

1 BEFORE THE POWER PLANT AND  
2 TRANSMISSION LINE SITING COMMITTEE

3 IN THE MATTER OF THE APPLICATION OF ) DOCKET NO.  
4 SOUTHLINE TRANSMISSION, L.L.C., IN ) L-00000AAA-  
5 CONFORMANCE WITH THE REQUIREMENTS OF ) 16-0370-00173  
6 ARIZONA REVISED STATUTES 40-360, ET )  
7 SEQ., FOR A CERTIFICATE OF )  
8 ENVIRONMENTAL COMPATIBILITY )  
9 AUTHORIZING CONSTRUCTION OF THE NON- )  
10 WAPA-OWNED ARIZONA PORTIONS OF THE )  
11 SOUTHLINE TRANSMISSION PROJECT, ) CASE NO. 173  
12 INCLUDING A NEW APPROXIMATELY 66-MILE )  
13 345-KV TRANSMISSION LINE IN COCHISE )  
14 COUNTY FROM THE ARIZONA-NEW MEXICO )  
15 BORDER TO THE PROPOSED SOUTHLINE )  
16 APACHE SUBSTATION, THE ASSOCIATED )  
17 FACILITIES TO CONNECT THE SOUTHLINE ) VOLUME VII  
18 APACHE SUBSTATION TO THE ADJACENT ) (Pages 1058-1231)  
19 AEPCO APACHE SUBSTATION, AND )  
20 APPROXIMATELY 5 MILES OF NEW 138-KV )  
21 AND 230-KV TRANSMISSION LINES AND )  
22 ASSOCIATED FACILITIES TO CONNECT THE )  
23 EXISTING PANTANO, VAIL, DEMOSS )  
24 PETRIE, AND TORTOLITA SUBSTATIONS TO )  
25 THE UPGRADED WAPA-OWNED 230-KV )  
APACHE-TUCSON AND TUCSON-SAGUARO )  
TRANSMISSION LINES IN PIMA AND PINAL )  
COUNTIES. ) DELIBERATIONS  
) VOTE

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21 COASH & COASH, INC.  
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23 1802 N. 7th Street, Phoenix, AZ 85006  
24 602-258-1440 staff@coashandcoash.com

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

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8	NO.	DESCRIPTION	IDENTIFIED	ADMITTED
9				
10	STL-44	Form of CEC Start of Afternoon Session, 12/6/16, Pages 1-8	1062	not offered 1062
11				
12	STL-45	Form of CEC Joint Edit Redline, End of Day, 12/6/16, Pages 1-9	1062	not offered 1062
13				
14	STL-46	Form of CEC Start of Morning Session, 12/7/16	1063	not offered 1062
15				
16	STL-47	Comparison of Exhibits STL-42 and STL-46	1063	not offered 1062
17				
18	STL-48	Final Form of CEC (Not existing as of the hearing)	1063	not offered 1062
19				
20	STL-49	Proposed CEC Maps	1063	not offered 1062
21				

22

23 NOTE: Exhibits STL-21, STL-42, STL-44, STL-45, STL-46,  
 24 STL-47, STL-48, STL-49, MVR-2 were used for  
 demonstrative purposes only.

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 9:09 a.m. on the 7th 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 JEFF McGUIRE, Agriculture, Appointed Member  
15 JIM PALMER, Counties, Appointed Member  
16 MARY HAMWAY, Cities/Towns, Appointed Member  
17 JACK HAENICHEN, Public Member  
18 PATRICIA NOLAND, Public Member

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

22

23 APPEARANCES:

24 For the Applicant:

25 SUTHERLAND ASBILL & BRENNAN, L.L.P.  
By Mr. James Guy  
Ms. Marty Hopkins  
One American Center  
600 Congress Avenue, Suite 2000  
Austin, Texas 78701

and

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

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

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1 CHMN. CHENAL: All right. Good morning,  
2 everyone. Let's resume the hearing here in Willcox on  
3 Wednesday.

4 Mr. Guy, I think when we left we had decided  
5 that you would come back with a few exhibits to help  
6 make the record clear as to what we were doing. I am  
7 wondering if you could just summarize for us what your  
8 additional exhibits are.

9 MR. GUY: Absolutely. So this morning, prior to  
10 going on the record, we distributed to each of the  
11 members and yourself an updated exhibit list on behalf  
12 of Southline, and we have also distributed five new  
13 exhibits.

14 The five new exhibits, we will probably only be  
15 talking about two of these today, but the others are for  
16 reference for yourselves, and they are also to track the  
17 record from yesterday to make sure anyone reviewing the  
18 record would be able to closely follow what the  
19 discussion was yesterday.

20 So starting at the top, Exhibit STL-44, that is  
21 the form of CEC that we put on the screen at the  
22 beginning of yesterday's afternoon session that we  
23 started editing. And we wouldn't offer that. That is  
24 just for identification purposes.

25 Exhibit STL-45 is that same document at the end

1 of the session yesterday.

2 Exhibit 46 is starting with Exhibit 45, and then  
3 the applicant spent some time after the hearing  
4 yesterday to implement those changes to try to combine  
5 some conditions, try to clarify things, and try to get  
6 what we believe is a pretty comprehensive, consistent  
7 proposed CEC that would work. So Exhibit STL-46 is the  
8 document that I expect we will start with today and  
9 discuss.

10 Exhibit 47 is a comparison between 46 and  
11 Exhibit 42, which is the last full paper copy of the  
12 form of CEC that the Committee members might have seen.  
13 So if you have notes on that old paper copy, then that's  
14 a way to reconcile those two.

15 Exhibit 48 does not exist yet. That's actually  
16 what we -- perhaps at the end of today.

17 And then Exhibit STL-49 we call the proposed CEC  
18 maps. Those are 16 color pages that would be attached  
19 to the final form of CEC that, I believe that document  
20 is referred to as Exhibit A.

21 CHMN. CHENAL: Okay. Do any of the -- I think I  
22 understand. Thank you very much. I appreciate the  
23 applicant doing that, Counsel, and the team.

24 Any questions from the members?

25 Member Noland.

1 MEMBER NOLAND: Thank you, Mr. Chairman.

2 On the maps that you have provided and shown the  
3 corridor, I thank you. How wide is the corridor?

4 MR. GUY: It is described in the form of CEC.  
5 In most of the places the corridor is 1,000 feet, 500  
6 feet on either side of the centerline. In some  
7 instances around a 21-, 22-mile segment total, there is  
8 100 feet on one side and 500 feet on the other side.  
9 And we can present testimony to explain what that is,  
10 but essentially to accommodate some constraints in that  
11 area.

12 And there may be some variations in the corridor  
13 width within some of the substation interconnection  
14 areas. All of that is described in the form of CEC and  
15 should be shown to scale on the map.

16 And then we can also have testimony to answer  
17 questions, if necessary.

18 MEMBER NOLAND: Thank you.

19 CHMN. CHENAL: I am wondering if it would be  
20 appropriate to have that testimony now, Mr. Guy, before  
21 we get back into the review of the documents. I know  
22 the Committee has been very interested in having this.  
23 I thank you for that. Maybe this would be the time to  
24 do it, then we will get back into the CEC.

25 MR. GUY: That sounds fine to us.

1 CHMN. CHENAL: Okay. Ms. Hopkins.

2 MS. HOPKINS: So, Mr. Chairman, we would call  
3 DeAnne Rietz, Cara Bellavia, and Jeff Robertus back up  
4 to the panel, please.

5 MS. HOPKINS: This was a group effort.

6 CHMN. CHENAL: Sure. And I am sure a lot of  
7 work went into it. And thank you, I want to thank you  
8 on behalf of the Committee for putting these together.  
9 I think this hopefully will resolve the issues the  
10 Committee had.

11

12 CARA BELLAVIA, DeANNE RIETZ, and JEFF ROBERTUS,  
13 called as witnesses, having been previously duly sworn  
14 by the Chairman to speak the truth and nothing but the  
15 truth, were examined and testified as follows:

16

17 DIRECT EXAMINATION

18 BY MS. HOPKINS:

19 Q. So witness panel, we are looking at Exhibit  
20 STL-49, which is the map packet at the back of that  
21 stack of papers that you have there. And I just want to  
22 lay the foundation for this document. And I will start  
23 with Ms. Rietz.

24 Ms. Rietz, can you please describe generally at  
25 a high level what STL-49 is?

1           A.       (BY MS. RIETZ)  Yes.  This is the map packet.  
2  There is 16 total maps.  Maps 1 through 11 show the  
3  entire corridor, the entire CEC project.  It depicts a  
4  corridor.  And then 12 through 16 are details of each of  
5  the five substations.

6           Q.       Thank you.

7                    Ms. Rietz, were these maps created from the  
8  smallest scale USGS topographic maps that we had  
9  available for this project?

10          A.       (BY MS. RIETZ)  Yes, they are the smallest  
11  scale.  The USGS topo is the background, and then the  
12  substations are even a finer scale.

13          Q.       Thank you.

14                    And for the Committee's benefit, let's just look  
15  at the first map, Map 1 of 16.  And can you please  
16  describe what the dashed -- it is sort of a dark blue  
17  color -- shows?

18          A.       (BY MS. RIETZ)  Yes.  The dashed line is the CEC  
19  route.  The solid line is the corridor that we have  
20  discussed.  That continues on all the maps.  This  
21  particular map on Map 1 of 16 starts at the state line,  
22  and then the maps continue west.  So the whole packet is  
23  designed east to west.

24                    There is also, up in the top of this Map 1, top  
25  left, are township ranges.  And then the township ranges

1 outline on each one.

2 Also on the background is the land ownership.

3 Q. Thank you, Ms. Rietz.

4 And on Map 1, you identified the CEC route  
5 corridor as the solid line that appears on either side  
6 of the hashed CEC route. How wide is that corridor in  
7 Map 1?

8 A. (BY MS. RIETZ) Map 1, this is a thousand feet,  
9 500 on either side of the centerline.

10 Q. And how did you identify the centerline for the  
11 entire map site?

12 A. (BY MS. RIETZ) The centerline is what has been  
13 in the entire EIS, and was developed in conjunction with  
14 the engineers throughout the project.

15 Q. So the centerline that's represented by the CEC  
16 route here is the centerline of the approved route from  
17 BLM and WAPA, is that right?

18 A. (BY MS. RIETZ) Correct. It is what is in the  
19 Record of Decision for both WAPA and BLM.

20 Q. Thank you.

21 And I understand that there are different  
22 right-of-ways -- that we are requesting a different  
23 right-of-way for the new build section versus the  
24 upgrade section. We are seeking a 200-foot easement  
25 within the 1,000-foot corridor that's depicted on Map 1,

1 is that right?

2 A. (BY MS. RIETZ) Correct.

3 Q. Okay. And now I want to turn to Map No. 6 of  
4 16. And we are looking at Map 6 of 16. We are still in  
5 the new build section in Cochise County. We come across  
6 and turn south, and you will see that the CEC route  
7 corridor shrinks a little there. Can you please  
8 describe for the Committee what is happening in this  
9 visual?

10 A. (BY MS. RIETZ) Yes. On the east-west  
11 section -- it is also on the screen. On the east-west  
12 section, sorry, this is the 500 feet either side, so a  
13 thousand foot corridor.

14 And then as the project turns south, there is  
15 constraints along here. The constraint is existing  
16 electrical lines.

17 And then this is coming into the area of Willcox  
18 Playa as well. So you have transmission lines and  
19 Willcox Playa from this point south. And so the  
20 requested corridor on the west side we shrunk down to  
21 100 feet, and then it is still 500 feet on the east  
22 side. So the total corridor width from here south to  
23 just south of the Willcox Playa, the requested corridor  
24 is 600 feet total, so 100 on the west side, 500 on the  
25 east side.

1 Q. Thank you, Ms. Rietz.

2 And if we can just walk the Committee through  
3 the next couple of maps, Map 7, the 600-foot corridor  
4 continues as you described?

5 A. (BY MS. RIETZ) Yes, it continues south.

6 Q. And then Map 8, again, the 600-foot corridor  
7 continuing as you described along the Willcox Playa?

8 A. (BY MS. RIETZ) Yes. On Map 7 is where Willcox  
9 Playa, you can see it starting to show up on the map.  
10 This is a total of 21 miles where the 600-foot corridor  
11 is.

12 Then on Map 8 the corridor comes down, still  
13 continuing at 600 foot wide corridor. And it kind of  
14 veers southwest along the side of the playa, still  
15 seeing the constraints.

16 And then on Map 9 it still continues 600 feet as  
17 it goes down, like I said, south of the playa where the  
18 corridor turns southwest.

19 And then before -- after the constraints are all  
20 gone, there is no more constraints in this area at this  
21 terminus, so when the corridor begins to turn south  
22 here, you can see it opens up again for a total of a  
23 thousand feet, 500 on either side, where the line heads  
24 south before going into the Southline Apache substation.

25 Q. Thank you, Ms. Rietz.

1 And --

2 CHMN. CHENAL: Let me, if I could ask just one  
3 question, Madam Rietz. I am showing a laser dot on 9 of  
4 16, and I see a dotted line that kind of comes down.  
5 Can you remind what that is?

6 MS. RIETZ: Yes. That's on the USGS topo, and  
7 it is a pipeline.

8 CHMN. CHENAL: Thank you very much.

9 BY MS. HOPKINS:

10 Q. Ms. Rietz, turning to Map 10, I would like to  
11 point out for the Committee another area where the  
12 general 1,000-foot corridor has been shrunk to 600 feet.  
13 We are looking at Map 10 on the left side. Can you  
14 please describe what the corridor shows there entering  
15 the Vail substation?

16 A. (BY MS. RIETZ) She is pulling it up on the  
17 screen, but -- okay, there it is.

18 So this is Map 10. On the left-hand side is the  
19 Vail substation and the interconnect from the WAPA  
20 upgrade going north into the Vail substation. And here  
21 again there is constraints.

22 As you would expect, there are a lot of existing  
23 transmission lines going into the existing Vail  
24 substation, so this corridor that we are requesting here  
25 is 500 feet on the west side. And then there is

1 constraints on the east side, so again, we kept the  
2 requested corridor to 100 feet off centerline. So it is  
3 a total of 600 feet of corridor for this Vail  
4 interconnect.

5 Q. Thank you, Ms. Rietz.

6 And were these maps created by you and your team  
7 under your supervision?

8 A. (BY MS. RIETZ) Yes, they were.

9 Q. And Mr. Robertus, you have testified previously  
10 you are an engineer, a part of the technical team. Have  
11 you reviewed these maps and do you agree with what they  
12 show?

13 A. (BY MR. ROBERTUS) Yes, I have reviewed them,  
14 and they are correct.

15 MS. HOPKINS: Thank you.

16 I think that's all the questions I have, if the  
17 Committee has any questions for the panel.

18 CHMN. CHENAL: Member Woodall.

19 MEMBER WOODALL: I wanted to express my  
20 appreciation for the efforts of Ms. Rietz, Ms. Bellavia,  
21 and the unnamed yet greatly appreciated technical elves  
22 who assisted you in producing these maps. Thank you  
23 very much.

24 CHMN. CHENAL: Yeah, thank you.

25 Just one question. And I know we beat the dead

1 horse on this, but I still, just for my own  
2 edification -- and I should know this and I don't. But  
3 in the record of decision and the -- where is it set  
4 forth that so specifically defines where the line is to  
5 be located?

6 I guess I had in my mind that it was a little  
7 more of a general range where the ROD locates the line,  
8 and that there is some discretion that's given to the  
9 applicant. This makes it appear as though it is very  
10 precisely located. And I would just like a little  
11 explanation of that, I mean where it is in the ROD. Or  
12 explain it to me, if you would, please.

13 MS. BELLAVIA: Yes. So it is very precise,  
14 particularly on the BLM lands. And so the BLM's Record  
15 of Decision references the right-of-way grant. And the  
16 right-of-way grant, which is not part of the Record of  
17 Decision necessarily published, it is a file BLM  
18 maintains. That right-of-way grant includes  
19 extraordinary detail on legal descriptions and  
20 additional cadastral survey, so it is really the  
21 right-of-way grant referenced in the decision.

22 CHMN. CHENAL: And that's for the BLM land, the  
23 right-of-way over the BLM land?

24 MS. BELLAVIA: Correct.

25 CHMN. CHENAL: What about the non-BLM land, is

1 that precisely located in the ROD, or is there some  
2 discretion that has been exercised to place the line in  
3 these maps on the non-BLM land?

4 MS. BELLAVIA: I would say, if -- I think I  
5 understand your question correctly. I would say there  
6 is discretion only in the sense that, you know,  
7 Southline, as I understand, intends to put the  
8 right-of-way as depicted as we have a centerline in the  
9 geographic information system.

10 And that description -- and Jeff can correct me  
11 if I am wrong -- is really only where there would need  
12 to be a change based on landowners or engineers, as we  
13 have discussed. But the decision by BLM does not, that  
14 I recall, really the right-of-way grant does not  
15 reference non-BLM lands in terms of those specific  
16 legals.

17 CHMN. CHENAL: Okay. In the non-BLM land there  
18 might have been some discretion exercised as to where to  
19 place the line, and that's okay. Obviously that's okay.  
20 I just want to make sure in my mind that this is partly  
21 a product of specifically designated locations for the  
22 line, and then the exercise of some discretion by the  
23 applicant for the other parts of the line. And that's  
24 fine. You have got to start somewhere, and I applaud  
25 the effort.

1 Member Noland.

2 MEMBER NOLAND: Thank you, Mr. Chairman.

3 And I thank you, too, for these maps. These are  
4 exactly what I needed to see.

5 I would assume -- and let's expand on the  
6 Chairman's question on Map 2 of 16 where you are going  
7 from the BLM land that is designated in yellow through  
8 some private property. I don't have my pointer with me,  
9 but it is the first private property on the east side of  
10 this. Okay. If you put the map back up.

11 MS. RIETZ: Are you speaking to the one that's  
12 in Township 13, Range 31?

13 MEMBER NOLAND: Yes, I am. I think that with  
14 this map you are fairly well held to a straight line  
15 right here. And you are still on BLM land on this.  
16 Right here, where you cross the private property and  
17 again probably over here, you are going to stay in a  
18 straight line, based on this corridor, from the  
19 designated and described BLM lands.

20 And that helps me to really nail down where this  
21 is going to be, and should help anyone else to nail down  
22 where it is going to be, because there is so much BLM  
23 land. Is that a safe assumption?

24 MS. RIETZ: Correct.

25 MEMBER NOLAND: Thank you.

1 CHMN. CHENAL: And thank you, Member Noland.

2 Yes, that goes to the heart of my question.

3 Member Haenichen.

4 MEMBER HAENICHEN: Continuing on Ms. Noland's  
5 discussion, I still think in the white portions, which  
6 is the private land adjacent to the -- oh, thank you --  
7 adjacent to the BLM land, particularly in this wide  
8 piece here, if the landowner discussions showed that  
9 they would prefer to have a little jog in here, they  
10 could do that, is that correct? Is that a good  
11 assumption? So it might not be a straight line.

12 MS. HOPKINS: Mr. Robertus, if you could answer  
13 that question.

14 MR. ROBERTUS: So if I understand your question  
15 correctly, you are asking if the route would deviate  
16 from the BLM to accommodate the landowner?

17 MEMBER HAENICHEN: Yes.

18 MR. ROBERTUS: Provided we were able to get back  
19 to the BLM granted right-of-way, that would be a  
20 possibility, and negotiations with the landowner.

21 MEMBER HAENICHEN: Thank you.

22 CHMN. CHENAL: Let me ask another question,  
23 follow-up to Member Haenichen.

24 Member Haenichen, is your question directed to  
25 the discretion to move the line within the depicted

1 corridor or outside of the depicted corridor?

2 MEMBER HAENICHEN: In the depicted corridor.

3 CHMN. CHENAL: Thank you.

4 MS. HOPKINS: And I am going to try to ask one  
5 more clarifying question, see if it helps at all.

6 BY MS. HOPKINS:

7 Q. So you mentioned that the centerline that has  
8 been used for the project by BLM and WAPA of the entire  
9 project exists in a GIS data file, is that correct?

10 A. (BY MS. RIETZ) Correct.

11 Q. And that file was used to create all of the maps  
12 that we have used here in this proceeding, and also in  
13 the BLM and WAPA Record of Decision?

14 A. (BY MS. RIETZ) Correct.

15 Q. So the maps that appear at the end of the BLM  
16 ROD use GIS data that precisely locate a centerline, is  
17 that correct?

18 A. (BY MS. RIETZ) Correct.

19 CHMN. CHENAL: Let me -- again, is it over the  
20 BLM land or is it over what is depicted, for example, as  
21 the private land on Map 2 of 16?

22 MS. RIETZ: The maps and the information that  
23 are in the Records of Decision is for the entire line.  
24 The legals and descriptions that are referenced in the  
25 BLM ROD is just for the BLM land.

1 CHMN. CHENAL: Okay. So there is actually like  
2 a legal description, if you will, for the right-of-way  
3 over the BLM land, but in addition, there are maps that  
4 depict the entire line, not only BLM land, but also  
5 private, state, other federal land?

6 MS. RIETZ: Correct.

7 MS. HOPKINS: And these maps are based on that  
8 same GIS data, correct?

9 MS. RIETZ: Correct.

10 CHMN. CHENAL: Okay. Thank you.

11 BY MS. HOPKINS:

12 Q. And then I had one more question, I think. And  
13 this is to Mr. Robertus. But on the -- when we were  
14 looking at the private lands here on this map -- this is  
15 a good example, Map 2 of 16 -- and there is sort of  
16 small private sections between the BLM land, can you  
17 describe what may occur based on the span length in  
18 these sections? Does that make sense?

19 A. (BY MR. ROBERTUS) I think so. So like on a  
20 very small parcel of land, you may not have a pole or a  
21 lattice tower situated on the land at all. You might  
22 have areas that are completely spanned by the conductor  
23 without actually having any tower built on the property.

24 Q. And what is a typical span length in the new  
25 build section?

1           A.           (BY MR. ROBERTUS) Typical spans, I believe in  
2 Mr. Rawlins' testimony, were between 1100 and 1500 feet,  
3 I believe, somewhere in that general range, over a  
4 thousand feet.

5           CHMN. CHENAL: Member Haenichen.

6           MEMBER HAENICHEN: Mr. Robertus, you used the  
7 term lattice tower. Yesterday we had a big discussion  
8 about the towers, and I thought we were talking about  
9 monopole towers everywhere. Is it going to be lattice  
10 towers in this particular area?

11           MR. ROBERTUS: Yes. This is in the 345 new  
12 build, and the general, as depicted in the diagrams, are  
13 the lattice towers.

14           MEMBER HAENICHEN: The 345.

15           MR. ROBERTUS: 345 section, yes.

16           MEMBER HAENICHEN: Thank you.

17           CHMN. CHENAL: Member Woodall.

18           MEMBER WOODALL: I don't know if this is for any  
19 of the panel witnesses, but if you can answer it, I  
20 would appreciate it.

21           We have been presented with STL Exhibit 46, and  
22 on pages 4 through 8 of that document there is a  
23 narrative description of the maps. And I just basically  
24 want to know which of the witnesses, if any, have  
25 reviewed that and can testify that it is an accurate

1 description of what the maps are that your legal counsel  
2 has just walked you through.

3 MS. RIETZ: Yes. That was prepared by myself  
4 and several other of the team members.

5 MEMBER WOODALL: Thank you. That's all I have.

6 CHMN. CHENAL: Thank you.

7 BY MS. HOPKINS:

8 Q. And I would also ask, just along the same lines,  
9 did the panel review the conditions that are included in  
10 Exhibit STL-46 as well?

11 A. (BY MS. BELLAVIA) Yes, I did.

12 MS. HOPKINS: Thank you. That's all we have.

13 CHMN. CHENAL: Are there any further questions  
14 from the Committee?

15 (No response.)

