

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

BEFORE THE ARIZONA POWER PLANT  
AND TRANSMISSION LINE SITING COMMITTEE

In the matter of the Application of )  
Tucson Electric Power Company ) DOCKET NO.  
("TEP"), in conformance with the ) L-00000C-17-0365-  
requirements of Arizona Revised ) 00177  
Statutes §§ 40-360, et seq., for )  
Certificates of Environmental ) CASE NO. 177  
Compatibility authorizing the )  
construction of the Reciprocating )  
Internal Combustion Engine Generation )  
Project and the Irvington 138kV )  
Transmission Line Relocation Project, )  
including the installation of ten )  
(10) modular approximately 20 MW )  
reciprocating internal combustion )  
engine generators and construction of )  
approximately 2.2 miles of new 138kV )  
transmission lines located within )  
TEP's Irvington Campus, Section 3, )  
Township 15 South, Range 14 East, )  
Pima County, Arizona. ) DELIBERATIONS  
AND VOTE

At: Tucson, Arizona  
Date: January 19, 2018  
Filed: January 23, 2018

REPORTER'S TRANSCRIPT OF PROCEEDINGS

VOLUME III  
(Pages 414 through 524)

COASH & COASH, INC.  
Court Reporting, Video & Videoconferencing  
1802 N. 7th Street, Phoenix, AZ 85006  
602-258-1440 staff@coashandcoash.com

By: Colette E. Ross, CR  
Certified Reporter  
Certificate No. 50658

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

INDEX TO PROCEEDINGS

ITEM	PAGE
DELIBERATIONS - CONTINUED	417
VOTE	516

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 the DoubleTree Inn Hotel, 455 South  
5 Alvernon Way, Tucson, Arizona, commencing at 9:21 a.m.  
6 on the 19th of January, 2018.

7

BEFORE: THOMAS K. CHENAL, Chairman

8

LAURIE WOODALL, Arizona Corporation Commission  
LEONARD DRAGO, Department of Environmental  
Quality

10 JOHN RIGGINS, Arizona Department of Water  
Resources

11 GIL VILLEGAS, JR., Counties, Appointed Member

12 JIM PALMER, Agriculture, Appointed Member

JACK HAENICHEN, Public Member

13 RUSSELL JONES, Public Member

14 APPEARANCES:

15 For the Applicant:

16 SNELL & WILMER, L.L.P.  
By Mr. J. Matthew Derstine  
17 One Arizona Center  
400 East Van Buren, Suite 1900  
18 Phoenix, Arizona 85004

19 and

20 TUCSON ELECTRIC POWER COMPANY  
By Mr. Marc Jerden and Ms. Megan J. DeCorse  
21 88 East Broadway Boulevard, MS HQE910  
Tucson, Arizona 85701  
22  
23  
24  
25

1 CHMN. CHENAL: All right. Good morning,  
2 everyone. This is the time set for the continuation of  
3 the hearing on the TEP application for the RICE  
4 generation and the transmission lines.

5 Where we left off yesterday, we had started the  
6 process of reviewing the two CECs, reviewing the draft  
7 Chairman's Exhibit 1 and Exhibit 2. We left off right  
8 before the conditions portion of each of those CECs. I  
9 think we are going to go back and listen to the  
10 applicants with maybe some suggested language regarding  
11 an issue raised by Member Haenichen. Then we can take  
12 up any other issues, and then we will jump into the  
13 conditions.

14 So Mr. Derstine, is there anything we need to  
15 discuss before we begin that process?

16 MR. DERSTINE: No. I think that's exactly where  
17 we were and where we intended to start off this morning.

18 CHMN. CHENAL: Okay. Good. Well, we will  
19 listen to what you have to say. You had indicated you  
20 and your team were going to come up with some language  
21 to address Member Haenichen. So maybe if we can put the  
22 CECs up on the screen, again, the Chairman's Exhibit 1  
23 is on the left, Chairman's Exhibit 2 is on the right.  
24 And on the left is the RICE generation, on the right is  
25 the transmission line.

1 MR. DERSTINE: That's correct.

2 Good morning, Mr. Chairman, members of the  
3 Committee.

4 So as you indicated, we left off yesterday, had  
5 worked through the various introductory sections up  
6 there through the conditions, and we had some discussion  
7 about possibly revisiting a change or an edit that was  
8 made and approved by the Committee as to section B,  
9 overview of the RICE project, that inserted the words  
10 environmentally compatible fast start, fast ramping  
11 thermal resources.

12 And we got to that junction when we were taking  
13 up the issue whether similar language should be included  
14 in the transmission CEC under that same section. And we  
15 moved on and then approved, generally approved language  
16 for section C of both Chairman's Exhibit 1, the RICE  
17 CEC, and Chairman's Exhibit 2, the transmission CEC.

18 So what we have to show you is, I have suggested  
19 as one way, not the only way, but one way to address  
20 Member Haenichen's concerns, and yet still try to  
21 maintain separateness or the clarity of the description  
22 of the projects and the environmentally compatible  
23 issues and the fact that the Committee did consider  
24 those issues and they are part of the record, so what I  
25 have proposed is, if we can scroll down in both, a new

1 section D to this introduction. And that's shown in  
2 green.

3 So if you can see that, it is a heading. And,  
4 again, I tried to keep this neutral. As Mr. Haenichen  
5 correctly pointed out, the drafting of the CECs tended  
6 to be directed towards an assumption that these would be  
7 approved. And I think point well taken. So this is a  
8 neutral section that reads in both: During the  
9 course -- well, I will read it first as to the RICE:  
10 During the course of the hearing, the Committee  
11 considered evidence on the environmental compatibility  
12 of the RICE project as required by A.R.S. 40-360, et  
13 sequentes.

14 It seems to me that makes the record that this  
15 Committee did what it is charged with doing, which is  
16 considering the environmental compatibility of the  
17 project. And as to the transmission, it is simply --  
18 the only difference is it described the environmental  
19 compatibility of the transmission line process as  
20 required by A.R.S. 40-360.

21 And I didn't want to confuse things, so we  
22 copied over Chairman's Exhibit 1 and Exhibit 2. We are  
23 presenting this as proposed or sample language. You can  
24 consider it and do with it what you will.

25 There were a few other -- well, if the intention

1 and the decision of the Committee is to go with that new  
2 section D, then I would suggest or ask that you revisit  
3 another change that was approved by the Committee with  
4 regard to subsection B in Chairman's Exhibit 1, which  
5 was the insertion of the language environmentally  
6 compatible on line 9 and also shown in green.

7 CHMN. CHENAL: Okay. Thank you, Mr. Derstine.  
8 I think that's fairly clear, I mean very clear.

9 Just for my edification, the significance of the  
10 color between the green and the yellow highlighting is  
11 just to show your new additions?

12 MR. DERSTINE: Green is our new suggested and  
13 proposed changes or edits to the ground that we covered  
14 yesterday. And so if we can, just focusing on the RICE,  
15 there is a little bit of cleanup.

16 Is there anything above, Patrick, that  
17 environmentally compatible? Okay. So there is no  
18 suggested changes.

19 Again, what you see there in line 9, the purpose  
20 of the RICE project is to provide TEP's system with  
21 environmentally compatible fast start. That was the  
22 change that was adopted by the Committee yesterday in  
23 response to Mr. Haenichen's, Member Haenichen's motion  
24 and suggestion. And the question will be if you want to  
25 revisit that and adopt new subsection D in exchange for

1 that.

2 And then we approved, I believe, the  
3 subsection C yesterday. But in looking back at  
4 subsection C, it seemed to me that, again, trying to  
5 maintain the form of the proposed CEC more on a neutral  
6 language, you will see the changes in green, just  
7 subsection C would then be edited to just say RICE  
8 project description. And then it starts the RICE  
9 project is located on. And we inserted the word is.  
10 Everything else there is what was approved yesterday.

11 And again, what you see below that on D,  
12 environmental factors, is the new section we have  
13 proposed to address what was inserted yesterday.

14 CHMN. CHENAL: All right. Just a question maybe  
15 for Mr. Jerden. Should there be an A.R.S. before, on  
16 line 23, before the Section 40-360, et seq.?

17 MR. DERSTINE: There should.

18 CHMN. CHENAL: As well as on Exhibit 2.

19 MR. DERSTINE: I guess one way to do this -- and  
20 again, I understand the concern with making a clear  
21 record. We can copy those, I think, and transfer them  
22 over to the actual Chairman's Exhibit 1 so that the  
23 Committee can see those, or however you want to consider  
24 them, and have discussion now and then make the change  
25 directly under section 1, and then we are moving forward



1 with Chairman's Exhibit 1 as the screen yesterday.

2 CHMN. CHENAL: I don't think we need to do that.  
3 I think we are working off of Exhibit 1 and making  
4 changes to it which will be reflected when we are  
5 finished. This will become TEP-21. So I think 21 will  
6 show changes made to Chairman's Exhibit 1.

7 MR. DERSTINE: That's right.

8 CHMN. CHENAL: I think it will be clear enough.

9 MR. DERSTINE: Let me just make sure we have  
10 got -- yes, you are right.

11 CHMN. CHENAL: And then Exhibit 2 will then  
12 show -- Exhibit 22, TEP-22 will show changes to  
13 Chairman's Exhibit 2. I think they will be in synch;  
14 keep going the way we are.

15 So let's start some discussions with some of  
16 this language.

17 Member Woodall.

18 MEMBER WOODALL: I think Mr. Haenichen's  
19 suggestion that there be something in the document, the  
20 proposed CEC, that indicates that we actually did look  
21 at these factors is an important one. But I would  
22 propose moving your subsection D in both items under the  
23 finding of facts component, and I would plop it between  
24 2 and 3. Because it really is a finding of fact.

25 And I agree with Mr. Haenichen that we should

1 have some reference to the fact that we did our job, but  
2 I just don't think it belongs in that component. And I  
3 think it would make the findings of fact and conclusions  
4 flow better. So that's just my thought.

5 MEMBER HAENICHEN: Mr. Chairman.

6 CHMN. CHENAL: Member Haenichen.

7 MEMBER HAENICHEN: Just for the record, I am  
8 okay with that.

9 CHMN. CHENAL: How does the applicant feel about  
10 it?

11 MR. DERSTINE: And, I am sorry, Member Woodall,  
12 you said insert it between 2 and 3?

13 MEMBER WOODALL: Right.

14 MR. DERSTINE: I think that's the appropriate  
15 place. If you would like to move it, that's where it  
16 should go.

17 CHMN. CHENAL: Does anyone have an objection on  
18 the Committee to that?

19 (No response.)

20 CHMN. CHENAL: Before we do that, let's just  
21 talk conceptually among the Committee if we are on board  
22 with the language generally, or if we need further  
23 discussion. I am satisfied with it. I am just asking  
24 if we need to discuss that further.

25 MEMBER WOODALL: I am satisfied.

1 CHMN. CHENAL: Okay. Let's put that then  
2 between Findings of Fact 2 and 3, I guess, in both. And  
3 then we will go back and --

4 All right. Let's go back to Exhibit 1 and go  
5 back to --

6 MR. DERSTINE: Back up to the beginning.

7 CHMN. CHENAL: The area, yeah, passage 3 on  
8 Exhibit 1.

9 Now, I meant further -- okay, yeah. So let's  
10 look -- okay, we will get back to where we started  
11 today.

12 So we are looking at Exhibit 1, page 3, and we  
13 are now looking at lines basically 9 through 20. The  
14 suggested changes are to remove two words we added  
15 yesterday, environmentally compatible on lines 9 and 10,  
16 on line 16 to remove the word overview, and on line 17  
17 to remove the certificate approves construction of the,  
18 and the additional words is located, and to insert the  
19 word is on line 18. So those are the new changes today  
20 versus the ones we reviewed yesterday.

21 So do we need any further discussion on those,  
22 on those changes?

23 (No response.)

24 CHMN. CHENAL: May I have a motion to approve.

25 MEMBER PALMER: Motion to approve changes,

1 Mr. Chairman.

2 CHMN. CHENAL: May I have a second.

3 MEMBER VILLEGAS: Second.

4 CHMN. CHENAL: Okay. We have a motion and  
5 second.

6 All in favor say aye.

7 (A chorus of ayes.)

8 CHMN. CHENAL: Okay. Let's then continue with  
9 Exhibit 2. Now we are on page 3, and we are reviewing  
10 lines 12 through 21. The additional changes today are  
11 to remove the word overview on line 12, to remove the  
12 words the route herein approved for the on lines 13, and  
13 to add the words as shown on Exhibit A on lines 14 and  
14 15. Those are the changes, and also -- yeah, those are  
15 the changes that are different than the changes we had  
16 worked through yesterday.

17 Member Haenichen.

18 MEMBER HAENICHEN: Just for clarity, yesterday  
19 did we remove the word approved?

20 CHMN. CHENAL: Yes, according to the color code  
21 that we discussed earlier, I would say that we --

22 MEMBER HAENICHEN: Okay.

23 CHMN. CHENAL: That change occurred yesterday.  
24 So what I just described are the changes from yesterday  
25 to today --

1 MEMBER HAENICHEN: Thank you.

2 CHMN. CHENAL: -- suggested by the applicant.

3 So may I have a motion to approve the changes in  
4 the language in Exhibit 2, page 3, lines 12 through 21,  
5 as reflected on the screen.

6 MEMBER HAENICHEN: I move.

7 CHMN. CHENAL: May I have a second.

8 MEMBER RIGGINS: Second.

9 CHMN. CHENAL: We have a motion and second.  
10 All in favor say aye.

11 (A chorus of ayes.)

12 CHMN. CHENAL: All right. Very good. Let's  
13 move into the conditions. Let's try taking one  
14 condition at a time. So let's review the language on  
15 Exhibit 1, lines 1 through 7.

16 Member Woodall.

17 MEMBER WOODALL: I have no objection to this  
18 language in either form of the CEC.

19 CHMN. CHENAL: So with respect to Exhibit 1, is  
20 there any discussion regarding the requested language of  
21 the CEC of seven years?

22 (No response.)

23 CHMN. CHENAL: Okay. May I have a motion to  
24 approve the language on Exhibit 1, page 4, lines 1  
25 through 7.

1 MEMBER WOODALL: So moved.

2 MEMBER JONES: Second.

3 CHMN. CHENAL: We have a motion and a second.

4 All in favor say aye.

5 (A chorus of ayes.)

6 CHMN. CHENAL: Then moving to Exhibit 2 on the

7 right screen, may I have a motion to approve the

8 language on Exhibit 2, page 4, lines 2 through 9.

9 MEMBER WOODALL: So moved.

10 MEMBER JONES: Second.

11 CHMN. CHENAL: We have a motion and second.

12 All in favor say aye.

13 (A chorus of ayes.)

14 CHMN. CHENAL: Approved.

15 Now, the remainder of the conditions, I am just

16 going to refer to the condition number. I think the

17 record will be clear. I am not going to go through the

18 page and the lines.

19 So let's discuss Exhibit 1, Condition No. 2.

20 And you will see that there is some language that I had

21 suggested that we include for discussion. The language

22 that is added is language that I believe was in a prior

23 CEC that was not included in the language offered by the

24 applicant. But I think it makes it clear that the

25 reason we did it in a previous one was to make sure all

1 the, you know, regulations, laws, et cetera, applied  
2 throughout, including through the reclamation.

3 And I don't remember if it was Member Riggins or  
4 Villegas or -- no, it was Member Drago who I think  
5 suggested we include the word reclamation in a previous  
6 project. So we had it in a previous one. I think for  
7 consistency we ought to consider including it so there  
8 is no question.

