if -- and I understand you're wanting to make it
25 conditional, but if you're making the finding that the

1 Gateway Corridor Zone requires TEP to pay for
2 undergrounding within the Gateway Corridor Zone, I don't
3 know that you can make that finding.

4 CHMN STAFFORD: I'm not proposing that we
5 make the finding that it does that. I think what I'm
6 suggesting is that if, then. See, if any of these
7 ordinances require undergrounding without covering the
8 cost differential between overhead and underground, only
9 then would it be unreasonably restrictive and not
10 feasible. That's what I'm proposing.

11 MR. LUSK: And I understand. I understand.

12 CHMN STAFFORD: If the if never comes to
13 pass, the then doesn't happen.

14 MR. LUSK: And I think that's a good
15 direction to go. I'm just in terms of the record, it's
16 going to be difficult for someone to parse out what does
17 the Gateway Corridor Zone require as it relates to paying
18 for it; right? Because that's a hypothetical.

19 And I just want to be clear that our
20 position -- and I don't want to belabor this and I want
21 to allow you to have your conversation, please.

22 But I think our position would probably be
23 that's not an appropriate finding because it doesn't do
24 that, and I think obviously others disagree with me, but
25 that would be our position.

1 MS. GRABEL: Mr. Chairman.

2 CHMN STAFFORD: Ms. Grabel, Member Hill,
3 thoughts on that. One second.

4 MS. GRABEL: Mr. Chairman, I agree with
5 you. I think it is an if-then, and I think that your
6 reasoning makes very good sense. The crux of the issue
7 is the differential cost of undergrounding, and the
8 ordinance is unreasonable if there's not a cost-sharing
9 mechanism and I think that's also very consistent with
10 the Corporation Commission's policy.

11 CHMN STAFFORD: And I think as part of the
12 variance or special exception process, couldn't the City
13 and the utility sort out the payment method?

14 MS. GRABEL: Correct. And it doesn't have
15 to be the City, it could be a third party, it could be an
16 underground district that puts a lot of funding issues on
17 the table.

18 MR. LUSK: I agree with both you and
19 Ms. Grabel on that point, and I guess our position would
20 then be that that makes it not unreasonably restrictive.

21 CHMN STAFFORD: I'm not following that.

22 MR. LUSK: If the opportunity is there to
23 allow for relief and allow for the parties to work out
24 how they want to pay for it and all of that, it makes it
25 hard.

1 And, again, we don't need to argue all of
2 this right now. But the issue is that if that is all
3 available to the applicant through this process, through
4 that ordinance, and they have not taken advantage of it
5 yet, so we don't know sort of how it's going to play out,
6 it makes it hard for me to understand how we would argue
7 it's unreasonably restrictive with all of those caveats.

8 CHMN STAFFORD: I'm still not following.
9 The way I see it is if they go through the process, it's
10 denied and the only way for them to build a line is to
11 underground it at their own expense and to pass on to
12 ratepayers without the City sharing in the cost
13 differential. I think then that would be unreasonably
14 restrictive and not feasible.

15 If, however, because you couldn't -- the
16 City can't comment on how the special exception or
17 variance process is going to play out, because they have
18 to do their own process, they have to go through the
19 steps and I get that.

20 I understand that they can't pre -- it's
21 like coming in to the Commission and getting preapproval
22 of a line before the line siting holds the hearing. You
23 just can't do it. And I understand that's the same
24 process with the City for this.

25 So I'm just saying the utility needs some

1 more certainty than they've gotten from the City so far
2 in how this project's going to go. So I think that I'm
3 trying to find a middle ground so the two parties can
4 reach an agreement, get the line built, and provide the
5 reliability of service that the City needs.

6 So I think it's -- I think it's not in the
7 City's own best interest to block construction of this
8 line or insist that, you know, the utility absorb
9 \$63 million of costs to pass on to ratepayers later to
10 get it built. I don't think that's reasonable.

11 But if, however, they do reach some kind of
12 agreement on the funding, well, then it is reasonable.
13 And that's kind of the -- I think that is the crux of the
14 impasse that we're at.

15 Because we're going round and round, the
16 City doesn't want to commit to pay for the difference,
17 but they want to require the undergrounding. And the
18 utility doesn't want to front the cost for the
19 undergrounding on the risk that the Commission will tell
20 them to kick rocks and not -- not go into recovery.

21 So I think it's -- I'm just trying to --
22 what can this Committee do to break that log jam so to
23 force the parties at the table to come to an agreement on
24 how they're going to pay for this and get it done.
25 That's what I'm trying to do through this process.

1 Member Little, I'm sorry, I've kept you
2 waiting for a while. You had a comment or question.

3 MEMBER LITTLE: I'll save it. Thank you.

4 MEMBER HILL: Mr. Chair, I agree with you.

5 I think if the two parties could come to language -- come
6 together on language that is a finding that demonstrates
7 commitment and isn't giving one party more leverage than
8 the other, then I would -- I would definitely consider
9 that.

10 Because I think the solution that might
11 be -- well, there's a litany of number of things that
12 could be happening; right? Like, this tax, that tax,
13 this franchise fee, this thing, and maybe there is, you
14 know, a shared cost outcome that works.

15 I also feel like we're kind of providing
16 two corridor options here. One that the -- I mean, I
17 just have to acknowledge that the Campbell Avenue route,
18 I like that it stays out of the neighborhoods more and
19 stays in that commercial corridor. And as it's proposed
20 with 1.1, more than half of it or two-thirds of it is
21 aboveground.

22 I like that route more than I like the
23 Euclid route. But I think giving both routes provides
24 options and opportunities to talk about what's best for
25 Tucson and TEP and Banner and all of the parties here.

1 So if the parties could identify language
2 and both be comfortable with that finding, I'd be happy
3 to include that.

4 But to create a finding that puts the onus
5 on the cities to pay for all the undergrounding doesn't
6 quite -- it feels like it stymies the ability to work
7 more collaboratively and find a workable solution, so.

8 MEMBER GOLD: Mr. Chairman.

9 CHMN STAFFORD: Yes, Member Gold.

10 MEMBER GOLD: I agree with everything she
11 said. With one exception, human nature.

12 MEMBER HILL: Damn.

13 MEMBER GOLD: That's the problem. The
14 problem with human nature is it's been five years and
15 they haven't. Let's put the iron to the fire and say,
16 "Hey, look, this is what's going to happen. You're not
17 going to have a choice because you haven't been able to
18 make a choice."

19 MEMBER HILL: But they have --

20 MEMBER GOLD: So we're going to give you
21 options. You have to make a choice. This has to be
22 accomplished.

23 MEMBER HILL: There has been progress in
24 the last five years, including the variance and special
25 exception process that was created. So, Mr. Gold, I

1 don't completely agree with you that there hasn't been
2 progress in five years.

3 MEMBER GOLD: I --

4 MEMBER HILL: I think there's been
5 refinement of corridors. I think that there's been
6 special exception processes that have been developed.
7 And I think that some of the delays have probably been a
8 function of legal actions, which frankly I can understand
9 the City's kind of being a little clammy about committing
10 to a whole lot on the record because these legal
11 processes could continue.

12 So everybody's a little pussy-footing
13 around the issues a little bit and then having a hard
14 time making a commitment. So I do think that there has
15 been progress. I think there is more progress to be
16 made, unequivocally, and if the parties could come
17 together around some language about how they want a
18 finding that preserves a lot of options for an outcome
19 that works for everybody, I would be willing to hear
20 that.

21 MEMBER GOLD: Mr. Chairman.

22 MEMBER SOMERS: Mr. Chair.

23 CHMN STAFFORD: Member Somers.

24 MEMBER SOMERS: Thank you. Just to bounce
25 off that, I think we have to also remember the last five

1 years have been quite unique. We've had a global
2 pandemic that shut down processes. A follow-up to that
3 has been an increase in costs. It has slowed down both
4 public processes and business processes, you know, across
5 the country. So a unique set of circumstances that have
6 really likely have contributed to some of the time line
7 difficulties.

8 But in addition to that, I don't think we
9 should dismiss the City has been doing nothing or hasn't
10 expressed an interest in any type of cost sharing. The
11 item that went -- the proposition that went before the
12 voters did have a mechanism in it that was supported by
13 the City that would have helped raise funds to pay for
14 this.

15 And I think that that shows some good faith
16 to put that before the voters, even though the voters
17 rejected it for whatever their reasons, that the City
18 didn't put forward a mechanism to help pay for it.

