

1 BEFORE THE ARIZONA POWER PLANT

LS-362

2 AND TRANSMISSION LINE SITING COMMITTEE

3

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

15 At: Tucson, Arizona

16 Date: July 18, 2024

17 Filed: July 24, 2024

18

19 REPORTER'S TRANSCRIPT OF PROCEEDINGS

20 VOLUME IX  
21 (Pages 1865 through 2081)

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| 332 | TEP-302 |                                                                    |            |          |
| 333 | TEP-303 |                                                                    |            |          |
| 334 | TEP-304 |                                                                    |            |          |
| 335 | TEP-305 |                                                                    |            |          |
| 336 | TEP-306 |                                                                    |            |          |
| 337 | TEP-307 |                                                                    |            |          |
| 338 | TEP-308 |                                                                    |            |          |
| 339 | TEP-309 |                                                                    |            |          |
| 340 | TEP-310 |                                                                    |            |          |
| 341 | TEP-311 |                                                                    |            |          |
| 342 | TEP-312 |                                                                    |            |          |
| 343 | TEP-313 |                                                                    |            |          |
| 344 | TEP-314 |                                                                    |            |          |
| 345 | TEP-315 |                                                                    |            |          |
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| 2  | NO.     | DESCRIPTION                                                                       | IDENTIFIED | ADMITTED        |
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| 3  | TEP-10D | Letters to Public Facilities<br>re Copies of Application for<br>Public<br>Viewing | 58         | 1225            |
| 4  |         |                                                                                   |            |                 |
| 5  | TEP-10E | Map of Notice of Hearing Sign<br>Locations                                        | 58         | 1225            |
| 6  |         |                                                                                   |            |                 |
| 7  | TEP-10F | Photographs of Sign Placement                                                     | 58         | 1225            |
| 8  | TEP-10G | Example of Sign Contents                                                          | 58         | 1225            |
| 9  | TEP-10H | Notice of Service to Affected<br>Jurisdictions                                    | 58         | 1225            |
| 10 | TEP-10I | Notice of Service to Pascua<br>Yaqui Tribe                                        | 58         | 1225            |
| 11 |         |                                                                                   |            |                 |
| 12 | TEP-11  | Receipt of Filing Fee                                                             | 58         | 1225            |
| 13 | TEP-12  | Virtual Tour                                                                      | 504        | 1225            |
| 14 | TEP-13  | Tour Itinerary/Script/Protocol                                                    | 254        | 1225            |
| 15 | TEP-14  | Summary of Public Outreach                                                        | 929        | 1225            |
| 16 | TEP-15  | Proposed Certificate of<br>Environmental Compatibility                            | 1225       | 1225            |
| 17 |         |                                                                                   |            |                 |
| 18 | TEP-16  | Undergrounding Presentation                                                       | 950        | 1225            |
| 19 | TEP-17  | Undergrounding Cost Analysis<br>Study                                             | 948        | 1225            |
| 20 | TEP-18  | Testimony Summary of Sara<br>Baker                                                | --         | Not<br>Utilized |
| 21 |         |                                                                                   |            |                 |
| 22 | TEP-19  | Property Valuation Study                                                          | 1573       | 1574            |
| 23 | TEP-20  | Additional Project Comments                                                       | 929        | 1225            |
| 24 | TEP-21  | Letter of Support from<br>University of Arizona                                   | 368        | 1225            |
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| 4  | TEP-23 | Letter of Support from Southern Arizona Leadership Council                         | 931        | 1225     |
| 5  |        |                                                                                    |            |          |
| 6  | TEP-24 | Email from State Historic Preservation Office re Project Coordination              | 433        | 1225     |
| 7  |        |                                                                                    |            |          |
| 8  | TEP-25 | Commission Staff Letter re Midtown Reliability Project                             | 171        | 1225     |
| 9  |        |                                                                                    |            |          |
| 10 | TEP-26 | Gateway Corridor Zone Overlay Map                                                  | 872        | 1225     |
| 11 | TEP-27 | National Grid Report re Undergrounding high voltage electricity transmission lines | 1035       | 1225     |
| 12 |        |                                                                                    |            |          |
| 13 | TEP-28 | City of Tucson Chicanes Examples                                                   | 936        | 1225     |
| 14 |        |                                                                                    |            |          |
| 15 | TEP-29 | Letter of Support from Boys & Girls Clubs of Tucson                                | 1225       | 1225     |
| 16 | TEP-30 | Supplemental Undergrounding Cost Analysis                                          | 1012       | 1225     |
| 17 |        |                                                                                    |            |          |
| 18 | TEP-31 | Updated Project Cost Summary and Comparison                                        | 1057       | 1225     |
| 19 | TEP-32 | Updated Corridor Map for Preferred Route                                           | 1211       | 1225     |
| 20 |        |                                                                                    |            |          |
| 21 | TEP-33 | Tucson Sentinel News Article re Street                                             | 1197       | 1225     |
| 22 | TEP-34 | Excerpt from SRP High Tech Interconnection Project                                 | 1443       | 1575     |
| 23 |        |                                                                                    |            |          |
| 24 | TEP-35 | University Area Plan                                                               | 1443       | 1444     |
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| 3  | TEP-36  | Alternative Proposed                                                                                                                                                 | 1804       | 1805     |
| 4  |         | Certificate of Environmental<br>Compatibility                                                                                                                        |            |          |
| 5  | BUMCT-1 | Testimony Summary of Mark<br>Barkenbush                                                                                                                              | 37         | 1322     |
| 6  | BUMCT-2 | Witness Presentation                                                                                                                                                 | 37         | 1322     |
| 7  | COT-1   | SARGENT & LUNDY UNDERGROUND                                                                                                                                          | 1405       | 1439     |
| 8  |         | COST ANALYSIS Report SL-015392                                                                                                                                       |            |          |
| 9  | COT-2   | Testimony Summary of Mark<br>Castro                                                                                                                                  | 1405       | 1439     |
| 10 | COT-3   | CITY OF TUCSON MAJOR STREETS<br>AND ROUTES PLAN                                                                                                                      | 1405       | 1439     |
| 11 |         |                                                                                                                                                                      |            |          |
| 12 | COT-4   | City of Tucson Election<br>Official Voter information re:<br>Proposition 412 (English and<br>Spanish Version)                                                        | 1405       | 1439     |
| 13 |         |                                                                                                                                                                      |            |          |
| 14 | COT-5   | City of Tucson Major Streets<br>and Routes                                                                                                                           | 1345       | 1439     |
| 15 |         |                                                                                                                                                                      |            |          |
| 16 | COT-6   | Link to Plan Tucson: City of<br>Tucson General &<br>Sustainability Plan (2013)                                                                                       | 1405       | 1439     |
| 17 |         |                                                                                                                                                                      |            |          |
| 18 | COT-7   | Tucson Electric Power vs. City<br>of Tucson and City of Tucson<br>Board of Adjustment Under<br>Advisement Ruling Pima County<br>Superior Court Case No.<br>C20235484 | 1405       | 1439     |
| 19 |         |                                                                                                                                                                      |            |          |
| 20 |         |                                                                                                                                                                      |            |          |
| 21 | COT-8   | WITNESS PRESENTATION MARK<br>CASTRO                                                                                                                                  | 1405       | 1439     |
| 22 |         |                                                                                                                                                                      |            |          |
| 23 | COT-9   | Statement of Karin Uhlich,<br>Councilmember Ward 6                                                                                                                   | 1575       | 1575     |
| 24 |         |                                                                                                                                                                      |            |          |
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| 4  | COT-11 | Statement of Richard Fimbres,<br>Councilmember Ward 5                 | 1879       | 1879     |
| 5  | UAZ-1  | Sargent & Lundy Report<br>SL-015392 Revision 0 Report                 | 1461       | 1537     |
| 6  |        |                                                                       |            |          |
| 7  | UAZ-2  | Sargent & Lundy Report<br>SL-015392 Revision 7 Final<br>Report        | 1537       | 1537     |
| 8  |        |                                                                       |            |          |
| 9  | UAZ-3  | Excerpts of TEP CEC<br>Application from Line Siting<br>Case 192       | 1537       | 1537     |
| 10 |        |                                                                       |            |          |
| 11 | UAZ-4  | Excerpts of SRP Testimony from<br>Line Siting Case 195                | 1537       | 1537     |
| 12 |        |                                                                       |            |          |
| 13 | UAZ-5  | Excerpts of SRP Exhibits from<br>Line Siting Case 195                 | 1462       | 1537     |
| 14 | UAZ-6  | Excerpts of Chandler Exhibits<br>from Line Siting Case 195            | 1537       | 1537     |
| 15 |        |                                                                       |            |          |
| 16 | UAZ-7  | Excerpts of APS Testimony from<br>Line Siting Case 198                | 1537       | 1537     |
| 17 | UAZ-8  | Excerpts of APS Exhibits from<br>Line Siting Case 198                 | 1208       | 1537     |
| 18 |        |                                                                       |            |          |
| 19 | UAZ-9  | Excerpt of SRP District Board<br>Meeting Notice & Agenda<br>3/28/2024 | 1455       | 1537     |
| 20 |        |                                                                       |            |          |
| 21 | UAZ-10 | APS Central Phoenix Project<br>Website                                | 1537       | 1537     |
| 22 | UAZ-11 | Underground Arizona Website                                           | 1525       | 1537     |
| 23 | UAZ-12 | PDI2 Utility Undergrounding<br>Lifecycle Cost Guide                   | 1537       | 1537     |
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| 3  | UAZ-13 | S&C Electric Company: The      | 1480       | 1537     |
| 4  |        | Changing Economics of Utility  |            |          |
|    |        | Investment in Undergrounding   |            |          |
| 5  | UAZ-14 | Utility Dive: As wildfires     | 1480       | 1537     |
| 6  |        | losses mount, will commercial  |            |          |
|    |        | insurers                       |            |          |
| 7  |        | decline to cover utilities?    |            |          |
| 8  | UAZ-15 | EIA Electric Power Annual      | 1481       | 1537     |
| 9  |        | Report, Table 11.1:            |            |          |
|    |        | Reliability                    |            |          |
| 10 |        | Metrics for the U.S.           |            |          |
|    |        | Distribution System            |            |          |
| 11 | UAZ-16 | 10th International Conference  | 1174       | 1537     |
| 12 |        | on Insulated Power Cables: Can |            |          |
|    |        | cables last 100 years?         |            |          |
| 13 | UAZ-17 | TEP 2023 Annual Report 10K,    | 1537       | 1537     |
|    |        | Note 4.                        |            |          |
| 14 | UAZ-18 | UMC Banner Letter of           | 1538       | Not      |
| 15 |        | Opposition                     |            | Utilized |
| 16 | UAZ-19 | Not Utilized (See TEP-35)      | 1433       | Not      |
|    |        |                                |            | Utilized |
| 17 | UAZ-20 | TEP-University of Arizona      | 1538       | Not      |
| 18 |        | Special Contract               |            | Utilized |
| 19 | UAZ-21 | TEP-City of Tucson Franchise   | 1011       | 1540     |
|    |        | Agreement                      |            |          |
| 20 | UAZ-22 | Zoning Examiner's Decision on  | 1426       | 1540     |
| 21 |        | TEP Special Exception Permit   |            |          |
| 22 | UAZ-23 | Zoning Administrator's         | 1540       | Not      |
|    |        | Determination on Gateway       |            | Utilized |
| 23 |        | Corridor                       |            |          |
| 24 | UAZ-24 | University Area Plan Excerpts  | 1540       | 1541     |
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|    |                               |                                                                  |            |                 |
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| 3  | UAZ-25                        | APS Tempe Town Lake 230 kV<br>OH/UG Conversion Project<br>Slides | 1540       | Not<br>Utilized |
| 4  |                               |                                                                  |            |                 |
| 5  | UAZ-26                        | Blank                                                            | 1540       | Not<br>Utilized |
| 6  |                               |                                                                  |            |                 |
| 7  | UAZ-27                        | Plan Tucson Goals & Policies                                     | 1542       | Not<br>Utilized |
| 8  | UAZ-28                        | Plan Tucson Chapter 3                                            | 1542       | Not<br>Utilized |
| 9  |                               |                                                                  |            |                 |
| 10 | UAZ-29                        | Timeline of Events by<br>Underground Arizona                     | 1542       | Not<br>Utilized |
| 11 | UAZ-30                        | Arizona Revised Statutes<br>40-360.06                            | 1542       | Not<br>Admitted |
| 12 |                               |                                                                  |            |                 |
| 13 | UAZ-31                        | Arizona Revised Statutes<br>48-621                               | 1547       | Not<br>Utilized |
| 14 | UAZ-32                        | Streetscape Photos by E.<br>Alster                               | 1547       | Not<br>Utilized |
| 15 |                               |                                                                  |            |                 |
| 16 | UAZ-33                        | Visit Tucson Annual Report                                       | 1547       | Not<br>Utilized |
| 17 | UAZ-34                        | TEP 2023 Annual Report 10K<br>Excerpts                           | 1543       | 1544            |
| 18 |                               |                                                                  |            |                 |
| 19 | UAZ-35                        | TEP 2020 Annual Report 10K,<br>Cash Flow Statement               | 1543       | 1544            |
| 20 | UAZ-36                        | APS 2023 FERC Form 1 Excerpts                                    | 1455       | 1544            |
| 21 | UAZ-37                        | APS 2022 FERC Form 1 Excerpts                                    | 1462       | 1544            |
| 22 | UAZ-38                        | APS 2021 FERC Form 1 Excerpts                                    | 1462       | 1544            |
| 23 | UAZ-39                        | APS 2020 FERC Form 1 Excerpts                                    | 1462       | 1544            |
| 24 | UAZ-40                        | APS 2019 FERC Form 1 Excerpts                                    | 1462       | 1544            |
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| 2  | NO.    | DESCRIPTION                                                                                                                                                       | IDENTIFIED | ADMITTED        |
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| 3  | UAZ-41 | APS 2018 FERC Form 1 Excerpts                                                                                                                                     | 1462       | 1544            |
| 4  | UAZ-42 | Excerpt of APS Exhibits from<br>Line Siting Case 169                                                                                                              | 1543       | 1544            |
| 5  | UAZ-43 | UNS Electric Study: Appendix<br>D: Property Values effects<br>from High Voltage Overhead<br>Transmission Line: Study<br>Methodology, Analysis, and<br>Conclusions | 1485       | 1544            |
| 9  | UAZ-44 | Tucson.com: Tucson City<br>Council approves 20-story<br>tower at Speedway and Campbell                                                                            | 1489       | 1544            |
| 11 | UAZ-45 | KGUN9: Apartments, retail<br>development coming to edge of<br>UArizona campus                                                                                     | 1489       | 1544            |
| 13 | UAZ-46 | Tucson.com: A new 10-story<br>student housing complex is<br>going up in Tucson                                                                                    | 1489       | 1544            |
| 15 | UAZ-47 | Utility Dive: Arizona<br>regulators OK 10% Tucson<br>Electric Power rate increase,<br>eliminate EV incentive                                                      | 1478       | 1544            |
| 18 | UAZ-48 | Tucson.com: Tucson Electric<br>Power's \$99.5M rate increase<br>proposal hits residential<br>customers hardest                                                    | 1478       | 1544            |
| 20 | UAZ-49 | TEP.com: Investing in Our<br>Community                                                                                                                            | 1547       | Not<br>Utilized |
| 22 | UAZ-50 | TEP.com: Ratepayer Assistance                                                                                                                                     | 1547       | Not<br>Utilized |
| 23 | UAZ-51 | FINRA Series 86 & 87 lines<br>Examination Content                                                                                                                 | 1451       | 1544            |
| 25 | //     |                                                                                                                                                                   |            |                 |

