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BEFORE THE ARIZONA POWER PLANT  
AND TRANSMISSION LINE SITING COMMITTEE

In the matter of the Application of )  
Tucson Electric Power Company, in ) DOCKET NO.  
conformance with the requirements of ) L-00000C-21-0288-  
A.R.S. § 40-360, et seq., for a ) 00192  
Certificate of Environmental )  
Compatibility authorizing the Kino to )  
DeMoss-Petrie 138 kilovolt (kV) ) CASE NO. 192  
Transmission Line Project, which )  
includes the construction of a new )  
138 kV transmission line originating )  
at the existing Kino Substation )  
(Section 30, Township 14 South, )  
Range 14 East), with an )  
interconnection at the planned Vine )  
Substation (Section 06, Township 14 )  
South, Range 14 East), and )  
terminating at the existing )  
DeMoss-Petrie Substation (Section 35, )  
Township 13 South, Range 13 East), )  
each located within the City of )  
Tucson, Pima County, Arizona. ) PREHEARING  
CONFERENCE

At: Phoenix, Arizona  
Date: September 8, 2021  
Filed: September 13, 2021

REPORTER'S TRANSCRIPT OF PROCEEDINGS

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

1 BE IT REMEMBERED that the above-entitled and  
2 numbered matter came on regularly to be heard via  
3 videoconference before the Arizona Power Plant and  
4 Transmission Line Siting Committee, 1200 West Washington  
5 Street, Phoenix, Arizona, commencing at 1:33 p.m. on the  
6 8th of September, 2021.

7  
8 BEFORE: THOMAS K. CHENAL, Chairman

9 APPEARANCES:

10 For the Applicant:

11 SNELL & WILMER, L.L.P.  
12 By Mr. Matt Derstine  
13 One Arizona Center  
14 400 East Van Buren, Suite 1900  
15 Phoenix, Arizona 85004

16 and

17 TUCSON ELECTRIC POWER COMPANY  
18 By Ms. Megan Hendrickson  
19 88 East Broadway Boulevard  
20 Tucson, Arizona 85701

21  
22 POTENTIAL INTERVENORS:

23 For Sam Hughes Neighborhood Association, Inc.:

24 JACKSON & ODEN, P.L.L.C.  
25 By Mr. Todd Jackson  
1670 East River Road, Suite 260  
Tucson, Arizona 85718

1 POTENTIAL INTERVENORS:

2 For Banner University Medical Center Tucson Campus,  
3 L.L.C. and Banner Health:

4 LEWIS ROCA  
5 By Mr. Stanley B. Lutz  
6 201 East Washington Street, Suite 1200  
7 Phoenix, Arizona 85004

8 For City of Tucson:

9 CITY OF TUCSON  
10 Mr. Roi Lusk, Principal Assistant City Attorney  
11 Ms. Jennifer Stash, Senior Assistant City Attorney  
12 255 West Alameda  
13 Tucson, Arizona 85701

14 For the Arizona Corporation Commission Staff:

15 Ms. Kate L. Kane, Mr. Max G. Carpinelli  
16 Staff Attorneys, Legal Division  
17 1200 West Washington Street  
18 Phoenix, Arizona 85007

19 ALSO PRESENT:

20 Mr. Eric Raatz, Manager, Operations Planning, TEP  
21 Mr. Ed Beck, Consulting General, Energy Resources  
22 Ms. Renee Darling, Transmission and Distribution  
23 Supervisor, Land Resources, TEP  
24 Ms. Melissa Morales, State Regulatory Service  
25 Coordinator, TEP  
26 Mr. Joe Salkowski, Senior Director of Communications  
27 and Public Affairs, TEP  
28 Ms. Gourjia Odisho, Paralegal, Snell & Wilmer  
29 Mr. Andrew Smith, ACC, Utilities Division  
30 Mr. Luke Hutchison, ACC, Utilities Division  
31 Mr. Paul Katz, Assistant Attorney General  
32 Mr. Tod Brewer, Assistant to Chairman Chenal

1 CHMN. CHENAL: Let's go on the record.

2 This is the time set for the prehearing  
3 conference in the DeMoss-Petrie TEP application.

4 May I have appearances, please.

5 MR. DERSTINE: I will start again. Matt  
6 Derstine, Snell & Wilmer, appearing on behalf of Tucson  
7 Electric Power Company.

