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BEFORE THE POWER PLANT AND  
TRANSMISSION LINE SITING COMMITTEE

IN THE MATTER OF THE APPLICATION OF ) DOCKET NO.  
SOUTHLINE TRANSMISSION, L.L.C., IN ) L-00000AAA-  
CONFORMANCE WITH THE REQUIREMENTS OF ) 16-0370-00173  
ARIZONA REVISED STATUTES 40-360, ET )  
SEQ., FOR A CERTIFICATE OF )  
ENVIRONMENTAL COMPATIBILITY )  
AUTHORIZING CONSTRUCTION OF THE NON- )  
WAPA-OWNED ARIZONA PORTIONS OF THE )  
SOUTHLINE TRANSMISSION PROJECT, ) CASE NO. 173  
INCLUDING A NEW APPROXIMATELY 66-MILE )  
345-KV TRANSMISSION LINE IN COCHISE )  
COUNTY FROM THE ARIZONA-NEW MEXICO )  
BORDER TO THE PROPOSED SOUTHLINE )  
APACHE SUBSTATION, THE ASSOCIATED )  
FACILITIES TO CONNECT THE SOUTHLINE ) VOLUME VI  
APACHE SUBSTATION TO THE ADJACENT ) (Pages 908 - 1057)  
AEPSCO APACHE SUBSTATION, AND )  
APPROXIMATELY 5 MILES OF NEW 138-KV )  
AND 230-KV TRANSMISSION LINES AND )  
ASSOCIATED FACILITIES TO CONNECT THE )  
EXISTING PANTANO, VAIL, DEMOSS )  
PETRIE, AND TORTOLITA SUBSTATIONS TO )  
THE UPGRADED WAPA-OWNED 230-KV )  
APACHE-TUCSON AND TUCSON-SAGUARO )  
TRANSMISSION LINES IN PIMA AND PINAL ) TOUR  
COUNTIES. ) DISCUSSION  
\_\_\_\_\_ ) DELIBERATION

At: Willcox, Arizona  
Date: December 6, 2016  
Filed: December 12, 2016

REPORTER'S TRANSCRIPT OF PROCEEDINGS

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1 WILLCOX TOUR

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24  
25

1 BE IT REMEMBERED that the above-entitled and  
2 numbered matter came on regularly to be heard before the  
3 Power Plant and Transmission Line Siting Committee, at  
4 the Willcox Community Center, 312 West Stewart Street,  
5 Willcox, Arizona, commencing at 8:35 a.m. on the 6th of  
6 December, 2016.

7

8 BEFORE: THOMAS K. CHENAL, Chairman

9 LAURIE WOODALL, Arizona Corporation Commission  
10 IAN BINGHAM, Department of Environmental  
11 Quality  
12 LISA WILLIAMS, Arizona Department of Water  
13 Resources  
14 JIM PALMER, Counties, Appointed Member  
15 MARY HAMWAY, Cities/Towns, Appointed Member  
16 JACK HAENICHEN, Public Member  
17 PATRICIA NOLAND, Public Member

18 Note: No roll call taken. The following is a list  
19 of the parties that made an initial  
20 appearance.

21

22 APPEARANCES:

23

24 For the Applicant:

25

26 SUTHERLAND ASBILL & BRENNAN, L.L.P.  
27 By Mr. James Guy  
28 Ms. Marty Hopkins  
29 One American Center  
30 600 Congress Avenue, Suite 2000  
31 Austin, Texas 78701

32

33 and

34

35 OSBORN MALEDON, P.A.  
36 By Ms. Meghan Grabel  
37 2929 North Central Avenue, 21st Floor  
38 Phoenix, Arizona 85012

39

1 APPEARANCES:

2 For Intervenor Pinal County:

3 Pinal County Attorney's Office  
4 By Mr. Cedric I. Hay, Deputy County Attorney  
5 30 North Florence Street  
6 Florence, Arizona 85132

7 For Mountain View Ranch Development Joint Venture:

8 Jackson & Oden, P.C.  
9 By Mr. Todd Jackson  
10 3573 East Sunrise Drive, Suite 125  
11 Tucson, Arizona 85718

12  
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1 (Committee members and parties present for the  
2 tour: Chairman Chenal, Member Palmer, Member Williams,  
3 Member Bingham, Member Haenichen, Member Hamway, Member  
4 Noland, Ms. Hopkins.)

5

6 CHMN. CHENAL: All right. It is a little after  
7 8:30 and we are going to take the bus tour, leaving now.  
8 And we will come back. When we come back we will resume  
9 the hearing. When we come back, or if we get back  
10 early, we will resume the hearing at 1:00.

11 And like as in Tucson, let's keep the questions  
12 to a minimum at the stops. Someone will be speaking and  
13 we will just announce kind of where we are, what we are  
14 looking at, what the lines are going to be relative to  
15 the vantage point. But if you have any extended  
16 questioning, we will just pick that up when we come  
17 back.

18 Anything else we need to talk about before we  
19 adjourn and get on the bus?

20 MEMBER NOLAND: Yes.

21 CHMN. CHENAL: Go ahead.

22 MEMBER NOLAND: Are we going to have potty  
23 stops? Drinking coffee here.

24 MR. GUY: Sure. We can look at the route and  
25 find places where that might make sense.

1 The other thing we need to do, we need to swear  
2 in one of our potential witnesses. Jeff Robertus was  
3 not here when all the other witnesses were sworn, and he  
4 may need to provide testimony.

5 CHMN. CHENAL: Will he need an oath or  
6 affirmation?

7 Mr. Robertus, let's swear you in right now.  
8 Oath or affirmation, sir? One you swear under God, the  
9 other under penalty of perjury.

10 MR. ROBERTUS: Perjury.

11 CHMN. CHENAL: Please raise your right hand.

12 (Whereupon Jeff Robertus was duly affirmed by  
13 the Chairman.)

14 CHMN. CHENAL: Okay. Thank you.

15 All right. Let's depart and we will meet back  
16 here in the hearing room at 1:00.

17 (TIME NOTED: 8:39 a.m.)

18 (The parties and Committee members proceeded to  
19 the bus.)

20 (The tour proceeded to Stop 1.)

21

22 STOP 1

23 (TIME NOTED: 9:20 a.m.)

24 CHMN. CHENAL: Okay. We are at the first stop.

25 Mr. Kipp, I think you are going to give a few

1 introductory comments.

2 MR. KIPP: I am indeed. I will be brief.

3 If you can think back to that virtual tour that  
4 I guided you through, we are near the, not very far from  
5 the New Mexico border. It is about less than 20 miles,  
6 you know, due east of here. And the line, as it enters  
7 Arizona from New Mexico, again, this is all BLM land, it  
8 follows an existing gas pipeline. And as it crosses  
9 into Arizona it is about five miles from the I-10  
10 corridor, getting closer and closer and closer until we  
11 reach this spot. And here the gas pipeline facility  
12 actually crosses Interstate 10. So this is where the  
13 Southline would cross I-10 to stay adjacent to this gas  
14 facility.

15 The -- you can see there is a bit of other  
16 infrastructure. That's a 69kV distribution line. It --

17 CHMN. CHENAL: Which one?

18 MR. KIPP: Right here.

19 CHMN. CHENAL: We are actually standing among,  
20 between, next to two lines. And then we are standing  
21 also next to the freeway, the I-10. On the other side  
22 of I-10, to the south, there is another power line.  
23 So --

24 MR. KIPP: Correct. That is true. This is, you  
25 know, again a bit of a corridor. The railroad crosses

1 just a few miles, I don't know if you noticed, but a few  
2 miles to the west.

3 And then, if you can recall in your mind's eye  
4 where the Southline turns south just before Willcox, you  
5 might have noticed another transmission facility.  
6 That's the 230kV line. That is where the Southline,  
7 once it meets that facility, would then turn south as  
8 well.

9 So I am going to actually turn it over to  
10 Mr. Robertus to give you some real technical  
11 information.

12 MR. ROBERTUS: Great. Thank you.

13 So as the Southline comes in and crosses the  
14 road, there will be lattice type structures that are  
15 located on either side of the crossing. There will  
16 probably be a dead-end type structure that will be  
17 designed at a height to give us sufficient clearance  
18 over the road, the transmission lines that are already  
19 in place, and access over the top of the rail crossing.  
20 So it will just be pretty much a perpendicular crossing  
21 pretty much within the bounds as much as we can of the  
22 infrastructure available here.

23 MEMBER HAENICHEN: To help the Committee, could  
24 you tell us what the voltage of these two lines is just  
25 by looking at the insulators?



1 MR. ROBERTUS: So looking at the insulators, I  
2 would actually think that the line in the distance --

3 CHMN. CHENAL: Northern.

4 MR. ROBERTUS: -- more northern line looks to be  
5 the 69kV line and this looks to be either a 12,  
6 somewhere between a 12 and 25kV line just by the height  
7 of the insulators. And in the distance, my eyes aren't  
8 that good anymore, but that appears to be similar  
9 voltage as this line here. Looks to be a distribution.

10 MS. HOPKINS: Which way are you looking, for the  
11 record?

12 MR. ROBERTUS: That would be on the south, south  
13 of I-10.

14 MEMBER HAENICHEN: Thank you.

15 CHMN. CHENAL: Then there have -- is there  
16 another large line that comes in from New Mexico that's  
17 north of where we are right now?

18 MR. ROBERTUS: I am not sure of that.

19 Bill?

20 MR. KIPP: There is, it is the AEPCO 230kV  
21 facility. And we will see it again as we head back  
22 toward Willcox. It crosses the interstate and then  
23 heads to the north, I believe toward Greenlee, that  
24 direction.

25 CHMN. CHENAL: Any other questions or comments?

1 (No response.)

2 CHMN. CHENAL: Okay. Let's stop here and then  
3 we will go to the next viewpoint.

4 (TIME NOTED: 9:24 a.m.)

5 (The tour proceeded to Stop 2.)

6

7 STOP 2

8 (TIME NOTED: 10:15 a.m.)

9 (Whereupon Joyce Francis and George Hayes were  
10 duly sworn by the Chairman.)

11 CHMN. CHENAL: Mr. Kipp.

12 MR. KIPP: I will give you a brief introduction.  
13 You have all seen the schematic of the new facility.  
14 And then in the virtual tour, if you recall, we came  
15 generally from the Arizona border, we swung down, and we  
16 went over there on the Willcox bench that, you know, is  
17 generally that direction -- that's where the wine  
18 growers are -- before going over, you know, virtually  
19 over to the current Crane Lake. And it is about a mile,  
20 1.1 mile --

21 Is that about right?

22 MR. HAYES: Correct.

23 MR. KIPP: -- sort of to the northwest. And  
24 then this sort of reverse L, where we are now, is in  
25 this parking lot now. The wellhead is, you know, just

1 there. The new well that we have been talking about  
2 would be sort of behind us here. And the existing Crane  
3 Lake is roughly here --

4 MR. HAYES: Correct.

5 MR. KIPP: -- if the map would go there. And  
6 then the big pieces that would be coming, the, you know,  
7 30-acre lake would be generally that direction set back,  
8 oh, gosh, about an eighth of a mile.

9 Behind you would be this, the fish pond. That's  
10 three acres. Generally that direction would be these  
11 ephemeral wetlands. And then about a quarter mile down  
12 Kansas Settlement Road would be, where there is not a  
13 turnout currently, would be the camping facilities and  
14 the new parking lot and the restroom and the walking  
15 paths and things.

16 CHMN. CHENAL: And what we are looking at is --  
17 do you remember what the exhibit number is? It is the  
18 Crane Lake relocation project, Willcox, Arizona map that  
19 shows the new lake facilities.

20 MS. HOPKINS: I believe it is STL-26.

21 CHMN. CHENAL: Great.

22 MR. KIPP: Anything -- George, there were  
23 questions about, you know, water usage and things. I  
24 covered it at a higher level. But I suppose if anybody  
25 has further questions or if you, you know, had any

1 anything you would like to add, feel free. We are just  
2 all yours.

3 MR. HAYES: Sure. Well, the only thing that I  
4 noticed, because this has been somewhat of a dry fall in  
5 southeastern Arizona, we have had some rains, but the  
6 existing Crane Lake started out with some water in it.  
7 It might have been like a quarter full. And being a dry  
8 lake bed, it is a real heavy clay material. So it holds  
9 water real well.

10 So kind of bring us to speed, we pumped water  
11 back in late October. And then we have had some drying  
12 period with these winds. So that tends to evaporate the  
13 water because it is a 10 -- 30-acre open, very open body  
14 of water. So we just turned the pump off again this  
15 last week. So we have pumped a total of 22 acre feet  
16 twice. We had two pumpings about three to four days in  
17 length. The first pumping filled the lake. And then I  
18 noticed, I was down here last week, it had gone down so  
19 we pumped another three to four days.

20 So that's kind of what our water usage is,  
21 especially during the dry periods. If we were to get  
22 some more moisture in here, maybe storm come through and  
23 settle over this area and the water comes in from these  
24 upper desert areas, crosses Kansas Settlement Road and  
25 flows into the lake, we can do -- sometimes the water

1 gets enough water that we don't have to run the pump.

2 But in this case, because it has been a dry fall...

3 CHMN. CHENAL: Just a quick question, if I may.

4 When is the crane season?

5 MR. HAYES: Oh, it is late October when they

6 start to move in. Bill was saying there is some areas

7 around here that the cranes favor. But late

8 October until March.

9 CHMN. CHENAL: And is that when you pump water?

10 MR. HAYES: Yes.

11 CHMN. CHENAL: Because you don't water when they

12 are not --

13 MR. HAYES: No. When we get on the other side

14 of January, we start watching the water levels. And if

15 we had moisture, we don't keep it full all the way up to

16 the end of March. We start letting it dry up towards

17 the end of March.

18 MEMBER HAENICHEN: George.

19 MR. HAYES: Yes.

20 MEMBER HAENICHEN: How -- this lake has not been

21 here forever, right? It was an artificially created

22 lake?

23 MR. HAYES: No, sir.

24 MEMBER HAENICHEN: When was it --

25 MR. HAYES: The department built in, I think,

1 '70 and '72. The department basically just went down  
2 there with probably bulldozers and some loaders and  
3 created a shallow berm on this flat lake bed. And we  
4 just created this moon-shaped berm in this area. And  
5 then the natural runoff, I guess they strategically put  
6 it there, where it would pick up natural runoff. And  
7 then they drilled this well.

8 And then in the, back in the '70s, this water  
9 table in here was real high. And these, they were able  
10 to get a series of ponds out in here. And that pump was  
11 able to keep up with all these ponds. But as the  
12 progression of farming drilled wells in this area, the  
13 water table dropped.

14 MEMBER HAENICHEN: Now, the cranes are  
15 migratory, I take it?

16 MR. HAYES: Correct.

17 MEMBER HAENICHEN: How did they find the lake  
18 when it was built?

19 MR. HAYES: This flock of birds, just from what  
20 I know, this flock of birds has a home range. And they  
21 can navigate to their nesting grounds in the spring.  
22 And the adult birds know exactly which flyway to stay  
23 in. And they return to these flyways in these winter  
24 resting grounds every year.

25 So I don't know if we have ever done any studies

1 to see if the same birds come and go.

2 MS. FRANCIS: I don't know that we have, but  
3 other -- there have been studies on cranes.

4 MEMBER HAENICHEN: Tags you mean?

5 MS. FRANCIS: Whooping cranes, yeah, they put  
6 radio collars on them.

7 MR. HAYES: So there is a flock on the Colorado.  
8 There is a flock here on this Kansas Settlement. And if  
9 you go over to the Rio Grande, there is a flock in the  
10 Rio Grande, and there is a small flock over in the  
11 Duncan area. And I don't know if each little flock that  
12 comes into their area, if this is the same birds, but it  
13 has to be some of the same adults that bring the young  
14 birds every year in these areas.

15 MS. FRANCIS: And essentially they will use any  
16 shallow water source in the area. I mean they are  
17 flying high enough they can see anything that's out  
18 there.

19 MEMBER HAENICHEN: That was my real question.  
20 So the chances are they won't have any trouble finding  
21 the relocation?

22 MR. HAYES: No, no. We have been taking our  
23 bird survey. Our bird count is, I think it is the 9th  
24 of January or something.

25 So we will be out here scattered in the places

1 we know these birds use and we will be here in the dark  
2 waiting for the sun to come up. And as soon as they  
3 launch, then we count silhouettes in the sky.

4 MEMBER HAENICHEN: Oh, my gosh, that's great.

5 MR. HAYES: It is kind of tedious, especially  
6 when you have gotten thousands of birds coming off a  
7 particular spot. You are counting by groups. You know,  
8 you are going 10, 20, 30.

9 MEMBER HAENICHEN: So these are big numbers of  
10 birds.

11 MR. HAYES: Yes, some of the areas they can be.  
12 So we will scatter out in this area and we will count  
13 these birds. And I think three or four years ago the  
14 high number was like 40,000 birds. That's what we  
15 counted. And it fluctuates.

16 MS. FRANCIS: Yeah. It has gone down below  
17 10,000 at times. So it really depends on climate and  
18 weather.

19 MEMBER HAENICHEN: Chances are we might see some  
20 today?

21 MR. HAYES: I would hope so, yes.

22 MS. FRANCIS: I know these folks saw a flock fly  
23 overhead this morning. So I don't know if there will be  
24 anybody out there. There will probably be. At this  
25 time of day, they are probably feeding over in the



1 agricultural field and then they will come back and  
2 roost here at night. So I don't know whether there will  
3 be any out there.

4 MR. HAYES: At the lake?

5 MS. FRANCIS: Yeah.

6 MR. HAYES: I think the campers said there  
7 weren't any there. That would be their evening roost,  
8 and then they come off the water at twilight. They come  
9 off the water at twilight. Just before sunrise they  
10 leave.

11 A perfect -- you can look at our game cam, our  
12 crane cam. When you go home and you go to a computer,  
13 look on our home page. We have got a camera setting on  
14 White Water Draw. And it is set to where, even in the  
15 very -- there is some birds there. They are right  
16 there. Even in the twilight, in the twilight the camera  
17 has great resolution and able to pick up light.

18 CHMN. CHENAL: Okay. Let's go off the record at  
19 this point and go in the vans, unless anyone has any  
20 questions. Again, it is hard for Colette to take this  
21 in the field. Let's go in the vans and go to the next  
22 stop.

23 (TIME NOTED: 10:25 a.m.)

24 (The tour proceeded to Stop 3.)

25

1 STOP 3

2 (TIME NOTED: 10:50 a.m.)

3 CHMN. CHENAL: Let's go back on the record. Our  
4 next stop is at the playa, Willcox Playa.

5 Mr. Kipp, do you want to go ahead and comment?

6 MR. KIPP: Sure. We are standing at the  
7 existing Crane Lake facility. This, if you look toward  
8 the west, you will see the 230kV existing facility. And  
9 you can see just, just in front of it there is a rock  
10 berm that forms this man-made lake in front of us, Crane  
11 Lake.

12 The Southline, as proposed, would run just on  
13 this side, so the east side of the existing facility.  
14 And as we discussed as part of the proposed mitigation,  
15 a lake of about this size would be essentially in that  
16 direction about a mile, where we actually passed through  
17 it as we drove to the northwest through what would be  
18 the new Crane Lake. And we will leave it at that.

19 CHMN. CHENAL: I am going to ask George just a  
20 quick answer on this.

21 As we look to the, I guess, west-northwest, I  
22 mean we can see water in the general area for a couple  
23 hundred yards, but way in the distance it looks like  
24 there is additional water. Is that a -- that could be a  
25 mirage. Is it a mirage or does this like go in that

1 direction?

2 MR. HAYES: It most likely is a mirage. But,  
3 like I was saying before, if it is a heavy rain, this  
4 will get a skiff of moisture at the top of it. But the  
5 only place that it actually kind of builds up is over by  
6 the railroad tracks over by AEPCO --

7 CHMN. CHENAL: Okay.

8 MR. HAYES: -- power plant.

9 CHMN. CHENAL: Question: How deep in the  
10 center, how deep is the water we are looking at?

11 MR. HAYES: It averages, say, 12 to 15 inches.

12 CHMN. CHENAL: Okay, good.

13 MR. HAYES: Very shallow, so it -- yeah, I don't  
14 think it varies much at all in depth.

15 CHMN. CHENAL: Very good.

16 Does anyone else have any questions at this  
17 point that we should put on the record? Mr. Kipp, do  
18 you have anything to add?

19 MR. KIPP: I don't.

20 CHMN. CHENAL: I think it is very interesting.

21 MEMBER NOLAND: I have got one.

22 CHMN. CHENAL: Go ahead, Member Noland.

23 MEMBER NOLAND: When you build the new lake,  
24 will this remain the same? Will this lake, this area  
25 remain the same or not, where it might hold water if you

1 have rain?