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| 3  | UAZ-52 | Arizona Real Estate Broker<br>lines Examination Content             | 1547       | Not<br>Utilized |
| 4  | UAZ-53 | APS 2023 Ten Year Transmission<br>Plan Excerpts                     | 1544       | 1544            |
| 5  |        |                                                                     |            |                 |
| 6  | UAZ-54 | Excerpts of TEP CEC App Case<br>192, pages 11-17, 867-869           | 1461       | 1545            |
| 7  |        |                                                                     |            |                 |
| 8  | UAZ-55 | Southwire 138kV and 230kV XLPE<br>Product Brochures                 | 1545       | Not<br>Utilized |
| 9  | UAZ-56 | Study: Underground power lines<br>can be the least cost option      | 1480       | 1547            |
| 10 |        |                                                                     |            |                 |
| 11 | UAZ-57 | APS vs. Town of Paradise<br>Valley (1980), Arizona Supreme<br>Court | 1545       | Not<br>Utilized |
| 12 |        |                                                                     |            |                 |
| 13 | UAZ-58 | Excerpts of SRP Exhibits from<br>Line Siting Case 175               | 1462       | 1547            |
| 14 | UAZ-59 | Tables of Sargent & Lundy and<br>Comparables                        | 1186       | Not<br>Utilized |
| 15 |        |                                                                     |            |                 |
| 16 | UAZ-60 | TEP Reliability Press Release                                       | 1546       | Not<br>Utilized |
| 17 | UAZ-61 | Excerpts of APS Testimony FORM<br>Line Siting Case 196              | 1546       | 1547            |
| 18 |        |                                                                     |            |                 |
| 19 | UAZ-62 | Witness Presentation                                                | 1450       | 1547            |

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1 BE IT REMEMBERED that the above-entitled and  
2 numbered matter came on regularly to be heard before the  
3 Arizona Power Plant and Transmission Line Siting  
4 Committee at Tucson Reid Park Doubletree, 445 South  
5 Alvernon Way, Tucson, Arizona, commencing at 9:10 a.m. on  
6 July 18, 2024.

7

8 BEFORE: ADAM STAFFORD, Chairman

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

19 APPEARANCES:

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

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

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

11 MS. GRABEL: I do, yes.

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

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

15 MR. DEMPSEY: Yes.

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

18 (Exhibit COT-11 was admitted.)

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

25 And he pulled that Decision, and it turns

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

5 CHMN STAFFORD: Certainly.

6  
7 CLARK BRYNER (recalled),  
8 called as a witness on behalf of Applicant, having been  
9 previously affirmed or sworn by the Chairman to speak the  
10 truth and nothing but the truth, testified as follows:

11  
12 MR. BRYNER: You're not done with me yet.  
13 So, yeah, just real, real, real quick. So,  
14 yeah, not going to argue that TEP, I'm looking at the  
15 application right now. It says, "Applicant: Tucson  
16 Electric Power, Kevin O'Brien." He's one of our -- or at  
17 the time he was one of our environmental and land use  
18 planners who filed the application for the Silverbell.

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

24 TEP had an easement for those facilities.  
25 We weren't in franchise. And so as a result it was the

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

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

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

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

17 CHMN STAFFORD: Thank you, Mr. Bryner.

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

20 MR. LUSK: None from the City.

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

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

24 CHMN STAFFORD: Thank you, Mr. Bryner.

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

1 ready for closing arguments. Ms. Grabel.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25           TEP was made even less comfortable by the

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 by the City of Tucson.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 CHMN STAFFORD: Thank you, Ms. Grabel.

14 Ms. De Blasi.

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

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

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

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

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

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

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

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

1 discussed by Mr. Barkenbush.

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

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

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

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

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

1 of Medicine.

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

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

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

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

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

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

1 the emergency flights to the community.

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

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

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

21 The Committee is tasked with considering  
22 viewsheds impacted by the line alternatives.

23 Mr. Barkenbush testified as to the reasons for siting of  
24 the patients' building to be inclusive of a calming view,  
25 and to the detrimental impacts to the viewshed for the

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

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

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

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

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

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

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

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

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

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

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

1 significant amount of time.

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

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

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

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

25                   In addition to avoiding other impacts to

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

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

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

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

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

25 As testified to by Mr. Barkenbush, Banner

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

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

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

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

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

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

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

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

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

11 Thank you.

12 CHMN STAFFORD: Thank you. Mr. Lusk.

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

15 CHMN STAFFORD: Of course.

16 MR. LUSK: Thank you, Grace.

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

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

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

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

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

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

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

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

1 technology available.

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

6 (Phone interruption.)

7 MR. LUSK: I'm not here.

8 MEMBER KRYDER: Sorry.

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

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

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

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

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

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

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

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

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

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

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

1 size of buildings and structures.

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

4 THE REPORTER: Yes, please.

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

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

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

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

25 Those corridors that are identified for

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

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

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

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

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

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

1 belabor it.

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

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

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

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

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

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

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

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

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

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

1 these special exception findings will occur.

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

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

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

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

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

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

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

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

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

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

1 And that process was available in 2021.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 CHMN STAFFORD: Thank you, Mr. Lusk.  
4 Mr. Dempsey.

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

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

8 MEMBER LITTLE: Mr. Chairman.

9 CHMN STAFFORD: Yes, Member Little.

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

13 CHMN STAFFORD: I'll allow it.

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

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

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

1 MR. LUSK: Agreed, Chair.

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

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

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

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

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

12 CHMN STAFFORD: Please do.

13 MR. DEMPSEY: Thank you.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 for TEP.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 Okay. Sorry.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 currently proposed.

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

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

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

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

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

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

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

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

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

11 CHMN STAFFORD: Thank you, Mr. Dempsey.

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

16 MEMBER GOLD: Mr. Chairman.

17 CHMN STAFFORD: Yes, Member Gold.

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

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

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

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

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

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

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

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

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

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

25 I said, Okay. Would you double that

1 number?

2 He says, Double the number?

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

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

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

10 I said, Okay. Double it again.

11 He says, Four times? Yeah.

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

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

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

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

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

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

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

5 I said, So what was the problem?

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

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

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

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

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

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

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

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

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

20                  CHMN STAFFORD: Thank you, Member Gold.

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

25                  All right. Thank you. Well, you know

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

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

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

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

19 MEMBER KRYDER: Mr. Chairman.

20 CHMN STAFFORD: Yes, Member Kryder.

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

23 MEMBER GOLD: Second.

24 CHMN STAFFORD: All in favor.

25 (A chorus of "ayes.")

1 CHMN STAFFORD: Opposed?

2 (No response.)

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

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

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

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

25 MEMBER KRYDER: Mr. Chairman.

1 CHMN STAFFORD: Yes, Member Kryder.

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

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

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

12 MEMBER LITTLE: Mr. Chairman.

13 CHMN STAFFORD: Yes, Member Little.

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

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

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

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

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

11 MEMBER LITTLE: Mr. Chairman.

12 CHMN STAFFORD: Yes, Member Little.

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

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

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

1 MEMBER HILL: Mr. Chair.

2 CHMN STAFFORD: Yes, Member Hill.

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

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

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

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

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

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

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

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

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

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

1 I heard some direction and position.

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

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

11 MEMBER HILL: Okay.

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

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

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

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

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

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

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

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

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

20 CHMN STAFFORD: Right. Yes.

21 MEMBER HILL: Okay.

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

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

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

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

22           MEMBER LITTLE: Mr. Chairman.

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

25           CHMN STAFFORD: Yes, Member Little.

1 MEMBER HILL: Go ahead.

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

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

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

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

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

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

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

25 CHMN STAFFORD: No. No it does not.

1 But the policy --

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

4 CHMN STAFFORD: Correct.

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

7 CHMN STAFFORD: Correct.

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

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

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

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

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

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

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

18 MEMBER GOLD: Mr. Chairman.

19 CHMN STAFFORD: Yes, Member Gold.

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

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

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

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

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

7 CHMN STAFFORD: All in favor.

8 (A chorus of "ayes.")

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

11 MEMBER GOLD: Route C.

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

14 MEMBER GOLD: No.

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

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

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

21 MEMBER GOLD: Route C.

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

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

1 MEMBER KRYDER: Mr. Chairman.

2 CHMN STAFFORD: Yes, Member Kryder.

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

8 CHMN STAFFORD: Can you see the cursor?

9 MEMBER KRYDER: Okay.

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

12 MEMBER KRYDER: Okay. Into your mic.

13 CHMN STAFFORD: I can't do both.

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

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

20 MEMBER KRYDER: Okay.

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

24 MEMBER KRYDER: Okay. Thank you.

25 MEMBER HILL: Teamwork makes the dream

1 work.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15                  CHMN STAFFORD: Yes, it is.

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

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

1 that they have lots of policies as well.

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

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

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

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

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

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

3 CHMN STAFFORD: Thank you.

4 MEMBER GOLD: Mr. Chairman.

5 CHMN STAFFORD: Yes, Member Gold.

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

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

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

20 MEMBER GOLD: 2 and 3.

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

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

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

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

9 MEMBER HILL: Mr. Gold.

10 MEMBER LITTLE: Mr. Chairman.

11 CHMN STAFFORD: Yes, Member Little.

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

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

18 MEMBER LITTLE: -- using Route 2 direction.

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

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

25 MEMBER GOLD: Yes, Mr. Chairman.

1 CHMN STAFFORD: Okay.

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

4 CHMN STAFFORD: Yes, Ms. De Blasi.

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

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

11 CHMN STAFFORD: All right. Thank you.

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

15 CHMN STAFFORD: No.

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

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

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

1 MEMBER GOLD: 2 and 3.

2 CHMN STAFFORD: 2 and 3.

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

6 MEMBER GOLD: I guess I second it.

7 CHMN STAFFORD: All in favor?

8 (A chorus of "ayes.")

9 CHMN STAFFORD: Opposed?

10 (No response.)

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

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

14 Yes, Member Kryder, you have a question?

15 MEMBER KRYDER: Just for clarification.

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

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

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

22 And A-1 is an option.

23 And then we have D is also an option.

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

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

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

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

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

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

16                  MEMBER HILL: Mr. Chair.

17                  CHMN STAFFORD: Yes, Member Hill.

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

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

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

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

16 MEMBER GOLD: Mr. Chairman.

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

19 MEMBER LITTLE: Mr. Chairman.

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

23 MEMBER GOLD: Mr. Chairman.

24 CHMN STAFFORD: Yes, Member Gold.

25 MEMBER GOLD: First of all, would you

1 repeat that so I can understand it.

2 CHMN STAFFORD: Okay.

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

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

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

10 MEMBER HILL: Or Adams.

11 CHMN STAFFORD: Or Adams.

12 MEMBER GOLD: Or Adams, which is?

13 CHMN STAFFORD: From the substation to  
14 Park.

15 MEMBER GOLD: Substation to Park.

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

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

20 CHMN STAFFORD: A.

21 MEMBER GOLD: This is A?

22 CHMN STAFFORD: No. That's B.

23 MEMBER GOLD: That's B.

24 CHMN STAFFORD: B is on Park.

25 MEMBER GOLD: So B has no --

1 CHMN STAFFORD: B has poles.

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

3 CHMN STAFFORD: Correct.

4 MEMBER GOLD: So B doesn't --

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

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

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

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

24 Do we like the Vine Avenue route?

25 They appear to be the same, just one block

1 apart from each.