19 I don't think there's any reason to be
20 overly concerned from our Committee's perspective that
21 the City wouldn't try to find ways to share that cost.

22 So to Member Little's point, I agree, if we
23 could find that language, if the two parties could find
24 the language to come to us as a Committee with a finding
25 that doesn't put one party's thumb on the scale any more

1 than the other, that works towards a collaborative
2 agreement to find that funding would be the best avenue
3 moving forward for getting the CEC done.

4 MEMBER LITTLE: Mr. Chairman.

5 MEMBER SOMERS: I hope you heard that,
6 because, otherwise, you looked stunned.

7 CHMN STAFFORD: We heard that. Thank you,
8 Member Somers.

9 MEMBER SOMERS: Okay. Thank you.

10 MEMBER LITTLE: Yes, Member Somers, we did
11 hear that.

12 CHMN STAFFORD: Member Little.

13 MEMBER LITTLE: And as much as I would love
14 to take credit for what Member Hill just said, it was not
15 me, it was her. And I do agree with all of that,
16 however.

17 CHMN STAFFORD: All right. So Members, so
18 is there an appetite for a conditional finding?

19 MEMBER LITTLE: Mr. Chairman.

20 CHMN STAFFORD: Yes, Member Little.

21 MEMBER LITTLE: One more thing. The way I
22 read the statute, it says that we can -- if we find that
23 there is an ordinance, master plan or regulation that is
24 unreasonably restrictive, we can still issue the CEC.
25 That's what it gives us permission to do.

1 It does not tell us that we have permission
2 to tell anybody that anything has to be overhead or any
3 part of the ordinance has to be abided by and other parts
4 don't. It just says that we can issue the CEC.

5 CHMN STAFFORD: Correct. That's what the
6 statute says. The implications of that are still up in
7 the air and have not been decided.

8 MEMBER LITTLE: All right.

9 CHMN STAFFORD: I'm not aware of any
10 Committee making this finding.

11 MEMBER LITTLE: Nor am I. And in addition,
12 I am also unaware in my experience of the Commission
13 disallowing undergrounding costs in ratemaking.

14 CHMN STAFFORD: But they haven't been faced
15 with that problem since they passed that policy, though,
16 I think.

17 So, and I think that's what the utility's
18 concern is, because they did pass that policy it's kind
19 of, hey, it's a big warning. We're telling you, telling
20 you up front no, you shouldn't be doing that.

21 And then so that, I think that's what --
22 it's that -- it's the existence of that policy that I
23 think creates the risks for the utility that they are not
24 willing to take.

25 MEMBER LITTLE: I understand that. I

1 understand that. But I am -- well, I'm fumbling around
2 here. I agree with everything that has been said here
3 with a modified finding. I just am unwilling to -- to
4 say that -- I guess I don't believe that we have the
5 right to say it has to be overhead or it has to be
6 underground.

7 CHMN STAFFORD: Right. What the statute
8 specifically says is that, you know, the beginning of the
9 statute says that every CEC must have -- must have as a
10 condition that they must, that they comply with all
11 applicable ordinance, master plans and regulations.

12 And then the rest of it goes on to say,
13 well, if we make a specific finding that one of those or
14 such ordinance, master plan and regulations is
15 unreasonably restrictive, and compliance is not feasible
16 in view of technology available, then we could issue the
17 CEC notwithstanding that. So the CEC wouldn't require
18 compliance with it.

19 What it doesn't say is that the utility
20 would not have to comply with it. That's up in the air,
21 and I think the applicant would argue that by making that
22 finding they don't have to comply with that statute,
23 but -- the plan, ordinance or regulation.

24 But that may or may not be the case.
25 That'll be for the courts to decide. But I think that

1 what it does -- what's clear about it is that we can
2 issue the CEC and the condition of the CEC would not be
3 undergrounding.

4 MR. LUSK: Mr. Chair, if I can perhaps
5 offer a suggestion, obviously I haven't spoken with TEP
6 about this.

7 But one thing that I do notice is there is
8 an opportunity within the proposed CEC for modification
9 of the CEC itself. Is it possible that the
10 conditionality that you're discussing, rather than making
11 the finding that you're -- that the applicant has
12 requested, could the conditionality be to come back
13 through that mod -- seeking a modification with the
14 understanding that that could lead to that finding, if
15 that makes sense.

16 CHMN STAFFORD: I think that's
17 theoretically possible. But I don't know how much that
18 benefits the whole process. Because I think what --

19 MR. LUSK: Well, and I didn't mean to
20 interrupt, but I guess what I'm suggesting is that I
21 think part of the concern is that they will go through
22 the city processes and then be unable to get the relief
23 that they seek disallows them the opportunity within a
24 certain period of time to do that, then go through the
25 processes that have never been tested before. And then

1 let that play out as some of the other members have
2 suggested. And then still have the opportunity to get
3 that finding.

4 CHMN STAFFORD: Well, I think they'll have
5 it always because of how the Committee and the
6 Commission, how their jurisdiction plays together.
7 Because you have -- the Committee serves as the finder of
8 fact, but every CEC we issue isn't effective until it's
9 approved by the Commission, and they can accept, reject,
10 or modify whatever we do.

11 MR. LUSK: Of course.

12 CHMN STAFFORD: So, and then once they do
13 that, then it's the decision of the Commission that is
14 the authority. And it incorporates by reference the CEC
15 to the extent they haven't rejected or modified portions
16 of it.

17 And then under A.R.S. 4252, the applicant
18 can come to the Commission at any time and request that
19 the Commission make changes to the CEC or the order or
20 any of those things, and they've done that in the past.

21 I mean, look at SunZia as a recent example.
22 They had -- they approved it back in 2016, I believe, but
23 then they came back in 2022 to make some changes to it.
24 The Commission, sometimes when they get requests like
25 that they don't send to it to the Committee. They just,

1 oh, yes, that's a reasonable change and they approve it.
2 That was the case with APS's, the power plant. I can't
3 recall the name of it, though.

4 But when they went and added, because the
5 CEC is usually for 12 units, the first tranche was 10,
6 the second was two. They never built the second two
7 because they didn't have the need at the time.

8 And then the CEC to build them expired. So
9 they came and got relief from the Commission. They
10 didn't send it to Committee because they said we've
11 already made the determinations, we're just allowing you
12 to build the two we said we could before, but the time
13 lapsed on them.

14 But with the SunZia, because there's
15 physical changes to, not the route but to the towers,
16 they found that was enough difference to merit further
17 hearings and they did, and they amended the CEC and they
18 approved it.

19 So, I mean, that's --

20 MS. GRABEL: Mr. Chairman, for exactly the
21 reasons you said is why that process isn't going to work.
22 I think the Committee has already determined that there's
23 an urgent need and this project needs to be in service by
24 2027, even the fastest 4252 I've ever been involved in
25 still took four or five months to go through. We don't

1 have that time here.

2 CHMN STAFFORD: Right. So I appreciate the
3 thought, Mr. Lusk, but I think from the way the process
4 already is and the time frame we're looking at, that
5 wouldn't work -- but like I -- they have the ability to
6 seek relief from the Commission at any time afterwards.

7 It's not that, because the statute I think
8 that Ms. Grabel was referring to earlier is the time
9 frame for a party to the Committee proceeding to request
10 review by the Commission. But it'll go before the
11 Commission anyway, because they have to not earlier than
12 30 days, not later than 60 days, accept, reject or modify
13 the CEC as issued by the Committee.

14 MR. LUSK: Thank you, Mr. Chairman. I was
15 just looking for solutions.

16 MEMBER MERCER: Mr. Chairman.

17 CHMN STAFFORD: Yes, Member Mercer.

18 MEMBER MERCER: So we've spent almost two
19 weeks listening to testimonies, listening to -- we took
20 one whole day to do the tour. I agree with Member Little
21 about the scope of our job as a Committee. And I
22 understand the concerns of the public, the concerns of
23 the applicant.

24 What I get out of this whole back and forth
25 is that the applicant went to the master planner or

1 whatever his title is, his or her title, and they were
2 told bring us a route.

3 CHMN STAFFORD: We've done that today.
4 We've given them two.

5 MEMBER MERCER: So now are we going to be
6 back because now we have two routes?

7 CHMN STAFFORD: We won't be back. Once
8 we -- assuming we issue -- we vote to issue the CEC, our
9 job is done unless it goes -- unless the Commission sends
10 it back to us for further hearing for some reason.