2 MR. HAYES: Correct.

3 MEMBER NOLAND: It will.

4 MR. HAYES: Correct. We are working not to  
5 disturb it for a period of time --

6 MEMBER NOLAND: Okay.

7 MR. HAYES: -- after we create this to make sure  
8 we are successful there, so that -- but we don't want to  
9 disturb this because we have -- this is actually on a  
10 Bureau of Land Management recreation public purpose  
11 transfer to the Game & Fish.

12 MEMBER NOLAND: Okay.

13 MR. HAYES: So we have to work with them if  
14 there is any changes to be made.

15 CHMN. CHENAL: Okay. But after, continuing with  
16 Member Noland's question, after the new Crane Lake is  
17 built, and assuming it's successful, are there any plans  
18 to disturb this area in any way, where we are standing?

19 MR. HAYES: Right. Well, I can't say there is  
20 no plans --

21 CHMN. CHENAL: All right.

22 MR. HAYES: -- at this point.

23 MS. FRANCIS: I can answer that. No, we don't  
24 do any -- we have no intention of doing anything  
25 different out here, other than stop pumping the water.

1 CHMN. CHENAL: Makes sense.

2 Okay. Any other questions, anybody?

3 All right. Thanks. Let's go off the record, go  
4 back to the bus.

5 (TIME NOTED: 10:55 a.m.)

6 (The tour proceeded to Stop 4.)

7

8 STOP 4

9 (TIME NOTED: 11:50 a.m.)

10 CHMN. CHENAL: All right. Back on the record.

11 We are at the power plant. Mr. Patterson, were  
12 you going to speak at this one?

13 MR. PATTERSON: Sure. Thank you.

14 CHMN. CHENAL: Thank you.

15 MR. PATTERSON: So this is our last tour stop on  
16 the new build section. And where we are, just to locate  
17 you, we are at the southeast corner of the Apache  
18 generation station owned by AEPCO, or Arizona's G&T  
19 cooperative. And this is the point where the proposed  
20 new Southline substation facilities would be on the  
21 other side of the road.

22 We have had some discussion about the land  
23 ownership here. And this would, I think, help you, and  
24 we will have some more detailed maps that we can review  
25 perhaps back in the hearing room, but just to give you a

1 sense of where we are. And my colleague, Jeff Robertus,  
2 can give more color, if you would like. But essentially  
3 the new 345 line would be coming along that wood pole  
4 H-frame 230 that we saw at Crane Lake just previously --  
5 I will point to where; it's a little hard to see past  
6 the cars here -- but at which point there is a short jog  
7 that it would go south in order to enter into this area,  
8 at which point it would connect into the new Southline  
9 facilities. And it would be converted to 230kV at this  
10 location. And then there would also be the connection  
11 into the AEPCO Apache facilities.

12 Sorry. I was just pausing for the traffic.

13 We have been working with AEPCO to determine the  
14 precise location inside of their fence. But, as you can  
15 see, we would need to get over and connect into their  
16 substation facilities at either the 115kV or 230kV yards  
17 inside of AEPCO's yard, which we can show you that on  
18 the map as well. And that's being resolved or worked  
19 through with AEPCO in the interconnection process to  
20 determine what works best for AEPCO.

21 And then the upgraded WAPA line, let's see if I  
22 can point it out. I don't know if I can see it from  
23 this location. But in the aerial tour we saw where it  
24 came in.

25 And maybe, Jeff, you have more color on that.

1 MR. OLDFATHER: It is difficult to see the --

2 CHMN. CHENAL: Hold it. Hold it. We are on the  
3 record. The only evidence can be from witnesses that  
4 are sworn in. So let's -- maybe we can have that  
5 discussion back --

6 MR. PATTERSON: At the hearing room.

7 CHMN. CHENAL: -- at the hearing room.

8 MR. OLDFATHER: Oh, okay.

9 CHMN. CHENAL: If we need to, we can swear you  
10 in as a witness and you can explain it further.

11 MR. OLDFATHER: Okay.

12 CHMN. CHENAL: That's why these are hard to do  
13 in the field.

14 MR. OLDFATHER: Yeah.

15 MR. PATTERSON: So I think those are the main  
16 points I was going to hit. Anything I missed or --

17 MR. ROBERTUS: No. I think you summarized it  
18 all. It is difficult to see from here because of the  
19 distance. It is covering in the terrain to see where  
20 that point of interconnection is. So I think the map  
21 will do us well.

22 MEMBER NOLAND: I noticed the public hearing  
23 sign.

24 MR. PATTERSON: So this was the sixth one of the  
25 six signs you can see here. We also passed another one

1 earlier on the tour. I don't know if you saw that one.

2 CHMN. CHENAL: Now, looking north along the road  
3 off the right there, there is -- what is that?

4 MR. ROBERTUS: Cooling towers?

5 CHMN. CHENAL: Okay. And then to the right of  
6 the cooling towers we see a power line coming in. Is  
7 that the AEPCO line --

8 MR. PATTERSON: Yeah.

9 CHMN. CHENAL: -- that we saw at the Crane Lake  
10 stop?

11 MR. PATTERSON: Yes, the wooden H-frames.

12 CHMN. CHENAL: Yeah, okay.

13 MR. PATTERSON: And you can see a couple of the  
14 structures in the distance. So we would be paralleling  
15 up to that point and then coming down to reach this area  
16 here.

17 CHMN. CHENAL: Where we are. And we are  
18 approximately, I don't know, I am guessing half a mile  
19 south of --

20 MR. PATTERSON: That's about right, less than a  
21 mile.

22 MEMBER NOLAND: So even though this isn't  
23 private land, I mean this is partially private land at  
24 some point, it is not farmed land or developed land?

25 MR. PATTERSON: Not that I know of. I think, as



1 looking, I believe it is classified as agricultural. I  
2 don't know what -- how used it is. You can see, I  
3 think, from looking there is not a whole lot of activity  
4 there.

5 MEMBER NOLAND: Right.

6 MR. PATTERSON: I believe pretty much from this  
7 location north is private and pretty much from this  
8 location -- I am sorry, this location north, this is  
9 other private property. And then from here south is the  
10 state part. But we can review that in the hearing room  
11 probably easier.

12 MEMBER NOLAND: Okay. Thank you.

13 CHMN. CHENAL: Further questions from anybody?

14 All right. Let's stop the tour and head back.

15 We will probably have lunch and then we will resume the  
16 hearing at 1:00. Looks like we will be on time.

17 (TIME NOTE: 11:55 a.m.)

18 (The tour concluded and returned to the hearing  
19 room.)

20

21

22

23

24

25

1 (TIME NOTED: 1:06 p.m.)

2 CHMN. CHENAL: Good afternoon, everybody. Let's  
3 begin the afternoon session here in Willcox.

4 The Committee had a tour which followed the  
5 itinerary that's in evidence, came back, we had lunch,  
6 and now we are ready to resume the afternoon session.

7 We will begin with questions of the Committee,  
8 if there are any questions, follow-up questions,  
9 regarding the tour. Then I think, based on my  
10 understanding of was the applicant's counsel, my  
11 understanding is they don't have any more witnesses, but  
12 depending on the questions that may still be on the  
13 minds of the Committee, we might bring some people up.  
14 If not, we will ask Mr. Guy or Ms. Hopkins to do the,  
15 let's say, a final argument.

16 And again, we are taking all this out of order a  
17 little just because we want to not waste time this  
18 afternoon. And so we will start the discussion with the  
19 CEC. And then my understanding is that tomorrow we will  
20 complete -- well, we will complete tomorrow.

21 MEMBER WOODALL: Excuse me, Mr. Chairman.

22 CHMN. CHENAL: Yes, Member Woodall.

23 MEMBER WOODALL: When we left yesterday, my  
24 understanding was that the applicant was going to  
25 provide a revised route description as Exhibit A. And I

1 think it would be important to have some witness testify  
2 regarding how that work was performed and laying a  
3 foundation for it, because otherwise we are just taking  
4 something that is not of evidentiary nature. That is  
5 why my request.

6 CHMN. CHENAL: Not the first time someone read  
7 my mind.

8 The next thing I was going to say is tomorrow we  
9 will have that witness to discuss the description of the  
10 route more precisely, and we will have a witness  
11 available for any conversation there. And then we will  
12 complete the discussion with the CEC and the conditions,  
13 and then we will do the vote.

14 And part of it is Member McGuire could not be  
15 here today, and he wanted to be a part of the, you know,  
16 decision-making process tomorrow. I am informed Member  
17 Eberhart will not be here in Willcox.

18 So any questions from the Committee or the  
19 applicant or anybody about the likely denouement, the  
20 finishing of this hearing? I love French. It is great.

21 Okay. Any questions of the Committee on the  
22 tour?

23 Member Haenichen.

24 MEMBER HAENICHEN: No, not on the tour. I am  
25 sorry.

1 CHMN. CHENAL: Any question having to do with  
2 the case?

3 MEMBER HAENICHEN: Yes. I asked a question  
4 yesterday regarding a comparison between using unipole  
5 devices to carry the lines versus the lattice  
6 structures, and the applicant said they would provide a  
7 witness that could tell me the difference in the cost.  
8 So if they could do that now, that would be good.

9 MS. HOPKINS: We would be happy to do that now.  
10 I don't know where Mr. Robertus' name tag is,  
11 but this is Jeff Robertus.

12

13 JEFF ROBERTUS,  
14 called as a witness on behalf of the Applicant, having  
15 been previously duly affirmed by the Chairman to speak  
16 the truth and nothing but the truth, was examined and  
17 testified as follows:

18

19 DIRECT EXAMINATION

20 BY MS. HOPKINS:

21 And Mr. Robertus, do you have a response to  
22 Member Haenichen's question regarding the cost  
23 comparison between monopole and lattice structures?

24 A. Yes. A few years back Black & Veatch had  
25 undertaken a cost comparison for a large 345 project in

1 Texas. And at that point in time the cost differential  
2 as installed, base cost, found the monopoles to be  
3 approximately 15 percent more expensive than comparable  
4 lattice.

5 CHMN. CHENAL: 5-0 or 1-5?

6 MR. ROBERTUS: 1-5, 15.

7 MEMBER HAENICHEN: Okay. So the penalty then  
8 for using them, for using them to ameliorate problems on  
9 very short runs wouldn't be very great, then. I mean  
10 15 percent of what? How much is it per mile for a line  
11 like this, for the structure part?

12 MR. ROBERTUS: I don't have that number off the  
13 top of my head, sir.

14 MEMBER HAENICHEN: Okay. What I was getting at  
15 with that question was that it would be good if there  
16 was flexibility in sensitive areas where, with a small  
17 investment in effort and time, money could basically  
18 placate certain residents or whatever. That was the  
19 nature the question. Thank you.

20 BY MS. HOPKINS:

21 Q. And Mr. Robertus, could I ask one clarifying  
22 question. Is it that using monopole structures is  
23 15 percent more expensive all-in total cost based on the  
24 length of the spans, having to change and other factors?

25 A. If you keep the length of the spans the same,

1 that would be a true statement, yes, but it was based on  
2 installed cost.

3 MS. HOPKINS: Okay. Thank you.

4 CHMN. CHENAL: Any further questions from the  
5 Committee?

6 (No response.)

7 CHMN. CHENAL: Okay. Mr. Guy, Ms. Hopkins, are  
8 there any other witnesses, other than the witnesses we  
9 know we will have tomorrow regarding the route, are  
10 there any other witnesses you intend to call?

11 MR. GUY: There are none.

12 MEMBER WOODALL: Can I ask one question? I  
13 apologize. It probably has been addressed. But could  
14 the half of the project for which you are seeking a CEC,  
15 the new line and the upgrade route, could that be built  
16 as a separate project? And I am talking in terms of  
17 whether or not you could terminate at -- I think is it  
18 Vail that you are going to end at?

19 MR. GUY: I can certainly give you my thoughts  
20 based on what is in the record. And then we would  
21 obviously have to follow up with our witnesses on facts  
22 not in the record.

23 But from physically can it be constructed, yes.  
24 Certainly coming from New Mexico all the way into  
25 Arizona, all of the new build section coming all the way

1 up to AEPCO's Apache substation, that is all new build,  
2 that is not impacted one way or the other about, you  
3 know, when WAPA constructs its portion of the line.

4 So new build, I think setting aside whether you  
5 could actually justify the project, all the benefits it  
6 provides, things like that, I mean just can you  
7 physically construct it, yes, all the new build, I would  
8 think based on the evidence in the record, you could  
9 physically construct that line.

10 With respect to the upgrade lines, the CEC  
11 upgrade section, the design, of course, would need to be  
12 different, because the upgrade lines, the purpose of  
13 those lines, as you recall, are to tie existing utility  
14 substations into the WAPA upgraded line, and so all the  
15 design is to go from whatever the existing stations are  
16 to a new 230kV WAPA line. Well, if the WAPA line were  
17 still at 115 and you were trying to tie to that line,  
18 then, of course, you can physically do it, but I think  
19 there would probably have to be changes in the design.

20 MEMBER WOODALL: So is the new build and upgrade  
21 portion, would that be commercially viable -- and I am  
22 including the part in New Mexico -- would that be  
23 commercially viable on its own?

24 MR. GUY: That's a question I would certainly  
25 have to defer to experts on.

1 MEMBER WOODALL: Here is why I am asking, is  
2 that you have defined the project as including the WAPA  
3 route. And you made it clear that you are not asking  
4 for approval on the WAPA route, but you have defined the  
5 project as including that. And I am just wondering if  
6 there isn't some way that it couldn't be segmented.

7 I understand that from an environmental analysis  
8 standpoint you would look at connected actions -- and I  
9 know we have got an environmental expert here, so if I  
10 am not using the correct terminology, I apologize -- so  
11 I can understand why the EIS was done as one big  
12 project.

13 But I'm just kind of wondering whether or not  
14 the Southline portion, in other words, couldn't you have  
15 filed an application just for the Southline component?

16 MR. GUY: Absolutely. I think you will hear --  
17 I prepared five minutes of remarks for a closing. I  
18 think you will be reminded that many of the benefits  
19 that we describe in the project depend on upgrading the  
20 WAPA lines to 230 and providing that additional  
21 capacity.

22 So you wouldn't have -- if you just did the  
23 Southline project that was covered by the CEC  
24 application, you realize many of the benefits, but you  
25 certainly won't realize all of the benefits that were



1 used to describe the entire project.

2 MEMBER WOODALL: I ask because, of course, there  
3 is the jurisdictional issues involved. And that's why I  
4 wanted to get something on the record, even though your  
5 comments are not testimony.

6 MR. GUY: Right, yeah. I am trying to limit my  
7 argument or comments to the testimony on the record,  
8 absolutely.

9 MEMBER WOODALL: Sure. Thank you.

10 CHMN. CHENAL: Mr. Guy, was the testimony such  
11 that Southline would not construct the new build without  
12 the upgrade being constructed as well?

13 MR. GUY: I don't think there is any testimony  
14 on that. I don't think, other than some general  
15 milestone dates for the entire project -- you know,  
16 construction will start late 2017 -- I don't think there  
17 has been any testimony on timelines or sequence or  
18 anything like that.

19 CHMN. CHENAL: I mean maybe we want to discuss  
20 that tomorrow when we have the other witness and maybe  
21 have a little clarification. I mean it is kind of a  
22 unique project. And I guess it -- I have assumed, and  
23 one should not assume, but I have assumed that the  
24 project makes sense if both are built. And it wouldn't  
25 make sense, well, WAPA wouldn't build it on their own,

1 and Southline is not going to give them the money just  
2 to build the upgrade without doing the new build. So in  
3 my mind, it seems like it is all or nothing. But maybe  
4 we should have a little testimony on that to make the  
5 record clear.

6 MEMBER WOODALL: It is not necessary from my  
7 perspective, Chairman, but of course, if you would like  
8 further amplification, I would have no objection.

9 CHMN. CHENAL: Well, I think I would, because I  
10 have a condition that kind of touches on that.

11 Member Haenichen.

12 MEMBER HAENICHEN: That was going to be my  
13 comment, because this might be a subject of a condition,  
14 and the question I would have is would the applicant be  
15 willing to go along with such a condition or not.

16 MR. GUY: We can certainly consider that either  
17 as part of the additional discussion or as part of the  
18 condition discussion.

19 MEMBER WOODALL: And excuse me, Chairman.

20 CHMN. CHENAL: Member Woodall.

21 MEMBER WOODALL: I am sorry, Chairman.

22 I had a chance to review the proposed conditions  
23 that you had. And I believe --

24 MEMBER NOLAND: I can't hear you. I can't hear  
25 you.

1           MEMBER WOODALL: Okay. I am very sorry. Now I  
2 am going to talk really loud.

3           No. My understanding is that you were going to  
4 propose a condition, and it was in your correspondence  
5 to Mr. Guy and the other parties, and it did not make  
6 its way into Exhibit 42. Is that what you had been  
7 talking about?

8           CHMN. CHENAL: Well, yes, Member Woodall, that's  
9 one. But depending on the testimony, maybe we also  
10 should have a condition that says the obvious, that the  
11 CEC to build the CEC new build and upgrade routes is  
12 conditioned on, you know, WAPA constructing the upgrade  
13 route so that they are conditioned on each other.

14           We could talk about it and come up with the  
15 language, but the concept is it is all or nothing, and I  
16 don't know that we have testimony on that. It seems  
17 like that's the way the application reads, but I am not  
18 certain if there is any testimony on it. And it just, I  
19 think, would be one of those things that might be wise  
20 to do. But we can talk about that.

21           I think I also, yeah, to follow up on the  
22 comment, I did send some proposed conditions to Mr. Guy  
23 and the other parties on Friday after the conclusion of  
24 the hearing in Tucson, just to put them -- allow time  
25 for the applicant to create a document that we could

1 review on the screen, which is what we will be moving  
2 into next, so he would have something for discussion.  
3 It wasn't meant that these are ones that I am  
4 necessarily proposing. But I thought it was important  
5 that we have something in writing.

6 And to Member Noland's previous point, not to  
7 spring it on at the last minute, but we can, you know,  
8 have the opportunity to kind of review it and go over  
9 it.

10 So I think you have all been provided a copy of  
11 the applicant's proposed CEC with the ones that I  
12 included. There are a couple that weren't included  
13 which we will, Ms. Livingston will incorporate into it  
14 at the appropriate point. But anyway, that's...

15 So Mr. Guy, maybe it is time, if you would like,  
16 to do your final argument. I say final argument. We  
17 are taking it a little out of order. We are going to  
18 have a little more testimony. We are going to go over  
19 the CEC conditions. As we go through the conditions,  
20 you obviously have the right, and Ms. Hopkins, to  
21 comment on the conditions.

22 And as a courtesy, because we are taking it out  
23 of order, at the end of that, you know, we will give you  
24 another opportunity to add some additional comments.  
25 Okay? So this isn't your final opportunity to, you

1 know, make your argument.

2 But why don't you -- why don't we do it this  
3 way, and I think it is a fair way to do it.

4 MR. GUY: Very good. And I appreciate that  
5 consideration. Also I recognize it is somewhat of an  
6 unusual procedural posture, and really the case overall,  
7 given the amount of opposition and, you know, no  
8 opposing testimony really, so not the type of case where  
9 I am going on with a lengthy closing argument. But I do  
10 think it is appropriate, since we have been at this for  
11 a week and a half, I did want to go through generally,  
12 give you an idea, summarize our application, maybe  
13 things we haven't talked about in a few days. And then  
14 I also have a very, very brief response to Mr. Jackson's  
15 comments on jurisdiction. And then, of course, if he  
16 does take the opportunity to file something with the  
17 ACC, we would, of course, we will file something in  
18 response just to make the record complete on that.

19 So to begin, just state the obvious, I mean  
20 Southline filed a complete and comprehensive application  
21 for a certificate of environmental compatibility for the  
22 CEC proposed route. We believe the application complied  
23 with all the applicable statutes and rules. We provided  
24 notice of the hearing consistent with the requirements  
25 of the procedural rules for line siting cases. In

1 addition to the required notice, we provided additional  
2 notice in local, county newspapers and by the use of the  
3 road signs along the route.

4 And this formal notice followed several years of  
5 outreach, as you heard in testimony, both before,  
6 during, and after the NEPA process. And then, over the  
7 last week and a half, we have had extensive testimony  
8 and review of documentary evidence establishing that the  
9 Southline project satisfies all the state regulatory  
10 requirements for a CEC.

11 And the first point I want to touch on was  
12 actually one of the later things we talked about at the  
13 hearing. But that is that you heard testimony on all of  
14 the factors contained in the Arizona Revised Statutes  
15 Title 40-360.06 that lists all those factors that the  
16 Line Siting Committee is to consider.

17 Much of the environmental analysis that  
18 addressed those factors, as you know, was gathered and  
19 considered as part of the multi-year NEPA process. As a  
20 reminder, that was co-led by Western Area Power  
21 Administration and the Bureau of Land Management. That  
22 process included consideration of a number of routing  
23 alternatives. And each of those alternative routes were  
24 considered, and it ended in the selection of a preferred  
25 route by BLM and WAPA, and that is the route that was

1 included in the application.