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

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

8 MEMBER GOLD: Let's delete Route A.

9 CHMN STAFFORD: Huh?

10 MEMBER GOLD: Let's delete Route A.

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

13 MEMBER LITTLE: Mr. Chairman.

14 CHMN STAFFORD: Yes, Member Little.

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

17 C I have mixed feelings about.

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

20 CHMN STAFFORD: Right.

21 MEMBER LITTLE: -- to choose a route.

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

1 way, I believe.

2 Is that accurate, Ms. Grabel?

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

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

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

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

18 MEMBER LITTLE: No.

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

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

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

8 MEMBER GOLD: Mr. Chairman.

9 CHMN STAFFORD: Yes, Member Gold.

10 MEMBER GOLD: TEP prefers the Park route.

11 CHMN STAFFORD: Correct.

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

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

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

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

25 MEMBER KRYDER: Second.

1 CHMN STAFFORD: All in favor.

2 (A chorus of "ayes.")

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

5 MEMBER LITTLE: Wait. How about opposed?

6 CHMN STAFFORD: Opposed?

7 (A chorus of "ayes.")

8 MEMBER HILL: Aye.

9 MEMBER LITTLE: Aye.

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

12 MEMBER LITTLE: Two. Me too.

13 MEMBER RICHINS: Roll call.

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

16 Member Kryder.

17 MEMBER KRYDER: I'm sorry?

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

20 There was some confusion with that last  
21 vote.

22 MEMBER KRYDER: Yes.

23 CHMN STAFFORD: Use your mic, please.

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

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

1 MEMBER SOMERS: Yes.

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

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

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

7 MEMBER HILL: I just didn't --

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

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

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

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

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

19 The "ayes" have it.

20 MEMBER GOLD: Mr. Chairman.

21 CHMN STAFFORD: Yes, Member Gold.

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

25 So had it been the other way around, I

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

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

6 MEMBER GOLD: Mr. Chairman.

7 CHMN STAFFORD: Those are the two left.

8 Yes, Member Gold.

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

12 CHMN STAFFORD: Yes.

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

16 CHMN STAFFORD: Yes.

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

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

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

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

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

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

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

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

1 MEMBER MERCER: Second.

2 CHMN STAFFORD: Further discussion?

3 (No response.)

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

5 (A chorus of "ayes.")

6 CHMN STAFFORD: Opposed?

7 (No response.)

8 CHMN STAFFORD: Hearing none, okay, B and

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

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

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

13 CHMN STAFFORD: 1 and 4.

14 MEMBER GOLD: Let's look at those.

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

19 MEMBER HILL: Yeah.

20 MEMBER LITTLE: Mr. Chairman.

21 CHMN STAFFORD: Member Little.

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

25 This would give the applicant the option of

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

4 MEMBER GOLD: Where is 1-A?

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

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

9 CHMN STAFFORD: That's Lester.

10 MEMBER LITTLE: Lester. Thank you.

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

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

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

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

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

1 CHMN STAFFORD: 1.02?

2 MEMBER LITTLE: Or 1.1?

3 CHMN STAFFORD: 1.2 or 1.1?

4 What was that, Member Richins?

5 MEMBER RICHINS: I'm just popping off.

6 MEMBER DRAGO: Mr. Chairman.

7 CHMN STAFFORD: Yes, Member Drago.

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

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

15 MEMBER HILL: To Speedway.

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

18 MEMBER HILL: It's Cherry.

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

22 MEMBER GOLD: Mr. Chairman.

23 CHMN STAFFORD: Yes, Member Gold.

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

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

3 CHMN STAFFORD: Yes.

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

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

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

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

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

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

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

1 MEMBER GOLD: Still not answering my  
2 question.

3 MS. GRABEL: Okay.

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

7 MS. GRABEL: I gotcha. Go ahead.

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

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

14 MEMBER GOLD: Yes.

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

21 MEMBER GOLD: Thank you.

22 MEMBER LITTLE: Mr. Chairman.

23 CHMN STAFFORD: Yes, Member Little.

24 MEMBER LITTLE: I would agree with that.

25 However 1.1 does take care of the issue with the

1 hospital.

2 CHMN STAFFORD: Yes, that is a --

3 MEMBER GOLD: Mr. Chairman.

4 CHMN STAFFORD: Yes, Member Gold.

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

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

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

12 MS. DE BLASI: Correct.

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

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

18 CHMN STAFFORD: 1.1.

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

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

1 MS. DE BLASI: Correct.

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

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

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

11 MEMBER GOLD: Mr. Chairman.

12 CHMN STAFFORD: Yes, Member Gold.

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

16 CHMN STAFFORD: I agree.

17 Member Hill?

18 MEMBER HILL: I agree.

19 CHMN STAFFORD: Member Richins?

20 MEMBER RICHINS: Sure.

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

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

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

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

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

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

14 MEMBER HILL: That's what I heard.

15 CHMN STAFFORD: Okay.

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

18 CHMN STAFFORD: And then --

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

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

24 MEMBER LITTLE: Oh, absolutely.

25 CHMN STAFFORD: Yes.

1 MEMBER LITTLE: Absolutely.

2 MEMBER HILL: I agree.

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

7 MEMBER KRYDER: I concur, Mr. Chairman.

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

10 Well, that's bringing us --

11 MEMBER LITTLE: Mr. Chairman.

12 CHMN STAFFORD: Yes, Member Little.

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

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

22 MEMBER LITTLE: Yes.

23 MEMBER KRYDER: Mr. Chairman.

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

1 MEMBER LITTLE: I did.

2 CHMN STAFFORD: Okay. You did?

3 MEMBER LITTLE: Yes.

4 CHMN STAFFORD: Yes. Thank you.

5 MEMBER LITTLE: Yes.

6 CHMN STAFFORD: Member Kryder.

7 MEMBER KRYDER: I need to hear the motion.

8 I was thinking along a different line.

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

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

14 CHMN STAFFORD: It was.

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

18 CHMN STAFFORD: Okay. Further discussion?

19 MEMBER GOLD: Yes, Mr. Chairman.

20 CHMN STAFFORD: Yes, Member Gold.

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

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

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

4 MEMBER LITTLE: Right.

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

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

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

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

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

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

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

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

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

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

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

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

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

1 implications of that are.

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

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

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

8 Yes, Member Lusk.

9 MR. LUSK: Not yet.

10 CHMN STAFFORD: Mr. Lusk.

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

14 CHMN STAFFORD: Yes, Member Little.

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

16 CHMN STAFFORD: For?

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

19 MEMBER GOLD: She's correct.

20 CHMN STAFFORD: What was the motion again?

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

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

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

2 MR. RICHINS: That's correct.

3 MEMBER LITTLE: Yes.

4 CHMN STAFFORD: Okay.

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

7 MEMBER LITTLE: Yes.

8 CHMN STAFFORD: Yes. Yes.

9 All in favor say "aye."

10 (A chorus of "ayes.")

11 CHMN STAFFORD: Opposed?

12 (No response.)

13 CHMN STAFFORD: Okay. None.

14 The motion carries.

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

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

19 Hearing nothing, we stand in recess.

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

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

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

1 Member Somers.

2 MEMBER SOMERS: I am here.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 CHMN STAFFORD: And so I had another

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

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

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

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

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

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

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

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

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

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

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

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

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

5 MEMBER RICHINS: Chairman.

6 CHMN STAFFORD: Member Richins.

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

13 CHMN STAFFORD: Exactly.

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

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

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

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

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

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

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

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

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

1 make that decision.

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

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

6 CHMN STAFFORD: Mr. Lusk.

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

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

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

19 CHMN STAFFORD: Okay.

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

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

25 MEMBER LITTLE: Mr. Chairman.

1 CHMN STAFFORD: Yes, Member Little.

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

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

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

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

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

1 somehow paying for the cost above the overhead line.

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

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

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

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

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

25 CHMN STAFFORD: If you have -- if you

1 have --

2 MEMBER RICHINS: He's thinking out loud.

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

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

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

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

1 MEMBER GOLD: Mr. Chairman.

2 CHMN STAFFORD: Yes, Member Gold.

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

6 MR. LUSK: No.

7 CHMN STAFFORD: Mr. Lusk.

8 MR. LUSK: I think you said 2001.

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

11 MR. LUSK: That's 24 years.

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

14 MR. LUSK: I think only since 2019.

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

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

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

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

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

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

25 And to give us the comfort we need to build

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

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

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

17 MEMBER RICHINS: Chairman.

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

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

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

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

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

10 MR. LUSK: I agree, yes.

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

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

15 MEMBER GOLD: And what's that?

16 MR. LUSK: The preferred route.

17 MEMBER GOLD: Okay. Thank you.

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

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

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

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

7 CHMN STAFFORD: Yes, Mr. Lusk.

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

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

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

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

23 CHMN STAFFORD: Yes, Mr. Lusk.

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

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

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

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

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

15 MEMBER RICHINS: Well, Chairman.

16 CHMN STAFFORD: If -- oh, yes.

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

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

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

16                  CHMN STAFFORD: Or both.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 so you split the cost for underground.

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

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

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

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

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

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

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

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

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

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

1 CHMN STAFFORD: Yes.

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

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

9 MEMBER GOLD: Mr. Chairman.

10 CHMN STAFFORD: Yes, Member Gold.

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

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

16 MEMBER GOLD: Exactly.

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

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

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

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

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

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

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

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

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

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

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

1 go surface Mr. Lusk is asking you.

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

8 But what you're proposing is something that  
9 Arizona state law specifically allows you to do when  
10 there is a local ordinance in play. And that's what  
11 we're asking for here.

12 And I -- so I don't think that you have to  
13 get surface what the UDC says about who pays for it or  
14 whatever. I think that a finding that requiring the  
15 utility to pay for it in its entirety is unduly  
16 restrictive and not feasible in light of the technology  
17 available, because the cost really is technology driven.

18 I believe that that has -- that that fits  
19 what state law allows you to do. And it allows the City  
20 to continue to do what is -- I don't think it's in  
21 conflict with Paradise Valley.

22 I don't think it's in conflict with the  
23 possibility that somebody would form an undergrounding  
24 district. I don't think there's any of that.

25 And it is a case-specific finding. This is

1 not a broad statement that we're asking you to make.  
2 There are going to be projects in the future, I'm  
3 certain, where there will be safety or reliability  
4 reasons.

5 Copper prices could fall significantly, the  
6 insulators could change. The way that the vaults are  
7 built could change. All sorts of things as this  
8 technology evolves could change. So I just want to be  
9 very clear that TEP really isn't asking you to make a  
10 blanket statement about undergrounding.

11 CHMN STAFFORD: Thank you.

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

13 CHMN STAFFORD: Yes, Mr. Lusk.

14 MR. LUSK: I think that's what's exactly in  
15 the CEC, though. There is no regulation cited in the  
16 CEC, there's only undergrounding. And so -- and if --  
17 and I understand where you're trying to go, Mr. Chair,  
18 and I don't necessarily have a problem with that other  
19 than the fact that, again, the regulations we've been  
20 discussing through this entire proceeding, the UAP and  
21 the Gateway Corridor Zone, neither of them discuss who  
22 pays for what's required.

23 So in order to make a finding that, and  
24 even if -- and I understand you're wanting to make it  
25 conditional, but if you're making the finding that the

1 Gateway Corridor Zone requires TEP to pay for  
2 undergrounding within the Gateway Corridor Zone, I don't  
3 know that you can make that finding.

4 CHMN STAFFORD: I'm not proposing that we  
5 make the finding that it does that. I think what I'm  
6 suggesting is that if, then. See, if any of these  
7 ordinances require undergrounding without covering the  
8 cost differential between overhead and underground, only  
9 then would it be unreasonably restrictive and not  
10 feasible. That's what I'm proposing.

11 MR. LUSK: And I understand. I understand.

12 CHMN STAFFORD: If the if never comes to  
13 pass, the then doesn't happen.

14 MR. LUSK: And I think that's a good  
15 direction to go. I'm just in terms of the record, it's  
16 going to be difficult for someone to parse out what does  
17 the Gateway Corridor Zone require as it relates to paying  
18 for it; right? Because that's a hypothetical.

19 And I just want to be clear that our  
20 position -- and I don't want to belabor this and I want  
21 to allow you to have your conversation, please.

22 But I think our position would probably be  
23 that's not an appropriate finding because it doesn't do  
24 that, and I think obviously others disagree with me, but  
25 that would be our position.

1 MS. GRABEL: Mr. Chairman.

2 CHMN STAFFORD: Ms. Grabel, Member Hill,  
3 thoughts on that. One second.

4 MS. GRABEL: Mr. Chairman, I agree with  
5 you. I think it is an if-then, and I think that your  
6 reasoning makes very good sense. The crux of the issue  
7 is the differential cost of undergrounding, and the  
8 ordinance is unreasonable if there's not a cost-sharing  
9 mechanism and I think that's also very consistent with  
10 the Corporation Commission's policy.

11 CHMN STAFFORD: And I think as part of the  
12 variance or special exception process, couldn't the City  
13 and the utility sort out the payment method?