8 MS. HENDRICKSON: Megan Hendrickson on behalf of  
9 Tucson Electric Power.

10 MR. LUSK: Roi Lusk for the City of Tucson.

11 MR. JACKSON: Todd Jackson for Sam Hughes  
12 Neighborhood Association.

13 MS. STASH: Jennifer Stash for the City of  
14 Tucson.

15 MR. LUTZ: My apologies. Stan Lutz, Lewis and  
16 Roca, on behalf of Banner Health.

17 MR. CARPINELLI: Max Carpinelli from the Arizona  
18 Corporation Commission, also joined by attorney Kate  
19 Kane. And Staff members Andrew Smith and Luke Hutchison  
20 are on the line.

21 CHMN. CHENAL: All right. Thank you.

22 All right. Is that everybody?

23 (No response.)

24 CHMN. CHENAL: All right. So this is going to  
25 be interesting. I had asked the parties to at least

1 take a stab and test the waters regarding, you know,  
2 possible negotiations or negotiations going forward and  
3 the need to or desire to continue the hearing.

4 So I guess the question I have for everyone  
5 right now is does the applicant still want to continue  
6 the hearing. And I would like to hear that, and then  
7 the position of the other parties and potential parties  
8 as to whether they are in favor of, neutral, or opposed  
9 to a continuance.

10 So, Mr. Derstine or Ms. Hendrickson, why don't  
11 we start with you. And then we will take them in the  
12 same order as the appearances that we started the  
13 meeting.

14 MR. DERSTINE: All right. Thank you.

15 I guess the short answer to your question is  
16 yes. TEP still believes that it is in the best interest  
17 of not only TEP but the other parties, all the parties  
18 to this case, and I think the unrepresented parties,  
19 neighborhoods, ratepayers of Tucson Electric Power  
20 Company more broadly within the city, and I would  
21 suggest TEP's regulators, that we continue this case,  
22 the hearing in this case.

23 Our motion requested a continuance because,  
24 primarily, to give TEP time to have discussions with the  
25 City of Tucson. There was, as I understand it, a

1 meeting yesterday between the city manager and the city  
2 attorney and Erik Bakken, vice president of transmission  
3 and other things. I don't know Mr. Bakken's exact  
4 title. And I think general counsel for Tucson Electric  
5 Power, Todd Hixon, was also on that call.

6 My understanding of that meeting was that the  
7 parties agreed that they should continue to meet and  
8 talk and work through the various issues that are  
9 presented by this case, which are not small or limited.  
10 You know, the primary issue or the forefront is is there  
11 a route or combination of routes that would work to  
12 satisfy the City and the neighborhoods. But beyond  
13 that, it is, so if there is a route or route  
14 combination, is that all aboveground, is it all  
15 underground, or is it a combination of underground and  
16 aboveground; and, if there are portions that have to be  
17 constructed underground, how do those underground costs  
18 get paid.

19 The cost differential between building it  
20 aboveground or underground on the preferred route is  
21 somewhere around 50 million bucks. That's not walking  
22 around change. And so who is going to come up with that  
23 money?

24 There was a letter in the docket from, I think  
25 it was, Commissioner O'Connor that made its way in the

1 docket yesterday. He raised the question asking about  
2 cost figures, including the cost differential, which I  
3 just touched upon, between an overhead and an  
4 underground construction. But he also asked the  
5 question of whether there was a possibility of are there  
6 willing parties -- maybe I will ask, or read it --  
7 whether or not there exists the possibility of sharing  
8 the cost burden of undergrounding between TEP and other  
9 willing entities, such as the City of Tucson.

10 Well, it is a good question. It is not a new  
11 one. I mean TEP has had discussions with U of A, City  
12 of Tucson, Banner, and the neighborhoods about we hear  
13 you, you want to put this project underground, how is it  
14 going to be paid for, how does that cost differential  
15 get paid.

16 No other utility in the State of Arizona has  
17 simply come out of pocket to fund the cost of  
18 undergrounding, and that's a simple fact, because they  
19 have to answer to their regulators and to ratepayers who  
20 don't necessarily benefit from undergrounding a  
21 transmission line project.

22 And so, as we sit here today, you know, Banner  
23 and U of A and the City, no one has been willing to  
24 contribute a penny towards undergrounding costs, or at  
25 least to say they will. But that doesn't mean, through

1 further discussions and negotiations and having parties  
2 around the table, that we won't get to somewhere where  
3 there might be other willing participants.