2 That route was selected based on an analysis of  
3 all those environmental factors, consideration of  
4 alternatives, and in consideration of all the issues, in  
5 fact, all the issues that are within the environmental  
6 issues that are within 360.06, existing land use plans  
7 in the vicinity of the project; the effects on fish,  
8 wildlife, and plant life; potential noise and  
9 interference with communication signals; potential  
10 impacts on recreational purposes or on scenic areas;  
11 potential impacts on historic sites and structures and  
12 archeological sites; and finally, just the total  
13 environment of the area.

14 As has been stated by -- you have heard a number  
15 of times, is that virtually all of the route parallels  
16 existing linear infrastructure, and that minimizes  
17 impact on the environment from a land use perspective.

18 In addition, there are a number of proponent  
19 committed environmental measures, or PCEMs, that have  
20 been agreed to and, in fact, Southline is required to  
21 comply with. And those are designed to mitigate further  
22 any impact that might be on the environment. And you  
23 heard from the Southline witnesses Southline is  
24 committed to following not only those PCEMs, but also  
25 the NEPA plan of development across the entire Southline

1 project, the Southline CEC project.

2 Second, which was sort of the first part of the  
3 testimony you heard in the week, there is a significant  
4 need for the transmission project, and it has the  
5 potential to offer tremendous benefits. Most  
6 importantly and fundamentally, the project will provide  
7 up to a thousand megawatts of bidirectional capacity to  
8 southern Arizona and New Mexico. It will also provide  
9 five new interconnections to existing stations on the  
10 grid.

11 That capacity and that design is really what  
12 offers many of the benefits that you heard testimony on.  
13 The potential benefits were improving reliability,  
14 relieving congestion, supporting electric growth on the  
15 grid, and facilitating the integration of renewable  
16 energy.

17 Just to touch on each of those, the reliability  
18 is improved by increasing the capacity and by adding  
19 those interconnections to Tucson Electric, to Arizona  
20 Electric Power Cooperative, and to WAPA. It also allows  
21 the upgrade and replacement of the much older wooden  
22 structures on the WAPA facilities.

23 The ACC Staff, the Arizona Corporation  
24 Commission Staff, provided a number of data requests or  
25 discovery requests to Southline early in the process.



1 Most of those questions were focused on obtaining  
2 technical information from Southline and looking at the  
3 power flow analyses relating to the project. We didn't  
4 really talk about those discovery requests in the  
5 hearing, we didn't make them an exhibit, but we did, the  
6 studies that Southline provided to Staff, are exhibits  
7 in the case, and those were provided as Southline STL-22  
8 and STL-23.

9 And, in fact, the Commission Staff filed a  
10 letter in the case that I believe has been made  
11 Chairman's Exhibit 5. So those aren't things we talked  
12 about a lot, but those were in the record. And I think  
13 what you would find if you reviewed that letter and you  
14 reviewed those studies, it would demonstrate that the  
15 transmission design and performance would meet both the  
16 North American Electric Reliability Corporation and  
17 Western Electricity Coordinating Council reliability  
18 criteria. Staff's letter also describes that they  
19 concluded, based on the review of those studies and what  
20 has been filed in the case, that the project could offer  
21 improvement to the reliability of the grid and to the  
22 delivery of power in Arizona.

23 Staff also referred in their letter that the  
24 project could potentially mitigate congestion concerns,  
25 primarily upon the WAPA upgrade. So the additional

1 capacity and interconnections, much of which provides an  
2 alternative path for other utilities, including Tucson  
3 Electric, you heard that in Mr. Beck's testimony, that  
4 further reinforces the grid and helps to relieve  
5 congestion on the system.

6           The last two benefits we had listed, supporting  
7 growth and facilitating integration of renewable energy,  
8 they are distinct but related. But the project both  
9 supports growth on the system by providing additional  
10 capacity, and also access to other generation resources,  
11 such as solar and wind. Due to the location, you know,  
12 the location of the project, southern Arizona and  
13 southern New Mexico, you have the ability to bring in  
14 wind and solar and transmit those resources other  
15 places.

16           The need for the project has been confirmed by  
17 the responses to the open solicitation process. That  
18 closed in June, as you heard. And you heard that we  
19 have received expressions of interest in excess of the  
20 project's capacity.

21           In addition, we have received, Southline has  
22 received significant support from a variety of other  
23 entities. You heard public comments from a local  
24 community organization, Cascabel Working Group. You, of  
25 course, saw a support letter filed by WAPA, a public

1 transmission provider that's part of the project. You  
2 heard testimony on behalf a local utility company,  
3 Tucson Electric. And then I believe we also had a  
4 letter filed by the economic development organization,  
5 Sun Corridor. So a wide variety of folks supporting  
6 this project.

7           And we believe, based on review and balance of  
8 the potential environmental impacts and the benefits  
9 that could be provided by the project, we believe the  
10 Southline project is in the public interest and a CEC  
11 should be issued.

12           To the extent there are any outstanding  
13 concerns -- and I know there are some areas -- we are  
14 happy to work through the condition process that we  
15 described before, and we look forward to doing that.

16           I just want to make a couple of brief comments  
17 in response to Mountain View's comments yesterday on the  
18 jurisdictional issue.

19           Respectfully, I do believe that Mr. Jackson's  
20 comments on much of what he described were really  
21 mistaken on both the facts and the law. And it is sort  
22 of uncommon that you actually get to respond to  
23 someone's argument like that; you usually have to pick  
24 one or the other to respond to. But I think if you  
25 actually look at the cases that Mr. Jackson described,

1 and the issues that he raised, they are completely  
2 different scenarios.

3           And the first thing I want to start with is, if  
4 I recall correctly -- and I haven't seen a transcript,  
5 so this is working off memory -- I believe he stated  
6 that the only authority that allows WAPA and Southline  
7 to coordinate on this transmission project is 42 USC  
8 16421. That statutory provision is also known as  
9 Section 1222 of the Energy Policy Act of 2005. That may  
10 be something you have heard about, and more likely than  
11 the full reference.

12           That assertion is simply not true. WAPA is a  
13 federal power marketing agency of the Department of  
14 Energy, and it has been in existence for decades. It  
15 has authority under a number of statutory provisions  
16 that allows it to develop transmission infrastructure to  
17 market and deliver hydroelectric power from Bureau of  
18 Reclamation hydro generation facilities. And I don't  
19 have all of those statutory references in front of me  
20 that allow WAPA to exist and to support its customers,  
21 but to the extent we file something in the docket, we  
22 can lay that out.

23           The purpose of Section 1222, it in fact expands  
24 WAPA's right to develop transmission infrastructure  
25 under WAPA's -- prior to 1222 all WAPA could do was do

1 whatever it needed to support its own market and  
2 transmission of its hydroelectric facilities. Under  
3 1222, WAPA can participate and develop the  
4 infrastructure for other reasons unrelated to that.

5 And so there has never been a claim that the  
6 Southline project is being developed pursuant to 1222.  
7 It may be a route that could be used, but Southline  
8 hasn't -- that's not what Southline is currently  
9 operating under.

10 And even if it were, I mean, so going back on  
11 that, if you think about the purpose of this project, so  
12 the Southline project allows WAPA to upgrade its  
13 existing facilities. So it not only improves existing  
14 facilities on the Parker-Davis project that it is  
15 currently being used to serve its customers under the  
16 reclamation law, it is also increasing the capacity that  
17 WAPA will be able to use for its existing system.

18 So there is no requirement at all that Southline  
19 would need to consider this is a 1222 project. But even  
20 if it were, that statute has no effect on the Line  
21 Siting Committee's jurisdiction or on the jurisdiction  
22 over WAPA in this proceeding.

23 If I recall what Mountain View's counsel  
24 referred to was a savings clause in a subsection of  
25 Section 1222. And I don't have the exact language. All

1 that essentially says is we are giving WAPA this right  
2 to develop transmission infrastructure, and nothing we  
3 are doing here changes the effect of existing state or  
4 federal law. That's what you mean by the savings  
5 clause.

6 And so that then gets you to the exact same  
7 place that the Chairman and ourselves were on back at  
8 the prefiling conferences: Well, what is our  
9 jurisdiction over WAPA then? What is the state of the  
10 federal and state law over jurisdiction over a federal  
11 agency for line siting?

12 And based on the briefing and the review of the  
13 case law, unless there is an unambiguous waiver of  
14 WAPA's -- the preemption law that states that WAPA is  
15 not subject to Line Siting Committee jurisdiction for  
16 the siting of a transmission line. So the case law and  
17 the jurisdiction is clear.

18 The only other real comment I want to make that  
19 I recall that was discussed is the Colorado case that is  
20 attached to Mountain View's comments. If you look at  
21 that case, it is really completely different from this  
22 case. What that case is Tri-State, it was a cooperative  
23 in Colorado, who has entered into an agreement with WAPA  
24 to develop a transmission project. Tri-State was going  
25 to own all of the facilities, the structures, the

1 conductor, but they had an agreement where WAPA was  
2 going to own the right-of-way.

3 So Tri-State used that participation to say we,  
4 Tri-State, are not subject to the line siting committee  
5 jurisdiction. So that would be analogous to Southline  
6 coming to you and saying Southline is not subject to  
7 your jurisdiction, solely because we are entering into a  
8 project with WAPA. And that's obviously not what we  
9 have done.

10 We have actually come to the Line Siting  
11 Committee to ask to be considered under your  
12 jurisdiction and ask for your approval. And all we have  
13 stated is WAPA is not subject to your jurisdiction. So  
14 that Colorado case is quite a bit different on the  
15 participation, and there is no -- and we are going to  
16 have a condition on this -- there is no possibility,  
17 based on our application, that Southline is going to own  
18 the WAPA upgrade section. WAPA is not going to convey  
19 those facilities to Southline. So that's not where we  
20 are.

21 In short, then, I appreciate your time in  
22 listening to the summary, but I don't think there is any  
23 reason to believe that the Line Siting Committee or the  
24 Commission should exercise jurisdiction over the WAPA  
25 upgrade section based on the facts that have been

1 presented.

2 CHMN. CHENAL: Thank you, Mr. Guy.

3 Member Woodall.

4 And let me just -- you know, it is not like a  
5 jury trial where the judge instructs the jury and then  
6 they leave the room. You are still stuck with the  
7 Committee and their questions after your argument.

8 So Member Woodall.

9 MEMBER WOODALL: I would just say throughout  
10 this hearing and during your closing remarks, I have  
11 heard repeated reference to the benefits that the WAPA  
12 owned segment of this project will bring to the State of  
13 Arizona. And yet that project is not before us in a  
14 CEC.

15 So it seems to me there is an inconsistency in  
16 your position, because you are asserting the benefits of  
17 a WAPA project to support Southline's application for  
18 the new build, and yet we don't have the WAPA portion  
19 before us in the CEC. And there seems to be an illogic  
20 there or internal inconsistency that is very troubling  
21 to me.

22 MR. GUY: I think it is a fair comment, and that  
23 goes to -- I think it goes to the same question you at  
24 least asked about prior to the closing remarks, where it  
25 might make sense where this is part of our conditions



1 tomorrow and have that discussion, or with the experts.

2 But, you know, as I understand it, and what I  
3 was trying to convey both before and during closing, is  
4 that what you are saying is exactly right, in the sense  
5 that many of the benefits that Southline articulated as  
6 justifying the overall project require the WAPA existing  
7 facilities to be upgraded to 230. But that wouldn't  
8 happen unless Southline was also doing the new build  
9 section in the WAPA upgrade section or the CEC upgrade  
10 section. So that is why we have called it a  
11 public/private endeavor. That's why it is -- they are  
12 very connected. And without the WAPA upgrade section,  
13 you certainly would not realize all of the benefits that  
14 we described.

15 MEMBER WOODALL: And yet, while you were  
16 asserting the benefits from the WAPA constructed portion  
17 here, the Siting Committee hasn't been presented with  
18 evidence of what the negatives are of that project,  
19 because it is not in front of us in terms of an  
20 application for a CEC. And there seems to be to --  
21 that's troubling to me. You are asserting benefits, yet  
22 we don't have the WAPA line before us so we can't  
23 consider the detriments and compare those to the  
24 benefits.

25 And that, to me, that's the reason I was asking

1 you questions if you couldn't have filed this  
2 separately, which is neither here nor there. But it is  
3 troubling to me. Like how much do I weigh the WAPA line  
4 benefits in terms of looking at what Southline wants to  
5 do, when I really don't know what the detriments are to  
6 the state from the WAPA portion? That's the tricky part  
7 for me here. And I just wanted to let you know ahead of  
8 time so maybe you could ponder and muse.

9 MR. GUY: And I appreciate that comment. We  
10 will visit about it before the conclusion of the case  
11 and see if we can't do anything to relieve that concern  
12 some.

13 CHMN. CHENAL: And yet the application only  
14 technically does cover the Southline, the non-WAPA  
15 portion of the line, and yet it is kind of hard to  
16 distinguish. It is part of the whole, it probably  
17 doesn't stand on its own, and yet we can only consider  
18 the part. So it is a unique case, I think, for this  
19 Committee.

20 MEMBER WOODALL: I mean no offense, but there is  
21 a commonplace saying, have your cake and eat it, too.  
22 And that comes to mind when I consider the posture of  
23 the matter in front of us. And I haven't prejudged  
24 anything at this point because I want the benefit of  
25 comments from my fellow Committee members.

1 CHMN. CHENAL: Any questions or comments from  
2 the Committee?

3 Yes, Member Hamway.

4 MEMBER HAMWAY: This is just because I don't  
5 really know, I don't know the answer to it, but you are  
6 constructing 345kV and then you are stepping down on the  
7 WAPA upgrade to 230. So what determines that capacity?  
8 I mean, how did WAPA come up with 230? What is it now?  
9 115? And so they are going to step it up to 230. Why  
10 didn't they go the 345 all across the whole line?

11 MR. GUY: That's a good question that probably  
12 is more appropriately addressed by Doug Patterson.

13 I mean the short answer, as far as what is in  
14 the record, would be it would likely be covered in that  
15 WECC path flow study or routing study, which I believe  
16 is STL either 22 or 23.

17 But that's definitely something Mr. Patterson  
18 could perhaps provide more information on as to why the  
19 decisions were made at the different voltage levels.

20 MEMBER HAMWAY: And then what keeps WAPA from  
21 taking your investment to upgrade from 115 to 230 and  
22 not adding a little bit extra and taking it on up to  
23 345, without any kind of oversight or impact on the  
24 surrounding?

25 So those are my concerns, about -- you know, I

1 get the benefit for WAPA, Western, whatever we want to  
2 call it. But I just -- it does -- it is troubling to  
3 me -- and I am new to this -- that there is a whole  
4 section that's going to get upgraded to something that  
5 they say is 230, but could be something different, and  
6 without any oversight at all.

7 CHMN. CHENAL: Member Hamway, would you like  
8 Mr. Patterson to provide a little more testimony on  
9 that? I mean I think we are -- this is a little fluid  
10 situation, and I think if it is a question that's of  
11 concern to you, I mean we have the people here in the  
12 room. We can get Mr. Patterson or somebody else to  
13 answer that question.

14 MEMBER HAMWAY: Well, does it matter to anybody  
15 else?

16 CHMN. CHENAL: Well, it matters to you.

17 MEMBER HAMWAY: Well, I am just curious more  
18 than --

19 MEMBER BINGHAM: I'm interested in hearing that  
20 answer as well.

21 CHMN. CHENAL: All right. We have an interest  
22 to have Mr. Patterson.

23 Mr. Patterson, why don't we have a little more  
24 testimony. If you need to confer with counsel before  
25 you, you know, give testimony, that's fine. This isn't

1 supposed to be a snap quiz here, pick people out of the  
2 audience. Well, I guess it is. Okay.

3 MEMBER HAMWAY: So my question was how did you  
4 come up with 230 on the WAPA lines, stepping up from 115  
5 to 230, and does it step down at the Apache station into  
6 the 230? And what is to keep Western from adding a  
7 little bit more money of their own and making it 345  
8 across the whole line, and is there a value to that? So  
9 I guess what was the thought process.

10 MR. PATTERSON: Certainly. So I think I touched  
11 on part of this briefly in my testimony, but let me try  
12 to expand on it a little bit.

13 The history of why there were two different  
14 voltages, as Mr. Guy referenced, evolve out of the  
15 regional planning process. So I don't know if you  
16 recall, but there had been plans or studies that had  
17 looked at upgrading the existing 115 WAPA line to 230,  
18 even before Southline and the local utilities had looked  
19 at it, among other potential solutions in the area.

20 When we came into the regional planning process  
21 and were interested in is there a way to combine  
22 upgrading lines where possible with providing additional  
23 access to renewables, that was kind of how we were  
24 first, you know, looking at it, the WAPA upgrade had  
25 been suggested for us to look at. So there was some

1 historical context, is the first thing I would say.

2 In terms of why it was that specific voltage, a  
3 couple of things to note. One is I believe it is really  
4 kind -- WAPA is trying to move to a standard of 230 from  
5 115. There are significant costs and other  
6 considerations if you can standardize. It is, much of  
7 WAPA's 115 system is already currently being upgraded to  
8 230. There is some similar type of structures on their  
9 system. So moving to 230 would, in the long term, save  
10 their customers money. It would standardize their  
11 process. And so that was one consideration.

12 But also from a routing perspective, the 230,  
13 you couldn't or really wouldn't want to bring anything  
14 bigger than that through the existing WAPA corridor,  
15 particularly the congested areas, you know, through  
16 Tucson. It would be too large for that area.

17 So in terms of why Southline was looking at 345  
18 on the new build section, and why did we have two  
19 different voltages, that really was more driven from the  
20 New Mexico side of the equation, where the existing  
21 extra high voltage system in New Mexico is 345kV.

22 And so the originating connection in New Mexico  
23 at Afton is a 345kV station. It would lower costs and  
24 be a more efficient design. To start at the same  
25 voltage was really more of the technical determination.

1 And so combining those two in that fashion, that's  
2 really how it evolved.

3 In terms of your question about what would  
4 prevent WAPA from, you know, changing the design going  
5 forward, I think there are -- well, there is likely a  
6 number of things. I mean one thing that would limit  
7 Southline, we have done all of our studies and we have  
8 rated the project based on this design. That would be a  
9 very material change and, you know, I think where, as I  
10 review in my testimony, the WECC process itself is a  
11 multi-year effort.

12 But beyond that, I think, importantly, WAPA, as  
13 a federal agency, is bound by NEPA. And the  
14 environmental impact statement and the Record of  
15 Decision that was made on that was based on that design.  
16 So I don't see how they could pursue anything other than  
17 what was in the environmental impact statement, and  
18 going to the 230 design was what had been assessed for  
19 impacts.

20 MEMBER HAMWAY: Can I ask a follow-up question?  
21 So when you say that in your open process where you were  
22 gauging interest, and you said you had more interest  
23 than you had capacity, are you talking just on the new  
24 build, or does that include the additional capacity on  
25 the WAPA line also? And how do you determine if you

1 have got enough on the 345, but you don't -- I mean you  
2 can't carry it through on the WAPA, if --

3 So another question is: So am I to assume that  
4 WAPA needs to upgrade to 230 to service their  
5 hydroelectric clients? Or could they have stayed at 115  
6 and serviced their clients so the extra capacity is  
7 owned by who.

8 MR. PATTERSON: So the extra capacity will be  
9 WAPA's, which they will make available to their  
10 customers as well.

11 And sorry, I think I might have missed the first  
12 part of your question. Could you repeat? I apologize.

13 MEMBER HAMWAY: Yes. The extra capacity that  
14 you are selling, you have more interest than capacity.  
15 What are you talking about? Is it just the new build?

16 MR. PATTERSON: Well, we saw significant  
17 capacity for the overall project and we really consider  
18 it one integrated project. It does have two sections  
19 and two directions, and so potential customers could use  
20 it in different ways. There is also different potential  
21 entrance and exit points.

22 But the responses that we received were, you  
23 know, enough, they were significant enough to move ahead  
24 and they were in excess of what we had offered. And so  
25 I don't know that I can provide more color that would be



1 helpful.

2 MEMBER HAMWAY: Well, when you say something  
3 like that it makes me think, well, you know, it is kind  
4 of like when you are selling a car and you agree on a  
5 price, and you think, shoot, I should have asked for  
6 more money.

7 So somehow should you upgrade, should WAPA  
8 upgrade so they can gain more buyers on the line? I  
9 mean, if you have got more people interested than you  
10 have capacity, why are you not thinking about growing  
11 your capacity to meet the interest?

12 MR. PATTERSON: Oh, well, I guess since it took  
13 eight years to get to this point, trying to increase the  
14 scope of the project seems like a very big task, which  
15 is just an immediate response. I have to think about  
16 that a little bit more. I don't have other, you know,  
17 but that would be my first reaction, is that it wouldn't  
18 seem very practical at this point.

19 MEMBER HAMWAY: Okay.

20 CHMN. CHENAL: Member Woodall had a question.  
21 Then we will get to you, Member Bingham.

22 Member Woodall.

23 MEMBER WOODALL: Okay. So Mr. Patterson,  
24 Southline had an open season for the new build section  
25 of the line, correct?