14 MS. GRABEL: Correct. And it doesn't have  
15 to be the City, it could be a third party, it could be an  
16 underground district that puts a lot of funding issues on  
17 the table.

18 MR. LUSK: I agree with both you and  
19 Ms. Grabel on that point, and I guess our position would  
20 then be that that makes it not unreasonably restrictive.

21 CHMN STAFFORD: I'm not following that.

22 MR. LUSK: If the opportunity is there to  
23 allow for relief and allow for the parties to work out  
24 how they want to pay for it and all of that, it makes it  
25 hard.

1                   And, again, we don't need to argue all of  
2 this right now. But the issue is that if that is all  
3 available to the applicant through this process, through  
4 that ordinance, and they have not taken advantage of it  
5 yet, so we don't know sort of how it's going to play out,  
6 it makes it hard for me to understand how we would argue  
7 it's unreasonably restrictive with all of those caveats.

8                   CHMN STAFFORD: I'm still not following.  
9 The way I see it is if they go through the process, it's  
10 denied and the only way for them to build a line is to  
11 underground it at their own expense and to pass on to  
12 ratepayers without the City sharing in the cost  
13 differential. I think then that would be unreasonably  
14 restrictive and not feasible.

15                   If, however, because you couldn't -- the  
16 City can't comment on how the special exception or  
17 variance process is going to play out, because they have  
18 to do their own process, they have to go through the  
19 steps and I get that.

20                   I understand that they can't pre -- it's  
21 like coming in to the Commission and getting preapproval  
22 of a line before the line siting holds the hearing. You  
23 just can't do it. And I understand that's the same  
24 process with the City for this.

25                   So I'm just saying the utility needs some

1 more certainty than they've gotten from the City so far  
2 in how this project's going to go. So I think that I'm  
3 trying to find a middle ground so the two parties can  
4 reach an agreement, get the line built, and provide the  
5 reliability of service that the City needs.

6 So I think it's -- I think it's not in the  
7 City's own best interest to block construction of this  
8 line or insist that, you know, the utility absorb  
9 \$63 million of costs to pass on to ratepayers later to  
10 get it built. I don't think that's reasonable.

11 But if, however, they do reach some kind of  
12 agreement on the funding, well, then it is reasonable.  
13 And that's kind of the -- I think that is the crux of the  
14 impasse that we're at.

15 Because we're going round and round, the  
16 City doesn't want to commit to pay for the difference,  
17 but they want to require the undergrounding. And the  
18 utility doesn't want to front the cost for the  
19 undergrounding on the risk that the Commission will tell  
20 them to kick rocks and not -- not go into recovery.

21 So I think it's -- I'm just trying to --  
22 what can this Committee do to break that log jam so to  
23 force the parties at the table to come to an agreement on  
24 how they're going to pay for this and get it done.  
25 That's what I'm trying to do through this process.

1 Member Little, I'm sorry, I've kept you  
2 waiting for a while. You had a comment or question.

3 MEMBER LITTLE: I'll save it. Thank you.

4 MEMBER HILL: Mr. Chair, I agree with you.  
5 I think if the two parties could come to language -- come  
6 together on language that is a finding that demonstrates  
7 commitment and isn't giving one party more leverage than  
8 the other, then I would -- I would definitely consider  
9 that.

10 Because I think the solution that might  
11 be -- well, there's a litany of number of things that  
12 could be happening; right? Like, this tax, that tax,  
13 this franchise fee, this thing, and maybe there is, you  
14 know, a shared cost outcome that works.

15 I also feel like we're kind of providing  
16 two corridor options here. One that the -- I mean, I  
17 just have to acknowledge that the Campbell Avenue route,  
18 I like that it stays out of the neighborhoods more and  
19 stays in that commercial corridor. And as it's proposed  
20 with 1.1, more than half of it or two-thirds of it is  
21 aboveground.

22 I like that route more than I like the  
23 Euclid route. But I think giving both routes provides  
24 options and opportunities to talk about what's best for  
25 Tucson and TEP and Banner and all of the parties here.

1                   So if the parties could identify language  
2   and both be comfortable with that finding, I'd be happy  
3   to include that.

4                   But to create a finding that puts the onus  
5   on the cities to pay for all the undergrounding doesn't  
6   quite -- it feels like it stymies the ability to work  
7   more collaboratively and find a workable solution, so.

8                   MEMBER GOLD: Mr. Chairman.

9                   CHMN STAFFORD: Yes, Member Gold.

10                  MEMBER GOLD: I agree with everything she  
11   said. With one exception, human nature.

12                  MEMBER HILL: Damn.

13                  MEMBER GOLD: That's the problem. The  
14   problem with human nature is it's been five years and  
15   they haven't. Let's put the iron to the fire and say,  
16   "Hey, look, this is what's going to happen. You're not  
17   going to have a choice because you haven't been able to  
18   make a choice."

19                  MEMBER HILL: But they have --

20                  MEMBER GOLD: So we're going to give you  
21   options. You have to make a choice. This has to be  
22   accomplished.

23                  MEMBER HILL: There has been progress in  
24   the last five years, including the variance and special  
25   exception process that was created. So, Mr. Gold, I

1 don't completely agree with you that there hasn't been  
2 progress in five years.

3 MEMBER GOLD: I --

4 MEMBER HILL: I think there's been  
5 refinement of corridors. I think that there's been  
6 special exception processes that have been developed.  
7 And I think that some of the delays have probably been a  
8 function of legal actions, which frankly I can understand  
9 the City's kind of being a little clammy about committing  
10 to a whole lot on the record because these legal  
11 processes could continue.

12 So everybody's a little pussy-footing  
13 around the issues a little bit and then having a hard  
14 time making a commitment. So I do think that there has  
15 been progress. I think there is more progress to be  
16 made, unequivocally, and if the parties could come  
17 together around some language about how they want a  
18 finding that preserves a lot of options for an outcome  
19 that works for everybody, I would be willing to hear  
20 that.

21 MEMBER GOLD: Mr. Chairman.

22 MEMBER SOMERS: Mr. Chair.

23 CHMN STAFFORD: Member Somers.

24 MEMBER SOMERS: Thank you. Just to bounce  
25 off that, I think we have to also remember the last five

1 years have been quite unique. We've had a global  
2 pandemic that shut down processes. A follow-up to that  
3 has been an increase in costs. It has slowed down both  
4 public processes and business processes, you know, across  
5 the country. So a unique set of circumstances that have  
6 really likely have contributed to some of the time line  
7 difficulties.

8 But in addition to that, I don't think we  
9 should dismiss the City has been doing nothing or hasn't  
10 expressed an interest in any type of cost sharing. The  
11 item that went -- the proposition that went before the  
12 voters did have a mechanism in it that was supported by  
13 the City that would have helped raise funds to pay for  
14 this.

15 And I think that that shows some good faith  
16 to put that before the voters, even though the voters  
17 rejected it for whatever their reasons, that the City  
18 didn't put forward a mechanism to help pay for it.

19 I don't think there's any reason to be  
20 overly concerned from our Committee's perspective that  
21 the City wouldn't try to find ways to share that cost.

22 So to Member Little's point, I agree, if we  
23 could find that language, if the two parties could find  
24 the language to come to us as a Committee with a finding  
25 that doesn't put one party's thumb on the scale any more

1 than the other, that works towards a collaborative  
2 agreement to find that funding would be the best avenue  
3 moving forward for getting the CEC done.

4 MEMBER LITTLE: Mr. Chairman.

5 MEMBER SOMERS: I hope you heard that,  
6 because, otherwise, you looked stunned.

7 CHMN STAFFORD: We heard that. Thank you,  
8 Member Somers.

9 MEMBER SOMERS: Okay. Thank you.

10 MEMBER LITTLE: Yes, Member Somers, we did  
11 hear that.

12 CHMN STAFFORD: Member Little.

13 MEMBER LITTLE: And as much as I would love  
14 to take credit for what Member Hill just said, it was not  
15 me, it was her. And I do agree with all of that,  
16 however.

17 CHMN STAFFORD: All right. So Members, so  
18 is there an appetite for a conditional finding?

19 MEMBER LITTLE: Mr. Chairman.

20 CHMN STAFFORD: Yes, Member Little.

21 MEMBER LITTLE: One more thing. The way I  
22 read the statute, it says that we can -- if we find that  
23 there is an ordinance, master plan or regulation that is  
24 unreasonably restrictive, we can still issue the CEC.  
25 That's what it gives us permission to do.

1 It does not tell us that we have permission  
2 to tell anybody that anything has to be overhead or any  
3 part of the ordinance has to be abided by and other parts  
4 don't. It just says that we can issue the CEC.

5 CHMN STAFFORD: Correct. That's what the  
6 statute says. The implications of that are still up in  
7 the air and have not been decided.

8 MEMBER LITTLE: All right.

9 CHMN STAFFORD: I'm not aware of any  
10 Committee making this finding.

11 MEMBER LITTLE: Nor am I. And in addition,  
12 I am also unaware in my experience of the Commission  
13 disallowing undergrounding costs in ratemaking.

14 CHMN STAFFORD: But they haven't been faced  
15 with that problem since they passed that policy, though,  
16 I think.

17 So, and I think that's what the utility's  
18 concern is, because they did pass that policy it's kind  
19 of, hey, it's a big warning. We're telling you, telling  
20 you up front no, you shouldn't be doing that.

21 And then so that, I think that's what --  
22 it's that -- it's the existence of that policy that I  
23 think creates the risks for the utility that they are not  
24 willing to take.

25 MEMBER LITTLE: I understand that. I

1 understand that. But I am -- well, I'm fumbling around  
2 here. I agree with everything that has been said here  
3 with a modified finding. I just am unwilling to -- to  
4 say that -- I guess I don't believe that we have the  
5 right to say it has to be overhead or it has to be  
6 underground.

7 CHMN STAFFORD: Right. What the statute  
8 specifically says is that, you know, the beginning of the  
9 statute says that every CEC must have -- must have as a  
10 condition that they must, that they comply with all  
11 applicable ordinance, master plans and regulations.

12 And then the rest of it goes on to say,  
13 well, if we make a specific finding that one of those or  
14 such ordinance, master plan and regulations is  
15 unreasonably restrictive, and compliance is not feasible  
16 in view of technology available, then we could issue the  
17 CEC notwithstanding that. So the CEC wouldn't require  
18 compliance with it.

19 What it doesn't say is that the utility  
20 would not have to comply with it. That's up in the air,  
21 and I think the applicant would argue that by making that  
22 finding they don't have to comply with that statute,  
23 but -- the plan, ordinance or regulation.

24 But that may or may not be the case.  
25 That'll be for the courts to decide. But I think that

1 what it does -- what's clear about it is that we can  
2 issue the CEC and the condition of the CEC would not be  
3 undergrounding.

4 MR. LUSK: Mr. Chair, if I can perhaps  
5 offer a suggestion, obviously I haven't spoken with TEP  
6 about this.

7 But one thing that I do notice is there is  
8 an opportunity within the proposed CEC for modification  
9 of the CEC itself. Is it possible that the  
10 conditionality that you're discussing, rather than making  
11 the finding that you're -- that the applicant has  
12 requested, could the conditionality be to come back  
13 through that mod -- seeking a modification with the  
14 understanding that that could lead to that finding, if  
15 that makes sense.

16 CHMN STAFFORD: I think that's  
17 theoretically possible. But I don't know how much that  
18 benefits the whole process. Because I think what --

19 MR. LUSK: Well, and I didn't mean to  
20 interrupt, but I guess what I'm suggesting is that I  
21 think part of the concern is that they will go through  
22 the city processes and then be unable to get the relief  
23 that they seek disallows them the opportunity within a  
24 certain period of time to do that, then go through the  
25 processes that have never been tested before. And then

1 let that play out as some of the other members have  
2 suggested. And then still have the opportunity to get  
3 that finding.

4 CHMN STAFFORD: Well, I think they'll have  
5 it always because of how the Committee and the  
6 Commission, how their jurisdiction plays together.  
7 Because you have -- the Committee serves as the finder of  
8 fact, but every CEC we issue isn't effective until it's  
9 approved by the Commission, and they can accept, reject,  
10 or modify whatever we do.

11 MR. LUSK: Of course.

12 CHMN STAFFORD: So, and then once they do  
13 that, then it's the decision of the Commission that is  
14 the authority. And it incorporates by reference the CEC  
15 to the extent they haven't rejected or modified portions  
16 of it.

17 And then under A.R.S. 4252, the applicant  
18 can come to the Commission at any time and request that  
19 the Commission make changes to the CEC or the order or  
20 any of those things, and they've done that in the past.

21 I mean, look at SunZia as a recent example.  
22 They had -- they approved it back in 2016, I believe, but  
23 then they came back in 2022 to make some changes to it.  
24 The Commission, sometimes when they get requests like  
25 that they don't send to it to the Committee. They just,

1 oh, yes, that's a reasonable change and they approve it.  
2 That was the case with APS's, the power plant. I can't  
3 recall the name of it, though.

4 But when they went and added, because the  
5 CEC is usually for 12 units, the first tranche was 10,  
6 the second was two. They never built the second two  
7 because they didn't have the need at the time.

8 And then the CEC to build them expired. So  
9 they came and got relief from the Commission. They  
10 didn't send it to Committee because they said we've  
11 already made the determinations, we're just allowing you  
12 to build the two we said we could before, but the time  
13 lapsed on them.