16 CHMN. CHENAL: Okay. Thank you very much.

17 MS. BELLAVIA: Dismissed?

18 CHMN. CHENAL: Dismissed.

19 Maybe at this point, I am trying to figure out  
20 how to best and most efficiently get the entire  
21 Committee up to speed on where we are, where we landed  
22 yesterday afternoon, before we move forward into the  
23 uncharted ground that we have not yet covered.

24 So Mr. Guy or Ms. Hopkins, could you do like a  
25 brief summary maybe of the changes that we have made to

1 date, understanding that none of these are final and we  
2 will be revisiting, probably, these changes, but just --

3 MR. GUY: Absolutely, I can do that. We have a  
4 couple different documents we could look at to do that.  
5 Probably the easiest is Exhibit STL-47. There is  
6 another document which would show you exactly what we  
7 did yesterday, but I think 47 is a more comprehensive  
8 document that you might be referring to throughout the  
9 day.

10 CHMN. CHENAL: And just so we are clear,  
11 Mr. Guy, what does this show? What is the main text and  
12 what are the track changes?

13 MR. GUY: Right. So the track changes, or the  
14 black lines shown on Exhibit STL-47, are changes that  
15 have been made to Exhibit STL-42, which was a form of  
16 CEC that was filed late last week, I believe, early this  
17 week. And it reflects changes that the Committee  
18 members made yesterday in live discussion, as well as  
19 changes that the applicant made last night that we need  
20 to communicate to the Committee for consideration.

21 CHMN. CHENAL: Okay.

22 MR. GUY: So looking at Exhibit STL-47, I am on  
23 the first page. You will see black lines 23, 24, 25,  
24 26. Those changes shown there are essentially just  
25 clerical changes, hearing to hearings, dashes to

1 throughs. And I think we are going eight or nine pages  
2 to give you a feel how far I am going to flip through  
3 the document.

4 Turning to page 2, again some of the changes on  
5 this page, primarily lines 3 through 5, reflect changes  
6 that the Committee made yesterday live. Changes to  
7 lines sort of 12 to 22 are changes the applicant made  
8 last night to just get a little more detail to the  
9 constituencies represented by various Committee members.

10 Turning to page 3, lines 3 through 8 reflect  
11 clerical changes that were made by the Committee members  
12 yesterday; lines 22, 23, changes that were made by  
13 Committee members to help the document be more easily  
14 understood. And then last night we also added the  
15 clause, up to 370 miles. So that's a new clause that we  
16 did not discuss yesterday. It was intended to  
17 transition to help if people weren't clear.

18 On page 4, this page largely has changes that  
19 were made by the Committee members yesterday through  
20 lines 1 through 9. Starting on line 10, going through  
21 the rest of the page on page 4, most of these red lines  
22 are to reflect the new route description and corridor  
23 description that the applicant created last night.

24 Going to page 5, the entire page is shown to be  
25 black lined. And this is all new information describing

1 the maps that we just discussed.

2 Turning to page 6, more of the same, this is  
3 still on page 6, these black lines and this entire  
4 page are describing, you know, the maps that we just  
5 discussed showing the route and route corridor.

6 Same explanation for the black lines on page 7,  
7 that's new route description language; same on page 8.

8 CHMN. CHENAL: Time out.

9 MR. GUY: Yes.

10 CHMN. CHENAL: Let us catch up. I think some of  
11 us are reviewing these for the first time. And are  
12 you --

13 MR. GUY: No, I completely --

14 CHMN. CHENAL: You are going to go through this  
15 again?

16 MR. GUY: Yes. I just want to give you the  
17 bearings.

18 CHMN. CHENAL: Overview.

19 MR. GUY: And then I think what we assumed you  
20 would want to do is start back on page 1 paragraph by  
21 paragraph.

22 CHMN. CHENAL: Perfect.

23 MEMBER WOODALL: What I was going to suggest is  
24 pages 4 through 8 are route description, and they  
25 reference the maps, so what I was going to suggest is

1 that the Committee members have some opportunity for a  
2 break to review those and come back and address route  
3 description on pages 4 through 8, and that we  
4 actually -- because I don't know how many there are  
5 going to be. I suspect not many. That's from my point  
6 of view.

7 And then we could just start really with the  
8 conditions themselves after the Committee members have  
9 had like a break and an opportunity to read the  
10 narrative with the maps. That was going to be my  
11 suggestion, Mr. Chairman.

12 CHMN. CHENAL: Let's do both. Let's finish the  
13 brief summary, let's go through a more detailed  
14 description with the changes, and then I think it would  
15 be good -- including the conditions up to where we were  
16 yesterday, then maybe a short break to allow the  
17 Committee to read this and, you know, peruse it a  
18 little, and then we would come back. Because I think,  
19 yeah, I could benefit from that.

20 MEMBER WOODALL: Because it is possible that  
21 there won't be a lot of discussion regarding it after  
22 folks have had the opportunity to review and compare it  
23 to the maps. But if we just kind of march forward page  
24 by page and paragraph by paragraph, I don't know how  
25 productive that would be, or efficient. So anyway,

1 that's just my suggestion. I mean whatever the  
2 Committee and you decide, Chairman.

3 CHMN. CHENAL: Okay. Let's complete the brief  
4 summary.

5 MR. GUY: I will. So it is accurate, I would  
6 say pages 4 through -- and even go through page 9 of the  
7 black line STL-47 are largely black lines to reflect the  
8 new route descriptions.

9 And once you get to the page 9 is when the  
10 conditions pick up. There are black lines shown in  
11 Conditions 1 and 2 on page 9, and Conditions 3, 4, and 5  
12 on page 10; black lines shown on Condition 6 on page 11,  
13 and then Condition 7 on page 12. And I believe that's  
14 as far as we have got in our discussion yesterday. So  
15 those are all the black lines that at least the  
16 Committee largely has seen; although, there are some  
17 that the Committee has not seen.

18 CHMN. CHENAL: And again, where did we end up  
19 yesterday, what page and paragraph?

20 MR. GUY: If you are looking at STL-47, I  
21 believe we ended up on page 12 with what is shown as  
22 Condition 7.

23 CHMN. CHENAL: Okay. I think I would benefit  
24 from having an opportunity to spend a couple minutes  
25 reading this before we go further, and I think that's a

1 good suggestion from Member Woodall. And then I think  
2 that will help us speed through the summary of the  
3 changes that we can come back to then. And people may  
4 have questions, but I think it will allow us to go  
5 through much more quickly to get up to where we finished  
6 yesterday.

7 So let's take a 15-minute break. That will give  
8 us time to read it. Then we will resume in 15 minutes.  
9 Is the Committee okay with that?

10 MEMBER WOODALL: Sure. I would just say I got  
11 here early and I had the opportunity to review the route  
12 descriptions and look at the maps, and I personally have  
13 no questions regarding the route descriptions on pages 4  
14 through 8.

15 CHMN. CHENAL: Okay. Let's take a 15-minute  
16 break and we will resume after that. Thank you.

17 (A recess ensued from 9:45 a.m. to 10:18 a.m.)

18 CHMN. CHENAL: All right. Let's go back on the  
19 record.

20 I think the Committee has now had a chance to  
21 review the changes that have been proposed -- well, the  
22 changes that were discussed yesterday and some  
23 additional changes that have been proposed by the  
24 applicant. And I rereviewed exhibit for identification  
25 STL-47, which I think includes what we discussed

1 yesterday afternoon, at least up through Condition, you  
2 know, 7 or so, 7 or 8.

3           And some additional language was inserted last  
4 night by the counsel and their staff and team. And we  
5 normally go through the CEC paragraph by paragraph and  
6 kind of conditionally approve the language, and at the  
7 end we vote on it. I am thinking that at this point we  
8 should do that and start from the beginning of the  
9 document. I don't think it will take long. We have now  
10 reviewed it, but we really haven't done that with this  
11 language that has been added because the language we  
12 just reviewed included language that we did not see  
13 yesterday. It was added last night by the applicant.

14           And I think, so we have a good record and we do  
15 like we always do, we go paragraph by paragraph and  
16 approve the language, I think we should do that. I  
17 don't think it will take long, but I think we get up to  
18 up where we left off last night condition-wise, and then  
19 we plow forward from there. So I think that would be  
20 the appropriate thing to do.

21           What I am having trouble is what document we  
22 should be looking at as we do that. I am looking at 47.  
23 I suspect that Ms. Livingston will have a clean version  
24 of the document up on the screen. So maybe -- and what  
25 document would that be from what you just provided?

1 MR. GUY: STL-46 would be the clean version.  
2 And we are ready to put that one up now. I can also  
3 find STL-47, which would show you the black line.

4 CHMN. CHENAL: Let's work with the clean version  
5 up on the screen, which would be STL-46, and then we  
6 can, as the Committee, can review STL-47 which will show  
7 the additional language that was either discussed by the  
8 Committee yesterday or added by the applicant last  
9 night. That's how I think I am going to do it; the  
10 Committee can do it as they wish.

11 But I think we should go through and go back to  
12 the beginning and quickly approve, you know, discuss the  
13 language. So is that acceptable to the Committee?

14 (No oral response.)

15 CHMN. CHENAL: Okay. Looks like it is  
16 acceptable. And I assume the applicant is okay with  
17 that.

18 MR. GUY: We are fine with that. We have called  
19 a couple of witnesses up. I don't know whether you  
20 would like to do that, but we discussed off the record  
21 amongst ourselves that we may or may not have laid  
22 sufficient foundation for the narrative descriptions and  
23 proposed CEC, so they are here if we want to go through  
24 a little more.

25 CHMN. CHENAL: Let's do that. And I think the

1 foundation was certainly laid for the maps. Really  
2 didn't have that additional language before us, but I  
3 think just a quick, lay a little foundation that the  
4 additional narrative language that we will be now  
5 reviewing accurately reflects what is on the maps.  
6 Because I think we have the foundation that the maps  
7 accurately reflect, you know, what has been approved by  
8 the RODs. But this will then carry that concept forward  
9 that the maps are -- you know, the narrative accurately  
10 describes what is on the attached maps which will be  
11 identified as Exhibit A.

12           So, Ms. Hopkins, is that something you would  
13 like to do?

14           MS. HOPKINS: Yes, sir.

15

16   FURTHER DIRECT EXAMINATION

17 BY MS. HOPKINS:

18       Q.     Ms. Rietz, if you could, turn to Exhibit STL-46,  
19 and this is the clean version of the form of CEC. And  
20 specifically I am looking at subsection C. It says  
21 approved CEC route corridor and route description. Do  
22 you see that --

23       A.     (BY MS. RIETZ) Yes.

24       Q.     -- on page 4?

25       A.     (BY MS. RIETZ) Yes.

1 Q. Did you assist in the drafting of subsection C?

2 A. (BY MS. RIETZ) Yes, I did.

3 Q. And you reviewed subsection C and believe that  
4 it is accurate?

5 A. (BY MS. RIETZ) Yes, I do.

6 Q. And Mr. Robertus, do you also agree with that  
7 statement?

8 A. (BY MR. ROBERTUS) Yes, I do.

9 Q. And moving on to subsection 1 on that same page,  
10 CEC new build route corridor, Ms. Rietz, did you also  
11 participate in the drafting of this subsection?

12 A. (BY MS. RIETZ) Yes, I did.

13 Q. And you believe that it is accurate?

14 A. (BY MS. RIETZ) I do.

15 Q. And the references to the Exhibit A in this  
16 paragraph, it says, the last sentence, 21 miles along  
17 the southeast and east sides of Willcox Playa in Cochise  
18 County as depicted on Exhibit A, Maps 6, 7, 8, and 9.  
19 Do you see that?

20 A. (BY MS. RIETZ) Yes.

21 Q. Are the maps that are listed there as Exhibit A  
22 the maps that we just discussed earlier, Exhibit STL-49?

23 A. (BY MS. RIETZ) Yes, they are.

24 Q. And you created those maps, or under your  
25 supervision?

1 A. (BY MS. RIETZ) Yes.

2 Q. And the language that is found in subsection 1  
3 on page 4 ties to the maps that are referenced in that  
4 paragraph?

5 A. (BY MS. RIETZ) Yes, it does.

6 Q. And Mr. Robertus, do you agree with that  
7 statement from the technical side?

8 A. (BY MR. ROBERTUS) Yes, I do.

9 Q. And --

10 CHMN. CHENAL: Excuse me. Member Noland has a  
11 question. But thank you, this is good foundation.

12 Member Noland.

13 MEMBER NOLAND: Thank you.

14 The only issue I have, and I saw it somewhere  
15 else, but throughout these particular descriptions and  
16 conditions you are saying 500 feet on either side of the  
17 right-of-way line. And I think that's incorrect. I  
18 think it is the project center, the preferred route  
19 centerline. And I think that needs to be changed  
20 throughout. I think calling it the right-of-way is  
21 inaccurate, the way you described it to us.

22 MR. GUY: So to be accurate, instead of  
23 right-of-way, ROW, centerline, it should say CEC route  
24 centerline?

25 MEMBER NOLAND: Preferred route centerline. I

1 believe that would then tie back to all of the maps that  
2 we have seen with the blue line or green line.

3 Now, I am just throwing that out for the  
4 Committee, but it kind of stuck out to me, because I  
5 don't know where the centerline of the right-of-way is.

6 MS. HOPKINS: I understand. So on page 4, in  
7 that subsection 1, the sentence that states the general  
8 width of the certificated corridor for the CEC new build  
9 route is 1,000 feet, 500 feet on either side of the  
10 right-of-way centerline?

11 MEMBER NOLAND: That's exactly where it should  
12 say the CEC preferred --

13 CHMN. CHENAL: CEC route.

14 MS. HOPKINS: CEC route centerline.

15 MEMBER NOLAND: CEC route centerline.

16 CHMN. CHENAL: I think --

17 BY MS. HOPKINS:

18 Q. And do the witnesses agree that's an accurate  
19 statement?

20 A. (BY MS. RIETZ) I agree.

21 MS. HOPKINS: Okay.

22 CHMN. CHENAL: Good catch, Member Noland.

23 MEMBER NOLAND: Thank you. And I think then we  
24 can, anywhere where it says that, it can be replaced  
25 with that wording throughout this description.

1 CHMN. CHENAL: Yes. And when we are finished  
2 with the foundation, we are going to go back and approve  
3 the language, so I think we will have the opportunity as  
4 we go through it to make that excellent correction.

5 MEMBER NOLAND: Thank you.

6 MS. HOPKINS: Thank you, Member Noland.

7 BY MS. HOPKINS:

8 Q. And then just continuing on in subsection 2, it  
9 says upgrade route corridor. The same questions here.  
10 Did you participate in the drafting of and review the  
11 language contained in subsection 2?

12 A. (BY MS. RIETZ) Yes, I did.

13 Q. And do you agree that it accurately reflects  
14 what is depicted on the maps in STL-49?

15 A. (BY MS. RIETZ) Yes, I do.

16 Q. And Mr. Robertus, the same question to you.

17 A. (BY MR. ROBERTUS) Yes, I agree it is correct.

18 Q. Moving down to page 5, subsection 3, the CEC new  
19 build route, Ms. Rietz, did you draft the narrative  
20 language contained in the CEC new build route  
21 subsection 3, beginning on page 5 and continuing through  
22 the end of page 6?

23 A. (BY MS. RIETZ) Yes, I did.

24 Q. And how did -- can you briefly explain the  
25 process that you used to draft this language?

1       A.       (BY MS. RIETZ) Yes. We looked at the GIS data  
2 for the CEC proposed route. We referenced all the maps  
3 in the text as each section or each of the project route  
4 is described, referenced which maps they were on and the  
5 township ranges.

6       Q.       And did you attempt to identify major landmarks  
7 near the CEC route, where possible, and give distances  
8 from those major landmarks?

9       A.       (BY MS. RIETZ) Yes, we did.

10      Q.       And Mr. Robertus, did you review the language  
11 contained in pages 5 and 6 of STL-46?

12      A.       (BY MR. ROBERTUS) I did.

13      Q.       And do you agree with the statements that are  
14 included therein?

15      A.       (BY MR. ROBERTUS) I do.

16      Q.       And they accurately reflect what is depicted on  
17 the maps in Exhibit STL-49?

18      A.       (BY MR. ROBERTUS) I believe they do.

19      Q.       And then lastly, on page 7, the CEC upgrade  
20 route, subsection 4, Ms. Rietz, did you draft the  
21 language contained in this subsection, beginning on  
22 page 7 and continuing to about the middle of page 8?

23      A.       (BY MS. RIETZ) Yes, I did.

24      Q.       And did you use the same process that you just  
25 described in drafting the CEC new build route language?

1 A. (BY MS. RIETZ) Yes, I did.

2 Q. And does the language included in subsection 4  
3 accurately reflect what is contained in the maps that  
4 are labeled Exhibit STL-49?

5 A. (BY MS. RIETZ) Yes, it does.

6 Q. And Mr. Robertus, did you review the language  
7 contained in subsection 4 as well?

8 A. (BY MR. ROBERTUS) I did.

9 Q. And you agree it also accurately reflects the  
10 information contained in the maps marked STL-49?

11 A. (BY MR. ROBERTUS) Yes.

12 CHMN. CHENAL: Any questions from the Committee?

13 (No response.)

14 CHMN. CHENAL: Okay. Thank you. That lays the  
15 foundation that I think we needed for the record. So  
16 thank you. Thank you again for the excellent work in  
17 putting the narrative together and the maps together.

18 MS. HOPKINS: And if the Committee has no  
19 further questions for the witnesses, then we would like  
20 to dismiss them.

21 CHMN. CHENAL: Dismissed. Don't wander too far  
22 just in case some questions come up as we go through the  
23 CEC.

24 All right. I propose following up on what I  
25 mentioned earlier, that we go to the CEC and we kind of

1 go through from the beginning approving the language  
2 paragraph by paragraph. I feel sorry for the person  
3 reading the transcript later on after they laboriously  
4 try to follow what we did yesterday only to have us come  
5 through and do it again today. But so be it.

6 So on the screen is exhibit what, Mr. Guy?

7 MR. GUY: Exhibit STL-46.

8 CHMN. CHENAL: 46. And that's the clean version  
9 of what is depicted on Exhibit 47, which shows the  
10 tracked changes?

11 MR. GUY: That is correct.

12 CHMN. CHENAL: And the tracked changes from the  
13 earliest proposed CEC, if I remember correctly, is that  
14 correct, sir?

15 MR. GUY: It is track changes to Exhibit 42,  
16 which was the most recently filed form of CEC prior to  
17 what we filed today.

18 CHMN. CHENAL: Okay. So with STL-47 on the  
19 screen -- 46 on the screen, excuse me, okay, 46, the  
20 clean, 47 track, we go through 46 paragraph by paragraph  
21 as we did yesterday.

22 Looking at -- and for the record, when I refer  
23 to the screen, I am referring to STL-46. So lines 20  
24 through 28, is that language acceptable to the  
25 Committee?

1 I think we should have motions for the -- as we  
2 go through it this time, because this time I think we  
3 are doing it like as we would in a final. And then  
4 understanding that approving the language of the  
5 document as we go through it is not final approval of  
6 the CEC, that would be voted upon afterwards, but for  
7 purposes of approval as to form only, we will go through  
8 paragraph by paragraph. So yes.

9 MEMBER PALMER: Chairman, I would make a motion  
10 we approve the language in Exhibit 46, lines 20 through  
11 28.

12 MEMBER NOLAND: Second.

13 CHMN. CHENAL: All in favor say aye.

14 (A chorus of ayes.)

15 CHMN. CHENAL: Any opposed?

16 (No response.)

17 CHMN. CHENAL: Okay. That's approved.

18 Then continuing, lines 1 through 12 -- let me --  
19 on page 2, do I have a motion?

20 MEMBER NOLAND: I move that we adopt that  
21 language.

22 MEMBER WILLIAMS: Second.

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

25 Any further discussion?

1 (No response.)

2 CHMN. CHENAL: All in favor say aye.

3 (A chorus of ayes.)

4 CHMN. CHENAL: All opposed?

5 (No response.)

6 CHMN. CHENAL: That's approved.

7 Next the language at lines 12 through 22 on

8 page 2. Do we have a motion?

9 MEMBER PALMER: Motion to approve.

10 MEMBER NOLAND: Second.

11 CHMN. CHENAL: Any further discussion?

12 (No response.)

13 CHMN. CHENAL: All in favor say aye.

14 (A chorus of ayes.)

15 CHMN. CHENAL: All opposed?

16 (No response.)

17 CHMN. CHENAL: Okay. It is approved.

18 Lines 23 through 26 on page 2.

19 MEMBER NOLAND: Mr. Chairman, I would say lines  
20 23 through 26 on page 2, and lines 1 and 2 on page 3, it  
21 is all one paragraph, that that be approved.

22 MEMBER PALMER: Second.

23 CHMN. CHENAL: Any further discussion?

24 (No response.)

25 CHMN. CHENAL: All in favor say aye.

1 (A chorus of ayes.)

2 CHMN. CHENAL: All opposed?

3 (No response.)

4 CHMN. CHENAL: That language is approved.

5 Lines 3 through 15 on page 3. Do I have a  
6 motion?

7 MEMBER PALMER: Motion to approve.

8 CHMN. CHENAL: Second?

9 MEMBER WILLIAMS: Second.

10 CHMN. CHENAL: Any further discussion?

11 MEMBER BINGHAM: Mr. Chairman.

12 CHMN. CHENAL: Yes, Member Bingham.

13 MEMBER BINGHAM: Beginning then on line 7, we  
14 are talking about the votes. We do need to fill that in  
15 at the end of the process?

16 CHMN. CHENAL: We will, Member Bingham, when we  
17 actually vote on it. And then we will add that back in  
18 at that point.

19 MEMBER WOODALL: Chairman, I would feel  
20 comfortable with authorizing you to make any technical  
21 and conforming language changes after we have approved  
22 the form of CEC.

23 CHMN. CHENAL: Thank you. I would like that in  
24 a motion, if you don't mind.

25 MEMBER PALMER: I second the motion by Member

1 Woodall.

2 CHMN. CHENAL: All in favor say aye.

3 (A chorus of ayes.)

4 CHMN. CHENAL: Okay. Ayes have it. I will make  
5 any appropriate, you know, minor, non-material  
6 modifications, scrivener matters, things like that.

7 MEMBER HAENICHEN: Tweaks.

8 CHMN. CHENAL: All right.

9 MEMBER NOLAND: We have a motion. We have a  
10 motion on the table.

11 CHMN. CHENAL: Was it through line 15? I think  
12 we could scroll up. I think it was lines 3 through 15.

13 We have a motion and a second.

14 Any further discussion?

15 (No response.)

16 CHMN. CHENAL: All in favor say aye.

17 (A chorus of ayes.)

18 CHMN. CHENAL: And that language is approved.

19 Then lines 16 through 27 on page 3, do we have a  
20 motion?

21 MEMBER NOLAND: I move that we approve that  
22 language.

23 CHMN. CHENAL: Second?

24 MEMBER HAENICHEN: Second.

25 MEMBER WOODALL: May I be heard on the motions?

1 CHMN. CHENAL: Absolutely.

2 MEMBER WOODALL: I have a concern with the  
3 language that starts on page 27 which reads, because the  
4 portion of the upgrade section that is owned, and then  
5 continuing on page 4 at line 1, and operated by WAPA  
6 will be constructed, owned, and operated by a federal  
7 agency, a certificate is not required for those  
8 facilities.

9 And I would propose that we eliminate that,  
10 because I don't know that we are required to make legal  
11 findings. And I believe that the Commission would be  
12 free to do that. So I could not support including this  
13 language.

14 MEMBER NOLAND: Mr. Chairman, I agree with that.  
15 It had popped out to me earlier, too. I agree with  
16 Member Woodall. And if that was a motion, I would  
17 second it.

18 MEMBER WOODALL: I defer to your knowledge of  
19 parliamentary procedures, Member Noland. I am woefully  
20 bereft of the knowledge.

21 I move that we eliminate line 27 on page 3 and  
22 eliminate lines 1 through 2 on page 4.

23 CHMN. CHENAL: All right. Let's have --  
24 Member Haenichen.

25 MEMBER HAENICHEN: Except on line 27, not

1 counting the word substations.

