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BEFORE THE ARIZONA POWER PLANT
AND TRANSMISSION LINE SITING COMMITTEE

IN THE MATTER OF THE) DOCKET NO.
APPLICATION OF DCR) L-21088A-19-0309-00185
TRANSMISSION, L.L.C. OR ITS)
ASSIGNEES, IN CONFORMANCE WITH))
THE REQUIREMENTS OF A.R.S.) CASE NO. 185
§ 40-360 et. seq., FOR A)
CERTIFICATE OF ENVIRONMENTAL)
COMPATIBILITY AUTHORIZING THE)
500 KV TRANSMISSION LINE,)
WHICH INCLUDES THE)
CONSTRUCTION OF A NEW 125 MILE))
500 KV TRANSMISSION LINE)
BETWEEN ARIZONA PUBLIC SERVICE))
COMPANY'S DELANEY SUBSTATION)
UNTIL SOUTHERN CALIFORNIA)
EDISON'S COLORADO RIVER)
SUBSTATION, TO BE REFERRED TO)
AS THE TEN WEST LINK PROJECT.)
_____)

At: Phoenix, Arizona
Date: February 7, 2020
Filed: February 12, 2020

REPORTER'S TRANSCRIPT OF PROCEEDINGS

VOLUME VII
(Pages 1092 through 1248)

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NO.	DESCRIPTION	IDENTIFIED	ADMITTED
DCR-7G	Letter of support from Tucson Electric Power Company	1095	1096
DCR-42	Updated Proposed Certificate of Environmental Compatibility	935	reference 1223
DCR-43	Certificate of Environmental Compatibility	935	reference 1223
ACC-5	Staff response to whether Ten West Link improves the reliability and/or safety of the grid and the delivery of power in Arizona	1112	1223

1 BE IT REMEMBERED that the above-entitled and
 2 numbered matter came on regularly to be heard before
 3 the Arizona Power Plant and Transmission Line Siting
 4 Committee at the Phoenix Plaza Conference Facility,
 5 2909 North Central Avenue, Phoenix, Arizona, commencing
 6 at 9:28 a.m. on the 7th of February, 2020.

7

8 BEFORE: THOMAS K. CHENAL, Chairman

9 JACK HAENICHEN, Public Member
 10 KARL GENTLES, Public Member
 11 MARY HAMWAY, Cities and Towns
 12 JAMES PALMER, Agriculture
 13 LAURIE WOODALL, Arizona Corporation Commission
 14 JOHN RIGGINS, Arizona Department of Water Resources
 15 LEONARD DRAGO, Department of Environmental Quality

13

14 APPEARANCES:

15 For the Applicant:

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 18 Mr. Elias J. Ancharski
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20

For the Arizona Corporation Commission Staff:

21

22 Ms. Maureen Scott, Deputy Chief of Litigation
 23 and Appeals
 24 Mr. Julio Antonio Arias,
 25 Staff Attorney, Utilities Division
 1200 West Washington Street
 Phoenix, Arizona 85007

25

1 CHMN. CHENAL: Good morning, everyone. We're
2 starting just a little late. We're trying to get some
3 copies of the -- hard copies of the document we'll have
4 up on the screen on both the left and right screens as
5 we go through deliberations.

6 But before we begin deliberations, we should
7 clear up any procedural issues. I believe the
8 Applicant has another exhibit to introduce, and then
9 we'll have opening -- or, closing remarks.

10 Ms. Grabel, any --

11 MS. GRABEL: Yes. Thank you, Chairman
12 Chenal.

13 CHMN. CHENAL: -- any thoughts or any things
14 you need to cover right now?

15 MS. GRABEL: Sure. Just this morning we
16 received a letter of support from Tucson Electric Power
17 Company that will be filed in the docket this morning.
18 We are introducing that as Exhibit DCR-7G.

19 And if I may quickly just explain, it says,
20 Tucson Electric Power Company appreciates this
21 opportunity to provide its perspective on the
22 application of DCR Transmission, L.L.C. for a
23 Certificate of Environmental Compatibility for the Ten
24 West Link transmission project. The project would
25 enhance reliability and capacity in the region,

1 particularly between California and Arizona. We
2 believe the project would provide greater access to the
3 California energy market and its increasing supply of
4 negatively-priced energy. We appreciate the
5 opportunity to comment and support the issuance of a
6 CEC for the project.

7 So if I could, Mr. Chairman, I'd like to move
8 for this as an exhibit admission as well.

9 CHMN. CHENAL: Sure. Any objection?

10 (No response.)

11 CHMN. CHENAL: Hearing none, Exhibit 7G is
12 admitted.

13 (Exhibit DCR-7G was admitted into evidence.)

14 CHMN. CHENAL: Question: The letter that I
15 received from the Staff at the Corporation Commission,
16 I can't remember if you've made that an exhibit or not.

17 MS. GRABEL: We have not made that an
18 exhibit, no, Chairman. We're happy to do so.

19 CHMN. CHENAL: I think that would be a good
20 idea. I'd like to have that in the record.

21 MS. GRABEL: Staff, would you like to make it
22 an ACC exhibit?

23 MS. SCOTT: We can do that, if you'd prefer.

24 CHMN. CHENAL: It's either -- yeah, Staff
25 would be fine to have that as a Staff exhibit. A lot

1 of times I make it an exhibit. But I think, if my
2 recollection is correct, we received it while the
3 hearing was ongoing, and I just didn't have a chance to
4 make a copy of it and bring it. So if that can be
5 done, that would be helpful.

6 MS. SCOTT: Okay, we will do that.

7 CHMN. CHENAL: And Ms. Scott, do you have the
8 ability to have copies made of it or not?

9 MS. SCOTT: I can call back to the office and
10 have copies made and --

11 MS. GRABEL: We can do it. We'll make them
12 for you.

13 MS. SCOTT: Okay.

14 CHMN. CHENAL: Well, thank you. The
15 Applicant has offered to make copies of that document.
16 And when it arrives, we'll move it into evidence and
17 have it as ACC Exhibit 5, I believe.

18 MS. GRABEL: 5, yes.

19 CHMN. CHENAL: Okay. So Ms. Grabel, anything
20 further in terms of exhibits?

21 MS. GRABEL: Nothing further exhibit-wise.

22 CHMN. CHENAL: Okay. Ms. Scott, Mr. Arias,
23 any further exhibits, other than Number 5, which we'll
24 introduce when the copies come?

25 MS. SCOTT: No, thank you.

1 CHMN. CHENAL: So I was going to ask if the
2 Committee has any questions before we begin the final
3 argument.

4 Member Hamway.

5 MEMBER HAMWAY: So the letter of support by
6 TEP kind of raised a question in my mind that I've been
7 thinking about. And so as storage becomes more
8 generously deployed and becomes more efficient over
9 time, that will help California's negatively-priced
10 exporting energy, correct?

11 So I guess as storage becomes a more
12 well-known and well-used technology, the
13 negatively-priced energy that you're trying to get rid
14 of will become less, true?

15 MS. GRABEL: Mr. Amirali, would you like to
16 answer that question?

17 MR. AMIRALI: Sure.

18 Member Hamway, that is going to -- that is
19 happening across the board. But because of the
20 magnitude of the amount of storage that is going to
21 be -- if you are to store everything that is -- that is
22 being produced, the excess energy, the magnitude of
23 storage that is required is going to be extensively
24 large.

25 Storage is typically being deployed in order

1 to provide capacity-related values, but there will
2 always be opportunity for more excess energy that is
3 available. And since the RPS goals are more aggressive
4 in California than in Arizona, there's always going to
5 be that opportunity until -- you know, at some point
6 there will be a balance; but at what that point is,
7 it's hard to predict at this time.