14 But with the SunZia, because there's  
15 physical changes to, not the route but to the towers,  
16 they found that was enough difference to merit further  
17 hearings and they did, and they amended the CEC and they  
18 approved it.

19 So, I mean, that's --

20 MS. GRABEL: Mr. Chairman, for exactly the  
21 reasons you said is why that process isn't going to work.  
22 I think the Committee has already determined that there's  
23 an urgent need and this project needs to be in service by  
24 2027, even the fastest 4252 I've ever been involved in  
25 still took four or five months to go through. We don't

1 have that time here.

2 CHMN STAFFORD: Right. So I appreciate the  
3 thought, Mr. Lusk, but I think from the way the process  
4 already is and the time frame we're looking at, that  
5 wouldn't work -- but like I -- they have the ability to  
6 seek relief from the Commission at any time afterwards.

7 It's not that, because the statute I think  
8 that Ms. Grabel was referring to earlier is the time  
9 frame for a party to the Committee proceeding to request  
10 review by the Commission. But it'll go before the  
11 Commission anyway, because they have to not earlier than  
12 30 days, not later than 60 days, accept, reject or modify  
13 the CEC as issued by the Committee.

14 MR. LUSK: Thank you, Mr. Chairman. I was  
15 just looking for solutions.

16 MEMBER MERCER: Mr. Chairman.

17 CHMN STAFFORD: Yes, Member Mercer.

18 MEMBER MERCER: So we've spent almost two  
19 weeks listening to testimonies, listening to -- we took  
20 one whole day to do the tour. I agree with Member Little  
21 about the scope of our job as a Committee. And I  
22 understand the concerns of the public, the concerns of  
23 the applicant.

24 What I get out of this whole back and forth  
25 is that the applicant went to the master planner or

1 whatever his title is, his or her title, and they were  
2 told bring us a route.

3 CHMN STAFFORD: We've done that today.  
4 We've given them two.

5 MEMBER MERCER: So now are we going to be  
6 back because now we have two routes?

7 CHMN STAFFORD: We won't be back. Once  
8 we -- assuming we issue -- we vote to issue the CEC, our  
9 job is done unless it goes -- unless the Commission sends  
10 it back to us for further hearing for some reason.

11 MEMBER MERCER: Okay. So my understanding  
12 now is that now that they have two routes they're going  
13 to go back to the planner and we're supposed to just let  
14 it duke it out.

15 CHMN STAFFORD: That is an option,  
16 definitely. The only thing that I'm suggesting is that  
17 because they request a specific finding, and I think the  
18 effect of the finding gives the City more reason to come  
19 up with a funding mechanism, and it gives the utility  
20 possibly the ability to build it aboveground if the City  
21 doesn't fund the difference.

22 And that would be -- there's difference of  
23 opinion on that. This is something that's not ever been  
24 done before. I mean, the statutes existed for 50 years  
25 but I don't recall and I haven't seen any instances of it

1 actually being applied.

2 Much like with the hearing officer. That  
3 has been on the statute. No one did it until last year  
4 because -- and that was because of necessity is what, I  
5 mean, these things were contemplated by the legislature  
6 when it was passed, but they haven't -- it hasn't come  
7 up.

8 I mean, for instance with the volume of  
9 hearings. I mean, when you have four line siting  
10 hearings a year, you don't -- or I just did a hearing  
11 officer -- the Committee can just meet four times, but if  
12 you're doing 50 hearings a year, how are you going to do  
13 that?

14 You need to have more than one body holding  
15 the hearing. So I mean, it's a question of what the  
16 realities are that we're facing and how we're going to  
17 apply the law that we have.

18 So, and I think the way that I see this is  
19 this finding could potentially help break this log jam.

20 Instead of just giving it, you know,  
21 straight up these are unreasonable conditions, I think  
22 they're not unreasonable if the City pays the difference,  
23 or somebody other than the utility and the ratepayers pay  
24 the difference. That's the I think the real sticking  
25 point between the City and the utility.

1                   And my hope would be that if, you know,  
2 not -- so no one's getting all that they want. The  
3 utility's not getting the finding that this is  
4 ridiculous, tell them to put it underground, the City is  
5 not getting a decision that says they have to underground  
6 them, if you tell them to, and you can just tell them to  
7 kick rocks on the payment.

8                   I think that's where the log jam is. And  
9 my hope is that -- my thought is that if a conditional  
10 finding would tip the parties to, okay, we need this  
11 line. The City's got to help pay for the undergrounding.  
12 Or waive undergrounding, either one. I mean, that's  
13 going to be up to the City to decide what it does.

14                  But it gives them all options. And there's  
15 two routes, one that affects residences more, one that  
16 affects commercial areas more, but it's on the main drag  
17 that they want to have the Gateway Corridor on.

18                  And so they, you know, they can -- it gives  
19 them, both parties options to sort it out, but it gives  
20 them -- it changes the field from what they're on now to  
21 hopefully push them to a place where they can make a deal  
22 and get it done.

23                  MEMBER MERCER: So just one more thing. So  
24 is there a possibility that there's another voter  
25 initiative like Proposition 412? As a resident of

1 Tucson, I voted no because I didn't want to pay for it.  
2 Because it was not going to benefit my area of town. And  
3 that was the consensus that I got from other neighbors  
4 and citizens of Tucson. So --

5 CHMN STAFFORD: And to make -- barring  
6 something creative by the Commission, if the City  
7 required undergrounding and the utility undergrounded the  
8 whole line, then those costs would be borne by all  
9 ratepayers, even the ones that don't live in Tucson and  
10 don't elect the officials that required the  
11 undergrounding.

12 Unless -- unless the Commission treated it  
13 differently in rates like the franchise. The franchise  
14 is apparently allocated to only the customers of TEP that  
15 live inside the city.

16 So, but then again you have the situation  
17 where people that live in the City far from where the  
18 line is undergrounded, they pay for it but they don't  
19 benefit from it necessarily. They benefit from the  
20 line's existence, but they don't benefit from putting it  
21 underground.

22 Unless, I guess some could if they drive  
23 down Campbell a lot and they prefer not to look at power  
24 lines and they'd have that benefit. But, you know,  
25 that's -- but most of them probably don't care. Because

1 I don't -- because most people don't care about driving  
2 past power lines. It's having to look at them constantly  
3 from your front door or back door or something.

4 MEMBER MERCER: It's like my son lives in  
5 Scottsdale and there's this humongous, and I mean  
6 humongous power lines, and I go, wow, this is a very, you  
7 know, gated communities and there's power lines like, oh,  
8 my goodness.

9 MEMBER KRYDER: But he bought the house.

10 MEMBER MERCER: You never pay attention to  
11 it until you're on this Committee.

12 CHMN STAFFORD: Yeah, gated communities  
13 need power too, so it's got to come from some place. So  
14 I mean, that's one of the differences between what they  
15 talked about in the Scottsdale versus APS case was that  
16 case involved distribution lines. Because distribution  
17 lines serve smaller finite areas whereas transmission  
18 lines connect to the regional grid.

19 And so power can move through those lines  
20 across the state from one state to another state. You  
21 know, because through these lines TEP can import power  
22 through the EIM, you know, they can get cheap power from  
23 California and they're giving it away.

24 And that saves money for ratepayer. So the  
25 transmission system is -- I think the transmission system

1 is bigger than the local concerns because it has -- it's  
2 a regional grid. And I think that's kind of what the  
3 purpose of the statute was.

4 But, again, you know, undergrounding in a  
5 town, that is a local concern is Member Richins' point.

6 MEMBER KRYDER: Mr. Chair.

7 MEMBER RICHINS: Chairman, part of me takes  
8 issue with the ACC's policy statement. We do this kind  
9 of thing all the time. Governments do it all the time.  
10 They're building roads across town that members will  
11 never drive on. There's freeways being built that I'll  
12 never drive on. And there's infrastructure being put in  
13 that I'll never use.

14 When people wanted to go, we had a lot of  
15 snow birds in Mesa. When they wanted to leave town for  
16 six months they wanted to shut off their water utility  
17 with whoever the water utility was. And not pay anything  
18 for six months, forgetting that they want the water to  
19 come back on when they get back.

20 So you have two elements here. You have  
21 paying for the infrastructure and then you're paying for  
22 the utility, or the commodity, which is the power here.

23 So we do this all the time. We divert  
24 costs across larger swaths of people so we can enjoy  
25 amenities all over the place.

1                   So the policy statement by the ACC, I  
2 understand. I mean we don't want to do -- we don't want  
3 to put excessive burden on ratepayers. I get that. At  
4 the same time, if the ratepayers of this community want  
5 this aesthetically, then they should pay for it.

6                   And TEP has every right to appeal this to  
7 the ACC for whatever relief that they want from whatever  
8 we rule anyway. So let's make sure we stick with some  
9 principles here, and I just feel staying silent on that  
10 issue is appropriate here because it's preserving  
11 Tucson's ability to determine for itself and its citizens  
12 with their partner utility, TEP, building on the great  
13 work that Clark has done.

14                  I think they can get this done. I have a  
15 lot of confidence. I feel really uncomfortable with  
16 conditional or split baby stuff. It just can go awry.  
17 And I'd feel really uncomfortable putting an if-then  
18 scenario in a CEC. It doesn't seem appropriate. But  
19 that's just my thought.

20                  MS. HILL: Mr. Chair. I'm sorry.  
21 Mr. Chair, I have two questions in the interest of  
22 working towards a solution here.

23                  The first question that I have is I hear,  
24 we appreciate, and believe it or not, Mr. Lusk and I have  
25 already that these conversations about how do we get

1 there with the preferred route. How do we get there?

2 How do we make sure that we can make this happen?

3 We're not the decision-makers in our  
4 organizations. We've already had those conversations.  
5 We are still talking. And I don't want anybody on this  
6 Committee to think we've all given up, because we  
7 haven't.

8 But my big concern is that we can talk and  
9 talk and talk, and this line is going to be in service by  
10 '27. And so what would be really helpful here, very,  
11 very helpful -- and this, Member Little -- Member Little.  
12 I'm sorry. I was looking at her and talking to you.

13 Member Hill, I hear what you're saying. I  
14 don't actually agree that a conditional gives one party  
15 more leverage other another. I think it gives everybody  
16 at the table some things because I think this Committee  
17 can also put in some requirements to the CEC to make  
18 something conditional effective.

19 For instance, I think you could if there  
20 were a conditional CEC -- such that the Chairman is  
21 suggesting.

22 CHMN STAFFORD: Conditional finding.

23 MS. HILL: Conditional finding. Sorry.

24 CHMN STAFFORD: Conditional CEC and  
25 conditional finding.

1 MS. HILL: Please don't give me a  
2 conditional CEC. Just don't. I'd have to turn in my bar  
3 card.

4 But if in fact there were a conditional  
5 finding, what I would like to see is some time  
6 constraints on how long -- how soon we must get together,  
7 how soon we must form a committee, how fast TEP working  
8 with -- we can talk to Mr. Bryner here, we've got the  
9 people here today who could talk about how quickly we can  
10 get our special exceptions filed on our -- for our  
11 preferred route.

12 And getting through that process, I would  
13 like very much to see some time lines. And then I think  
14 what we have is what you wanted. Which is that -- and  
15 then in the event that our special exceptions are denied  
16 or it is found that the University Area Plan requires  
17 undergrounding, then the utility -- then it is  
18 unreasonably restrictive to require the utility to bear  
19 the entire cost of that undergrounding.

20 But we have no objection, just like we have  
21 no objection to a condition that says that we must  
22 underground the distribution along the route. We're  
23 happy to take that condition. We are happy to  
24 memorialize those commitments that we have made and be  
25 required to stick to them.

1 I would love -- I mean I've been a  
2 litigator my whole career, and you what I hate? Big,  
3 amorphous, semi-findings that then nobody knows what they  
4 mean. So I really appreciate what Member Richins is  
5 saying. It's full employment when I work by the hour,  
6 but it's not -- it's not practical to getting things  
7 done.

8 We'll come to the table. Mr. Lusk and I  
9 can talk about it. Mr. Bryner here, we can tell you  
10 guys -- if we can take a 10-minute break, we can tell you  
11 guys how long it will take us to get our special  
12 exception permit -- or applications done and submitted.

13 And then this Committee can say to us, all  
14 right, you got to do this to TEP, and City, you're going  
15 to show up and you're going to go through these in good  
16 faith and you're going to prioritize them and  
17 realistically, then everybody's feet are held to the  
18 fire, not just -- but this - I think this would be a  
19 different story if we were two years earlier or if we  
20 were -- but as you noticed, Member Little, we are working  
21 towards something.

22 I'm sorry. I do it again. I'm so sorry.  
23 Thank you. Thank you. Because she's right in front of  
24 me and so her face is right in front of me.

25 MEMBER SOMERS: (Indiscernible.)

1 MS. HILL: And so Member Hill, I -- yeah,  
2 there you go. Thank you.

3 So Member Hill, we were working towards  
4 those solutions but we are at a critical juncture and my  
5 fear and the company's fear is that we're going to end up  
6 spending a lot more money if we don't have some time  
7 constraints on how long we have to keep talking.

8 MEMBER SOMERS: Mr. Chairman.

9 CHMN STAFFORD: Yes, Member Somers.

10 MEMBER SOMERS: I'm a very intrigued about  
11 Ms. Hill's recommendation here and the idea of giving  
12 them 10 minutes to have a discussion between themselves  
13 and the City.