9 Member Woodall.

10 MEMBER WOODALL: I would like to have the  
11 applicant tell us what they think the word reclamation  
12 means. Because you are committing to do it. I mean I  
13 could say assuming it means you are going to tear  
14 everything down. But if you could, articulate on the  
15 record what you think you would be committing to if this  
16 condition is passed.

17 MR. BECK: Mr. Chairman, Member Woodall, as far  
18 as the applicant is concerned, reclamation, we would  
19 consider, if and when we ever remove a project, that we  
20 would meet all requirements associated with removing  
21 that project, including any permitting that might be  
22 required.

23 MEMBER WOODALL: And so reclamation to you would  
24 be when you cease operations and you remove the  
25 equipment that has been authorized by the CEC, correct?

1 MR. BECK: Correct. And to the extent any of  
2 our permits identify reclamation requirements up front,  
3 or permits that we acquire for actual demolition and so  
4 on, we would follow all those requirements.

5 MEMBER WOODALL: Thank you.

6 CHMN. CHENAL: So I guess the first question I  
7 will ask as a courtesy to the applicant is if they have  
8 concerns about that additional language.

9 MR. DERSTINE: Mr. Chairman, I have a check on  
10 my drafts on both Chairman's Exhibit 1, Condition 2, as  
11 to both. I think the only issue it raises -- and it is  
12 in line with Member Woodall -- is we had a little bit of  
13 discussion about whether or not this could be  
14 interpreted as requiring reclamation where there might  
15 not be a duty to do so.

16 We can live with it as drafted, but in many  
17 cases, as you heard in the testimony during this case,  
18 we are going to shut down Sundt Steam Units 1 and 2. We  
19 have no obligation to remove them or reclaim at this  
20 time. So the only worry or concern with this language  
21 is would it impose some duty to reclaim or remove  
22 facilities that the company would otherwise have no  
23 obligation to reclaim.

24 CHMN. CHENAL: Okay. I don't read it as that.  
25 I don't think the language is intended that it requires



1 reclamation, just, if there is reclamation, the  
2 applicant must comply with the permits that are  
3 necessary. And as Mr. Beck --

4 MR. DERSTINE: And if that's the interpretation,  
5 we are fine with it.

6 CHMN. CHENAL: And I mean we have that in the  
7 record. I think that's the intent that I intended by  
8 that language.

9 MR. DERSTINE: Yes.

10 CHMN. CHENAL: So is there any discussion by the  
11 Committee with respect to Condition 2 on Exhibit 1?

12 (No response.)

13 CHMN. CHENAL: May I have a motion to approve  
14 the language with the changes reflected on the screen  
15 for Exhibit 1, or Condition 2.

16 MEMBER WOODALL: So moved.

17 MEMBER JONES: I will second.

18 CHMN. CHENAL: We have a motion and a second.

19 MEMBER DRAGO: Second.

20 CHMN. CHENAL: The only discussion I will note  
21 is that when we -- it should be obvious, but I will  
22 state the obvious -- when we finalize the CEC, we are  
23 going to remove the references to prior siting cases and  
24 conditions. I mean that should go without saying, but I  
25 think we should clarify it.

1 So we don't need to do it as we go through it,  
2 but we will remove, like on line 12, the CEC Siting  
3 Case, you know, 175, 176. So with that...

4 MR. DERSTINE: Mr. Chairman, I am sorry, one  
5 note. I did have a note. So as to Chairman's  
6 Exhibit 2, the transmission CEC --

7 CHMN. CHENAL: We haven't gotten there yet.

8 MR. DERSTINE: All right.

9 CHMN. CHENAL: We are just -- no, we are doing  
10 one at a time.

11 MR. DERSTINE: All right.

12 CHMN. CHENAL: Member Haenichen.

13 MEMBER HAENICHEN: Just a small point. On line  
14 10, would we not want, after the word project, a comma?  
15 It looks like a period to me. If it is a comma, then I  
16 am okay with it.

17 MEMBER WOODALL: Yeah.

18 CHMN. CHENAL: Line 9, comma between project and  
19 TEP. Actually it should be a space, but... It is a  
20 comma, I believe.

21 MEMBER HAENICHEN: Why do I have it on line 10?

22 MEMBER WOODALL: In any event, I am comfortable  
23 with the Chairman being empowered -- I think we already  
24 have done that -- for him to make these types of  
25 changes. Because I am sure he is going to do a final

1 review before he submits it to the Commission.

2 CHMN. CHENAL: Well, that's true, but we have  
3 got a lot of eyes on this, so people see commas and  
4 things that need to be edited. It will help me  
5 immensely to have eyes on it.

6 Also, I think there is a difference between the  
7 lines that we are looking at on the screen and the lines  
8 that are on the documents we are looking at because of  
9 the changes that were made by the applicant last night.  
10 So I am looking at the screen. And I will just ask that  
11 the Committee, when they refer to a specific line as we  
12 go through this, that you look at the screen for the  
13 line number.

14 So for Exhibit 1, Condition 2, I think we have  
15 had discussion. And now I forget if I asked for a  
16 motion and a second; I think I did.

17 So all in favor say aye.

18 (A chorus of ayes.)

19 CHMN. CHENAL: Let's go to Exhibit 2,  
20 Condition 2.

21 MEMBER PALMER: Mr. Chairman.

22 CHMN. CHENAL: Yes.

23 MEMBER PALMER: In Condition -- yeah. Exhibit 1  
24 you added the words and their agencies or subdivisions,  
25 and not in Exhibit 2. Was there a reason?

1 CHMN. CHENAL: No. That's a good catch. So I  
2 would like to see that language at least inserted for  
3 discussion purposes.

4 Thank you, Member Palmer.

5 MEMBER WOODALL: I think that's a logical method  
6 of approach here, to make them as similar as possible,  
7 because otherwise it could be construed as somehow we  
8 are making different requirements. So I agree that it  
9 should be changed.

10 CHMN. CHENAL: Okay. So with respect to  
11 Exhibit 2, Condition 2, with the changes as reflected on  
12 the screen, may I have a motion to approve the language.

13 MEMBER HAENICHEN: So moved.

14 MEMBER WOODALL: Second.

15 CHMN. CHENAL: We have a motion and a second.

16 All in favor say aye.

17 (A chorus of ayes.)

18 CHMN. CHENAL: All right. Let's go back to  
19 Exhibit 1, Condition 3. Now, this is a condition that  
20 was in previous CECs. And I think the reason for it is  
21 it is a slightly different concept.

22 Condition 2 says they will comply with all  
23 permits, et cetera. Condition 3 is they have to obtain  
24 all of them required by any governmental agency,  
25 slightly different in my mind, a little bit of a

1 different obligation.

2 We have heard a lot about the air permit and the  
3 Pima County permitting requirements for air quality.  
4 And I think if any case, you know, requires such a  
5 condition, it is this one. So that's the reason I  
6 inserted that. It was not in the applicant's proffered  
7 language, but I think it is something we should  
8 consider. And like I said, it has been in previous  
9 CECs, not just 176.

10 Member Woodall.

11 MEMBER WOODALL: Is this in the statute that  
12 you -- condition? I think it is, but I am not sure,  
13 so...

14 MR. DERSTINE: Yes. And I am not sure in terms  
15 of whether the language is exactly as written, but the  
16 language is -- well, that specific language.

17 So 360.06(c) requires that the Committee require  
18 all certificates for facilities, that the applicant  
19 comply with all applicable nuclear radiation standards,  
20 air and water pollution control standards and  
21 regulations, et cetera. Then (d) requires that in any  
22 certificate the Committee condition or require the  
23 applicant to comply with all applicable ordinances,  
24 master plans, and regulations.

25 So this specific language, I think it is

1 captured by those sections.

2 MEMBER WOODALL: I agree. I just wanted to make  
3 sure we were not inconsistent with the statutory  
4 language. And it seems to me we are not. So thank you  
5 for looking that up for us, Mr. Derstine.

6 CHMN. CHENAL: Member Haenichen.

7 MEMBER HAENICHEN: Once again, that's comply.  
8 And it is different from obtain.

9 CHMN. CHENAL: Yes.

10 MR. DERSTINE: All right.

11 MEMBER HAENICHEN: So it really is a nuance, but  
12 it is different.

13 MR. DERSTINE: It is different. I guess we --  
14 yes, I guess pointing out that language, the applicant  
15 tended to read Condition 2 and Condition 3 as  
16 duplicative and a little bit of belt and suspenders.  
17 But in this case it may be appropriate, and we aren't  
18 going to argue with you.

19 CHMN. CHENAL: Good.

20 MEMBER HAENICHEN: In that case I move we put it  
21 in. I move we approve that language.

22 CHMN. CHENAL: Okay. So Exhibit A -- excuse me.  
23 Exhibit 1, Condition 3, may I have a motion to approve.  
24 Member Haenichen approved. Motion to approve and a  
25 second.

1 MEMBER RIGGINS: Second.

2 CHMN. CHENAL: We have a motion and a second.

3 All in favor say aye.

4 (A chorus of ayes.)

5 MEMBER WOODALL: Pass.

6 CHMN. CHENAL: Okay. Exhibit 2, Condition 3,

7 may I have a motion to approve.

8 MEMBER HAENICHEN: Move.

9 MEMBER JONES: Second.

10 CHMN. CHENAL: Motion and second.

11 All in favor say aye.

12 (A chorus of ayes.)

13 MEMBER WOODALL: Pass.

14 CHMN. CHENAL: All right. Let's go to

15 Exhibit 1, Condition 4. Do we need any discussion on

16 Condition 4? It is a standard condition.

17 (No response.)

18 CHMN. CHENAL: May I have a motion to approve

19 Exhibit 1, Condition 4.

20 MEMBER WOODALL: So moved.

21 MEMBER JONES: Second.

22 CHMN. CHENAL: We have a motion and second.

23 All in favor say aye.

24 (A chorus of ayes.)

25 CHMN. CHENAL: Let's go to Condition 4,

1 Exhibit 2. May I have a motion to approve.

2 MEMBER WOODALL: So moved.

3 MEMBER PALMER: So moved.

4 CHMN. CHENAL: Ladies first. Member Woodall,  
5 and then a second by Member Palmer. We have a motion  
6 and a second.

7 All in favor say aye.

8 (A chorus of ayes.)

9 CHMN. CHENAL: All right. Let's go to  
10 Exhibit 1, Condition 5. Again, this is a standard  
11 condition. Do we need any discussion?

12 (No response.)

13 CHMN. CHENAL: May I have a motion to approve  
14 Condition 5, Exhibit 1.

15 MEMBER PALMER: Motion to approve.

16 MEMBER JONES: Second.

17 CHMN. CHENAL: We have a motion and second.

18 All in favor say aye.

19 (A chorus of ayes.)

20 CHMN. CHENAL: Then on Exhibit 2, Condition 5,  
21 may I have a motion to approve.

22 MEMBER JONES: So moved.

23 MEMBER WOODALL: Second.

24 CHMN. CHENAL: Motion and a second.

25 All in favor say aye.



1 (A chorus of ayes.)

2 CHMN. CHENAL: Let's go to Exhibit 1,  
3 Condition 6. Now, this is going to take a little  
4 discussion. This language was -- I don't have a Case  
5 No. 169 in front of me, or 176, but certainly with the  
6 SunZia project, you know, raptors was a very important  
7 consideration in that case. And I think that brought to  
8 light -- there was a lot of testimony on it, and we came  
9 up with a condition in that case and I think it has been  
10 carried forward in a lot of cases.

11 So this is Case 177. So I believe I went back  
12 to Case 176 and saw the full condition regarding, you  
13 know, impacts to raptors, the full language as outlined  
14 on the screen there.

15 Now, I grant you that this is two, you know, two  
16 plus miles versus a much longer power line, transmission  
17 line. But we did have this language in a previous one.  
18 And I am happy -- we are going to have some discussion  
19 on this, because this is one where, I think I said  
20 earlier, there were some that I think were more  
21 important than others. This is a much shorter line, so  
22 this isn't something I am going to fall on the sword  
23 for.

24 And, actually, I meant to ask Ms. Darling some  
25 more information about those specific standards. But I

1 have a certain comfort level that we have had testimony  
2 in previous cases that have kind of gone into that.

3 But I guess I would first like to hear what the  
4 applicant has to say, and then I would like to hear what  
5 the Committee has to say, and we can kind of have our  
6 discussion.

7 MR. DERSTINE: Thank you, Mr. Chairman.

8 As to Chairman's Exhibit 1, which is the  
9 proposed CEC for the RICE project, we would suggest and  
10 recommend that we not incorporate this condition, not be  
11 applicable to a building and a structure, and therefore  
12 it should not be in this CEC. We do have some proposed  
13 changes to the language when we move to the transmission  
14 CEC, but as to the RICE project CEC, we would suggest  
15 removal of Condition No. 6 in its entirety.

16 MEMBER WOODALL: I concur, because there would  
17 be -- we would be asking them to comply with guidelines  
18 for the Avian Power Line Interaction Committee, and  
19 there is no line here. So I agree with the applicant  
20 that this is not prudent here.

21 CHMN. CHENAL: I think we were just kind of  
22 putting them in both, but I agree on 1. So I agree that  
23 that language isn't necessary for the RICE project.

24 Now, there is a clause up there, a couple words  
25 up there, it says TEP or assignees, and this might come

1 up in a later one. Again, the concern I have with  
2 assignees is more with respect to merchant projects,  
3 honestly, than it is with established utilities. I am  
4 not as concerned about it with TEP or the large Arizona  
5 utilities; merchant projects, different story. I feel  
6 pretty strongly about that, because a lot of those are  
7 developers who then, you know, lease, which is simply a  
8 financing vehicle, and others. But for TEP, I am not  
9 wedded to that language.

10 There is a condition that addresses any, I  
11 think, transferee or assignee has to agree to the terms  
12 and conditions. So I am okay, unless someone feels  
13 otherwise, that, with respect to Exhibit 1, that we  
14 remove all the changes that I had added to Condition  
15 No. 6, and just stick with the language that the  
16 applicant had offered.

17 MEMBER WOODALL: If you are entertaining a  
18 motion, I would so move.

19 CHMN. CHENAL: Okay.

20 MEMBER PALMER: Second.

21 CHMN. CHENAL: We have a motion and second.

22 All in favor say aye.

23 (A chorus of ayes.)

24 CHMN. CHENAL: Patrick, could we just show that  
25 as a strikeout.

1 MR. DUBBERLY: The whole thing?

2 CHMN. CHENAL: No, just the language in blue.  
3 So now it would be clear we are back to the original  
4 language offered by the applicant.

5 So let's go now to Exhibit 2 and look at  
6 Condition 6. Now, the first -- I think we can remove  
7 the language on line 3, or its assignees. I think  
8 that's not necessary in this case.

9 All right. Now, back to my concern regarding  
10 the transmission lines and the language that's been in  
11 previous CECs, maybe we can hear from the applicant  
12 first, and then we can open up for discussion.

13 MR. DERSTINE: Thank you, Mr. Chairman.

14 As to proposed Condition 6 of Chairman's  
15 Exhibit 2 with regard to raptor protections, TEP does  
16 not and its affiliates do not have an avian protection  
17 plan. What we do is follow the standards of the Avian  
18 Power Line Interaction Committee with regard to all of  
19 our facilities throughout the system and the 2012  
20 guidelines.