1 MR. PATTERSON: We had an open solicitation for  
2 the entire project.

3 MEMBER WOODALL: Okay. Including the WAPA end?

4 MR. PATTERSON: Including Southline's capacity  
5 rights on the WAPA project.

6 MEMBER WOODALL: And so WAPA identified what its  
7 capacity needs were and decided that they needed to go  
8 from 115 to 230, is that correct?

9 MR. PATTERSON: WAPA had identified upgrading  
10 that line to 230 in their long-term planning process.  
11 And as part of the participation agreement discussions,  
12 they had identified an amount of capacity that they  
13 would need to keep to meet existing customers'  
14 requirements, as well as an amount of capacity that WAPA  
15 would receive for their role in the contribution --  
16 sorry, their contribution to the project, as well as  
17 which included really their, I think, assessment of what  
18 they thought they might need.

19 MEMBER WOODALL: Okay. So are you anticipating  
20 that WAPA is going to have an open season to sell any of  
21 its capacity rights on the line?

22 MR. PATTERSON: I don't know the exact forum of  
23 how they will make their capacity rights available. I  
24 believe they would make it available under their open  
25 access.

1 MEMBER WOODALL: Their open access transmission  
2 tariff. So you are anticipating that WAPA is going to  
3 be trying to sell any capacity that it does not need but  
4 owns?

5 MR. PATTERSON: I would anticipate that WAPA  
6 would be marketing their capacity, yes.

7 MEMBER WOODALL: And we don't know how they do  
8 that, but we are assuming that it is going to be a  
9 competitive process?

10 MR. PATTERSON: I believe that they will be  
11 making it available under the requirements of their  
12 public code, I believe.

13 MEMBER WOODALL: So do we presume that WAPA  
14 decided they needed 230 because of them and their  
15 long-term plans and also because they thought they might  
16 be able to sell excess capacity on the open market? And  
17 I am using open market not as -- as a general term.

18 MR. PATTERSON: I don't know about the second  
19 part, they did because they thought they could sell --

20 MEMBER WOODALL: Let me ask you this. Do you  
21 think WAPA is going to build something that they can't  
22 use for their -- or they are not going to fully utilize?

23 MR. PATTERSON: No.

24 MEMBER WOODALL: Admittedly it is a part of the  
25 federal government, but I mean --

1 MR. PATTERSON: I don't think that we will get  
2 to execute the final participation agreements without  
3 confidence from all parties that that's the case.

4 MEMBER WOODALL: Okay. So I guess what I am  
5 getting at is you have sold some of your -- or you are  
6 in the process of selling some of your capacity rights,  
7 and we don't think that WAPA is just going to twiddle  
8 its corporate thumb and not get rid of its capacity  
9 rights that they may not need for existing customers, we  
10 are not expecting that, are we?

11 MR. PATTERSON: No. In fact, there is evidence  
12 in the record, that's what part of the presentation to  
13 WAPA's customers was, trying to lay the groundwork so  
14 that at least their existing customers know what is  
15 being contemplated and --

16 MEMBER WOODALL: And that the costs are not  
17 going to be all laid at their feet, is that correct?

18 MR. PATTERSON: Absolutely.

19 MEMBER WOODALL: Okay. Thank you. I think I  
20 have a better understanding now.

21 Thank you, Ms. Hamway, for asking the questions.

22 CHMN. CHENAL: Member Bingham.

23 MEMBER BINGHAM: Thank you, Mr. Chairman. And  
24 actually some of that conversation got to a lot of what  
25 I was after.

1 But the first question I did have, just for  
2 clarification: WAPA's decision to go to 230 was  
3 completely irrespective of your proposal or your  
4 project, is that correct?

5 MR. PATTERSON: I would agree with that. I mean  
6 we adopted that decision, is how I would characterize  
7 it. That was really the, you know, as the existing  
8 owner of that asset, that was their preference. That's  
9 what they thought would work. That was also what seemed  
10 to work best for the constraints and environmental  
11 impacts that it might have. And so we adopted that just  
12 like on the other side.

13 The reason, one of the main reasons we adopted  
14 345 was because the interconnecting utility that we were  
15 working with, El Paso Electric, preferred us to  
16 interconnect with 345. That's also, when we were  
17 visiting Apache today, the specific types of facilities,  
18 even that location was done in very close consultation  
19 with AEPCO to make sure that it would work for them.

20 And so, you know, we have really tried to work  
21 with the existing entities, adopt what works the best,  
22 and incorporate that into our plan, which makes it, you  
23 know, maybe somewhat hard to understand, because you  
24 have these different pieces but it is really a product  
25 of evolving and working with the underlying entities.

1 MEMBER BINGHAM: And some of the, I guess,  
2 hesitancy, I don't know if that's the right word, for  
3 WAPA moving forward to upgrade it would be the cost  
4 would actually be passed on to their customers.

5 MR. PATTERSON: Yes, that's correct. I think as  
6 Mr. Beck testified probably best in his testimony, the  
7 upgrade of the WAPA line had been out there and had been  
8 discussed or contemplated for some time. But to just  
9 pursue that project on its own, it would have to be paid  
10 for with the direct users, in which case the costs of  
11 that would be quite high for the existing customers.

12 And so the reason to integrate both parts of the  
13 project is that it does create this integrated use,  
14 two-directional use, across the multi segments, and that  
15 creates the potential to bring more parties that can use  
16 it and therefore lower overall marginal cost to the  
17 entities.

18 MEMBER BINGHAM: And coupling with what was  
19 asked earlier, so if WAPA wanted to expand beyond what  
20 Southline was doing, that additional cost, I would  
21 assume, would then be borne by their customers for any  
22 additional works beyond what Southline is willing to pay  
23 for. Am I understanding that correctly?

24 MR. PATTERSON: Yes, if it wasn't related to  
25 Southline. I did mention, just a caveat, I think that's

1 generally true, I think that there are some instances, I  
2 think, when we were looking at the -- in some of the  
3 technical slides of my testimony, there were some maps  
4 where I pointed out some of the different substations.

5           And some parts of the existing WAPA system may  
6 not -- there may be an existing substation location, but  
7 it may not have existing service, but that if we upgrade  
8 that to 230, that may, you know, there may be existing  
9 WAPA customers, like CAP, who I mentioned. So we will  
10 need to work closely with existing WAPA customers to  
11 make sure that we don't create costs that they would  
12 need to bear in the future.

13           So I guess my caveat is there may be, if there  
14 is a need of expansions as related to the project, we  
15 may need to work with those entities to make sure that  
16 there is not a cost to doing that.

17           MEMBER BINGHAM: Thank you.

18           Thank you, Mr. Chairman.

19           CHMN. CHENAL: All right. Just one follow-up  
20 question. If WAPA were to decide that they wanted to go  
21 from 230 to 345kV, would they have to go through the  
22 NEPA process again?

23           MR. PATTERSON: Yes, that's my understanding.

24           CHMN. CHENAL: And how long would that take?

25           MR. PATTERSON: Six years.

1 CHMN. CHENAL: Okay. Does anyone -- okay,  
2 Member Hamway.

3 MEMBER HAMWAY: I just had another question. We  
4 never really talked about the beginning of this line in  
5 New Mexico. Is that at a wind power generation plant  
6 and does that exist? And how is it currently  
7 transporting its energy that it is producing?

8 MR. PATTERSON: Sure. I touched on this in my  
9 testimony, but to expand a little bit, on the New Mexico  
10 side, really our concept was to connect into the  
11 existing system, and to use the existing system to the  
12 best we can, so in terms of how that relates to  
13 resources, like wind that you asked, a couple of things.  
14 There are wind resources, for example, in the general  
15 vicinity of the project. And there are, as evidenced  
16 by -- so we are just a transmission project. We are not  
17 associated with a particular generation. But the  
18 project runs through rich renewable resource areas as  
19 demonstrated by some existing projects. There are wind  
20 projects in the New Mexico area that would -- that are  
21 similar location as to where the Southline corridor is.

22 So there is some wind. As I touched on in my  
23 testimony, it is not the highest quality wind. There  
24 is, for example, wind not too far from here. There is a  
25 new wind plant, Red Horse, which, combined with solar,



1 is an attractive and, you know, really good product for  
2 Tucson Electric, who buys it. The wind resource, you  
3 know, headed east from here into New Mexico is probably  
4 a little bit better in some areas. Southline runs  
5 through that corridor. So there is some interest in  
6 looking at wind in that area.

7 The really rich wind resources that you hear  
8 most about in central New Mexico or southeastern New  
9 Mexico are further away. Southline wouldn't directly  
10 connect to those, but because it connects into the  
11 existing 345 system, there is the possibility for  
12 someone, for a generator, to interconnect to the  
13 existing system and use the existing system to bring the  
14 power across to Southline and then out.

15 MEMBER HAMWAY: Okay.

16 MEMBER WOODALL: Mr. Patterson, and there is no  
17 reason why a natural gas generating plant could not be  
18 constructed across the street from your line and  
19 requesting interconnection?

20 MR. PATTERSON: I don't think there is any  
21 reason why that could not happen.

22 MEMBER WOODALL: What I am trying to get at  
23 here, I know we have talked about wind and renewables,  
24 but once that line is up there, anyone can file an  
25 application to interconnect, whether it is coal,

1 nuclear, natural gas, diesel, biofuels.

2 I mean my point is there are all kinds of  
3 possibilities, and we don't know yet who is going to  
4 actually be using the line. You are talking about  
5 potential users, but that's a big group, would you agree  
6 with me?

7 MR. PATTERSON: I am talking about potential  
8 users. It is a big group, you are right. I think that  
9 there can't be any discrimination of a particular sort  
10 under federal law, as I understand it.

11 MEMBER WOODALL: Thank you.

12 MR. PATTERSON: But I would just add I think,  
13 which related to my testimony, I think economics will be  
14 the main driver. And so it is very difficult,  
15 personally, for me to see how the economics of -- well,  
16 where we walked through the west-to-east case for the  
17 project, existing market resources are very attractive  
18 in terms of load price. And so yes, there may be demand  
19 to access those resources and move west to east.

20 The east-to-west driver of the project is, you  
21 know, probably likely renewables, I think as touched on  
22 by Mr. Beck, and that's my belief. But it is still  
23 potential, to your point, until we get to final  
24 documents with whoever is going to pay for it. But  
25 that's how I would characterize it based on how we see

1 the project.

2 MEMBER WOODALL: Thank you.

3 CHMN. CHENAL: When you enter into an agreement  
4 for capacity rights, how long does that agreement last?  
5 Is it for a year, or how long?

6 MR. PATTERSON: I think -- well, I may need to  
7 see if anyone wants to join. But I would just introduce  
8 it by saying it is case by case, since it is a  
9 negotiated authority to work with individual parties.

10 But Mr. Virant might have more.

11 CHMN. CHENAL: Just give us just a little  
12 testimony how long these agreements are for, Mr. Virant.

13 MR. VIRANT: Yes, sir.

14 CHMN. CHENAL: Please.

15 You have got to ramp up the volume for  
16 Mr. Virant.

17 MR. VIRANT: Can you hear me?

18 So the SU FERC open solicitation for this  
19 project had a series of screening factors and rating  
20 factors. The one that you are referring to is the  
21 length of contract. And we sought ten years or greater.  
22 It was the factor.

23 CHMN. CHENAL: And I forget who testified, you  
24 or Mr. Patterson, but on the -- was it solicitation of  
25 interest? Whatever the word that was used on potential

1 customers, do you remember what the testimony was on  
2 just the general by category of generation kind of  
3 breakout with what the interest was, like renewable  
4 versus gas versus coal? I believe there is something in  
5 the record about that. I just wondered if either of you  
6 remember what it was.

7 MR. VIRANT: Sure. I think Member Haenichen  
8 asked some questions related to that. What we have said  
9 publicly, it was a diverse set of entities that  
10 responded with expressions of interest. But we haven't  
11 commented on the specific entities or the sources of  
12 fuel.

13 CHMN. CHENAL: Okay. All right. Any further  
14 questions from the Committee?

15 (No response.)

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

17 I guess now would be the time to begin the  
18 discussion of the CEC. Maybe this would be a logical  
19 break time for a 10-minute break, give everyone the  
20 opportunity to get the stuff up on the screen and kind  
21 of change our focus from testimony to the CEC.

22 So let's take a 10-minute break and we will  
23 resume.

24 (A recess ensued from 2:05 p.m. to 2:32 p.m.)

25 CHMN. CHENAL: We will resume the afternoon

1 session.

2           So let's begin the process -- again, a little  
3 out of order, but that's okay -- of reviewing the CEC.  
4 And kind of the way I think we should do this, and we  
5 may have to go through this a second time, but the way  
6 we should do it is kind of go through paragraph by  
7 paragraph. And normally we would vote on adopting the  
8 language, you know, paragraph by paragraph, and then we  
9 vote on the document at the end to adopt it or not adopt  
10 it.

11           But I think this time it would make more sense  
12 to just go through and not vote, but do the best we can  
13 do to come up with the language that's the most  
14 acceptable and comfortable, and then we will do that  
15 process tomorrow after we kind of go through. We may  
16 have to go through some of it again, depending on what  
17 the testimony is and the attachments and things like  
18 that. So this will be a little more fluid than normal,  
19 but that's okay.

20           So let's start with the first paragraph. We  
21 have before us -- let me make this clear -- Exhibit 42,  
22 which is the proposed CEC with conditions and narrative  
23 by the applicant. What we are going to have on the  
24 screen is a more recent version, so the numbering may be  
25 off just a little. The applicant will provide us copies

1 of the document tomorrow, and we will number it  
2 tomorrow. But for purposes of today, let's reserve  
3 Exhibit STL-44 for identification. So when we refer to  
4 it --

5 MEMBER WOODALL: I beg your pardon, Chairman.  
6 Sorry, but we can't read the screen from --

7 CHMN. CHENAL: Okay. All right. We will move  
8 the screen after I am finished. No problem.

9 We will call this STL-44, so that when we are  
10 referring to it tomorrow, when we get the document from  
11 the applicant's counsel, we will mark it 44, the record  
12 will be clear.

13 And then, again, the numbering will be a little  
14 off. So I would ask the Committee that when we refer to  
15 language and paragraph numbers, we refer to what is on  
16 the screen and not what is in front of you on paper.  
17 The language is the same, really, but because of the  
18 formatting, some of the numbers may have changed a  
19 little. Just the way it is because the track changes.  
20 So we will refer to what is on the screen.

21 Now, let's take a timeout for a second, go off  
22 the record, and we will move the screen so that the  
23 members can see it, because there is some things in the  
24 way.

25 (An off-the-record discussion ensued.)

1 CHMN. CHENAL: All right. Back on the record.  
2 Thank you.

3 We had a little off-the-record technical issue.  
4 We now have the document we want on both screens so all  
5 the members of the Committee can see the proposed CEC up  
6 on the screen.

7 So let's begin with, let's look at the first  
8 paragraph and see if anyone has any proposed changes,  
9 lines 1 through 7.

10 If I could ask the applicant, can we play with  
11 the font to make it just a little smaller so we can get  
12 a little more.

13 All right. Good. So we are looking at lines 20  
14 through 28. Let's take a second to read it, and I will  
15 ask the Committee if they have any changes.

16 Any changes from the Committee?

17 MEMBER HAMWAY: No.

18 CHMN. CHENAL: Let's go to the next page. You  
19 see how we do this. As we go along, it will become a  
20 little easier, depending how much we can see. Let's go  
21 to lines 1 through 10 on page 2.

22 I am going to throw out, when I make suggestions  
23 or we talk about suggestions, we are just making it for  
24 discussion purposes. But maybe we want to change the  
25 second, line 2 there. So the following members and

1 designees of members of the Committee were present at  
2 one or more hearing days, "one or more," I don't know  
3 how we want to say that. There is one hearing, so  
4 hearing days. We have had some absences.

5 MEMBER WOODALL: I guess you could throw in  
6 public comment in there.

7 CHMN. CHENAL: Okay. We could say hearing days  
8 for evidentiary presentations, comma, public comment,  
9 and/or deliberations. Good so far, Committee members?

10 If the applicant has any thoughts as we are  
11 going through this, just chime in. This is not in  
12 evidence.

13 Okay. I think we are good through line 18. So  
14 if we could look at lines 19 through 25 for that  
15 paragraph.

16 MEMBER HAMWAY: Did we meet Mr. Bushee?

17 CHMN. CHENAL: Mr. Bushee has been at the  
18 hearing. He is one of the attorneys that was here. He  
19 has been at some of the pretrial matters and he is on  
20 the pleadings.

21 MEMBER HAMWAY: I just don't remember him.

22 MR. GUY: That was on the record, right?

23 CHMN. CHENAL: I am sorry?

24 MR. GUY: Mr. Bushee's name was on the pleading,  
25 but you are right, he did not appear at the hearing.



1 CHMN. CHENAL: Yeah.

2 MEMBER HAENICHEN: Do we have to say somewhere  
3 on the -- I am on page 3, the top.

4 CHMN. CHENAL: We are still on page 2, Member  
5 Haenichen. We are looking at paragraph by paragraph.  
6 If you look up on the screen you will see where we are.

7 MEMBER HAENICHEN: I understand.

8 CHMN. CHENAL: So we are on lines -- the  
9 paragraph, lines 19 through 24 seem okay to me unless  
10 anyone has any changes.

11 And if we could go to the next paragraph. Well,  
12 it is lines 25 through 27.

13 MEMBER BINGHAM: Singular hearing.

14 CHMN. CHENAL: Sorry, can't hear.

15 MEMBER HAMWAY: Take the S off hearing.

16 CHMN. CHENAL: Yes, hearing is singular.

17 Okay. I think those three lines are okay. Move  
18 to the next paragraph on the top of page 3.

19 Member Haenichen.

20 MEMBER HAENICHEN: I am not sure, because I  
21 don't remember what we had done in the past on this. We  
22 voted for the certificate of construction of the  
23 project. Do we have to say subject to ratification by  
24 the Corporation Commission or --

25 CHMN. CHENAL: I don't think so, because the

1 statutes provide that.

2 MEMBER WOODALL: I don't think we are voting for  
3 a certificate of construction. I think we are voting  
4 for a certificate of environmental compatibility, so I  
5 think that's a typo, personally.

6 MEMBER HAENICHEN: Yeah, it is, really.

7 MEMBER WOODALL: I can't speak to what was in  
8 173, but that's what we would be doing or not doing as  
9 the case may be, certificate of environmental  
10 compatibility.

11 MEMBER HAENICHEN: But that's the title of the  
12 whole record.

13 MEMBER WOODALL: Right. But we are not issuing  
14 a certificate for construction.

15 CHMN. CHENAL: Well, okay. Let me just --  
16 drafting 101. We have already defined certificate on  
17 the first page, so I don't think we need to spell out  
18 certificate of environmental compatibility.

19 MEMBER HAENICHEN: I agree.

20 MEMBER WOODALL: Well, okay, then I would just  
21 say this certificate.

22 CHMN. CHENAL: This certificate.

23 MEMBER WOODALL: That's fine with me. But I  
24 have a problem with the project, because project is  
25 defined subsequently in the document as including the

1 WAPA portion. And if I can just kind of speak  
2 generally, we use different names for these different  
3 segments, and they are inconsistent within the body of  
4 the document.

5 So I understand you have defined project  
6 includes the WAPA route, the new CEC line, and the CEC  
7 upgrade section. So we have also talked, and what my  
8 understanding is, is that the new line and the upgrade  
9 section are being described as the CEC proposed route,  
10 is that correct?

11 MEMBER HAENICHEN: Which is not true, either.

12 MEMBER WOODALL: And then on the description it  
13 talks about a CEC new build route, and then CEC upgrade  
14 route. So I just want to make sure that whatever we are  
15 talking about we are using the same terminology, because  
16 the lawyers in the room understand if you don't use the  
17 same word, the presumption is you meant something  
18 different. So I am open to suggestions.

19 CHMN. CHENAL: Well --

20 MR. GUY: I think, I mean it is a good point  
21 that you have raised and one we actually struggled with  
22 throughout this case. But what we have started doing --  
23 and it may not be reflected in Exhibit 42; it is going  
24 to be reflected on Exhibit 44 on the screen -- is when  
25 we get, it will be a few paragraphs later, when we get

1 to the point where we have defined project or defined  
2 the sections of the project, those are all relevant  
3 because that's what the evidence relates to, and the  
4 testimony.

5 When we get to the point what is the certificate  
6 being granted for, this version on the screen defines it  
7 as approved route. And then we will need to flow the  
8 use of that term through the rest of the document. That  
9 has not been done yet, but we are proposing that for the  
10 Committee's consideration when we get to the point.

11 CHMN. CHENAL: Okay. And I think to Member  
12 Woodall's point, when we get to that point, we will  
13 start to be specific on the terms, so...

14 MEMBER WOODALL: I think it is confusing to say  
15 upgrade section and then the CEC upgrade section. So I  
16 would propose to have CEC upgrade section five miles,  
17 just so it is clear what we are talking about.