11 MEMBER MERCER: Okay. So my understanding
12 now is that now that they have two routes they're going
13 to go back to the planner and we're supposed to just let
14 it duke it out.

15 CHMN STAFFORD: That is an option,
16 definitely. The only thing that I'm suggesting is that
17 because they request a specific finding, and I think the
18 effect of the finding gives the City more reason to come
19 up with a funding mechanism, and it gives the utility
20 possibly the ability to build it aboveground if the City
21 doesn't fund the difference.

22 And that would be -- there's difference of
23 opinion on that. This is something that's not ever been
24 done before. I mean, the statutes existed for 50 years
25 but I don't recall and I haven't seen any instances of it

1 actually being applied.

2 Much like with the hearing officer. That
3 has been on the statute. No one did it until last year
4 because -- and that was because of necessity is what, I
5 mean, these things were contemplated by the legislature
6 when it was passed, but they haven't -- it hasn't come
7 up.

8 I mean, for instance with the volume of
9 hearings. I mean, when you have four line siting
10 hearings a year, you don't -- or I just did a hearing
11 officer -- the Committee can just meet four times, but if
12 you're doing 50 hearings a year, how are you going to do
13 that?

14 You need to have more than one body holding
15 the hearing. So I mean, it's a question of what the
16 realities are that we're facing and how we're going to
17 apply the law that we have.

18 So, and I think the way that I see this is
19 this finding could potentially help break this log jam.

20 Instead of just giving it, you know,
21 straight up these are unreasonable conditions, I think
22 they're not unreasonable if the City pays the difference,
23 or somebody other than the utility and the ratepayers pay
24 the difference. That's the I think the real sticking
25 point between the City and the utility.

1 And my hope would be that if, you know,
2 not -- so no one's getting all that they want. The
3 utility's not getting the finding that this is
4 ridiculous, tell them to put it underground, the City is
5 not getting a decision that says they have to underground
6 them, if you tell them to, and you can just tell them to
7 kick rocks on the payment.

8 I think that's where the log jam is. And
9 my hope is that -- my thought is that if a conditional
10 finding would tip the parties to, okay, we need this
11 line. The City's got to help pay for the undergrounding.
12 Or waive undergrounding, either one. I mean, that's
13 going to be up to the City to decide what it does.

14 But it gives them all options. And there's
15 two routes, one that affects residences more, one that
16 affects commercial areas more, but it's on the main drag
17 that they want to have the Gateway Corridor on.

18 And so they, you know, they can -- it gives
19 them, both parties options to sort it out, but it gives
20 them -- it changes the field from what they're on now to
21 hopefully push them to a place where they can make a deal
22 and get it done.

23 MEMBER MERCER: So just one more thing. So
24 is there a possibility that there's another voter
25 initiative like Proposition 412? As a resident of

1 Tucson, I voted no because I didn't want to pay for it.
2 Because it was not going to benefit my area of town. And
3 that was the consensus that I got from other neighbors
4 and citizens of Tucson. So --

5 CHMN STAFFORD: And to make -- barring
6 something creative by the Commission, if the City
7 required undergrounding and the utility undergrounded the
8 whole line, then those costs would be borne by all
9 ratepayers, even the ones that don't live in Tucson and
10 don't elect the officials that required the
11 undergrounding.

12 Unless -- unless the Commission treated it
13 differently in rates like the franchise. The franchise
14 is apparently allocated to only the customers of TEP that
15 live inside the city.

16 So, but then again you have the situation
17 where people that live in the City far from where the
18 line is undergrounded, they pay for it but they don't
19 benefit from it necessarily. They benefit from the
20 line's existence, but they don't benefit from putting it
21 underground.

22 Unless, I guess some could if they drive
23 down Campbell a lot and they prefer not to look at power
24 lines and they'd have that benefit. But, you know,
25 that's -- but most of them probably don't care. Because

1 I don't -- because most people don't care about driving
2 past power lines. It's having to look at them constantly
3 from your front door or back door or something.

4 MEMBER MERCER: It's like my son lives in
5 Scottsdale and there's this humongous, and I mean
6 humongous power lines, and I go, wow, this is a very, you
7 know, gated communities and there's power lines like, oh,
8 my goodness.

9 MEMBER KRYDER: But he bought the house.

10 MEMBER MERCER: You never pay attention to
11 it until you're on this Committee.

12 CHMN STAFFORD: Yeah, gated communities
13 need power too, so it's got to come from some place. So
14 I mean, that's one of the differences between what they
15 talked about in the Scottsdale versus APS case was that
16 case involved distribution lines. Because distribution
17 lines serve smaller finite areas whereas transmission
18 lines connect to the regional grid.

19 And so power can move through those lines
20 across the state from one state to another state. You
21 know, because through these lines TEP can import power
22 through the EIM, you know, they can get cheap power from
23 California and they're giving it away.

24 And that saves money for ratepayer. So the
25 transmission system is -- I think the transmission system

1 is bigger than the local concerns because it has -- it's
2 a regional grid. And I think that's kind of what the
3 purpose of the statute was.

4 But, again, you know, undergrounding in a
5 town, that is a local concern is Member Richins' point.

6 MEMBER KRYDER: Mr. Chair.

7 MEMBER RICHINS: Chairman, part of me takes
8 issue with the ACC's policy statement. We do this kind
9 of thing all the time. Governments do it all the time.
10 They're building roads across town that members will
11 never drive on. There's freeways being built that I'll
12 never drive on. And there's infrastructure being put in
13 that I'll never use.

14 When people wanted to go, we had a lot of
15 snow birds in Mesa. When they wanted to leave town for
16 six months they wanted to shut off their water utility
17 with whoever the water utility was. And not pay anything
18 for six months, forgetting that they want the water to
19 come back on when they get back.

20 So you have two elements here. You have
21 paying for the infrastructure and then you're paying for
22 the utility, or the commodity, which is the power here.

23 So we do this all the time. We divert
24 costs across larger swaths of people so we can enjoy
25 amenities all over the place.

1 So the policy statement by the ACC, I
2 understand. I mean we don't want to do -- we don't want
3 to put excessive burden on ratepayers. I get that. At
4 the same time, if the ratepayers of this community want
5 this aesthetically, then they should pay for it.

6 And TEP has every right to appeal this to
7 the ACC for whatever relief that they want from whatever
8 we rule anyway. So let's make sure we stick with some
9 principles here, and I just feel staying silent on that
10 issue is appropriate here because it's preserving
11 Tucson's ability to determine for itself and its citizens
12 with their partner utility, TEP, building on the great
13 work that Clark has done.

14 I think they can get this done. I have a
15 lot of confidence. I feel really uncomfortable with
16 conditional or split baby stuff. It just can go awry.
17 And I'd feel really uncomfortable putting an if-then
18 scenario in a CEC. It doesn't seem appropriate. But
19 that's just my thought.

20 MS. HILL: Mr. Chair. I'm sorry.
21 Mr. Chair, I have two questions in the interest of
22 working towards a solution here.

23 The first question that I have is I hear,
24 we appreciate, and believe it or not, Mr. Lusk and I have
25 already that these conversations about how do we get

1 there with the preferred route. How do we get there?

2 How do we make sure that we can make this happen?

3 We're not the decision-makers in our
4 organizations. We've already had those conversations.
5 We are still talking. And I don't want anybody on this
6 Committee to think we've all given up, because we
7 haven't.

8 But my big concern is that we can talk and
9 talk and talk, and this line is going to be in service by
10 '27. And so what would be really helpful here, very,
11 very helpful -- and this, Member Little -- Member Little.
12 I'm sorry. I was looking at her and talking to you.

13 Member Hill, I hear what you're saying. I
14 don't actually agree that a conditional gives one party
15 more leverage other another. I think it gives everybody
16 at the table some things because I think this Committee
17 can also put in some requirements to the CEC to make
18 something conditional effective.

19 For instance, I think you could if there
20 were a conditional CEC -- such that the Chairman is
21 suggesting.

22 CHMN STAFFORD: Conditional finding.

23 MS. HILL: Conditional finding. Sorry.

24 CHMN STAFFORD: Conditional CEC and
25 conditional finding.

1 MS. HILL: Please don't give me a
2 conditional CEC. Just don't. I'd have to turn in my bar
3 card.

4 But if in fact there were a conditional
5 finding, what I would like to see is some time
6 constraints on how long -- how soon we must get together,
7 how soon we must form a committee, how fast TEP working
8 with -- we can talk to Mr. Bryner here, we've got the
9 people here today who could talk about how quickly we can
10 get our special exceptions filed on our -- for our
11 preferred route.