21 So our suggested edits would be to remove the  
22 reference to an avian protection plan. Those are  
23 typically drafted by an applicant or proponent. They  
24 may be unique to a certain transmission system. A  
25 different type of avian protection plan would be used in

1 connection with the EHV facilities or structures as  
2 opposed to smaller 138kV or subtransmission structures  
3 potentially.

4 So in this case, our suggested change would be  
5 that, starting on the end of line 4, such design will be  
6 accomplished through compliance with the 2006 standards  
7 of the Avian Power Line Interaction Committee and  
8 address the application of recommended measures to  
9 minimize the risk of collision, comma, all that language  
10 would stay the same up to Committee, period. And then  
11 it would delete the remaining language of proposed  
12 Condition No. 6.

13 CHMN. CHENAL: I think -- one of the Committee  
14 members have a question?

15 MEMBER WOODALL: I had a question.

16 CHMN. CHENAL: Yeah, Member Woodall.

17 MEMBER WOODALL: If you had to do a plan as is  
18 defined in the original version of this condition, would  
19 you have to hire an outside consultant to do that for  
20 you?

21 CHMN. CHENAL: Ms. Darling is shaking her head  
22 yes.

23 MEMBER WOODALL: So that would be an additional  
24 cost.

25 MR. DERSTINE: Yes.

1 MEMBER WOODALL: Okay. All right. I just  
2 wanted to understand the potential cost benefits here,  
3 balancing of interest. Thank you.

4 MR. BECK: Mr. Chairman, members of the  
5 Committee, we do have a program in place. And we work  
6 with the U of A in processing issues regarding raptors.

7 Another point to bring to the attention of the  
8 Committee is that the actual potential for electrocution  
9 of any birds on transmission is negligible because of  
10 the spacing of the lines. So really the issues we are  
11 dealing with are the birds hitting the wires, basically.  
12 And they are dealt with in the guidelines. So that's  
13 why we utilize the guidelines as well as a program we  
14 have in place. It is just not as a defined plan, per  
15 se.

16 CHMN. CHENAL: Okay. I am fine with the changes  
17 recommended by the applicant. I think that makes sense.

18 Again, my purpose in putting the language up  
19 there was not that I was offering the language so much  
20 as a discussion vehicle to see what made sense. And I  
21 think the changes recommended by the applicant make  
22 sense.

23 What is the cost of this total project? 180 to  
24 \$200 million?

25 MR. BECK: The RICE project, 160 million, and

1 the line, we had 30 for the substation and 7 for the  
2 lines, so yeah.

3 CHMN. CHENAL: Okay. I wouldn't be worried  
4 about the cost of the avian plan, but the logic is, I  
5 think, very good, about why we would want to remove  
6 that. Because you would have -- it is not something  
7 that really is appropriate for a small line like this.  
8 So why don't we on the screen make the changes that were  
9 suggested by Mr. Derstine.

10 MR. BECK: Mr. Chairman, members of the  
11 Committee, actually removal of your added language, I  
12 think, back to the original gets to the same point. So  
13 that would be another option.

14 And the question for the Committee is do you  
15 still want to have cranes and waterfowl in this  
16 particular CEC. That came into play with, I believe,  
17 Southline because of the Willcox Playa area. We don't  
18 have too many waterfowl around our facilities.

19 MEMBER WOODALL: I did notice some pigeons on  
20 our tour.

21 MR. BECK: We have plenty of those.

22 MEMBER WOODALL: Yes.

23 CHMN. CHENAL: Well, I am not -- actually, I  
24 don't know if your original language -- okay, I am  
25 looking at Exhibit 1 and Exhibit 2. I believe I added

1 the words cranes and waterfowl. That's not necessarily  
2 reflected on Exhibit 2, on Condition No. 6, because it  
3 is shown in black, which would suggest it is your  
4 language.

5 But what does the Committee feel about cranes  
6 and waterfowl versus raptors?

7 MEMBER WOODALL: I personally would be  
8 comfortable if TEP shall design the transmission line  
9 project to incorporate reasonable measures to minimize  
10 impacts to avian species, period. And I personally  
11 don't think we need anything in that condition, but  
12 that's my personal view.

13 MEMBER RIGGINS: I agree.

14 CHMN. CHENAL: So change raptors, cranes, and  
15 waterfowl to --

16 MEMBER WOODALL: Avian species.

17 CHMN. CHENAL: All right.

18 Member Haenichen.

19 MEMBER HAENICHEN: Well, avian species is a  
20 pretty broad category that would include wrens and  
21 robins, and I don't know if you really want to go there.

22 MEMBER WOODALL: The reason I am framing it  
23 generally is because obviously we heard evidence about  
24 the unlikelihood that there are any protected species  
25 out there and what have you. So I think we just say



1 avian species. I think the applicant will be looking at  
2 that.

3 We are not -- I personally do not intend for you  
4 to look for robins and sparrows and that kind of thing,  
5 but I catch Mr. Haenichen's point.

6 MR. BECK: Well, Mr. Chairman and members of the  
7 Committee, to that point, we are going to design the  
8 line to protect, basically, birds. So it is going to  
9 protect to some degree all of the birds. So I think the  
10 use of avian species is probably okay in this instance.  
11 It is a little beyond what the language we have ever  
12 had, but...

13 CHMN. CHENAL: Member Haenichen.

14 MEMBER HAENICHEN: Yeah. People have to  
15 understand that if a bird lands on a wire, even if it is  
16 energized at a couple hundred thousand volts, it doesn't  
17 get a shock. It needs to have a complete circuit, so...

18 MEMBER WOODALL: You are alluding to the fact  
19 that you need a big bird with big wings, is that  
20 correct, Mr. Haenichen?

21 MEMBER HAENICHEN: 50-foot wings.

22 MEMBER WOODALL: Or thereabouts, so...

23 If there is another word that the applicant is  
24 more comfortable with other than avian species, if you  
25 prefer it to raptors, I don't have a problem with that

1 either.

2 MR. BECK: Just due to the fact everybody is  
3 used to the word raptors, we are very satisfied with  
4 that, but we have no objection to avian species either.

5 CHMN. CHENAL: All right. Let's look at  
6 Condition No. 6. The way it is written with the  
7 language that's up there, I am comfortable with that.  
8 The applicant already uses those standards, and this  
9 would just simply reinforce what they say they do  
10 already. And I am a big believer that if they are going  
11 to do it anyway, it doesn't harm to put the language in  
12 the condition, because that way they don't change their  
13 mind later on what their policies are with respect to  
14 what policies they use for their programs, like raptor  
15 programs or, you know, the measures that they use.

16 So if there is any further discussion, let's  
17 have it now on Condition 6; otherwise, I will entertain  
18 a motion for Exhibit 2, Condition 6.

19 MEMBER HAENICHEN: I move that condition.

20 CHMN. CHENAL: May I have a second.

21 MEMBER PALMER: Second.

22 CHMN. CHENAL: Is there any further discussion?

23 MEMBER WOODALL: I am sorry. When you say you  
24 move that condition, you mean the entirety of it,  
25 Mr. Haenichen? I want to make sure.

1 MEMBER HAENICHEN: The way it was originally.

2 MEMBER WOODALL: When you say --

3 MEMBER HAENICHEN: The applicant's language.

4 MEMBER WOODALL: Thank you. In other words,  
5 raptor.

6 MEMBER HAENICHEN: Correct.

7 MEMBER WOODALL: Thank you very much.

8 CHMN. CHENAL: Now I am confused. I thought --  
9 okay. Let me restate what I am asking for.

10 We are looking on Exhibit 2, Condition 6. I am  
11 not going to read it. But it starts with TEP shall  
12 design the transmission project to incorporate  
13 reasonable measures to minimize impact to avian species,  
14 period, and then the rest of it which we see in blue and  
15 language.

16 The way it reads on the screen is what I am  
17 asking for a motion on. So let me -- let's try it  
18 again. Exhibit 2, Condition 6 as reflected on the  
19 screen, may I have a motion.

20 MEMBER HAENICHEN: That's what I move. I move  
21 it.

22 CHMN. CHENAL: Okay. May I have a second.

23 MEMBER PALMER: Second.

24 CHMN. CHENAL: Now, is there any further  
25 discussion with respect to the language that's on the

1 screen?

2 Member Woodall.

3 MEMBER WOODALL: I am convinced by Mr. Beck's  
4 comments that perhaps we should leave it raptors. And I  
5 don't have strong feelings one way or the other, but  
6 based upon his explanation, that's what I think would be  
7 a good idea. Since I am the one that came up with avian  
8 species in the first places, that's why I thought I  
9 would share my thoughts.

10 CHMN. CHENAL: All right. So right now the  
11 motion is to keep the word avian, the language avian  
12 species. Okay? Do we want to vote on that, or do we  
13 want to go back and change it back to raptors?

14 Stick with avian species, I see a number of  
15 members. Let's have --

16 MEMBER WOODALL: I vote for that.

17 CHMN. CHENAL: Okay. Let's have a vote. All in  
18 favor say aye.

19 (A chorus of ayes.)

20 CHMN. CHENAL: All right. Thank you.

21 Now, let's go back to Exhibit 1, Condition 6  
22 and change the word raptors to avian species, so we have  
23 consistency.

24 Now, back to Exhibit 1, Condition 6, we now have  
25 inserted the word avian species and taken out the word

1 raptors. May I have a motion to approve that language.

2 MEMBER WOODALL: So moved.

3 MEMBER RIGGINS: Second.

4 CHMN. CHENAL: We have a motion and second.

5 All in favor say aye.

6 (A chorus of ayes.)

7 CHMN. CHENAL: Okay. Let's go to Exhibit 1,  
8 Condition 7. Let's take a moment to read it.

9 Patrick, Exhibit 2, can we just scroll down a  
10 little. Is there a way to do that? I guess you can't  
11 because you will lose the top.

12 Okay. Exhibit 1, Condition 7, we have got the  
13 language that was offered by the applicant. And in a  
14 previous case the similar condition, I believe, included  
15 the additional language that we see in blue.

16 I guess one question I have is is that  
17 appropriate for the RICE project versus the transmission  
18 line. But let's ask the applicant to kind of discuss  
19 the changes as reflected there.

20 MR. DERSTINE: Mr. Chairman, with regard to  
21 Chairman's Exhibit 1, proposed Condition 7, we would  
22 suggest that starting with the language in addition,  
23 comma, the RICE project shall be evaluated on a regular  
24 basis so that damaged insulators or other project  
25 materials that could cause interference are repaired or

1 replaced in a timely manner, that language should go  
2 away because it is inapplicable to the RICE project.  
3 Other than that, Condition 7 as shown on the screen is  
4 acceptable to the applicant.

5 CHMN. CHENAL: Okay. Member Woodall.

6 MEMBER WOODALL: I know I am jumping ahead, but  
7 since this language is here, the language that you  
8 proposed to eliminate, evaluate on a regular basis so  
9 that damaged insulators or other project materials are  
10 repaired or replaced in a timely manner, do industry  
11 standards and safety codes require that you do that, do  
12 you know?

13 MR. BECK: Mr. Chairman, members of the  
14 Committee, yes, there are requirements that we maintain  
15 our facilities and look for damage.

16 MEMBER WOODALL: Okay. Thank you.

17 CHMN. CHENAL: All right. So let's strike the  
18 last sentence in blue there. And let's see if the  
19 Committee has any discussion on the way it reads now  
20 with that last sentence struck.

21 Maybe I should ask Member Haenichen if striking  
22 that last sentence makes sense.

23 MEMBER HAENICHEN: Yes, I think so. And I move  
24 that we approve this as modified.

25 CHMN. CHENAL: Okay. We have a motion. May I

1 have a second.

2 MEMBER PALMER: Second.

3 CHMN. CHENAL: Any further discussion?

4 (No response.)

5 CHMN. CHENAL: So all in favor of Exhibit 1,  
6 Condition 7 as reflected on the screen say aye.

7 (A chorus of ayes.)

8 CHMN. CHENAL: Thank you.

9 And then moving to Exhibit 2, Condition 7, you  
10 can see -- maybe it is wordsmithing on my part, but on  
11 line 14 I inserted the words transmission line project,  
12 as well as line 15. And then we have the language added  
13 that TEP shall respond to complaints and implement  
14 appropriate mitigation measures, and then an additional  
15 sentence, in addition, the transmission line shall be  
16 evaluated -- maybe we should have the same language --  
17 the transmission line project shall be evaluated on a  
18 regular basis so that damaged insulators or other line  
19 materials that could cause interference are repaired or  
20 replaced in a timely manner.

21 MR. DERSTINE: The applicant is fine with that  
22 condition as you have recited it and presented it.

23 CHMN. CHENAL: Okay. All right.

24 MR. DERSTINE: There is one, on a regular basis,  
25 I think it says S-O-T. There is just a T there that

1 needs to be removed. Other than that...

2 CHMN. CHENAL: Yes. On page 6, line 1, after  
3 the word basis, it should be S-O, without the T.

4 Member Woodall.

5 MEMBER WOODALL: So we have already established  
6 that you have to follow industry standards in  
7 maintaining and inspecting your equipment. And I am not  
8 asking for a commitment. I just kind of want to  
9 understand how often you would be doing this typically.  
10 I am not asking you to commit to do it in this  
11 particular case. I just want to get orders.

12 MR. BECK: I understand.

13 Mr. Chairman, members of the Committee, TEP  
14 constantly evaluates its system. On an annual basis we  
15 will go out and patrol lines. And every five years,  
16 typically, on a majority of our lines we will actually  
17 do climbing inspections of the structures to look at the  
18 facilities.

19 MEMBER WOODALL: Thank you. That information is  
20 helpful.

21 CHMN. CHENAL: Okay. So with the changes as  
22 reflected on Exhibit 2, paragraph 7, may I have a motion  
23 to --

24 MEMBER JONES: So moved.

25 CHMN. CHENAL: And a second.



1 MEMBER WOODALL: Second.

2 CHMN. CHENAL: We have a motion and a second.

3 All in favor say aye.

4 (A chorus of ayes.)

5 CHMN. CHENAL: Thank you.

6 All right. Now, Exhibit 1 -- okay, I am a  
7 little confused here. I am looking at what I thought  
8 would be paragraph 8, and it looks like -- it deals with  
9 TEP shall consult with SHPO. And that paragraph , I  
10 thought, was offered by the applicant, but now it looks  
11 like the language is struck. So I am a little confused.  
12 Kind of a standard condition.

13 MEMBER PALMER: Mr. Chairman, in looking at  
14 that, it indicates that that's referring to anything  
15 that's discovered on state, county, or municipal land.  
16 And my understanding is this is all on TEP land. That  
17 may be the reason.

18 MR. BECK: Mr. Chairman, that is correct. That  
19 is why we proposed striking it, because it is strictly  
20 on TEP land, which doesn't require SHPO consultation.

21 CHMN. CHENAL: Let's just make sure that I am  
22 understanding what happened.

23 MR. DERSTINE: You have it right. We put it in  
24 and we examined it. We are suggesting it is not  
25 applicable.

1 CHMN. CHENAL: Just so you know, it is harder to  
2 put it in and try to take it out than not putting it in  
3 in the first place.

4 MR. DERSTINE: I understand.

5 CHMN. CHENAL: I just want to make sure I was  
6 reading this correctly. I thought that was one you had  
7 offered, and I didn't have any changes or comments on  
8 it. But now we are looking at it and it looks as though  
9 the applicant is suggesting that they don't want to have  
10 it in there.