2 MEMBER WOODALL: Right, friendly amendment. I  
3 accept that.

4 CHMN. CHENAL: Okay. Does the applicant want to  
5 discuss that point? I believe it does call for a legal  
6 conclusion. But it is the portion that says, because  
7 the portions of the upgrade section that is owned and  
8 operated by WAPA will be constructed, owned, and  
9 operated by federal agency, a certificate is not  
10 required for those facilities.

11 MR. GUY: Mr. Chairman, the applicant has no  
12 objection to that deletion.

13 CHMN. CHENAL: Okay. So let's redo the  
14 approval. Let's go back to lines -- I will ask for a  
15 motion on page 3 of lines 16 through 27, but ending with  
16 the word substations on line 27. Do I have a motion to  
17 approve?

18 MEMBER WOODALL: So moved.

19 CHMN. CHENAL: Second?

20 MEMBER PALMER: Second.

21 MEMBER HAENICHEN: Second.

22 CHMN. CHENAL: Okay. A motion and a second.  
23 Any further discussion?

24 (No response.)

25 CHMN. CHENAL: All in favor say aye.

1 (A chorus of ayes.)

2 CHMN. CHENAL: Okay, the ayes have it.

3 We have a motion and a second. We have approved  
4 the -- let's do it right.

5 Can I have a motion to delete the sentence at  
6 the bottom of page 3, top of page 4, because the portion  
7 of the upgrade section that is owned and operated by  
8 WAPA will be constructed, owned, and operated by federal  
9 agency, a certificate is not required for those  
10 facilities, a motion to remove that from the language  
11 from the CEC?

12 MEMBER WOODALL: So moved.

13 CHMN. CHENAL: Do we have a second?

14 MEMBER BINGHAM: Second.

15 CHMN. CHENAL: Any further discussion?

16 (No response.)

17 CHMN. CHENAL: All in favor say aye.

18 (A chorus of ayes.)

19 CHMN. CHENAL: Okay. That language is deleted.

20 We have on page 4, lines 3 through 15 -- I am  
21 looking up at the screen. Member Woodall is saying line  
22 16. I agree, but the screen only shows up to 15. Could  
23 you scroll up just a touch? Okay. Okay.

24 Lines 4 through 16 on page 4, may I have a  
25 motion, please.

1 MEMBER HAENICHEN: Move we approve.

2 MEMBER WOODALL: Second.

3 CHMN. CHENAL: A motion and a second.

4 Any further discussion?

5 (No response.)

6 CHMN. CHENAL: All in favor say aye.

7 (A chorus of ayes.)

8 CHMN. CHENAL: The ayes have it.

9 MEMBER NOLAND: Mr. Chairman.

10 CHMN. CHENAL: Yes. This is the point where we  
11 are going to make some changes. So we are talking about  
12 lines 17 through 27.

13 Member Noland.

14 MEMBER NOLAND: On line 21, I would change the  
15 designation of ROW. I would delete that and have it say  
16 CEC route centerline. So then it reads 500 feet on  
17 either side of the CEC route centerline. So centerline  
18 is already in there.

19 CHMN. CHENAL: Yes. Very good, Member Noland.

20 MEMBER NOLAND: And I move we adopt those lines  
21 and that language.

22 MEMBER WOODALL: Second.

23 CHMN. CHENAL: A motion and a second, lines 18  
24 through 27.

25 Any further discussion?

1 (No response.)

2 CHMN. CHENAL: All in favor say aye.

3 (A chorus of ayes.)

4 CHMN. CHENAL: Okay. The ayes have it.

5 Okay. On page 5, lines -- well, page 4, lines  
6 25 -- we approved through 27. So we are on the next  
7 page. Thank you very much, Member Palmer.

8 Okay. Page 5, lines 1 through 15. May I have a  
9 motion?

10 MEMBER WOODALL: I move we approve lines 1  
11 through 15 on page 5.

12 MEMBER HAENICHEN: Second.

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

14 Any further discussion?

15 (No response.)

16 CHMN. CHENAL: All in favor say aye.

17 (A chorus of ayes.)

18 CHMN. CHENAL: Okay. That language is approved.

19 And then on page 5, lines 14 through 26.

20 MR. GUY: Mr. Chairman, and for clarification  
21 and for the record, the version of Exhibit STL-46 on the  
22 screen shows a redline change in line 25. That change  
23 is an addition. After the word associated facilities,  
24 it would say in a new 200-foot right-of-way. That was  
25 just an omission we noted after we distributed the copy

1 of Exhibit STL -- on this page and the next page, there  
2 are two or three additions like that. And you will see  
3 those proposed insertions on the screen as we go through  
4 this section.

5 CHMN. CHENAL: Okay. Understood.

6 A yeoman's job last night getting this all  
7 together. A couple additional items to add is not going  
8 to be a problem for our consideration.

9 So lines 14 through 26 on page 5, including  
10 additional language on line 25 after the word facilities  
11 in a new 200-foot-wide ROW. May I have a motion?

12 MEMBER PALMER: Motion to approve.

13 CHMN. CHENAL: Second?

14 MEMBER WOODALL: Second.

15 CHMN. CHENAL: Any further discussion?

16 (No response.)

17 CHMN. CHENAL: All in favor say aye.

18 (A chorus of ayes.)

19 CHMN. CHENAL: Thank you.

20 So we are looking at lines 26, right, 27 on the  
21 bottom of page 5, to line 5 on page 6 which includes  
22 additional language, the Apache substation expansion  
23 area will include the new Southline Apache substation,  
24 and will be located approximately one mile southeast of  
25 the existing AEPCO Apache substation as depicted in

1 Exhibit A, Map 12.

2 May I have a motion for approval of that  
3 language?

4 MEMBER WOODALL: And where would that go?

5 CHMN. CHENAL: That would go after line 26,  
6 AEPCO Apache substation, and before the language as  
7 depicted in Exhibit A, Maps 1 through 3.

8 MEMBER WOODALL: So the new language would go  
9 immediately after line 26 on page 5?

10 CHMN. CHENAL: Correct.

11 MEMBER WOODALL: Okay. So moved.

12 MEMBER NOLAND: Second.

13 CHMN. CHENAL: Motion and a second.

14 Any further discussion?

15 (No response.)

16 CHMN. CHENAL: All in favor say aye.

17 (A chorus of ayes.)

18 CHMN. CHENAL: Okay. That language is approved.

19 MEMBER WOODALL: I am --

20 CHMN. CHENAL: Member Woodall.

21 MEMBER WOODALL: I am going to suggest that we  
22 continue to look at the written document which is in the  
23 record, and then what we can do is, if anyone has a mind  
24 to, they can move to adopt this specific language, but  
25 that we keep our pagination and lines referring to the

1 printed document before us, if that's okay with you,  
2 Chairman.

3 CHMN. CHENAL: Sure.

4 MEMBER WOODALL: Okay. Thank you.

5 MEMBER NOLAND: Which exhibit?

6 CHMN. CHENAL: Exhibit 46. That is a good  
7 suggestion.

8 So this is going to be a little tricky, but I am  
9 going to be referring to Exhibit 46 by line number, and  
10 we will pause to allow Ms. Livingston to kind of make  
11 sure that what we are looking at in 46 is consistent  
12 with what will be up on the screen.

13 Okay. So we are looking at, I believe, line 27  
14 on the bottom of page 5. So I think you can scroll up  
15 there. Okay. So line 27 on the bottom of page 5  
16 through line 12 on page 6.

17 MEMBER HAENICHEN: I move we approve.

18 MEMBER WOODALL: Second.

19 CHMN. CHENAL: A motion and a second.

20 Any further discussion?

21 (No response.)

22 CHMN. CHENAL: All in favor say aye.

23 (A chorus of ayes.)

24 CHMN. CHENAL: That language is approved.

25 We will go to line 13 on page 6. I am sorry.

1 If you could scroll up to line 11. This is going to  
2 make the record difficult. Okay. That's line 13 on  
3 page 6 through line 20 on page 6.

4 MEMBER WOODALL: I am sorry. Are you referring  
5 to what is on the screen or what is on Exhibit 46?

6 CHMN. CHENAL: No. In accordance with your  
7 recommendation, I am going to be referring to Exhibit 46  
8 and the line and page numbers there, which will not be  
9 totally in sync with what we are looking at up on the  
10 screen, but to keep the record clear.

11 MEMBER WOODALL: So what were the lines again,  
12 Chairman?

13 CHMN. CHENAL: Lines 13 through --

14 MEMBER WOODALL: 21?

15 CHMN. CHENAL: -- 20.

16 MEMBER BINGHAM: Can we include line 21 as the  
17 last sentence of that paragraph?

18 CHMN. CHENAL: Sure. If you could scroll up.

19 MR. GUY: Mr. Chairman, if it is easier, we can  
20 put on the screen a clean Exhibit STL-46 so the screen  
21 will always match what the members have in front of  
22 them. We only have a couple of these other inserts, but  
23 then I can state that on the record if -- because I fear  
24 unless this starts matching up soon, it may be confusing  
25 to us.

1 CHMN. CHENAL: Yeah, let's do that.

2 MEMBER WOODALL: So was there -- I am sorry.

3 Was there a vote on --

4 CHMN. CHENAL: No. We have a motion --

5 MEMBER WOODALL: Okay.

6 CHMN. CHENAL: -- lines -- let's wait until we

7 have a document up that matches STL-46 that will --

8 MEMBER WOODALL: Sure.

9 CHMN. CHENAL: -- it would be in sync.

10 Member Woodall.

11 MEMBER WOODALL: So what I understand is, as we

12 go through STL-46, the applicant has new modifications

13 to propose; Mr. Guy will let us know where those are so

14 somebody could move those or adopt those or accept those

15 or modify.

16 Is that what you are planning on, Mr. Guy?

17 MR. GUY: Yes, I was.

18 MEMBER WOODALL: Okay. Thank you.

19 CHMN. CHENAL: Okay. I think what we would like

20 to see, page 6, lines 13 through 21, if possible.

21 Actually we can go page 6, lines 13 through 25.

22 Do I have a motion?

23 MEMBER PALMER: Move.

24 MS. HOPKINS: Excuse me, Mr. Chairman. Sorry to

25 interrupt. We have an insertion beginning on line 26.

1 Excuse me. I think it is going to be 25 or 26. So -- I  
2 am sorry, line 22 on the screen, the next paragraph. So  
3 if we could narrow the motion to --

4 CHMN. CHENAL: Line 21.

5 MS. HOPKINS: -- 21.

6 CHMN. CHENAL: Okay. Lines 13 through 21, on  
7 page 6, a motion, please.

8 MEMBER WOODALL: Move to the adopt the language  
9 on Exhibit 46.

10 MEMBER PALMER: Second.

11 CHMN. CHENAL: Okay. All in favor say aye.

12 (A chorus of ayes.)

13 CHMN. CHENAL: Okay. That language is approved.

14 Now we will move to page 6, lines 22 through 26.

15 MS. HOPKINS: And here, Mr. Chairman, we have --

16 CHMN. CHENAL: Additional.

17 MS. HOPKINS: -- a couple insertions.

18 CHMN. CHENAL: Okay.

19 MS. HOPKINS: And I think it might be easiest if  
20 I just read what I believe the correct paragraph should  
21 read, and then I will explain what was changed, if that  
22 makes sense.

23 CHMN. CHENAL: That's fine, sure.

24 MS. HOPKINS: So it should read: As depicted on  
25 Exhibit A, Map 9, the CEC new build route then heads

1 south, then west for less than one mile and -- this is  
2 an insertion -- and interconnects the new Southline  
3 Apache substation, parentheses, T16S, space, R24E, close  
4 parentheses, period. Still an insertion, the CEC new  
5 build route then crosses west over U.S. Highway 191 --  
6 and here we are deleting the township and range -- and  
7 then heads northwest and terminates at the existing  
8 AEPCO Apache substation -- deleting that township and  
9 range reference there -- and then continuing as it  
10 appears on the screen, located west of U.S. Highway 191  
11 approximately four miles south of the community of  
12 Cochise and nine miles south of Interstate 10.

13 MEMBER HAENICHEN: I move approval of that, that  
14 change.

15 MEMBER WOODALL: Second.

16 CHMN. CHENAL: Okay. We have a motion and a  
17 second for approval of lines 22 through 28 on page 6,  
18 with the additional language that was read into the  
19 record by Ms. Hopkins.

20 May I have a motion?

21 MEMBER WOODALL: I think --

22 CHMN. CHENAL: Oh, a motion, second. We have a  
23 motion and a second.

24 All in favor say aye.

25 (A chorus of ayes.)

1 CHMN. CHENAL: Thank you.

2 All right. Page 7, lines 1 through 13, do I  
3 have a motion?

4 MEMBER PALMER: Motion to approve.

5 CHMN. CHENAL: Second?

6 MEMBER HAENICHEN: Second.

7 CHMN. CHENAL: Okay, motion and second.

8 Any further discussion?

9 MEMBER BINGHAM: Mr. Chairman, as line 14  
10 contains three words finishing that sentence, can we  
11 amend the motion to include line 14 as well?

12 CHMN. CHENAL: Sure, lines 2 through 14.

13 MEMBER PALMER: Accept that amendment.

14 CHMN. CHENAL: Motion and a second.

15 Any further discussion?

16 (No response.)

17 CHMN. CHENAL: All in favor say aye.

18 (A chorus of ayes.)

19 CHMN. CHENAL: Okay. Ayes have it.

20 Page 7, lines 15 through 27.

21 MEMBER NOLAND: I move that we accept the  
22 language on those lines.

23 MEMBER HAMWAY: Second.

24 CHMN. CHENAL: Motion and second.

25 Any further discussion?

1 (No response.)

2 CHMN. CHENAL: All in favor say aye.

3 (A chorus of ayes.)

4 CHMN. CHENAL: Ayes have it.

5 Page 8.

6 MS. HOPKINS: Mr. Chairman, we have a minor  
7 correction on the top of page 8 as well.

8 CHMN. CHENAL: Okay. Let's get lines 1 through  
9 15 on page 8, if possible.

10 MS. HOPKINS: And that's actually where the  
11 correction comes in. It should read delete the 15-acre,  
12 and add an S after parcel, so that the --

13 MEMBER HAENICHEN: What lines?

14 MS. HOPKINS: Excuse me, line 2.

15 MEMBER HAENICHEN: Oh.

16 MS. HOPKINS: So that the complete sentence now  
17 reads, associated facilities that will interconnect the  
18 DeMoss Petrie substation will be located within parcels  
19 owned by TEP and identified on Map A -- excuse me,  
20 Exhibit A, Map 11 and 15. No additional corridor is  
21 needed.

22 CHMN. CHENAL: Okay. The only question is do  
23 you want the word "the" before the word parcels, because  
24 you read the word "the" before parcels, but on the  
25 screen it is not there.

1 MEMBER NOLAND: Yes.

2 MS. HOPKINS: Yes.

3 CHMN. CHENAL: Okay.

4 CHMN. CHENAL: So we can undelete the word "the"  
5 before 15. And with that change, a motion to approve  
6 lines 1 through 13 with the change read into the record  
7 by Ms. Hopkins?

8 MEMBER HAENICHEN: So moved.

9 MEMBER PALMER: Second.

10 CHMN. CHENAL: Any further discussion?

11 (No response.)

12 CHMN. CHENAL: All in favor say aye.

13 (A chorus of ayes.)

14 CHMN. CHENAL: All right. Thank you.

15 MEMBER NOLAND: Mr. Chairman, I believe we would  
16 like to end that paragraph with lines 14 and 15 for that  
17 paragraph.

18 CHMN. CHENAL: Yes, yes. I am just looking at  
19 the marked-up version to see if there is anything that  
20 we are moving before we move into the conditions.

21 So at the top of page 9 -- excuse me, excuse me.  
22 Page 8, lines -- someone correct how far we had gone to  
23 13. So lines 14 and 15 on page 8, do I have a motion to  
24 approve?

25 MEMBER NOLAND: I move that we adopt that

1 language.

2 MEMBER WILLIAMS: Second.

3 CHMN. CHENAL: Motion and second.

4 Any further discussion?

5 (No response.)

6 CHMN. CHENAL: All in favor say aye.

7 (A chorus of ayes.)

8 CHMN. CHENAL: Okay. Ayes have it.

9 Let's look at the conditions starting on lines  
10 17 through 28.

11 MEMBER PALMER: Motion to approve lines 17  
12 through 28.

13 MEMBER NOLAND: Second.

14 CHMN. CHENAL: Motion and second.

15 Any further discussion?

16 (No response.)

17 CHMN. CHENAL: All in favor say aye.

18 (A chorus of ayes.)

19 CHMN. CHENAL: Language is approved.

20 Top of page 9, lines 1 through 13.

21 MEMBER HAENICHEN: I move approval.

22 CHMN. CHENAL: May I have a second?

23 MEMBER PALMER: Second.

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

25 Any further discussion?

1 Member Woodall.

2 MEMBER WOODALL: I would just note that  
3 typically when the Commission issues decisions it  
4 doesn't necessarily include modifications that occur  
5 after the decision. Or let me put it another way, they  
6 will evaluate that.

7 So I just want to flag for the record that the  
8 Commission may have a concern that they are approving  
9 something that they don't know what it is. And I am not  
10 going to propose any changes to the language, but I am  
11 just going to flag that.

12 CHMN. CHENAL: And what language relates to your  
13 comment?

14 MEMBER WOODALL: It says once completed, the APP  
15 or equivalent plan will become a part of and be  
16 incorporated into this certificate. And I don't know if  
17 that will be problematic or not. I am just flagging the  
18 issue. So I am going to pass on approval of this  
19 language.

20 CHMN. CHENAL: Okay. Can you tell us the line?

21 MEMBER WOODALL: Sure. It is on page 9 and it  
22 is on lines 8 through 9.

23 MEMBER HAENICHEN: So what are you suggesting?

24 MEMBER WOODALL: I am not suggesting anything.  
25 I am just saying I am going to pass on approval of this

1 language. And I am not suggesting it needs to be  
2 changed, but I don't know what position the Commission  
3 would take on it. So that's why I am not blessing it  
4 myself.

5 MEMBER NOLAND: And Mr. Chairman, if I can also  
6 add something, since we are in the conditions, I think  
7 we should go through by condition rather than lines.  
8 Let's do Condition 1, Condition 2 --

9 CHMN. CHENAL: Thank you.

10 MEMBER NOLAND: -- and so on.

11 CHMN. CHENAL: Thank you, Member Noland. That's  
12 very appropriate.

13 We still should approve, let's finish approving  
14 lines 1 and 2 on the top of page 9.

15 MEMBER PALMER: So moved.

16 MEMBER WOODALL: Second.

17 CHMN. CHENAL: Motion and second.

18 Further discussion?

19 (No response.)

20 CHMN. CHENAL: All in favor say aye.

21 (A chorus of ayes.)

22 CHMN. CHENAL: Okay. Excellent suggestion,  
23 Member Noland.

24 Let's look at Condition 4, which is lines 3  
25 through 13.

1 MEMBER NOLAND: I move that we adopt  
2 Condition 4, lines 3 through 13.

3 MEMBER PALMER: Second.

4 CHMN. CHENAL: A motion and second.  
5 Any further discussion?

6 (No response.)

7 CHMN. CHENAL: All in favor say aye.

8 (A chorus of ayes.)

9 MEMBER WOODALL: Pass.

10 CHMN. CHENAL: Okay. The ayes have it;  
11 Condition 4 is approved.

12 Let's move to Condition 5.

13 Member Haenichen.

14 MEMBER HAENICHEN: I would just want to check to  
15 see if this was corrected on Exhibit 47, where they are  
16 talking about Condition 5. They have the word  
17 particular in drainage channel. They need particularly.  
18 Was that changed?

19 CHMN. CHENAL: We will find it. I had that  
20 correction, too, but I have to find it in Exhibit 46.

21 MR. GUY: On Exhibit STL-46, page 9, line 23.

22 CHMN. CHENAL: Yes. Particular should be  
23 particularly.

24 MEMBER HAENICHEN: You meant particularly,  
25 didn't you? Yeah.

1 CHMN. CHENAL: I am going to ask the Committee  
2 for suggestions where we don't have the entire condition  
3 on the screen, but we have it in front of us, how you  
4 would like to proceed.

5 MEMBER NOLAND: Mr. Chairman, I would like to  
6 move that we adopt Condition 5 that is both on page 9  
7 and 10 of Exhibit 46.

8 MEMBER WOODALL: Second.

9 CHMN. CHENAL: Okay. We have a motion to  
10 approve Condition 5, which is line 14 on page 9 through  
11 line 4 on page 10. All in -- any further discussion?  
12 With the change of note, particular to particularly, any  
13 further discussion?

14 (No response.)

15 CHMN. CHENAL: All in favor say aye.

16 (A chorus of ayes.)

17 CHMN. CHENAL: 5 is approved.

18 And I guess just, if I could ask Ms. Livingston,  
19 do the best you can to squeeze -- I don't know if you  
20 use a little less font, maybe a smaller font, if that  
21 would -- for the audience, because really at this point  
22 we have the documents in front of us, I don't know if it  
23 is possible, but I think for the benefit of the  
24 audience, so if they could see a little more of it in  
25 smaller font would be better.

1           Okay. So we are now on Condition 6, which is  
2 lines 5 through 18 on page 10.

3           MEMBER PALMER: Move the adoption of  
4 Condition 6.

5           MEMBER NOLAND: Second.

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

8           Any further discussion?

9           (No response.)

10          CHMN. CHENAL: All in favor say aye.

11          (A chorus of ayes.)

12          CHMN. CHENAL: Okay. 6 is approved.

13          Let's move to Condition 7, which begins on  
14 line 19 on page 10 through line 4 on page 11.

15          May I have a motion?

16          MEMBER HAENICHEN: I move, so move.

17          MEMBER NOLAND: Second.

18          CHMN. CHENAL: Motion and a second.

19          Any further discussion?

20          Member Woodall.

21          MEMBER WOODALL: Yes. Member Haenichen, I don't  
22 know if you will accept a friendly amendment focusing on  
23 line 26 to eliminate the language "will likely," and  
24 substitute "may be accomplished."

25          MEMBER HAENICHEN: I think that's a good

1 suggestion. I accept it.

2 CHMN. CHENAL: Give me a moment to read this.

3 Okay. We have a motion and a second for  
4 approval of Condition 7, substituting the word "may" for  
5 "will likely" to line 26, page 10.

6 Do I have a motion?

7 MEMBER HAMWAY: So moved.

8 CHMN. CHENAL: Is there a second?

9 MEMBER HAENICHEN: Second.

10 CHMN. CHENAL: Any further discussion?

11 (No response.)

12 CHMN. CHENAL: All in favor say aye.

13 (A chorus of ayes.)

14 CHMN. CHENAL: All right. That language is  
15 approved.

16 Condition 8, lines 5 through 8 on page 11, do I  
17 have a motion?

18 MEMBER NOLAND: Mr. Chairman, I move we adopt  
19 Condition 8, lines 5 through 8.

20 MEMBER PALMER: Second.

21 CHMN. CHENAL: Motion and a second.

22 Any further discussion?

23 (No response.)

24 CHMN. CHENAL: All in favor say aye.

25 (A chorus of ayes.)

1 CHMN. CHENAL: That language is approved.

2 Condition 9, lines 9 through 17 on page 11.

3 MEMBER NOLAND: Mr. Chairman, I move we adopt

4 Condition 9.

5 MEMBER HAMWAY: Second.

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

7 Any further discussion?

8 (No response.)

9 CHMN. CHENAL: All in favor of Condition 9 say  
10 aye.

11 (A chorus of ayes.)

12 CHMN. CHENAL: 9 is approved.

13 And now we are, I think, even on the previous  
14 one, but now we are in new ground. We have now caught  
15 up where we were yesterday, and we are plowing ahead.

16 How are we doing on time? It is 11:00. And we  
17 had a break a little earlier. Does the Committee need a  
18 break at this point, or keep going?