18 CHMN. CHENAL: Let's wait until we get there in  
19 the document and I think it will be clear.

20 One thing that is clear, where it says  
21 certificate for the project, that would not be  
22 appropriate, because the project is defined to include  
23 the 370-mile transmission route. So that's the first  
24 point where I think we need to be tightening this up a  
25 little.

1 Member Haenichen.

2 MEMBER HAENICHEN: Yeah, but we are going to be  
3 considering portions of the upgrade section.

4 CHMN. CHENAL: Yes.

5 MEMBER HAENICHEN: Little short route.

6 CHMN. CHENAL: Exactly.

7 MEMBER HAENICHEN: So we need to figure out some  
8 language to be clear.

9 MEMBER WOODALL: CEC upgrade section would be  
10 what I would call them.

11 CHMN. CHENAL: Let's wait until we get there.

12 MEMBER WOODALL: I think we are kind of there.

13 CHMN. CHENAL: Well, right now -- okay.

14 MEMBER HAENICHEN: That's what is on the screen.

15 CHMN. CHENAL: Okay. Let's talk about, then,  
16 lines 5 through -- I don't know, if we could scroll down  
17 just a little more to get -- all right. Okay. So we  
18 are looking at lines 5 through 14.

19 MEMBER WOODALL: I would just point out that if  
20 we had a definition for all these terms on the front  
21 end, then we could go through and we would know what the  
22 terms meant in the various sections.

23 So it is just confusing as it is written. And,  
24 as well, there is references to the Arizona portion of  
25 the project, and, as you know, one of the Arizona

1 portions of the project is a WAPA line. And I don't  
2 think that's what you had in mind.

3 MR. GUY: No, I completely agree. I think if we  
4 go through, each time we define --

5 MEMBER HAENICHEN: I can't hear you.

6 MR. GUY: I think as we go through, each time we  
7 define one of these terms it is going to flow through  
8 the document. The current draft of the document is  
9 going to have inconsistencies, but we have tried to use  
10 the terms in the document that have been used in the  
11 application, and they are defined in the application.  
12 But if it would be helpful to have a glossary in this  
13 document, if that's what the Committee would like to  
14 have happen, we would do that.

15 MEMBER WOODALL: I think here is my general  
16 belief in crafting legal documents: four corners, no  
17 extrinsic information needed in order to interpret the  
18 document. That's where I am coming from.

19 MEMBER BINGHAM: Can't hear.

20 MEMBER WOODALL: What I was saying, my theory on  
21 drafting legal documents, you shouldn't have to look to  
22 anything extrinsic to the document to understand what  
23 the document means. So I don't want to have people go  
24 back to the application and say, oh, where did they  
25 define that. It should be clear in this because this is

1 the holy grail for you here, if you get it, of course.

2 CHMN. CHENAL: All right. Let's go back to the  
3 first paragraph under the overview project description.  
4 Thank you.

5 We are looking at lines 5 through 15. Now let's  
6 take a moment and read it, and then we will talk about  
7 whether we want to suggest any changes.

8 MEMBER WOODALL: Okay.

9 CHMN. CHENAL: Let's just take it in order.  
10 Read it first and then --

11 MEMBER WOODALL: I have.

12 CHMN. CHENAL: Okay. I haven't. I am a slow  
13 reader.

14 Okay. Has everyone had a chance to read it?  
15 This is a very important part.

16 Okay, Member Woodall.

17 MEMBER WOODALL: Can I ask? Okay. So right now  
18 the upgrade section, as you would interpret this  
19 sentence here, includes both the WAPA end that we are  
20 not dealing with and the CEC upgrade, correct?

21 MR. GUY: That's correct.

22 MEMBER WOODALL: So upgrade section, does that  
23 mean the CEC, or does it the mean WAPA end? I don't  
24 know what --

25 CHMN. CHENAL: Both.

1 MEMBER WOODALL: It means both.

2 CHMN. CHENAL: For the upgrade, the way I am  
3 reading this, the upgrade section includes both the WAPA  
4 line and the portion of the upgrade that we will refer  
5 to later as the CEC upgrade.

6 MEMBER WOODALL: And is that the convention we  
7 are going to use throughout the document?

8 MR. GUY: That is the convention we have used in  
9 the application, all the testimony, so I think we would  
10 need to stay consistent.

11 MEMBER WOODALL: Okay. So the CEC proposed  
12 route that you reference down there in 25 would include  
13 the CEC upgrade section and the new build section?

14 CHMN. CHENAL: 25.

15 MEMBER WOODALL: CEC proposed route.

16 MR. GUY: So the CEC proposed route should  
17 include the CEC upgrade section and CEC new build  
18 section.

19 MEMBER WOODALL: And that's further described in  
20 the route description on page 4. And I know we are  
21 getting ahead of ourselves, but I am trying to -- on  
22 page 4 it says the CEC new build route, and then we have  
23 CEC upgrade route under approved route description. So  
24 is that the same thing as the upgrade section, the CEC  
25 upgrade?



1 CHMN. CHENAL: Let me see if I can jump in here.  
2 What is designed as the new build is probably the same  
3 as the CEC new build, because it is all --

4 MEMBER WOODALL: So is the CEC route basically  
5 the CEC new build route and the CEC upgrade route? Is  
6 that what it is?

7 MR. VIRANT: Yes.

8 MEMBER WOODALL: Are they subsumed under that  
9 general category?

10 MR. GUY: Yes.

11 CHMN. CHENAL: In Arizona the new build route is  
12 the CEC.

13 MR. GUY: But when we use the term new build --

14 CHMN. CHENAL: That includes New Mexico. But to  
15 get our hands around the project, it seems to me we have  
16 got to define what the whole project is and then start  
17 breaking it down, and we end up at the CEC new build and  
18 the CEC upgrade, which is what the application covers.

19 Somehow we are going to roll into that, and I am  
20 okay up to that point, personally, because I understand  
21 now what the CEC upgrade and the CEC new build is. But  
22 we are coming up with whatever the engineers come up  
23 with tomorrow, and we are going to have to see how we  
24 define that.

25 MEMBER WOODALL: And here is the other reason

1 why it is important. Like if you go to page 7, under  
2 paragraph 7, and I will just refer to it, it says before  
3 construction on the Arizona portion of the project.  
4 Okay, the project is WAPA and the CEC portions. So you  
5 don't really need project there.

6 CHMN. CHENAL: Correct. That's going to be  
7 taken out.

8 MEMBER WOODALL: Okay.

9 CHMN. CHENAL: That's what I am saying, it is  
10 going to get confusing, I think, if we jump ahead too  
11 far. I think we have got to take this one bite of the  
12 apple at a time, because clearly there is some stuff  
13 later in the document that absolutely will need to be  
14 changed.

15 Member Haenichen.

16 MEMBER HAENICHEN: Mr. Chairman, could I get  
17 somebody to help me understand at what point in the line  
18 coming in from New Mexico does the transition from the  
19 345 down into the 230 take place? At Apache?

20 MR. GUY: Yes.

21 MEMBER HAENICHEN: Okay. Is that right on the  
22 border, or is it somewhat into Arizona?

23 MR. GUY: Apache is in Arizona.

24 CHMN. CHENAL: That's what we visited.

25 MEMBER HAENICHEN: Oh, there is a little bit of

1 345 actually going through Arizona.

2 CHMN. CHENAL: All the new build, all of it  
3 coming from New Mexico to the substation --

4 MEMBER HAENICHEN: That's what I mean. But at  
5 that substation there is no more 345. How many miles is  
6 it 345 into Arizona?

7 CHMN. CHENAL: 66.

8 MR. VIRANT: 66.

9 CHMN. CHENAL: 66.

10 MR. GUY: There is no station at the state line.  
11 So we refer to 66 miles of 345 in the State of Arizona  
12 from the state line to Apache.

13 MEMBER HAENICHEN: Okay. I just missed that in  
14 my reading.

15 CHMN. CHENAL: Okay. Back to what we are  
16 looking up at the screen, which will be STL-44, does  
17 anyone have heartburn over lines 5 through 15?

18 MEMBER WOODALL: You mean under overview project  
19 description?

20 CHMN. CHENAL: Correct.

21 I think it is accurate. Okay? Let's move on  
22 then to the next paragraph, line 16 through 26.

23 MEMBER WOODALL: Can I ask a question?

24 CHMN. CHENAL: Sure. But I am still a slow  
25 reader here. Give me just a second to read this. Okay.

1 I am sorry. Yes, Member Woodall.

2 MEMBER WOODALL: Okay. So we have here on  
3 line 22, it says this certificate approves the  
4 construction of the new build section and the five miles  
5 of the upgrade section not owned by WAPA within the  
6 State of Arizona. Those two comprise the CEC proposed  
7 route, is that correct?

8 MR. GUY: That is correct.

9 MEMBER WOODALL: Okay.

10 CHMN. CHENAL: I am thinking that somewhere in  
11 here we want to describe what I will call the CEC new  
12 build and the CEC upgrade.

13 MR. GUY: I think we probably do in the next  
14 paragraph, without having that in front of me.

15 MEMBER WOODALL: On page 4 you are talking about  
16 in the new build section, now you have got a  
17 parenthetical that calls it CEC new build route. So the  
18 route is a subset of the new build section?

19 You can understand my confusion here, because  
20 you are talking about the new build section and then you  
21 are talking about a new build route. So are we using  
22 the same term throughout, or how would I distinguish  
23 them?

24 CHMN. CHENAL: Okay. I am going to say let's  
25 get to that language when we get to the next paragraph.

1           MEMBER WOODALL: The reason I am asking is  
2 because it is all kind of one integrated whole here, and  
3 I can't understand the front end if I don't know what  
4 all the terms mean. That's why I am jumping ahead,  
5 because I don't know what all the terms mean.

6           CHMN. CHENAL: We probably have too many defined  
7 terms, I am thinking. Is there anything on lines -- we  
8 are going to come back to this. This is going to be a  
9 process. We are going to come back. We are not going  
10 through this once; we will come back a few times as  
11 necessary because it is complicated. This is just a  
12 first go-through.

13           So line 16 through 26, what is up on the screen,  
14 is there anything that is not accurate? Let's put it  
15 like that.

16           MEMBER WOODALL: I have expressed my concerns  
17 about the use of terminology, so I am not going to beat  
18 a dead horse.

19           MR. GUY: And once we get through today and we  
20 have sort of highlighted and commented on the way things  
21 need to be defined, we can go through and try to  
22 simplify some of the definitions.

23           But the idea was to start very broad, the  
24 project, which is the entire Southline project, and then  
25 we are getting smaller and smaller and smaller until we

1 get down to what was actually within the application for  
2 which we were asking approval, which is shown on lines  
3 24 through 26, the 72 miles that we are calling a CEC  
4 proposed route.

5 The CEC proposed route is comprised of two  
6 parts. Maybe it is not necessary to talk about those  
7 two parts, but the testimony does. So to a certain  
8 extent we need to make sure things are accurate, but we  
9 need to be consistent with the evidence in the record.

10 So the 72 miles is the CEC proposed route,  
11 comprised of two portions, a CEC upgrade route and a CEC  
12 new build route. And then we will see here in two or  
13 three paragraphs we are proposing -- and hasn't been  
14 flowed through yet -- we are proposing to call, to the  
15 extent a certificate is issued, we are proposing to call  
16 that CEC proposed considered, and then it becomes the  
17 approved route. And then we will need to adjust  
18 everything from that point to the end of the document  
19 and call it the approved route, or some other term.  
20 That's the concept.

21 MEMBER WOODALL: Okay. So the CEC new build  
22 route and CEC upgrade route are going to be merged and  
23 included in the term approved route, is that correct?

24 MR. GUY: That is what -- that was my proposal.

25 MEMBER WOODALL: If you can like just set that

1 forth with some definitions, that would be real helpful,  
2 to me, anyway. I don't know about anyone else.

3 CHMN. CHENAL: Well, I am not finished with  
4 Member Woodall's comments. Because I think it does get  
5 a little confusing throughout the document to refer to  
6 the CEC upgrade section versus the CEC upgrade route,  
7 and the same for the flip on the new build.

8 I just think there is -- we don't need to define  
9 both. We should go with one or the other. And maybe  
10 route is the better, especially when we can attach some  
11 documents to the CEC tomorrow to flesh out exactly what  
12 that route is.

13 So I certainly agree with what Member Woodall  
14 said. I don't think we need to define CEC upgrade  
15 section and CEC upgrade route. I think it just adds  
16 complexity and we don't need it.

17 MEMBER BINGHAM: Mr. Chairman.

18 CHMN. CHENAL: Member Bingham.

19 MEMBER BINGHAM: For consideration I would  
20 actually like to move the last sentence first, because  
21 the fact that we are having the discussion of the WAPA  
22 splitting up the discussion of the 72 miles is creating  
23 some confusion in just reading how that paragraph flows.

24 I understand what was trying -- their going to  
25 the "therefore," but we may just start with

1 fundamentally what was before this Committee, how it  
2 broke down into those two areas, and then conclude the  
3 paragraph for the WAPA owned, why it was not before this  
4 Committee. But that sentence starting on line 22 is  
5 splitting that thought, which is creating some  
6 confusion.

7 CHMN. CHENAL: Okay. Referring to the screen,  
8 Member Bingham, you said -- what line are you referring  
9 to?

10 MEMBER BINGHAM: So starting with the  
11 "Therefore."

12 CHMN. CHENAL: What line? Line 24?

13 MEMBER BINGHAM: That's the final sentence in  
14 that paragraph. It seems to me if we bring that concept  
15 up front, it will make that flow a lot smoother, because  
16 breaking it up with the owned and operated by WAPA,  
17 that's kind of breaking up a thought between the first  
18 part of that paragraph and that ultimate sentence, which  
19 is really what we are after.

20 CHMN. CHENAL: So you propose moving -- okay.

21 Let's try an experiment here. Let's strike, on  
22 line 17, the definition of the CEC proposed route,  
23 because I think we will be better off --

24 MEMBER BINGHAM: I would agree.

25 CHMN. CHENAL: -- discussing that in the next



1 paragraph.

2 Okay, let's keep going. Let's go to the next  
3 paragraph, please. And it seems that we need to take  
4 out that last sentence of the paragraph we are looking  
5 at, because it was moved at Member Bingham's suggestion.

6 Okay. Now, if we scroll down, okay, lines 3 and  
7 4 up on the screen, that seems okay?

8 Let's move to the next paragraph.

9 MEMBER WOODALL: Which is paragraph C, approved  
10 route description.

11 CHMN. CHENAL: Approved route description, yes,  
12 thank you. We will look at lines 8 through 16. Give me  
13 a second to read.

14 MEMBER WOODALL: Yeah, it is kind of difficult  
15 for us to refer to what is on the screen when -- I mean  
16 when you read the transcript, it is going to be --

17 CHMN. CHENAL: What is on the screen -- exactly.  
18 But what is on the screen will be Exhibit STL-44, and  
19 that's the document we are working with now. And,  
20 unfortunately, STL-42 has different numbers and  
21 different page numbering, so that's why I would like to  
22 keep our discussion of what is on the screen, because  
23 that will be consistent with STL-44, which we will  
24 introduce tomorrow.

25 MEMBER WOODALL: May I ask then, Chairman, when

1 you are referring to lines, you could just recite the  
2 first sentence of the particular paragraph.

3 CHMN. CHENAL: Okay, sure.

4 MEMBER WOODALL: That would be helpful.

5 I have expressed my concerns with this  
6 previously, so I am not going to wander on.

7 CHMN. CHENAL: Let me try an experiment. On  
8 line 8 and 9, let's strike the reference to the CEC  
9 proposed route, those words, please.

10 And on line 11, after the CEC upgrade route, if  
11 we could put another parenthetical before the word  
12 further on line 11, before the period, let's try this  
13 for grins, so a parenthetical, and then the following:  
14 CEC new build route and CEC upgrade route hereinafter.

15 MEMBER WOODALL: We have already got CEC upgrade  
16 route up there.

17 CHMN. CHENAL: Well --

18 MEMBER HAMWAY: What I would do is take out the  
19 new build section. I would say consist approximately,  
20 on line 9, consists of approximately 67 miles of the CEC  
21 new build route and approximately five miles of the CEC  
22 upgrade route, and get rid of the upgrade section and  
23 new build section. And you can keep the parentheses  
24 around it so that you see it is a definition.

25 You can't do it that way?

1 CHMN. CHENAL: Well --

2 MEMBER HAMWAY: I thought we were confused about  
3 section and we weren't going to define both of them.

4 CHMN. CHENAL: I wasn't finished. Let me go  
5 finish my concept, and then I will get back.

6 MEMBER HAMWAY: Okay.

7 CHMN. CHENAL: We will just see how this works.  
8 I was going to say CEC new build route and CEC upgrade  
9 route hereinafter collectively, quote, CEC route --

10 MEMBER WOODALL: Awesome.

11 CHMN. CHENAL: -- as more particularly defined  
12 in Exhibit A attached hereto and incorporated by  
13 reference herein.

14 MEMBER WOODALL: I bow before the master.

15 CHMN. CHENAL: I just -- and then end paren.

16 So we can see how that plays out, but I am  
17 thinking ahead to tomorrow when we have specific either  
18 legal description or mapping that would be attached as  
19 an exhibit, and I am trying to figure out -- and I am  
20 sure this will change. I am just throwing this out for  
21 grins as a way to kind of bring a little clarity to it.

22 The problem with not defining the new build  
23 section and the upgrade section is that includes WAPA,  
24 it includes New Mexico. I mean to have an idea what the  
25 project is and what the line is, you almost have to talk

1 about it, you know, Afton, you know, to Tortolita, and  
2 then kind of break it down and distinguish that upgrade  
3 section and new build section from what the CEC  
4 application covers. So I have been struggling with  
5 this, but let's see how this works.

6 MEMBER WOODALL: I think it looks really good,  
7 Chairman.

8 CHMN. CHENAL: A period would be inside the  
9 parenthetical after the word hereto.

10 And then we have the CEC route, and then we will  
11 have that more defined. And then we can refer to it  
12 hereafter as the CEC route and not keep these complex  
13 distinguishments between CEC upgrade and CEC new build.  
14 Maybe that will work. I don't know.

15 So if we are -- so in line 13, for example,  
16 would we say CEC route?

17 MEMBER WOODALL: I am sorry. What are we  
18 looking at?

19 CHMN. CHENAL: Look up on the screen. Line 13  
20 we take away, we would refer to it now as the CEC route  
21 as opposed to proposed, CEC proposed route. And then we  
22 have the rest of the paragraph down to line 18. And  
23 does anyone have any --

24 MEMBER HAMWAY: I am good.

25 CHMN. CHENAL: We are coming back to all this,

1 trust me. This is just an exercise.

2 MEMBER HAMWAY: I see what you are saying. I am  
3 not a lawyer. It is just way too many words to me.

4 MEMBER WOODALL: That's to your advantage.

5 CHMN. CHENAL: Yeah, you are not encumbered by  
6 what some of us are encumbered by.

7 MEMBER HAMWAY: I know.

8 CHMN. CHENAL: Okay. So can we see the next  
9 paragraph.

10 MEMBER WOODALL: Starting with the sentence the  
11 route herein approved.

12 CHMN. CHENAL: Yes, thank you. Thank you very  
13 much. Member Woodall, please, you know, give us the  
14 sentence if I forget to do that, the first sentence what  
15 we are talking about.

16 So lines 19 through -- scroll down, lines 19  
17 through 27 there. Okay. Let's look at that. And I  
18 think, yeah, the CEC route as opposed to the other  
19 language there.

20 MEMBER WOODALL: Well, I am sorry. What are you  
21 suggesting, Chairman?

22 CHMN. CHENAL: Well, the line 19 had some, I  
23 think there are complicated definitions that I think we  
24 have simplified by just referring to this by the CEC  
25 route. So we want to clean up that sentence to make it

1 similar. So it is now the CEC route, and you can see  
2 the way it is up on the screen is approximately 72 miles  
3 and covers the land described in the paragraph up on the  
4 screen.

5 MR. GUY: And for purposes of the record, which  
6 I was hoping to clarify things, but if you look at line  
7 22 on the exhibit that's on the screen, you will see  
8 that there is a stricken through what was originally the  
9 description of the route. And we are going to be  
10 deleting that and we are going to be providing a more  
11 detailed narrative consistent with the discussion at the  
12 hearing yesterday that had not yet been developed. So  
13 there was a bracketed insert. That is something we will  
14 add this evening that we can have before you tomorrow  
15 morning.

16 CHMN. CHENAL: Great.

17 MEMBER WOODALL: And you are referring to the  
18 sentence that starts the approved right-of-way, paren,  
19 right-of-way for the certificate is a 200-foot wide.

20 MR. GUY: That is correct. That paragraph and  
21 some subsequent language we acknowledge is not  
22 consistent with the level of precision the Committee  
23 wants, and we will add more.