12 And getting through that process, I would
13 like very much to see some time lines. And then I think
14 what we have is what you wanted. Which is that -- and
15 then in the event that our special exceptions are denied
16 or it is found that the University Area Plan requires
17 undergrounding, then the utility -- then it is
18 unreasonably restrictive to require the utility to bear
19 the entire cost of that undergrounding.

20 But we have no objection, just like we have
21 no objection to a condition that says that we must
22 underground the distribution along the route. We're
23 happy to take that condition. We are happy to
24 memorialize those commitments that we have made and be
25 required to stick to them.

1 I would love -- I mean I've been a
2 litigator my whole career, and you what I hate? Big,
3 amorphous, semi-findings that then nobody knows what they
4 mean. So I really appreciate what Member Richins is
5 saying. It's full employment when I work by the hour,
6 but it's not -- it's not practical to getting things
7 done.

8 We'll come to the table. Mr. Lusk and I
9 can talk about it. Mr. Bryner here, we can tell you
10 guys -- if we can take a 10-minute break, we can tell you
11 guys how long it will take us to get our special
12 exception permit -- or applications done and submitted.

13 And then this Committee can say to us, all
14 right, you got to do this to TEP, and City, you're going
15 to show up and you're going to go through these in good
16 faith and you're going to prioritize them and
17 realistically, then everybody's feet are held to the
18 fire, not just -- but this - I think this would be a
19 different story if we were two years earlier or if we
20 were -- but as you noticed, Member Little, we are working
21 towards something.

22 I'm sorry. I do it again. I'm so sorry.
23 Thank you. Thank you. Because she's right in front of
24 me and so her face is right in front of me.

25 MEMBER SOMERS: (Indiscernible.)

1 MS. HILL: And so Member Hill, I -- yeah,
2 there you go. Thank you.

3 So Member Hill, we were working towards
4 those solutions but we are at a critical juncture and my
5 fear and the company's fear is that we're going to end up
6 spending a lot more money if we don't have some time
7 constraints on how long we have to keep talking.

8 MEMBER SOMERS: Mr. Chairman.

9 CHMN STAFFORD: Yes, Member Somers.

10 MEMBER SOMERS: I'm a very intrigued about
11 Ms. Hill's recommendation here and the idea of giving
12 them 10 minutes to have a discussion between themselves
13 and the City.

14 Normally I would not be inclined to dictate
15 to a local community about their processes and time
16 lines, but if the City can compromise on that, this might
17 be an interesting way to break the log jam that we have
18 here and move forward. So I'm interested in what they
19 might come up with.

20 CHMN STAFFORD: Right. And just to
21 clarify, I don't think this Committee has the authority
22 to order the City to do anything. We don't have -- our
23 only authority is over --

24 MEMBER SOMERS: That would be a concern.

25 CHMN STAFFORD: Our only authority is over

1 the CEC and the authority gives the applicant to build.
2 And, again, it's not even us. We're just the first step.
3 The Commission has to make the ultimate determination.

4 So I think we couldn't require the City to
5 do anything, but we could put -- the condition would
6 allow, would require the utility to do certain things but
7 then if the -- and allow them relief of some kind of if
8 the City did not do certain things. Because we can't
9 order the City to do anything.

10 MS. GRABEL: Mr. Chairman, I think that
11 Ms. Hill's recommendation was not a condition on the CEC,
12 but a conditioned finding. So the finding would take
13 effect if we didn't have --

14 CHMN STAFFORD: Right. Right. That's what
15 I'm saying. The finding would be conditional that says,
16 okay, it's like the result would be if the City doesn't
17 behave reasonably, then the restriction is unreasonable.

18 But the City's going to do what the City's
19 going to do. But it's a question of how you phrase it.
20 I'm just going to make it clear that we can't require the
21 City to follow any time lines. All we would say is that
22 we expect this to happen and if it doesn't happen, then Y
23 happens.

24 MEMBER HILL: But Mr. Chair --

25 MEMBER SOMERS: And as long as that doesn't

1 have a result attached to it.

2 MEMBER HILL: I think that's what Mr. -- I
3 think that's what Somers was saying. What I was also
4 going to say is if -- if it says the utility will do X,
5 Y, Z, and if the City doesn't respond reasonably, then
6 this is unreasonable -- I'm not saying it correctly.
7 Maybe Member Somers wants to say it. I think we're going
8 to the same place.

9 MEMBER SOMERS: Yeah, I don't think we need
10 to figure -- the applicant is willing to meet with the
11 City on a 10 or 15-minute break for the court reporter's
12 benefit, to have this conversation to see if they can
13 hammer out some language for us to listen to, I think
14 that would be an excellent way to do it.

15 CHMN STAFFORD: I agree, Member Somers. So
16 are we prepared to take the break now? Does any member
17 have something else to say before we allow the applicant
18 and the City a chance to sit down and come up with
19 something?

20 MEMBER KRYDER: Mr. Chairman.

21 CHMN STAFFORD: Yes, Member Kryder.

22 MEMBER KRYDER: I think that's a great idea
23 with the additional piece that you speaking as both a
24 member of the Committee and the chairman of the
25 Committee, then put together what I heard you say, very

1 reasonable language that we could at least get on the
2 table, and then begin working through that language so
3 that we move off of this.

4 We've kind of continually said the same
5 thing over the last 20 minutes or more. But you, Adam,
6 seem to have a good view of where we could move forward,
7 this additional information now with Ms. Hill and Member
8 Richins. Yes. Put together some language that we can
9 get on the table. And we'll all take a break while you
10 all go to work.

11 CHMN STAFFORD: Well, I don't think it
12 would be appropriate for me to meet with the parties off
13 the record, but I think it's a good suggestion. But I'd
14 like to clarify it by - I'm hoping that the City and the
15 utility will come up with the language that we'll all
16 look at and then we'll take it from there. I'm not going
17 to meet privately with two of the parties off the record.
18 Come up with language, but I think the two of them
19 certainly can.

20 MEMBER SOMERS: That would be an ex parte.

21 CHMN STAFFORD: I think it's important to
22 take the break. We'll let TEP and City of Tucson see if
23 they can come up with a suggestion that we can kind of
24 bridge this gap. So, all right, any other comments
25 before we take a break?

1 (No response.)

2 CHMN STAFFORD: All right. Let's take a
3 approximately 15-minute recess. We're in recess.

4 (Recess from 2:44 p.m. to 3:46 p.m.)

5 CHMN STAFFORD: All right. Let's go back
6 on the record.

7 Ms. Grabel, Mr. Lusk, do you have some good
8 news for us?

9 MS. GRABEL: We do have some good news. So
10 we have language to propose to delete the existing
11 finding of fact 11 that was in the CEC. And we're going
12 to insert two different findings of fact, 11 and 12, and
13 then make conforming changes to the numbers. Yes.

14 MEMBER RICHINS: Chairman, which document
15 are we working off, because we got CE -- we got 36 and
16 then there was some other ones.

17 MS. GRABEL: 36 is the one that we were
18 working off of. And obviously you can make whatever
19 changes you want to the rest, but here are the two
20 paragraphs that the City and TEP and Banner have agreed
21 to.

22 So, Eli, if you want to display it. Do you
23 want me to read it out loud?

24 CHMN STAFFORD: Yes, please.

25 MS. GRABEL: Okay.

1 CHMN STAFFORD: Slowly, yes.

2 MS. GRABEL: Yes. "Delete finding of
3 fact 11." So the new finding of fact 11 says, "The City
4 disagrees that a finding of fact pursuant to A.R.S.
5 Section 40-3406.06.D is necessary, and believes that it
6 is feasible to construct the MRP consistent with its
7 local ordinances and plans with the technology available,
8 and those local ordinances are reasonably restrictive.

9 "The parties have reserved and asserted all
10 rights to judicial relief on this issue."

11 New paragraph 12. "However, given the
12 Arizona Corporation Commission's policy statement, we
13 find pursuant to A.R.S. Section 40-360.06.D that any
14 local ordinance or plan that requires TEP to incur an
15 incremental cost to construct the MRP belowground is
16 unreasonably restrictive, and that compliance therewith
17 is not feasible in light of the technology available.