19 MEMBER HAMWAY: Keep going.

20 MEMBER NOLAND: Keep going.

21 CHMN. CHENAL: Let's move to Condition 10, which  
22 is lines 18 through 26 on page 11.

23 MEMBER HAENICHEN: I move we approve the  
24 language on 10.

25 CHMN. CHENAL: Member Woodall.

1           MEMBER WOODALL: I had a question with respect  
2 to the language on lines 25 and 26 reading applicant  
3 shall comply with the provision of these documents as  
4 applicable to the CEC route.

5           Are we to construe that as the WAPA ROD is going  
6 to be pertinent to anything? Because I think  
7 preliminarily the applicant has agreed to follow the  
8 terms of the BLM ROD as it related to private lands. So  
9 I just want to make sure we are not creating an  
10 ambiguity here. And I see we have the modifying phrase  
11 "as applicable," so it is conceivable that parts of the  
12 WAPA ROD may be pertinent for the CEC route, but I just  
13 want to confirm that.

14           CHMN. CHENAL: And I would just add, without  
15 reviewing the entirety of the document, I don't know if  
16 it will or will not apply, but the CEC upgrade route  
17 connects the WAPA lines, you know, to those substations,  
18 and may have provisions that are applicable.

19           MEMBER WOODALL: That's what I am asking them.  
20 Thank you.

21           MR. GUY: Yeah, I think that's right. I think  
22 there may be parts of each of these documents that apply  
23 to the CEC route. We subsequently have a condition that  
24 addresses more explicitly what the applicant has agreed  
25 to.

1           But I think the language here is, there are just  
2 things in each of these documents that might be specific  
3 to WAPA, that might be, so that's the purpose of the "as  
4 applicable" language on lines 25 and 26.

5           MEMBER WOODALL: Thank you. You have explained  
6 that very well to me. Thank you.

7           MEMBER NOLAND: Mr. Chairman, they might correct  
8 the spelling of cities, not citites.

9           CHMN. CHENAL: Nothing escapes the Committee.

10          MEMBER WOODALL: Or the Chairman.

11          CHMN. CHENAL: Okay.

12          MEMBER PALMER: I would make a motion that we  
13 approve Condition 10.

14          MEMBER HAMWAY: Second.

15          CHMN. CHENAL: We have a motion and second to  
16 approve Condition 10, lines 18 through 26 on page 11,  
17 with the correction of the spelling of cities.

18          Any further discussion?

19          (No response.)

20          CHMN. CHENAL: All in favor say aye.

21          (A chorus of ayes.)

22          CHMN. CHENAL: Okay. That language is approved.

23          MEMBER WOODALL: And Chairman, from my  
24 perspective, if we grant you the authority to make  
25 technical and conforming language changes, this would be

1 the type of change that, if we come upon it, I  
2 personally would feel comfortable in you making, without  
3 us explicitly approving each one. That's what I had  
4 intended in my notion in that regard.

5 CHMN. CHENAL: All right. Let's move to  
6 Condition 11, lines 1 through 9 on page 12. And let's  
7 take a second to review this, to read this.

8 And I think 11 picks up the comments that we had  
9 about that independent person to ensure the  
10 implementation of these conditions.

11 And so let's see if there is a motion and a  
12 second.

13 MEMBER HAENICHEN: Mr. Chairman, I have a  
14 suggestion on that.

15 CHMN. CHENAL: Okay. Member Haenichen.

16 MEMBER HAENICHEN: On lines 5 and 6, where it  
17 says contractor to monitor and help ensure compliance,  
18 why do we need the word help in there? To ensure  
19 compliance.

20 CHMN. CHENAL: Because it is, I can't resist, it  
21 is -- I won't say. If I were drafting it, I probably  
22 would have put the word help on behalf of the applicant.  
23 But that's an excellent catch, Member Haenichen, and I  
24 think that word should come out.

25 MEMBER WOODALL: That would be my position if I

1 was asked.

2 MR. GUY: Applicant would not object to the  
3 deletion of the word help.

4 CHMN. CHENAL: Okay. I think this is an  
5 important condition, so I want to make sure we have had  
6 an opportunity to review it.

7 MEMBER HAENICHEN: With that change, I suggest  
8 approval of this condition.

9 CHMN. CHENAL: Okay. There is a motion. Do we  
10 have a second?

11 MEMBER HAMWAY: Second.

12 CHMN. CHENAL: We have a motion and second to  
13 approve Condition 11 with the deletion of the word help  
14 on line 5. All in favor say aye.

15 (A chorus of ayes.)

16 CHMN. CHENAL: Okay. That language is approved  
17 with the modification.

18 Let's move to Condition 12, which is starting at  
19 line 10 on page 12, ending with line 26 on page 12.

20 MEMBER NOLAND: Mr. Chairman.

21 CHMN. CHENAL: Member Noland.

22 MEMBER NOLAND: I move we adopt Condition 12.

23 CHMN. CHENAL: Do we have a second?

24 MEMBER WILLIAMS: Second.

25 CHMN. CHENAL: Okay. Any further discussion?

1 Member Woodall.

2 MEMBER WOODALL: Yes. We have used the word  
3 shall and will throughout the document, I think  
4 intending that they are interchangeable. And I know  
5 there is a hot topic in the law whether shall is the  
6 same thing as will or not. But my preference would be  
7 to wherever there are places where the applicant is  
8 committing to do something or requiring them to do  
9 something, I would propose to substitute the word shall  
10 for will. And I would feel comfortable with the  
11 Chairman making those changes throughout the document,  
12 because I think it could be done on a word search basis.  
13 But I don't know what the Committee thinks about that.

14 CHMN. CHENAL: Well, I like it for two reasons.  
15 One, I think there is a difference in the meaning of the  
16 words will versus shall, and the other reason, just for  
17 the purposes of consistency. I like consistency in the  
18 document.

19 So we have a motion and a second.

20 Member Woodall, are there uses of the word will  
21 versus shall in our Condition 11 that we can clean up  
22 right now?

23 MEMBER WOODALL: There is on line 1. There is  
24 on line 1 for Condition 11. It says applicant will  
25 construct. And I guess I understand we are going

1 through paragraph by paragraph, but I may interject a  
2 motion that we substitute the word shall for will  
3 throughout the rest of the CEC.

4 CHMN. CHENAL: Let's do that after we finish  
5 with Condition 12. And I am not sure on Condition 12  
6 where the word will versus --

7 MEMBER WOODALL: I am sorry. I thought you were  
8 asking about 11. My apologies.

9 CHMN. CHENAL: Help me out here, guys. I  
10 thought we put up --

11 MEMBER NOLAND: Mr. Chairman, it would be on  
12 line 11.

13 CHMN. CHENAL: Okay. Sorry.

14 MEMBER WOODALL: That's what I was proposing,  
15 that you have a universal grant of authority to do this  
16 for us.

17 CHMN. CHENAL: Let's approve Condition 12. We  
18 have a motion and second.

19 All in favor say aye.

20 (A chorus of ayes.)

21 CHMN. CHENAL: Then as a motion to change the  
22 word shall to -- the word will to shall where the  
23 applicant is required to take some action throughout the  
24 language of the CEC, is that correct? So do we have a  
25 motion on that change of language?

1 MEMBER BINGHAM: Second.

2 CHMN. CHENAL: Member Woodall, is that a motion?

3 MEMBER WOODALL: Yes, it was.

4 CHMN. CHENAL: We have a second.

5 Any further discussion?

6 (No response.)

7 CHMN. CHENAL: All in favor say aye.

8 (A chorus of ayes.)

9 CHMN. CHENAL: Okay. Ayes have it.

10 Let's go to Condition 13 on page 13, Condition  
11 13 on page 13, lines 1 through 7. Do we have a motion?

12 MEMBER PALMER: Motion to approve Condition 13.

13 MEMBER NOLAND: Second.

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

15 Any further discussion?

16 (No response.)

17 CHMN. CHENAL: All in favor say aye.

18 (A chorus of ayes.)

19 CHMN. CHENAL: That language is approved.

20 Let's move to Condition 14, lines 8 through 16  
21 on page 13.

22 MEMBER NOLAND: Mr. Chairman.

23 CHMN. CHENAL: Member Noland.

24 MEMBER NOLAND: Never mind. Well, yes, mind.

25 I am a little confused. Applicant shall be

1 permitted to deviate from the CEC route corridor in  
2 circumstances where the deviation would address  
3 engineering constraints or mitigate the impact. I am  
4 not sure that -- I thought we discussed this earlier,  
5 and that any deviations would be within the corridor.

6 CHMN. CHENAL: And that was the question, the  
7 specific question I asked, because I was aware this  
8 condition was coming up. So this is the time to discuss  
9 that.

10 I don't know that this is inappropriate, but I  
11 don't know that it is appropriate either. But the  
12 testimony was that any of the deviations would occur  
13 within the corridor. And yet it strikes me, maybe we  
14 should hear from the applicant, there actually may be,  
15 because if the corridor is a thousand feet wide, there  
16 may be some, you know, issue that presents itself that  
17 we are unaware of that might require some deviation.

18 I don't know how much deviation, if this  
19 condition were to be passed, how much of a deviation  
20 should be allowed, but if it is with the consent, if it  
21 requires the consent from the landowner affected, do we  
22 care? I guess that's -- I am thinking out loud, it is  
23 dangerous, but that's what is going through my mind  
24 right now.

25 Member Palmer.

1           MEMBER PALMER: I think my concern here is for  
2 the private property owners. And as I read this, I see  
3 it gives them a level of protection so that, if there is  
4 an issue that we discover or that the applicant  
5 discovers as they begin to engineer this, they have the  
6 ability to work with the, and it says the consent of,  
7 all landowners who would be affected by the deviation.  
8 It gives them the opportunity to work with them so that  
9 the power line doesn't go through their barn. I think  
10 this is to some extent a level of protection to private  
11 property owners, which I think is important.

12           CHMN. CHENAL: Member Noland.

13           MEMBER NOLAND: Well, I agree with that. But it  
14 was a different concept than that which you had nailed  
15 down earlier.

16           CHMN. CHENAL: Yes.

17           Member Woodall.

18           MEMBER WOODALL: The deviation is qualified,  
19 because the deviation has to address engineering  
20 constraints or mitigate on private property if the  
21 property owner wants it. So I am personally comfortable  
22 with the language as it is written.

23           CHMN. CHENAL: I am, too, for the reasons that  
24 were mentioned.

25           So Member McGuire? Okay.

1 So a motion to approve 14, Condition 14?

2 MEMBER BINGHAM: Mr. Chairman.

3 CHMN. CHENAL: Yes, Member Bingham.

4 MEMBER BINGHAM: I have a question regarding the  
5 use of the project twice in this paragraph. As I  
6 understand the project as defined is to also include New  
7 Mexico.

8 CHMN. CHENAL: Which line are you referring to?

9 MEMBER BINGHAM: Line 10 and line 13. And if I  
10 understand correctly, project actually goes far beyond  
11 just what is in Arizona. So it is also including New  
12 Mexico. So I am not sure the use of the term project in  
13 this paragraph is appropriate.

14 CHMN. CHENAL: Member Woodall.

15 MEMBER WOODALL: I am not sure that this could  
16 be construed as relating to lands in another state,  
17 since we are only addressing the Arizona portion of the  
18 line. So I am personally comfortable with the language,  
19 because project has been defined at the outset.

20 CHMN. CHENAL: Member Noland.

21 MEMBER NOLAND: But Mr. Chairman, to be  
22 consistent I think we should say the CEC route --

23 MEMBER BINGHAM: That is my point.

24 MEMBER NOLAND: -- that we give the Chairman the  
25 ability to correct this.

1 CHMN. CHENAL: Member Woodall.

2 MEMBER WOODALL: Yes. I looked at that  
3 initially, too, but the condition is referring to the  
4 impact of the location, construction, and operation of  
5 the project. And so the project is separate from the  
6 route corridor. And I think what is intended here is,  
7 if the construction or the operation of the lines could  
8 have some problems for private landowners, then this  
9 condition would authorize them to deviate from the CEC  
10 route corridor, to your point, Member Noland.

11 So I am comfortable here, because the impact of  
12 the project is the actual facilities, is how I interpret  
13 this.

14 CHMN. CHENAL: As opposed to just the CEC route,  
15 just the location.

16 MEMBER WOODALL: Right, at least that's how I am  
17 reading it, so...

18 CHMN. CHENAL: I think the other way to change  
19 it, if we didn't want to use the word project, you would  
20 have to say something like to mitigate the impacts of  
21 the construction of, you know, the transmission lines  
22 and other facilities within the CEC route on one or more  
23 private landowners' properties.

24 Yes, Member Noland.

25 MEMBER NOLAND: Well, Mr. Chairman, what Member

1 Bingham said goes back to the definition of project.  
2 And project is defined as the Southline Transmission  
3 Project, includes the construction and operation of an  
4 approximately 370-mile electric transmission line and  
5 associated facilities in southern New Mexico and  
6 Arizona.

7 CHMN. CHENAL: Okay. Good point. I am thinking  
8 of some language that will address, but...

9 Member Woodall.

10 MEMBER WOODALL: Well, since the only, the  
11 applicant -- oh, I am sorry. Go ahead, Member Bingham.

12 MEMBER BINGHAM: No.

13 MEMBER WOODALL: Okay. What I was going to say  
14 is the only thing that's in front of us is the part in  
15 Arizona. And it is only the new build and the upgrade.  
16 So I don't think we are saying anything about the WAPA  
17 project here, because the application wasn't for that  
18 portion. So again, I am comfortable with the use of the  
19 language here, but I understand people can interpret  
20 words differently.

21 CHMN. CHENAL: I am going to have a suggestion,  
22 but let's hear from Member Noland.

23 MEMBER NOLAND: I agree with that as long as  
24 this whole discussion has been on the record. So I am  
25 okay with it. I don't know about Member Bingham.

1 MEMBER BINGHAM: Likewise.

2 CHMN. CHENAL: Let me suggest, and then I will  
3 hear from the applicant, let me just throw out mitigate  
4 the impact of the project within the CEC route. Would  
5 that give some comfort to the ideas expressed here that  
6 it wouldn't -- we are not talking about New Mexico?

7 MEMBER BINGHAM: Mr. Chairman, that will make me  
8 more comfortable.

9 CHMN. CHENAL: Mr. Guy, you were going to say  
10 something, I think.

11 MR. GUY: I appreciate it, Mr. Chairman. And we  
12 do not have an objection to your proposed change. Even  
13 a similar change with respect to the one you just  
14 proposed on line 13 would be just to delete "of the  
15 project," and it would just say the impact on one or  
16 more private landowners. That's an alternative  
17 suggestion. I would note two or three lines up we used  
18 the word project again. And so to the extent that  
19 caused concern, I just wanted to raise that.

20 But I do want to say this. I actually agree  
21 with all the comments that the Committee members have  
22 made on this. But in some instances I think we are  
23 intentionally using the word project, and in other  
24 instances we are not. This is a situation, this  
25 condition, I think, could go either way. And I don't

1 really think it affects it, but we will get to some  
2 where I think it is important to refer to the project.

3 So I don't think we need to global search and  
4 replace. So to the extent we see these later, I want to  
5 just kind of flag that for something for discussion.

6 MEMBER WOODALL: You are referring to conditions  
7 that say the project is in the public interest, et  
8 cetera.

9 MR. GUY: That would be an example I would  
10 encourage the use of the word project, yes.

11 MEMBER WOODALL: Got you. Okay. I am still  
12 comfortable with the use of it here.

13 CHMN. CHENAL: Member Bingham, I had proposed  
14 some language just with your comment in mind. You know,  
15 I probably am in Member Woodall's camp, but if that  
16 would alleviate some discomfort, I offer it just as a  
17 possible solution.

18 MEMBER BINGHAM: The addition within the CEC  
19 route on line 13 does make me more comfortable, and I  
20 appreciate the comment from counsel. And I am  
21 comfortable with what I am seeing on the screen as  
22 written now.

23 CHMN. CHENAL: Okay. I don't remember if we had  
24 a motion or a second yet for 14. Let's do it again.  
25 Let's ask for a motion for approval of 14 with the

1 additional language.

2 MEMBER BINGHAM: Mr. Chairman, I move  
3 Condition 14 be approved.

4 MEMBER NOLAND: Second.

5 CHMN. CHENAL: Motion and second.

6 Any further discussion?

7 (No response.)

8 CHMN. CHENAL: Okay, the language for 14 is  
9 approved.

10 MEMBER NOLAND: Did you want to vote on it?

11 MEMBER PALMER: Aye.

12 CHMN. CHENAL: All in favor say aye.

13 (A chorus of ayes.)

14 CHMN. CHENAL: That helps.

15 Always thought a constitutional monarchy is the  
16 way to go as long as I am the monarch.

17 MEMBER WOODALL: I vote for philosopher kings or  
18 queens.

19 CHMN. CHENAL: Let's move to Condition 15, lines  
20 17 through 24 on page 13.

21 And may I have a motion?

22 MEMBER HAENICHEN: I will move 15.

23 MEMBER HAMWAY: Second.

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

25 Any further discussion?

1 Member Woodall.

2 MEMBER WOODALL: Looking at the language on  
3 lines 22 through 24, it says the written description  
4 shall identify the location of the project and contain a  
5 pictorial depiction of the project.

6 I am not sure if you are talking about Exhibit  
7 G, where you describe the structures, or you are talking  
8 about a map indicating where it is at, or if you are  
9 talking about the proposed Exhibit A to the CEC. I  
10 don't know what is meant by pictorial depiction.

11 CHMN. CHENAL: Mr. Guy.

12 MR. GUY: Sorry. I think we acknowledge the  
13 ambiguity. And I can see two options, and the applicant  
14 is okay with either. One option would be to, on line 22  
15 through 24, we could put a sentence, I mean a period  
16 about halfway through the sentence such that it would  
17 say the written description shall identify the location  
18 of the project or CEC route. Either is fine. We could  
19 put a period there. And so then we would read that we  
20 need to give them a copy of Exhibit A that applies to  
21 the area.

22 MEMBER WOODALL: I would be comfy if we could  
23 provide the copy of the depictions of the structures as  
24 well -- and I think those are in Exhibit G -- because I  
25 suspect that home builders would be really more

1 interested in like what is it actually going to look  
2 like. So I would agree with your proposal if you would  
3 include Exhibit G.

4 MR. GUY: And that would be, the second  
5 alternative is you continue the sentence and contain  
6 pictorial depiction of the structures, period.

7 MEMBER WOODALL: Yeah. I don't know about  
8 pictorial, but, you know, it could be schematic,  
9 whatever the engineers call it.

10 MEMBER NOLAND: Mr. Chairman.

11 CHMN. CHENAL: Member Noland.

12 MEMBER NOLAND: I move we adopt the proposed  
13 language utilizing CEC route on line 23, and deleting  
14 project on line 24 and inserting structures.

15 CHMN. CHENAL: And deleting pictorial.

16 MEMBER NOLAND: Pictorial.

17 CHMN. CHENAL: All right. We have a motion to  
18 approve Condition 15, line 17 through 24 with the  
19 changes noted.

20 Is there a second?

21 MEMBER WILLIAMS: Second.

22 CHMN. CHENAL: Motion and second.

23 All in favor say aye.

24 (A chorus of ayes.)

25 MEMBER NOLAND: Mr. Chairman.

1 CHMN. CHENAL: Yes.

2 MEMBER NOLAND: I move we adopt Condition 16.

3 MEMBER BINGHAM: Second.

4 CHMN. CHENAL: Okay. A motion and a second  
5 for 16.

6 Any further discussion?

7 (No response.)

8 CHMN. CHENAL: All in favor say aye.

9 (A chorus of ayes.)

10 CHMN. CHENAL: Okay. 16 is approved.

11 MEMBER NOLAND: Mr. Chairman.

12 CHMN. CHENAL: Member Noland.

13 MEMBER NOLAND: I move we adopt Condition 17.

14 MEMBER HAENICHEN: Second.

15 CHMN. CHENAL: Okay. Motion and second for  
16 Condition 17, lines 1 through 5 on page 14.

17 Any further discussion?

18 (No response.)

19 CHMN. CHENAL: All in favor say aye.

20 (A chorus of ayes.)

21 CHMN. CHENAL: That's approved.

22 18.

23 MEMBER WOODALL: Move adoption of Condition 18.

24 MEMBER HAENICHEN: Second.

25 CHMN. CHENAL: That's line 6 through 9 on page

1 14. I have one change to consider for 18. And the  
2 concept would be that a copy of memorandum of agreement  
3 be filed with Docket Control.

4 Applicant to file a copy of the memorandum of  
5 understanding with Docket Control.

6 MEMBER WOODALL: Shall.

7 CHMN. CHENAL: Or shall.

8 MS. HOPKINS: Mr. Chairman, that's once the  
9 agreement is executed the applicant will file.

10 CHMN. CHENAL: Yes. The language would say once  
11 executed, the applicant shall.

12 MEMBER HAENICHEN: Mr. Chairman.

13 CHMN. CHENAL: Member Haenichen.

14 MEMBER HAENICHEN: On this particular issue, 18,  
15 which is regarding the Crane Lake relocation, do we want  
16 to beef up the language a little bit to say exactly  
17 where it is going, instead of just saying on Kansas  
18 Settlement Road? Do we want to refer to some of the  
19 schematics we have seen? I don't know.

20 CHMN. CHENAL: You know, without having the  
21 memorandum of agreement in front of us, I mean I expect  
22 that, you know, everyone will in good faith execute  
23 that. And I -- we have some evidence in the record. We  
24 have an exhibit that reflects the Crane Lake --

25 MEMBER HAENICHEN: Right.

1 CHMN. CHENAL: -- where it is to be located,  
2 where the lounging islands are located.

3 MEMBER NOLAND: Loafing.

4 CHMN. CHENAL: The loafing, the crane loafing  
5 islands are located.

6 I wouldn't be offended if we included that as a  
7 possible Exhibit B. I think that is one of the most  
8 important points of this project, and gives by the  
9 applicant and it is extremely important, as we saw in  
10 our tour. And I think that's a good idea, Member  
11 Haenichen, that we nail this down a little more, because  
12 we don't have that agreement in front of us.

13 Member Woodall.

14 MEMBER WOODALL: Personally I am comfortable in  
15 relying upon Arizona Game & Fish specifying in greater  
16 detail what they are proposing to do. I am comfortable  
17 in leaving that in their hands. And we have seen a tour  
18 and we do have documents. Anything can be improved, but  
19 I'm comfortable with the way it is written right now. I  
20 don't object to modification, I am just saying I am  
21 comfortable with the way it is right now.

22 CHMN. CHENAL: I'm kind of comfortable with it,  
23 but I am not entirely comfortable given the importance  
24 of it and given that we don't have that agreement. And  
25 I mean not having -- I mean let me just be blunt here.

1 The leverage position of Game & Fish is greatly enhanced  
2 pre-CEC versus post-CEC as to the terms and conditions  
3 that will be in the memorandum of agreement.

4 Again, not seeing what the exact language is, I  
5 want to make sure that, following up on Member  
6 Haenichen's point, since we have an exhibit that lays  
7 out exactly where it's going to be, I think it would  
8 just add a little more comfort to me that we have that  
9 as a condition in.

10 MEMBER WOODALL: Mr. Chairman.

11 CHMN. CHENAL: Okay.

12 MEMBER WOODALL: What I was going to suggest is  
13 relating to the relocation and improvement of the Crane  
14 Lake facilities as depicted on Exhibit 26, which is the  
15 diagram.

16 MEMBER NOLAND: Yes, Mr. Chairman, if she hadn't  
17 said it, that was exactly the language I was going to  
18 suggest.