4           So to Commissioner O'Connor's question, is it  
5 possible, I believe it is possible. Will it happen? I  
6 don't know. You know, this isn't a case in which you  
7 have a plaintiff and a defendant and they are \$50,000  
8 apart, \$500,000 apart, a million dollars apart. You are  
9 dealing with \$50 million if you are talking about the  
10 whole line. Half of that, maybe if you are talking  
11 about half the line, but where does that money come  
12 from?

13           And so if there aren't willing entities who want  
14 to help contribute to undergrounding the line, then what  
15 other sort of funding mechanisms are there available?  
16 And some of the things that were touched on yesterday or  
17 that will be touched on in the future might involve,  
18 between the City and TEP, franchise fees, and maybe the  
19 amendment of an existing franchise agreement, or that  
20 the franchise agreement that's existing between TEP and  
21 the City of Tucson is coming up to expire relatively  
22 soon and does an amendment of the franchise agreement  
23 provide a funding mechanism for undergrounding. What  
24 about the utility tax, is that a possibility for funding  
25 undergrounding costs of this project?

1           And so, you know, you know, you asked about,  
2 well, can't we just -- why don't you guys sit in a room  
3 for a day. Well, a day isn't going to do it. You have  
4 got a lot of issues. You have got to get through a high  
5 dollar amount to cover the cost of undergrounding, where  
6 those funds come from. Then you need mayor and council  
7 resolutions to approve it. So it is not a day, a  
8 two-day, let's, you know, put the parties in a room and  
9 not let them out until they figured it out.

10           So, you know, our -- the standard, the burden  
11 for this is, you know, have we established good cause  
12 for a continuance. I think we have.

13           And I will just mention another complicating  
14 factor. It is not just this project. TEP is going to  
15 need to construct new transmission line projects in the  
16 City of Tucson. Those projects will likely be within  
17 Gateway corridor zones. How does TEP satisfy the need  
18 to provide safe, economic, reliable electrical service  
19 to its customers within the City of Tucson and have  
20 those projects coexist with the Gateway corridor zones  
21 which are plopped down all over the City of Tucson? Is  
22 the result that you are pushing transmission lines which  
23 should be on larger arterial streets onto side streets  
24 and into the neighborhoods? Is that what the City  
25 wants?

1           So I think there is a recognition on the part of  
2 the City that this is a broader issue than just this  
3 case. This case brings it to the forefront, but you  
4 need to look long term in terms of how does Tucson grow,  
5 how does TEP supply electrical energy to support that  
6 growth, and how does it do it in a way that, you know,  
7 is consistent with and complies with zoning and, you  
8 know, the desires of the City and its residents. And so  
9 that is where we are.

10           The, as I mentioned, you know, the standard is  
11 pretty straightforward. It is good cause. You have the  
12 discretion as the hearing officer, or we have two  
13 Chairmen here, one on the way out at the end of  
14 September and one coming in, but I think the presiding  
15 officer for this case has the discretion to decide if we  
16 have established good cause. I think we have.

17           A remaining issue was, you know, notice, what  
18 about notice. I think there are notice issues. The  
19 Rule R14-3-209 says that, as a condition of granting a  
20 continuance, the applicant, TEP, has to waive the 180  
21 days and the notice, the statutory notice requirements.  
22 It doesn't say all parties to the proceeding have to  
23 waive the notice. Those notice requirements are there  
24 for the benefit of the applicant. The applicant has  
25 agreed to waive them. That satisfies any notice

1 concerns.

2           As a practical matter then, what needs to be  
3 done if you are going to continue the hearing? I think  
4 we need to provide notice to the members of the public  
5 about that. We would suggest we do that through the  
6 normal channels of utilizing our project website. We  
7 will use our same email communications that we have used  
8 to communicate with residents within our study area, our  
9 notification area. We would use Facebook ads, as we  
10 have done, to publicize our various virtual open houses.  
11 And I think we would try to utilize a press release of  
12 some kind and have the City also place it on their, the  
13 City website, alerting residents that the hearing on  
14 this matter is being continued to continue to allow the  
15 City and other parties time to see if they can work  
16 something out.