11 MR. DERSTINE: That's right, Mr. Chairman. We  
12 presented this as our initial draft because it is a  
13 standard condition in the vast majority, if not all,  
14 cases. I am not sure how many cases involve, you know,  
15 applicants coming to this Committee to construct  
16 structures on their own private land. But then, as we  
17 reviewed this and considered it, for the reasons stated  
18 by Member Palmer, we are suggesting that it is not  
19 applicable here and that it should be removed.

20 CHMN. CHENAL: What does the Committee feel  
21 about that?

22 MEMBER WOODALL: It seems sensible to me not to  
23 put a condition that has no applicability to the facts  
24 in this case.

25 CHMN. CHENAL: Okay.

1 MEMBER HAENICHEN: I move we strike that  
2 condition.

3 MEMBER JONES: Second.

4 CHMN. CHENAL: Let's slow it down here just a  
5 second. So let's make sure we are clear. The motion is  
6 to strike the language which is on Exhibit 1 that starts  
7 with the language TEP shall consult with SHPO with  
8 respect to cultural resources.

9 So we have a motion to strike that language.  
10 May I have a second.

11 MEMBER JONES: Second.

12 CHMN. CHENAL: Okay, we have a second.

13 Any further discussion?

14 (No response.)

15 CHMN. CHENAL: All in favor say aye.

16 (A chorus of ayes.)

17 CHMN. CHENAL: All right. Then let's move to  
18 Exhibit 2, the same language with respect to Exhibit 2,  
19 Condition -- well, it was 7 and then it was 8. They are  
20 both struck, but again, it is the same cultural  
21 resources language. Do I have a motion to --

22 MEMBER HAENICHEN: I move we strike the  
23 condition in Exhibit 2.

24 MEMBER WOODALL: Second.

25 CHMN. CHENAL: We have a motion and second.

1 All in favor say aye.

2 (A chorus of ayes.)

3 CHMN. CHENAL: All right. Let's go to  
4 Exhibit 1, paragraph 8.

5 MEMBER PALMER: 9.

6 CHMN. CHENAL: Let's get the numbers right. 7.  
7 So it is 8. It is 8. You see, yeah. This should  
8 read --

9 MEMBER JONES: Right, because we added one, then  
10 take one out.

11 CHMN. CHENAL: I think it auto corrected.

12 Patrick, can I ask you on Exhibit 1 to scroll  
13 up. Keep going. Okay.

14 We are looking at Exhibit 1. You will see what  
15 is listed as a condition as 7, starting on page 9. And  
16 then as we scroll down, what would have been 8 has just  
17 been deleted. So as we continue to scroll down, the 9  
18 should be an 8, I think. Because the next one in  
19 sequence would be Condition 8. No?

20 MR. BECK: Mr. Chairman, just to be clear, if he  
21 hits the delete, it renumbers; if we leave it in this as  
22 a strikeout, it won't renumber. For clarity of the  
23 record, I don't know if we want to keep it in and go  
24 with the original numbers and then it will be a  
25 conforming change to renumber.

1 CHMN. CHENAL: Whatever we can do to make that 9  
2 an 8, I think that we should do that.

3 MR. DERSTINE: Go ahead and strike it so it  
4 renumbers.

5 CHMN. CHENAL: All right. Good. All right.  
6 Back to this process. I think we will go through some  
7 of these pretty quickly.

8 Exhibit 1, paragraph 8, you will see the  
9 additional language I added. Do we need any discussion?

10 (No response.)

11 CHMN. CHENAL: May I have a motion to approve.

12 MEMBER WOODALL: So moved.

13 MEMBER JONES: Second.

14 CHMN. CHENAL: All right. Let's everyone kind  
15 of slow down so Colette can make sure she gets it. It  
16 is probably hard for her.

17 So we have a motion and a second.

18 Any further discussion?

19 (No response.)

20 CHMN. CHENAL: All in favor say aye.

21 (A chorus of ayes.)

22 CHMN. CHENAL: All right. Let's go to  
23 Exhibit 2, paragraph 8, with the additional language I  
24 added. I assume the applicant has no objection to that  
25 language.

1 MR. DERSTINE: No objection.

2 CHMN. CHENAL: If you do, please, as we go  
3 through this, if you need to, please speak up.

4 May I have a motion to approve.

5 MEMBER PALMER: Motion to approve.

6 MEMBER JONES: Second.

7 CHMN. CHENAL: We have a motion and second.

8 All in favor say aye.

9 (A chorus of ayes.)

10 CHMN. CHENAL: Let's go to Exhibit 1,  
11 paragraph 9. I simply added the further facilities  
12 under subparagraph A there. I don't know if anyone has  
13 any objection to that. But may I have a motion to  
14 approve Exhibit 1, paragraph 9, with the changes  
15 reflected.

16 MEMBER WOODALL: So moved.

17 CHMN. CHENAL: May I have a second.

18 MEMBER VILLEGAS: Second.

19 CHMN. CHENAL: Any further discussion?

20 (No response.)

21 CHMN. CHENAL: All in favor say aye.

22 (A chorus of ayes.)

23 CHMN. CHENAL: Similar provision in Exhibit  
24 No. 2, paragraph 9, may I have a motion to approve.

25 MEMBER WOODALL: So moved.

1 MEMBER RIGGINS: Second.

2 CHMN. CHENAL: Motion and a second.

3 All in favor say aye.

4 (A chorus of ayes.)

5 CHMN. CHENAL: Okay. And you will see that the  
6 reason I have put facilities in Exhibit 1, because it  
7 was inserted by the applicant in Exhibit 2, so just  
8 consistency there.

9 Back to Exhibit No. 1. Let's take a look at  
10 Condition 10. We will need a little discussion on this.

11 All right. Let me just make a prefatory  
12 statement as we look at Exhibit 1, paragraph 10. You  
13 will see some additional language added there. Where  
14 did we -- where did I get the language? I got it from  
15 the same provision that's in Exhibit No. 2. So I simply  
16 took the language in 2 and brought it over so the two  
17 provisions are consistent. Now, there may be a reason  
18 the applicant had had it differently and had intended  
19 the language to be different. But we caught it and put  
20 it back in.

21 MEMBER WOODALL: Mr. Chairman, can I ask them a  
22 question?

23 CHMN. CHENAL: Okay. Member Woodall.

24 MEMBER WOODALL: I know you are going through a  
25 PAD process, and so I realize that this would be

1 overlapping with some of your activities there. And I  
2 just wanted to know if the applicant has any concerns  
3 regarding this condition, if it is going to create some  
4 undue conflict.

5 MR. BECK: Mr. Chairman, Member Woodall, the  
6 reason we included a condition like this to begin with  
7 in the RICE project was we were kind of modeling against  
8 what was in the Ocotillo case. Just on our own, we  
9 wouldn't even have had a condition in there. So we were  
10 trying to at least bring in previous conditions, and we  
11 were at least comfortable with the previous conditions.

12 This expands the distance a little bit. We can  
13 live with that. But since we are doing so many other  
14 things through the permitting process, both the PAD  
15 development as well as the air permit, this, to me at  
16 least, appears to be superfluous. But if it is  
17 something the Committee wants, we won't object to it.

18 We would suggest one modification to the  
19 language right after RICE toward the end on, I guess it  
20 is, line 2 up there. Just add the word facilities up  
21 there versus structures. Actually on line 3.

22 CHMN. CHENAL: That makes sense.

23 Well, again, this is language that was offered  
24 by the applicant, and we simply took the language that  
25 was in the Exhibit 2 and brought it over to Exhibit 1.



1 So I don't think it places any burden on the applicant.  
2 And there are schools, there were schools and  
3 neighborhoods and such. And, you know, I just think  
4 extra notice doesn't hurt.

5 So let me ask for a motion to approve, and we  
6 can have further discussion on it. So I have a motion  
7 to approve Exhibit 1, Condition 10 with the changes as  
8 reflected on the screen.

9 MEMBER VILLEGAS: Mr. Chairman, before you move  
10 for a motion, I want to bring something to your  
11 attention.

12 CHMN. CHENAL: Sure.

13 MEMBER VILLEGAS: I don't know if it is  
14 applicable or not, but should the county also be  
15 included on this notification? I noticed that we are  
16 citing cities, towns within five miles. So I don't know  
17 if it is applicable to the county as well.

18 CHMN. CHENAL: I think that's a good -- and  
19 since you represent the counties, that's a good catch,  
20 Member Villegas.

21 Does the applicant have heartburn adding  
22 counties to cities and towns? It is Pima County.

23 MR. BECK: Mr. Chairman, other than I thought it  
24 is covered elsewhere, we have no problem notifying the  
25 county.

1 CHMN. CHENAL: Okay. So let's add counties,  
2 cities, and towns; cities, towns, and counties.

3 MEMBER VILLEGAS: Should be county, right?

4 CHMN. CHENAL: And Pima County, I guess in this  
5 case we could say Pima County. It is clearly not any  
6 other county.

7 MEMBER PALMER: Mr. Chairman, and I think that  
8 makes sense, because, as we heard in public comment  
9 yesterday, individuals live very nearby here in the  
10 county and not in the city.

11 CHMN. CHENAL: Yes.

12 MEMBER PALMER: So I think that's relevant.

13 CHMN. CHENAL: Yeah, good. That's very good,  
14 very good. I think that's very appropriate.

15 Member Haenichen.

16 MEMBER HAENICHEN: On line 22 it says known  
17 homebuilders. Do we really want to restrict it to  
18 homebuilders, or builders?

19 CHMN. CHENAL: Line 22, Member Haenichen, are  
20 you suggesting that we change the word homebuilders to  
21 builders?

22 MEMBER HAENICHEN: Yes.

23 CHMN. CHENAL: Okay.

24 MR. BECK: Mr. Chairman.

25 CHMN. CHENAL: Yes, Mr. Beck.

1 MR. BECK: One other point that was raised to me  
2 is that the 90-day window for notification is  
3 problematic in the case of the RICE project if we  
4 actually can build on the timeline that we are planning.  
5 And so can that be shortened possibly to 60 days?

6 CHMN. CHENAL: I think --

7 MR. BECK: Or even 30 days? 30 days would be  
8 much better. So we would do it as soon as we can after  
9 the approval of this, but the 90 days is problematic.

10 CHMN. CHENAL: Okay. Member Woodall.

11 MEMBER WOODALL: I would just say, since you are  
12 going through all this permitting process, air, I  
13 seriously doubt that anyone that would have a real  
14 interest in this would not know about it. And I  
15 personally am fine with 30 days.

16 CHMN. CHENAL: What is the Committee --

17 MEMBER PALMER: I am okay with that.

18 CHMN. CHENAL: Okay, we are good. So let's put  
19 30 days for this one for Exhibit 1, Condition 10.

20 All right. We have had discussion. Let's take  
21 a motion to approve Exhibit 1, Condition 10 with the  
22 changes reflected.

23 MEMBER VILLEGAS: So moved.

24 MEMBER RIGGINS: Second.

25 CHMN. CHENAL: We have a motion and second.

1 Any further discussion?

2 (No response.)

3 CHMN. CHENAL: All in favor say aye.

4 (A chorus of ayes.)

5 MEMBER WOODALL: Pass.

6 CHMN. CHENAL: Okay. Let's go to Condition 10  
7 to Exhibit 2. There I think 90 days is appropriate, you  
8 know, for the timeline, since it is transmission lines  
9 and you are not under the same time restrictions as you  
10 are with the RICE project.

11 MR. BECK: The applicant agrees with that,  
12 Mr. Chairman.

13 CHMN. CHENAL: We have to deal with counties and  
14 builders. And then on line 8, homebuilders would be  
15 changed to builders, Line 8 and 12.

16 MEMBER JONES: Right, yeah.

17 CHMN. CHENAL: And then also there is one more  
18 change, structures to facilities. Line 12, the word  
19 structures there would be facilities.

20 Does that make sense --

21 MR. BECK: Yes, Mr. Chairman.

22 CHMN. CHENAL: -- Mr. Beck?

23 MR. BECK: Yes.

24 All right. On Exhibit 2, Condition 10, may I  
25 have a motion to approve the language as reflected on

1 the screen.

2 MEMBER HAENICHEN: So moved.

3 MEMBER VILLEGAS: Second.

4 CHMN. CHENAL: And a second. Who seconded?

5 MEMBER VILLEGAS: Second here.

6 CHMN. CHENAL: Okay. We have a motion and a  
7 second.

8 Any further discussion?

9 (No response.)

10 CHMN. CHENAL: All in favor say aye.

11 (A chorus of ayes.)

12 MEMBER WOODALL: Pass.

13 CHMN. CHENAL: Okay. Exhibit 1, Condition 11,  
14 this is a standard condition. If anyone wants a  
15 discussion, let me know, but may I have a motion to  
16 approve the language.

17 MEMBER JONES: So moved, that we approve  
18 Condition 11.

19 MEMBER PALMER: I will second it.

20 CHMN. CHENAL: Motion and second.

21 All in favor say aye.

22 (A chorus of ayes.)

23 CHMN. CHENAL: Now, Exhibit 2, now we are going  
24 to get to a different number, number sequence.

25 Condition 11 on Exhibit 2, I have made a change to the

1 language just because I thought it was a little  
2 redundant. Does the applicant agree with that?

3 MEMBER HAENICHEN: What does the applicant  
4 think?

5 CHMN. CHENAL: Exhibit 2, Condition 11.

6 MR. DERSTINE: We are fine with that change.

7 CHMN. CHENAL: Okay. May I have a motion to  
8 approve the language in Exhibit 2, Condition --

9 MEMBER HAENICHEN: I move.

10 CHMN. CHENAL: Do I have a second?

11 MEMBER RIGGINS: Second.

12 CHMN. CHENAL: Motion and second.

13 All in favor say aye.

14 (A chorus of ayes.)

15 CHMN. CHENAL: Now we are going to see -- we are  
16 going to get into different numbering. They are off one  
17 from the one exhibit to the other, but that's okay. So  
18 Exhibit --

19 MEMBER PALMER: Mr. Chairman, just a thought.  
20 If we dealt with Exhibit 2, Condition 12, that would put  
21 us back in synch, because that coincides with 11 on  
22 Exhibit 1.

23 CHMN. CHENAL: Yes. Let's deal with Exhibit 1,  
24 Condition 11.

25 MEMBER PALMER: We did Condition 11 already, but

1 12 on 2 is the same as 11 on 1. I didn't know if we  
2 want to deal with that at this time.

3 CHMN. CHENAL: All right. Let's do that.  
4 Exhibit 2, Condition 12, may I have a motion to approve  
5 the language.

6 MEMBER PALMER: So moved.

7 CHMN. CHENAL: And a second.

8 MEMBER JONES: Second.

9 CHMN. CHENAL: We have a motion and second.  
10 All in favor say aye.

11 (A chorus of ayes.)

12 CHMN. CHENAL: Okay. Now we go to Exhibit 1,  
13 paragraph 12. We have the language that was offered by  
14 the applicant in a previous case. We had a similar  
15 condition that included language regarding the FAA.

16 Now, I think in this case we had testimony that  
17 there were approvals granted by the FAA. I couldn't  
18 begin to tell you if those were all the approvals that  
19 are going to be necessary for this; it may be, it may  
20 not be. I mean there may be other ones that come up.

21 So I thought this language is important because  
22 it just puts the obligation to comply with all FAA  
23 requirements on the applicant. I am not suggesting they  
24 are not going to and they haven't done it, and maybe  
25 they comply with everything that needs to be complied

1 with. But it is a complicated area with the air base  
2 nearby, Davis-Monthan, and I thought it was something we  
3 should at least discuss. So let's open it up to the  
4 Committee for discussion.