8 MEMBER HAMWAY: Okay, thank you. That was
9 what I thought the answer was.

10 CHMN. CHENAL: Any questions by the
11 Committee? We have a number of the witnesses still
12 here. I'm sure they'll be available, as we go through
13 the deliberative process, if issues or matters come up,
14 questions come up.

15 (No response.)

16 CHMN. CHENAL: I don't see any questions from
17 the Committee.

18 Anything procedurally we need to discuss
19 before we get into final arguments?

20 MS. GRABEL: We do have the hard copies of
21 the CEC with the modifications.

22 MEMBER WOODALL: Mr. Chairman, is that since
23 yesterday?

24 MS. GRABEL: It is since yesterday, Member
25 Woodall.

1 CHMN. CHENAL: Yes. I passed out yesterday a
2 version with some proposed changes; but based on
3 Mr. Rogers' testimony and others, there was some
4 modifications to it.

5 So Ms. Grabel, what exhibit should we, for
6 identification, should we mark this?

7 MS. GRABEL: I believe this is DCR-41, or is
8 it 42?

9 CHMN. CHENAL: 42.

10 MS. GRABEL: 42.

11 CHMN. CHENAL: All right. So as we go
12 through the discussion, deliberative process, 42 will
13 be on the left side of the screen. And then 43, DCR-43
14 will be the version on the right side of the screen
15 that we'll modify as we go through the process, and
16 that will then become the final version that we will
17 vote on.

18 I've said it a few times. I know the
19 Committee is used to doing it that way, and I think
20 that's easier for someone to read the record to know
21 what document we're referring to, instead of left or
22 right side of the screen, Exhibit 42 or 43. So with
23 that -- yes.

24 MS. SCOTT: Chairman, yesterday Member
25 Woodall had brought up Conditions 23 and 24 and asked

1 the Staff for their opinion. I'm wondering if you want
2 us -- we did go back to the director last night and
3 discuss those with him. I'm wondering if you want me
4 to address that now or later.

5 CHMN. CHENAL: No, we'll do it when we get to
6 it. And even then, I've got a couple comments about
7 the process and what I think is not necessarily the
8 appropriate way to deal with Staff comments, doing it
9 like that versus the way we normally get it, which is
10 through documentary evidence. Like in this case, which
11 will be your Exhibit Number 5, where the Staff has
12 provided its input in a thoughtful way on the record
13 with exhibits or testimony, versus a hearsay telephone
14 conversation. But I think let's deal with that then.

15 So let's have final arguments, Ms. Grabel.

16 MS. GRABEL: Thank you, Chairman.

17 First, DCRT would like to thank the Committee
18 and Commission Staff for the time they've spent and
19 their good work on this matter. It's been a long, but
20 productive, three weeks, and we appreciate everyone's
21 attention to our application.

22 As the Committee knows, under the law, the
23 Committee looks at the evidence presented in these
24 hearings through the lens of the factors set forth in
25 A.R.S. Section 40-360.06 and the need standard set

1 forth in A.R.S. Section 40-360.07.

2 The question presented to the Committee under
3 that framework is straightforward: Does the Ten West
4 Link project help Arizona meet its need for an
5 adequate, economical, and reliable supply of power,
6 while simultaneously mitigating the impact to Arizona's
7 environment and ecological areas?

8 The answer is yes. Ten West Link's proposed
9 route accomplishes these positive policy goals, while
10 minimizing the effect of that new construction on the
11 environment and the ecology of this state. In
12 addition, the testimony and evidence presented these
13 last three weeks indisputably demonstrates that Ten
14 West Link is good for Arizona's ratepayers, good for
15 Arizona's utilities, and has the overwhelming support
16 of the affected stakeholders in the areas along the
17 single proposed route. For these reasons, the
18 Committee should grant the CEC.

19 There was no dispute that Ten West Link helps
20 fulfill Arizona's need for an adequate, economical, and
21 reliable supply of power, a fact the Commission Staff
22 member Ms. Little confirmed during cross-examination.

23 From a resource adequacy perspective, the
24 evidence shows that Ten West Link provides additional
25 transmission infrastructure that will facilitate the

1 interconnection of new solar and solar plus storage
2 resources, including a large solar plus storage plant
3 in La Paz County, specifically enabled by Ten West
4 Link, that will bring much needed revenue to that rural
5 community.

6 As DCRT witnesses Chang and Amirali stated,
7 and Staff witness Ms. Little confirmed, these clean
8 energy resources will supply both Arizona, as well as
9 neighboring states.

10 Ten West Link will also expand Arizona's
11 access to a diverse supply of low-cost clean energy
12 generation resources located throughout the western
13 grid, including California solar, hydropower from the
14 northwest, and New Mexico wind. Such access allows
15 Arizona utilities to more efficiently integrate their
16 existing renewable resources, particularly through
17 enhanced access to the energy imbalance market.

18 Which brings to the second prong, an
19 economical supply of power. As witnesses for both DCRT
20 and Staff testified, Ten West Link creates an
21 additional means for Arizona utilities to access the
22 EIM. Although we could not quantify the cost savings
23 related to this additional access, there's no doubt
24 that the savings will be considerable.

25 As the evidence this week demonstrated, APS

1 has been one of the biggest winners through
2 participation in the EIM, having saved more than a
3 \$140 million for Arizona customers since it began
4 participating in 2016. TEP and SRP, which will both
5 join the EIM within two years, similarly predict
6 millions of dollars in annual savings.

7 While it is not possible now to quantify how
8 much of those savings will be directly attributable to
9 Ten West Link, there is no dispute that the additional
10 pathway into the EIM will allow Arizona to participate
11 more fully in the market, to the decided benefit of
12 Arizona's ratepayers.

13 Yes, Chairman.

14 CHMN. CHENAL: Yes, I would just ask --

15 MS. GRABEL: Am I too fast?

16 CHMN. CHENAL: -- you to slow it just a
17 little.

18 MS. GRABEL: Sure.

19 CHMN. CHENAL: Thank you.

20 MS. GRABEL: As I said, I'm a fast talker.
21 Just kidding.

22 What we have been able to quantify is that
23 Ten West Link will save Arizona ratepayers at least 2
24 to \$7 million in economic production cost savings.
25 These savings are the direct result of the impact that

1 Ten West Link will have on pricing at the Palo Verde
2 hub. Prices decrease in the middle of day, when
3 Arizona is a net buyer, so we save money. And prices
4 increase in the evening and overnight, when Arizona is
5 a net seller, so we make money.

6 Collectively, these cost savings will bring
7 Arizona ratepayers anywhere from 31 million to
8 \$122 million in net present value savings over the life
9 of the project. That may not be much, but it's also
10 not chump change. These savings were undisputed based
11 on a study that Commission Staff deemed reasonable and
12 acceptable.

13 As far as reliability, the undisputed
14 evidence demonstrated that Ten West Link reduces
15 congestion in the Path 49 east of river path rating,
16 increasing the capacity in that pathway by up to 650
17 megawatts. It also increases the capacity on the Path
18 46 west of river path by 1,050 megawatts. The addition
19 of Ten West Link reduces stress on the existing
20 transmission system, improving reliability under both
21 normal and emergency operating conditions.

22 With respect to minimizing the effect on the
23 environment and ecology of the state, the evidence
24 showed that the Ten West Link route went through an
25 extensive NEPA process, through which the BLM designed

1 a route for the line that, among other things, avoided
2 the Kofa National Wildlife Refuge, an imposed condition
3 that required mitigation measures to be taken in the
4 small area that runs in the vicinity of Kofa, minimize
5 disruption to recreational activities and visual
6 esthetics, and avoided land disturbance on the Yuma
7 Proving Ground.

8 In addition, DCRT is subject to some 70-some
9 pages of mitigation measures to ensure that the impact
10 the project does have on Arizona's environment and
11 ecology will be as minimal as possible.