17           The secondary notice issue, what has to happen  
18 in order to reschedule the hearing. And, again, on the  
19 timing issue, the 90 days, there wasn't magic to it. I  
20 have said it is not going to happen in a day or  
21 afternoon or two days because of the complexity of the  
22 issues. But we picked 90 days simply because we are  
23 aware of what the Committee's calendar was like. The  
24 Committee doesn't have time between now and until the  
25 end of the year to have a two-week hearing. And if this

1 is going forward, it will probably be a two-week  
2 hearing. And so we landed on 90 days. And I think our  
3 motion for a continuance just said approximately 90  
4 days, and the applicant understands it will be within --  
5 the timing will be largely determined by the Committee's  
6 calendar. I think that remains true.

7 And so on that issue, we -- you know, there  
8 wasn't a magic to 90 days, but, you know, it is not a  
9 case that's going to happen much shorter than that with  
10 all the things that have to be covered.

11 As to renotification of the new hearing date, I  
12 think that happens as we would if there was a  
13 substantial change or an amendment to the existing  
14 application. We would be required to renote it in the  
15 statutory manner. That is publish a new notice of  
16 hearing, post new signs or come up with a way to use the  
17 existing signs to renote the new hearing date, and  
18 then use the same informal channels of communication and  
19 notice that we used for this hearing, the, again,  
20 emails, Facebook notifications. And if there are other  
21 suitable means of notifying the public, we will use  
22 those as well. I think the company also uses Nextdoor  
23 app and maybe other forms of other social media. Those  
24 have been effective. Those will continue to be  
25 effective in order to provide notice of a new hearing

1 date whenever it is set.

2 So support the continuance, we think it is  
3 important that the City and the other stakeholders have  
4 time.

5 I understand, you know, Mr. Jackson made the  
6 pitch, well, I want to be at every part of that  
7 discussion. Well, I think Sam Hughes should be part of  
8 that discussion. I think other neighborhoods that are  
9 not represented by counsel who did not intervene will be  
10 a part of that discussion. Will they be part of every  
11 meeting between the City and TEP? No. I think,  
12 Mr. Chairman, as you indicated, there are some issues  
13 here that have to be discussed and worked through  
14 directly between the City and Tucson. But there are  
15 also issues that are important more broadly with  
16 neighborhoods and the other parties on this call,  
17 including Banner. And Banner should be a part of them.  
18 Banner won't be there at every meeting, nor does TEP  
19 expect to be part of every discussion when Mr. Jackson  
20 talks to other neighborhood associations or with, maybe  
21 with the council member who represents the Sam Hughes  
22 neighborhood. But those intervenors and other  
23 stakeholders, not just parties to this case, need to be  
24 part of the broader discussion when the time is  
25 appropriate.

1 But, again, you know, the biggest hurdle is, if  
2 portions need to be underground on this line, where do  
3 the dollars come from, what is the funding mechanism.  
4 And some of the issues are directly between TEP and City  
5 of Tucson, at least as a starting point.

6 That's it. I appreciate your time.

7 CHMN. CHENAL: Thanks, Mr. Derstine.

8 Is -- Mr. Lusk, are you next up in the order  
9 that we had appearances?

10 MR. LUSK: I believe I was, Chairman. I will be  
11 brief.

12 We don't oppose the continuance. Obviously the  
13 City agrees with Mr. Derstine about wanting to meet and  
14 confer and hopefully resolve some of the stickier issues  
15 that he alluded to.

16 The City also doesn't oppose other intervenors  
17 being involved in those discussions and is happy to have  
18 those conversations, will likely have those  
19 conversations anyway. And I am aware that the City's  
20 position does create some complications that may require  
21 some resolution either through those conversations or  
22 through an appellate or court action. So we would like  
23 to get that resolved so that this hearing can run  
24 smoothly and to its conclusion.

25 CHMN. CHENAL: All right. Thank you.

1 I don't know, Mr. Lutz or Mr. Jackson, if you  
2 are next, whatever the order was in your appearances.

3 MR. JACKSON: Makes no difference to me,  
4 Mr. Chairman. I can't remember if I --

5 CHMN. CHENAL: Let's go with you then.

6 MR. JACKSON: Yeah. Thank you, Mr. Chairman.

7 I have had a chance to confer with my client  
8 through the course of the weekend. And we do not intend  
9 to object to the continuance.