5 Member Riggins.

6 MEMBER RIGGINS: I remember yesterday that  
7 Ms. Darling, in your testimony, you were saying about a  
8 waiver from Davis-Monthan. Should this include some  
9 sort of language that would call that out, or is that  
10 something that maybe isn't necessary in the FAA  
11 language?

12 CHMN. CHENAL: Well, I don't know. I mean if  
13 they are supposed to comply, I mean if they get a  
14 waiver, they get a waiver, then they don't have to  
15 comply with it because the FAA would be issuing the  
16 waiver, so I am not sure we need to include waiver  
17 language.

18 The concept is it just, you know, they are  
19 dealing with a lot of regulatory requirements and the  
20 FAA is, you know, like Member Jones and I will tell you,  
21 you know, they are -- I should not say anything further.

22 MEMBER JONES: Yeah, probably if you would like  
23 to continue flying.

24 MR. BECK: Mr. Chairman, if I may offer,  
25 especially for the RICE case, if you want to add, just



1 end with the Federal Aviation Administration, we can  
2 accept that. The rest of it deals transmission  
3 structures, which RICE doesn't, so we would strike the  
4 balance of that.

5 But even beyond that, it is my general issue,  
6 when we get into the conditions discussion, is we feel  
7 that No. 2 covers the regulations and all of the  
8 requirements of all of the agencies. We have added the  
9 new condition, No. 3, I believe. I think between those  
10 two, they cover the FAA specifically.

11 The one that has not been covered in others is  
12 the WECC, so that's why this one is in there. At least  
13 from the applicant's perspective we would suggest the  
14 addition is not needed at all, but if it, if FAA is put  
15 in there, that the balance be struck, at least in the  
16 RICE CEC.

17 CHMN. CHENAL: Member Woodall.

18 MEMBER WOODALL: I concur with Mr. Beck. And to  
19 use the metaphor Mr. Derstine gave us today, I think it  
20 is like a belt and suspenders thing. And I don't think  
21 we need to repeat ourselves, because once you do that,  
22 then you can create potential ambiguities and, well,  
23 like you said something here and said something slightly  
24 different there.

25 So I concur with Mr. Beck's position. I think

1 everything is covered in 2.

2 CHMN. CHENAL: What does the Committee feel on  
3 something like this?

4 MEMBER JONES: Mr. Chairman, I like Mr. Beck's  
5 suggestion that we just leave the and Federal Aviation  
6 Administration and leave it at that, and then delete the  
7 balance of the sentence.

8 CHMN. CHENAL: I am fine with that. I think  
9 that's a good suggestion. I guess Mr. Beck's point goes  
10 a little further, though, that, you know, do we strike  
11 it, just leave it the way the applicant had the  
12 language. I know Member Woodall's position on it, but  
13 let's hear from other Committee members.

14 Member Haenichen.

15 MEMBER HAENICHEN: I agree with the Woodall  
16 position.

17 CHMN. CHENAL: Okay. All right. I think,  
18 Mr. Beck, you make a good point, that it is included  
19 elsewhere. So we will strike the, for now, the  
20 language -- well, strike the language that I added.

21 And let's have a motion to approve, on  
22 Exhibit 1, paragraph 12.

23 MEMBER JONES: So moved.

24 CHMN. CHENAL: And may I have a second.

25 MEMBER HAENICHEN: Second.

1 CHMN. CHENAL: We have a motion and second.

2 All in favor say aye.

3 (A chorus of ayes.)

4 CHMN. CHENAL: And then on Exhibit 2,  
5 paragraph 13, let's remove the language in blue and the  
6 condition will end with the word standards.

7 May I have a motion to approve.

8 MEMBER PALMER: Motion to approve.

9 MEMBER WOODALL: Second.

10 CHMN. CHENAL: We have a motion and a second.

11 All in favor say aye.

12 (A chorus of ayes.)

13 CHMN. CHENAL: Let's go to Exhibit 1,  
14 paragraph 13. Well, let's take a moment to read this.

15 All right. This may appear to be a little  
16 nitpicky on my part on paragraph -- Condition 13. All I  
17 did was, is the Corporation Commission, their Staff in  
18 the letter that they provided to us that's part of the  
19 record, requested the language -- requested certain  
20 language for this condition. And we changed the  
21 applicant's condition, the language, to what the Staff  
22 at the ACC requested.

23 So those are the changes that are reflected. I  
24 guess it is not that big of a change, but if the Staff  
25 at the ACC asks for specific language, I figure we go

1 with what they ask for versus the applicant. So that is  
2 the reason for those changes.

3 MR. BECK: Mr. Chairman, on behalf of the  
4 applicant, we included this in the draft CEC and we  
5 changed the language to reflect the Staff position.

6 But upon further review specific to the RICE  
7 project, we cannot figure out how you would define that  
8 the generator is parallel to a pipeline. So the  
9 parallel issue really goes with the transmission lines  
10 and the induced currents from transmission line. So we  
11 really don't think it is applicable to the RICE. We did  
12 include it for discussion purposes.

13 So our suggestion would be, first of all, it be  
14 removed from the RICE project and only be in the  
15 transmission line project. But the changes do reflect  
16 our proposal regarding the word studies versus  
17 measurements that were in the original language.

18 CHMN. CHENAL: I hear what you have to say,  
19 Mr. Beck, and you may be entirely correct. I am just  
20 going by Staff's letter, which says, which is an  
21 exhibit, when project facilities. So they didn't  
22 necessarily limit it to transmission versus the RICE, at  
23 least I didn't understand that as part of their letter.

24 MR. BECK: I agree with you, Mr. Chairman, that  
25 they didn't differentiate that. And I am not sure, as

1 we initially didn't put a lot of thought into it, how do  
2 you interpret that to a generating plant. I am not sure  
3 that they did.

4 To the extent you want it in the CEC, we have no  
5 objection to having it in there. It is just a point  
6 that it is probably not truly applicable to a generating  
7 plant.

8 MEMBER HAENICHEN: Mr. Chairman.

9 CHMN. CHENAL: Member Haenichen.

10 MEMBER HAENICHEN: I totally agree and I think  
11 it is just -- they just overlooked that when they were  
12 drafting this. It has absolutely no applicability, and  
13 why put something in that might be reinterpreted by  
14 somebody later. So I move we take it out.

15 CHMN. CHENAL: Member --

16 MEMBER WOODALL: Second.

17 CHMN. CHENAL: Okay. So, Member Woodall, you  
18 are okay with it?

19 MEMBER WOODALL: Yes, I agree. And I think it  
20 was probably a lack of precision in language in Staff's  
21 letter.

22 CHMN. CHENAL: Okay. Then Exhibit 1,  
23 Condition 13, let's strike that and let's show it as a  
24 strike of that language.

25 Member Haenichen.

1 MEMBER HAENICHEN: This is just a point of  
2 information for myself and the Committee members. Are  
3 we bound to always do what the Commission Staff  
4 suggests?

5 CHMN. CHENAL: I would say no. But, you know,  
6 this matter does go back to the Corporation Commission.  
7 So Staff is making a recommendation, it is likely that  
8 the Corporation Commission will give credence to what  
9 they say. But generally I find Staff's recommendation  
10 to be, you know, very appropriate. It is just -- I  
11 think in this case this is just where there are two  
12 CECs. And I think, as Member Woodall said, and I made  
13 the same mistake as well putting language in that  
14 clearly I was thinking of a transmission line, but I had  
15 added it in the draft for the RICE project.

16 Member Woodall.

17 MEMBER WOODALL: And just for clarity, the  
18 Commission does not give automatic more credence to a  
19 Staff position than they would to any other party's  
20 position. Naturally they appreciate the value of their  
21 professional Staff, but I don't think that it would be  
22 correct to say that they would have a preference or have  
23 a potential bias in favor of a Staff position. And I  
24 know you didn't mean to suggest that, but I want to make  
25 sure the record is clear.

1 CHMN. CHENAL: Okay.

2 MR. BECK: Also, Mr. Chairman, just for the  
3 record, the applicant will reach out to Staff next week  
4 and have the discussion so they are aware of our  
5 position and whatever the outcome of this is so that  
6 they are prepared at the open meeting, should they be  
7 asked.

8 CHMN. CHENAL: Sure. Thank you.

9 Member Haenichen.

10 MEMBER HAENICHEN: I recall from a previous  
11 case, or several previous cases, where the Staff was  
12 pretty adamant about the spacing between adjacent  
13 transmission lines, and we did overrule them, I believe.

14 CHMN. CHENAL: Yeah, yeah. I didn't mean to  
15 imply that we --

16 MEMBER WOODALL: I know.

17 CHMN. CHENAL: -- comply with the request of  
18 Staff. But we, in areas of technical expertise, you  
19 know, I think it is important we listen to their input.  
20 And I think I agree here their comments were really  
21 meant for the transmission line.

22 MEMBER WOODALL: And I didn't mean to suggest  
23 that you were implying anything. I just wanted the  
24 record to be clear is all, so...

25 CHMN. CHENAL: Now I forget where we are. Did

1 we already vote on Condition 13 --

2 MEMBER HAENICHEN: No.

3 CHMN. CHENAL: -- on Exhibit 1? So we have  
4 reflected that language as being struck, that condition  
5 as being struck.

6 May I have a motion to approve.

7 MEMBER HAENICHEN: Motion to approve.

8 CHMN. CHENAL: May I have a second.

9 MEMBER WOODALL: Second.

10 CHMN. CHENAL: All in favor say aye.

11 (A chorus of ayes.)

12 CHMN. CHENAL: All right. Now let's go to --  
13 let's do this, if I can make a recommendation to the  
14 Committee. Let's deal with Exhibit 2, paragraphs 14 and  
15 15, and then we will take a short break.

16 So paragraph 14 is a standard condition. Do we  
17 need discussion on Condition 14?

18 (No response.)

19 MEMBER PALMER: Motion to approve.

20 MR. JONES: Second.

21 CHMN. CHENAL: All in favor say aye.

22 (A chorus of ayes.)

23 CHMN. CHENAL: And Exhibit 2, paragraph or  
24 Condition 15.

25 Again, the language that I have attempted to



1 insert to change uses the language offered by the Staff  
2 as opposed to the applicant. I don't think they are  
3 material, but I just -- we did it just to let the  
4 applicant know that we read the draft CECs carefully.

5 So does the Committee have a preference?

6 Member Haenichen.

7 MEMBER HAENICHEN: Could we hear what the  
8 applicant thinks about the changes.

9 MR. BECK: Mr. Chairman, the position that we  
10 had taken when we raised it with Staff is we are not  
11 going to cause an outage or implement an outage in order  
12 to do measurements. We would actually study the results  
13 of a specific contingency. And they were in agreement  
14 with that. And as a result, they proposed changing the  
15 word measurements to studies.

16 CHMN. CHENAL: So line 10.

17 MR. BECK: On line 10 the word measurements  
18 would become studies. Further, on line 18, again  
19 measurements would become studies. And then one line  
20 down on line 19, the was, we believe, should be were.

21 Then on line 21, again, change measurements to  
22 studies, and change the wording right after that to,  
23 instead of taken during, replace that with performed  
24 simulating, and it says an outage, and then add of the  
25 applicable project.

1 CHMN. CHENAL: Excuse me, Mr. Beck. Line 22  
2 there, let's read that and make sure it makes sense.  
3 Make sure the studies are performed simulating an outage  
4 simulation of the applicable project, is that correct?

5 MEMBER HAENICHEN: You don't want two  
6 "simulations."

7 CHMN. CHENAL: I didn't think so.

8 MR. BECK: We remove the simulation, yes.

9 CHMN. CHENAL: Can we scroll down.

10 MR. BECK: Again, on the next page, on line 2,  
11 replace measurements with studies. Again, on line 5,  
12 replace measurement with study, singular study. And  
13 then right after the word file, so it says results to  
14 the Commission Staff and file, instead of it, replace  
15 that with them.

16 And that, I believe, is the extent of the  
17 changes that Staff had come back and agreed upon.

18 CHMN. CHENAL: Member Woodall.

19 MEMBER WOODALL: I understand that the letter  
20 was written by Dr. Chidebell-Emordi, but when you were  
21 talking about Staff, was there anyone else to whom you  
22 were referring on these, or was it just  
23 Dr. Chidebell-Emordi?

24 MR. BECK: I believe she was the author, but  
25 there were several people within Staff copied and

1 involved in their discussions.

2 MEMBER WOODALL: So basically it was in the  
3 engineering department.

4 MR. BECK: Engineering as well as legal.

5 MEMBER WOODALL: Okay, thank you very much.

6 CHMN. CHENAL: All right. Do we have any  
7 discussion by the Committee with the changes that are  
8 offered by the applicant?

9 (No response.)

10 CHMN. CHENAL: So Exhibit 2, Condition 15, may I  
11 have a motion to approve the language as reflected on  
12 the screen.

13 MEMBER HAENICHEN: I so move.

14 MEMBER WOODALL: Second.

15 CHMN. CHENAL: We have a motion and second.

16 All in favor say aye.

17 (A chorus of ayes.)

18 CHMN. CHENAL: All right. Thank you.

19 How about if we take a 15-minute break here, and  
20 then we will -- let's see what time it is. Come back  
21 at, oh, you know, 10 after 11:00.

22 (A recess ensued from 10:53 a.m. to 11:21 a.m.)

23 CHMN. CHENAL: All right. Let's go back on the  
24 record and continue the deliberations on the conditions,  
25 and then we will vote on the CEC.

1 I think where we left off is on Exhibit 1,  
2 Condition 13. And let's read it, and then I will make a  
3 comment on this. Again, I think you have to look at the  
4 screen to, you know, follow along. The numbers may have  
5 changed.

6 MEMBER WOODALL: So Exhibit 1 is the generation  
7 project, right?

8 CHMN. CHENAL: Yes, yes. Exhibit 1 is the RICE  
9 project. If you look at the screen, I think we will  
10 look at the language there.

11 Now, again, this is one that was included in it,  
12 because it obviously doesn't have any, I think, any  
13 applicability to the RICE project, we may talk about it,  
14 and I am not sure it applies to the transmission side  
15 either, so this is one that, you know, we threw in but I  
16 am not sure it applies. So I would ask the applicant if  
17 they would agree that, at least with the RICE project,  
18 that, you know, 13 has no applicability.

19 MR. BECK: Mr. Chairman, that's true. That's  
20 the applicant's position.

21 CHMN. CHENAL: Probably the applicant's position  
22 is 13 and 14 on both Exhibits 1 and 2 have no  
23 applicability, but let's take them one at a time. And  
24 unless anyone wants any discussion on that, may I have a  
25 motion on Exhibit 1, Condition 13 that that be -- the

1 language be removed that I had inserted in.

2 MEMBER WOODALL: So moved.

3 MEMBER JONES: Second.

4 CHMN. CHENAL: We have a motion and second.

5 All in favor say aye.

6 (A chorus of ayes.)

7 CHMN. CHENAL: Let's then discuss Exhibit 2,  
8 Condition 16, which is the same. Now, I am not  
9 suggesting that this has any applicability to the  
10 transmission project either, but I would just like the  
11 applicant to confirm.

12 MR. BECK: That is correct, Mr. Chairman. As  
13 far as transmission service agreements, TEP typically  
14 doesn't have any transmission service agreements on the  
15 138kV system.

16 CHMN. CHENAL: Again, this condition was taken  
17 from usually ones that are like merchant lines, and it  
18 has applicability to those. So unless the Committee has  
19 any further discussion, may I have a motion to delete --

20 MEMBER HAENICHEN: So moved.

21 CHMN. CHENAL: Hold it.

22 -- the language in Exhibit 2, Condition,  
23 Condition 16.