12 Importantly, the line has overwhelming
13 support. We have heard from public officials in La Paz
14 County, and the president of the off-highway vehicle
15 club, who both spoke and filed letters in support of
16 the project and the project route. We also have in
17 evidence several letters from solar developers who
18 support Ten West Link because of the solar development
19 opportunities that the project provides.

20 Even APS this week filed a letter discussing
21 the importance of the increased transmission capacity
22 Ten West Link provides to meeting APS's clean energy
23 goals and enhancing APS's ability to maintain
24 reliability. And as we heard this morning, TEP did
25 likewise.

1 There is little doubt that the undisputed
2 evidence supports a finding that issuing a CEC for Ten
3 West Link properly balances Arizona's need for an
4 adequate, economical, and reliable supply of power with
5 the desire to minimize the effect thereof on the
6 environment and ecology of Arizona. That said, I do
7 want to take a minute to address some of the
8 apprehensions that certain Committee Members expressed
9 during the hearing.

10 First, Ten West Link is not DPV2. We walked
11 through the DPV2 order yesterday in excruciating detail
12 to distinguish the Ten West Link project from the one
13 that was rejected by the Arizona Corporation Commission
14 more than a decade ago, and the differences are
15 compelling.

16 Perhaps the biggest distinction, apart from
17 avoiding the Kofa, is that in the DPV2 case, SCE was
18 asking the Commission to approve DPV2 primarily because
19 it fulfilled the economic needs of California
20 ratepayers, notwithstanding a net cost to Arizona,
21 based on a court of appeals holding that the Commission
22 could consider California's needs notwithstanding the
23 Arizona potential deficiencies.

24 DCRT is in no such position. We don't need
25 to pull out old case law to justify why the line should

1 be granted a CEC because of all the benefits the line
2 provides to California. To the contrary, the
3 undisputed evidence is that Arizona is a net winner
4 with Ten West Link in its own right, both operationally
5 and economically, and the Ten West Link project should
6 receive a CEC from this Committee and the Commission
7 based on the merits of the project to Arizona alone.

8 With respect to energy flows, it is true that
9 Arizona is a net exporter of energy. This is not
10 surprising, because the system was built that way.
11 California entities own a substantial portion of the
12 Palo Verde nuclear generating station, and many of the
13 transmission lines between Arizona and California were
14 designed to export that energy into California.

15 That fact does not undermine the value of the
16 line to Arizona. To the contrary, with Arizona
17 utilities' participation in the energy imbalance
18 market, energy will flow in both directions. And
19 Arizona is the net winner, buying energy when it is
20 cheaper, and selling energy when it is more expensive.
21 The export capability between the lines is a revenue
22 opportunity for Arizona utilities and a benefit to
23 Arizona ratepayers.

24 Finally, there has been some question about
25 the CAISO's involvement, which is understandable given

1 how different the California energy market is from
2 Arizona's. This line is one of many in Arizona that
3 will be under CAISO's operational control. And as Ms.
4 Le Vine made clear yesterday, that has no impact on
5 whether or how Arizona will benefit from the line.

6 The CAISO cannot discriminate against players
7 in its energy market, and cannot dictate who gets
8 energy and under what terms. It must perform in
9 accordance with its FERC-approved tariff, and cannot
10 legally discriminate against Arizona entities to the
11 benefit of California customers either price-wise or
12 access-wise.

13 In closing, we again thank the Committee
14 Members for your time and diligent consideration of
15 DCRT's application. We have shown that Ten West Link
16 helps Arizona meet its need for an adequate,
17 economical, and reliable supply of power, while
18 simultaneously mitigating the impact of the project to
19 Arizona's environment and ecological areas.

20 Respectfully, we request that you vote in
21 favor of granting a CEC for the single proposed route
22 of the Ten West Link. Thank you.

23 CHMN. CHENAL: Thank you very much.

24 Ms. Scott, do you have, or Mr. Arias, do you
25 have closing remarks?

1 MS. SCOTT: Chairman, yes, we have some short
2 closing remarks.

3 The Commission Staff very much appreciates
4 the opportunity to address the Committee with these
5 short comments on our review and analysis of DCR's
6 application for approval of the Ten West project.

7 Staff's witness in this proceeding was
8 Ms. Margaret Toby Little. She provided both written
9 and extensive oral testimony on the issues raised. She
10 reviewed the application and prefiled testimony, she
11 reviewed the PowerPoints, responses to data requests,
12 the WECC comprehensive progress report, and all of the
13 other studies and information submitted by the
14 Applicant.

15 As far as reliability, she found that there
16 was no negative impact on the grid reliability and/or
17 safety, provided -- provided that the line is
18 constructed and operated in accordance with accepted
19 and good utility practice and applicable
20 reliability standards. She also found that there would
21 be no negative impact on the delivery of power.

22 She also looked at the Applicant's economic
23 assessment. And her conclusions on that were that the
24 approach, assumptions, and methodology used by The
25 Brattle Group in its economic analysis were reasonable.

1 She also agreed with the following
2 conclusions reached by The Brattle Group: That
3 stronger transmission infrastructure and congestion
4 reduction will facilitate interconnection of solar and
5 storage resources in Arizona, will expand regional
6 access to a diverse supply of clean energy resources,
7 and will enable opportunities for regional
8 coordination, which is important.

9 Finally, the last part of her analysis, she
10 compared the old Devers Palo Verde 2 line and the Ten
11 West Link. And she found that they were electrically
12 similar in interconnection and path; however, they
13 differ in some significant respects. They differ in
14 the physical termination points. They differ in
15 physical routing. They also differ in that the
16 environment that we're in now is much different than it
17 was back when the Palo Verde Devers 2 decision was
18 entered.

19 In particular, she presented compelling
20 testimony on the fact that our market today has much
21 more -- or, many more renewable energy sources. These
22 are different and they must be handled differently.
23 The other point she made was that the balancing
24 authorities are more dependent on one another for
25 balancing. So given those two factors alone, the

1 environment today is much different, and that should be
2 taken into account here.

3 And I will end on that. Again, I thank the
4 Chairman and the Committee Members.

5 CHMN. CHENAL: Thank you, Ms. Scott.

6 Let's -- Mr. Arias, if you'd be kind enough
7 to pass around ACC Exhibit 5.

8 And Ms. Scott, if you could just simply state
9 what that is for the record, and we'll move it into
10 evidence.

11 MS. SCOTT: Chairman, Committee Members,
12 ACC Exhibit 5 is the letter that the Staff wrote
13 regarding this project, and I believe it was filed in
14 the docket yesterday.

15 CHMN. CHENAL: So would you like to move it
16 into evidence?

17 MS. SCOTT: Yes, Chairman, I would move it
18 into evidence at this time. Thank you.

19 CHMN. CHENAL: Any objection?

20 MEMBER WOODALL: I have a question, if I
21 might. This letter is a letter from Staff to the
22 Chairman pursuant to his request recommending certain
23 conditions with respect to the project and framing
24 Staff's larger conclusions; is that correct?

25 MS. SCOTT: That's correct.

1 MEMBER WOODALL: Okay. And Paragraphs 23 and
2 24 of the Chairman's proposed form of CEC, that
3 language is not in this letter; is that correct?

4 MS. SCOTT: That they're not discussed in the
5 letter, that's correct.

6 MEMBER WOODALL: All I'm suggesting is that
7 if Staff has conditions that they want to assert, they
8 should be in the letter. And that's all I'm going to
9 say on the topic. I have nothing else to say.

10 CHMN. CHENAL: Member Woodall, I don't
11 understand what your point is. These are suggested
12 conditions of the Staff, as they've done in many cases,
13 that we consider in our cases. There are three of
14 them, and they are in our exhibit, the exhibit we'll be
15 talking about. And those are the three the Staff
16 recommends, and we've included them in our -- for
17 deliberations, you'll see those in our exhibits.