18 "This finding is conditioned on City and
19 TEP not finding a means to, within six months of the date
20 of the ACC's approval of this CEC, either, A, fund the
21 incremental cost to construct the MRP belowground from a
22 source other than through TEP's utility rates or from
23 TEP, its affiliates, subsidiaries, or parent companies
24 absent agreement between the parties;

25 "Or, B, obtain the City's authorization to

1 construct the MRP aboveground through the City's special
2 exception or variance process, provided that TEP files a
3 special exception or variance application for the route
4 approved within 10 weeks of the Commission's approval of
5 this CEC."

6 MR. LUSK: Just real quickly, do we need to
7 add the actual decision or do we have that somewhere
8 else?

9 CHMN STAFFORD: We won't have the decision
10 until --

11 MR. LUSK: No, I meant the specific policy
12 statement we're talking about in that paragraph. I just
13 didn't know if it's -- I think it's somewhere else.

14 MS. GRABEL: It's elsewhere.

15 MR. LUSK: Okay. Thanks.

16 CHMN STAFFORD: Is it mentioned in the
17 finding of fact?

18 MS. GRABEL: Yes, it's a very early finding
19 of fact.

20 CHMN STAFFORD: Okay. Okay. Member
21 Little, I see you. Do you have a question or a comment?

22 MEMBER LITTLE: I'm digesting. Thank you.

23 MEMBER SOMERS: Mr. Chair.

24 CHMN STAFFORD: Yes, Member Somers.

25 MEMBER SOMERS: I just needed the screen to

1 be fixed and they took care of it already.

2 CHMN STAFFORD: Excellent. We'll give you
3 a chance to read it again if you'd like.

4 MEMBER DRAGO: Mr. Chairman.

5 CHMN STAFFORD: Yes, Member Drago.

6 MEMBER DRAGO: The university corridor
7 area, does that -- is that already included in here or
8 does it need to be included here?

9 CHMN STAFFORD: I think it's vague enough,
10 it just says -- it says "local ordinances and plans." So
11 I think that covers everything that would be applicable
12 that could require the undergrounding, because under the
13 statute it doesn't -- I don't think you have to
14 specifically call out the individual ordinance. It just
15 says if they find that they are, if any are. I don't
16 think you have to specify, but this is kind of covers all
17 the bases, I think.

18 MEMBER DRAGO: All right. Thank you.

19 MEMBER RICHINS: Can the parties confirm
20 that?

21 (Simultaneous cross-talk.)

22 CHMN STAFFORD: One at a time. One at a
23 time. One at a time.

24 Member Richins.

25 MEMBER RICHINS: Can the parties confirm

1 the understanding of all the plans applicable on the
2 record, please?

3 MS. GRABEL: Yes. Mr. Chairman, that was
4 certainly TEP's intent.

5 MR. LUSK: That's our understanding as
6 well, Member.

7 CHMN STAFFORD: Ms. De Blasi.

8 Ms. De Blasi: Yes, that's my understanding
9 as well.

10 CHMN STAFFORD: Mr. Dempsey.

11 MR. DEMPSEY: I wasn't involved. I assume
12 so.

13 CHMN STAFFORD: All right. Member Somers,
14 you had a question?

15 MEMBER SOMERS: Same question. Thank you.

16 CHMN STAFFORD: Oh, so it got answered
17 already, then?

18 MEMBER SOMERS: Yeah. I had the same
19 question that Member Richins already posed.

20 CHMN STAFFORD: Okay. Great.

21 MS. DE BLASI: Chairman?

22 CHMN STAFFORD: Yes. Ms. De Blasi.

23 MS. DE BLASI: Just as everyone's digesting
24 this language, I think it works well, and the reason that
25 Banner supports it is that it gives opportunities for the

1 parties to work together, and that also anticipates that
2 Banner would be supporting this process as a, you know,
3 member of the community in that area, provided that's
4 only going to be along the approved, you know, preferred
5 Route B and 4.

6 So as the Committee is contemplating this
7 language, and you'll notice that it says the approved
8 route, I think it has been very clear by the applicant
9 that they are not interested in building along Campbell
10 in those corridors.

11 And I believe right now we still have D, 1,
12 and 1.1 under consideration. It's not ideal always to
13 have multiple routes where we have a resolution. So if
14 this resolves that issue, we would ask that it be
15 considered for B-4, which is likely what they're going to
16 be building anyway, and Banner would support that
17 process.

18 CHMN STAFFORD: Members?

19 MEMBER GOLD: Mr. Chairman.

20 MEMBER LITTLE: Mr. --

21 CHMN STAFFORD: Yes, Member Gold.

22 MEMBER GOLD: I'm looking for the word
23 "route." Where is it?

24 MS. DE BLASI: Member Gold, it's the second
25 line from the top -- bottom. Sorry. Second line from

1 the bottom.

2 MEMBER GOLD: I'm sorry? Okay.

3 MEMBER GOLD: Okay. TEP --

4 MS. DE BLASI: The route approved.

5 MEMBER GOLD: -- an exception or variance
6 application for the route approved within 10 weeks.

7 MS. DE BLASI: Correct.

8 MEMBER GOLD: Does that mean you have both
9 agreed on only one route?

10 MS. DE BLASI: Well, they would -- well,
11 I'll let TEP speak for themselves. But my understanding
12 is that they would be -- they've promoted a preferred
13 route and as have we.

14 So I don't think they would be wanting to
15 go through that whole special exception process for
16 multiple routes, especially ones that are as complicated
17 as running up a Gateway Corridor like D, 1, and 1.1 do.
18 I would also point out that it's been discussed that
19 Route D avoids, and 1, avoid residential areas. And if
20 you look on the map supplied by the applicant, there are
21 a lot of residential along Grant for D and along 1, going
22 all the way down Campbell. So I'm not -- I just wanted
23 to point that out.

24 MEMBER GOLD: The reason I say that is we
25 were looking at the -- let me just find it, give me a

1 second. We allowed B and D, 1, and 4, for any -- any
2 combination of those. So we were not being restrictive.

3 I think this may be too restrictive by
4 saying we have to pick B-4, or what if we choose B-1?
5 All I'm saying is is this very restrictive because the
6 parties have agreed on that? Or maybe I should be asking
7 Ms. Grabel or Ms. Hill.

8 MS. GRABEL: Thank you, Member Gold. So
9 TEP came with a preferred route and we'll defer to the
10 other parties with respect to their interests. However,
11 I'm also very cognizant of the Committee's interest to
12 giving flexibility to kind of choose the routes that go
13 around commercial areas and residential areas.

14 And so we will -- as to route selection,
15 we'll defer to the Committee. I think you have the
16 authority to do that.

17 CHMN STAFFORD: Right. Because you're only
18 going to build one route, whether it's --

19 MS. GRABEL: Correct. I mean, if the
20 concern is the word approved, you could just say a
21 variance application for a route within 10 weeks and I
22 think that gets rid of the ambiguity.

23 MS. DE BLASI: And Chairman, to be clear,
24 that was my point as well. I think the applicant has
25 made clear that they're wanting to build a preferred

1 route, although any route that's approved by the
2 Committee, Banner fully supports as we've said multiple
3 time the preferred route as well.

4 CHMN STAFFORD: All right.

5 MEMBER LITTLE: Mr. Chairman.

6 CHMN STAFFORD: Yes, Member Little.

7 MEMBER LITTLE: I personally would very
8 much like to see both or all three or whatever.

9 But both the commercial and the more
10 residential sections included, so that we have approved
11 more than one route.

12 I really think that the -- you know, I was
13 a utility planner for many years, and driving these
14 routes, doing installation along Campbell Avenue offers
15 many advantages. And I believe that if the parties can
16 agree to conditions that they both can live with and go
17 along Campbell Avenue, I think that, you know, from a
18 utility planning perspective that is the better route.
19 And I think that I would very much like to leave the
20 options open.

21 You know, at the very beginning way back,
22 seems like a hundred years ago, but it was just last
23 week, Member Gold mentioned and has discussed since then
24 the residential option versus the commercial option.

25 Where do you prefer to see the

1 construction? Where is it going to be easier to build it
2 and who, you know, what is it going to -- where do you
3 want this line if you have to choose between the two?
4 And I think that that is -- is still very valid, that
5 both options be left open.