19 MEMBER WOODALL: I should give you more  
20 opportunities. I talk too much, Member Noland. I am  
21 sorry.

22 MEMBER HAENICHEN: I am sorry.

23 CHMN. CHENAL: Member Haenichen.

24 MEMBER HAENICHEN: Can we let the applicant  
25 weigh in on this?

1 CHMN. CHENAL: Absolutely.

2 Mr. Guy.

3 MR. GUY: Sorry, I missed the last comment.

4 MEMBER WOODALL: My genius, you missed my  
5 genius. I was suggesting that in order to provide a  
6 little more detail with respect to the Crane Lake  
7 project and the facilities, that we insert a reference  
8 to Exhibit 26, because that shows what is where and the  
9 roadways and the like as depicted on Exhibit 26, and  
10 that way we have got a little more detail.

11 MR. GUY: So one additional piece of  
12 information, and then our thoughts on the suggestion. I  
13 would also note that the unexecuted memorandum of  
14 agreement is also in the record as Exhibit STL-20, so  
15 that is something in the record.

16 We are generally okay and do not object to the  
17 suggestion. The pause we have is those, the schematic  
18 in the MOU, they are not executed and finalized, and so  
19 they are subject to some level of change. So to the  
20 extent we use language like that, perhaps we say  
21 substantially.

22 MEMBER WOODALL: Generally consistent with.

23 MR. GUY: Exactly.

24 MEMBER NOLAND: Generally.

25 MEMBER HAENICHEN: I think that's fine.

1 CHMN. CHENAL: I am trying to think of language  
2 that will require this relocation independent of the  
3 memorandum of agreement.

4 MEMBER WOODALL: Can we do that without  
5 authorization from Game & Fish?

6 What I was going to suggest was that on this  
7 condition where it says to the relocation and  
8 improvement of the Crane Lake facilities on Kansas  
9 Settlement Road, described generally in Exhibit 26 and  
10 Exhibit 20, including a work plan approved by Arizona  
11 Game & Fish Department. And that way we have got a  
12 reference to something specific, but we have got a  
13 qualifier that will help the requirement. I just don't  
14 know that we can require them to do these facilities  
15 unless they have got Game & Fish onboard.

16 MEMBER HAENICHEN: Mr. Chairman.

17 CHMN. CHENAL: Member Haenichen.

18 MEMBER HAENICHEN: What I was really getting at  
19 was, first of all, I agree with you, this is a big deal.  
20 And it is a wonderful thing that the applicant is  
21 willing to pay for this, but we just want to be sure  
22 that the new facility is at least as good as the old one  
23 in terms of size and lounging islands and so forth. In  
24 other words, we just don't want a little mud puddle  
25 there. And I know that's not their intent.

1 CHMN. CHENAL: Yes, I agree.

2 I have to tell you. I mean having practiced law  
3 for a few years, I know my youth would belie that, but  
4 there have been times where, you know, permissions are  
5 given preexecution of agreements -- and I don't believe  
6 for a second that the applicant fits in this category --  
7 but negotiations break down and the agreement is not  
8 signed and then there is a dispute over that.

9 And I would like -- I am not expressing this  
10 well verbally, but I would like some independent  
11 condition, a condition that just doesn't say you are  
12 going to sign an agreement that outlines A, B, and C,  
13 that, to me, this is so important it ought to have a  
14 condition stand on its own that requires this change.

15 I grant you that Game & Fish has to comply and  
16 they have to work with Game & Fish. But to me, my  
17 thinking, this is so important I want a condition that  
18 says -- well, I want to discuss a condition that says  
19 thou shalt do this independent of, thou shalt enter into  
20 an agreement that says you will do this.

21 MEMBER WOODALL: I guess my question is whether  
22 or not the applicant can commit to doing this. If they  
23 didn't have a commitment with Game & Fish, it is kind of  
24 a chicken and egg thing here, and I think if we used a  
25 qualifier as --

1 MEMBER HAENICHEN: Best efforts.

2 MEMBER WOODALL: -- generally consistent with,  
3 if it is not, if they are going to come up with a mud  
4 puddle, that's going to be a breach of their condition  
5 in the CEC. They would have to come in and get an  
6 amendment.

7 CHMN. CHENAL: Okay. Maybe this is how we can  
8 get to the same point. Instead of the Exhibit STL, I  
9 would like to see exhibits attached to -- I would like  
10 everything within the four corners of the document. So  
11 I would like something like this attached. Maybe we say  
12 this CEC is conditioned on applicant executing a  
13 memorandum of agreement.

14 MEMBER WOODALL: My concern there would be that  
15 the applicant doesn't have the control over what Game &  
16 Fish does.

17 MEMBER NOLAND: Mr. Chairman, I wouldn't support  
18 that.

19 MR. GUY: Mr. Chairman, may we --

20 CHMN. CHENAL: Yes. Oh, sure.

21 MR. GUY: -- just share information? And I  
22 have, I think it is, three items I want to share. I  
23 mean, number one, I think we agree with Member Woodall's  
24 comments that, you know, I don't believe the applicant  
25 or the ACC can require Arizona Game & Fish to do

1 something. So that would concern us, on one point.

2 On the second point, the memo of agreement  
3 itself also requires -- this is a request from Game &  
4 Fish -- that the MOA and execution of it is a condition  
5 to this. I mean that's actually, they want the  
6 applicant's feet to be held to the fire to have the  
7 applicant do this. That's why they have asked us to ask  
8 you to include this agreement as a condition. So I  
9 think everyone is on the same page, that we all want it  
10 done.

11 And then I guess the third thing, just to the  
12 extent it just provides additional comfort, there is  
13 also a PCEM -- actually you can look at the Table 8 to  
14 the PCEM -- that says Southline will fund relocation of  
15 Crane Lake. And I can read the whole thing into the  
16 record. I guess the point is there is another place  
17 where the applicant is going to be bound to implement  
18 this project.

19 MEMBER WOODALL: As I said initially, I am  
20 perfectly comfortable with the language as it is  
21 currently written.

22 CHMN. CHENAL: Okay. I am comfortable with  
23 that. I am comfortable. I think it is extremely  
24 important. But I think with it being in the PCEMs,  
25 being something of Game & Fish to requiring as a

1 condition -- and I don't mean my comments to be any  
2 reflection on what I feel is a good faith effort of the  
3 applicant and counsel. I don't mean that at all.

4 MR. GUY: None taken. We just want to share as  
5 much information as we have on it.

6 CHMN. CHENAL: Okay. Let's look at the language  
7 that we have. In Exhibit B would be what, it would be  
8 Exhibit -- or Exhibit STL-26, would that be the -- we  
9 referred to the CEC as Exhibit B. But that is in  
10 substance Exhibit 26.

11 MR. GUY: If that's -- yes. Then the option is  
12 either Exhibit 26 or Exhibit 20 or both. 20 is the MOA,  
13 the current form of MOA. 26 is the schematic.

14 CHMN. CHENAL: Let's do both, Exhibit -- would  
15 be the MOA, which is Exhibit 20.

16 MR. GUY: That's correct.

17 CHMN. CHENAL: And Exhibit 26, which is the  
18 maps.

19 MEMBER HAENICHEN: I think if we do that.

20 CHMN. CHENAL: Okay.

21 MEMBER WILLIAMS: Chairman, does it matter -- I  
22 know we talked about it before -- does it matter if  
23 Exhibit 26 has the wrong township and range and we are  
24 referring to it? Sorry.

25 MS. HOPKINS: That's kind of what we were

1 discussing earlier. There may be minor changes that  
2 Arizona Game & Fish would like to make to the schematic,  
3 for instance, including the correction to the township  
4 and range, and I believe there is one other small  
5 correction.

6 CHMN. CHENAL: I think we are okay, because we  
7 are saying generally, described generally. I think even  
8 though the township and range is mis -- I think the  
9 document will clarify the exact location. I think  
10 that's within the qualifier to describe generally.

11 So let's look at the language one more time.  
12 Okay.

13 MEMBER WOODALL: I guess you could make that a  
14 parenthetical, described generally, so it doesn't  
15 interrupt the flow of the remainder of the sentence.

16 CHMN. CHENAL: So Member Woodall, before  
17 described, we would open the parenthetical before the  
18 word described.

19 MEMBER WOODALL: Yes.

20 CHMN. CHENAL: Put a comma after B. There we  
21 go, Exhibit B. A little move to the right after B, put  
22 a comma. Delete that parenthetical before hearing, and  
23 then insert it after the word certificate.

24 MEMBER WOODALL: Yes. And that would be the  
25 type of technical and conforming language change that I

1 would feel comfortable in having you just do without  
2 having it discussed. But I understand why we are  
3 discussing it now. But I am using that as an example of  
4 the kind of thing you should be able to do.

5 CHMN. CHENAL: We will try and pick these up as  
6 we go along here.

7 Now we have Condition 18, lines 6 through 12 on  
8 page 14. Do I have a motion?

9 MEMBER PALMER: So moved.

10 CHMN. CHENAL: Second?

11 MEMBER WILLIAMS: Second.

12 CHMN. CHENAL: Motion and a second.

13 Any further discussion on Exhibit -- excuse me,  
14 on Condition 18?

15 (No response.)

16 CHMN. CHENAL: All in favor say aye.

17 (A chorus of ayes.)

18 CHMN. CHENAL: Okay. Aye. The language is  
19 approved.

20 I am going to suggest we take just a short  
21 break.

22 MEMBER NOLAND: Wait.

23 CHMN. CHENAL: Excuse me.

24 Member Noland, sure.

25 MEMBER NOLAND: Mr. Chairman, the next one is

1 our colleague's amendment that was done ahead of time,  
2 and I don't think is controversial. Could she move that  
3 one?

4 CHMN. CHENAL: Oh, absolutely. So let's move to  
5 19, absolutely, Condition 19.

6 MEMBER WILLIAMS: I move that we adopt  
7 Condition 19 as written.

8 MEMBER NOLAND: Second.

9 CHMN. CHENAL: We have a motion and a second.  
10 Any further discussion?

11 (No response.)

12 CHMN. CHENAL: All in favor say aye.

13 (A chorus of ayes.)

14 CHMN. CHENAL: 19 is approved.

15 We are a quarter to 12:00. We have been at it  
16 for a few minutes now. I think we could stand a little  
17 break. I don't know if there is lunch available this  
18 afternoon or --

19 MR. PATTERSON: There is, but it's not here yet.

20 CHMN. CHENAL: Okay. I would like to take just  
21 a few minute break, because this is very important stuff  
22 and we have been at it for awhile and I think it would  
23 be good to have a break. So let's take a 10-minute  
24 break and resume, or break for lunch.

25 (A recess ensued from 11:48 a.m. to 1:00 p.m.)

1 CHMN. CHENAL: All right, folks, let's get back  
2 on the record. I think we are closing in here on  
3 getting through these conditions and getting to a vote.

4 So I think the next one we have to consider is  
5 Condition No. 20.

6 MEMBER NOLAND: Madam Chair, I move we adopt  
7 Condition No. 20.

8 MEMBER HAMWAY: Second.

9 CHMN. CHENAL: We have a motion and a second for  
10 Condition 20, line 16 to 20 on page 14.

11 Any further discussion?

12 Member Woodall.

13 MEMBER WOODALL: No.

14 CHMN. CHENAL: Okay.

15 MEMBER WOODALL: I was moving my microphone down  
16 because it was up.

17 CHMN. CHENAL: All in favor say aye.

18 (A chorus of ayes.)

19 CHMN. CHENAL: 20 is approved.

20 21.

21 MEMBER NOLAND: Mr. Chairman, I move we adopt  
22 Condition 21.

23 CHMN. CHENAL: Second?

24 MEMBER WOODALL: Second.

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

1 Condition 21, on line 21 through 23 on page 14.

2 Any further discussion?

3 (No response.)

4 CHMN. CHENAL: All in favor say aye.

5 (A chorus of ayes.)

6 CHMN. CHENAL: 21 is approved.

7 22.

8 MEMBER WOODALL: Move adoption of Condition 22.

9 MEMBER NOLAND: Second.

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

11 Condition 22, which is from line 24 on page 14 through

12 line 18 on page 15. We have a motion and a second.

13 Any further discussion?

14 (No response.)

15 CHMN. CHENAL: All in favor say aye.

16 (A chorus of ayes.)

17 CHMN. CHENAL: 22 is approved.

18 23.

19 MEMBER WOODALL: Move adoption of Condition 23.

20 MEMBER HAMWAY: Second.

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

22 second for Condition 23, which is lines 19 through 21 on

23 page 15.

24 Any further discussion?

25 (No response.)

1 CHMN. CHENAL: All in favor say aye.

2 (A chorus of ayes.)

3 CHMN. CHENAL: 23 is approved.

4 Condition 24.

5 MEMBER NOLAND: Mr. Chairman, I move we adopt  
6 Condition 24.

7 MEMBER WILLIAMS: Second.

8 CHMN. CHENAL: Okay. We have a motion and a  
9 second for Condition 24, which is lines 22 through 26 on  
10 page 15.

11 Any further discussion?

12 MEMBER WOODALL: If I may.

13 CHMN. CHENAL: Yes, Member Woodall.

14 MEMBER WOODALL: It is my -- the way I interpret  
15 this is you have to provide the copies to Staff and you  
16 have to file a summary with Docket Control. Is that  
17 your understanding, Mr. Guy or Ms. Hopkins?

18 CHMN. CHENAL: That's, I will for myself, that's  
19 my understanding. I think this is one of the ones I  
20 added. And this comes from the SunZia case. And there  
21 had been a lot of discussion in that case, including  
22 from representatives of the Corporation Commission that  
23 wanted the agreement with Staff, but just a summary with  
24 the Docket Control.

25 MR. GUY: That is our understanding as well.

1 MEMBER WOODALL: Okay. Thank you.

2 CHMN. CHENAL: All right. So we have a motion  
3 and a second with 24.

4 Any further discussion?

5 (No response.)

6 CHMN. CHENAL: Okay. All in favor say aye.

7 (A chorus of ayes.)

8 CHMN. CHENAL: Language of 24 is approved.

9 Condition 25.

10 MEMBER BINGHAM: Mr. Chairman.

11 CHMN. CHENAL: Member Bingham.

12 MEMBER BINGHAM: On line 8, the Governor's  
13 Office of Energy Policy no longer exists.

14 MEMBER HAENICHEN: Yeah, there is no office like  
15 that anymore.

16 MEMBER PALMER: Were they merged somewhere that  
17 handles that?

18 CHMN. CHENAL: Not really. Other cases that  
19 require that -- let's see. The Attorney General, and I  
20 mean I think we delete, after the Arizona Attorney  
21 General, we delete the reference to the Governor's  
22 Office of Energy Policy on line 8. I don't know if  
23 there is --

24 MEMBER WOODALL: Chairman, I have a suggestion.  
25 It is my understanding that the governor does have

1 policy advisors that assist him with energy and  
2 environmental matters. So perhaps the copy could be  
3 submitted just to the governor's office, and then they  
4 can determine where it needs to go.

5 CHMN. CHENAL: And that sounds reasonable,  
6 Member Woodall.

7 Okay. So Condition 25, lines 1 through 12 on  
8 page 16, do we have a motion?

9 MEMBER PALMER: I make a motion we approve  
10 Condition 25.

11 MEMBER HAMWAY: Second.

12 CHMN. CHENAL: Motion and second.

13 Any further discussion?

14 (No response.)

15 CHMN. CHENAL: All in favor say aye.

16 (A chorus of ayes.)

17 CHMN. CHENAL: Okay. That language is approved.  
18 Condition 26, lines 13 through 15 on page 16.

19 MEMBER NOLAND: Mr. Chairman, I move that we  
20 approve Condition 26.

21 CHMN. CHENAL: Second?

22 MEMBER HAMWAY: Second.

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

24 Any further discussion?

25 Member Woodall.

1 MEMBER WOODALL: And perhaps I can seek some  
2 guidance from Member Palmer. It says the applicant  
3 shall provide a copy of the certificate to the counties.  
4 And I am just wondering, should there be a particular  
5 body that should be identified here? Because I mean I  
6 don't know if it goes to the clerk's office. I don't  
7 know where these things go.

8 Would you recommend that we send them to boards  
9 of supervisors in the counties, or some other entity or  
10 the clerk or -- just so that it doesn't end up in the  
11 round file somewhere.

12 MEMBER PALMER: Good question. Probably could  
13 be the board of supervisors, make sure it got to where  
14 it needed to be.

15 CHMN. CHENAL: Member Palmer, can you put that,  
16 can you --

17 MEMBER PALMER: I would add that language where  
18 it refers to the counties, to the county boards of  
19 supervisors.

20 MEMBER WOODALL: Are we waiting for a second?

21 CHMN. CHENAL: No. We are looking at the  
22 language up on the screen, seeing if that's --

23 MEMBER WOODALL: I am sorry.

24 CHMN. CHENAL: I think County should follow the  
25 word Pinal, without the comma after Pinal.

1           Okay. So Condition 26, line 16 through 19 on  
2 page 16, with the language change that refers to the  
3 county board of supervisors for Cochise, Pima, and Pinal  
4 Counties.

5           Do I have a motion?

6           MEMBER NOLAND: So moved.

7           MEMBER WOODALL: For clarity of the record, are  
8 you referring to, on Exhibit 46, Condition 26, lines 13  
9 through 15?

10          CHMN. CHENAL: Yes. Excuse me.

11          MEMBER WOODALL: Thank you.

12          CHMN. CHENAL: Lines 13 through 15 --

13          MEMBER WOODALL: Thank you.

14          CHMN. CHENAL: -- on page 16. Excuse me. I  
15 made the cardinal sin of looking at the pagination on  
16 the screen.

17          So motion and second?

18          MEMBER HAMWAY: Second.

19          CHMN. CHENAL: Any further discussion?

20          MEMBER HAMWAY: Well, we have in one we already  
21 approved, 25, we have the counties of Pima, Pinal, and  
22 Cochise. Do we want to say the board of supervisors  
23 there, also? Requirement, on line 8, the requirement of  
24 compliance certification letter shall expire on the day  
25 placed into operation. Notification of such filing with

1 Docket Control should be made to counties, so to be  
2 consistent there.

3 CHMN. CHENAL: That's a clarification, Member  
4 Hamway. Let's go back to Condition 25.

5 MEMBER NOLAND: Mr. Chairman, we have a motion  
6 on the table. Can we finish that one?

7 CHMN. CHENAL: Yes. All right.

8 MEMBER HAMWAY: I went out of order.

9 MEMBER NOLAND: That's all right.

10 CHMN. CHENAL: Let's go back to 26. Do we have  
11 a motion and a second for the language of Condition 26,  
12 which is lines 13 through 15 on page 16?

13 MEMBER PALMER: We do.

14 CHMN. CHENAL: Okay. Any further discussion?

15 (No response.)

16 CHMN. CHENAL: All in favor say aye.

17 (A chorus of ayes.)

18 CHMN. CHENAL: Okay. Very good. And thank you,  
19 Member Noland.

20 Let's go back to 25, Condition 25. And we will  
21 look specifically at language on lines 10 through 12 and  
22 make a similar modification.

23 MEMBER NOLAND: Mr. Chairman, we have got this  
24 language throughout the CEC. I would just say that we  
25 should have the Chairman or the applicant make the

1 changes consistently throughout the document.

2 CHMN. CHENAL: Okay.

3 MEMBER WOODALL: Second.

4 CHMN. CHENAL: We will take that as a motion and  
5 a second.

6 All in favor say aye.

7 (A chorus of ayes.)

8 CHMN. CHENAL: I will ask the applicant to make  
9 those changes, you know, where applicable.

10 All right. 27, Condition 27, lines 16 through  
11 21 on page 16, let's take a second to read it.

12 Do I have a motion?

13 MEMBER PALMER: My recollection is that this is  
14 consistent with what we did with SunZia, which was a  
15 similar kind of project, and I would make a motion we  
16 approve this.

17 MEMBER NOLAND: Second.

18 CHMN. CHENAL: We have a motion and a second for  
19 Condition 27.

20 Any further discussion?

21 (No response.)

22 CHMN. CHENAL: All in favor say aye.

23 (A chorus of ayes.)

24 CHMN. CHENAL: Okay. The language of 27 is  
25 approved.

1 Condition 28, which is starting at line 22 on  
2 page 16 and continuing through line 5 on page 17, let's  
3 take a moment to read it.

4 Okay. Has everyone had a chance to review  
5 Condition 28?

6 (No response.)

7 CHMN. CHENAL: Okay. Do I have a motion?

8 MEMBER HAMWAY: I move we adopt Condition 28,  
9 line 22 on page 16 through line 5 of page 17.

10 CHMN. CHENAL: Do we have a second?

11 MEMBER WILLIAMS: Second.

12 CHMN. CHENAL: We have a motion and a second.  
13 Any further discussion?

14 (No response.)

15 CHMN. CHENAL: All in favor say aye.

16 (A chorus of ayes.)

17 CHMN. CHENAL: Language of 28 is approved.

18 Condition 29, lines 6 through 9 on page 17.

19 MEMBER NOLAND: Mr. Chairman, I move we adopt  
20 Condition 29.

21 MEMBER HAMWAY: Second.

22 CHMN. CHENAL: We have a motion and second for  
23 Condition 29.

24 Any further discussion?

25 (No response.)

1 CHMN. CHENAL: All in favor say aye.

2 (A chorus of ayes.)

3 CHMN. CHENAL: Okay. 29, language of 29 is  
4 approved.

5 Condition 30.

6 MEMBER WOODALL: Chairman, I would note this is  
7 another one where we talk about counties. So I am  
8 assuming these same changes would be made throughout the  
9 document as requested by Member Noland.

10 CHMN. CHENAL: Correct.

11 So do we have a motion to approve Condition 30  
12 with the reference to the board of supervisors for the  
13 reference to counties?

14 MEMBER WOODALL: So moved.

15 CHMN. CHENAL: Second?

16 MEMBER HAMWAY: Second.

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

18 Any further discussion?

19 (No response.)

20 CHMN. CHENAL: All in favor say aye.

21 (A chorus of ayes.)

22 CHMN. CHENAL: Okay. Language of 30, Condition  
23 30, is approved.

24 Now, 31 is one that I had submitted to the  
25 applicant to include for discussion. And that's line 15

1 through 17 on page 17. I just want to give just a --  
2 let's look at the language just for a second, see if we  
3 need to make any change.

4 Okay. The purpose of this condition, it goes  
5 back to the jurisdictional questions that we have  
6 wrestled with that WAPA is not -- has not filed an  
7 application because they are a federal agency and they  
8 will be owning and operating the WAPA line.

9 My view is, having looked at this fairly  
10 carefully and having gotten input from counsel at the  
11 Corporation Commission, I know that that, you know, may  
12 change when this, if this is approved and goes to the  
13 Corporation Commission, but my view, review of the case  
14 law is that a line owned and operated by WAPA does not  
15 have to obtain a CEC and go through our Committee.

16 And I believe that's historically accurate.  
17 There has been a case where WAPA was a participant, an  
18 earlier case, I believe it is Case 70, where WAPA was a  
19 participant. In that case, WAPA did not wholly own and  
20 operate the line. It was basically in the nature of a  
21 joint venture with other owners and operators, as I  
22 understand that case.

23 So in that case, WAPA was before this Committee  
24 as one of many participants in that line. The cases  
25 that have been cited by Mr. Jackson, specifically the

1 Colorado case that was, proceedings were described in  
2 attachments to -- there was a statement in writing, but  
3 could have been some other document he submitted, I  
4 believe are distinguishable because in that case, and I  
5 think Mr. James, I mean Mr. Guy kind of discussed that,  
6 WAPA was going to own the land or the rights-of-way, but  
7 the facilities would be owned by another, by a private  
8 entity.

9           So to me, this case, in this case, this issue  
10 came up early on. And we had in the prefiling  
11 conference, I had requested of the applicant's counsel  
12 to sort out what would be the role of WAPA on the WAPA  
13 line, and if anyone else would own an interest in it.  
14 And at one of the prehearing conferences before the  
15 hearing, there was a WAPA representative who actually  
16 appeared and said that they would own and operate the  
17 entire WAPA line.

18           And I think that has been the statement in  
19 writing that was submitted by the applicant on behalf of  
20 WAPA. It makes that representation as well. It is one  
21 of the exhibits -- well, it is a statement in writing.  
22 It is one of my exhibits. So to me, a lot of  
23 jurisdictional issues go away as long as WAPA owns and  
24 operates the line.