18 MS. SCOTT: Yes, Chairman, that's correct.

19 CHMN. CHENAL: Okay.

20 MEMBER WOODALL: And Mr. Chairman, the reason
21 was I wasn't able to hear from Staff about whether or
22 not they were supportive of these, and that's why I
23 framed -- I mean, if I had received information
24 regarding Staff's support, lack of concern, vigorous
25 advocacy regarding those two paragraphs, that would

1 have been helpful to me.

2 But since I don't have that information, I'm
3 just making a suggestion that, in the future, if Staff
4 has other conditions that it's supportive of and thinks
5 are important, they should include those in any letter
6 that they send. Because right now I have no idea if
7 Staff is supportive or not of those two paragraphs.
8 And having said all that, I need say no more.

9 CHMN. CHENAL: Well, I guess you could say
10 that Staff hasn't taken a position on any of the other
11 conditions, pro or con. But I will point out again
12 that Staff has only taken a position for us, our
13 Committee, to include certain conditions in the CEC,
14 not in every case, but in most cases. They have never
15 taken a position that a condition should not be
16 included in the CEC; they've only been in favor of
17 certain conditions.

18 But as testified to in this case and in a
19 previous case, the fact that they don't particularly
20 advocate a particular condition is not a statement that
21 they are opposed to other conditions, so let's move on.
22 The only body --

23 MEMBER WOODALL: I'm just saying,
24 Mr. Chairman, if I had that information, it would have
25 been helpful to me, but I don't. So I'm going to have

1 to take the same position, and that is going to be that
2 I'm going to vote against these conditions, and I'm not
3 going to have any more commentary on it. Thank you.

4 CHMN. CHENAL: Well, we won't either. We'll
5 get to it, we'll vote on it, and we'll move on. All
6 right, thank you.

7 So now we begin the fun part. If we could
8 put up on the screen -- on the left screen will be
9 Exhibit 42 and on the right side will be Exhibit 43.
10 And they will both start out the same, but it's going
11 to be fun to see how they end up, how the one on the
12 right ends up, Exhibit 43.

13 So we'll do what we always do, we'll go
14 through and we'll -- and it would be easier for the
15 record if I could ask the Committee and the attorneys
16 to refer to the exhibit number instead of the left side
17 or right side of the screen.

18 Now, as we go through and we make changes,
19 what happens is that the paragraphs may change, the
20 pages may change, and it gets a little complicated. So
21 if we could refer to conditions by exhibit number, it
22 gets a little easier.

23 So looking at Exhibit Number 42, which again,
24 is the left side of the screen, we have the caption.
25 And that's pretty much a given. We don't normally

1 comment on the caption.

2 But if I could ask Eli -- I'm just going to
3 use first name now that we're in deliberations -- Eli,
4 if you could scroll down to include the first
5 paragraph, and then we'd like to take an opportunity to
6 read this and not go too fast.

7 And let me ask if the Committee has any
8 changes to Exhibit 42, Lines 13 through 22 on Page 1?

9 (No response.)

10 CHMN. CHENAL: So what we will do as we go
11 through is we'll vote on the language, but that's only
12 as to form, that's not to approve the CEC. This is
13 only to approve the language.

14 So may I have a motion to approve?

15 MEMBER HAENICHEN: So moved.

16 MEMBER GENTLES: Second.

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

19 (A chorus of ayes.)

20 CHMN. CHENAL: And then, Eli, if you could
21 scroll down to the last two lines on Page -- so Page 1,
22 Exhibit 42, Page 1, Lines 23 through Page 2, Line 8.
23 Any changes?

24 (No response.)

25 CHMN. CHENAL: May I have a motion to

1 approve?

2 MEMBER PALMER: Mr. Chairman, I would move
3 that we approve from Line 23 on Page 1 through Line 16
4 on Page 2.

5 CHMN. CHENAL: Okay. We have a motion and a
6 second. Any further discussion?

7 (No response.)

8 CHMN. CHENAL: All in favor say aye.

9 (A chorus of ayes.)

10 CHMN. CHENAL: Thank you. Scroll down on --
11 all right. Now let's do it by page where we can. On
12 Page 2 of Exhibit 42, Lines 21 through 28. Are there
13 any changes that we need to make? Well, obviously we
14 have to keep the vote, at this point, blank, and then
15 we'll come back and fill that in. But are there any
16 other changes that --

17 MEMBER PALMER: Is it 21 or is it 17?

18 MEMBER HAMWAY: 17.

19 CHMN. CHENAL: Yes, Lines 17 through 28 on
20 Page 2, Exhibit 42.

21 MEMBER GENTLES: Motion.

22 MEMBER HAMWAY: Second.

23 CHMN. CHENAL: Motion and second. All in
24 favor say aye.

25 (A chorus of ayes.)

1 CHMN. CHENAL: All right. Let's go to Page 3
2 of Exhibit 42. Let's try Lines 3 through 15. Take a
3 moment to read, please.

4 All right. May I have a motion to approve?

5 MEMBER HAENICHEN: I move.

6 MEMBER GENTLES: Second.

7 CHMN. CHENAL: Member Hamway.

8 MEMBER HAMWAY: Should we say how many miles
9 are dedicated in Arizona or just leave it at 125? I'm
10 good either way.

11 MS. GRABEL: It actually says 103.5 miles
12 from Delaney to the Arizona border, and then says 125.

13 MEMBER HAMWAY: Oh, I'm so sorry.

14 MS. GRABEL: That's all right.

15 CHMN. CHENAL: So we have a motion and a
16 second to approve Page 3, Lines 3 through 15. All in
17 favor say aye.

18 (A chorus of ayes.)

19 CHMN. CHENAL: Thank you. And let's look at
20 the rest of Page 3, Exhibit 42, Lines 16 through 28.
21 Let's take a moment to read that.

22 Let's take it down to Line 28. So I note
23 that on Line 27 that we refer to the Bureau of Land
24 Management, and I think this is the first time we refer
25 to the Bureau of Land Management. And I'm wondering if

1 on Line 27 we ought to define it as Bureau of Land
2 Management (BLM), and then thereafter refer to it
3 simply as BLM. Is the Applicant okay with that?

4 MS. GRABEL: Yes, Chairman, but the first
5 reference appears to be on Line 20.

6 MEMBER GENTLES: On Line 20, yeah.

7 MEMBER HAENICHEN: I move approval of those
8 lines.

9 CHMN. CHENAL: Well, let's -- so the first
10 reference, yes, is Line 20. Should we define it there?

11 MS. GRABEL: Yes.

12 CHMN. CHENAL: Okay. So you're absolutely
13 right. So on Line 20, where we first refer to BLM,
14 maybe we refer to it as the Bureau of Land Management
15 (BLM).

16 MEMBER HAENICHEN: And I move that with those
17 modifications.

18 CHMN. CHENAL: Okay. So we have a motion.

19 MEMBER PALMER: Second.

20 CHMN. CHENAL: We have a motion and a second,
21 and that's for the Lines 20 through 28 on Page 3. All
22 in favor say aye.

23 (A chorus of ayes.)

24 CHMN. CHENAL: Okay. Let's go to Page 4 of
25 Exhibit 42, and let's just stay with Lines 1 through

1 10.

2 MEMBER GENTLES: Mr. Chairman.

3 CHMN. CHENAL: Member Gentles.

4 MEMBER GENTLES: Do we need to define what
5 "briefly" means when crossing over Yuma --

6 CHMN. CHENAL: What line?

7 MEMBER GENTLES: Line 5. Sorry. Briefly
8 crossing Yuma Proving Ground. I know that was a
9 conversation point.

10 CHMN. CHENAL: Member Grabel -- Ms. Grabel.
11 I say Member Grabel. Ms. Grabel.

12 MS. GRABEL: You could say spanning Yuma
13 Proving Ground land. That was the verb that was used
14 most often during the hearing.