24 MEMBER PALMER: Second.

25 CHMN. CHENAL: Let's make sure we are talking

1 about the right one. The thing is changing up on the  
2 screen. Was it Condition 16? All right. It is  
3 Condition 16. We have a motion and a second.

4 All in favor say aye.

5 (A chorus of ayes.)

6 CHMN. CHENAL: All right. Let's go to  
7 Exhibit 1. Member Jones, did you have a --

8 MEMBER JONES: My question is: Because this was  
9 an additional condition added, are we going to do delete  
10 it so it renumbers to form, or are we going to line  
11 through it?

12 CHMN. CHENAL: Whatever we do to keep the  
13 paragraphs sequential, I guess is how we should do it.

14 MR. DERSTINE: Now we are to 16.

15 CHMN. CHENAL: So let's go to Exhibit 1,  
16 paragraph 13. And it is possibly the same issue. It is  
17 not applicable certainly to the RICE project. So unless  
18 anyone wants any further discussion on it, I would  
19 suggest we remove that language.

20 So may I have a motion for Exhibit 1,  
21 paragraph 13 to remove that language.

22 MEMBER HAENICHEN: I move that we remove the  
23 entire condition.

24 CHMN. CHENAL: Yeah.

25 MEMBER JONES: Second.

1 CHMN. CHENAL: Motion and second.

2 All in favor say aye.

3 (A chorus of ayes.)

4 CHMN. CHENAL: And then let's go for Exhibit 2,  
5 paragraph 16. I suspect that's the same with that,  
6 Mr. Beck.

7 MR. BECK: Mr. Chairman, that is correct.

8 CHMN. CHENAL: Okay. So unless there is any  
9 further discussion, Exhibit -- I keep -- I am sorry.  
10 Which number is that? Okay, 16.

11 So Exhibit 2, Condition 16, a motion to approve  
12 deletion of that condition.

13 MEMBER HAENICHEN: I move that we strike  
14 Condition 16 on Exhibit 2.

15 CHMN. CHENAL: May I have a second.

16 MEMBER WOODALL: Second.

17 CHMN. CHENAL: We have a motion and second.

18 All in favor say aye.

19 (A chorus of ayes.)

20 CHMN. CHENAL: Okay. Let's time-out a second.  
21 Somehow the numbers are --

22 MEMBER JONES: We are getting close.

23 CHMN. CHENAL: Okay. The previous one that we  
24 deleted --

25 MR. DERSTINE: Was 16.

1 CHMN. CHENAL: -- was 16.

2 MR. DERSTINE: So now we have a new 16 --

3 CHMN. CHENAL: New 16.

4 MR. DERSTINE: -- based on renumbering.

5 CHMN. CHENAL: Can we scroll up a second?

6 Well, I hope the record is going to be clear,  
7 but honestly when someone is reading this and we refer  
8 to a Condition 16, it is going to be a whole different  
9 condition they are going to be looking at because the  
10 numbers have changed.

11 MR. DERSTINE: Mr. Chairman, I think you are  
12 right. I think that was the point that Mr. Beck raised.  
13 But we made the decision to renumber as we went for  
14 clarity in moving forward.

15 I think what anyone who is looking at the record  
16 can do, however, is look at your original, our original  
17 filing and then your revision. So there will be  
18 documents in the record, and we can supplement the  
19 record with the original unedited version so anyone  
20 could go back and compare.

21 I think that would be a simple way if someone  
22 really had some concerns about following this process.  
23 And as cumbersome as it can be with two CECs and  
24 renumbering as we go, I think that would still allow for  
25 a clear record.



1 CHMN. CHENAL: Okay. All right. I am going  
2 to -- this is a process where we are learning. And, of  
3 course, we are coming to the end of this one, but I am  
4 going to train myself, I am going to address the topic  
5 of the condition so it will help someone if they are  
6 trying to follow later.

7 So Exhibit 1, paragraph 13, dealing with  
8 compliance letters, we have some additional language.  
9 Does the applicant have any heartburn regarding the  
10 language that I inserted?

11 MR. BECK: Mr. Chairman, we are okay with the  
12 language. We would suggest that we make the date  
13 specific to April 1 in each of the CECs.

14 CHMN. CHENAL: Yes, I was going to ask what date  
15 you would like to have that comply. So we will change  
16 the date to April 1st, 2019.

17 Now, let's look at line 11 there, dealing with  
18 who needs to be apprised of -- who needs to receive the  
19 compliance letter. It is going to be sent to the board  
20 of supervisors of Pima County, the City of Tucson,  
21 parties to the docket and folks that made a limited  
22 appearance, which is really the Sierra Club.

23 But struck is the SHPO and Arizona Game & Fish.  
24 And that's language that was suggested to be struck by  
25 the applicant. And I just think we should discuss that

1 for a moment.

2 Member Woodall.

3 MEMBER WOODALL: I think that's a good  
4 suggestion. I mean it is not really applicable for this  
5 very unique project, which is all on previously  
6 disturbed industrial land.

7 CHMN. CHENAL: Any other thoughts by the  
8 Committee?

9 MEMBER JONES: No, Mr. Chairman. I concur.

10 CHMN. CHENAL: Okay. So Exhibit 1, paragraph 13  
11 dealing with certification letters with the language  
12 that's reflected on the screen, may we have a motion to  
13 approve.

14 MEMBER PALMER: So moved.

15 MEMBER JONES: Second.

16 CHMN. CHENAL: We have a motion and second.  
17 All in favor say aye.

18 (A chorus of ayes.)

19 CHMN. CHENAL: All right. And with respect to  
20 Exhibit 2, Condition 16, again dealing with the annual  
21 certification letter, we will change the date for the  
22 letter to commence on April 1st, 2019. And there is  
23 just a little change of language that I inserted.

24 Unless anyone wants further discussion, may I  
25 have a motion to approve the language reflected on the

1 screen for Exhibit 2, Condition 16.

2 MEMBER JONES: So moved.

3 CHMN. CHENAL: May I have a second.

4 MEMBER PALMER: Second.

5 CHMN. CHENAL: We have a motion and a second.

6 All in favor say aye.

7 (A chorus of ayes.)

8 CHMN. CHENAL: Okay. Now, let's go to  
9 Exhibit 1, paragraph 14, dealing with providing a copy  
10 of the CEC to certain entities. It is 14. So do we  
11 need discussion on this, any Committee member wish to  
12 discuss?

13 (No response.)

14 CHMN. CHENAL: So Exhibit 1, paragraph 14, may I  
15 have a motion to approve the language as reflected on  
16 the screen.

17 MEMBER JONES: So moved.

18 MEMBER HAENICHEN: Second.

19 CHMN. CHENAL: We have a motion and second.

20 All those in favor say aye.

21 (A chorus of ayes.)

22 CHMN. CHENAL: Thank you.

23 Exhibit 2, paragraph 17, again dealing with the  
24 provision of the CEC to certain entities, may I have a  
25 motion to approve the language.

1 MEMBER JONES: So moved.

2 MEMBER HAENICHEN: Second.

3 CHMN. CHENAL: We have a motion and second.

4 All in favor say aye.

5 (A chorus of ayes.)

6 CHMN. CHENAL: Thank you.

7 And Exhibit 1, paragraph 15, dealing with  
8 extension of the terms, I changed -- I suggest that we  
9 consider changing the, to be consistent with previous  
10 provisions in the CEC that we have already discussed, to  
11 a, on line 20, a one-mile versus a half-mile radius for  
12 notification.

13 And let's read it, see if homebuilders are  
14 referenced. All right. It is not, that I can see.

15 Any discussion by the Committee?

16 (No response.)

17 CHMN. CHENAL: Okay. May I have a motion to  
18 approve the language in Exhibit 1, Condition 15,  
19 regarding with extension of terms.

20 MEMBER JONES: So moved.

21 CHMN. CHENAL: May I have a second.

22 MEMBER PALMER: Second.

23 CHMN. CHENAL: Any further discussion?

24 (No response.)

25 CHMN. CHENAL: All in favor say aye.

1 (A chorus of ayes.)

2 MEMBER WOODALL: Pass.

3 CHMN. CHENAL: Thank you.

4 Exhibit 2, Condition 18, again dealing with the  
5 extension of the term of the CEC.

6 MEMBER JONES: 18, you said?

7 MEMBER HAENICHEN: I move Condition 18.

8 CHMN. CHENAL: Okay. Do we have a second?

9 MEMBER JONES: Second.

10 CHMN. CHENAL: We have a motion and second.

11 Any further discussion?

12 (No response.)

13 CHMN. CHENAL: All in favor say aye.

14 (A chorus of ayes.)

15 MEMBER WOODALL: Pass.

16 CHMN. CHENAL: Okay. Then we go to Exhibit 1,  
17 Condition 16, regarding assignments of the certificate.  
18 Standard provision, and there is no changes to the  
19 language offered by other applicant.

20 Do we want any discussion on this?

21 (No response.)

22 MEMBER PALMER: Motion to approve.

23 MEMBER JONES: Second.

24 CHMN. CHENAL: We have a motion and a second.

25 All in favor say aye.

1 (A chorus of ayes.)

2 CHMN. CHENAL: Thank you.

3 On Exhibit 2, paragraph -- or excuse me,  
4 Condition 19, may we have a motion to approve.

5 MEMBER HAENICHEN: So moved.

6 MEMBER RIGGINS: Second.

7 CHMN. CHENAL: Motion to approve and second.

8 All in favor say aye.

9 (A chorus of ayes.)

10 CHMN. CHENAL: 18, let's read this, Exhibit 1,  
11 Condition 18. I think we should have just a little  
12 discussion on this. Normally, as you have heard in the  
13 past, I am a big believer of this kind of a concept for  
14 merchant projects. Now, this is not a merchant project;  
15 this is a major utility in Arizona.

16 Now, let's look at the language the applicant  
17 suggested. The certificate conditions shall be binding  
18 on TEP's successors, assigns, and transferees, and any  
19 affiliates, agents, or lessees who have a contractual  
20 relationship, you know, concerning the construction,  
21 operation, or maintenance. And I included the word  
22 reclamation.

23 The fact that we put a condition in there does  
24 not mean it is binding on certainly lessees, those in  
25 the contractual relationship. We don't have any power

1 to impose that condition on -- it may as an operation or  
2 a matter of law apply to successors and assigns; you  
3 know, that may be a legal issue. But I don't think the  
4 fact that we say it is applicable and binding on  
5 contractual parties with TEP makes it so; in fact, I  
6 would say it doesn't.

7           So if we want to put teeth into that provision,  
8 I think the way that is done is we put a condition that  
9 TEP must include that language or that concept in their  
10 agreements, so that the people that enter into  
11 agreements with them agree to comply and be bound by  
12 these conditions. We can't make them bound, we can't  
13 bind them, but TEP can in any of their contracts.

14           So that's, you know, that's why I thought this  
15 was important for discussion. I don't have the same  
16 concerns, because it is TEP, that they are going to be,  
17 you know, developing this and transferring it to  
18 somebody, you know, like we have seen with the merchant  
19 projects, a 30-year long-term lease. I am not so  
20 concerned about it.

21           But the first sentence in this paragraph, I  
22 would like to hear maybe what the applicant has to say  
23 and we will have some discussion on it. But, you know,  
24 I don't think I am incorrect when I say, for example,  
25 lessees, the fact that we have a condition here doesn't

1 make it binding on a lessee. But I would just, I guess,  
2 like to have the discussion. Sometimes we have these  
3 discussions for a condition here to help us for the next  
4 case as well. I would like to hear what the applicant  
5 has to say. Then we can discuss it.

6 MR. BECK: Mr. Chairman, in our original CEC  
7 draft to you, we had included that first portion in  
8 black, the first sentence, fully acceptable to us. But  
9 we agree the second part, the added language, is  
10 strictly related to merchant type projects.

11 In particular, we have no intent in selling or  
12 transferring the RICE project. But I believe there is  
13 another condition talking about transfers and  
14 successors, and we would have to go back and make sure  
15 of that. But I don't think the language in blue is  
16 needed in this, in particular for the RICE case, and  
17 actually for the transmission project related with this  
18 project.

19 CHMN. CHENAL: All right. What about my -- and  
20 I tend to agree with you. Again, this is not so  
21 applicable to this project, I guess. But I am taking  
22 your language.

23 So your language says that the conditions are  
24 binding on TEP's lessees. There is no way this  
25 condition can make the conditions binding on TEP's



1 lessees until you put that as a condition in your lease  
2 with whoever your lessee is.

3 So I mean yes, I agree that the -- it is not as  
4 likely because it is TEP, but the language that you have  
5 offered is not possible to enforce with your lessees  
6 unless the second part of it, the language in blue, is  
7 in there, where TEP is required to put that in with  
8 their contracting parties and lessees.

9 MR. BECK: Well, I guess the applicant's reading  
10 of this condition was that, to the extent we were to  
11 have lessees or others, we would be bound to have  
12 language that actually meets the requirements of this  
13 condition. It would be incumbent upon us to have  
14 whatever language we need in contractual agreements with  
15 others to be sure we are then meeting this condition.

16 CHMN. CHENAL: Well, this is like a law school  
17 class, Mr. Beck, because that's exactly what that  
18 language, the language I added, says, TEP shall provide  
19 in any agreements or leases pertaining to the RICE  
20 project that the contracting parties and lessees shall  
21 be responsible for compliance with the condition.

22 So what you just said you read it as intending  
23 TEP to do is exactly what that language says you would  
24 do.

25 MR. BECK: I guess what I meant to say was that

1 first sentence we felt put that obligation on us.

2 CHMN. CHENAL: Okay.

3 MR. BECK: So to that extent, whether this  
4 language is in or out, it doesn't have any real issue to  
5 us. We can live with the language in there. It is  
6 just, again, kind of the growth of conditions over  
7 time --

8 CHMN. CHENAL: Yes.

9 MR. BECK: -- and the applicability.

10 CHMN. CHENAL: Member Woodall.

11 MEMBER WOODALL: I am not in favor of the  
12 language on line 14 through 18, and I am not in favor of  
13 that language for any project. I think it is a little  
14 intrusive to dictate to the companies what provisions  
15 they need to have in their contracts. They are the ones  
16 that are responsible for compliance with these  
17 conditions. And there is no way that they can -- I mean  
18 they are the ones on the hook here. So I don't think we  
19 need this language. I think it is unnecessary, and I am  
20 not going to be supporting it.

21 CHMN. CHENAL: Well, like I said, let me just  
22 make the point that we have had this issue in previous  
23 cases, and I have felt pretty strongly about that that I  
24 actually wrote a consenting or concurring opinion, and  
25 it actually went before the Corporation Commission,

1 which agreed with me, that at least in merchant  
2 situations where you have, you know, basically a shell  
3 corporation that's acting as a developer that, after  
4 they enter into a long-term lease, they are in the  
5 Bahamas enjoying the fruits of their labor, but there is  
6 no way to practically enforce compliance of these  
7 conditions where you have certain merchant providers.

8 So that's -- but that's not this case, I grant  
9 you. So let's hear what other people -- I think Member  
10 Woodall and I have stated our positions pretty clearly,  
11 and the applicant has.

12 MEMBER WOODALL: I want to ask one question of  
13 the applicant, if I may.

14 CHMN. CHENAL: Sure.

15 MEMBER WOODALL: Is there a statutory provision  
16 relating to transfers of CECs that requires any  
17 transferee to comply with the conditions? I mean there  
18 hasn't been that many of them transferred, but that's my  
19 recollection.