6 CHMN STAFFORD: Thank you. Member Richins?

7 MEMBER RICHINS: I would be perfectly fine
8 approving a single route if we want to go down that road.

9 CHMN STAFFORD: All right.

10 MEMBER RICHINS: To give perfect clarity to
11 the parties, and I mean, I'm inclined to support the
12 preferred route of what is it, look again here, B-4. I
13 don't know why that's not engrained in my memory by now,
14 but B-4 for the sake of clarity.

15 MR. DEMPSEY: May I make a comment?

16 CHMN STAFFORD: Yes, Mr. Dempsey.

17 MR. DEMPSEY: So if the idea here is that
18 the City and TEP come to find a way to fund it, it may be
19 that underground on Campbell is the best route. So
20 removing it doesn't make a lot of sense to me. Because
21 you need to keep your options open, as Member Little
22 said.

23 And I think undergrounding on Euclid
24 doesn't make any sense at all. If you're going to
25 underground you've got to do Campbell.

1 MEMBER GOLD: Mr. Chairman.

2 CHMN STAFFORD: Yes, Member Gold.

3 MEMBER GOLD: I suggest we just make the
4 word route into routes so we leave the options open.

5 CHMN STAFFORD: Well, I don't think we need
6 to because I think the other part, if you leave it in
7 then -- they're only going to build one route. They're
8 not going to build -- it's going to go one place or the
9 other. It's not going to go in both. So I think the
10 language is fine as it is. I just think, you know, we're
11 approving a route, that route has, you know, several
12 possibilities, but they're only going to build one of
13 them.

14 MEMBER GOLD: Understood. So our choice is
15 to recommend a route of routes.

16 CHMN STAFFORD: Right.

17 MEMBER GOLD: And an alternate would be
18 whatever else they choose. Thank you.

19 MEMBER KRYDER: Mr. Chairman.

20 CHMN STAFFORD: Yes, Member Kryder.

21 MEMBER KRYDER: Comment to the people who
22 put the language together, you did a magnificent job in a
23 short period, and I would move that the Committee accept
24 this as it was written and shown.

25 CHMN STAFFORD: But we're not voting on the

1 language of the CEC yet, because what -- I think -- I
2 don't think we need to take a vote right now. But I
3 just -- I think tomorrow what we'll do is we'll come --
4 what we're going to need is the applicant and -- mostly
5 the applicant, to give us another draft CEC that reflects
6 the routes that we've approved and put the description in
7 the beginning. Because right now what I'm looking at is
8 only B-4. And add these.

9 MS. GRABEL: So Mr. Chairman, certainly.
10 We will incorporate these into the CEC for tomorrow.

11 I think it might be helpful and save some
12 time tomorrow since we still have an hour for you to kind
13 of work through whatever changes you might propose while
14 all the parties are here and in a collaborative spirit.

15 CHMN STAFFORD: Yes.

16 MS. GRABEL: That might be a good use of
17 time.

18 CHMN STAFFORD: That was going to be my
19 next suggestion. Thank you.

20 MS. GRABEL: Sure.

21 CHMN STAFFORD: You're reading my mind.

22 MEMBER GOLD: Mr. Chairman.

23 CHMN STAFFORD: Yes, Member Gold.

24 MEMBER GOLD: I would just also suggest
25 that you could do the route avoiding the hospital, the

1 university by going B-1. It would also take it away from
2 them. So that's the reason I suggest leaving them all as
3 options to mix and match as works out best for the City,
4 for TEP, for the hospital, for everybody else, and for
5 undergrounding if that's also approved.

6 MR. LUSK: I'm sorry, Member Gold, did you
7 B-1 or D-1, D as in dog or B as in boy.

8 MEMBER GOLD: I say both. You have the
9 option to go D-1 or B-1. It doesn't have to be B-4, it
10 can be D-4.

11 MR. LUSK: I think D-1 is an issue for
12 Banner because it does go --

13 MEMBER GOLD: That's why I say leave the
14 option, leave D in, leave 4 in, leave 1 in, and leave B
15 in. And you can choose amongst yourselves which is the
16 best option.

17 MR. LUSK: I just wanted that
18 clarification. Thank you, Member Gold.

19 CHMN STAFFORD: Right. And I would suggest
20 that instead of calling it Route 1.1 we call it Route 1.2
21 because it's a mixture of 1 and 2.

22 MEMBER GOLD: Exactly.

23 CHMN STAFFORD: So -- all right. So we'll
24 need -- we'll need to do the -- to do the overview of the
25 project description to describe Routes B, 4, D, 1 and

1 1.2.

2 Now, looking at the conditions, we have the
3 subject to the Committee's findings. Do those need to
4 stay in or do those -- I think those would stay in.

5 MS. GRABEL: I do think those would stay
6 in.

7 CHMN STAFFORD: Mr. Lusk.

8 MR. LUSK: I'm sorry, Chairman. Where are
9 you at?

10 CHMN STAFFORD: I'm looking at page 5 of
11 the draft CEC. You're talking about the conditions.
12 We're trying to give the applicant a head start on
13 editing this before they bring it back to us. And make
14 sure you e-mail Tod a word draft of it.

15 MS. GRABEL: Eli and Tod are best friends.

16 CHMN STAFFORD: Yeah. Good.

17 MS. HILL: Not really.

18 MS. GRABEL: For really. For conflict
19 purposes, not really.

20 CHMN STAFFORD: They have a very collegial
21 relationship, I'm sure.

22 MEMBER RICHINS: They go shopping for
23 jackets together.

24 CHMN STAFFORD: I doubt that very much. I
25 don't think I'd ever see -- I'd ever see Tod in that

1 jacket.

2 MR. LUSK: The conditions that I reviewed,
3 Chairman, are appropriate. Although we did discuss
4 possibly moving the language about undergrounding the
5 distribution lines somewhere in that area.

6 CHMN STAFFORD: Yes. I'm moving through
7 the conditions here.

8 All right. And then for the exhibit -- for
9 exhibits to the CEC, I think we're going to need more
10 than just the typical one. I think we have -- because I
11 see, look at Condition 20, it has Exhibit B. Exhibit A,
12 what was proposed in the application? Here it is. Yes.
13 Exhibit A would be a map of all the routes. And then the
14 final approved route would be Exhibit B.

15 MEMBER HILL: Final approved routes.

16 CHMN STAFFORD: Routes. Yeah. That's --
17 we can -- is it route or routes? Because it's one, it's
18 only going to be one route. There's just alternative --

19 MS. GRABEL: I think you've approved three
20 alternative routes.

21 CHMN STAFFORD: Routes. Okay.

22 And then going down, December 1 would be
23 the right filing date for the notice of compliance.

24 Oh, another thing I was going to suggest
25 was adding a condition that kind of puts in there what

1 the applicant is committed to do. I think it's Slide 245
2 on TEP-8.

3 We talked about the TEP commitments about
4 undergrounding distribution where they're putting lines.

5 MS. GRABEL: Yep.

6 CHMN STAFFORD: If we could add that to the
7 conditions.

8 MS. GRABEL: Do you have a preference as to
9 location? We can just find a good place to propose it
10 for you all.

11 CHMN STAFFORD: As long as it's in there I
12 think it'll be fine. And you can add at the end, you
13 could put it somewhere it talks about other things. We
14 can always move it tomorrow. Just important thing is it
15 gets in there someplace.

16 MS. GRABEL: Yep.

17 CHMN STAFFORD: And then the findings of
18 fact and conclusion of law, are there any of those that
19 we think need to come out, Members?

20 MEMBER LITTLE: Mr. Chairman.

21 CHMN STAFFORD: Yes, Member Little.

22 MEMBER LITTLE: I'm not sure about this,
23 but I have never seen a CEC that has so much detail about
24 the evidence. And while I certainly don't object to
25 anything with the modifications that have been proposed

1 in 11 and 12, I certainly don't object to any of the
2 findings that are indicated. It's just not been my
3 experience that all these details have been put in the
4 findings of fact.

5 And I'm wondering why the applicant has
6 proposed that they be so much more detailed than they
7 have been in previous CECs.

8 MS. GRABEL: Thank you. Member Little, the
9 reason is because we're asking the Committee to make a
10 legal finding, and we thought that that finding needed to
11 be predicated on facts that were spelled out in the
12 order.

13 In case there was an appeal or if the
14 Commission was interested in kind of reviewing the order
15 and the thought process that went into making that
16 finding.