24 MEMBER WOODALL: The reason I am using the exact  
25 language is I don't know how on earth anyone is going to

1 be able to follow the transcript to know what we were  
2 talking about when. And that's why I think if we use  
3 the sentences at least it will orient people.

4 CHMN. CHENAL: I think that will help, but  
5 whoever is reading this transcript at the Corporation  
6 Commission later, look at Exhibit 44 and you will follow  
7 along very nicely.

8 MEMBER WOODALL: I mean that's assuming that  
9 Exhibit 44 is going to match up format-wise, is what we  
10 are talking about now, and I am not so sanguine about  
11 the assumption.

12 CHMN. CHENAL: You are probably right.

13 MEMBER WOODALL: So anyway...

14 CHMN. CHENAL: Well, let's have tomorrow,  
15 Exhibit 44 will be the document we started with before  
16 we start making changes, so that whoever is reading the  
17 transcript -- I think that's an excellent point -- can  
18 see what we were looking at on the screen, and then  
19 maybe we make Exhibit 45 the next version of this  
20 document when we are finished. I think that would be  
21 helpful.

22 MEMBER WOODALL: But the point is the lines and  
23 the pagination are going to change based on what we are  
24 doing right now. And so that's -- that was why my --  
25 and I am a lawyer so I like paper. So my thought was if

1 we could just work off something that we know is  
2 identifiable, then we can always dictate additions and  
3 say insert this here and insert that there, and then we  
4 know that we are working off a piece of paper that we  
5 can, you know, somebody could follow and say, oh, they  
6 took a paragraph out or they did this. Referring to,  
7 you know, lines on a screen, lines that might be  
8 changing, I just think that would be kind of problematic  
9 for me.

10 CHMN. CHENAL: I think we will be okay. I think  
11 what is on the screen will be the Exhibit 44, and I  
12 think people -- I think, I hope that will work out, but  
13 we will see. Okay.

14 So I think that paragraph we are looking at on  
15 the bottom of page 4, lines 19 through 25, I think is  
16 okay. Move to the next paragraph.

17 MEMBER WOODALL: And you are saying the CEC  
18 route herein approved? That's what it starts on the  
19 line 19.

20 CHMN. CHENAL: Correct, and ends with CEC  
21 upgrade route. The change was made. So if we can move  
22 to the next paragraph.

23 CHMN. CHENAL: All right. This will be --

24 MEMBER WOODALL: CEC new build route is the  
25 caption.



1 CHMN. CHENAL: Correct. So let's look at lines  
2 2 through 11.

3 MEMBER WOODALL: And that reads the CEC new  
4 build route is approximately 67 miles in length. It is  
5 the sentence.

6 CHMN. CHENAL: Right, ends with Apache  
7 substation.

8 MEMBER WOODALL: Are you going to be tweaking  
9 this up, also, Mr. Guy? You have got approved route  
10 description that you have got to fix, and now we have  
11 more discussion on routes. Are you planning on doing  
12 additional tweaks to those?

13 MR. GUY: We, yes, whether we -- I mean at the  
14 bottom of line 12 on Exhibit 44 you will see the  
15 bracketed language that says add route description. We  
16 will see how that route description flows as it is  
17 developed, whether lines 2 through 11 is just an  
18 introductory paragraph or it will need to be completely  
19 rewritten.

20 But yes, right here, lines 1 through 12 on  
21 Exhibit 44, with the heading under CEC new build route,  
22 we will provide additional detail describing that route.

23 MEMBER WOODALL: Okay. I mean, yeah, right,  
24 cross your fingers. Thank you.

25 MR. VIRANT: And one thing I would like to check

1 on is in the CEC new build route paragraph, the  
2 approximately 43 miles, just double-check that to make  
3 sure that's the correct number. And we will do that  
4 this evening.

5 MEMBER WOODALL: You mean where it says the CEC  
6 new build route is approximately 67 miles in length, is  
7 that what you are referring to?

8 MR. VIRANT: No, ma'am, just below that.

9 MEMBER WOODALL: It says within Arizona and  
10 parallels approximately 43 miles of existing or  
11 designated utility corridors.

12 MR. VIRANT: Yes, ma'am. I would like to  
13 confirm that 43 miles.

14 MEMBER WOODALL: Okay, thank you.

15 CHMN. CHENAL: Are there any corrections you  
16 think we need to make?

17 MR. KIPP: I have Hidalgo County, not Doña Ana,  
18 at that point.

19 CHMN. CHENAL: Sorry.

20 MR. KIPP: It is Hidalgo County.

21 CHMN. CHENAL: Okay, on line 5.

22 MEMBER BINGHAM: Then does that need to be  
23 corrected? Because earlier, pretty much that sentence  
24 is repeated earlier on page 3 under section B, overview  
25 project description.

1 MEMBER WOODALL: So will you do a search and  
2 replace, Mr. Guy?

3 MR. GUY: Yes. I think I see the error, and it  
4 may or may not need to be corrected. I think the Doña  
5 Ana is the county where the new build section in New  
6 Mexico begins, and Hidalgo County is the county  
7 immediately adjacent to the State of Arizona.

8 CHMN. CHENAL: Okay. Anything further on the  
9 part we have been discussing, lines 2 through 11?

10 (No response.)

11 CHMN. CHENAL: All right. Let's go to the next  
12 paragraph, lines 12 through 19, starting with -- well,  
13 there is an add route description -- CEC new build route  
14 and ending with lines, pipelines, or roads. So let's  
15 take a moment and read that.

16 MEMBER WOODALL: Okay.

17 CHMN. CHENAL: Hold it. I need to read it.  
18 Okay. Any comments from the members?

19 MEMBER WOODALL: I do. I mean this is kind of  
20 vague. I mean is this part of what you were going to  
21 beef up and expand?

22 MR. GUY: Yes. I think --

23 MEMBER WOODALL: If you are going to beef it up  
24 and expand in more detail, it basically says the route.  
25 And if this would be something we are approving, we are

1 just saying, well, we are approving something that  
2 parallels an existing natural El Paso Natural Gas line.  
3 So you are going to be tweaking that up?

4 MR. GUY: Yes, we will.

5 CHMN. CHENAL: Member Haenichen.

6 MEMBER HAENICHEN: Just a comment. Do we even  
7 need that sentence at the end that says virtually all  
8 the line parallels existing?

9 MEMBER HAMWAY: I agree, take that out.

10 MEMBER WOODALL: Me, too.

11 CHMN. CHENAL: Now, let me go back to the  
12 beginning sentence there, including add route  
13 description and refers to the CEC new build route. We  
14 have already defined the CEC route as being these two  
15 subcomponents as reflected on, I think, Attachment A. I  
16 don't know if I said Attachment A or Exhibit.

17 MR. GUY: Exhibit.

18 CHMN. CHENAL: Exhibit A. So, you know, I  
19 wonder if we can -- at this point you are not going to  
20 add a route description. We already discussed it  
21 previously in the document and it says reflected on  
22 Exhibit A.

23 So maybe we say something like the new build  
24 route as reflected on Exhibit A enters Arizona, it goes  
25 from there. Do we need to -- I think it would be

1 simpler if we don't keep referring to new build. If we  
2 define CEC route, I am trying to think out loud how  
3 important it is we continue to make the distinguishment  
4 between the CEC new build versus the CEC upgrade.

5 I mean we defined with specificity the route,  
6 and I just don't know. Just refer to it as the route.  
7 And then we have two separate subparts, CEC new build,  
8 and then subsection B there, CEC upgrade route. I think  
9 it just adds more confusion than clarity at this point.

10 MEMBER BINGHAM: I agree.

11 MEMBER WOODALL: All I was going to ask,  
12 whatever terminology we end up using, I am assuming it  
13 is going to be reflected on the map that's going to be  
14 Exhibit A.

15 In other words, you will define -- you will have  
16 some line between two points and you will say whatever  
17 we decide to call it, upgrade route or new build or  
18 whatever, but I just want to make sure whatever language  
19 we are going to agree to is going to make its way into  
20 Exhibit A. Is that a reasonable request?

21 MR. GUY: Yes.

22 MEMBER WOODALL: Thank you.

23 CHMN. CHENAL: That's Exhibit A, and that's  
24 defined on a previous, previously as the CEC route. So  
25 what I am maybe throwing out for discussion after we

1 define it as the CEC route, do we have to continue to  
2 distinguish, you know, between the CEC new build route  
3 and CEC upgrade route, or we can keep the language  
4 but --

5 MEMBER WOODALL: I don't think so. I agree with  
6 you; I don't think we need to do that.

7 CHMN. CHENAL: We can see the CEC route enters  
8 Arizona and then includes the upgrade to the substations  
9 and things like that without -- yeah, there you go.  
10 Okay.

11 MR. VIRANT: Mr. Chairman, one thing I  
12 understand. The goal of this isn't to finalize the  
13 exact language today, but as it relates to the naming  
14 conventions that would go on the map, it would be good  
15 if we could determine that, if possible, today, so they  
16 can get that map here by 8:00 a.m. tomorrow morning. So  
17 just if possible, it may be good to decide on the  
18 conventions that we would like to reflect on the map for  
19 logistical purposes.

20 CHMN. CHENAL: Let's come back to that when we  
21 finish this narrative and see what makes the most sense.

22 So the question would be: On the map that's  
23 being prepared, should it just say CEC route or should  
24 it say -- should it delineate between CEC new build and  
25 CEC upgrade? Is that the question, Mr. Virant?

1 MR. VIRANT: Yes, sir, just so we can reflect  
2 how you would like it to be presented.

3 MEMBER WOODALL: From my point of view it is  
4 fine to just call it the CEC route. Because we are  
5 going to know from looking at it where the substations  
6 are, are we not? I mean they are going to be depicted  
7 on the Exhibit A you are going to be giving us.

8 MR. VIRANT: Yes, they would be.

9 MEMBER WOODALL: I am all for simplicity here.

10 CHMN. CHENAL: So to that point, if we look at  
11 the screen and look at the lines 12 through 19, we could  
12 have the discussion of the CEC route as entering Arizona  
13 at the New Mexico border, and then there is more  
14 discussion about that, the narrative continues to the  
15 next paragraph, talking about -- I think we have --  
16 okay. I think we are done there and we can now go into  
17 the next paragraph.

18 MEMBER WOODALL: Which is CEC upgrade route.

19 CHMN. CHENAL: CEC upgrade route, lines 21  
20 through 28. Let's think of some language that keeps the  
21 concept flowing through.

22 MEMBER WOODALL: Well, you could just say that  
23 the CEC route --

24 CHMN. CHENAL: Route.

25 MEMBER WOODALL: -- includes approximately five

1 miles of new non-WAPA owned. And then we have got the  
2 specifics on there, but we are continuing to use the  
3 convention you proposed. We could basically delete the  
4 header b and just say this CEC route includes  
5 approximately five miles of new non-WAPA owned 138kV and  
6 230kV transmission lines, blah-blah-blah. Does that  
7 follow your naming convention?

8 CHMN. CHENAL: Absolutely.

9 MEMBER WOODALL: Okay.

10 CHMN. CHENAL: Let me ask the applicant. Is  
11 this making any sense to do it this way?

12 MR. GUY: It is. There are some logistical  
13 issues given where the hearing is located and our  
14 ability to reproduce maps and things like that that we  
15 are discussing kind of off the record.

16 This is perfectly fine. From the order  
17 perspective, it is making sense. We are clarifying  
18 things. And so long as we are being consistent with the  
19 evidence in the record, we can produce a map to match  
20 the order. And to the extent we don't have that perfect  
21 map tomorrow, we may have to supplement the record to  
22 conform to the final order, but we can do that.

23 CHMN. CHENAL: I mean I think the evidence will  
24 be understood when considering the way the application  
25 reads.



1           So I mean those terms are all defined. I just  
2 think it is, as the hearing has evolved and as the  
3 Committee has requested more specificity of where the  
4 route is, and we are going to have an attachment that  
5 will specifically define that, I think it just  
6 simplifies it instead of -- it simplifies the order.

7           Okay. Let's look at line 21, starting with the  
8 CEC route, upgrade route, and ending with, on line 28 I  
9 guess, the 230kV transmission line. We made a few  
10 proposed changes. Any other comments or thoughts for  
11 changes on that language?

12           MEMBER WOODALL: Just what is on the screen?

13           CHMN. CHENAL: Right.

14           Okay, let's move to the next, if we may,  
15 paragraph, and we will just go lines 1 through 6  
16 starting with and associated facilities, and ending with  
17 Exhibit A to the certificate. So let's take a moment to  
18 read that, see if there is any suggested change to that.

19           MEMBER WOODALL: I am going to suggest that  
20 rather than use approved route, we use terminology that  
21 you have been proposing, because that's yet another  
22 term.

23           CHMN. CHENAL: Right. And I think that -- look  
24 on the screen. That sentence using the words approved  
25 route is being suggested to be deleted. So if there is

1 no changes to the last paragraph before the conditions,  
2 then let's see where we are. All right.

3 Before we begin on conditions, let me suggest we  
4 take a 15-minute break. We are getting into the new  
5 section of the order, the conditions. And let's take a  
6 15-minute break and come back at 4:00. We are making  
7 good progress. Thank you.

8 (A recess ensued from 3:40 p.m. to 4:02 p.m.)

9 CHMN. CHENAL: Back on the record 4:02,  
10 thereabouts. And we will go to 5:00, I think, given we  
11 don't know how long we are going to go tomorrow. But I  
12 think we are making good progress.

13 Let's declare tomorrow a casual day. I am  
14 looking at Mr. Guy. Let's make it a casual day  
15 tomorrow. It will be more comfortable, I think, for  
16 everybody.

17 MEMBER HAMWAY: I brought more fancy clothes  
18 than --

19 CHMN. CHENAL: You can wear fancy if you would  
20 like, Member Hamway.

21 MEMBER WOODALL: Give us some class.

22 CHMN. CHENAL: I have a nice suit with a nice  
23 tie ready to go, and you are not going to see it.

24 Let's start the conditions. And let's be  
25 absolutely clear, because I know there has been a little

1 question about the record. Tomorrow we will have  
2 Exhibit 44 will be a clean version of what we started  
3 with on the screen. And then let's go Exhibit 45 will  
4 be the changes, you know, redline changes that we are  
5 making as we are going through this.

6 So now we are on conditions, and let's take them  
7 one paragraph at a time. And let's look at paragraph 1  
8 starting with the applicant shall and ending with City  
9 of Tucson.

10 Member Haenichen.

11 MEMBER HAENICHEN: Should the State of Arizona  
12 be in there, too?

13 MEMBER BINGHAM: Thank you.

14 CHMN. CHENAL: Yes, Arizona should be.

15 How about the United States of America, the  
16 State of Arizona, and then the counties.

17 MEMBER HAENICHEN: After America.

18 CHMN. CHENAL: Supervisor Palmer may not agree  
19 with that, but...

20 MEMBER PALMER: We will let it slide.

21 MEMBER HAMWAY: Does the City of Willcox have  
22 any place, since the playa is in Willcox? Okay. No,  
23 okay.

24 CHMN. CHENAL: Okay. Member Hamway, what you  
25 indicated was should Willcox be included?

1           MEMBER HAMWAY: It doesn't sound like the playa  
2 is in Willcox.

3           MR. GUY: I think technically that's right. No  
4 part of the project goes through the City of Willcox.  
5 We had made sure we had provided notice to the City of  
6 Willcox and we have included them, but the City of  
7 Willcox technically would not have jurisdiction over the  
8 project because it does not go through their  
9 jurisdictional boundaries.

10           CHMN. CHENAL: Okay. Anything further on  
11 paragraph 1?

12           Let's look at paragraph 2 of the conditions.

13           Member Woodall.

14           MEMBER WOODALL: Has the applicant reviewed some  
15 of the stand-alone conditions that the Committee has  
16 adopted in prior CECs and compared them to your PODs,  
17 et cetera, your PCEMs? Have we ensured that there is no  
18 inconsistency? You have already done that?

19           MR. GUY: We did that with respect to our  
20 originally proposed form of order. We have not done  
21 that with some of the newer conditions from the SunZia  
22 case or White Wing cases. And in some cases -- what we  
23 also have not done, we haven't gone in to identify a  
24 PCEM that might actually address the same condition this  
25 addresses. So to the extent --

1 MEMBER WOODALL: Okay, that's on you. That's  
2 your risk basically. I don't mean to be unkind, but is  
3 that basically the way it is? If you agree to that and  
4 it turns out you have a problem with the federal  
5 agencies, that's your concern. You are going to have to  
6 work that out or get an amendment to the CEC; is that  
7 how you understand it?

8 MR. GUY: If there was an inconsistency with the  
9 CEC and the PCEM, then we will need to change one or the  
10 other to make those consistent.

11 MEMBER WOODALL: Okay. Just highlighting the  
12 issue. And now you know about it, and now I don't have  
13 to worry about it.

14 CHMN. CHENAL: All right. Any additional  
15 thoughts or comments regarding paragraph 2? And it  
16 should go without saying any reference to previous  
17 siting cases would be deleted. We won't have to go  
18 through that in every case.

19 All right. Paragraph 3, any thoughts or  
20 comments from the Committee?

21 Let's look at paragraph 4, then.

22 MEMBER WOODALL: Again, we are using the term  
23 "for the Arizona portion of the project." Don't we need  
24 to substitute the prior description and the name that we  
25 gave this?

1 CHMN. CHENAL: Sure, absolutely.

2 MEMBER WOODALL: So I would defer to you,  
3 Chairman.

4 CHMN. CHENAL: And looking up on the screen, it  
5 looks like that might be an acceptable change.

6 All right. Looking at paragraph 4, starting  
7 with the applicant and ending on line 28 with or  
8 equivalent plan will become, any thoughts regarding the  
9 changes there?

10 All right. We can move to the next portion of  
11 the paragraph. If we could back it up to -- okay. So  
12 the line, once completed, the APP or equivalent plan  
13 will become, and then we can look at the next page,  
14 lines 1 through 6. Looks like we can move to the next  
15 paragraph, paragraph 5 of the conditions, and looks  
16 like --

17 MEMBER WOODALL: Oh, good. I am so glad you got  
18 rid of that paragraph 5 that read applicant will comply  
19 with all terms, conditions, and requirements set forth  
20 in the final decision by the BLM granting the  
21 applicant's application for right-of-way. Their  
22 decision would be the ROD, correct?

23 MR. GUY: Yes. And we deleted it because we  
24 have subsequent conditions that capture the various  
25 aspects of that. We are proposing to delete that. That

1 is a change that the Committee has not seen until right  
2 now. We need to hold on that one until we confirm that  
3 it is covered elsewhere.

4 MEMBER WOODALL: I just want to make sure we use  
5 the same naming convention; if we use ROD, that we  
6 continue to use the abbreviation.

7 MR. GUY: That's correct. We subsequently used  
8 ROD, which is why we have this condition.

9 MEMBER WOODALL: Unfortunately I used to review  
10 contracts, and I am really sorry I am so persnickety.  
11 No, I am not. I am not at all.

12 CHMN. CHENAL: Let's stay on that one for just a  
13 second. Is there language, Mr. Guy, somewhere later in  
14 a later condition that is as expansive as this language?

15 MR. GUY: I would have to check. I mean I think  
16 if you read the original 5 that said applicant will  
17 comply with all terms, conditions, and requirements as  
18 set forth in the final decision by the BLM, it seems to  
19 me that is a definition of the BLM ROD. And so if we  
20 have a condition that says applicant shall comply with  
21 the BLM ROD, that seems to me to capture the same thing.

22 One could also read this condition to say comply  
23 with the right-of-way agreement. But, again, if you are  
24 complying with the ROD, it would seem to me you would  
25 have to comply with the right-of-way agreement. So we

1 can hold the deletions, if you would like, until we  
2 confirm that, but I am fairly certain it is covered  
3 elsewhere.

4 CHMN. CHENAL: Well, I don't think I like the  
5 way 5 is written, but the concept would be that the  
6 applicant will comply with all conditions and  
7 requirements set forth in the final BLM ROD in  
8 connection with construction of the CEC route. I think  
9 that's the idea, is the BLM ROD only covers a certain  
10 portion of the line, but I think we have some other  
11 conditions that -- basically the idea is we want all the  
12 terms and conditions and requirements in the POD and the  
13 ROD to apply to the entire CEC route.

14 So we are just going to make sure that one -- we  
15 can delete it for now. I mean it is not very well --  
16 that's from a previous case where it made sense in that  
17 case. It doesn't necessarily make sense in the way it  
18 is written, but I think the concept is still a good  
19 concept. I want to make sure we keep that in the back  
20 of our heads as we go through. But I agree it is not  
21 written properly, but the concept here.

22 Paragraph 6.

23 MEMBER BINGHAM: Read the first sentence for the  
24 record.

25 CHMN. CHENAL: Thank you.



1 Paragraph 6, the ROD issued by BLM, and ending  
2 with on line 17 because it's so far down -- well, line  
3 20, ending with specify the manner in which. Let's take  
4 a moment to read it.