25           So it is a long way of saying since that has

1 been the continuous representation and avowal throughout  
2 this case, and has been depicted as such in the  
3 testimony and the application, I think this is an  
4 important condition that confirms that, that evidence.  
5 So that's the reason for it. Certainly willing to  
6 discuss it with people. But that's my -- I think that  
7 is an important condition that should be in this.

8 And I don't believe the applicant has an  
9 objection to 31. Is that correct?

10 MR. GUY: We would not object to including this  
11 condition.

12 CHMN. CHENAL: So let's treat this as the  
13 others. We will have discussion if we need to.

14 I will take a motion for Exhibit -- excuse me,  
15 Condition 31, lines 15 through 17 on page 17.

16 MEMBER WOODALL: So moved.

17 MEMBER HAMWAY: Second.

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

19 Any further discussion?

20 Any comments from the applicant?

21 (No response.)

22 CHMN. CHENAL: Okay. All in favor say aye.

23 (A chorus of ayes.)

24 CHMN. CHENAL: Okay. The language of 31 is  
25 approved.

1           32, Condition 32, lines 18 through 20 on  
2 page 17. This is another one. Okay. May I have -- we  
3 are going to have to change this language a little; we  
4 are probably going to want to add to it.

5           Let's have the discussion first before we move  
6 to the language. This requests the applicant, well, it  
7 requires the applicant to provide a copy of the CEC to  
8 WAPA, with a request that WAPA comply with any  
9 requirements set forth in any conditions in the  
10 certificate.

11           I won't belabor the record with the analysis of  
12 the cases that we discussed earlier on in this case.  
13 But to the extent, but there may be -- I believe that  
14 this Committee -- I believe that the state standards  
15 developed through this process that we are going through  
16 in this hearing apply to WAPA's, certain property on the  
17 right-of-way of the BLM right-of-way.

18           The unanswered question: So what do we do with  
19 that? Because WAPA is not a party. They don't need to  
20 be a party to this application. I think the case is a  
21 little unclear as to what the next step would be. It is  
22 1.5 miles of right-of-way that's impacted by this, the  
23 Federal Land Policy Management Act and the cases. So I  
24 don't know how we get to the next step to get WAPA to  
25 necessarily comply with these, any of these requirements

1 we have in here that are not already covered by their  
2 documents.

3 And I think this was a recommendation of Member  
4 Woodall.

5 MEMBER WOODALL: Actually, I don't think I had  
6 intended that there be a request that WAPA comply with  
7 any requirements set forth in any conditions in the  
8 certificate, because there are some requiring notice and  
9 filing, and I don't think we want WAPA to do that.

10 So I was looking for more, I think, language  
11 that would suggest that it was more of a cooperative,  
12 good faith, look at them carefully sort of a thing,  
13 because I don't think we can require a federal agency to  
14 do thing anything.

15 So I would look to the applicant to propose some  
16 language that would make it clear that we want you to  
17 take the certificate to WAPA and say we need you to help  
18 us ensure that the conditions can be met, just so that  
19 they are put on notice of it.

20 And I don't know what language you want to use,  
21 but I don't think we can -- I mean if you go and request  
22 them, that they comply with any of the requirements, you  
23 know, there is a lot of requirements in the CEC. So I  
24 am kind of suggesting that the applicant do a little  
25 draftsmanship here.

1 CHMN. CHENAL: Mr. Guy.

2 MR. GUY: No, absolutely. And I think it sounds  
3 like, from listening to the two comments, perhaps this  
4 condition is trying to do two things.

5 The legal issue that I believe the Chairman was  
6 referring to is one that we understand, of course, and  
7 was briefed in this case. And we certainly understand  
8 how state substantive standards might become applicable  
9 to WAPA, and we are willing to convey that information  
10 to WAPA and make sure they are aware of this  
11 certificate. And they can decide which parts of the  
12 certificate they believe they need to comply with under  
13 federal law.

14 The second purpose that it seems this is  
15 continuing to address, sounds like we need some  
16 additional language, and I think it is a good request  
17 and one we are happy to comply with. I think as we  
18 discussed earlier, Southline could have attempted to  
19 file this application for just a part of the project  
20 within the application. But it certainly would not have  
21 delivered the benefits that we believe the project has  
22 the ability to deliver now as far as reducing cost for  
23 WAPA's customers, allowing them to upgrade their system.

24 The Southline project as defined, I think, is a  
25 much better project than a -- with WAPA participating in

1 it in the way that Southline intends to participate with  
2 WAPA than it would be if just Southline filed what we  
3 have been calling the new build and CEC upgrade portion.

4 So all that to say we recognize that WAPA is not  
5 before the Committee, but we recognize also they went  
6 through the EIS process. We are familiar with the  
7 potential impacts of the entire project. And even  
8 referring back to Mountain View Ranch, I mean the  
9 applicant is committed to working WAPA. We believe the  
10 concerns there are very legitimate. And as I think you  
11 have probably seen through the conditions we have agreed  
12 to, we have gone out of our way to find ways to minimize  
13 impact on affected landowners.

14 And so we intend to, whether or not this  
15 condition is in here, we intend to go to WAPA, share  
16 with them the proposed conditions that Mountain View  
17 filed in the case -- I think they filed two or three  
18 filings -- and work with WAPA to see if there are things  
19 they can do to minimize impact on not only Mountain  
20 View, but other private landowners, because we think  
21 this is a project that we need WAPA's participation, and  
22 we would like to minimize impacts across the project.

23 So that's a long way of saying we can craft some  
24 language, if it is preferred, that requires Southline to  
25 communicate with WAPA and try to encourage minimizing

1 impact on landowners.

2 MEMBER WOODALL: That's kind of where I was  
3 coming from on this, but I don't know where the rest of  
4 the members are.

5 MEMBER HAMWAY: I think that sounds great.  
6 Thank you.

7 CHMN. CHENAL: Let's see if we can develop the  
8 language now.

9 MEMBER NOLAND: I am comfortable with us coming  
10 up with the language and deciding on it now than leaving  
11 it up to someone.

12 MEMBER WOODALL: I wasn't suggesting that. You  
13 know, I just thought you could be scrivening on the fly  
14 here, putting pressure on.

15 MR. GUY: Mr. Chairman, we have a couple of  
16 modified conditions.

17 CHMN. CHENAL: All right. Give me just a second  
18 to -- I am looking at Mr. Jackson's proposals, which we  
19 will get into next. I just want to be able to correlate  
20 his with what we already have in the record.

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

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

23 I think that was a nice break, Mr. Guy. You put  
24 up some additional language. If you could scroll up a  
25 little to pick up Condition 32, and just give us a

1 moment to read that.

2 All right. So 32 now would read: Applicant  
3 shall provide to WAPA a copy of this certificate, with  
4 the request that WAPA consider whether any requirements  
5 set forth in the conditions to the certificate  
6 constitute state substantive standards under the Federal  
7 Land Policy Management Act.

8 To me that sounds very reasonable, and I think  
9 accomplishes what the intent was in mind that was  
10 drafted in the hotel room Friday afternoon in Tucson  
11 when I was trying to get out to try and get back home.  
12 So I think it is an improvement.

13 But let's have a motion and second and any  
14 further discussion.

15 MEMBER PALMER: Motion to approve  
16 Condition 32.

17 MEMBER HAMWAY: Second.

18 CHMN. CHENAL: Motion and a second.

19 Any further discussion?

20 MEMBER WOODALL: As read into the record by the  
21 Chairman.

22 CHMN. CHENAL: Yes, as read into the record.

23 MEMBER WOODALL: Yeah, no further discussion.

24 CHMN. CHENAL: All in favor say aye.

25 (A chorus of ayes.)

1 CHMN. CHENAL: Okay. 32 as read into the record  
2 language is approved.

3 Now let's take a moment and review 33, which is  
4 revised, which I will read into the record. Applicant  
5 shall provide to WAPA the comments and proposed  
6 conditions filed by parties in this docket, including  
7 Pinal County, IEDA, and Mountain View Ranch, regarding  
8 the potential impact of the WAPA facilities within the  
9 upgrade section on those parties, and encourage  
10 cooperation, to the extent practicable, to minimize the  
11 project's potential impact.

12 MEMBER HAMWAY: I like that.

13 MEMBER NOLAND: Mr. Chairman.

14 CHMN. CHENAL: Member Noland.

15 MEMBER NOLAND: I move that we add that wording  
16 as Condition No. 33.

17 MEMBER HAMWAY: Second.

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

19 Any further discussion?

20 (No response.)

21 CHMN. CHENAL: All in favor say aye.

22 (A chorus of ayes.)

23 CHMN. CHENAL: Okay. Very good. The language  
24 for 33 is approved.

25 Before we get to the findings of fact and

1 conclusions of law, which I don't suspect will take  
2 long, I want to go back to some of the ones we have  
3 improved. The issue relates to Mr. Jackson's proposed  
4 conditions.

5 MEMBER WOODALL: Are all of them or --

6 CHMN. CHENAL: Well, let me pull out the  
7 documents and I will identify for the record what I will  
8 be referring to.

9 If the parties have the pleading entitled  
10 Supplemental Filing by Mountain View Ranch Regarding  
11 Certificate Conditions, it was marked as MVR-2. Mine  
12 is -- it was submitted the 5th day of December.

13 Now, there are a number of proposed conditions  
14 that I am just going to basically say I don't think we  
15 have the ability to adopt because they relate to the  
16 WAPA line going through the Mountain View Ranch  
17 development.

18 So I don't think -- for example, in that  
19 Mountain View Ranch Exhibit 2, what is listed on page 4  
20 of that document as SunZia No. 5, there is additional  
21 language that talks about applicant implementing the POD  
22 mitigation requirements to the entirety of the project,  
23 which would include the Mountain View Ranch property.

24 I mean we have covered that concept as much as  
25 we can. But there is some language in -- and I think

1 those comments apply to the additional second  
2 supplemental filing by Mountain View Ranch regarding the  
3 certificate of conditions which was filed today,  
4 December 7th, and copies of which have been provided to  
5 the Committee and the parties.

6 But I would like to go over three specific  
7 conditions, language in three specific conditions that  
8 may, with a little tweaking on one of the items we have  
9 already covered, may improve the conditions that we have  
10 already reviewed. And I am just going to go in order.

11 So the first one I would call out is on the  
12 earlier document, supplemental filing by Mountain View  
13 Ranch, Exhibit No. 2. On page 4 there is one that's  
14 called -- that he refers to as SunZia 8. And this has  
15 to do with radio and television interference. Bear with  
16 me.

17 Go to our 6. Go to the one we just reviewed as  
18 our Condition No. 6. I am going to ask Member Haenichen  
19 to weigh in on this.

20 Could I ask Ms. Livingston to scroll to, well,  
21 to No. 6. It is on page 10. All right.

22 The first sentence reads: The applicant shall  
23 make every reasonable effort to promptly investigate on  
24 a specific basis all complaints of interference with  
25 radio or television signals.

1           What Mountain View Ranch has suggested as  
2 additional: Applicant shall employ as reasonably  
3 practical methods to mitigate EMF, radio interference,  
4 and noise, including corona noise, within or near  
5 existing or platted residential areas.

6           I am not focusing on his language so much as  
7 specifying what types of radio or television signals  
8 could cause interference. So I was thinking of the  
9 following clause. After radio or television signals  
10 would be comma, including, but not limited to, EMF and  
11 corona noise. And I am just asking if that's necessary  
12 or not, including, but not limited to, capital E,  
13 capital M, capital F, and corona, C-O-R-O-N-A, noise,  
14 EMF and corona noise.

15           MEMBER HAENICHEN: Do you want me to comment on  
16 it?

17           CHMN. CHENAL: Yes, sir.

18           MEMBER HAENICHEN: Well, EMF simply means  
19 electromagnetic field. And transmission lines,  
20 particularly high energy lines like these, generate  
21 large fields in the vicinity of the line. And some  
22 would argue that the energy is not actually carried by  
23 the wire at all, but through the field. That's  
24 conjecture. But anyway, these are relatively low  
25 frequency events.

1           Now, there are harmonics that go up, but you are  
2 starting at 60 cycles. And even if you go to the nth  
3 harmonic, these frequencies are nowhere near what the  
4 frequencies of communication signals are. I mean they  
5 are away, a million to one away from where we are, at  
6 least 100,000. The concerns that the public seems to  
7 have had about the EMF is health issues, that they are  
8 inducing effects inside people's bodies and all. But  
9 these things fall off rapidly with distance. In all  
10 practicality, I personally don't think it is a big deal.

11           Now, the corona noise is a different thing.  
12 That's an arcing type of phenomenon which can have very  
13 high frequency harmonics. And the good news is that  
14 they don't travel very far because, you know, they are  
15 absorbed by a lot of things, including atmosphere.

16           But when you hear complaints about transmission  
17 lines inducing noise or, you know, for example, some  
18 kind of a mosaic effect of something on television  
19 pictures, that's due to that type of noise. That occurs  
20 primarily at the insulators. And if they are not  
21 properly maintained or kept clean or what have you,  
22 that's when you get arcing in there. It is to the  
23 benefit of the utility to do very careful maintenance on  
24 that, because you can damage the insulators, too. So as  
25 a practical matter, it is rare that this is a serious

1 effect to people watching TV.

2 CHMN. CHENAL: So if I could ask you, Member  
3 Haenichen, to look at the screen and the additional  
4 clause, including, but not limited to, those potentially  
5 caused by EMF and corona noise, if you believe that adds  
6 anything of value to the condition, or should we just  
7 not include that additional language.

8 MEMBER HAENICHEN: I don't see any harm in it  
9 being there, but I don't think it is necessary.

10 CHMN. CHENAL: Member Hamway.

11 MEMBER HAMWAY: I wanted to ask Jack a question.  
12 What kind of reasonable measures are there that  
13 you could mitigate such interference? I mean we have  
14 had these issues in the town, and I don't know, short of  
15 moving it or undergrounding, what those things are that  
16 you can use to mitigate. So that's what I am asking  
17 you, is how would you mitigate that.

18 MEMBER HAENICHEN: Just careful maintenance  
19 procedures and checking. That's why utilities are  
20 starting to use drones now to fly over lines and check  
21 them for that kind of stuff. But from a physics point  
22 of view, there is nothing you can do about it, really.

23 CHMN. CHENAL: Okay. I guess from Member  
24 Haenichen's expertise that additional language really  
25 doesn't add anything to the condition, so I am not going

1 to suggest that we add it. So if we could just delete  
2 that additional language.

3 Now, I had just a couple more. These won't take  
4 long, but I think these next two are a little more  
5 important in my mind, especially the second one. The  
6 first one would be what is in the filing today by  
7 Mr. Jackson. If you go to page 2 of what he filed  
8 today, under Supplemental Condition Request No. 18, and  
9 specifically number 1, if you look at number 1, it  
10 starts with the ROW needs and specific ROW location. It  
11 is the last couple -- it is the last clause, are  
12 negotiated in good faith.

13 And I want to refer the Committee then, it is  
14 the negotiating in good faith concept. Okay? And look  
15 at our 13. So if I could ask that No. 13 be placed.  
16 And let me give you my thought on this, and we will have  
17 the same kind of discussion if it is worth worrying  
18 about changing or modifying or not.

19 No. 13, the way it currently reads, basically  
20 the concept is within 120 days, applicant will make good  
21 faith efforts to commence discussions with owners on  
22 specific right-of-ways and, you know, placement of  
23 items.

24 The thought that I had of including the  
25 additional language where it says on line 3 shall make

1 good faith efforts to commence discussions and negotiate  
2 with private landowners and negotiate, yeah, good faith  
3 efforts to commence and negotiate with, it is adding the  
4 concept of good faith, not just to start the  
5 conversation, but to actually negotiate the agreements  
6 in good faith. And I think that is just a little  
7 different than just talking. I think it is an  
8 additional concept that adds a little more oomph to what  
9 I think the intent of this condition is.

10 MEMBER WOODALL: So do I understand correctly  
11 that what you are suggesting is that we consider  
12 Supplemental Condition Request No. 18, applicant shall  
13 use good faith efforts to secure WAPA's agreement to the  
14 conditions issued for this CEC, comma, and to the  
15 following terms and conditions, for all portions of the  
16 upgrade section of the project, paren, i.e., comma,  
17 Apache to Tucson, close paren, colon?

18 CHMN. CHENAL: No.

19 MEMBER WOODALL: Is that what you are saying?

20 CHMN. CHENAL: No.

21 MEMBER WOODALL: And then say, 1, the  
22 right-of-way easement specific? So I am not exactly  
23 sure what you are proposing.

24 CHMN. CHENAL: Yeah, I am not suggesting we use  
25 any language --

1 MEMBER WOODALL: Oh, I am sorry.

2 CHMN. CHENAL: -- of what Mr. Jackson has filed.  
3 I am just looking at the concept of negotiating in good  
4 faith that he refers to, and taking that concept and  
5 adding it to our No. 13.

6 MEMBER WOODALL: Well, this 13 applies to the  
7 applicant, and I think what Mr. Jackson was referring to  
8 is he wanted the applicant to try to put the arm on WAPA  
9 to agree to these provisions. And I think those are two  
10 separate things.

11 CHMN. CHENAL: Yeah. And let's not confuse the  
12 two concepts here. I am not trying -- I understand what  
13 Mr. Jackson is trying to do. It isn't going to work in  
14 this case. Okay. Stop. New page.

15 The concept of negotiating in good faith, I  
16 think it is an excellent concept that ought to be  
17 applied to what we already adopted preliminarily as our  
18 13. And the way No. 13 reads is that the applicant will  
19 make good faith efforts to commence discussions with  
20 landowners.

21 I am suggesting that the applicant should do  
22 more than just commence in good faith the discussion,  
23 but it should negotiate the right-of-way agreements in  
24 good faith. And that's a separate and a more, I think a  
25 more complete concept, if I am making sense to the --

1           MEMBER WOODALL: How would -- I am sorry. What  
2 is the difference between discussions and negotiations?  
3 That's what I don't understand. I mean I would have  
4 thought that discussions would include the negotiations,  
5 but do you perceive them as separate?

6           CHMN. CHENAL: I --

7           MEMBER WOODALL: You do.

8           CHMN. CHENAL: Maybe we need to make it a little  
9 more clear. Applicant should make good faith efforts to  
10 commence discussions and negotiate right-of-way  
11 agreements in good faith with private landowners. I am  
12 talking about the negotiation of the right-of-way  
13 agreements with the landowners.

14          MR. GUY: Mr. Chairman, just a couple of  
15 comments, sort of brain session to incorporate your  
16 comments. We have a couple concepts.

17           13 is largely a timing paragraph. If you kind  
18 of think of the concept, it is within 120 days we want  
19 the applicant to start talking to landowners about the  
20 potential impact to their property. 14 is a discussion  
21 about -- maybe it makes more sense.

22          CHMN. CHENAL: Maybe in 14 the concept of  
23 negotiating the right-of-way agreement. Sorry, doing  
24 this on the fly as well. But that's the idea, that  
25 there could be good faith negotiations for the

1 right-of-way. Maybe 14 is the better condition.

2 Yes, I think that captures the thought. That  
3 captures the thought that I inarticulately was trying to  
4 express. But to me that adds something more than what  
5 we have in conditions. I mean in the law that means  
6 something, the obligation to act in good faith. Okay.

7 Yes. I would like a motion.

8 MEMBER PALMER: To kick the discussion off, I  
9 make a motion that we amend Condition 14 to include the  
10 language that has been read into the record, and  
11 negotiate such right-of-way agreements in good faith.

12 MEMBER HAMWAY: Second.

13 CHMN. CHENAL: Okay. We have a first -- we have  
14 a motion and a second.

15 Any further discussion?

16 Member Woodall.

17 MEMBER WOODALL: I know there is some discussion  
18 on the record that it was conceivable that WAPA or  
19 Western might actually do the right-of-way acquisitions  
20 out here. So I note that this Commission, just for  
21 clarity of the record, would impose these requirements  
22 on the applicant, if the applicant is the one that's  
23 going to be acquiring right-of-way. And there was some  
24 discussion that it was conceivable that Western might do  
25 that.

1           And I just note that for the record. I don't  
2 have any -- I am not suggesting that we change any  
3 language, but...

4           MR. GUY: And it is certainly Southline's intent  
5 to negotiate right-of-way agreements in good faith. And  
6 we tried to implement a number of conditions to show  
7 that sincerity of that belief. And, you know, we are  
8 still -- there is evidence in the record that there is  
9 the possibility that WAPA could assist with right-of-way  
10 acquisition. That potentially could include  
11 condemnation, but that would be an absolute last resort.  
12 And so I think this kind of language does help encourage  
13 the applicant to do what is right.

14           MEMBER WOODALL: I have no objection to the  
15 language as moved and seconded.

16           CHMN. CHENAL: Okay. Thank you.

17           Any further discussion?

18           (No response.)

19           CHMN. CHENAL: All in favor say aye.

20           (A chorus of ayes.)

21           CHMN. CHENAL: Okay. One more. And that is  
22 Mr. Jackson's last supplemental request, No. 20 on  
23 page 3 of what he submitted today. And I will tie that  
24 back to our 29.

25           Now, I think this is an important distinction.

1 What Mr. Jackson is suggesting is that the certificate  
2 conditions be, well, be binding on affiliates,  
3 successors, assigns, contractors, and lessees. Okay?  
4 So that's important, contractors, subcontractors, people  
5 doing the work.

6 The Condition 29, you know, covers some of that,  
7 but not all of it. It refers to where there is a  
8 transfer or assignment of the certificate. So I think  
9 it would beef up 29 to make that a little more  
10 expansive. And maybe the first sentence of what  
11 Mr. Jackson -- well, the first two sentences in what  
12 Mr. Jackson has in his last, in his 20, I think for  
13 purposes of discussion, would be something we should  
14 consider.

15 And I would suggest that if we could add the  
16 language on the screen, let's add the language on the  
17 screen and see how it reads and then have the  
18 discussion. It would be the first two sentences. We  
19 can talk about the third one.

20 But the first sentence would be: The  
21 certificate conditions shall be binding on affiliates,  
22 successors, assigns, transferees, agents, contractors,  
23 and lessees of applicant.

24 And the next sentence: Applicant shall provide  
25 in any agreements or leases pertaining -- maybe to the

1 project is not the proper; it should be more limited to  
2 pertaining to the CEC route -- that the contracting  
3 parties and/or lessees shall be responsible for  
4 compliance with the conditions set forth herein.

5 Let's get that up on the line. Then we will  
6 have the discussion.

7 MEMBER NOLAND: Mr. Chairman, I have a comment  
8 about this. We have never done this, and I would almost  
9 need some legal advice to know if we can bind lessees  
10 and can we bind contractors. I am not comfortable with  
11 this particular --

12 MEMBER WOODALL: I share your concerns, Member  
13 Noland.

14 MEMBER HAMWAY: And one comment, if we change  
15 project to CEC route, it excludes Mountain View Ranch.

16 CHMN. CHENAL: Well, yeah. I am not sure we  
17 can --

18 MEMBER HAMWAY: I know, but that's why we put it  
19 in here.

20 CHMN. CHENAL: I understand. Sure. Absolutely.  
21 Yeah, I have got some comments, but go ahead.

22 MR. GUY: I don't want to interrupt.

23 CHMN. CHENAL: No, go ahead.

24 MR. GUY: Yeah. I, too, would be troubled with  
25 a suggestion that this order is somehow binding on

1 entities that aren't before the Committee. But perhaps,  
2 I mean I think ultimately the applicant is responsible  
3 for complying with the certificate. And so I think the  
4 language we have in there, and there is also language,  
5 by the way, up at the beginning on page first or second  
6 that talks about granting the certificate to the  
7 applicant, successors, and assigns --

8 CHMN. CHENAL: Can you point to that?

9 MR. GUY: Yes. Exhibit STL-46, page 3, line 7  
10 and 8. And I only point this out because I know this  
11 general granting language and this language in the  
12 condition that we are considering revising here,  
13 paragraph 29, I think those are two examples where these  
14 are largely boilerplate language from prior CECs. That  
15 doesn't mean we can't. We are obviously happy to change  
16 the language.