17 MEMBER LITTLE: I don't object to it. I
18 think that we may see in the future CECs that have
19 similar kinds of detail in them. But I agree that I
20 think that -- I think the one thing it'll make it much
21 easier for the Commission to understand what -- upon what
22 we based our decision.

23 MEMBER HILL: Mr. Chair.

24 CHMN STAFFORD: Yes, Member Hill.

25 MEMBER HILL: In some of -- I don't think

1 I'm close enough. Hold on.

2 In some of these findings I feel like TEP
3 has drafted statements that I feel like need to be
4 reviewed by the other parties. Like other parties'
5 positions; right?

6 So I think Mr. Dempsey and Mr. Lusk should
7 look at things where it says City of Tucson says this.
8 Or Underground Arizona says this. I didn't see one for
9 Banner, but there might be one for Banner. So that might
10 be helpful for those folks to take a look at those
11 pieces.

12 I think Item No. 5 around cost and
13 multipliers, I think that we want to see some edits to
14 that section, to reflect the conversation that we had
15 yesterday. I think this was drafted before the
16 conversation that we had yesterday.

17 MS. GRABEL: Notice I didn't use
18 multipliers in my closing statement.

19 MEMBER HILL: I know, I appreciate that.
20 And --

21 CHMN STAFFORD: I'm not recognizing that
22 \$86 million figure either.

23 MR. LUSK: I think that's the cost to build
24 a preferred route underground.

25 MR. DEMPSEY: Do you have to include a

1 cost?

2 MS. GRABEL: Yes.

3 CHMN STAFFORD: I don't think we -- I don't
4 know about the number-wise, but I'm just -- I don't
5 recall that number from the record.

6 MS. GRABEL: The 86 million is the cost to
7 build the entire preferred route. And then the 65 we've
8 been talking about is when you subtract the overhead,
9 which is the 22 million that's reflected in Section 5.

10 MEMBER RICHINS: There appears to be an
11 extra digit in that number.

12 MEMBER LITTLE: Yes.

13 MS. GRABEL: Oh.

14 CHMN STAFFORD: There's that too, yeah.

15 MEMBER LITTLE: It's \$8 billion.

16 MS. GRABEL: That's a really expensive
17 line.

18 MEMBER RICHINS: I would prefer to remove
19 this section entirely. I don't think it's necessary.

20 MS. GRABEL: Well, if the finding is
21 premised on the incremental cost of underground
22 construction --

23 MEMBER HILL: Then we should identify the
24 incremental cost rather than bunch of other numbers
25 related to different projects.

1 MS. GRABEL: Okay.

2 MEMBER HILL: But I think adding the
3 incremental -- my personal opinion adding the incremental
4 cost numbers in there I think is helpful.

5 MEMBER LITTLE: Mr. Chairman.

6 CHMN STAFFORD: Yes, Member Little.

7 MEMBER LITTLE: I have one more comment
8 about this same paragraph and that is for -- I would
9 suggest that you put the cost is estimated to be as
10 opposed to the cost is or the cost will be.

11 CHMN STAFFORD: Yes. Good point.

12 MEMBER RICHINS: Chairman, there's just a
13 lot of language throughout this entire document that I
14 find -- it just feels a little inflammatory that you're
15 making statements for the record to prepare for a court
16 case.

17 That's not where we do findings of fact,
18 and I just, I don't know, I don't really -- I mean, just
19 terms like band-aid, I find in there, project is
20 excessive, I mean, those are just kind of feel a little
21 elevated more than they probably should. So if we could
22 find some better language to describe some of that stuff,
23 or strike that altogether. I just -- I think it needs to
24 really be tightened up.

25 MS. GRABEL: We can tone this down.

1 MEMBER RICHINS: Let's get -- yeah, let's
2 away from language preparing for a legal proceeding and
3 get more into language appropriate for a finding of fact.

4 CHMN STAFFORD: Yeah, and on the -- do we
5 need to refer to the witnesses' testimony throughout it?
6 Because typically that's not what we do in these.

7 MEMBER DRAGO: Mr. Chairman.

8 CHMN STAFFORD: Yes, Member Drago.

9 MEMBER DRAGO: My time on this Committee, I
10 don't recall a time maybe -- maybe we've added one
11 finding of fact specific to the case. But in my opinion,
12 these findings of fact are in the testimony.

13 CHMN STAFFORD: Yes.

14 MEMBER DRAGO: So I'm not sure, and I
15 wanted to ask you, Chairman, is there a reason why we
16 would have to articulate that summary in findings of
17 fact?

18 CHMN STAFFORD: I think we need to have
19 some in there because we're making the specific finding
20 that -- well, it's a conditional finding -- the parties,
21 the language the parties came up with.

22 I think some of this needs to be in there
23 but not all of it. I think it could be trimmed down
24 substantially.

25 I mean for -- I don't think -- I don't

1 think we need to cite the entire policy statement from
2 the Commission. I think just refer to it, the Decision
3 number, that should be adequate. We don't need to put
4 the entire thing into the text of the CEC.

5 I think that -- I don't think you need,
6 when you talk about number 4, that's in the record. I
7 don't think you need to specifically call that out in the
8 CEC. I don't -- number 5, I don't think we need to
9 necessarily --

10 MEMBER SOMERS: Mr. Chair.

11 CHMN STAFFORD: Yes, Member Somers.

12 MEMBER SOMERS: I think what has been
13 submitted here earlier, the tone and tenor and the level
14 of cooperation that is -- we finally have in the course
15 of the last hour has changed considerably.

16 I think it would behoove the applicant to
17 take this back with comments that have been heard, bill
18 their usually hourly rate and maybe put together some
19 language that more reflects the hope for cooperative
20 movement forward so we can send some of this out.

21 MEMBER RICHINS: Chairman, I would be happy
22 to take it and edit if the applicant would like. Unless
23 you guys want to work together. Because what you're
24 going to get from me is really, it's going to be a lot
25 thinner. So my guess is that you want something more

1 suited for your purposes.

2 MS. GRABEL: We can do it. We've heard the
3 Committee loud and clear. I will trim this way down. I
4 will tone it way down. It will not sound like something
5 that TEP's lawyer wrote.

6 CHMN STAFFORD: Okay. Good, because I --

7 MEMBER SOMERS: Or Dave Richins wrote.

8 CHMN STAFFORD: Yeah.

9 MS. GRABEL: Right.

10 CHMN STAFFORD: We need to find the happy
11 medium.

12 MS. GRABEL: And Member Somers, as to the
13 billable hour thing, the City of Mesa is also a client of
14 mine, just FYI.

15 MEMBER SOMERS: Well, that's good to know.

16 MS. DE BLASI: And Chairman, this is
17 Ms. De Blasi.

18 CHMN STAFFORD: Yes, Ms. De Blasi.

19 MS. DE BLASI: To Member Hill's point we
20 did not -- Banner did not include anything here because
21 it only has a preferred route which we support. And so
22 we'll just wait to see what we get back from the
23 applicant.

24 We would not want to add a whole bunch of
25 language either. But if there are routes in there that

1 we're going -- which we've said fully D and 1 we have
2 issues with, we can put something simple and that's not
3 an issue.

4 MEMBER HILL: Thank you.

5 CHMN STAFFORD: Right. But you wouldn't
6 have any issues with 1.2; correct?

7 MS. DE BLASI: If it went on D. If it was
8 B, then perhaps, yeah.

9 CHMN STAFFORD: But you want B, 1.2.

10 MS. DE BLASI: B to 1.2 would avoid the
11 issues, but since there's options we have to put it on
12 the record. And obviously I've asked for the -- if there
13 is something going on Ring Road that the right-of-way
14 that's been requested for the corridor of 400 feet be
15 narrowed to be only on the public road.

16 And that's simply because that condemnation
17 process is going to delay it and we don't want to do
18 that. So why have it there. But that would really be
19 it.

20 CHMN STAFFORD: Right. So back to the
21 exhibits. I think that we're going to -- for the
22 preferred route, it's Exhibit TEP-32, the updated
23 corridor map of the preferred route. This will also have
24 to be --

25 MS. GRABEL: Yes, Mr. Bryner's actually

1 working on new maps as we speak.

2 CHMN STAFFORD: Okay. And then I hate to
3 do this to you, but you'd have to go the same thing for
4 the alternate routes.

5 MS. GRABEL: He knows that.

6 CHMN STAFFORD: Okay. And I think -- and I
7 think the CEC can indicate that B-4 is the preferred
8 route and then that 1, 1.2, and D are alternatives.