10 I do wish to say, however, and make very clear  
11 that the premise of that position is, to our  
12 understanding, that the purpose and intent of this  
13 continuance is to facilitate good faith and inclusive  
14 negotiations. We have asked for and received the  
15 assurance from the City that that will occur and that my  
16 client and Banner be included in those negotiations. I  
17 appreciate and understand what Mr. Derstine has  
18 indicated, that there will necessarily be meetings that  
19 don't involve everybody. Certainly I don't have a  
20 problem with that.

21 But what is most important from my perspective  
22 on behalf of my client is that we not hear about some  
23 arrangement as a fait accompli, that we be actively  
24 apprised of and included in the discussions. It is my  
25 understanding that that is acceptable to all parties and

1 that that is the purpose of this continuance. And on  
2 the basis of that, we do not object to it.

3 CHMN. CHENAL: Thank you, Mr. Jackson.

4 Mr. Lutz.

5 MR. LUTZ: Thank you, Chairman.

6 First let me thank Mr. Derstine for making clear  
7 that TEP anticipates the intervenors participating in  
8 this. That was one of the main takeaways from my  
9 discussions with my client this weekend, was a desire to  
10 make certain that they were included where their  
11 interests were impacted and where appropriate.

12 I know that we expressed some concern at one  
13 point in time with regard to statutory compliance and  
14 continuance and so on, but realistically that risk, you  
15 know, rests with the applicant. And so to the extent  
16 that Banner can be appropriately included and this  
17 continuance, I guess, conditioned upon what Mr. Derstine  
18 has talked about, that the parties will be, and  
19 potential parties will be, included as appropriate in  
20 these discussions, I don't think that Banner has any, or  
21 Banner doesn't have any objections to a continuance of  
22 that nature.

23 I would just add, I guess echoing Mr. Jackson,  
24 that the principal concern here is probably  
25 transparency. It would be prejudicial to potential

1 parties if they had no knowledge of anything and a fait  
2 accompli was presented with a hearing shortly  
3 thereafter. You know, that would be problematic from my  
4 clients' point of view. So to the extent that's not the  
5 case, and we are not looking at a situation where the  
6 City and TEP are anticipating, you know, very closed  
7 negotiations without others' participation, there will  
8 be no objection from our point of view in terms of  
9 continuing this.

10 CHMN. CHENAL: Thank you. Thank you, Mr. Lutz.

11 Staff, the Corporation Commission, just I would  
12 like to get your position on whether the Staff is  
13 opposed or neutral or in favor of a continuance.

14 MR. CARPINELLI: Staff is in favor of the  
15 continuance, I would say enthusiastically and  
16 optimistically, having heard the intentions behind it,  
17 first and foremost to try to work with the interested  
18 parties to select the appropriate routes that are  
19 satisfactory to all the parties, and second, to  
20 potentially explore any sources of funding contribution  
21 that would help keep the price and rates down overall  
22 for ratepayers here.

23 I will just add that we have had dozens of  
24 public comments about both of these issues received in  
25 the docket. So that's just members of the public

1 submitting comments about the routes and the costs.  
2 Everyone seems to have a different approach on it. But  
3 if we can at least get the parties who are here in the  
4 matter talking about it and come to some agreement, I  
5 think that sounds completely beneficial for this  
6 process.

7 Mr. Derstine has already stated that they are  
8 going to be complying with code to renotify the  
9 hearings, so that's satisfactory from our end as well.  
10 And from hearing from the City and the other interested  
11 parties so far in this hearing, it sounds like everyone  
12 is on board and sounds pretty clear on the same  
13 intentions for the continuance.

14 So with that said, again, we just, we do support  
15 this continuance.

16 CHMN. CHENAL: All right. Thank you very much.

17 Any further thoughts or comments or positions  
18 from anyone I haven't asked to hear from already? I  
19 think all the parties, potential parties have been  
20 heard.

21 (No response.)

22 CHMN. CHENAL: All right. Let's do this. I am  
23 encouraged by what I have heard. And I think it makes  
24 sense to continue the hearing. I had asked Tod just  
25 after our meeting on Friday just potential dates, if

1 that was a decision that's going to be made. And I  
2 think we have a date that's at the end of January.

3 Is that correct, Tod?

4 MR. BREWER: No. That has changed now,  
5 Mr. Chairman. It is going to be the earliest of  
6 February the 7th through the 11th.