15 MEMBER GENTLES: I think that's better.

16 CHMN. CHENAL: Okay, let's make that change.

17 MEMBER PALMER: Mr. Chairman.

18 CHMN. CHENAL: Member Palmer.

19 MEMBER PALMER: In keeping with what we did
20 on the previous page, do we need to define DOD as the
21 Department of Defense and then put the paren?

22 CHMN. CHENAL: And also I'm looking at Line 1
23 where we say DOE, which is Department of Energy. Maybe
24 we should define those terms.

25 MEMBER RIGGINS: Mr. Chair, DOE is actually

1 defined on Page 3, Line 9.

2 CHMN. CHENAL: Oh, yes. Okay.

3 I also note on Line 9 we refer to the Bureau
4 of Reclamation as Reclamation. And I don't know if
5 it's referred to elsewhere, but just a note that we've
6 defined that.

7 Also, there's ASLD. Have we referred to the
8 Arizona State Land Department yet?

9 MEMBER PALMER: I don't think so. We talked
10 about state land, but not the State Land Department.

11 CHMN. CHENAL: So maybe on Line 9 we need to
12 refer to the Arizona State Land Department, define that
13 term.

14 All right. Are there any other changes that
15 we need to discuss regarding Exhibit 42, Page 4, Lines
16 1 through 9?

17 (No response.)

18 CHMN. CHENAL: If not, may I have a motion?

19 MEMBER HAMWAY: So moved.

20 MEMBER RIGGINS: Second.

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

22 All in favor say aye.

23 (A chorus of ayes.)

24 CHMN. CHENAL: All right, very good. Now we
25 can just do it by condition, except for the long ones,

1 and then we'll have to go back to reading pages and
2 lines.

3 Let's just make a standard modification that
4 all the references to the CECs that are in this
5 document will be removed. So, for example, the
6 reference on Line 18 -- so we're talking about
7 Condition 1. On Line 18 we refer to CEC 181, 182, and
8 183. Let's just have a standard deletion of those for
9 the final -- for the final version.

10 MR. ANCHARSKI: Would you like me to do that
11 as we go?

12 CHMN. CHENAL: Yes. Yes, please.

13 MEMBER WOODALL: And Mr. Chairman, since
14 we're starting the discussion, I would move that the
15 Committee authorize the Chairman to make any technical
16 and conforming language changes that he may observe
17 after he gets a final draft of this. And I don't see
18 anyone expressing any opposition to that.

19 MEMBER HAENICHEN: I second that.

20 MEMBER WOODALL: Okay.

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

22 All in favor say aye.

23 (A chorus of ayes.)

24 CHMN. CHENAL: Thank you. All right.

25 Condition 1, I just want to note that it is the 10-year

1 -- that is one condition that -- where the Corporation
2 Commission has spoken and has, you know, deliberated on
3 that point on the record and discussed the reasons why
4 they prefer that it be 10 years versus the seven years
5 I think we had in the case where they discussed it.

6 And so it was communicated to me, I think
7 very appropriately, and so we have generally then now
8 put a minimum 10-year in the CEC. Sometimes it's
9 longer, but we try not -- unless there's a reason, we
10 wouldn't make it shorter. And we define the Commission
11 to be the Arizona Corporation Commission.

12 So any further discussion with Condition 1?

13 (No response.)

14 CHMN. CHENAL: May I have a motion?

15 MEMBER HAMWAY: So moved.

16 CHMN. CHENAL: Second?

17 MEMBER PALMER: Second.

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

19 All in favor say aye.

20 (A chorus of ayes.)

21 CHMN. CHENAL: All right, thank you. Now

22 let's look at Condition 2.

23 MEMBER PALMER: Mr. Chairman, motion to
24 approve Condition 2.

25 CHMN. CHENAL: Do we have a second?

1 MEMBER RIGGINS: Second.

2 CHMN. CHENAL: Just a note to remove the
3 reference to the CEC. But we have a motion and a
4 second. Any further discussion?

5 (No response.)

6 CHMN. CHENAL: All in favor say aye.

7 (A chorus of ayes.)

8 CHMN. CHENAL: Thank you. Let's look at
9 Condition 3 on Exhibit 42, Lines 7 through 24. You'll
10 note that there was one change, because I think there
11 was just duplicative language there. But other than
12 that, I note in Line 19 we refer to a couple of state
13 agencies, but I can't recall if they are ever referred
14 to anywhere else in the CEC. So if they're not, I
15 don't think there's any reason to define it. But if we
16 see their names pop up later, maybe we'll want to come
17 back and define those agencies.

18 MEMBER HAENICHEN: Mr. Chairman, I don't see
19 what it would hurt to do that right now, just define
20 ADEQ and then --

21 CHMN. CHENAL: Sure. Anyone opposed to that?

22 (No response.)

23 CHMN. CHENAL: So on Line 19 and 20 if we
24 refer -- you know, define ADWR and ADEQ.

25 MEMBER DRAGO: Mr. Chairman.

1 CHMN. CHENAL: Member Drago.

2 MEMBER DRAGO: Does it matter that it was
3 defined early on as us as Members affiliated with that
4 organization? So ADEQ is mentioned right up front.
5 Should we just define it on Page 2?

6 CHMN. CHENAL: Yes, actually, that's a good
7 idea.

8 MEMBER HAENICHEN: Good catch.

9 CHMN. CHENAL: That would be true for Member
10 Drago and Member Riggins.

11 MS. GRABEL: Would it also be true for Member
12 Woodall, since we define Arizona Corporation Commission
13 later?

14 MEMBER WOODALL: I'm fine.

15 CHMN. CHENAL: Yeah, I think it would be.

16 So going back to Condition 1, we don't have
17 to define the Commission there, because we've already
18 defined it above. We can scroll down to Condition 3
19 and we can remove the definition of the two state
20 agencies and just refer to it by the letters.

21 MEMBER HAENICHEN: I move Condition 3.

22 MEMBER GENTLES: Second.

23 CHMN. CHENAL: Let's let Eli complete his
24 wordsmithing. All right. With those changes we have a
25 motion. May I have a second?

1 MEMBER DRAGO: Second.

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

3 All in favor say aye.

4 (A chorus of ayes.)

5 CHMN. CHENAL: Thank you. Condition 4. May

6 I have a motion?

7 MEMBER HAMWAY: So moved.

8 MEMBER PALMER: Second.

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

10 All in favor say aye.

11 (A chorus of ayes.)

12 MEMBER WOODALL: Pass.

13 CHMN. CHENAL: Let's go to Condition 5.

14 MEMBER PALMER: Motion to approve

15 Condition 5.

16 CHMN. CHENAL: May I have a second?

17 MEMBER HAENICHEN: Second.

18 CHMN. CHENAL: Any further discussion?

19 (No response.)

20 CHMN. CHENAL: All in favor say aye.

21 (A chorus of ayes.)

22 CHMN. CHENAL: Let's go to Condition 6. Now,

23 I've suggested a few changes there just consistent with

24 some of the other CECs, and I know the language has

25 changed depending on which CEC one looks at. I'm not

1 married to the word project versus transmission line,
2 because this deals with impacts to -- I thought avian
3 is a better word than raptors, because I think -- and
4 maybe I'm going to ask Mr. Rogers a question.

5 Is avian more broader than raptors? Is that
6 a fair -- because I know we've used avian in recent
7 CECs, and I believe we've had that discussion.