20 MR. BECK: I believe you are correct, but our  
21 legal group is taking a look at that specific issue.

22 It may already be in Condition 16.

23 MR. DERSTINE: We did cover -- there is some  
24 language on the assignment in that paragraph,  
25 Condition 16 to Chairman's Exhibit 1.

1 But to your point, Member Woodall, 40-360.08  
2 governs transfers of certificates, compliance by  
3 Committee. It says: Subject to such limitations and  
4 conditions as may otherwise be prescribed by law, a  
5 certificate may be transferred to any electric company  
6 or electric utility agreeing to comply with the terms,  
7 limitations, and conditions contained therein.

8 So the statute does require it may be  
9 transferred to an electric company or utility agreeing  
10 to comply with the terms, limitations, and conditions  
11 contained therein.

12 MEMBER WOODALL: And I understand the Chairman's  
13 point is he wants to hold your contractors' feet to the  
14 fire with respect to compliance here. And I don't hold  
15 the same view, but I just wanted to hear the language  
16 again about the statute about transferring.

17 Thank you.

18 CHMN. CHENAL: And I will hear what other people  
19 have to say. Again, this is not one I am falling on the  
20 sword on because it is not a merchant case. In a  
21 merchant case I would feel much more strongly about it.

22 But, again, the statute that was just  
23 referenced, it is where there is a transfer to an  
24 electric company or electric utility. And that's fine  
25 as far as if that's the transferee, but if it is a

1 merchant situation, those may not be. It may be  
2 something other than that.

3 So this statute wouldn't apply to that case. So  
4 that's why I am pretty specific with this. And the  
5 whole goal, of course, is you want these conditions to  
6 be enforceable after the project is up, the reclamation  
7 provisions, the maintenance provisions, and who do you  
8 go after. Well, you can always go call up TEP, but on  
9 these merchant situations, you know, that's just not the  
10 case. Trust me.

11 But okay, Member Haenichen.

12 MEMBER HAENICHEN: Yeah, but couldn't a utility  
13 like TEP theoretically at least transfer these  
14 facilities to a merchant?

15 CHMN. CHENAL: Yes.

16 MEMBER HAENICHEN: So in a sense then maybe we  
17 need it.

18 MR. BECK: Mr. Chairman, I do believe as a  
19 utility we have to get approval from the Commission to  
20 transfer any facilities that are in service. So it  
21 would take Commission approval of that transfer.

22 MEMBER WOODALL: And I know we had to make up a  
23 form, because there wasn't one. The statute talks about  
24 on a form issued by the Committee, and we had to come up  
25 with something off the cuff to do that pursuant to a

1 request by APS.

2 MEMBER HAENICHEN: Where are we?

3 CHMN. CHENAL: This is where we are. We have  
4 language that the applicant has offered. We have added  
5 one word to their litany that the conditions are binding  
6 on TEP's successors, assigns, and transferees concerning  
7 construction, operation, or maintenance. We have added  
8 the word reclamation in deference to Member Drago's  
9 comments in a previous case.

10 And then we have got the language that I have  
11 suggested for discussion purposes that would kind of  
12 make -- express what Mr. Beck -- I don't want to put  
13 words in Mr. Beck's mouth, but I think Mr. Beck said we  
14 read the condition to require us to put a requirement  
15 in, say a lease, that the lessee is responsible to  
16 comply with these conditions. So my thought was to add  
17 language that makes that an express and not just an  
18 implied reading of the agreement.

19 I shared Member Haenichen's concern that I guess  
20 this could be transferred, the projects could be  
21 transferred to a merchant down the road. You know, I  
22 don't know that we have got evidence of the useful life  
23 of the RICE machine, you know, the facilities or the  
24 transmission lines, but it is many, many years.

25 So this is just a question for the Committee to

1 see what they want to do. I think Member Woodall and I  
2 are on different sides of this issue, and that's fine.

3 MEMBER WOODALL: That's what makes horse races  
4 and lawsuits.

5 MR. DERSTINE: Mr. Chairman, the applicant isn't  
6 going to fall on its sword about this. I think what we  
7 struggle with a bit, if you read Chairman's Exhibit 1,  
8 Condition 16, any transfer or assignment of this  
9 certificate shall require the assignee or successor to  
10 assume in writing all responsibility to TEP listed in  
11 this certificate and its conditions as required by  
12 A.R.S. 40-360.08 as identified there. And then 18  
13 appears to be the same. And I would read 16 as  
14 requiring us to impose that obligation on any assignee  
15 just as is stated in 16.

16 So again, you know, conditions that appear to be  
17 seeking to enforce the same proper obligation, but we  
18 are seeing it twice and saying it different ways, it  
19 becomes confusing and I am not sure how we discern the  
20 differing obligations there.

21 CHMN. CHENAL: I can see a couple right off the  
22 bat, and I respect that 16 and 18 overlap. But 16  
23 refers to transfer assignment of the certificate. 18  
24 refers to the folks, including successors and assigns,  
25 but lessees, contracting parties, anyone who is involved

1 with the construction, operation, maintenance, or  
2 reclamation of the project. So I think it is a broader  
3 universe of people who are captured in 18 than 16.

4 MR. DERSTINE: Okay.

5 MEMBER JONES: Mr. Chairman, question.

6 CHMN. CHENAL: Member Jones.

7 MEMBER JONES: It has to do with the existing  
8 uses in the -- in your facility. The tanks, for  
9 instance, are leased by an asphalt company. And those  
10 were former facilities. I am not sure if those were  
11 constructed initially under a CEC or not. But you have  
12 a lease to another entity on your campus utilizing that.  
13 You are going to be abandoning in place certain  
14 buildings. Conceivably there might be another use for  
15 them, in which case you would be converting those  
16 buildings into another use for a lease. And would this  
17 have some applicability there into those leases?

18 MR. BECK: Specific to your question regarding  
19 the tanks, the majority of that facility was built prior  
20 to any CEC requirements.

21 MEMBER JONES: Okay.

22 MR. BECK: So there are no CECs covering the  
23 majority of the facilities there.

24 Regarding the leases, you know, if it is  
25 facilities that were covered by a CEC, we are going to



1 be sure we include the language that covers us to be  
2 sure that a lessee will meet all the requirements that  
3 we are obligated to do under the CEC.

4 So under a lease situation I think it is less  
5 problematic. If we were to try and transfer or sell  
6 assets, again, for us to be able to do so, we need  
7 approval from the Commission, and the Commission would  
8 have a chance to weigh in if they didn't like the  
9 language in a sale agreement.

10 But again, as Mr. Derstine said, this is not a  
11 fall on the sword issue for us. And if the Committee is  
12 more comfortable with this language being included, we  
13 are fine with that.

14 CHMN. CHENAL: Well, let's do -- and we can have  
15 further discussion on it. I mean I am looking at it  
16 like you are going to say you are going to do this  
17 pretty much anyway. So that's -- the lawyer in me is  
18 saying, well, then why the opposition to it. And I am  
19 not sensing there is really opposition to it.

20 So let's do this. Let's call for a motion for  
21 Exhibit 1, paragraph 18, dealing with the certificate  
22 binding on successors and assigns, with the language  
23 included as written, including reclamation and the  
24 additional language in blue, and let's just call for a  
25 motion.

1 MEMBER PALMER: I would so move, Mr. Chairman.

2 CHMN. CHENAL: We have a motion.

3 MEMBER VILLEGAS: Second.

4 CHMN. CHENAL: Motion and second.

5 Further discussion?

6 (No response.)

7 CHMN. CHENAL: All right. All in favor say aye.

8 (A chorus of ayes.)

9 MEMBER HAENICHEN: No.

10 MEMBER WOODALL: No.

11 CHMN. CHENAL: Okay. Ayes have it.

12 Let's go then to Exhibit 2, paragraph 21. And I  
13 think this is the same issue. So I will ask for a  
14 motion to approve Exhibit 2, Condition 21 as reflected  
15 on the screen.

16 MEMBER VILLEGAS: So moved.

17 CHMN. CHENAL: We have a motion. May I have a  
18 second.

19 MEMBER PALMER: Second.

20 CHMN. CHENAL: Motion and a second.

21 Any further discussion?

22 (No response.)

23 CHMN. CHENAL: All in favor say aye.

24 (A chorus of ayes.)

25 MEMBER HAENICHEN: No.

1 MEMBER WOODALL: No.

2 CHMN. CHENAL: Okay. Ayes have it. Good,  
3 finally we have something that's not unanimous.

4 Okay. I believe we have covered the prefatory  
5 language and the conditions, and now we are to the  
6 findings and fact and conclusions of law. Is there any  
7 discussion that we should have as a Committee before we  
8 move into the findings of fact and conclusions of law?

9 (No response.)

10 CHMN. CHENAL: Okay. Then let's -- with  
11 Exhibit 1, findings of fact and conclusions of law,  
12 line 20, the certificate incorporates the following  
13 findings of fact and conclusions of law, and we will  
14 start with the first condition, excuse me, findings of  
15 fact, conclusions of law. RICE project aids the state  
16 and the southwest region in meeting the need for an  
17 adequate, economical, and reliable supply of electric  
18 power.

19 May I have a motion to approve the language on  
20 Exhibit 1, lines 19 through 22.

21 MEMBER HAENICHEN: So moved.

22 MEMBER VILLEGAS: Second.

23 CHMN. CHENAL: We have a motion and second.  
24 Any further discussion?

25 (No response.)

1 CHMN. CHENAL: All in favor say aye.

2 (A chorus of ayes.)

3 CHMN. CHENAL: And then with respect to  
4 Exhibit 2, the same language, substituting transmission  
5 line project for the RICE project, Exhibit 2, page 11,  
6 lines 14 through 18, may I have a motion to approve that  
7 page.

8 MEMBER PALMER: So moved.

9 MEMBER JONES: Second.

10 CHMN. CHENAL: We have a motion and second.

11 All in favor say aye.

12 (A chorus of ayes.)

13 CHMN. CHENAL: Exhibit 1, Findings of Fact,  
14 Conclusions of Law paragraph 2, is there any discussion?

15 (No response.)

16 CHMN. CHENAL: May I have a motion to approve  
17 that language.

18 MEMBER VILLEGAS: So moved.

19 MEMBER HAENICHEN: Second.

20 CHMN. CHENAL: Motion and second.

21 All in favor say aye.

22 (A chorus of ayes.)

23 CHMN. CHENAL: Exhibit 2, the same language,  
24 Exhibit 2, Finding of Fact, Conclusion of Law  
25 paragraph 2, may I have a motion.

1 MEMBER VILLEGAS: So moved.

2 MEMBER HAENICHEN: Second.

3 CHMN. CHENAL: Motion and second.

4 All in favor say aye.

5 (A chorus of ayes.)

6 CHMN. CHENAL: Exhibit 1, paragraph 3, which is  
7 language that we added from an earlier, earlier in the  
8 document: During the course of the hearing the  
9 Committee considered evidence on the environmental  
10 compatibility of the RICE project as required by A.R.S.  
11 Section 40-360, et seq.

12 Is there any further discussion on this  
13 language?

14 (No response.)

15 CHMN. CHENAL: May I have a motion to approve  
16 that language.

17 MEMBER PALMER: Motion to approve.

18 MEMBER HAENICHEN: Second.

19 CHMN. CHENAL: We have a motion and second.

20 All in favor say aye.

21 (A chorus of ayes.)

22 CHMN. CHENAL: Then similar language on  
23 Exhibit 2, paragraph 3 of the findings of fact,  
24 conclusions of law, may I have may motion to approve.

25 MEMBER JONES: So moved.

1 MEMBER HAENICHEN: Second.

2 CHMN. CHENAL: Motion and second.

3 All in favor say aye.

4 (A chorus of ayes.)

5 CHMN. CHENAL: Paragraph -- excuse me.

6 Exhibit 1, Finding of Fact, Conclusion of Law No. 4, may

7 I have a motion to approve that language.

8 MEMBER HAENICHEN: So moved.

9 MEMBER VILLEGAS: Second.

10 CHMN. CHENAL: We have a motion and second.

11 Is there any further discussion?

12 (No response.)

13 CHMN. CHENAL: All in favor say aye.

14 (A chorus of ayes.)

15 CHMN. CHENAL: And Exhibit 2, Finding of Fact,

16 Conclusion of Law paragraph 4, may I have may motion to

17 approve.

18 MEMBER JONES: So moved.

19 MEMBER HAENICHEN: Second.

20 CHMN. CHENAL: We have a motion and second.

21 All in favor say aye.

22 (A chorus of ayes.)

23 CHMN. CHENAL: Exhibit 1, Finding of Fact,

24 Conclusion of Law paragraph 5, let's read it. Okay.

25 May I have a motion to approve.

1 MEMBER PALMER: Motion to approve.

2 MEMBER JONES: Second.

3 CHMN. CHENAL: Is there any further discussion?

4 (No response.)

5 CHMN. CHENAL: All in favor say aye.

6 (A chorus of ayes.)

7 CHMN. CHENAL: And then Exhibit 2, Finding of

8 Fact, Conclusion of Law paragraph 5, similar language.

9 May I have a motion to approve.

10 MEMBER JONES: Moved.

11 MEMBER PALMER: Second.

12 CHMN. CHENAL: We have a motion and a second.

13 Is there any further discussion?

14 (No response.)

15 CHMN. CHENAL: All in favor say aye.

16 (A chorus of ayes.)

17 CHMN. CHENAL: Okay. Exhibit 1, Finding of

18 Fact, Conclusion of Law paragraph 6, may I have a motion

19 to approve.

20 Member Woodall.

21 MEMBER WOODALL: Is there any overlap between, I

22 don't know what the numbers are, either 4 up there and

23 6?

24 MEMBER HAENICHEN: Kind of says the same thing.

25 MEMBER WOODALL: I mean I am not going to fall

1 on my sword. I would like to know if the applicant has  
2 any concerns. If they don't, I will be happy to move  
3 along.

4 MR. BECK: I guess from the applicant's position  
5 it is kind of repetitious, but we have no issue.

6 MEMBER WOODALL: Okay.

7 MR. BECK: And that does have the public  
8 interest in that one.

9 MEMBER WOODALL: I have no concerns.

10 MEMBER HAENICHEN: I move this condition.

11 CHMN. CHENAL: And that's, let's make sure, it  
12 is Exhibit 1, Finding of Fact, Conclusion of Law 6.

13 MEMBER HAENICHEN: That's correct.

14 CHMN. CHENAL: We have a motion. May I have a  
15 second.

16 MEMBER WOODALL: Second.

17 CHMN. CHENAL: We have a motion and a second.  
18 Any further discussion?

19 (No response.)

20 CHMN. CHENAL: All in favor say aye.

21 (A chorus of ayes.)

22 CHMN. CHENAL: And then Exhibit 2, Finding of  
23 Fact, Conclusion of Law paragraph 6, it is the same  
24 language. May I have a motion to approve.

25 MEMBER JONES: So moved.



1 MEMBER PALMER: Second.

2 CHMN. CHENAL: We have a motion and second.

3 Any further discussion?

4 (No response.)

5 CHMN. CHENAL: All in favor say aye.

6 (A chorus of ayes.)

7 CHMN. CHENAL: Now, let me make sure that it is  
8 clear that, we will go to a roll call vote for the  
9 approval and adoption of the CEC, that I be authorized  
10 to make what we call scrivener's errors, but --

11 MEMBER WOODALL: You mean corrections to  
12 scrivener's errors.

13 CHMN. CHENAL: Corrections to scrivener's  
14 errors. And thank you for the scrivener's correction to  
15 the way I stated that.