7 CHMN. CHENAL: Well, we need two weeks. So  
8 February 7th, then the hearing dates after that period  
9 of time, is that what I am hearing?

10 MR. BREWER: I believe that they were only  
11 requesting a one-week hearing.

12 Is that correct, Mr. Derstine?

13 MR. DERSTINE: No. And I apologize for  
14 miscommunication on that, Tod. I think when we had  
15 checked with you informally on availability and dates,  
16 we might have been polling you for a week. But, you  
17 know, if this, as I mentioned, if this case is going to  
18 go forward and despite all our best efforts we are not  
19 able to reach a resolution, we are probably going to  
20 need a two-week slot for a hearing.

21 CHMN. CHENAL: Well, this is what I think we  
22 have to do. I am going to continue it to February 7th.  
23 But I understand that the new Chairman, Chairman Katz,  
24 is going to have to look at this and make sure. And we  
25 are going to have to come back and verify the Committee

1 availability for a two-week period there and that  
2 Chairman Katz's schedule permits it. I think it is  
3 better that we set it for a date certain than just  
4 continue it, and I feel better about doing that. But I  
5 just want to make it clear that that date may have to  
6 change.

7           And there is another factor that enters into  
8 this. We can continue and reset the hearing so long as  
9 there are no material changes to the routes. I think we  
10 talked about this on Friday. If there is going to be a  
11 material change in any way in any of the routes, then I  
12 think it would have to be renoticed from the beginning.  
13 And who knows where these negotiations are going to go.  
14 But if, if there is a material change on the route, you  
15 know, it would have to be, these dates would have to be  
16 moved anyway.

17           So let's set it. We will hope for the best. I  
18 think Chairman Katz will have meetings with you well  
19 prior to February 7th to find out how negotiations are  
20 going, what it looks like, confirming the hearing dates,  
21 the Committee is available, and all of those issues.

22           I think, Mr. Derstine, the ideas you had about  
23 getting the word out right now immediately in terms of  
24 social media and a press release and working with the  
25 City of Tucson getting it up on the project website,

1 maybe the City of Tucson could assist with getting the  
2 word out to continue the hearing, I think that would  
3 just be a benefit to the citizens. They are the ones  
4 affected by this. That's the purpose of having these  
5 hearings. And I would ask the parties to cooperate in  
6 any way they can to assist in getting the word out on a  
7 continued date, on the continuation of the hearing.

8 I am sorry we can't have a better, more of a  
9 firm date than February 7th. That might be the date,  
10 but, you know, we don't know at this point. Right? So,  
11 but I think to get the word out as a courtesy to the  
12 citizens that the hearing will be continued is, I think,  
13 very important.

14 In terms of negotiations, I think we are all  
15 saying the same thing, transparent, in good faith  
16 negotiations, trying to find a solution. It would be  
17 unworkable to require every party, potential party to be  
18 at every single discussion and negotiations because  
19 there is going to be moving parts here. But the parties  
20 will need to act in good faith in both, you know, in  
21 negotiation and transparency. And I think that's been  
22 expressed by all counsel here today. So I will hold you  
23 to that, and I am sure Chairman Katz will, too.

24 Obviously, if there are any breakthroughs, those  
25 would need to be brought to the attention of Chairman

1 Katz. That might affect the route, the length of  
2 hearing, anything of that sort.

3 And I think, I think that, I think that covers  
4 what was discussed. If I am missing anything, let me  
5 know, please.

6 MR. DERSTINE: I guess the question I would have  
7 is: In terms of notifying and using our best efforts to  
8 notify as to the continuation of this hearing, is it  
9 best that we simply advise the public that the hearing  
10 has been continued and they will be notified of the new  
11 hearing date, or do you want to notify them of the  
12 February 7th date? How would you like us to handle  
13 that?

14 CHMN. CHENAL: Tod, there is availability for  
15 the Committee for that date, is that correct?

16 MR. BREWER: I have to send out the information  
17 request still to them, but I will get that out this  
18 afternoon, because I wanted to wait until we had a date  
19 specific.

20 MR. KATZ: And this is Paul Katz. I am  
21 available those two weeks, if that's of any help or  
22 assistance to the parties.

23 CHMN. CHENAL: How soon -- well, we have to  
24 know now. We have to advise the public now. We are not  
25 sure we can get the Committee's availability, I mean,

1 within a day or two. So I think, I think we say it is  
2 February 7th or such other date as determined by the, by  
3 the Chairman of the Committee.