8 MR. ROGERS: You're correct, Chairman. Avian
9 is a broader term, and raptors would be more specific.

10 CHMN. CHENAL: So that's why I chose -- I
11 made that suggested change.

12 And then the Applicant, based on, I think,
13 our discussion yesterday, included language in Lines 12
14 through 14 that the application of such standards will
15 be implemented as prescribed by the June 2019
16 Biological Assessment. I believe that that's a change
17 the Applicant made, or maybe it's language I had
18 included; I don't remember.

19 MS. GRABEL: That is a change we suggested.

20 MEMBER WOODALL: Mr. Chairman, could we have
21 a little more reference like to the federal EIS or, you
22 know. I mean, I understand we know the date, but we've
23 got masses of material here. So if someone actually
24 wanted to look at this, is it part of the EIS? Is it
25 part of the Record of Decision? Just another more

1 identifying --

2 CHMN. CHENAL: Sure, that's a good
3 suggestion.

4 MR. ROGERS: It is referenced in the ROD, the
5 Record of Decision.

6 MEMBER WOODALL: Oh. That way, you know,
7 people will know where to find it in the unlikely event
8 that anyone looks for it. Thank you.

9 CHMN. CHENAL: Okay. So that's a good
10 suggestion. And now the Biological Assessment is now
11 tied to the Record of Decision, and we've defined the
12 Record of Decision as ROD.

13 Are there any further thoughts or comments
14 regarding Condition Number 6?

15 MS. GRABEL: I think in the language that Eli
16 just added we should say, attached to the Record of
17 Decision.

18 CHMN. CHENAL: Okay, very good. Any further
19 discussion with respect to Condition 6?

20 (No response.)

21 CHMN. CHENAL: If not, may I have a motion?

22 MEMBER HAMWAY: So moved.

23 CHMN. CHENAL: And a second?

24 MEMBER RIGGINS: Second.

25 CHMN. CHENAL: All in favor say aye.

1 (A chorus of ayes.)

2 CHMN. CHENAL: Okay. Now, what's referred to
3 as Condition 9 at the bottom -- bear with me -- bottom
4 of Page 6, Exhibit 42.

5 MEMBER HAMWAY: 7. You said 9. It's not
6 Condition 9. It's Condition 7.

7 CHMN. CHENAL: Oh, I'm sorry.

8 MR. ANCHARSKI: If I can clarify. That's
9 because when we're making changes on here, the one on
10 the right, which is DCR-43, is updating the paragraph
11 numbers so that it shows Condition 9 because that's
12 originally, I believe, what it was, but it would be 7.

13 CHMN. CHENAL: Because I'm looking at the
14 paper version in front of me and it says 7, and up on
15 the screen, on the left screen, which is Exhibit 42, it
16 shows Paragraph 9 as the one that was deleted, Lines 18
17 through 27.

18 Well, this happens. But in any event, it's
19 on Page 6 of Exhibit 42, Lines 18 through 27, dealing
20 with the Applicant consulting with State Land
21 Department and SHPO -- in any event -- for cultural
22 resources. That was one what was proposed by the
23 Applicant. My suggestion is we take it out there and
24 we insert it back later in the document. So you will
25 see this provision later in the document. So let's --

1 for now let's just move on, and we'll pick up this
2 particular condition later.

3 MEMBER WOODALL: I'm sorry. Which condition?

4 CHMN. CHENAL: Well, it's Page 6, Lines 18
5 through 27.

6 MEMBER WOODALL: That's struck out.

7 CHMN. CHENAL: It's struck out. There's a
8 discrepancy in what number that is, whether it's 7 or
9 9, but it's Lines 18 through 27.

10 MEMBER WOODALL: So we're not voting on that
11 now?

12 CHMN. CHENAL: Correct.

13 MEMBER WOODALL: Thank you.

14 CHMN. CHENAL: So let's move to the next
15 page, which is Page 7, of Exhibit 42, Condition
16 Number 7. Any further discussion?

17 (No response.)

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

20 MEMBER GENTLES: So moved.

21 CHMN. CHENAL: And a second?

22 MEMBER HAMWAY: Second.

23 CHMN. CHENAL: We have a motion and a second.
24 All in favor say aye.

25 (A chorus of ayes.)

1 MEMBER WOODALL: Pass.

2 CHMN. CHENAL: Condition 8.

3 MEMBER PALMER: Motion to approve 8.

4 MEMBER HAMWAY: Second.

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

6 Any further discussion?

7 (No response.)

8 CHMN. CHENAL: All in favor say aye.

9 (A chorus of ayes.)

10 MEMBER WOODALL: Pass.

11 CHMN. CHENAL: Number 9, Condition 9, dealing
12 with interference with radio and television signals.

13 Take a moment to read.

14 May I have a motion to approve?

15 MEMBER HAMWAY: So moved.

16 CHMN. CHENAL: And a second?

17 MEMBER PALMER: Second.

18 CHMN. CHENAL: Any further discussion?

19 (No response.)

20 CHMN. CHENAL: All in favor say aye.

21 (A chorus of ayes.)

22 CHMN. CHENAL: Let's go to Condition 10. All
23 right. Now, this one you'll see I have proposed for
24 discussion some additional language that's taken from
25 some of the CECs that are listed below. It just gives

1 a little more, I think, instruction to the Applicant as
2 to the way the sign should be placed, reasonable
3 intervals, prominent locations, gives a little context
4 for the signage.

5 And again, this is taken from, you know,
6 other CECs that we've -- you know, in the past. It
7 also asks that the signs refer to the website at the
8 docket control, and that's also consistent with other
9 CEC provisions.

10 So may I have a motion to approve?

11 MEMBER HAMWAY: So moved.

12 CHMN. CHENAL: And a second?

13 MEMBER GENTLES: Second.

14 CHMN. CHENAL: Any further discussion?

15 (No response.)

16 CHMN. CHENAL: All in favor say aye.

17 (A chorus of ayes.)

18 CHMN. CHENAL: Thank you.

19 Next is Exhibit 11 -- excuse me -- Condition
20 11, Exhibit 42.

21 MEMBER PALMER: Motion to approve 11.

22 CHMN. CHENAL: May I have a second?

23 MEMBER HAMWAY: Second.

24 MEMBER GENTLES: Mr. Chairman.

25 CHMN. CHENAL: Yes, Member Gentles.

1 MEMBER GENTLES: Has the Applicant given us
2 an idea of what a good faith effort means?

3 CHMN. CHENAL: I would say no. It's a pretty
4 common contractual term. I think the law is fairly
5 well developed in the area of what good faith means.

6 But I guess the Applicant can respond to
7 that, Member Gentles' question.

8 MS. GRABEL: I think I'd defer to Mr. Rogers
9 as to how he would interpret good faith effort with
10 respect to this condition.

11 MR. ROGERS: I would think it would be a
12 trajectory of activities. First is informing them of
13 what you would like to do, and we are doing that as
14 part of our initial engagement with landowners,
15 providing them with maps and details.

16 The other step would be to get response from
17 them if they would like something different. And we
18 would consider that against a host of requirements.
19 Some requirements would be is it still compliant with
20 permits and orders and regulations we have? Is it
21 safe? Does it meet our needs?

22 If we couldn't comply with the landowner's
23 request based on, you know, that umbrella of
24 requirements that we have to deal with, then I think
25 that that would justify a good faith effort to

1 understand. If we can comply with it, and it gets
2 included into our right-of-way agreement, then that
3 would also document a good faith effort.

4 MEMBER DRAGO: Mr. Chairman.

5 CHMN. CHENAL: Yes, Member Drago.

6 MEMBER DRAGO: So if we look on Page 7, Line
7 10, we don't use good faith effort there, but we do say
8 something close to it. Is that more explicit than good
9 faith effort? Reasonably -- shall make every
10 reasonable effort to promptly. Just a suggestion.