17 CHMN. CHENAL: Where is the language you just  
18 read?

19 MR. GUY: Page 3. It is in the sentence where  
20 we have blanks --

21 CHMN. CHENAL: Line 7.

22 MR. GUY: -- for the vote, line 7 and 8.

23 MEMBER HAENICHEN: STL-46?

24 MR. GUY: Just to finish --

25 CHMN. CHENAL: Go ahead.

1 MR. GUY: Just to finish the comment, I think  
2 Southline, and I think any applicant before the Line  
3 Siting Committee, would admit it is the applicant's  
4 obligation to comply with the certificate. To the  
5 extent it hires a construction contractor or hires a  
6 right-of-way agent or some other vendor to perform  
7 certain work for it, then it would be ultimately the  
8 responsibility of the applicant to ensure that those  
9 vendors complied with the certificate. So that's  
10 different than saying the certificate applies to those  
11 parties.

12 CHMN. CHENAL: That's -- again, I am catching  
13 this on the fly, I am thinking concepts. I really  
14 haven't -- I am not disagreeing with any of the comments  
15 made. And I think that's a fair comment. But how would  
16 the applicant do that? Would it -- let me collect my  
17 thoughts here. Would it provide in its agreements with  
18 its subcontractors, for example, that the subcontractors  
19 would comply with the conditions?

20 MR. GUY: I think that concept could be included  
21 as a way that sort of improves a form CEC like this. I  
22 think that the Line Siting Committee, the certificate  
23 could require an applicant to provide a copy of the  
24 certificate and, you know, include in the contract with  
25 its subcontractors the substance of these conditions. I

1 suppose that's something that would be reasonable.

2 CHMN. CHENAL: Yeah, I think that is something  
3 we should consider.

4 MEMBER WOODALL: Chairman.

5 CHMN. CHENAL: I would agree that the  
6 certificate being binding on -- well, let me, if I can  
7 just finish my thought here.

8 If we are saying it is not binding, if we are  
9 saying it is not binding on parties that are not here,  
10 but we have language in it already that says that any  
11 successor or assign shall, will have to comply with the  
12 provision of the CEC, I mean the reach of the CEC does  
13 kind of extend a little beyond the applicant in a sense.

14 But this isn't one that we are going to fall  
15 on -- I am not going to fall on a sword for a sentence,  
16 but the concept of having the applicant make these  
17 conditions apply to its agents, subcontractors, for  
18 example, I think is a reasonable concept to discuss.

19 Member Woodall.

20 MEMBER WOODALL: And I am sorry I interrupted  
21 you midstream.

22 We have got a Condition 26 that says applicant  
23 shall provide a copy of this certificate to both of the  
24 county boards of supervisors, et cetera, et cetera. Why  
25 don't we just add, and its contractors working on this

1 project, or something along those lines. Then they have  
2 it. I don't think --

3 CHMN. CHENAL: They have it, but my -- what I am  
4 talking about is it be in the agreement, they be  
5 contractually required to follow these conditions. It  
6 wouldn't just be they have a copy of them. They would  
7 actually, in the contract, for example, between the  
8 applicant and subcontractor -- there is going to be a  
9 lot of contracts -- subcontractor would be required to  
10 follow the conditions.

11 MEMBER BINGHAM: Mr. Chairman, the contractors  
12 are going to be operating on behalf of the applicant.  
13 The applicant has the sole responsibility. I think it  
14 is implied that the contract that the applicant enters  
15 with these contractors is to ensure compliance with this  
16 certificate. I am not seeing a need to go further than  
17 that.

18 I hear the argument being presented. I just  
19 don't think we need to go that route. I think it is  
20 pretty clear the applicant has the burden, and should a  
21 subcontractor fail to meet a condition, then they failed  
22 to meet the condition of the certificate, which now  
23 carries the weight of noncompliance. Point taken with  
24 the argument; I just don't think we need to go to that  
25 level of specificity.

1 CHMN. CHENAL: Well, I don't like anything to be  
2 implied. I think the thing should be expressed. We  
3 know that SU FERC is going to come into the picture here  
4 pretty soon. I don't know exactly what their role is  
5 going to be. My recollection is on the evidence they  
6 are going to play a major role on this line. And I am  
7 not sure how much they are going to be responsible for  
8 construction of this.

9 But, I mean I am not saying this is happening in  
10 the Southline case, but just imagine, if you will, we  
11 have an applicant, not this applicant necessarily, but  
12 an applicant could, as soon as we provide a CEC, sell  
13 the project to another group who comes in and starts to  
14 do the construction.

15 So, you know, I want to make sure that the folks  
16 who are doing the work are bound by these conditions,  
17 and I think just giving them a copy of it isn't going to  
18 require that. And I just think that this is important  
19 enough to add a little more than just what is here,  
20 but --

21 Member Noland.

22 -- that's why we are having the conversation.  
23 It is a good conversation.

24 MEMBER NOLAND: And Mr. Chairman, I think it is  
25 a good conversation; I don't think this is the time to

1 have it. I think the time to have it is maybe we get  
2 some kind of opinion from the ACC's Staff or someone  
3 else. But trying to -- we have gotten through many  
4 projects with this same language, with the assigns and  
5 successors, and there has not been a big problem with  
6 it.

7 I think at this point, where we have already  
8 gone through these conditions and this is a new kind of  
9 an extension of trying to micromanage this, I am just  
10 not comfortable with it. I am having a problem with it.  
11 And I am sorry --

12 CHMN. CHENAL: That's all right. That's why we  
13 are --

14 MEMBER NOLAND: -- but I don't have time to go  
15 call someone or get a legal opinion or figure this out,  
16 and that's why I don't like to have these things at the  
17 last of the hearing before we are ready to approve.

18 CHMN. CHENAL: Let's change the language up on  
19 the screen, because I think part of the heartburn is the  
20 first sentence. So let's take out the first sentence.  
21 Let's hold that for a second.

22 And then, yeah, change it to CEC route, and then  
23 a period after conditions set forth herein, after the  
24 word herein a period.

25 And then let me first ask the applicant if they

1 have heartburn over this provision.

2 MR. GUY: The concept is something that I think  
3 we would not object to. I don't think this language is  
4 quite doing it yet. And I already mentioned, as an  
5 example, I believe there is actually testimony in the  
6 record, that one of the purposes of developing the PCEMs  
7 the way we did was that those PCEMs could be dropped  
8 into construction contracts as an exhibit as a way to  
9 hold contractors responsible for -- and that's actually  
10 part of the problem, is I used the same loose language.

11 I don't think we want an order or a certificate  
12 that says we are holding a subcontractor responsible to  
13 that extent. Going to Member Bingham's point,  
14 absolutely it is to the applicant's advantage to hold  
15 its subcontractors responsible for complying with the  
16 conditions from a contractual matter.

17 And so perhaps the concept that I think is being  
18 discussed is should this certificate require the  
19 applicant to include those sorts of contractual risk  
20 allocation principles in the contract. And I haven't  
21 consulted with my client on this, but my impression is  
22 if we have the right language, I don't know that we  
23 would have heartburn about or objections over that. But  
24 I don't think we have got that language yet.

25 CHMN. CHENAL: Member Woodall.

1           MEMBER WOODALL: I share Member Noland's  
2 concerns. And I personally don't want to get involved  
3 in their contracting practices. They are the ones that  
4 are responsible for compliance with the conditions. If  
5 they are going to transfer the CEC, pursuant to statute  
6 they can do it if the recipient agrees to comply with  
7 the conditions. So I don't -- I am not concerned, and  
8 so I am not comfortable with this language either.

9           CHMN. CHENAL: I would just like to hear from  
10 the other Committee members on the concept, not the  
11 language, if this is worth pursuing. If this is a  
12 concept that's not going to go anywhere, then we will  
13 drop it.

14           I think there is a difference between making the  
15 applicant responsible for work that's going to be done  
16 by everyone other than the applicant, which is what is  
17 going to happen here. I mean Southline is not going to  
18 be constructing any of this. And I know they are going  
19 to be responsible for it, but to me, having contractual  
20 provisions in the contracts with the folks doing the  
21 work where they agree to follow these conditions is  
22 different than the way the condition reads now.

23           Now, I think it is important. But I would like  
24 to hear from other Committee members if they feel that  
25 way, if it is worth pursuing language that would be more

1 acceptable to the applicant, or if we don't, so...

2 So Member Hamway.

3 MEMBER HAMWAY: I just have a question. So in  
4 your example you said what if Southline sells this  
5 tomorrow. So is that condition covered in this?

6 CHMN. CHENAL: I think that one is covered in  
7 any transfer or assignment of the project.

8 MEMBER HAMWAY: So all we are talking about then  
9 are subcontractors.

10 CHMN. CHENAL: That's really what I am thinking  
11 about. The subcontractors who -- because Southline is a  
12 developer. They are not going to be -- you know, they  
13 are going to be contracting or other folks will be  
14 contracting. And I just -- you heard what I had to say.

15 MEMBER HAMWAY: Yeah.

16 CHMN. CHENAL: Member Williams.

17 MEMBER WILLIAMS: Well, I am not an attorney  
18 and I don't play one on TV. But based on the comments  
19 of Committee Members Noland and Woodall, I agree with  
20 what they are saying. To me it is common sense that we  
21 wouldn't need this in the --

22 CHMN. CHENAL: Member Haenichen.

23 MEMBER HAENICHEN: The other thing that occurs  
24 to me is, if you put sort of steer conditions like this  
25 on the subcontract, that may be difficult to get people

1 to bid on this and may cost more.

2 What does the applicant think about that?

3 MR. GUY: Sorry. I was typing at the same time  
4 as the question. But what is the applicant's feeling on  
5 if we are adding these sort of obligations onto the  
6 subcontractor to increase the cost of the project,  
7 and --

8 CHMN. CHENAL: They are going to have to follow  
9 them anyway.

10 MR. GUY: I think the applicant complies  
11 regardless. I think the applicant is going to -- I  
12 mean, again, it would be prudent for the applicant to  
13 include in any contract conditions that require the  
14 subcontractor, acting as the agent of the applicant, to  
15 comply with these conditions. So I think we have sort  
16 of got other jurisdictions or other areas of the law  
17 that take care of this.

18 I am not troubled, again, if we are able to come  
19 up with some language that sort of requires that -- what  
20 we are really doing is requiring the applicant to be  
21 prudent in its negotiating in its contracting with its  
22 subs. And I don't know -- we certainly wouldn't object  
23 to that kind of concept. I just don't know that it is  
24 necessary.

25 CHMN. CHENAL: I am not feeling a lot of love on

1 this provision. I am not going to fall on my sword on  
2 it.

3 I don't disagree with the idea that this is  
4 probably not going to be an issue in this case. But I  
5 will let the Committee know that in other cases, without  
6 the good faith that I have seen in this applicant, I  
7 think this is a very, very important point. And I think  
8 we have absolutely the authority to put this in here.  
9 But we will use that for another day. So let's take out  
10 that additional language up there. And I base that on a  
11 lot of lawsuits I have handled over this very issue, by  
12 the way. We will take out that language and just keep  
13 it the way we had it, starting with any transfer or  
14 assignment.

15 Now, let's go back to the final part, which may  
16 be anticlimactic, but is really the heart of it. The  
17 findings of fact and conclusions of law, starting on  
18 page 17 on line 22. Again, I am referring to Exhibit  
19 STL-46.

20 Let's take them one at a time. I think Member  
21 Noland had suggested that for conditions. Let's do it  
22 for this. So findings of fact, conclusions of law,  
23 lines 21 through 25, which include the introductory  
24 sentence and Finding of Fact No. 1. Do we have --

25 MEMBER HAENICHEN: Looks good to me. I would

1 move it.

2 CHMN. CHENAL: We have a motion.

3 MEMBER HAMWAY: Second.

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

5 Any further discussion on the introductory  
6 sentence, line 22 and Finding of Fact No. 1 through line  
7 25?

8 (No response.)

9 CHMN. CHENAL: All in favor say aye.

10 MEMBER WOODALL: Pass.

11 CHMN. CHENAL: Let's go to Finding of Fact  
12 No. 2, starting on line 26 through 28 on page 17. Do I  
13 have a motion?

14 MEMBER NOLAND: I move we adopt Finding of Fact  
15 No. 2.

16 MEMBER HAMWAY: Second.

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

18 Any further discussion?

19 (No response.)

20 CHMN. CHENAL: All in favor say aye.

21 (A chorus of ayes.)

22 MEMBER WOODALL: Pass.

23 CHMN. CHENAL: Okay. Language for Finding of  
24 Fact 2 is approved.

25 Let's go to the top of page 18, lines 1 and 2

1 for Finding of Fact No. 3. Do I have a motion?

2 MEMBER PALMER: Motion to approve.

3 MEMBER NOLAND: Second.

4 CHMN. CHENAL: We have a motion and second for  
5 Finding of Fact 3.

6 Any further discussion?

7 MEMBER WOODALL: I would just note that we are  
8 talking about the conditions in the CEC route to  
9 minimize the project's impact. And as we know, the  
10 project includes the WAPA portion. So I will be passing  
11 on this particular condition.

12 CHMN. CHENAL: Member Woodall, is there any  
13 language you would suggest for Finding of Fact 3 that  
14 would alleviate your concern or think it could be stated  
15 better?

16 MEMBER WOODALL: I mean because of the way the  
17 application has been framed, and it has been for the  
18 entire project, my concern is we are making findings of  
19 facts and conclusions of law with respect to the  
20 entirety of the project. And since the entirety of the  
21 project was not before us, I have concerns for myself  
22 about making any findings about the project in toto.  
23 And that's just where I am coming from, so I will just  
24 pass on all this language that talks about project.

25 CHMN. CHENAL: I am looking at Mr. Guy. I am

1 not sure. I understand the concern, and maybe there is  
2 a way to tailor this a little tighter, but it is not  
3 coming to me. Maybe you have some thoughts on that, or  
4 if we even need to.

5 MR. GUY: I think I understand the issue Member  
6 Woodall has raised, and I have thought about it. And I  
7 believe language we have in here is the language we  
8 believe we need. And I think the evidence supports it.

9 The problem is if we try to slice it in a way  
10 that, although we are asking for a CEC for the portion  
11 of the project that Southline will own and operate, much  
12 of the evidence you heard talks about the benefits of  
13 the project overall. There was also, there is extensive  
14 evidence, actually, in the record of the effect on the  
15 environment of the whole project, even though that's not  
16 necessarily a finding.

17 The EIS, the multi-hundred page, the thousand  
18 page document we have talked about a number of times  
19 studied the entire project. Now, for purposes of the  
20 CEC application, we segregated that so what was  
21 presented in the application itself, less the exhibits,  
22 focused on this CEC route part so that we made sure we  
23 had the right environmental impacts before the  
24 Committee.

25 But certainly the benefits of the project, the

1 need for the project, the need for the project, and  
2 that, those relate to the project. And so on these  
3 balancing tests, I believe it is appropriate to make  
4 this kind of a finding.

5 CHMN. CHENAL: Any -- Member Noland.

6 MEMBER NOLAND: Mr. Chairman, I move we adopt  
7 Condition -- Findings of Fact and Conclusions No. 3.

8 CHMN. CHENAL: Do we have a second?

9 MEMBER PALMER: I will second that.

10 CHMN. CHENAL: Any further discussion on Finding  
11 of Fact No. 3?

12 (No response.)

13 CHMN. CHENAL: All in favor say aye.

14 MEMBER WOODALL: Pass.

15 MEMBER HAMWAY: Pass.

16 CHMN. CHENAL: Okay. The ayes have it. No. 3,  
17 the condition is -- the finding of fact, the language is  
18 approved.

19 No. 4 Finding of Fact, lines 3 through 6 on  
20 page 18. Let me take a moment.

21 Okay. So Finding of Fact 4, lines 3 through 6.

22 MEMBER PALMER: I make a motion we approve  
23 Finding of Fact 4.

24 MEMBER NOLAND: Second.

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

1 Any further discussion?

2 MEMBER WOODALL: I have the same concerns for  
3 all the conditions that reference the reference to the  
4 entirety of the project. So I will be voting pass on  
5 this one.

6 MEMBER HAMWAY: I agree with Member Woodall.

7 CHMN. CHENAL: And Member Hamway, is there any  
8 language that --

9 MEMBER HAMWAY: You know --

10 CHMN. CHENAL: -- you would have that might  
11 alleviate your concerns?

12 MEMBER HAMWAY: The concern for -- the applicant  
13 has said he needs the word project in there. But if you  
14 change it, the word project to CEC route, I don't think  
15 it achieves what they want to achieve.

16 MR. GUY: And if I may, in consulting, in kind  
17 of looking at these, I believe actually on No. 3 we  
18 probably could change the word project to CEC route,  
19 because that -- you know, look, comparing that to No. 5,  
20 for example, No. 5 talks about the condition -- well, 3  
21 and 5 -- the conditions that are being imposed on the  
22 certificate go to minimizing any potential impact on the  
23 CEC route.

24 So I think it probably is, or at least could be,  
25 more accurate in No. 3 if we change project to CEC

1 route, if that would make sense, if that's helpful to  
2 those members who may be troubled by the language.

3 MEMBER WOODALL: It is not helpful to me,  
4 Mr. Guy.

5 MEMBER BINGHAM: Mr. Chairman.

6 CHMN. CHENAL: Yes, Member Bingham.

7 MEMBER BINGHAM: Given that I had raised the  
8 issue with project earlier, the reason I am not having  
9 an issue with the findings of fact, conclusions of law,  
10 each one of these paragraphs still links back to the  
11 environment and ecology of this state.

12 So to me, even though we are talking about  
13 overall project, it is clear in these for me, just for  
14 the record, why I am silent on this. The fact that it  
15 is linking it back to the state cures the issue for me.  
16 I am comfortable with the use of project in these  
17 paragraphs.

18 CHMN. CHENAL: Member Hamway, I know we are  
19 still on 4, but if we deviate back to 3 for a moment,  
20 and Mr. Guy's suggestion or offer to remove project and  
21 insert CEC route, would that alleviate your concern on  
22 No. 3?

23 MEMBER HAMWAY: Well, I think it is better,  
24 but...

25 I guess just because I am fairly new to this,

1 what do the conditions and facts and findings, what kind  
2 of weight do those play in this whole thing? I mean, do  
3 they supersede any of the conditions? I guess I don't  
4 really understand how they are weighted in all of this?  
5 And maybe it doesn't matter.

6 CHMN. CHENAL: Member Woodall.

7 MEMBER WOODALL: My past experience would  
8 suggest that it is the entirety of the CEC that will be  
9 evaluated by the Commissioners. And they can give  
10 whatever weight they want to the statements that are in  
11 it, the conditions that are proposed, and they can  
12 approve, deny, or modify anything in whatever CEC might  
13 eventually be issued. Is that helpful?

14 So I don't know how they are going to weight  
15 them. That's a decision they are going to make. The  
16 mere fact they were framed as such does not make them,  
17 in my view, legally special or more important than other  
18 provisions, but that's just how I am perceiving it.

19 The Commission can go through this and can say  
20 no, we don't agree with that, no, we don't agree, no, we  
21 don't want that condition, no, we want this condition to  
22 be this way. They can go through the whole thing and do  
23 whatever they need to as long as there is evidence in  
24 the record to support it.

25 MEMBER HAMWAY: Okay. So are the conditions of

1 fact and finding an absolute requirement of a CEC?

2 MEMBER WOODALL: I think the statute --

3 CHMN. CHENAL: I think they are, yes. I would  
4 say the answer is yes.

5 MR. GUY: Mr. Chairman, I guess as we have sort  
6 of discussed off the record, too, I think we would  
7 actually request that we go back on No. 3 and revise  
8 project to CEC route. I actually think that is more  
9 accurate in No. 3, even if it doesn't relieve the  
10 concern of certain Committee members, I think it is more  
11 accurate to say CEC route.

12 CHMN. CHENAL: Let's finish 4, see if there is  
13 any changes we need to make or can make to 4, and then  
14 we will go back to 3. But on 4 --

15 MEMBER NOLAND: Mr. Chairman.

16 CHMN. CHENAL: Yes.

17 MEMBER NOLAND: Did you say you have to have  
18 project in there? Do you have to have project in No. 4?

19 CHMN. CHENAL: No, ma'am. In fact, that's what  
20 I am looking at now, and I am going to ask the applicant  
21 if project needs to be there versus some other language.

22 MEMBER NOLAND: Because it seemed like at least  
23 in No. 4 the need, if you said the need with its impact  
24 on the environment and ecology, you get project out of  
25 there, my feeling is project is saying project here.

1 But what we are really looking at and what we are  
2 talking about in the findings of fact is that which has  
3 been testified before us today, and all the other days.  
4 That's what we are talking about.

5 This has been very difficult with this  
6 bifurcated process to use the right language. But I  
7 think we have -- the record is clear what we have  
8 deliberated and decided and the evidence that we have  
9 heard and received and the exhibits.

10 So to have us hung up on this word when I know  
11 there is going to be something there that will satisfy,  
12 I think, will satisfy everyone, we just haven't figured  
13 it out yet, and now we are probably so rummy at this  
14 point -- I am, I am going to speak for myself -- that I  
15 can't come up with the best wording.

16 CHMN. CHENAL: Okay. I am going to suggest  
17 something before I turn it over to Member Woodall that  
18 might alleviate some of the concern that's being  
19 expressed. The more I have been thinking about it and  
20 hearing the comments, the more I am uncomfortable with  
21 the broad brush of this certificate blessing the  
22 project, where we have only heard that portion of the  
23 project within the CEC route.

24 In other words, looking back to No. 1, the  
25 project aids the state in meeting the needs for, you

1 know, reliable electric power. I don't think -- I am  
2 not sure that was really -- I am not sure we are in a  
3 position to say that, because we didn't hear evidence on  
4 the project, all of it. We just heard evidence on part  
5 of it.

6 MR. GUY: And I think that is actually the only  
7 evidence you heard with respect to need. When we talked  
8 about the need and the benefits of the project, that's  
9 the evidence you heard. Now, when we talked about -- so  
10 we are separating need from the environmental impact.

11 So with respect to No. 1, for example, you know,  
12 I said, you know, No. 1, No. 2, and 4, it is discussing  
13 both. And in 5 it is discussing both. All of the  
14 evidence you heard with respect to the need and the  
15 benefits of the project related to the project. Because  
16 it talked about upgrading the WAPA line, it talked about  
17 providing additional interconnections with other  
18 utilities.

19 And this goes back to the question we had with  
20 the witness panel yesterday or day before, where we  
21 talked about, well, could we have filed the application  
22 as two different projects. Well, we could have, but it  
23 would have been a different application, because we  
24 would have -- you would not have had the kind of  
25 evidence on need that you had in this case.

1 I don't know that you have a lot of evidence, if  
2 any evidence, on the need that is addressed by just the  
3 CEC route. Think back to Mr. Patterson's presentation.  
4 He is talking about the project, and that includes the  
5 participation of WAPA in upgrading their line.

6 So I think when we look at these findings of  
7 fact and conclusions of law, what the evidence supports  
8 is that there is a need for the overall project,  
9 Southline portion, WAPA portion; the Southline portion,  
10 WAPA portion provide the benefits to the state. They  
11 are the ones that relieve congestion. Both lines is  
12 what increases reliability.

13 But I am convinced by the comments that have  
14 been made about when we are talking about the effect on  
15 the environment, we need to be saying CEC route. And I  
16 think that's why, as we had this discussion, I think the  
17 word project in paragraph 3 should be changed to CEC  
18 route.

19 I think in paragraph 4, line 4, where it talks  
20 about the need for the project with its impact on the  
21 environment, I think it should be replaced with the CEC  
22 route. There is going to be a suggestion I was going to  
23 make there. So then again, you are balancing the need  
24 for the project with the CEC route's impact to the  
25 environment.