4 MR. DERSTINE: All right. Very good.

5 CHMN. CHENAL: My sense is that's going to be a  
6 good date for all of you, but we just need to confirm it  
7 with the Committee. But my sense is those will be good  
8 dates, two weeks starting February 7th. So let's give  
9 it a date certain, be consistent with that theme. And  
10 then if the dates have to be changed, they will be. And  
11 you will be discussing with Commissioner Katz how to  
12 renotice the hearing. And, again, if the Committee is  
13 not available, you know, you will pick dates and get the  
14 word out sooner rather than later.

15 I will enter a short order that will simply say  
16 it is continued to February 7th for two weeks, or such  
17 other dates as determined by the Chairman, and the  
18 parties are to, you know, cooperate in providing notice  
19 of the continuance to the general public, and it is in  
20 the manners we have discussed. And I will leave it to  
21 you to negotiate good faith and in a transparent manner.  
22 I don't think I have to put that in the order.

23 So I want to say that, Mr. Lutz, you get an A  
24 for your French, and, Mr. Jackson --

25 MR. JACKSON: A D minus?

1 CHMN. CHENAL: The fiat accompli, yeah, I will  
2 give you a passing grade, but barely. Mr. Lutz did very  
3 well.

4 MS. KANE: Chairman, one more question from the  
5 Director's Office, with your permission.

6 CHMN. CHENAL: Sure.

7 MS. KANE: We were wondering, is it possible  
8 that, like our schedule being cancelled for next week,  
9 that another cancellation could come up for a two-week  
10 block prior to the February date?

11 CHMN. CHENAL: Well, A, there is a full  
12 schedule. B, I think we have a pretty full schedule  
13 especially between now and the, what I call the holiday  
14 period, which is Thanksgiving through Christmas and, you  
15 know, Hanukah, the new year. So I would say no. I  
16 think, I think that would be unrealistic. These  
17 negotiations are going to take time.

18 MS. KANE: Okay.

19 CHMN. CHENAL: I didn't ask the parties to meet  
20 thinking that there was any chance anything would get  
21 resolved in a day, but I think you can tell if there is  
22 a chance that negotiations could prove fruitful or if it  
23 is a lost cause. And that was the only reason I wanted  
24 the parties to at least, you know, put the toes in the  
25 water.

1 I am not sure who should be on mute, but we are  
2 hearing a lot of background noise. Okay.

3 One of my clients was the Town of Carefree for  
4 11 years, I was a town attorney, just one of my clients.  
5 And I understand very well how even a small town comes  
6 to conclusions and makes decisions and the approvals  
7 that are necessary. So, Tucson, I know it will take  
8 time. These are big issues.

9 I seem to agree that the issues are bigger than  
10 just this case. You know, Tucson Electric has the  
11 obligation to provide reliable power to the citizens.  
12 And, you know, if these undergrounding issues, if that's  
13 the, if that's the requirement, that's a tough issue  
14 that's going to be worked through and figured out.

15 So, Mr. Beck, is there anything else I need to  
16 include in this or bring up?

17 You are on mute.

18 MR. BECK: No, Mr. Chairman, I think you have  
19 covered it well.

20 And I likely will not see you again, so I  
21 appreciate the time we have had together in hearings.

22 CHMN. CHENAL: Well, I was about to say the same  
23 thing. As opposed to you and Ken Sundlof, when I  
24 retire, I am retiring. So it is going to be  
25 October 1st. So then -- in any event, so it has been a

1 pleasure to --

2           And I will say that the reason I stayed on as  
3 long as I did was for this particular case. Because if  
4 it had not been for this case, I would have probably  
5 retired the end June. So my wife was very thankful  
6 when I told her that the issue to be decided today was  
7 whether there was a continuance. She said: If it is  
8 continued, are you going to tell me that we have been  
9 here through the hot summer just so we can get to the  
10 point where this hearing is continued? So I am going to  
11 have to go downstairs and tell her the good news.  
12 That's my cross to bear.

13           So, but on a serious note, it has been a  
14 pleasure working with you, all of you at TEP. And I was  
15 looking forward to this hearing in kind of a, I don't  
16 know, Marquis de Sade way, but I was looking forward to  
17 this hearing very much. But I know it is in good hands  
18 with Commissioner Katz.