14 Normally I would not be inclined to dictate  
15 to a local community about their processes and time  
16 lines, but if the City can compromise on that, this might  
17 be an interesting way to break the log jam that we have  
18 here and move forward. So I'm interested in what they  
19 might come up with.

20 CHMN STAFFORD: Right. And just to  
21 clarify, I don't think this Committee has the authority  
22 to order the City to do anything. We don't have -- our  
23 only authority is over --

24 MEMBER SOMERS: That would be a concern.

25 CHMN STAFFORD: Our only authority is over

1 the CEC and the authority gives the applicant to build.  
2 And, again, it's not even us. We're just the first step.  
3 The Commission has to make the ultimate determination.

4 So I think we couldn't require the City to  
5 do anything, but we could put -- the condition would  
6 allow, would require the utility to do certain things but  
7 then if the -- and allow them relief of some kind of if  
8 the City did not do certain things. Because we can't  
9 order the City to do anything.

10 MS. GRABEL: Mr. Chairman, I think that  
11 Ms. Hill's recommendation was not a condition on the CEC,  
12 but a conditioned finding. So the finding would take  
13 effect if we didn't have --

14 CHMN STAFFORD: Right. Right. That's what  
15 I'm saying. The finding would be conditional that says,  
16 okay, it's like the result would be if the City doesn't  
17 behave reasonably, then the restriction is unreasonable.

18 But the City's going to do what the City's  
19 going to do. But it's a question of how you phrase it.  
20 I'm just going to make it clear that we can't require the  
21 City to follow any time lines. All we would say is that  
22 we expect this to happen and if it doesn't happen, then Y  
23 happens.

24 MEMBER HILL: But Mr. Chair --

25 MEMBER SOMERS: And as long as that doesn't

1 have a result attached to it.

2 MEMBER HILL: I think that's what Mr. -- I

3 think that's what Somers was saying. What I was also

4 going to say is if -- if it says the utility will do X,

5 Y, Z, and if the City doesn't respond reasonably, then

6 this is unreasonable -- I'm not saying it correctly.

7 Maybe Member Somers wants to say it. I think we're going

8 to the same place.

9 MEMBER SOMERS: Yeah, I don't think we need

10 to figure -- the applicant is willing to meet with the

11 City on a 10 or 15-minute break for the court reporter's

12 benefit, to have this conversation to see if they can

13 hammer out some language for us to listen to, I think

14 that would be an excellent way to do it.

15 CHMN STAFFORD: I agree, Member Somers. So

16 are we prepared to take the break now? Does any member

17 have something else to say before we allow the applicant

18 and the City a chance to sit down and come up with

19 something?

20 MEMBER KRYDER: Mr. Chairman.

21 CHMN STAFFORD: Yes, Member Kryder.

22 MEMBER KRYDER: I think that's a great idea

23 with the additional piece that you speaking as both a

24 member of the Committee and the chairman of the

25 Committee, then put together what I heard you say, very

1 reasonable language that we could at least get on the  
2 table, and then begin working through that language so  
3 that we move off of this.

4 We've kind of continually said the same  
5 thing over the last 20 minutes or more. But you, Adam,  
6 seem to have a good view of where we could move forward,  
7 this additional information now with Ms. Hill and Member  
8 Richins. Yes. Put together some language that we can  
9 get on the table. And we'll all take a break while you  
10 all go to work.

11 CHMN STAFFORD: Well, I don't think it  
12 would be appropriate for me to meet with the parties off  
13 the record, but I think it's a good suggestion. But I'd  
14 like to clarify it by - I'm hoping that the City and the  
15 utility will come up with the language that we'll all  
16 look at and then we'll take it from there. I'm not going  
17 to meet privately with two of the parties off the record.  
18 Come up with language, but I think the two of them  
19 certainly can.

20 MEMBER SOMERS: That would be an ex parte.

21 CHMN STAFFORD: I think it's important to  
22 take the break. We'll let TEP and City of Tucson see if  
23 they can come up with a suggestion that we can kind of  
24 bridge this gap. So, all right, any other comments  
25 before we take a break?

1 (No response.)

2 CHMN STAFFORD: All right. Let's take a  
3 approximately 15-minute recess. We're in recess.

4 (Recess from 2:44 p.m. to 3:46 p.m.)

5 CHMN STAFFORD: All right. Let's go back  
6 on the record.

7 Ms. Grabel, Mr. Lusk, do you have some good  
8 news for us?

9 MS. GRABEL: We do have some good news. So  
10 we have language to propose to delete the existing  
11 finding of fact 11 that was in the CEC. And we're going  
12 to insert two different findings of fact, 11 and 12, and  
13 then make conforming changes to the numbers. Yes.

14 MEMBER RICHINS: Chairman, which document  
15 are we working off, because we got CE -- we got 36 and  
16 then there was some other ones.

17 MS. GRABEL: 36 is the one that we were  
18 working off of. And obviously you can make whatever  
19 changes you want to the rest, but here are the two  
20 paragraphs that the City and TEP and Banner have agreed  
21 to.

22 So, Eli, if you want to display it. Do you  
23 want me to read it out loud?

24 CHMN STAFFORD: Yes, please.

25 MS. GRABEL: Okay.

1 CHMN STAFFORD: Slowly, yes.

2 MS. GRABEL: Yes. "Delete finding of  
3 fact 11." So the new finding of fact 11 says, "The City  
4 disagrees that a finding of fact pursuant to A.R.S.  
5 Section 40-3406.06.D is necessary, and believes that it  
6 is feasible to construct the MRP consistent with its  
7 local ordinances and plans with the technology available,  
8 and those local ordinances are reasonably restrictive.

9 "The parties have reserved and asserted all  
10 rights to judicial relief on this issue."

11 New paragraph 12. "However, given the  
12 Arizona Corporation Commission's policy statement, we  
13 find pursuant to A.R.S. Section 40-360.06.D that any  
14 local ordinance or plan that requires TEP to incur an  
15 incremental cost to construct the MRP belowground is  
16 unreasonably restrictive, and that compliance therewith  
17 is not feasible in light of the technology available.

18 "This finding is conditioned on City and  
19 TEP not finding a means to, within six months of the date  
20 of the ACC's approval of this CEC, either, A, fund the  
21 incremental cost to construct the MRP belowground from a  
22 source other than through TEP's utility rates or from  
23 TEP, its affiliates, subsidiaries, or parent companies  
24 absent agreement between the parties;

25 "Or, B, obtain the City's authorization to

1 construct the MRP aboveground through the City's special  
2 exception or variance process, provided that TEP files a  
3 special exception or variance application for the route  
4 approved within 10 weeks of the Commission's approval of  
5 this CEC."

6 MR. LUSK: Just real quickly, do we need to  
7 add the actual decision or do we have that somewhere  
8 else?

9 CHMN STAFFORD: We won't have the decision  
10 until --

11 MR. LUSK: No, I meant the specific policy  
12 statement we're talking about in that paragraph. I just  
13 didn't know if it's -- I think it's somewhere else.

14 MS. GRABEL: It's elsewhere.

15 MR. LUSK: Okay. Thanks.

16 CHMN STAFFORD: Is it mentioned in the  
17 finding of fact?

18 MS. GRABEL: Yes, it's a very early finding  
19 of fact.

20 CHMN STAFFORD: Okay. Okay. Member  
21 Little, I see you. Do you have a question or a comment?

22 MEMBER LITTLE: I'm digesting. Thank you.

23 MEMBER SOMERS: Mr. Chair.

24 CHMN STAFFORD: Yes, Member Somers.

25 MEMBER SOMERS: I just needed the screen to

1 be fixed and they took care of it already.

2 CHMN STAFFORD: Excellent. We'll give you  
3 a chance to read it again if you'd like.

4 MEMBER DRAGO: Mr. Chairman.

5 CHMN STAFFORD: Yes, Member Drago.

6 MEMBER DRAGO: The university corridor  
7 area, does that -- is that already included in here or  
8 does it need to be included here?

9 CHMN STAFFORD: I think it's vague enough,  
10 it just says -- it says "local ordinances and plans." So  
11 I think that covers everything that would be applicable  
12 that could require the undergrounding, because under the  
13 statute it doesn't -- I don't think you have to  
14 specifically call out the individual ordinance. It just  
15 says if they find that they are, if any are. I don't  
16 think you have to specify, but this is kind of covers all  
17 the bases, I think.

18 MEMBER DRAGO: All right. Thank you.

19 MEMBER RICHINS: Can the parties confirm  
20 that?

21 (Simultaneous cross-talk.)

22 CHMN STAFFORD: One at a time. One at a  
23 time. One at a time.

24 Member Richins.

25 MEMBER RICHINS: Can the parties confirm

1 the understanding of all the plans applicable on the  
2 record, please?

3 MS. GRABEL: Yes. Mr. Chairman, that was  
4 certainly TEP's intent.

5 MR. LUSK: That's our understanding as  
6 well, Member.

7 CHMN STAFFORD: Ms. De Blasi.

8 Ms. De Blasi: Yes, that's my understanding  
9 as well.

10 CHMN STAFFORD: Mr. Dempsey.

11 MR. DEMPSEY: I wasn't involved. I assume  
12 so.

13 CHMN STAFFORD: All right. Member Somers,  
14 you had a question?

15 MEMBER SOMERS: Same question. Thank you.

16 CHMN STAFFORD: Oh, so it got answered  
17 already, then?

18 MEMBER SOMERS: Yeah. I had the same  
19 question that Member Richins already posed.

20 CHMN STAFFORD: Okay. Great.

21 MS. DE BLASI: Chairman?

22 CHMN STAFFORD: Yes. Ms. De Blasi.

23 MS. DE BLASI: Just as everyone's digesting  
24 this language, I think it works well, and the reason that  
25 Banner supports it is that it gives opportunities for the

1 parties to work together, and that also anticipates that  
2 Banner would be supporting this process as a, you know,  
3 member of the community in that area, provided that's  
4 only going to be along the approved, you know, preferred  
5 Route B and 4.

6 So as the Committee is contemplating this  
7 language, and you'll notice that it says the approved  
8 route, I think it has been very clear by the applicant  
9 that they are not interested in building along Campbell  
10 in those corridors.

11 And I believe right now we still have D, 1,  
12 and 1.1 under consideration. It's not ideal always to  
13 have multiple routes where we have a resolution. So if  
14 this resolves that issue, we would ask that it be  
15 considered for B-4, which is likely what they're going to  
16 be building anyway, and Banner would support that  
17 process.

18 CHMN STAFFORD: Members?

19 MEMBER GOLD: Mr. Chairman.

20 MEMBER LITTLE: Mr. --

21 CHMN STAFFORD: Yes, Member Gold.

22 MEMBER GOLD: I'm looking for the word  
23 "route." Where is it?

24 MS. DE BLASI: Member Gold, it's the second  
25 line from the top -- bottom. Sorry. Second line from

1 the bottom.

2 MEMBER GOLD: I'm sorry? Okay.

3 MEMBER GOLD: Okay. TEP --

4 MS. DE BLASI: The route approved.

5 MEMBER GOLD: -- an exception or variance  
6 application for the route approved within 10 weeks.

7 MS. DE BLASI: Correct.

8 MEMBER GOLD: Does that mean you have both  
9 agreed on only one route?

10 MS. DE BLASI: Well, they would -- well,  
11 I'll let TEP speak for themselves. But my understanding  
12 is that they would be -- they've promoted a preferred  
13 route and as have we.

14 So I don't think they would be wanting to  
15 go through that whole special exception process for  
16 multiple routes, especially ones that are as complicated  
17 as running up a Gateway Corridor like D, 1, and 1.1 do.  
18 I would also point out that it's been discussed that  
19 Route D avoids, and 1, avoid residential areas. And if  
20 you look on the map supplied by the applicant, there are  
21 a lot of residential along Grant for D and along 1, going  
22 all the way down Campbell. So I'm not -- I just wanted  
23 to point that out.

24 MEMBER GOLD: The reason I say that is we  
25 were looking at the -- let me just find it, give me a

1 second. We allowed B and D, 1, and 4, for any -- any  
2 combination of those. So we were not being restrictive.

3 I think this may be too restrictive by  
4 saying we have to pick B-4, or what if we choose B-1?  
5 All I'm saying is is this very restrictive because the  
6 parties have agreed on that? Or maybe I should be asking  
7 Ms. Grabel or Ms. Hill.

8 MS. GRABEL: Thank you, Member Gold. So  
9 TEP came with a preferred route and we'll defer to the  
10 other parties with respect to their interests. However,  
11 I'm also very cognizant of the Committee's interest to  
12 giving flexibility to kind of choose the routes that go  
13 around commercial areas and residential areas.

14 And so we will -- as to route selection,  
15 we'll defer to the Committee. I think you have the  
16 authority to do that.

17 CHMN STAFFORD: Right. Because you're only  
18 going to build one route, whether it's --

19 MS. GRABEL: Correct. I mean, if the  
20 concern is the word approved, you could just say a  
21 variance application for a route within 10 weeks and I  
22 think that gets rid of the ambiguity.

23 MS. DE BLASI: And Chairman, to be clear,  
24 that was my point as well. I think the applicant has  
25 made clear that they're wanting to build a preferred

1 route, although any route that's approved by the  
2 Committee, Banner fully supports as we've said multiple  
3 time the preferred route as well.

4 CHMN STAFFORD: All right.

5 MEMBER LITTLE: Mr. Chairman.

6 CHMN STAFFORD: Yes, Member Little.

7 MEMBER LITTLE: I personally would very  
8 much like to see both or all three or whatever.

9 But both the commercial and the more  
10 residential sections included, so that we have approved  
11 more than one route.