16 MEMBER WOODALL: Sorry.

17 CHMN. CHENAL: No, that's good. That's good.

18 But I was going to ask if -- sometimes  
19 scrivener's errors is a comma here and there. Sometimes  
20 we will see a word or something that needs to be changed  
21 that I would say is more than a scrivener's error, but  
22 may be -- but it is not material. And I just want to  
23 make sure that I have the authority of the Committee to  
24 make those kinds of changes and nonmaterial, a word  
25 change but something that might be more than a

1 scrivener's error.

2 MEMBER WOODALL: Technical and conforming  
3 changes, I have complete confidence in your judgment in  
4 that regard, Mr. Chairman.

5 CHMN. CHENAL: Okay, because I don't want -- I  
6 have held back in times past because I didn't feel I had  
7 the authority to make something more than a scrivener's  
8 error, but something in my mind that's less than a  
9 nonmaterial change. But, you know, it might be we had  
10 to correct some language in the caption or something  
11 like that. And I would feel like I would like to make  
12 that change without having to reconvene the Committee,  
13 but I want to make sure I have the authority from the  
14 Committee. So maybe someone can make a motion to that  
15 effect and we can vote on that so I know I have it.

16 MEMBER WOODALL: I believe I made this motion  
17 earlier, but I will reaffirm my motion that we allow and  
18 permit and authorize the Chairman to make technical  
19 conforming language changes, typographical errors,  
20 et cetera.

21 MEMBER JONES: Second.

22 CHMN. CHENAL: Okay. Thank you.

23 All in favor say aye.

24 (A chorus of ayes.)

25 CHMN. CHENAL: Okay, thank you very much.

1 MR. DERSTINE: Mr. Chairman, members of the  
2 Committee, I think the one thing you haven't examined  
3 yet, Exhibit A.

4 CHMN. CHENAL: Exhibit A.

5 MR. DERSTINE: So we would like to project that  
6 at this time.

7 MEMBER WOODALL: I thought you still might be  
8 working on them, so I was going to wait for you to bring  
9 them up.

10 MR. DERSTINE: We would be in trouble if we were  
11 still messing with them.

12 CHMN. CHENAL: So Mr. Derstine, could you tell  
13 us what we are looking at.

14 MR. DERSTINE: So on the left screen is the  
15 proposed Exhibit A to Chairman's Exhibit 1 to the CEC  
16 for the RICE project. On the right screen is the  
17 proposed Exhibit A to Chairman's Exhibit 2 for the  
18 transmission line project.

19 Mr. Beck informs me that the one additional  
20 thing we would need to add, but will as a conforming  
21 change or the final version of Exhibit A to the RICE  
22 project CEC, Chairman's Exhibit 1, will be to label the  
23 box shown in, I guess, yellow, greenish yellow, whatever  
24 the color showing in the box, which is the proposed site  
25 for the actual RICE project shown with the laser pointer

1 there. That would be labeled RICE project. And you may  
2 have seen similar exhibits for the case that carry that  
3 labeling. So that will occur.

4 So those are our proposed Exhibit A's to both  
5 the CECs.

6 CHMN. CHENAL: All right.

7 MEMBER WOODALL: Do you have a legend for  
8 Exhibit A, the transmission line project, somewhere?  
9 Like what are the little round circles, basically?

10 MR. BECK: Right. Mr. Chairman, Member Woodall,  
11 we have a drawing that did have a legend, but the legend  
12 took up the rest of the page.

13 MEMBER WOODALL: Oh, okay.

14 MR. BECK: That's why we had taken it off. We  
15 can put it back on and we are going to project up, I  
16 believe, that version that has a legend.

17 MEMBER JONES: Mr. Chairman, I know this is  
18 probably not pertinent, but the thumb drives we have  
19 don't reflect this information. Will we be able to get  
20 that updated?

21 CHMN. CHENAL: Ask the applicant.

22 MR. BECK: We can provide that information and  
23 update the --

24 MEMBER JONES: It is a lot easier to store than  
25 these things.

1 MR. BECK: Yes.

2 MR. DERSTINE: What we certainly can do is to  
3 make a filing with Docket Control of updated thumb  
4 drives that contain all the current information,  
5 exhibits, and revisions that were made so you have that  
6 electronically, even though we handed out certain slides  
7 to Mr. Spencer's presentation and contains some new  
8 legend or relabeling as well as the correction on the  
9 gallons. We will commit to file a new filing with  
10 Docket Control, updated thumb drives, so you have all  
11 the current information, and Docket will send that out  
12 to the members of the Committee.

13 MEMBER JONES: Thank you, appreciate it.

14 MR. DERSTINE: Good suggestion.

15 CHMN. CHENAL: All right. Is there anything  
16 further we need to address or consider before we do a  
17 roll call vote?

18 Let me ask the applicant. A lot of us have  
19 binders of exhibits and applications and such. Can we,  
20 at the conclusion of the hearing, give those back to the  
21 applicant?

22 MR. DERSTINE: You bet. Just leave them there  
23 on the dais and we will dispose of them or store them in  
24 an environmentally friendly way.

25 MEMBER WOODALL: What did we determine about the

1 legend for the transmission line?

2 MR. DERSTINE: Still efforting to pull that up.

3 So that would be the alternative. So what is  
4 being shown on the left screen is the alternative  
5 Exhibit A that contains the legend.

6 MEMBER WOODALL: I am just wondering. People,  
7 you know, looking at it, they are going to say, well,  
8 those are nice circles. So I am sure there is some way  
9 you can import this information into the body of the  
10 map.

11 MR. BECK: What I would propose for the  
12 Committee, we will take the bottom-left corner legend  
13 and we will insert it into the lower corner of the map  
14 and take the title block off of the bottom.

15 MEMBER WOODALL: That's fine with me. I don't  
16 know about anyone else.

17 CHMN. CHENAL: I think that's acceptable to the  
18 Committee, it looks like.

19 Is there anything else we need to discuss before  
20 we adjourn? Oh, we need to vote on the CEC.

21 MEMBER WOODALL: You just did that to see if  
22 they were paying attention.

23 MEMBER HAENICHEN: Give them a heart attack.

24 CHMN. CHENAL: All right. I think we have a  
25 good record. I want to commend -- people give comments

1 when they vote, but I want to commend the applicant,  
2 again, for a very well done presentation, in my opinion;  
3 and the witnesses, compliment the witnesses and the  
4 exhibits and presentation. I thought this was done --  
5 the tour I thought was one of the best that we have --  
6 that I have been on. And, you know, I commend the  
7 applicant for this project. And I think start to finish  
8 it was well done.

9 So let's start with the CEC for the RICE  
10 project. We have gone through the language. We have  
11 approved it as to form. I know the applicant will get  
12 to me a final draft, a final version of the CEC with the  
13 appropriate attachments as we have discussed. That will  
14 be, you know, a Law Review edit to make sure it is in  
15 perfect condition. And as is my normal process, I will  
16 sign it and get it filed within a day or two of when we  
17 get it, when we receive it.

18 So with that, are we ready to do a roll call  
19 vote? Colette is telling me I can proceed with that.  
20 So let's do a roll call. If you want to add comments to  
21 your vote, I guess we will just proceed with  
22 Mr. Villegas and go in order.

23 So I will ask for a motion to approve the CEC  
24 for the RICE project with the language that we have  
25 discussed today and approved as to form, including the

1 attachments. I ask for a motion to approve.

2 MEMBER PALMER: I would make a motion to  
3 approve.

4 MEMBER JONES: Second.

5 CHMN. CHENAL: Okay. Let's do the roll call  
6 vote.

7 Member Villegas.

8 MEMBER VILLEGAS: Mr. Chairman, thank you. I  
9 would like to agree with you. I would like to commend  
10 the applicant. All the information, it was a great  
11 learning experience for me. And I appreciate all the  
12 information provided and the tour as well.

13 With that, I vote aye.

14 CHMN. CHENAL: Member Drago.

15 MEMBER DRAGO: Aye.

16 CHMN. CHENAL: Member Riggins.

17 MEMBER RIGGINS: Aye.

18 CHMN. CHENAL: Member Haenichen.

19 MEMBER HAENICHEN: I would like to begin by  
20 making some observations about the hearing, and then  
21 some suggestions.

22 In most of these hearings I have noticed that we  
23 have members of the public that come and, in particular  
24 in this one, I sensed quite a bit of confusion about the  
25 project. And that usually results in angst and anger by



1 the public. In this particular case they failed to  
2 grasp the connection between this project and the future  
3 addition of renewables, even though it was stated. They  
4 didn't seem to understand that, without this project,  
5 the renewable additions contemplated by the company  
6 probably would not happen.

7 So what I would like to suggest to the  
8 company -- and we should suggest this to others as  
9 well -- in these hearings they try to explain that kind  
10 of coupling of one event to another in a very clear and  
11 concise way so that the public can get a better idea  
12 about why we are doing this.

13 And with that suggestion, I vote aye.

14 CHMN. CHENAL: Member Woodall.

15 MEMBER WOODALL: I associate myself with  
16 Mr. Haenichen's comments during the course of the  
17 hearing about the benefits of the project, and I  
18 couldn't be more eloquent than he was.

19 For me, in terms of if I were to make a  
20 suggestion, it would be less graphs, less bar charts,  
21 more talking. I think it was a little bit challenging  
22 for those of us -- and I may be the only one who doesn't  
23 have a technical background -- to understand the import  
24 of some of those. And it is just a friendly suggestion.

25 Thank you.

1 CHMN. CHENAL: I will help you with the charts  
2 later, Member Woodall.

3 Member Jones.

4 MEMBER JONES: If you will indulge me,  
5 Mr. Chairman. I have made a number of comments about my  
6 feelings about the project. I for one, as a pilot, I  
7 love graphs. I live by graphs and will probably die by  
8 graphs. But that being said, I am very excited about  
9 this project.

10 In my other capacity as an Arizona Power  
11 Authority commissioner, this issue of intermittency is  
12 not one that just is affecting TEP, albeit in a greater  
13 degree perhaps than other balancing authorities  
14 throughout the state. So I am very intrigued, excited  
15 about the technology, and look forward to the project's  
16 completion.

17 And hopefully this body can come back and  
18 actually observe in operation once it is up and running  
19 and also have a chance to look at, as you actually have  
20 real statistics as opposed to projected ones, we can see  
21 the actual outcomes for these improvements in this new  
22 facility.

23 With that, I vote aye.

24 CHMN. CHENAL: Member Palmer.

25 MEMBER PALMER: I concur with Mr. Jones. I am

1 very excited about this and look forward to seeing it on  
2 the ground. I think it is a great project. I extend my  
3 apologies for missing the first day. I had an  
4 unavoidable conflict. I'll let you know I did go back  
5 and review Mr. Beck's testimony, which is what I missed.  
6 And I commend the applicant on a great process here,  
7 great application, and what I think is a very worthwhile  
8 and exciting new project.

9 And with that, I vote aye.

10 CHMN. CHENAL: And I vote aye as well.

11 I, you know, again commend the applicant, the  
12 attorneys. I thought Ms. DeCorse's examination was very  
13 good, Mr. Derstine. It was very good.

14 MEMBER WOODALL: She is gaining on you.

15 CHMN. CHENAL: So Mr. Beck, are we ready to  
16 adjourn yet?

17 MR. BECK: I hope not.

18 CHMN. CHENAL: Good. All right. Let's review  
19 the CEC for the transmission project. Again, I will ask  
20 for a motion to approve the transmission project CEC  
21 with the language that we approved as to form and with  
22 the appropriate Attachment A to the CEC.

23 I would ask for a motion.

24 MEMBER JONES: So moved, Mr. Chairman.

25 CHMN. CHENAL: And Member Haenichen, you were

1 dying to move for the first one, so would you like to  
2 make a second for the --

3 MEMBER HAENICHEN: I will make the second.

4 CHMN. CHENAL: We have a motion and second.

5 Any further discussion on the transmission  
6 line project CEC?

7 (No response.)

8 CHMN. CHENAL: Let's do a roll call vote.

9 Member Villegas.

10 MEMBER VILLEGAS: Aye.

11 CHMN. CHENAL: Member Drago.

12 MEMBER DRAGO: Aye.

13 CHMN. CHENAL: Member Riggins.

14 MEMBER RIGGINS: Aye.

15 CHMN. CHENAL: Member Haenichen.

16 MEMBER HAENICHEN: Aye.

17 CHMN. CHENAL: Member Woodall.

18 MEMBER WOODALL: Aye.

19 CHMN. CHENAL: Member Jones.

20 MEMBER JONES: Aye.

21 CHMN. CHENAL: Member Palmer.

22 MEMBER PALMER: Aye.

23 CHMN. CHENAL: And I vote aye as well.

24 So congratulations. I think unless there are  
25 any more housekeeping items, again I want to thank the

1 Committee for their attention, for the questioning, for  
2 being here today. I know a couple unavoidably couldn't  
3 be here, but they did want to be here. And I commend  
4 the Committee, because when we schedule these, if we  
5 have to schedule it around dates that one -- or one  
6 can't make it, I generally hear about it one way or the  
7 other. And it is not a happy response, how can you, how  
8 come you set it when I couldn't be there, so which is  
9 good. I like that. I like that we have a very  
10 committed Committee.

11 Member Woodall.

12 MEMBER WOODALL: I just wanted to make one  
13 comment and compliment for Ms. Darling, because she not  
14 only was extraordinarily well prepared, but my  
15 understanding, she handled all the logistics for setting  
16 up the venue and proceedings. And I know all the  
17 Committee members were very pleased how you arranged  
18 things. And I want to extend a tip of the hat to the  
19 G&T audiovisual folks, because I think they did an  
20 outstanding job as well.

21 MS. DARLING: Thank you.

22 CHMN. CHENAL: We all extend -- hold it, don't  
23 let me go away here -- the usual thanks to Colette for a  
24 great job, for being here and helping us with this and  
25 in the field. I think that puts some stress on Colette.

1 So with that, may I have a motion to adjourn?  
2 MEMBER JONES: So moved.  
3 CHMN. CHENAL: And a second. Member Haenichen?  
4 MEMBER HAENICHEN: Second.  
5 CHMN. CHENAL: All in favor say aye.  
6 (A chorus of ayes.)  
7 CHMN. CHENAL: Done.  
8 (The hearing concluded at 12:15 p.m.)

9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

1 STATE OF ARIZONA )  
2 COUNTY OF MARICOPA )

3

4 BE IT KNOWN that the foregoing proceedings were  
5 taken before me; that the foregoing pages are a full,  
6 true, and accurate record of the proceedings all done to  
7 the best of my skill and ability; that the proceedings  
8 were taken down by me in shorthand and thereafter  
9 reduced to print under my direction.

10

11 I CERTIFY that I am in no way related to any of  
12 the parties hereto nor am I in any way interested in the  
13 outcome hereof.

14

15 I CERTIFY that I have complied with the  
16 ethical obligations set forth in ACJA 7-206(F)(3) and  
17 ACJA 7-206 (J)(1)(g)(1) and (2). Dated at Phoenix,  
18 Arizona, this 22nd day of January, 2018.

19

20

21

---

COLETTE E. ROSS  
Certified Reporter  
Certificate No. 50658

22

23

24 I CERTIFY that Coash & Coash, Inc., has complied  
25 with the ethical obligations set forth in ACJA 7-206  
(J)(1)(g)(1) through (6).

26

27

28

29

30

31

32

33

---

COASH & COASH, INC.  
Registered Reporting Firm  
Arizona RRF No. R1036

34