5 Mr. Guy, first question. I know we have had  
6 this discussion, and I am still not clear on it. The  
7 plan of development with the BLM, does it or does it not  
8 require those requirements for the CEC route? I thought  
9 we had a lot of testimony that the ROD and the POD apply  
10 to the BLM portions of the project, a lot of the CEC  
11 route covers non-BLM land, and that we want a condition  
12 that was going to make all of requirements applicable to  
13 the entirety of the CEC route. So is that --

14 MR. VIRANT: That's correct. There is a  
15 condition later that states just that.

16 CHMN. CHENAL: So the first sentence is not  
17 really correct then, because it says the ROD requires  
18 the applicant to prepare a POD outlining, detailing  
19 relevant construction, mitigation, restoration  
20 requirements for the CEC route. It really doesn't  
21 require for the CEC route. It requires for BLM land,  
22 which the CEC route, yeah, is partly BLM, but partly not  
23 BLM. So, you know, I mean, to be accurate here, I don't  
24 think that's a correct statement.

25 MR. GUY: I agree. We need to confirm in --

1 looking at this condition, the proposed Condition 6 and  
2 next condition, proposed Condition 7, as currently  
3 written, Condition 6 is simply stating what the ROD  
4 states. It actually isn't an additional condition.

5 So to the extent we keep this in there, we need  
6 to confirm that is actually what the ROD states. And to  
7 the point the ROD does not, the ROD by its terms does  
8 not require the plan of development to be applied to the  
9 entire CEC route.

10 So we need to correct that. The Condition 7,  
11 just to tell you what is coming, is essentially a  
12 separate condition, sort of a CEC condition that would  
13 be requiring the filing of the same type of requirements  
14 that are in No. 6.

15 CHMN. CHENAL: Right. And Member Woodall, I  
16 will get to you in a second.

17 I would like to stay on 6, make it accurate as  
18 to what it covers, and we will do this right now, but  
19 then make those requirements applicable to the entirety  
20 of the CEC route. Because I think that's what Southline  
21 has agreed to, I mean repeatedly, in testimony and in  
22 the document that was passed out -- I forget the exhibit  
23 number -- that summarized all these requirements.

24 Okay. Member Woodall.

25 MEMBER WOODALL: I have a suggestion to that

1 end. And I am jumping ahead to paragraph 7. But you  
2 are supposed to file, the applicant is supposed to file  
3 a construction, mitigation, and restoration plan. Why  
4 can't you just say that that construction, mitigation,  
5 and restoration plan shall be in conformity with the  
6 terms and provisions in the ROD?

7 I mean you are basically -- I mean that way you  
8 get to file one document and say hey, we are doing this.  
9 I realize you say you have it someplace later in the  
10 document. And, of course, I can't see that because all  
11 we have is what is on the screen.

12 Anyway, that's just my suggestion because, you  
13 know, we are duplicating the language. And there is a  
14 condition in 6, it does say the POD shall specify. So  
15 there is a condition in there.

16 CHMN. CHENAL: I don't want to let the applicant  
17 off that easy. I think 7 talks about construction,  
18 mitigation, and restoration plans, but I think the plan  
19 of development includes much more than that. And I want  
20 them to enjoy the fun of having to comply with the plan  
21 of development for the entirety of the CEC route.

22 MR. VIRANT: Yes, and that's the intention. In  
23 the e-mail that you had sent, that was one of the  
24 conditions you listed. It was actually the fifth one  
25 you listed after all the numbered conditions from

1 different cases. And we will get to that one, I  
2 promise, we are not blowing it off, and it is No. 22.

3 CHMN. CHENAL: We will tighten this one up, and  
4 then when we get to that one it may not be necessary.  
5 And then we will get to take them in order. Okay.

6 MEMBER WOODALL: May I ask a question?

7 CHMN. CHENAL: Oh, sure.

8 MEMBER WOODALL: Back on paragraph 6, it says  
9 the ROD issued by BLM requires the applicant to prepare  
10 a plan of development outlining and detailing the  
11 relevant construction, mitigation, and restoration  
12 requirements through the project.

13 Is there anything else in your POD other than  
14 these topics? In other words, were they illustrative or  
15 are you trying to say that's what is supposed to be in  
16 there?

17 MR. GUY: I don't know the answer as we sit  
18 here.

19 CHMN. CHENAL: Okay. I will have some  
20 additional language and thoughts.

21 Member Haenichen.

22 MEMBER HAENICHEN: Yes. This is a small point,  
23 but I think that the -- where it says on lines 15, 16,  
24 and 17, it is awkwardly written. I think it should say  
25 after revegetate, comma, you should put revegetate,

1 don't even have the comma, revegetate native areas  
2 following construction, unless revegetation is waived by  
3 the landowner. I mean it is just awkward to read it  
4 that way, after the first revegetating. Native areas,  
5 right. That's it.

6 CHMN. CHENAL: All right. Let's stay with this  
7 paragraph, though. Looking at the screen, line 12, it  
8 says where practicable, comma, and what has been  
9 stricken is as determined by the landowner, comma, and  
10 then continues, the POD shall specify the applicant, you  
11 know, perform certain functions. I don't remember which  
12 previous cases we had, which the cases were where the  
13 language stated as determined by the landowner. But  
14 let's just talk about that for a minute.

15 If I am the applicant, I don't want that  
16 language there. I am going to be dealing with a lot of  
17 landowners, and that's going to add a lot, you know, it  
18 is going to make it much more difficult, especially for  
19 something this long.

20 On the other hand, if I am a landowner, I am  
21 going to want to have some say in that and what is  
22 practicable. So I think we just have that discussion on  
23 the record, because I think it is a very important  
24 clause that's struck.

25 MEMBER WOODALL: I think it should be struck --

1 CHMN. CHENAL: Okay. And --

2 MEMBER WOODALL: -- because otherwise the  
3 sentence is internally consistent. Where practicable  
4 when someone else says so, that is not really the  
5 meaning of practicable, so I think it should be deleted.

6 CHMN. CHENAL: Well, okay. I am looking at it  
7 maybe a little differently. I am looking at the word  
8 practicable, and I am looking at, well, who determines  
9 whether it is practicable or not, the applicant or the  
10 landowner.

11 MEMBER WOODALL: It should be the applicant in  
12 my opinion.

13 CHMN. CHENAL: Okay. That's --

14 MEMBER BINGHAM: Along those lines, I had some  
15 same issues with the striking of the determination.  
16 Could we replace determined with consultation of the  
17 landowner? Because at some point in time I think the  
18 landowner ought to have some say, or at least voice an  
19 opinion that the applicant can take into consideration.

20 CHMN. CHENAL: After consultation with the  
21 landowner, I think that makes some sense. We will hear  
22 from the applicant on it. I think it would be difficult  
23 to say as determined by the landowner. I think that's a  
24 very difficult provision for the applicant to comply  
25 with.

1 MEMBER WOODALL: And if we just say where  
2 practicable, that would imply you are considering the  
3 landowner and the applicant. So that's why I wouldn't  
4 want to modify, as I wouldn't want to say as determined  
5 by the applicant or as determined by the landowner, but  
6 just where practicable. That way you are looking at  
7 both sides. That's what I think that requirement would  
8 mean.

9 MEMBER BINGHAM: I would rather be a little more  
10 specific to allow, or at least explicitly say, state the  
11 landowner does have some say and there is some  
12 consultation. I am a little uncomfortable just removing  
13 the landowner, with the assumption practicable includes  
14 the landowner.

15 MEMBER WOODALL: Well, and we are also talking  
16 about the plan shall specify. That's the POD is going  
17 to specify.

18 MEMBER BINGHAM: Understood.

19 CHMN. CHENAL: Okay. Let's hear from Mr. Guy.

20 MR. GUY: Well, I think that last point is the  
21 one that I am struggling with a little bit. I mean the,  
22 and I think I have a proposal, but the POD exists. And  
23 so, you know, maybe consult with your environmental  
24 consultants, but I am not sure we could go to a  
25 landowner and go back and have to modify a POD that

1 already exists.

2           So perhaps we can solve two things we are  
3 looking to solve in this paragraph. After the first  
4 paragraph where we -- or after the first sentence where  
5 we state what the ROD requires, perhaps the second  
6 sentence can say something about where practicable, the  
7 applicant shall, and not refer to the POD.

8           And then because you also -- we also want to  
9 commit the applicant to do this on the entire project,  
10 so we can say -- in other words, I am trying to combine  
11 the commitment to follow the POD on the entire project  
12 with the fact that the POD itself I don't think can be  
13 changed, based on if the landowner wants the applicant  
14 to change it.

15           CHMN. CHENAL: Okay. I have some definite  
16 thoughts on this, but I want to hear from the Committee.  
17 I think we have a couple different ways to go here. One  
18 is to say just where practicable, the POD shall specify  
19 the requirements. One is, you know, basically leave it  
20 to the landowner to call that shot, or we have a  
21 proposal to do it in consultation with the landowner.

22           MEMBER BINGHAM: I have a clarifying --

23           CHMN. CHENAL: I am sorry, too many people  
24 talking at once. And we need to talk into the  
25 microphone.



1 Member Haenichen.

2 MEMBER HAENICHEN: Where practicable, after  
3 consultation with the landowner.

4 CHMN. CHENAL: Which is -- Member Bingham.

5 MEMBER BINGHAM: Just a quick clarifying  
6 question. In this context the landowner, is that only  
7 referring to BLM, since the POD is tied to the ROD as  
8 this sentence is written? I am trying to apply it to a  
9 larger scheme, but if we were just going to the BLM  
10 portion for this paragraph, I just want that  
11 clarification.

12 CHMN. CHENAL: Okay.

13 MEMBER WOODALL: I don't think we are in a  
14 position to dictate what goes in the POD. That's my  
15 problem with how this is worded.

16 MEMBER BINGHAM: No, my question simply is: We  
17 are talking in this section, is this only for BLM land  
18 in this paragraph, or is this paragraph talking about  
19 the entire route?

20 CHMN. CHENAL: Okay. I think here is the answer  
21 to this. This POD would technically only apply to the  
22 BLM, but we have a later condition, a later condition  
23 that's going to be part of this, that makes the POD  
24 applicable to all portions of the CEC route, and so  
25 landowner would include private property owners.

1 MEMBER BINGHAM: In this paragraph.

2 CHMN. CHENAL: Yeah -- well --

3 MEMBER BINGHAM: Because I understand the  
4 overarching. My thought as I was going through the  
5 earlier comment was this is covering just the BLM, and  
6 there is another paragraph that's going to be applicable  
7 to the entire route.

8 So just for clarification in my mind, if this is  
9 only going to be the BLM portion in this paragraph and  
10 we are going to deal with the other landowners in a  
11 separate condition, I may change my point of view.

12 MEMBER WOODALL: Can I make a suggestion?

13 CHMN. CHENAL: Sure.

14 MEMBER WOODALL: So right after -- we have to do  
15 a POD of development restoration. Why don't we just  
16 insert after any portion thereof the applicant agrees to  
17 follow the terms of the POD on the CEC route. In other  
18 words, we are getting what you want. It is going to say  
19 they have to follow it everywhere, that they have got a  
20 certificate of environmental compatibility. We just put  
21 it on the front end.

22 CHMN. CHENAL: I personally think that misses  
23 the issue. I will tell you why. At some point on  
24 someone's private property there is going to be a  
25 dispute over whether or not something is practicable or

1 not, and there is going to be a discussion between the  
2 applicant and the landowner. And there is going to be a  
3 difference of opinion somewhere as to whether it is  
4 practicable or not, and someone is going to have to make  
5 the call.

6 Does the applicant get to make the call and say,  
7 well, it is a little inconvenient but it is not  
8 practicable, we want to do this, and the landowner is  
9 going to say I don't want you to do this, that's going  
10 to cause a huge inconvenience to me, going in that  
11 direction is really practicable? And you are going to  
12 have a countless number, potentially, of these kinds of  
13 issues that have to be decided. And I think it is hard  
14 to decide who to mediate. To you give all that to the  
15 applicant I think could end up -- am just abstractly --  
16 it could hurt some landowners.

17 MEMBER WOODALL: My concern with qualifying, you  
18 know, who determines what is practicable is we don't  
19 know of the multiplicity of factual circumstances that  
20 are going to come on board, and in some cases, the  
21 landowner might be grossly unreasonable.

22 So that's why I just want to leave it  
23 practicable, and not say according to whom, because  
24 practicable could be, you know, could be defined, it is  
25 almost like good faith and fair dealing, it is

1 economically feasible.

2 I don't know that we need to say and you get the  
3 last word on it, because we don't know what the  
4 circumstances are. Someone might say no, I want this  
5 painted pink, and I think that's practicable because you  
6 have painted it something.

7 I mean I am using an absurd example, of course.  
8 I am more concerned that we get a provision on the front  
9 end that says they are going to follow the terms of the  
10 POD throughout the project, and I was just suggesting  
11 this is one place that you could put it, and then we  
12 could proceed following.

13 CHMN. CHENAL: Okay. I am in a different camp  
14 on this. I will just put my reason on the record, and  
15 maybe we have to vote on it. But I don't want the  
16 applicant to make the decision in the abstract as to  
17 what is practicable or not without having a discussion  
18 with the landowner.

19 MEMBER WOODALL: That's different.

20 CHMN. CHENAL: No, I don't think it is  
21 different. I think it is exactly what we are talking  
22 about. Because when we say where practicable after  
23 consultation with the landowner requires there to be a  
24 conversation versus simply the applicant deciding it  
25 without consultation what is practicable.

1 MEMBER WOODALL: I am all on board on the  
2 consultation point. I just don't want to have a  
3 modifier for as practicable determined by. I am all for  
4 the consultation part.

5 CHMN. CHENAL: That's what Member Haenichen said  
6 and that's what Member Bingham, and I think that's what  
7 I am -- there should be some consultation with the  
8 landowner, and I thought you were saying we shouldn't  
9 have that modifier.

10 MEMBER WOODALL: No, no, no. I am just saying I  
11 don't think we should decide in advance who has the  
12 final say. And if you insert the consultation language,  
13 I am fine.

14 CHMN. CHENAL: Okay. Because I think that's  
15 what we have been discussing. I thought you were  
16 opposed to that language.

17 MEMBER WOODALL: No, no.

18 CHMN. CHENAL: Back to Member Bingham's point,  
19 though, does it just apply to BLM? And I think maybe we  
20 have to get to that next condition, where we make this  
21 provision applicable to the entirety of the CEC route,  
22 which covers non-BLM land and tightens consent up there  
23 that this consultation will apply to other -- to non-BLM  
24 landowners. And maybe we need to make that clear in the  
25 next provision, if I think I am being clear on that.

1 MEMBER BINGHAM: I follow it.

2 CHMN. CHENAL: Okay.

3 MR. GUY: Chairman, so in addition to your  
4 conversation, there is a change that is shown on the  
5 screen that at least should be discussed, because I was  
6 making the change. And is that second sentence, that  
7 where practicable after consultation with the landowner,  
8 rather than saying the POD shall specify, does it get us  
9 to the same place to simply say where practicable after  
10 consultation with the landowner, the applicant shall?  
11 Because what I don't know sitting here is whether -- I  
12 don't know the flexibility of Southline to go back and  
13 modify the POD each time it has a consultation with a  
14 landowner.

15 MEMBER HAENICHEN: That's fair.

16 CHMN. CHENAL: Yeah, I think that's fair. Do we  
17 need to discuss that? I think that's a fair --

18 MEMBER BINGHAM: Fair concept.

19 CHMN. CHENAL: -- concept.

20 MEMBER WOODALL: Is the POD in the record?

21 MR. VIRANT: Yes, ma'am.

22 MEMBER WOODALL: Thank you.

23 MR. VIRANT: It is attached to the exhibit to  
24 the BLM Record of Decision.

25 CHMN. CHENAL: All right. Are we okay -- I

1 mean, again, this is just we are going through to try  
2 and come up with the best language. Are we okay with  
3 lines 9 through 20? Any further discussion?

4 MEMBER HAMWAY: Can I make a small suggestion?

5 CHMN. CHENAL: Sure, Member Hamway.

6 MEMBER HAMWAY: Why don't we just have 6 define  
7 what the ROD does for BLM just, you know, and then leave  
8 out anything, and then in No. 7 say this applies, to  
9 make it simple. I don't know. You know, I am not a  
10 lawyer, but I am just saying No. 6 describes the ROD  
11 issued by BLM, and it does X, Y, and Z. Then the next  
12 one says X, Y, and Z will also be applied to the CEC  
13 route as specified in testimony by Southline. I don't  
14 know.

15 CHMN. CHENAL: So are there any specific changes  
16 you would make to this?

17 MEMBER HAMWAY: Well, I would take --

18 CHMN. CHENAL: You have to talk into the  
19 microphone so we all hear.

20 MEMBER HAMWAY: Okay. Well, the landowner in  
21 No. 6 is always going to be BLM, right? So I would take  
22 out any of those references. I don't know. Obviously I  
23 don't know.

24 CHMN. CHENAL: Let's not make any changes quite  
25 yet because we will -- we won't see what is up there as

1 we are trying to think through this.

2 MEMBER BINGHAM: I am comfortable with what I am  
3 seeing on the screen, No. 6, lines 9 through 20.

4 CHMN. CHENAL: Keep it up just for a second. I  
5 will address this to the applicant. I am looking at  
6 lines 13 and 14. We say in line 12, the applicant  
7 agrees to follow the terms of the POD for the CEC route.  
8 And then we move to the next sentence, where  
9 practicable, after consultation with the landowner, the  
10 applicant shall do A, B, and C.

11 I want to tie those requirements back somehow to  
12 the POD. So should we say in line 15 the applicant  
13 shall, in accordance with the POD, A, use existing roads  
14 and follow that concept through? Because requirements,  
15 there is nothing that says those requirements are  
16 requirements of the POD. So let's just put language  
17 after -- okay. It could work there as well. Okay.

18 That solves it. I just want to type the  
19 requirements back to the POD. And how about after -- on  
20 line 12, it says the applicant agrees to follow the term  
21 of the POD, the CEC route. I am not sure that's as  
22 clear as it could be.

23 I guess I could argue that the POD applies to  
24 the CEC route, but only the BLM land on the CEC route.  
25 And I want to make it absolutely clear, because the



1 Southline has agreed to it, that the POD will be applied  
2 to all portions of the CEC route and we wouldn't add  
3 this, but including and not limited to the BLM land.

4 But as Mr. Virant testified, and without  
5 disclosing exactly, well, it goes through different  
6 categories of property, BLM, state land, private land,  
7 you know, other types of land. And I think we need to  
8 make that crystal clear.

9 MEMBER PALMER: Say the entirety.

10 CHMN. CHENAL: The entirety of the CEC route.

11 Yes, let's put a few in there, federal, state,  
12 and privately owned lands. Yes, I think that nails it  
13 down.

14 MR. VIRANT: And would you want to confirm in  
15 that same sentence that it would be in conformity with  
16 all terms, conditions, and stipulations set forth in the  
17 BLM and WAPA RODs and the NEPA POD, including all PCEMs  
18 attached to the BLM ROD?

19 CHMN. CHENAL: Well, and you are reading,  
20 Mr. Virant, from what condition? Because I know there  
21 is a later condition.

22 MR. VIRANT: No. 22.

23 CHMN. CHENAL: Let's leave this here and wait  
24 until we get to 22 and see if we have to modify 22 or  
25 delete something here or add something here. As I say,

1 this is going to be more than one run-through.

2 Okay. Anything further on the screen, paragraph  
3 6, lines 9 through 20, starting with the ROD issued by  
4 BLM and ending with, well, construction disturbance? If  
5 not, let's move to the next paragraph, paragraph 7.

6 MEMBER BINGHAM: You need to strike all the way  
7 through project.

8 CHMN. CHENAL: All right. So before  
9 construction of the CEC route may commence, comma, the  
10 applicant shall file a construction mitigation, and now  
11 if we can scroll down to the next page, lines 1 through  
12 6 starting with restoration plan and ending with  
13 construction disturbance, and let's take a look at that  
14 language and see if there is any changes we want to make  
15 to that.

16 MEMBER BINGHAM: Willcox is spelled incorrectly.

17 CHMN. CHENAL: Member Haenichen.

18 MEMBER HAENICHEN: Revegetation has a dash in  
19 there. You can just -- writing it the other way.

20 CHMN. CHENAL: Member Woodall.

21 MEMBER WOODALL: Never mind. I just don't  
22 understand how 6 and 7 relate to each other, but I will  
23 talk about it tomorrow.

24 CHMN. CHENAL: And they may not. It sounds like  
25 there is some duplication there.

1           MEMBER WOODALL: Yes, it does. That's what my  
2 concern is. I am not sure what we are trying to address  
3 in that condition, but I will talk about it tomorrow  
4 when I have a piece of paper in front of me.

5           CHMN. CHENAL: I think it is a little hard here.  
6 Partly it is my fault because I asked some conditions to  
7 be added for discussion, thinking it is better we have  
8 everything in the document and we can then start to take  
9 some things out, and I suspect there are some things  
10 that may be duplicative.