9 MS. GRABEL: Certainly.

10 CHMN STAFFORD: Is that acceptable to the
11 Committee? I'm seeing nods in agreement.

12 MEMBER KRYDER: Yes. Yeah. It will be 1
13 and 1.2.

14 MEMBER GOLD: Mr. Chairman.

15 CHMN STAFFORD: I'm hearing no objections
16 to --

17 MEMBER GOLD: Mr. Chairman.

18 CHMN STAFFORD: Yes, Member Gold.

19 MEMBER GOLD: The only thing I'm trying
20 to -- would suggest is we somehow include this one favors
21 residential, this one favors commercial. Or this one is
22 less intrusive in residential, and this is less intrusive
23 in commercial, so we separate the two.

24 Because the difference between -- hang on a
25 second. The difference between the D route, D-1, or you

1 could also go B-1, we're still talking nonintrusive on
2 residential.

3 CHMN STAFFORD: B would, because B goes
4 through the neighborhood. It's going to go down Park.

5 MEMBER GOLD: Yeah, but D affects the
6 hospital.

7 CHMN STAFFORD: Right. Right.

8 MEMBER GOLD: So it's still commercial.

9 CHMN STAFFORD: Right.

10 MEMBER GOLD: So if we somehow get in the
11 commercial and the residential, so the Corporation
12 Committee will know that we looked at residential and
13 commercial pros and cons.

14 CHMN STAFFORD: I think we could add
15 something in the beginning, in the description about the
16 type of where the routes go in describing the preferred
17 route and then the alternate route.

18 MEMBER GOLD: Yes.

19 MEMBER LITTLE: Mr. Chairman.

20 CHMN STAFFORD: Yes, Member Little.

21 MEMBER LITTLE: I'm just wondering whether
22 it might not be more appropriate, I see Mr. Gold's point,
23 but I'm just wondering whether it might not be more
24 appropriate to just indicate that some routes -- some of
25 the approved corridors, I don't know, go through

1 neighborhoods more than others and some go through
2 commercial areas more than others.

3 Because there really are, what, six
4 combinations here that could be chosen. And I believe
5 from the conversation our reason in giving and approving
6 all these different corridors, routes, is to give the
7 parties the options to figure out what's best for them,
8 what works best for everybody. So --

9 CHMN STAFFORD: Yeah, I think some of
10 the --

11 MEMBER LITTLE: Pointing some of that
12 information out is good, but I don't think necessarily
13 saying this particular combination, B-4 or B-1.1 or
14 whatever is more commercial and one is more residential.

15 CHMN STAFFORD: Maybe we could have some
16 sort of, like generic statement in the description saying
17 we approved multiple -- a preferred route and
18 alternatives to give them flexibility depending -- to
19 vary what type of area the line would traverse or
20 something to that effect.

21 MS. DE BLASI: Chairman.

22 MEMBER LITTLE: Yes.

23 MEMBER GOLD: Yes.

24 MS. DE BLASI: Chairman. Ms. De Blasi.

25 CHMN STAFFORD: Yes, Ms. De Blasi.

1 MS. DE BLASI: I know it's hard to tell
2 who's speaking.

3 Just to point to that and not to belabor
4 it, but I think once we get the route maps you'll be able
5 to see along each route where, even though it might not
6 have been called residential in the applicant's
7 application, there is in fact a lot of residential along
8 D and 1.

9 But that'll be easier to see once you get
10 those. And then in terms of -- you know, I think if
11 you're approving routes and route alternatives, I don't
12 know that it really matters whether it's commercial or
13 residential if you're telling the applicant you can go
14 build any of these, the Commission's going to see that as
15 they can build any of them.

16 CHMN STAFFORD: Right. But I think what
17 we'll designate it as the main route as B-4 with approval
18 of alternatives 1, 1.2 and D as alternatives.

19 MS. GRABEL: Correct. What we've done in
20 the current draft is each segment is separately
21 described. So I'll just put after B preferred route,
22 after 4 preferred route, and then list the others
23 alternative route, alternative route, alternative route.

24 CHMN STAFFORD: There you go. That works
25 for me. Members?

1 MEMBER KRYDER: Yes.

2 MEMBER GOLD: Yes.

3 MEMBER LITTLE: Yes.

4 MEMBER HILL: Mr. Chair.

5 CHMN STAFFORD: Yes, Member Hill.

6 MEMBER HILL: I wanted to offer a couple of
7 other comments on the findings of fact.

8 In finding of fact -- proposed finding of
9 fact number 7, there's a lot of discussion there about
10 the cost of not doing this project.

11 And I know that numbers were offered during
12 testimony, but we didn't really go deep to understand
13 factually how those numbers were calculated.

14 So I just don't see the relevancy of a
15 paragraph like that at this point. So, I promise, you're
16 going to love what I draft.

17 CHMN STAFFORD: I think most of this can
18 come out, because we can just have more general
19 statements like we typically do, and if anybody requires
20 more information they're more than welcome to read the
21 transcript and look through all the exhibits.

22 Okay. We know it's there because we lived
23 it.

24 MEMBER HILL: Great. I'll let it go. I
25 was just going through the numbers and there were some

1 that stuck out as more concerning than others. Like I do
2 think there should be a good finding of fact around the
3 importance of the Vine Substation, so that was one that
4 was important to me, too.

5 MS. GRABEL: Absolutely.

6 CHMN STAFFORD: Right. That one should
7 definitely remain. All right. Well, I think the
8 applicant and Mr. Lusk have some -- I guess more the
9 applicant because --

10 MS. GRABEL: He's like, what?

11 CHMN STAFFORD: I think Mr. Lusk is out of
12 the --

13 MR. LUSK: I'm going home, Chair.

14 CHMN STAFFORD: All right. Well, so you
15 can e-mail, make sure you e-mail Tod the Word version of
16 what you've got, and send him -- send him both, send him
17 the like a PDF of what you -- the final product you have
18 and a Word version because I'll introduce them tomorrow
19 as Chairman's 1 and 2. 1 being the PDF and 2 being the
20 Word document we'll work off of.

21 And then get -- if you -- the sooner you
22 get that to him, the better. Because what I'll end up
23 doing is I'll look at the Chairman's 2, the Word
24 document, and I'll make changes to take out stuff that we
25 don't need, typically which is, you know, the numbers to

1 each one, make sure we have -- we need to -- I guess you
2 can do this now because I'll tell you, because you can
3 remove Member Fontes off the list of participants because
4 he was not here under any of the hearing.

5 However Mr. French was for the first week,
6 so his name would remain but that will confuse people
7 later on the vote count when they read the CEC. But it
8 is what it is.

9 MS. GRABEL: You could put an asterisk and
10 say at the bottom "excused for second part of hearing."

11 CHMN STAFFORD: You could try that. We'll
12 see how that goes. Do you have --

13 MS. HILL: We just apologize that he had to
14 go on the tour.

15 Do you have sufficient direction from the
16 Committee to craft that?

17 MS. GRABEL: We do. We're going to do it
18 right now.

19 CHMN STAFFORD: Excellent. All right.
20 With that I think that we can end the hearing for today,
21 and then we will be back tomorrow morning at nine a.m.,
22 and we will begin to vote on the CEC and we'll be very
23 happy to wrap this up in the allotted time. I see
24 Ms. Hill, do you have something to add?

25 MS. GRABEL: Ms. Hill made a really good

1 point. Are we sure we can have the maps by nine
2 tomorrow? Okay. I want to make Mr. Bryner can confirm
3 that's possible. Getting the thumbs-up. All right.
4 We're good.

5 CHMN STAFFORD: Okay. Yeah, because we'll
6 want the corridor narrowed to where it couldn't go the
7 next street over type of thing.

8 All right. Anything else? Thank you all.
9 I appreciate the TEP and the City of Tucson sitting down
10 and working together to try to craft a resolution because
11 I think we can all agree this is an important project and
12 it needs to happen.

13 We can all do what's best for the people of
14 Arizona, the citizens of Tucson, and we will be able
15 to -- you guys will be able to maintain reliable and
16 affordable electric service because that's what -- that's
17 why we're here.

18 All right. With that, let's -- we're
19 recessed until tomorrow at nine.

20 (Proceedings recessed at 4:24 p.m.)

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24
25

1 STATE OF ARIZONA)
)
2 COUNTY OF MARICOPA)

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