1           Now, the Committee or Commission may decide  
2 well, we didn't look at all the environment. So it is  
3 difficult for us to -- you have evidence on the entire  
4 environment, but you are granting a CEC to a part of the  
5 route.

6           So I can see that's something you are grappling  
7 with, but what it seems to me that we are not, we should  
8 not be grappling with is the need and benefits offered  
9 by the project, because there was sufficient evidence on  
10 that.

11           CHMN. CHENAL: Member Woodall.

12           Thank you, Mr. Guy.

13           Member Woodall.

14           MEMBER WOODALL: Okay. Mr. Guy, I don't know if  
15 it is going to help you or not, but it would certainly  
16 help me. If you look at the caption of this matter, you  
17 are asking for a certificate of environmental  
18 compatibility authorizing construction of the non-WAPA  
19 owned Arizona portions of the Southline Transmission  
20 Project.

21           If you want to modify project in these findings  
22 of fact and conclusions of law to read non-WAPA owned  
23 Arizona portions of the Southline Transmission Project,  
24 I am comfortable with that because I understand --  
25 because you are not here for the project, you are here

1 for the non-WAPA owned. So if you want to modify  
2 project with the language that's in the caption, I am  
3 going to be a lot more comfortable.

4 And I did ask, I think, one of your witnesses  
5 whether or not there was any separate benefit for the  
6 Arizona portion that you wanted to get a CEC for, and I  
7 think I heard evidence that there was.

8 I understand that throughout the proceeding you  
9 have used the word project encompassing both, but I have  
10 had -- I think I articulated previously that my concern  
11 about that is how can I determine that the conditions on  
12 the CEC route resolve matters concerning balancing the  
13 need for the project with its impact on the environment  
14 and ecology of this state when I haven't had any  
15 evidence about the WAPA portion. How can I make that  
16 conclusion? That's a problem for me. That's why, if  
17 you want to modify project with what is in the caption,  
18 I am totally okay with it. That's just where my  
19 position is.

20 MR. GUY: Yeah. And I don't think that's  
21 something we are able to do. But I am struggling how to  
22 best articulate this. I mean there are a lot of things  
23 we are dealing with that don't require a license from  
24 the Committee or a certificate from the Committee.

25 For example, one of the benefits of the project

1 is the fact that there is good solar and wind power in  
2 southern New Mexico and other parts of southern Arizona.  
3 We presented evidence that that exists. And because  
4 that exists, if we are able to tie into that, it  
5 provides benefits to the state. But you are not being  
6 asked to authorize the siting of those generation  
7 facilities, but that doesn't mean you didn't consider  
8 it. You did consider it. That's just not something  
9 that you are authorizing them to develop.

10 So you did consider all the benefits that this  
11 project provides, including WAPA's upgrade of its  
12 facilities, even though that doesn't require your  
13 approval. You heard lots of evidence about how the  
14 benefits of this project meet the needs of the state.

15 CHMN. CHENAL: All right. Let me share my  
16 concern, but I want to hear from the applicant what the  
17 legal effect is.

18 One of the things this Committee can look at is  
19 need. And the case law allows this. One of the things  
20 the Corporation Commission must look at is need. We  
21 can; they have a mandate to do that under the statutes.

22 So Condition 1 talks about the project aiding  
23 the state in meeting its need. Kind of what I am  
24 getting hung up on, frankly, is the application. And  
25 the limit of our jurisdiction is not the project, it is

1 the facilities that will be built in the CEC route. It  
2 is the non-WAPA owned portions.

3 And I am, in my mind, I have revised that first  
4 sentence to read: The portion of the project within the  
5 CEC route aids the state and southwest region in meeting  
6 the need for an adequate, economical, and reliable  
7 supply of electrical power.

8 So it limits our finding to that portion of the  
9 project over which we have jurisdiction. We don't have  
10 jurisdiction over New Mexico. We don't have  
11 jurisdiction over the WAPA line. I think we beat that  
12 horse to death. And so to limit the finding to that  
13 which is within our jurisdiction I think makes some  
14 sense to me.

15 So I would like to hear from you, Mr. Guy. What  
16 would be the implication? I sense there is a reason you  
17 want the word project versus the language I just  
18 suggested, which would be that portion of the project  
19 within the CEC route. And I would like to hear because  
20 I suspect there is a reason why the project, the words  
21 you have here, are more beneficial to you than the words  
22 I suggested.

23 MR. GUY: Sure. And let me start somewhat from  
24 an academic perspective as opposed to advocacy  
25 perspective because, again, I think there is some legal

1 concepts that I think maybe we are not thinking about  
2 correctly.

3           So the Line Siting Committee has jurisdiction to  
4 consider and grant a CEC. You have certain factors that  
5 the Line Siting Committee considers in making that  
6 decision. They are in the statute, 40-360.6. They are  
7 all really related to the environment and cost issues  
8 and things like that. We are trying -- we don't want to  
9 grant the CEC to a transmission line unless we have  
10 considered the impact that transmission line may have on  
11 the environment.

12           So the concept of within the Line Siting  
13 Committee jurisdiction basically goes to one ordering  
14 paragraph or one sentence. And that's back on page 3 of  
15 STL-46. That's the paragraph, lines 3 through 8, where  
16 the Committee says we have looked at this, we have  
17 voted, and we are granting the CEC to this applicant for  
18 whatever line is within your jurisdiction after the  
19 consideration of whatever facts.

20           That is the only ordering paragraph, if you  
21 will, if I could call the findings of fact and  
22 conclusions of law ordering paragraph as three different  
23 legal concepts, that is the only ordering paragraph that  
24 has a jurisdictional connection.

25           The finding of fact is something from an

1 administrative agency perspective. Agency only has  
2 those powers, including the Arizona Corporation  
3 Commission, that either the Constitution or the state  
4 statutes give the Arizona Corporation Commission. The  
5 Commission has to act consistent with what the  
6 Constitution and statutes say the Commission can do.  
7 And the way that the courts monitor that, if you will,  
8 is they check to see whether the agency's decision is  
9 consistent with the facts that are before it and they  
10 are consistent with the law.

11           So as you go through an evidentiary proceeding,  
12 you hear evidence. You can make a finding of fact that  
13 the sky is blue. You can make a finding of fact that  
14 Arizona needs more electricity. That just means you  
15 heard evidence about facts and you were persuaded that  
16 fact was true. That's not a jurisdiction issue. That's  
17 you listening to evidence and you learning what the  
18 facts are.

19           And then once you have learned what all your  
20 facts are, this is what you believe the world to be, you  
21 then have something called a conclusion of law, which  
22 you then say what do the statutes say we do. And the  
23 statutes say -- and this kind of goes back to what the  
24 Arizona Corporation Commission has to do. There is a  
25 separate statute, 7, I think, 360.7, that requires the

1 Commission to balance the need for the project with the  
2 impact on the environment.

3 So then the Corporation Commission has to look  
4 at those facts that you have found as the board that  
5 listened to the evidence, and you balance that to  
6 determine whether or not it has complied with that  
7 statute. So I really think that's mostly academic.  
8 Maybe I misstated something here and there, but I think  
9 that's largely accurate and undisputed.

10 So with that in mind, if you are making a  
11 finding of fact about the need for the project, there is  
12 not a jurisdictional consideration there. That's you  
13 heard evidence from credible experts, through studies,  
14 there was a need. And you heard that if we build this  
15 370-mile transmission line that's in New Mexico and  
16 Arizona, it is going to provide tremendous benefits to  
17 the state. You can make that finding of fact. That's  
18 not a jurisdictional issue.

19 What is a jurisdictional issue is what part of  
20 that line can you give us authority to build. And  
21 that's the CEC route portion. And so I think that's the  
22 jurisdictional struggle I think we are not getting to  
23 when you get back, when you say why does it trouble you  
24 if we limit our finding of fact and conclusions of law  
25 to the CEC route. Well, in part, I don't know that's

1 what the evidence was that you heard.

2           There was, in the last day, a brief piece of  
3 evidence, I think, in response to one line of  
4 questioning about what benefits this much smaller  
5 discrete line might offer. So from my client's  
6 perspective, we have gone through a nearly two-week  
7 hearing, and for you to make a finding of fact to say  
8 the CEC route provides a lot of benefits, I don't --  
9 there is some evidence there, but that's not what you  
10 heard hours and hours of testimony on. You heard hours  
11 and hours of testimony on the need and benefits of the  
12 project. That's why I think it is appropriate to make a  
13 finding of fact on the entire project.

14           CHMN. CHENAL: Okay. We will get to Member  
15 Woodall in a moment.

16           Is there any ramification -- asking to lift the  
17 tent here -- is there any ramification in any of the  
18 other proceedings or hoops you are going to have to jump  
19 through at New Mexico or with any of the contracts you  
20 are entering into where "project" in the findings of  
21 fact will be more beneficial than the more limiting  
22 language that I offered?

23           MR. GUY: I would have to think about that.  
24 Nothing immediately comes to mind. I mean I am not  
25 personally involved in the solicitation process, so I am

1 not sure what kind of representations that will be made  
2 one way or another, but generally no.

3 I think generally what I am, what I am thinking  
4 ahead is, when it gets before the Commission to approve  
5 or deny this grant of a certificate, I don't know if the  
6 record really talks about the need for the CEC route.  
7 It talks about the project.

8 CHMN. CHENAL: I understand better. So if I  
9 could summarize it, it is -- you want this finding to  
10 more match the evidence than if we limit it.

11 MR. GUY: That's correct.

12 CHMN. CHENAL: It is more a matching the  
13 evidence to a broader finding here than a more narrow  
14 finding.

15 MR. GUY: Right.

16 CHMN. CHENAL: Member Woodall.

17 MEMBER WOODALL: And Mr. Guy, the reason I asked  
18 your witness if there was a benefit just to the back end  
19 of the project was so that you could get that need into  
20 the record.

21 My concerns are not jurisdictional in nature.  
22 It has to do with, if you look at, for example, 4, let's  
23 look at No. 4 there, it says the conditions placed on  
24 the CEC route resolve matters concerning balancing the  
25 need for the project with its impact on the environment

1 and ecology of the state arising during the course of  
2 proceedings.

3 We weren't looking at that because you didn't  
4 have that in front of us. That is my problem. That's  
5 why -- and I understand for technical, legal, or  
6 regulatory reasons use of alternate language might be  
7 problematic for you. I am just telling you what my  
8 concern is. It is not jurisdictional. It is how can I  
9 make this determination when I didn't have the rest of  
10 it in front of me. I only had the non-WAPA owned  
11 portions of the project.

12 And I am not playing gotcha, because I  
13 articulated this, you know, I think, a couple times  
14 throughout the hearing, and I tried to elicit  
15 information that would establish some kind of a need.  
16 That's my problem. How can I do a balancing act if I  
17 haven't been presented with the entirety of the project  
18 because you are only asking for the Arizona non-WAPA  
19 owned section? That's my problem.

20 CHMN. CHENAL: And I think on No. 4, Member  
21 Woodall, that Mr. Guy has said that they would change  
22 the word project to CEC route.

23 No? Did I not understand correctly?

24 MEMBER BINGHAM: They would change it.

25 MR. GUY: I think it makes sense to change the

1 word "its" to the CEC route. So we balance the need for  
2 the project with the CEC route's impact.

3 CHMN. CHENAL: Okay.

4 MEMBER HAMWAY: Oh, okay.

5 MEMBER WOODALL: I am going to have concerns  
6 unless project is modified. And it doesn't have to be  
7 precisely as I suggested. I just used the language in  
8 the caption because that's the language in the caption,  
9 so...

10 CHMN. CHENAL: Let's hear from the other  
11 members.

12 Mr. Guy, what I would like to see is what  
13 changes you are willing to make. I think you went  
14 through certain paragraphs. I am a little confused now.  
15 If you could make the changes so we could see kind of  
16 what you believe now would be appropriate, and then we  
17 will discuss it again.

18 And I beg the Committee's indulgence on this.  
19 This is extremely important. We will make a good  
20 record.

21 MR. GUY: Yeah, I think the changes that I have  
22 made with -- and also the language that's currently on  
23 the screen, Exhibit STL-46, I think these are findings  
24 and conclusions that conform to the evidence that was  
25 before the Line Siting Committee. And so what I have

1 tried to focus on is the benefits that you talked about,  
2 the needs of the state, the benefits, needs, advantages  
3 of the project related to the project as a whole. And  
4 that's what our evidence presented.

5 We also provided evidence that would allow the  
6 evaluation of the impact on the environment of the  
7 project as a whole also. So you actually have evidence  
8 that, if we wanted to make a finding of the impact on  
9 the environment of the project, I think that could be  
10 done.

11 However, that's not what we focused on. We  
12 focused on the CEC route and the impacts the CEC route  
13 would have on the environment. And that's what the  
14 application addresses. The whole project was addressed  
15 in the EIS. So I think these findings and conclusions  
16 go to, these conform to the case that you had before  
17 you.

18 Now, at the end of the day, if the Commission  
19 decides, well, these findings and conclusions don't  
20 support the ultimate grant of a CEC, I think that's a  
21 different issue. But I just think it is not -- it is  
22 just not consistent with the case to limit project to  
23 CEC route when you are talking about the benefits that  
24 it provides.

25 CHMN. CHENAL: Okay. I think we understand. We

1 have approved the language in 1. And we can go back  
2 after we get done with approving the five findings of  
3 fact and conclusions of law, come back to see if there  
4 is any additional language that any of the members  
5 wanted to revisit.

6 But we have approved Findings of Fact 1 and 2.  
7 On 3, let's go back and -- because there has been a  
8 change there. I don't know if we have approved that  
9 change yet.

10 MEMBER NOLAND: Well, I made the motion and we  
11 approved No. 3, I believe. I would like to make a  
12 motion to modify Condition 3 --

13 CHMN. CHENAL: Thank you.

14 MEMBER NOLAND: -- to add the words after  
15 minimize the, add CEC routes and then impact on the  
16 environment and ecology of the state.

17 CHMN. CHENAL: Very good. And remove the word  
18 project.

19 MEMBER NOLAND: Yes, remove project.

20 CHMN. CHENAL: So we have a motion.

21 Do we have a second?

22 MEMBER HAMWAY: Second.

23 CHMN. CHENAL: Is there any further discussion?

24 MEMBER NOLAND: And my further discussion on  
25 this is I agree that we make these changes and then it

1 is up to the Commission. Because this is -- I mean,  
2 really, we could discuss this all day long and probably  
3 not agree. And just because of the way this project is  
4 structured, I think this is the best way to proceed.

5 CHMN. CHENAL: All right. And thank you, Member  
6 Noland.

7 And all in favor of the revised language for  
8 Finding of Fact 3 say aye.

9 (A chorus of ayes.)

10 MEMBER WOODALL: Pass.

11 CHMN. CHENAL: All right. That language is  
12 approved.

13 Now, Condition 4, I am not sure we actually got  
14 to a motion and approval on 4.

15 MEMBER NOLAND: No, we didn't.

16 CHMN. CHENAL: So I look for a motion for  
17 Condition 4 with the changes as reflected on the screen.

18 MEMBER PALMER: I would make a motion,  
19 Mr. Chairman, that we approve Finding of Fact 4,  
20 replacing the word "its" for the CEC route.

21 CHMN. CHENAL: Apostrophe S.

22 MEMBER PALMER: Apostrophe S, yes.

23 CHMN. CHENAL: Do we have a second?

24 MEMBER WILLIAMS: Second.

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

1 second for Condition -- Finding of Fact No. 4, lines 3  
2 through 6 on page 18.

3 Is there any further discussion?

4 (No response.)

5 CHMN. CHENAL: All in favor say aye.

6 (A chorus of ayes.)

7 MEMBER WOODALL: Pass.

8 CHMN. CHENAL: Language for Condition 4 is  
9 approved -- for Finding of Fact 4 is approved.

10 Now Finding of Fact 5, lines 7 through 10.

11 MEMBER NOLAND: Mr. Chairman, I move we adopt  
12 the Finding of Fact No. 5 as written.

13 CHMN. CHENAL: Second?

14 MEMBER PALMER: Second.

15 CHMN. CHENAL: We have a motion and a second for  
16 Finding of Fact 5.

17 Any further discussion?

18 (No response.)

19 CHMN. CHENAL: All in favor say aye.

20 (A chorus of ayes.)

21 MEMBER WOODALL: Pass.

22 CHMN. CHENAL: Okay. Language for 5 is  
23 approved.

24 Okay. We have gone through the CEC, the  
25 proposed CEC, Exhibit 46, with the changes. And I

1 believe the applicant has faithfully recorded those  
2 changes.

3 And we are now going to vote on the adoption of  
4 the CEC for the project. And we will do it by a roll  
5 call vote. So we already have a motion which has been  
6 approved that allows scrivener's, you know, minor  
7 corrections to be made.

8 Before we vote I am going to ask the applicant,  
9 if there is a favorable vote here, that, you know, you  
10 will coordinate with me on any execution of it, if  
11 that's the vote. And we will clear up any other  
12 housekeeping items.

13 But is there any further discussion about any of  
14 the language of the, you know, the narrative, of the  
15 conditions, of the findings of fact, conclusions of law,  
16 anything that any Committee member may have?

17 (No response.)

18 CHMN. CHENAL: Anything the applicant wants to  
19 add?

20 MR. GUY: I don't think so, Mr. Chairman. Thank  
21 you.

22 CHMN. CHENAL: Okay. Let's go to the vote.

23 MEMBER NOLAND: Mr. Chairman, I move we adopt  
24 the CEC as modified today.

25 MEMBER PALMER: I will second that.

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

2 Can we have a roll call vote, please. I am  
3 looking at Colette. How about if I look down at Member  
4 Bingham.

5 Member Bingham, how do you vote?

6 MEMBER BINGHAM: I vote in favor.

7 CHMN. CHENAL: Member Williams.

8 MEMBER WILLIAMS: I vote in favor.

9 CHMN. CHENAL: Member Noland.

10 MEMBER NOLAND: Mr. Chairman, I would like to  
11 make a couple statements.

12 CHMN. CHENAL: Please.

13 MEMBER NOLAND: Number one, when we have seen  
14 federal land involved or the feds involved like with the  
15 BLM land, there is always a good and bad to that. And  
16 the bad is they seem to only want one preferred route  
17 that they approve. And sometimes we like to have  
18 options and consider things that they may not take into  
19 consideration.

20 But the good is that the majority of this  
21 project utilizes BLM land or state land, and that's the  
22 good portion. You don't get into a lot of taking or use  
23 of privately owned land.

24 Also, using -- this project with the alignment  
25 that the majority is along existing utility right-of-way

1 or easements, I think, is a very good thing.

2 And finally, the other thing, I don't think we  
3 have had any other project before us that I remember,  
4 maybe one or two, but where there are no residential or  
5 business structures involved, that is mostly vacant or  
6 agricultural type of land.

7 So considering all of those, and really  
8 considering the ability to be able to use, look at using  
9 renewable resources in this project, I vote aye.

10 CHMN. CHENAL: Thank you.

11 Member Hamway.

12 MEMBER HAMWAY: Yes. Thank you. I am going to  
13 vote aye.

14 And I just want to thank the applicant for, you  
15 know, the yeoman's work that you did last night in  
16 providing us with the detail that we need. Still one  
17 missing piece of information, and that is how much  
18 Southline has spent to date to come to this point. So  
19 that was just a side note.

20 But I do appreciate the fact that you traverse,  
21 you know, existing right-of-way and existing utilities.  
22 So that's a big thing. And I also thank you for your  
23 creativeness to the playa. I think that brings  
24 tremendous tourism opportunities for the Willcox area  
25 and bird watching. So I think that's a real plus for

1 this project. So I vote aye.

2 MEMBER PALMER: Notwithstanding that the project  
3 took a little jog to the south just as it would have  
4 entered Graham County and we could have used the tax  
5 base, I won't begrudge my sister Cochise County from  
6 getting that benefit. And I vote aye.

7 CHMN. CHENAL: You need one more. Let's go to  
8 Member McGuire.

9 MEMBER MCGUIRE: I vote aye.

10 CHMN. CHENAL: Member Haenichen.

11 MEMBER HAENICHEN: I vote aye.

12 CHMN. CHENAL: Member Woodall.

13 MEMBER WOODALL: Pass.

14 CHMN. CHENAL: Okay. And I also vote aye.

15 I want to compliment the Southline team and  
16 counsel. I think you have done an excellent job; I  
17 think very professionally done. I think you have been  
18 sensitive to some areas that could have caused a lot of  
19 controversies, specifically, you know, the Willcox Playa  
20 area. And I think that was a generous and creative way  
21 to deal with that.

22 And I think, you know, this was well presented  
23 and well lawyered. And the legal fees earned by the  
24 team are well earned. Let me assure the lawyers and the  
25 folks that will be paying the fees. Seriously, good

1 job.

2 Again, coordinate with me, if you would, or have  
3 your local counsel in Phoenix coordinate with me to  
4 proofread very, very carefully the CEC with the changes.  
5 If you would be kind enough to send me both the final  
6 version, clean version, as well as the track change  
7 version that Ms. Livingston so carefully took care of as  
8 we went through the process, I would appreciate that.  
9 And, you know, we will get it filed expeditiously.

10 MEMBER NOLAND: Mr. Chairman, did you want to  
11 announce the vote?

12 CHMN. CHENAL: Yes. Okay.

13 MEMBER NOLAND: Eight.

14 CHMN. CHENAL: Eight in favor.

15 MEMBER NOLAND: One abstention.

16 CHMN. CHENAL: One abstention, zero opposed.

17 MEMBER WOODALL: Chairman, may I ask the  
18 document exchange that you are doing with the applicant,  
19 I am assuming that the other parties, intervenors, are  
20 going to be copied on all that?

21 CHMN. CHENAL: Yes.

22 MEMBER WOODALL: I knew that's what you meant,  
23 but I just want the record to be clear.

24 CHMN. CHENAL: Sure. Let me just add one more  
25 thing just so -- I don't want to give short shrift to

1 Mr. Jackson. I think he ably represented his client.

2 I won't belabor the reasons on the record. I  
3 know he submitted some additional materials this  
4 morning. I just want the record to be clear that I did  
5 review those additional materials. And I just think for  
6 the reasons that we have already stated they were just  
7 not applicable to the line. We did review some of his.  
8 But obviously Mr. Jackson can seek whatever relief  
9 before the Corporation Commission when this matter --  
10 when the CEC goes before the Corporation Commission.

11 So anything further?

12 MR. GUY: Nothing from us. I, on behalf of the  
13 legal team and Southline, do want to thank the Committee  
14 for their time and your consideration and your interest.  
15 I mean everyone was here nearly every day, every minute  
16 we are here. And I know it is very difficult traveling  
17 and staying in hotels and having sandwiches every day,  
18 but we certainly appreciate the time and attention  
19 everyone gave to the case.

20 CHMN. CHENAL: All right. Thank you.

21 Is there anything further from the Committee  
22 before we adjourn?

23 (No response.)

24 CHMN. CHENAL: Can we have a motion to adjourn?

25 MEMBER HAMWAY: So moved.

1 CHMN. CHENAL: Member Haenichen.

2 MEMBER HAENICHEN: Great cookies.

3 CHMN. CHENAL: We have a motion. Do we have a  
4 second?

5 MEMBER PALMER: Second.

6 CHMN. CHENAL: All in favor.

7 (A chorus of ayes.)

8 CHMN. CHENAL: The hearing is adjourned. Thank  
9 you, everyone.

10 (The hearing concluded at 3:09 p.m.)

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1 STATE OF ARIZONA )  
2 COUNTY OF MARICOPA )

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

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

12 I CERTIFY that I have complied with the  
13 ethical obligations set forth in ACJA 7-206(F)(3) and  
14 ACJA 7-206 (J)(1)(g)(1) and (2). Dated at Phoenix,  
15 Arizona, this 10th day of December, 2016.

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17  
18

19 \_\_\_\_\_  
20 COLETTE E. ROSS  
21 Certified Reporter  
22 Certificate No. 50658

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

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