12 I really think that the -- you know, I was  
13 a utility planner for many years, and driving these  
14 routes, doing installation along Campbell Avenue offers  
15 many advantages. And I believe that if the parties can  
16 agree to conditions that they both can live with and go  
17 along Campbell Avenue, I think that, you know, from a  
18 utility planning perspective that is the better route.  
19 And I think that I would very much like to leave the  
20 options open.

21 You know, at the very beginning way back,  
22 seems like a hundred years ago, but it was just last  
23 week, Member Gold mentioned and has discussed since then  
24 the residential option versus the commercial option.

25 Where do you prefer to see the

1 construction? Where is it going to be easier to build it  
2 and who, you know, what is it going to -- where do you  
3 want this line if you have to choose between the two?  
4 And I think that that is -- is still very valid, that  
5 both options be left open.

6 CHMN STAFFORD: Thank you. Member Richins?

7 MEMBER RICHINS: I would be perfectly fine  
8 approving a single route if we want to go down that road.

9 CHMN STAFFORD: All right.

10 MEMBER RICHINS: To give perfect clarity to  
11 the parties, and I mean, I'm inclined to support the  
12 preferred route of what is it, look again here, B-4. I  
13 don't know why that's not engrained in my memory by now,  
14 but B-4 for the sake of clarity.

15 MR. DEMPSEY: May I make a comment?

16 CHMN STAFFORD: Yes, Mr. Dempsey.

17 MR. DEMPSEY: So if the idea here is that  
18 the City and TEP come to find a way to fund it, it may be  
19 that underground on Campbell is the best route. So  
20 removing it doesn't make a lot of sense to me. Because  
21 you need to keep your options open, as Member Little  
22 said.

23 And I think undergrounding on Euclid  
24 doesn't make any sense at all. If you're going to  
25 underground you've got to do Campbell.

1 MEMBER GOLD: Mr. Chairman.

2 CHMN STAFFORD: Yes, Member Gold.

3 MEMBER GOLD: I suggest we just make the  
4 word route into routes so we leave the options open.

5 CHMN STAFFORD: Well, I don't think we need  
6 to because I think the other part, if you leave it in  
7 then -- they're only going to build one route. They're  
8 not going to build -- it's going to go one place or the  
9 other. It's not going to go in both. So I think the  
10 language is fine as it is. I just think, you know, we're  
11 approving a route, that route has, you know, several  
12 possibilities, but they're only going to build one of  
13 them.

14 MEMBER GOLD: Understood. So our choice is  
15 to recommend a route of routes.

16 CHMN STAFFORD: Right.

17 MEMBER GOLD: And an alternate would be  
18 whatever else they choose. Thank you.

19 MEMBER KRYDER: Mr. Chairman.

20 CHMN STAFFORD: Yes, Member Kryder.

21 MEMBER KRYDER: Comment to the people who  
22 put the language together, you did a magnificent job in a  
23 short period, and I would move that the Committee accept  
24 this as it was written and shown.

25 CHMN STAFFORD: But we're not voting on the

1 language of the CEC yet, because what -- I think -- I  
2 don't think we need to take a vote right now. But I  
3 just -- I think tomorrow what we'll do is we'll come --  
4 what we're going to need is the applicant and -- mostly  
5 the applicant, to give us another draft CEC that reflects  
6 the routes that we've approved and put the description in  
7 the beginning. Because right now what I'm looking at is  
8 only B-4. And add these.

9 MS. GRABEL: So Mr. Chairman, certainly.  
10 We will incorporate these into the CEC for tomorrow.

11 I think it might be helpful and save some  
12 time tomorrow since we still have an hour for you to kind  
13 of work through whatever changes you might propose while  
14 all the parties are here and in a collaborative spirit.

15 CHMN STAFFORD: Yes.

16 MS. GRABEL: That might be a good use of  
17 time.

18 CHMN STAFFORD: That was going to be my  
19 next suggestion. Thank you.

20 MS. GRABEL: Sure.

21 CHMN STAFFORD: You're reading my mind.

22 MEMBER GOLD: Mr. Chairman.

23 CHMN STAFFORD: Yes, Member Gold.

24 MEMBER GOLD: I would just also suggest  
25 that you could do the route avoiding the hospital, the

1 university by going B-1. It would also take it away from  
2 them. So that's the reason I suggest leaving them all as  
3 options to mix and match as works out best for the City,  
4 for TEP, for the hospital, for everybody else, and for  
5 undergrounding if that's also approved.

6 MR. LUSK: I'm sorry, Member Gold, did you  
7 B-1 or D-1, D as in dog or B as in boy.

8 MEMBER GOLD: I say both. You have the  
9 option to go D-1 or B-1. It doesn't have to be B-4, it  
10 can be D-4.

11 MR. LUSK: I think D-1 is an issue for  
12 Banner because it does go --

13 MEMBER GOLD: That's why I say leave the  
14 option, leave D in, leave 4 in, leave 1 in, and leave B  
15 in. And you can choose amongst yourselves which is the  
16 best option.

17 MR. LUSK: I just wanted that  
18 clarification. Thank you, Member Gold.

19 CHMN STAFFORD: Right. And I would suggest  
20 that instead of calling it Route 1.1 we call it Route 1.2  
21 because it's a mixture of 1 and 2.

22 MEMBER GOLD: Exactly.

23 CHMN STAFFORD: So -- all right. So we'll  
24 need -- we'll need to do the -- to do the overview of the  
25 project description to describe Routes B, 4, D, 1 and

1 1.2.

2 Now, looking at the conditions, we have the  
3 subject to the Committee's findings. Do those need to  
4 stay in or do those -- I think those would stay in.

5 MS. GRABEL: I do think those would stay  
6 in.

7 CHMN STAFFORD: Mr. Lusk.

8 MR. LUSK: I'm sorry, Chairman. Where are  
9 you at?

10 CHMN STAFFORD: I'm looking at page 5 of  
11 the draft CEC. You're talking about the conditions.  
12 We're trying to give the applicant a head start on  
13 editing this before they bring it back to us. And make  
14 sure you e-mail Tod a word draft of it.

15 MS. GRABEL: Eli and Tod are best friends.

16 CHMN STAFFORD: Yeah. Good.

17 MS. HILL: Not really.

18 MS. GRABEL: For really. For conflict  
19 purposes, not really.

20 CHMN STAFFORD: They have a very collegial  
21 relationship, I'm sure.

22 MEMBER RICHINS: They go shopping for  
23 jackets together.

24 CHMN STAFFORD: I doubt that very much. I  
25 don't think I'd ever see -- I'd ever see Tod in that

1 jacket.

2 MR. LUSK: The conditions that I reviewed,  
3 Chairman, are appropriate. Although we did discuss  
4 possibly moving the language about undergrounding the  
5 distribution lines somewhere in that area.

6 CHMN STAFFORD: Yes. I'm moving through  
7 the conditions here.

8 All right. And then for the exhibit -- for  
9 exhibits to the CEC, I think we're going to need more  
10 than just the typical one. I think we have -- because I  
11 see, look at Condition 20, it has Exhibit B. Exhibit A,  
12 what was proposed in the application? Here it is. Yes.  
13 Exhibit A would be a map of all the routes. And then the  
14 final approved route would be Exhibit B.

15 MEMBER HILL: Final approved routes.

16 CHMN STAFFORD: Routes. Yeah. That's --  
17 we can -- is it route or routes? Because it's one, it's  
18 only going to be one route. There's just alternative --

19 MS. GRABEL: I think you've approved three  
20 alternative routes.

21 CHMN STAFFORD: Routes. Okay.

22 And then going down, December 1 would be  
23 the right filing date for the notice of compliance.

24 Oh, another thing I was going to suggest  
25 was adding a condition that kind of puts in there what

1 the applicant is committed to do. I think it's Slide 245  
2 on TEP-8.

3 We talked about the TEP commitments about  
4 undergrounding distribution where they're putting lines.

5 MS. GRABEL: Yep.

6 CHMN STAFFORD: If we could add that to the  
7 conditions.

8 MS. GRABEL: Do you have a preference as to  
9 location? We can just find a good place to propose it  
10 for you all.

11 CHMN STAFFORD: As long as it's in there I  
12 think it'll be fine. And you can add at the end, you  
13 could put it somewhere it talks about other things. We  
14 can always move it tomorrow. Just important thing is it  
15 gets in there someplace.

16 MS. GRABEL: Yep.

17 CHMN STAFFORD: And then the findings of  
18 fact and conclusion of law, are there any of those that  
19 we think need to come out, Members?

20 MEMBER LITTLE: Mr. Chairman.

21 CHMN STAFFORD: Yes, Member Little.

22 MEMBER LITTLE: I'm not sure about this,  
23 but I have never seen a CEC that has so much detail about  
24 the evidence. And while I certainly don't object to  
25 anything with the modifications that have been proposed

1 in 11 and 12, I certainly don't object to any of the  
2 findings that are indicated. It's just not been my  
3 experience that all these details have been put in the  
4 findings of fact.

5 And I'm wondering why the applicant has  
6 proposed that they be so much more detailed than they  
7 have been in previous CECs.

8 MS. GRABEL: Thank you. Member Little, the  
9 reason is because we're asking the Committee to make a  
10 legal finding, and we thought that that finding needed to  
11 be predicated on facts that were spelled out in the  
12 order.

13 In case there was an appeal or if the  
14 Commission was interested in kind of reviewing the order  
15 and the thought process that went into making that  
16 finding.

17 MEMBER LITTLE: I don't object to it. I  
18 think that we may see in the future CECs that have  
19 similar kinds of detail in them. But I agree that I  
20 think that -- I think the one thing it'll make it much  
21 easier for the Commission to understand what -- upon what  
22 we based our decision.

23 MEMBER HILL: Mr. Chair.

24 CHMN STAFFORD: Yes, Member Hill.

25 MEMBER HILL: In some of -- I don't think

1 I'm close enough. Hold on.

2 In some of these findings I feel like TEP  
3 has drafted statements that I feel like need to be  
4 reviewed by the other parties. Like other parties'  
5 positions; right?

6 So I think Mr. Dempsey and Mr. Lusk should  
7 look at things where it says City of Tucson says this.  
8 Or Underground Arizona says this. I didn't see one for  
9 Banner, but there might be one for Banner. So that might  
10 be helpful for those folks to take a look at those  
11 pieces.

12 I think Item No. 5 around cost and  
13 multipliers, I think that we want to see some edits to  
14 that section, to reflect the conversation that we had  
15 yesterday. I think this was drafted before the  
16 conversation that we had yesterday.

17 MS. GRABEL: Notice I didn't use  
18 multipliers in my closing statement.

19 MEMBER HILL: I know, I appreciate that.  
20 And --

21 CHMN STAFFORD: I'm not recognizing that  
22 \$86 million figure either.

23 MR. LUSK: I think that's the cost to build  
24 a preferred route underground.

25 MR. DEMPSEY: Do you have to include a

1 cost?

2 MS. GRABEL: Yes.

3 CHMN STAFFORD: I don't think we -- I don't  
4 know about the number-wise, but I'm just -- I don't  
5 recall that number from the record.

6 MS. GRABEL: The 86 million is the cost to  
7 build the entire preferred route. And then the 65 we've  
8 been talking about is when you subtract the overhead,  
9 which is the 22 million that's reflected in Section 5.

10 MEMBER RICHINS: There appears to be an  
11 extra digit in that number.

12 MEMBER LITTLE: Yes.

13 MS. GRABEL: Oh.

14 CHMN STAFFORD: There's that too, yeah.

15 MEMBER LITTLE: It's \$8 billion.

16 MS. GRABEL: That's a really expensive  
17 line.

18 MEMBER RICHINS: I would prefer to remove  
19 this section entirely. I don't think it's necessary.

20 MS. GRABEL: Well, if the finding is  
21 premised on the incremental cost of underground  
22 construction --

23 MEMBER HILL: Then we should identify the  
24 incremental cost rather than bunch of other numbers  
25 related to different projects.

1 MS. GRABEL: Okay.

2 MEMBER HILL: But I think adding the  
3 incremental -- my personal opinion adding the incremental  
4 cost numbers in there I think is helpful.

5 MEMBER LITTLE: Mr. Chairman.

6 CHMN STAFFORD: Yes, Member Little.

7 MEMBER LITTLE: I have one more comment  
8 about this same paragraph and that is for -- I would  
9 suggest that you put the cost is estimated to be as  
10 opposed to the cost is or the cost will be.

11 CHMN STAFFORD: Yes. Good point.

12 MEMBER RICHINS: Chairman, there's just a  
13 lot of language throughout this entire document that I  
14 find -- it just feels a little inflammatory that you're  
15 making statements for the record to prepare for a court  
16 case.

17 That's not where we do findings of fact,  
18 and I just, I don't know, I don't really -- I mean, just  
19 terms like band-aid, I find in there, project is  
20 excessive, I mean, those are just kind of feel a little  
21 elevated more than they probably should. So if we could  
22 find some better language to describe some of that stuff,  
23 or strike that altogether. I just -- I think it needs to  
24 really be tightened up.

25 MS. GRABEL: We can tone this down.

1 MEMBER RICHINS: Let's get -- yeah, let's  
2 away from language preparing for a legal proceeding and  
3 get more into language appropriate for a finding of fact.