11 MEMBER GENTLES: Mr. Chair, I think I like
12 that language a little bit better.

13 MS. GRABEL: It's a more difficult standard
14 to meet; perhaps that's why you like it better.

15 MEMBER GENTLES: That's why I like it.

16 MS. GRABEL: Make every reasonable effort is
17 we're required to do everything we can that's
18 reasonable, as opposed to good faith effort, which
19 gives us a little bit more flexibility to determine.
20 We don't have to exhaust every means of reaching out to
21 landowners, but just do something that complies with
22 what good faith would be.

23 CHMN. CHENAL: So what's the Committee's
24 preference for this provision?

25 MEMBER GENTLES: I'd like to see the language

1 say every reasonable effort.

2 CHMN. CHENAL: So the Applicant shall use
3 every reasonable effort to discuss with private
4 landowners, et cetera?

5 MEMBER GENTLES: Yeah.

6 MEMBER HAMWAY: There's no enforcement.

7 MEMBER GENTLES: Right. My challenge has
8 always been that there appears to be outreach efforts,
9 but in many cases I don't see anything else that occurs
10 as a result of that. This gives it a little bit more
11 desire from the Committee to take some action.

12 CHMN. CHENAL: So Member Gentles, if you look
13 on the right screen, Exhibit 43, Condition 11, it says,
14 the Applicant shall continue to -- does it say use
15 every reasonable effort?

16 MR. ANCHARSKI: Yes.

17 MEMBER GENTLES: Which line are you looking
18 at?

19 CHMN. CHENAL: Well, on the right screen,
20 Exhibit 43, Line 22.

21 MEMBER GENTLES: On what page? What page is
22 that? Let me look at it.

23 MEMBER HAMWAY: It's going to be updated.

24 MEMBER GENTLES: Oh, it's being updated. Oh,
25 okay.

1 CHMN. CHENAL: So if you look at Exhibit 43
2 on the right screen, Line 22, is that wording to your
3 satisfaction?

4 MS. GRABEL: May I comment on that?

5 CHMN. CHENAL: Yes.

6 MS. GRABEL: The phrase "reasonable efforts"
7 is used in Condition 12 as well, and puts a requirement
8 on the Applicant to use good faith to negotiate
9 agreements in rights-of-way. So perhaps instead of
10 saying every reasonable effort, we can conform 11 and
11 12 and just say reasonable efforts, so the outreach is
12 reasonable.

13 CHMN. CHENAL: Let's put that up there and
14 then let's have further discussion from Member Woodall.
15 One at a time.

16 MEMBER GENTLES: Mr. Chair, the challenge
17 is -- that yellow, I can't really see it. Maybe it's
18 just me.

19 CHMN. CHENAL: Well, it's hard to read. I
20 think we're going to have a color change. Thank you.

21 Okay. Member Woodall.

22 MEMBER WOODALL: This is addressed to counsel
23 for the Applicant. It's hard for me to take my lawyer
24 hat off sometimes. But it's my understanding that
25 there actually is case law that defines what good faith

1 efforts are in particular circumstances and, in fact,
2 there's a boat load of them, I think, in Uniform
3 Commercial Code.

4 So I'm not as familiar about whether or not
5 every reasonable effort has been defined by court
6 cases. I mean, I don't know. But we do have a good
7 existing body of law that talks about what good faith
8 means, and I personally would be more comfortable in
9 that because there's appellate decisions and judicial
10 determinations that say what that means. So that's why
11 I'm more comfortable with it. Having said that, I have
12 no strong opinions.

13 MS. GRABEL: Member Woodall, I agree with
14 you, there is a good body of case law that discusses
15 the phrase good faith, it has a legal connotation, as
16 does reasonable effort.

17 MEMBER GENTLES: So given the two, then,
18 would it be up to us to decide which language to put
19 in?

20 CHMN. CHENAL: Yes, it would.
21 So Member Grabel -- Ms. Grabel.

22 MS. GRABEL: A sign of things to come. Just
23 kidding.

24 MEMBER WOODALL: I hope not.

25 MEMBER HAMWAY: For your sake.

1 MEMBER WOODALL: For your sake.

2 CHMN. CHENAL: Where was the reasonable
3 language that you were referring to that I could look
4 at?

5 MS. GRABEL: It is in Condition 12. It
6 actually uses both phrases, reasonable efforts and good
7 faith. And the reasonable efforts modifies the working
8 with the private landowners, which to me would be more
9 equivalent to the communications.

10 CHMN. CHENAL: I'm having a hard time. The
11 numbers are changing on these. So when you say
12 Condition 12 --

13 MS. GRABEL: I'm looking at the hard copy, so
14 it should be the same as what you have. It's the one
15 right below the one we're talking about now.

16 Do you see it, Line 24?

17 CHMN. CHENAL: Yes.

18 Let's change the color up there, because it
19 will be easier to see. Let's stop on this for a
20 second.

21 Let me suggest some changes, Eli. The
22 Applicant shall continue to use reasonable efforts to
23 discuss. And then after the word discuss, and
24 negotiate in good faith. Because we can ask the
25 Applicant to use reasonable efforts to discuss all day

1 long. It's the good faith -- it's good faith
2 negotiations that I think is the heart of what we're
3 asking the Applicant to do.

4 MEMBER GENTLES: Mr. Chair, I like that
5 language. And in addition, the reason why reasonable
6 effort to me is stronger than good faith is that, if I
7 talk to an individual that owns a house next to a line,
8 and somebody says that they used good faith effort,
9 that doesn't really tell me anything. But if they went
10 to every reasonable effort to communicate with that
11 landowner or that homeowner, I'd be more comfortable
12 with that. It's little bit more definable.

13 CHMN. CHENAL: Okay.

14 MEMBER GENTLES: So I like the language.

15 CHMN. CHENAL: Any further discussion?

16 (No response.)

17 CHMN. CHENAL: May I have a motion?

18 MEMBER HAMWAY: So moved.

19 MEMBER GENTLES: Second.

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

21 All in favor say aye.

22 (A chorus of ayes.)

23 MEMBER WOODALL: Pass.

24 CHMN. CHENAL: So Condition 12. May I have a
25 motion to approve?

1 MEMBER HAMWAY: So moved.

2 MEMBER GENTLES: Second.

3 CHMN. CHENAL: We have 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 MEMBER WOODALL: Pass.

9 CHMN. CHENAL: Condition 13. All right,
10 let's talk about this one for a moment. The first
11 change I recommended was to delete the words, to the
12 extent practicable, because that general requirement,
13 if you will, is contained in Line 1. It says, any such
14 right-of-way agreement shall, where practicable. And
15 then I think that defines the obligations in the
16 Subparts A through D.

17 The next portion, starting around Line 7,
18 requires the Applicant, before construction, to provide
19 notice to cities and towns within 5 miles of the
20 project and then the counties and home builders and
21 developers. I added the words Maricopa County, because
22 Maricopa County -- the project is in Maricopa County.
23 And I also added the town of Quartzsite.

24 I don't know technically if that's within
25 5 miles; it's probably not within 5 miles of the

1 boundaries. I'm not exactly sure. But I just think
2 that it would be for the greater good to provide notice
3 to the town of Quartzsite.

4 Again, we talk about 1 mile of the project.
5 I think we've referred to the center line in a previous
6 condition and in previous conditions of the CEC, and I
7 think center line of the transmission line makes sense
8 there. But those are the reasons for what I was
9 proposing, the changes that I was proposing.

10 Member Riggins.

11 MEMBER RIGGINS: Mr. Chair, I agree with
12 including town of Quartzsite. I think, given the
13 public comment at the hearing in Quartzsite, that they
14 seemed like they would be appreciative of being
15 notified, even if they're not within that 5 miles. So
16 as long as it's not a burden to the Applicant, I think
17 it would be good to include.