19           And he actually accused me of some ulterior  
20 motive or work behind the scenes to figure out a way to  
21 pass this off to him. That was not the case.

22           So I will get an order out, it won't be today  
23 but it will be certainly tomorrow or the next day,  
24 continuing the hearing and putting in just the few  
25 things we discussed.

1 But is there anything else we should discuss  
2 while we are together?

3 MR. DERSTINE: I --

4 MR. LUTZ: Mr. Chairman.

5 I am sorry, Matt. Go ahead.

6 MR. DERSTINE: I was just going to ask just to  
7 confirm that the parties are relieved of their  
8 obligation to file anything tomorrow, and the only  
9 obligation is for TEP to get notice out in the manner  
10 that we just discussed using the dates that you  
11 provided.

12 CHMN. CHENAL: That's correct, yeah, no  
13 obligations regarding any of the, you know, prehearing  
14 matters that were in the procedural order that we  
15 previously discussed as far as, you know, exhibits,  
16 testimony, legal issues, anything like that. Those will  
17 be revisited by Commissioner Katz.

18 MR. KATZ: And just from my perspective, I am  
19 going to appoint an ad hoc committee to investigate and  
20 audit this to make sure there isn't a conspiracy between  
21 Tom and all of you.

22 Anyhow, I do look forward to working with all of  
23 you. I am going to learn a lot from all of you. And my  
24 45 years of practice, and 22 of them on the bench, I  
25 think will help me at least limp through this. So I

1 look forward to talking with you. And we will get dates  
2 set as the matter moves forward.

3 Thank you, all.

4 CHMN. CHENAL: Well, in February I will be in  
5 Morocco, so come and get me. Okay?

6 Mr. Lutz, you had something you wanted to say.

7 MR. LUTZ: Well, I actually had two items. One  
8 Mr. Derstine covered ably, and I appreciate that.

9 The second was to ask, just asking the question,  
10 if it would make sense to set a date maybe early  
11 January for us to reconvene so that we would have the  
12 ability to set, as Mr. Katz noted, or future Chairman  
13 Katz noted, that he is going to need to set some dates.  
14 And I thought I would suggest it might make sense to  
15 report back as to status negotiations and set those  
16 dates and deadlines and just have something on the  
17 deadline.

18 CHMN. CHENAL: Mr. Lutz, I think that's a good  
19 idea. I think January might be too late. It might make  
20 sense to do it sooner than that. And I'm just going to  
21 have to leave that to Chairman Katz to set a date. I  
22 think I alluded to that, that he will need to meet and  
23 set some dates to figure out the best way to manage this  
24 case and the hearing in February. I think maybe even  
25 before January might be appropriate. But I guess some

1 of that will depend on where the negotiations lead. But  
2 I think that's the next thing, yeah, but I think that's  
3 something Mr. Katz, or Chairman Katz, will be able to  
4 handle.

5 Is there anything else we should discuss?  
6 Going once. Going twice.

7 (No response.)

8 CHMN. CHENAL: Okay. The hearing is over. I  
9 think this is, I think this is a good way to try to  
10 resolve this and take some of the angst in the community  
11 away, and hopefully something could be negotiated that  
12 will streamline this case.

13 So with that, the meeting is adjourned. And  
14 thank you for your cooperation, everyone.

15 (The proceeding concluded at 2:09 p.m.)

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1 STATE OF ARIZONA )  
 2 COUNTY OF MARICOPA )

3 BE IT KNOWN that the foregoing proceedings were  
 4 taken before me; that the foregoing pages are a full,  
 5 true, and accurate record of the proceedings all done to  
 6 the best of my skill and ability; that the proceedings  
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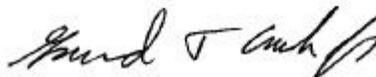
7 I CERTIFY that I am in no way related to any of  
 8 the parties hereto nor am I in any way interested in the  
 outcome hereof.

9 I CERTIFY that I have complied with the  
 10 ethical obligations set forth in ACJA 7-206(F)(3) and  
 ACJA 7-206 (J)(1)(g)(1) and (2). Dated at Phoenix,  
 Arizona, this 9th day of September, 2021.

11 

12 \_\_\_\_\_  
 13 COLETTE E. ROSS  
 14 Certified Reporter  
 Certificate No. 50658

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

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