4 CHMN STAFFORD: Yeah, and on the -- do we  
5 need to refer to the witnesses' testimony throughout it?  
6 Because typically that's not what we do in these.

7 MEMBER DRAGO: Mr. Chairman.

8 CHMN STAFFORD: Yes, Member Drago.

9 MEMBER DRAGO: My time on this Committee, I  
10 don't recall a time maybe -- maybe we've added one  
11 finding of fact specific to the case. But in my opinion,  
12 these findings of fact are in the testimony.

13 CHMN STAFFORD: Yes.

14 MEMBER DRAGO: So I'm not sure, and I  
15 wanted to ask you, Chairman, is there a reason why we  
16 would have to articulate that summary in findings of  
17 fact?

18 CHMN STAFFORD: I think we need to have  
19 some in there because we're making the specific finding  
20 that -- well, it's a conditional finding -- the parties,  
21 the language the parties came up with.

22 I think some of this needs to be in there  
23 but not all of it. I think it could be trimmed down  
24 substantially.

25 I mean for -- I don't think -- I don't

1 think we need to cite the entire policy statement from  
2 the Commission. I think just refer to it, the Decision  
3 number, that should be adequate. We don't need to put  
4 the entire thing into the text of the CEC.

5 I think that -- I don't think you need,  
6 when you talk about number 4, that's in the record. I  
7 don't think you need to specifically call that out in the  
8 CEC. I don't -- number 5, I don't think we need to  
9 necessarily --

10 MEMBER SOMERS: Mr. Chair.

11 CHMN STAFFORD: Yes, Member Somers.

12 MEMBER SOMERS: I think what has been  
13 submitted here earlier, the tone and tenor and the level  
14 of cooperation that is -- we finally have in the course  
15 of the last hour has changed considerably.

16 I think it would behoove the applicant to  
17 take this back with comments that have been heard, bill  
18 their usually hourly rate and maybe put together some  
19 language that more reflects the hope for cooperative  
20 movement forward so we can send some of this out.

21 MEMBER RICHINS: Chairman, I would be happy  
22 to take it and edit if the applicant would like. Unless  
23 you guys want to work together. Because what you're  
24 going to get from me is really, it's going to be a lot  
25 thinner. So my guess is that you want something more

1 suited for your purposes.

2 MS. GRABEL: We can do it. We've heard the  
3 Committee loud and clear. I will trim this way down. I  
4 will tone it way down. It will not sound like something  
5 that TEP's lawyer wrote.

6 CHMN STAFFORD: Okay. Good, because I --

7 MEMBER SOMERS: Or Dave Richins wrote.

8 CHMN STAFFORD: Yeah.

9 MS. GRABEL: Right.

10 CHMN STAFFORD: We need to find the happy  
11 medium.

12 MS. GRABEL: And Member Somers, as to the  
13 billable hour thing, the City of Mesa is also a client of  
14 mine, just FYI.

15 MEMBER SOMERS: Well, that's good to know.

16 MS. DE BLASI: And Chairman, this is  
17 Ms. De Blasi.

18 CHMN STAFFORD: Yes, Ms. De Blasi.

19 MS. DE BLASI: To Member Hill's point we  
20 did not -- Banner did not include anything here because  
21 it only has a preferred route which we support. And so  
22 we'll just wait to see what we get back from the  
23 applicant.

24 We would not want to add a whole bunch of  
25 language either. But if there are routes in there that

1 we're going -- which we've said fully D and 1 we have  
2 issues with, we can put something simple and that's not  
3 an issue.

4 MEMBER HILL: Thank you.

5 CHMN STAFFORD: Right. But you wouldn't  
6 have any issues with 1.2; correct?

7 MS. DE BLASI: If it went on D. If it was  
8 B, then perhaps, yeah.

9 CHMN STAFFORD: But you want B, 1.2.

10 MS. DE BLASI: B to 1.2 would avoid the  
11 issues, but since there's options we have to put it on  
12 the record. And obviously I've asked for the -- if there  
13 is something going on Ring Road that the right-of-way  
14 that's been requested for the corridor of 400 feet be  
15 narrowed to be only on the public road.

16 And that's simply because that condemnation  
17 process is going to delay it and we don't want to do  
18 that. So why have it there. But that would really be  
19 it.

20 CHMN STAFFORD: Right. So back to the  
21 exhibits. I think that we're going to -- for the  
22 preferred route, it's Exhibit TEP-32, the updated  
23 corridor map of the preferred route. This will also have  
24 to be --

25 MS. GRABEL: Yes, Mr. Bryner's actually

1 working on new maps as we speak.

2 CHMN STAFFORD: Okay. And then I hate to  
3 do this to you, but you'd have to go the same thing for  
4 the alternate routes.

5 MS. GRABEL: He knows that.

6 CHMN STAFFORD: Okay. And I think -- and I  
7 think the CEC can indicate that B-4 is the preferred  
8 route and then that 1, 1.2, and D are alternatives.

9 MS. GRABEL: Certainly.

10 CHMN STAFFORD: Is that acceptable to the  
11 Committee? I'm seeing nods in agreement.

12 MEMBER KRYDER: Yes. Yeah. It will be 1  
13 and 1.2.

14 MEMBER GOLD: Mr. Chairman.

15 CHMN STAFFORD: I'm hearing no objections  
16 to --

17 MEMBER GOLD: Mr. Chairman.

18 CHMN STAFFORD: Yes, Member Gold.

19 MEMBER GOLD: The only thing I'm trying  
20 to -- would suggest is we somehow include this one favors  
21 residential, this one favors commercial. Or this one is  
22 less intrusive in residential, and this is less intrusive  
23 in commercial, so we separate the two.

24 Because the difference between -- hang on a  
25 second. The difference between the D route, D-1, or you

1 could also go B-1, we're still talking nonintrusive on  
2 residential.

3 CHMN STAFFORD: B would, because B goes  
4 through the neighborhood. It's going to go down Park.

5 MEMBER GOLD: Yeah, but D affects the  
6 hospital.

7 CHMN STAFFORD: Right. Right.

8 MEMBER GOLD: So it's still commercial.

9 CHMN STAFFORD: Right.

10 MEMBER GOLD: So if we somehow get in the  
11 commercial and the residential, so the Corporation  
12 Committee will know that we looked at residential and  
13 commercial pros and cons.

14 CHMN STAFFORD: I think we could add  
15 something in the beginning, in the description about the  
16 type of where the routes go in describing the preferred  
17 route and then the alternate route.

18 MEMBER GOLD: Yes.

19 MEMBER LITTLE: Mr. Chairman.

20 CHMN STAFFORD: Yes, Member Little.

21 MEMBER LITTLE: I'm just wondering whether  
22 it might not be more appropriate, I see Mr. Gold's point,  
23 but I'm just wondering whether it might not be more  
24 appropriate to just indicate that some routes -- some of  
25 the approved corridors, I don't know, go through

1 neighborhoods more than others and some go through  
2 commercial areas more than others.

3 Because there really are, what, six  
4 combinations here that could be chosen. And I believe  
5 from the conversation our reason in giving and approving  
6 all these different corridors, routes, is to give the  
7 parties the options to figure out what's best for them,  
8 what works best for everybody. So --

9 CHMN STAFFORD: Yeah, I think some of  
10 the --

11 MEMBER LITTLE: Pointing some of that  
12 information out is good, but I don't think necessarily  
13 saying this particular combination, B-4 or B-1.1 or  
14 whatever is more commercial and one is more residential.

15 CHMN STAFFORD: Maybe we could have some  
16 sort of, like generic statement in the description saying  
17 we approved multiple -- a preferred route and  
18 alternatives to give them flexibility depending -- to  
19 vary what type of area the line would traverse or  
20 something to that effect.

21 MS. DE BLASI: Chairman.

22 MEMBER LITTLE: Yes.

23 MEMBER GOLD: Yes.

24 MS. DE BLASI: Chairman. Ms. De Blasi.

25 CHMN STAFFORD: Yes, Ms. De Blasi.

1 MS. DE BLASI: I know it's hard to tell  
2 who's speaking.

3 Just to point to that and not to belabor  
4 it, but I think once we get the route maps you'll be able  
5 to see along each route where, even though it might not  
6 have been called residential in the applicant's  
7 application, there is in fact a lot of residential along  
8 D and 1.

9 But that'll be easier to see once you get  
10 those. And then in terms of -- you know, I think if  
11 you're approving routes and route alternatives, I don't  
12 know that it really matters whether it's commercial or  
13 residential if you're telling the applicant you can go  
14 build any of these, the Commission's going to see that as  
15 they can build any of them.

16 CHMN STAFFORD: Right. But I think what  
17 we'll designate it as the main route as B-4 with approval  
18 of alternatives 1, 1.2 and D as alternatives.

19 MS. GRABEL: Correct. What we've done in  
20 the current draft is each segment is separately  
21 described. So I'll just put after B preferred route,  
22 after 4 preferred route, and then list the others  
23 alternative route, alternative route, alternative route.

24 CHMN STAFFORD: There you go. That works  
25 for me. Members?

1 MEMBER KRYDER: Yes.

2 MEMBER GOLD: Yes.

3 MEMBER LITTLE: Yes.

4 MEMBER HILL: Mr. Chair.

5 CHMN STAFFORD: Yes, Member Hill.

6 MEMBER HILL: I wanted to offer a couple of  
7 other comments on the findings of fact.

8 In finding of fact -- proposed finding of  
9 fact number 7, there's a lot of discussion there about  
10 the cost of not doing this project.

11 And I know that numbers were offered during  
12 testimony, but we didn't really go deep to understand  
13 factually how those numbers were calculated.

14 So I just don't see the relevancy of a  
15 paragraph like that at this point. So, I promise, you're  
16 going to love what I draft.

17 CHMN STAFFORD: I think most of this can  
18 come out, because we can just have more general  
19 statements like we typically do, and if anybody requires  
20 more information they're more than welcome to read the  
21 transcript and look through all the exhibits.

22 Okay. We know it's there because we lived  
23 it.

24 MEMBER HILL: Great. I'll let it go. I  
25 was just going through the numbers and there were some

1 that stuck out as more concerning than others. Like I do  
2 think there should be a good finding of fact around the  
3 importance of the Vine Substation, so that was one that  
4 was important to me, too.

5 MS. GRABEL: Absolutely.

6 CHMN STAFFORD: Right. That one should  
7 definitely remain. All right. Well, I think the  
8 applicant and Mr. Lusk have some -- I guess more the  
9 applicant because --

10 MS. GRABEL: He's like, what?

11 CHMN STAFFORD: I think Mr. Lusk is out of  
12 the --

13 MR. LUSK: I'm going home, Chair.

14 CHMN STAFFORD: All right. Well, so you  
15 can e-mail, make sure you e-mail Tod the Word version of  
16 what you've got, and send him -- send him both, send him  
17 the like a PDF of what you -- the final product you have  
18 and a Word version because I'll introduce them tomorrow  
19 as Chairman's 1 and 2. 1 being the PDF and 2 being the  
20 Word document we'll work off of.

21 And then get -- if you -- the sooner you  
22 get that to him, the better. Because what I'll end up  
23 doing is I'll look at the Chairman's 2, the Word  
24 document, and I'll make changes to take out stuff that we  
25 don't need, typically which is, you know, the numbers to

1 each one, make sure we have -- we need to -- I guess you  
2 can do this now because I'll tell you, because you can  
3 remove Member Fontes off the list of participants because  
4 he was not here under any of the hearing.

5                   However Mr. French was for the first week,  
6 so his name would remain but that will confuse people  
7 later on the vote count when they read the CEC. But it  
8 is what it is.

9                   MS. GRABEL: You could put an asterisk and  
10 say at the bottom "excused for second part of hearing."

11                   CHMN STAFFORD: You could try that. We'll  
12 see how that goes. Do you have --

13                   MS. HILL: We just apologize that he had to  
14 go on the tour.

15                   Do you have sufficient direction from the  
16 Committee to craft that?

17                   MS. GRABEL: We do. We're going to do it  
18 right now.

19                   CHMN STAFFORD: Excellent. All right.  
20 With that I think that we can end the hearing for today,  
21 and then we will be back tomorrow morning at nine a.m.,  
22 and we will begin to vote on the CEC and we'll be very  
23 happy to wrap this up in the allotted time. I see  
24 Ms. Hill, do you have something to add?

25                   MS. GRABEL: Ms. Hill made a really good

1 point. Are we sure we can have the maps by nine  
2 tomorrow? Okay. I want to make Mr. Bryner can confirm  
3 that's possible. Getting the thumbs-up. All right.  
4 We're good.

5 CHMN STAFFORD: Okay. Yeah, because we'll  
6 want the corridor narrowed to where it couldn't go the  
7 next street over type of thing.

8 All right. Anything else? Thank you all.  
9 I appreciate the TEP and the City of Tucson sitting down  
10 and working together to try to craft a resolution because  
11 I think we can all agree this is an important project and  
12 it needs to happen.

13 We can all do what's best for the people of  
14 Arizona, the citizens of Tucson, and we will be able  
15 to -- you guys will be able to maintain reliable and  
16 affordable electric service because that's what -- that's  
17 why we're here.

18 All right. With that, let's -- we're  
19 recessed until tomorrow at nine.

20 (Proceedings recessed at 4:24 p.m.)

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2 COUNTY OF MARICOPA )

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15 Dated at Phoenix, Arizona, July 24, 2024.

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