11           But it would be easy to do that from a document  
12 if we put one together. Maybe the applicant can  
13 propose, when we get done tonight, depending how far we  
14 go, if the applicant can see that there are clearly some  
15 matters that are addressed in two paragraphs, maybe you  
16 can shade the language and suggest, you know, it is  
17 already covered.

18           MEMBER WOODALL: Are you referring to maybe  
19 eliminating clauses which require content in the POD  
20 and, instead, impose an obligation on the applicant to  
21 do certain things?

22           CHMN. CHENAL: Member Woodall, I am not so sure  
23 of that as I am --

24           MEMBER WOODALL: Okay.

25           CHMN. CHENAL: Paragraph 6 addresses using

1 existing roads for construction and access, and  
2 paragraph 7 has the same language. So there is a  
3 duplication that's not necessary. To figure out which  
4 one to eliminate we might have to revise 6 as well. But  
5 I just -- there may be items in 7 that we want to keep  
6 that are not duplicative of what is in 6, and it is kind  
7 of hard to do that as we are doing it today.

8 MEMBER WOODALL: Is there a printed copy of your  
9 POD somewhere? I mean, has it been distributed? Is it  
10 part of the EIS? I know we have a CD, but where is the  
11 POD?

12 MR. GUY: There is one printed copy. It is  
13 Exhibit B-3 to the application. Each member does not  
14 have a print paper copy. It was a voluminous attachment  
15 for which we just gave you a DVD, but we do have one  
16 print copy in the room.

17 MEMBER WOODALL: Is it possible that I might be  
18 able to eyeball that? And I guess I mean maybe take  
19 custody of it for like the evening. I mean we are  
20 talking about the POD, and I would kind of like to know  
21 what is in this, because it could be that the Committee  
22 might determine that, you know, everything that we want  
23 you to do we could frame as a separate condition. But I  
24 will leave that to Chairman Chenal.

25 CHMN. CHENAL: No, that's all of what we are

1 talking about, is how to make this make sense of this.

2 Let me ask the Committee. If you look at your  
3 Exhibit 42, I am going to ask the Committee to look at  
4 their -- at the Exhibit 42, which is the version of the  
5 CEC we have from the applicant. If you look at  
6 paragraph 6 and 7 up there, you will see that 6  
7 basically addresses the POD and has certain obligations  
8 that will apply to the applicant. And some of those  
9 include using existing roads for construction and  
10 access, restoring, you know, right-of-ways, things like  
11 that.

12 7 addresses the applicant filing a construction,  
13 mitigation, and restoration plan with the Commission's  
14 Docket Control and with some other, you know,  
15 governmental units. And that has been a standard  
16 provision in a lot of our CECs. So they overlap in the  
17 areas they cover, but to me they are two different  
18 things, and it doesn't mean they shouldn't be both  
19 included just because they overlap.

20 MEMBER PALMER: I agree.

21 CHMN. CHENAL: And I can see there is benefit to  
22 both. So that's why I am thinking we have got to  
23 carefully consider, you know, the purpose of each. And  
24 I think these are incredibly important.

25 MEMBER HAMWAY: Yeah, I agree.

1 CHMN. CHENAL: So it is not just deleting  
2 duplicative language because they have different  
3 purposes.

4 MEMBER HAENICHEN: Mr. Chairman.

5 CHMN. CHENAL: Member Haenichen.

6 MEMBER HAENICHEN: Can't we somehow combine 6  
7 and 7, though?

8 CHMN. CHENAL: Well, I guess we can, but 6 deals  
9 with the POD, you know, and 7 deals with a separate plan  
10 that's filed with the Corporation Commission. And I  
11 don't know if it is so easy to do that.

12 I want to get this on the record.

13 MEMBER PALMER: In my way of thinking they are  
14 two different things. And even though they cover some  
15 of the same conditions, I think you need to have them  
16 differentiated numerically in the conditions.

17 CHMN. CHENAL: Okay.

18 MEMBER WOODALL: Chairman Chenal.

19 CHMN. CHENAL: Member Woodall.

20 MEMBER WOODALL: I personally would be  
21 comfortable if we had a general provision that said that  
22 the applicant intended to apply the requirements of the  
23 POD to all sections of the approved CEC route. And then  
24 I don't think we would need 6, unless you want to add  
25 something in about consultation with the landowner and

1 we could just go with 7.

2           Because we already have this overarching  
3 commitment relating to everything in the POD, so I think  
4 personally I would rather do it that way rather than try  
5 to do separate conditions. Because I think 6 and 7 are  
6 kind of talking about the same thing, so I would just as  
7 soon have them stay up front somewhere, the applicant  
8 agrees to comply to the terms of the POD as it relates  
9 to private lands and to all lands within this approved  
10 CEC route. And then I think you have your comfort and  
11 we have got a general statement, and then I don't think  
12 we need to belabor a lot of the issues.

13           CHMN. CHENAL: And that -- go ahead, Mr. Guy.

14           MR. GUY: Well, I realize this is an iterative  
15 process. So 6 describes -- I want to mention another  
16 couple conditions that play into this. 6 describes the  
17 ROD requires, it requires the applicant to follow the  
18 ROD and consult with the landowners.

19           7 historically would seem to contemplate the  
20 scenario where if there is no ROD, and therefore we want  
21 the applicant to do something like what the ROD requires  
22 you to do, but we want to file it with Docket Control in  
23 the affected jurisdictions.

24           There is a few conditions later on, you know, 13  
25 just for example, that requires the applicant to file

1 the ROD with Docket Control and send notice of that  
2 filing to all the cities and counties, or the affected  
3 jurisdictions.

4 So I think if you are just focusing on the  
5 requirement that 6 and 7 are trying to do, I think there  
6 is some opportunity to combine two or three conditions.

7 CHMN. CHENAL: And I agree with that. How we  
8 get the language, I don't know. We are --

9 MR. GUY: I know this is a process we are trying  
10 to draft live, but I am personally happy to take the  
11 comments of this discussion and incorporate a version  
12 that merges those, and then propose it to you in the  
13 morning.

14 CHMN. CHENAL: So I am going to think out loud  
15 for a second, dangerous. But looking ahead to 13, the  
16 POD has to be filed with Docket Control. The POD is a  
17 very voluminous document. That doesn't to me -- I mean  
18 I think that's important to do, and I think it is good  
19 for the Corporation Commission Staff to have that, and  
20 such. But as a practical matter, it is not user  
21 friendly for, you know, Tucson, you know, Pinal County,  
22 those kind of places, which would be affected by this.

23 So I think 7 is a -- paragraph 7, which requires  
24 that there be a construction, mitigation, and  
25 restoration plan on file with these local government



1 entities, is much more user friendly where they are  
2 going to be impacted. So conceptually I agree, but  
3 maybe there is a way to make it user friendly for these  
4 local governmental entities.

5 And I am going to look to Member Palmer,  
6 because, you know, having the POD, you know, a huge  
7 document, you know, on file with Docket Control I don't  
8 think is going to help Pinal County or some of these  
9 others where it is going through, where having a nice,  
10 tight restoration agreement maybe would.

11 MEMBER PALMER: I concur with that. I think if  
12 we can tie some language here to referring to that, but  
13 put in some of these conditions, I think it is something  
14 people can actually use and make work.

15 MEMBER WOODALL: Mr. Palmer, Mr. Chenal, I have  
16 a copy of the NEPA plan of development that was an  
17 exhibit to the application, I believe, B-3, and I am  
18 looking through it now. And there are references that  
19 it will be amended with more details, I guess, when more  
20 is known.

21 But in reviewing it, I am looking over some of  
22 the chapter headings, and there are provisions for storm  
23 water pollution, historic properties, blasting,  
24 conservation measures, erosion, dust control, noxious  
25 weed management, fire protection, soil reclamation,

1 vegetation, and monitoring plan.

2 So I guess it is conceivable that the applicant  
3 could simply abstract portions from this and submit them  
4 as their construction and mitigation plan, because they  
5 already have it here.

6 I mean there is a lot of stuff we probably don't  
7 give a hootenanny about, but that's one way to solve it,  
8 is they could be submitting the excerpts from the POD  
9 that would have the provisions that relate to roadway,  
10 minimizing impacts, vegetation disturbance, because we  
11 already have them down here and they are going to know  
12 what they are. They could file excerpts from this  
13 gigantic document, is what I am suggesting.

14 CHMN. CHENAL: I think that's a great  
15 suggestion. I think it is a great way to handle it. It  
16 would be crazy to have a second -- I do think  
17 Condition 7 probably does anticipate that there is a POD  
18 involved in the case. We have a POD. We should use  
19 that and, but still have a concept in 7 which is to make  
20 it user friendly to the local government.

21 So I think that's a good way, that's a great  
22 suggestion. I think that's maybe the -- I love to do  
23 this as we go along, but maybe that one we will put on  
24 the applicant to come up with some language, unless,  
25 Member Woodall, you have something to suggest now or

1 other members do.

2 MEMBER WOODALL: I was going to say that in  
3 reviewing the NEPA plan of development, which is  
4 Exhibit B-3 to the application, I see there is a  
5 discussion under section 5.4, overview of Appendix B,  
6 and there is references to various topics. And it seems  
7 to me, looking at the language on 6 and 7, that those  
8 topics in section 5.4 are those which would be pertinent  
9 to the conditions in 7 and 6. So maybe you could just  
10 file section 5.4. But I leave that to the applicant and  
11 its environmental consultant. But at least --

12 CHMN. CHENAL: I was just going to ask you to  
13 look at the language up there that has been inserted to  
14 see if that might satisfy you, Member Woodall.

15 MEMBER WOODALL: Oh.

16 CHMN. CHENAL: Sorry, I didn't mean to point in  
17 your face.

18 MEMBER PALMER: Chairman, it's my recollection  
19 Ms. Bellavia read those conditions into the record  
20 during her testimony. So I think those would be very  
21 appropriate.

22 MEMBER WOODALL: I will look at the language  
23 tomorrow when I have a print copy in front of me. But I  
24 am just trying to find a way so we don't reinvent the  
25 wheel, we don't burden the record with stuff that we

1 don't need and that is not addressing the environmental  
2 measures we don't need in 6 and 7.

3 So, anyway, the applicant can ponder and muse on  
4 that and let us know if that is feasible.

5 CHMN. CHENAL: I think that's a good solution.

6 Now, what portions -- I see 5.4. I don't have  
7 the POD, but maybe you could suggest, the applicant  
8 could suggest and, Member Woodall, if you would suggest  
9 maybe fleshing out what relevant portions, and we could  
10 specify those relevant portions, I think that would be  
11 better than just leaving that.

12 MEMBER WOODALL: Sure. There are various  
13 subheadings under 5.4, and they are talking about --  
14 this is an overview. So there are sub plans attached.  
15 But it is right here. And I would just recommend using  
16 the entirety of the section 5.4.

17 But this is the -- I am citing from the chapter  
18 that talks about the overview of the plan, because I  
19 think what we are interested in is basically in there.  
20 But I will leave it to their environmental consultant if  
21 they think something else is appropriate.

22 I am just trying to find a way so we can take  
23 something that's already in the record, compile it so  
24 that it is not unduly burdensome, and can just file that  
25 as some kind of attachment. So I am not worrying about

1 the language right now because I don't have a piece of  
2 paper in front of me. So anyway...

3 MEMBER BINGHAM: Mr. Chairman.

4 CHMN. CHENAL: Yes, Member Bingham.

5 MEMBER BINGHAM: One of the statements that I  
6 heard earlier, or just a moment ago in that reading,  
7 there will be updates to this moving forward. So this  
8 language in terms of the relevant portions, if there is  
9 way if anything has been updated, are we asking for the  
10 updates to also be filed or just what was originally in  
11 the POD?

12 CHMN. CHENAL: I think any updates would then be  
13 also filed.

14 MEMBER BINGHAM: The language here ought to  
15 reflect updates.

16 MEMBER WOODALL: If I may, my recommendation is  
17 really, when they look at Appendix B, which is part of  
18 the plan of development, that they select among those  
19 specific plans the ones that are described in paragraphs  
20 6 and 7, like revegetation, roadway, because I don't  
21 think that's going to be too voluminous, from what I can  
22 tell here.

23 CHMN. CHENAL: So could the applicant --  
24 homework assignment -- come back with some specific  
25 language with specificity of the POD that would be

1 enumerated or, you know, a litany would be set forth in  
2 this paragraph?

3 MEMBER WOODALL: I am just comfortable with  
4 describing that the mitigation plan that you are  
5 supposed to file under paragraph 7 would basically --  
6 you would meet compliance by attaching the POD plans for  
7 the specific topics that are identified in 7, which is  
8 existing roads, minimizing impacts to wildlife, minimize  
9 vegetation disturbance, and revegetate, because that's  
10 what is in there now. And I don't think that's going to  
11 be that voluminous, from what I have been able to  
12 discern from Exhibit B-3.

13 MR. VIRANT: That's a very good suggestion, and  
14 we will take that homework assignment this evening.

15 MEMBER WOODALL: Good luck. May the force be  
16 with you.

17 CHMN. CHENAL: Let's add a paragraph 7 as well,  
18 some language that if there is an update, if there is an  
19 amendment to the POD, that that update be provided as  
20 well to those governmental jurisdictions.

21 It seems like we just started the process, but  
22 it is 5:00.

23 And the next condition deals with radio  
24 interference, and I think that's probably going to be  
25 noncontroversial, so maybe we end now on 7, unless the

1 Committee wants to go forward. We want to finish  
2 tomorrow. So if we want to go a little further, I am  
3 happy to do it.

4 MEMBER HAENICHEN: I think we will finish  
5 tomorrow.

6 MEMBER WOODALL: I just think the next couple  
7 conditions are not very controversial, and we can  
8 probably whip through them. That's my sense. If people  
9 are hungry and tired, I am certainly not going to do a  
10 forced death march here.

11 CHMN. CHENAL: Let's go forward then. So we are  
12 looking at paragraph 8, lines 10 through 21, starting  
13 with the applicant shall make, and ending with applicant  
14 will respond to complaints and implement appropriate  
15 mitigation. Are there any changes to that language?

16 Scroll down, please.

17 MEMBER WOODALL: Again, I don't think we can  
18 require, you know, the content, to specify the content  
19 of the POD, but we can just require -- and there may  
20 also be something like this in the plan of development  
21 with respect to collaboration with Game & Fish and State  
22 Historic Preservation Office. I don't know.

23 CHMN. CHENAL: Okay. We are still on  
24 paragraph 8.

25 MEMBER WOODALL: Oh, I am sorry, so sorry.

1 CHMN. CHENAL: And we are looking at the screen.  
2 It is a moving target. Let's see. 21, we are starting  
3 on line 21. So if we could scroll up, starting with  
4 applicant will respond to complaints and implement  
5 appropriate mitigation measures, in addition to  
6 transmission lines will be evaluated on a regular basis  
7 so the damaged insulators or other line materials that  
8 could cause interference are timely repaired or  
9 replaced, any changes to that proposed language?

10 Member Haenichen.

11 MEMBER HAENICHEN: At the end, that they are  
12 repaired or replaced in a timely manner, I don't think  
13 timely can be used exactly. Take out -- strike timely,  
14 that earlier.

15 CHMN. CHENAL: Okay. Any other further comments  
16 on 8?

17 Can we scroll up to paragraph 9, please,  
18 starting with the POD shall specify, and ending on line  
19 2 on the following page with Arizona portion of the  
20 project.

21 MEMBER WOODALL: I think they have already  
22 committed to using existing roads for construction and  
23 access. So honestly, I don't think we need Condition 9  
24 myself.

25 CHMN. CHENAL: I agree with the -- well, it



1 seems like the second sentence that would be true, but  
2 the first sentence requires the POD specify the  
3 applicant's plans for coordination with Game & Fish and  
4 State Historic Preservation Office.

5 MEMBER WOODALL: I would just require that the  
6 applicant be required to coordinate with Arizona Game &  
7 Fish and the State Historic Preservation Office with  
8 respect to potential impacts to resources monitored by  
9 those agencies or governed by those agencies.

10 In other words, what we really want to say is  
11 that they are going to coordinate with Game & Fish and  
12 the State Historic Preservation Office. I think that's  
13 all we really want to say.

14 MEMBER BINGHAM: Mr. Chairman.

15 CHMN. CHENAL: Member Bingham.

16 MEMBER BINGHAM: But as I am reading this, the  
17 CEC is specifying what the POD should do.

18 CHMN. CHENAL: Yes.

19 MEMBER BINGHAM: Am I reading correctly? But  
20 the POD is already prepared, so how can the CEC be  
21 directing something to a document that has already been  
22 prepared?

23 MEMBER WOODALL: That's kind of what I was  
24 talking about. I said I think we should change it to  
25 say the applicant shall coordinate with Arizona Game &

1 Fish and the State Historic Preservation Office.

2 MEMBER BINGHAM: My apologies.

3 MEMBER WOODALL: Well, I have been talking. I  
4 am sure people are tuning me out at this point.

5 MEMBER BINGHAM: I was reading.

6 MEMBER WOODALL: So, anyway, I am just -- and I  
7 think somebody can come back with some language  
8 regarding that. That's pretty simple. We are just  
9 requiring you to coordinate. And it is probably  
10 somewhere in the plan of development or in the terms of  
11 your ROD somewhere, because wasn't Game & Fish and the  
12 State Historic Preservation Office, weren't they  
13 participants in some fashion? I think there was a  
14 consultation they said about with SHPO?

15 MR. GUY: I believe that's correct.

16 MEMBER WOODALL: Okay.

17 CHMN. CHENAL: Does the POD address plans  
18 between the applicant and Game & Fish and State Historic  
19 Preservation Office?

20 MR. GUY: I can consult with our environmental  
21 experts, but generally that's written. I would be  
22 shocked if it doesn't require that.

23 CHMN. CHENAL: Let's use the language that  
24 member -- let's use this as the last one, because I  
25 don't like to just push this off on the applicant when

1 something was just put on the record by Member Woodall  
2 that I think sounded pretty good. Let's see if we can  
3 get that language up there and we will stop on this one.  
4 People are getting a little tired.

5 So Member Woodall, would you revise.

6 MEMBER WOODALL: Applicant shall coordinate with  
7 the Arizona Game & Fish Department and the State  
8 Historic Preservation Office regarding wildlife and --  
9 what is the term that we use for culture -- and  
10 cultural, cultural, there is a word that they use in  
11 terms of cultural resource, cultural resources.

12 I am kind of back looking here because I didn't  
13 have the terminology, but they are required to  
14 coordinate with Game & Fish and State Historic  
15 Preservation Office with respect to biological and  
16 cultural resources. I don't know how you want it more  
17 detailed. I mean I am sure it is a lot more detailed in  
18 the POD, but if we want to have something to start with,  
19 I would use that. And we might tweak it up tomorrow to  
20 talk about impacts or something.

21 CHMN. CHENAL: And I think the last sentence of  
22 the paragraph, the second sentence could be deleted.  
23 That concept has been covered.

24 All right. Any further comments right now from  
25 the Committee? The applicant?

1 (No response.)

2 CHMN. CHENAL: We can stop here.

3 MEMBER WOODALL: Just if I may, and I know I  
4 have said this before, but it is really important to me  
5 that the narrative description of the route be very  
6 clearly articulated for the CEC, and that the Exhibit A  
7 have as much geographically pertinent information such  
8 as townships and range, distances, et cetera, on it so  
9 that when the CEC, if it is issued, when people look at  
10 it they know where on the surface of the state this  
11 project is going to be.

12 And I know I said that before, but, you know,  
13 you are working on it right now so I thought I would  
14 give you another pep talk.

15 MR. VIRANT: Yes, ma'am. Thank you.

16 CHMN. CHENAL: All right. Anything further we  
17 need to discuss before we resume tomorrow at 9:00 a.m.?

18 MR. GUY: Mr. Chairman, just a question. Would  
19 it be helpful, given the conversation we had this  
20 afternoon on the form of CEC, would it be helpful for us  
21 to go, the applicant to go through the rest of the form  
22 of CEC and try to conform some of the things we have  
23 talked about and bring a new document tomorrow?

24 CHMN. CHENAL: Sure, I think so. And we will  
25 have a paper copy, paper copies of --

1 MR. GUY: We will bring paper copies of both a  
2 clean version for us to work off of as well as a version  
3 that shows track changes to what we started with today.

4 MEMBER WOODALL: I greatly appreciate that,  
5 Mr. Guy. Thank you.

6 CHMN. CHENAL: So we will have what we started  
7 with today will be an exhibit, what we ended up with  
8 today, and then a third document that will basically  
9 show additional changes that you would propose based on  
10 the conversations to date.

11 MR. GUY: I think that's a good idea.

12 CHMN. CHENAL: Okay, good. And anything  
13 further?

14 (No response.)

15 CHMN. CHENAL: If not, we will adjourn and see  
16 everyone tomorrow at 9:00. Thank you.

17 (The hearing recessed at 5:12 p.m.)

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