18 MEMBER WOODALL: Mr. Chairman.

19 CHMN. CHENAL: Member Grabel -- or, excuse
20 me. Member Woodall.

21 MS. GRABEL: I'm getting a vote on this, by
22 the way.

23 CHMN. CHENAL: Ms. Grabel, you were going to
24 comment, and then we'll go to --

25 MS. GRABEL: The Applicant does not object to

1 notifying the town of Quartzsite.

2 CHMN. CHENAL: Sure.

3 Ms. Woodall, Member Woodall.

4 MEMBER WOODALL: And I may be jumping the
5 gun. But with respect to this particular condition, I
6 am not supportive of Lines 1 through 7, ending with the
7 word "landowner." I'm going to vote no on that, and
8 I'm going to vote yes on the rest of it. So when we
9 have our discussions, it would be helpful for me if we
10 could discuss them in those two segments.

11 CHMN. CHENAL: All right. May I have a
12 motion for Condition -- let's get the right one -- 13?

13 MEMBER PALMER: Move Condition 13 as amended.

14 MEMBER HAMWAY: Well, through Lines -- do you
15 want to do it in half?

16 CHMN. CHENAL: No, the whole thing.

17 MEMBER HAMWAY: Okay.

18 CHMN. CHENAL: Condition 13.

19 MEMBER HAMWAY: Condition 13, so moved as
20 modified.

21 CHMN. CHENAL: We have a motion and a second.
22 All in favor say aye.

23 (A chorus of ayes.)

24 MEMBER WOODALL: I'm going to have to vote no
25 since the provision that I objected to is included, and

1 we couldn't vote on it separately.

2 CHMN. CHENAL: Well, Member Woodall, if we
3 did it separately, you would vote no on that portion of
4 it and yes on the rest; is that correct?

5 MEMBER WOODALL: That is absolutely correct.

6 CHMN. CHENAL: Okay. So let's go to the next
7 one, Exhibit 14 -- excuse me -- Condition 14. I
8 changed the wording just a little on it. We could say,
9 the Applicant shall use non-specular conductor and
10 non-reflective surfaces for the project transmission
11 line's structures. But the point I was driving at was
12 to remove the words "or its assignee," because if we
13 put it there, we're going to have to put it everywhere,
14 right?

15 Because we're saying if the project is
16 assigned or transferred somehow by the Applicant to
17 some other party, we're going to have to do that for
18 every single condition. We have a condition later that
19 addresses the whole assignment and transfer issue, so I
20 don't think we should put it here, because I think we
21 can just leave it as a general condition. So that was
22 the rationale for that change.

23 MEMBER HAENICHEN: Mr. Chairman.

24 CHMN. CHENAL: Member Haenichen.

25 MEMBER HAENICHEN: But don't you have to

1 leave the words "the Applicant" in place?

2 CHMN. CHENAL: Yes. Well --

3 MEMBER HAENICHEN: Okay. It looks like it's
4 crossed out.

5 CHMN. CHENAL: Eli, could we change it?

6 MS. GRABEL: Chairman, actually, if I may
7 address that, this actually partly was your change and
8 part was a revision from the Applicant as well.

9 CHMN. CHENAL: Okay, let's hear it from you
10 then.

11 MS. GRABEL: So what you had done was just
12 removed the "or its assignee." And that caused us a
13 little consternation because it suggested we couldn't
14 assign the line. If we wanted to do so, we had
15 questions about whether assigning it to one of our
16 affiliates would be difficult. And if we did assign
17 it, the condition is still on the Applicant, which is
18 DCR Transmission, to comply with Condition 14, even
19 though we might not actually be the entity that is then
20 constructing line.

21 So our thought was to just make it generally
22 applicable to whoever has compliance obligations and
23 say non-specular conductor and non-reflective surfaces
24 shall be used for the projects. So whoever is the
25 holder of the CEC at the time must comply with that

1 condition.

2 CHMN. CHENAL: I was trying to remember where
3 that language came from, because I didn't think I made
4 that change. I thought I just struck the words "or its
5 assignee." So thank you for that.

6 So is there any further discussion by the
7 Committee with the language as shown on the screen?

8 Member Haenichen, you heard the explanation.

9 MEMBER HAENICHEN: I just didn't understand.
10 It looks to me like it was crossed out.

11 CHMN. CHENAL: Well, it is. So now the
12 provision would read, non-specular conductor and
13 non-reflective surfaces shall be used for the project's
14 transmission line structures.

15 MEMBER HAENICHEN: Thank you.

16 CHMN. CHENAL: So may I have a motion?

17 MEMBER HAMWAY: So moved.

18 CHMN. CHENAL: And a second?

19 MEMBER DRAGO: Second.

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

21 All in favor say aye.

22 (A chorus of ayes.)

23 MEMBER WOODALL: Pass.

24 CHMN. CHENAL: Let's try 15. May I have a
25 motion to approve Condition 15?

1 MEMBER PALMER: Motion to approve 15.

2 CHMN. CHENAL: May I have a second?

3 MEMBER RIGGINS: Second.

4 CHMN. CHENAL: Any further discussion?

5 MEMBER WOODALL: Pass.

6 CHMN. CHENAL: All in favor say aye.

7 (A chorus of ayes.)

8 MEMBER WOODALL: I'm sorry, I jumped the gun.

9 Pass.

10 CHMN. CHENAL: Condition 16.

11 MEMBER HAENICHEN: I move 16.

12 MEMBER HAMWAY: Second.

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

14 Any further discussion?

15 (No response.)

16 CHMN. CHENAL: And Mr. Arias, is this one

17 that the Staff is recommending?

18 MR. ARIAS: Just had to take a chance to

19 confirm. But yes, 16, and the following one, 17.

20 CHMN. CHENAL: Okay, thank you.

21 So on 16 may I have a motion to approve? We

22 have a motion from Member Haenichen. Do we have a

23 second?

24 MEMBER PALMER: Second.

25 MEMBER HAMWAY: Are we going to add their

1 language?

2 CHMN. CHENAL: This is their language --

3 MEMBER HAMWAY: Oh, okay.

4 CHMN. CHENAL: -- Member Hamway.

5 MEMBER HAMWAY: Sorry, I didn't understand

6 that. So moved, second.

7 CHMN. CHENAL: Any further discussion?

8 (No response.)

9 CHMN. CHENAL: All in favor say aye.

10 (A chorus of ayes.)

11 CHMN. CHENAL: Okay, Condition 17. This is
12 another condition that's been proposed by the Staff at
13 the Corporation Commission.

14 May I have a motion to approve?

15 MEMBER HAMWAY: So moved.

16 CHMN. CHENAL: A second?

17 MEMBER PALMER: Second.

18 CHMN. CHENAL: Any further discussion?

19 (No response.)

20 CHMN. CHENAL: All in favor say aye.

21 (A chorus of ayes.)

22 CHMN. CHENAL: 18.

23 MR. ANCHARSKI: Chairman, 18 is too long for
24 the screen, so I would suggest maybe doing it in parts.

25 CHMN. CHENAL: Sure.

1 So let's look at Condition 18, Lines 9
2 through 25. You'll see a couple changes. One is just
3 a hundred feet, to define a hundred feet. But the more
4 substantive change refers to studies, as opposed to
5 measurements.

6 Now, I note that the condition that the
7 Staff, that the Corporation Commission Staff has
8 recommended does use the word "measurements." But I'm
9 also aware, at least my recollection is that in a
10 previous case there was a discussion on the record
11 about that and the Staff, through the witnesses or
12 attorney, proposed the word "studies" instead of
13 measurements. I'm kind of agnostic to it, but I
14 thought that was the request and that's why we changed
15 it to studies.

16 So Mr. Arias or Ms. Little, is there a
17 preference to which word is used?

18 MR. ARIAS: Staff is okay with the word
19 "studies" in place of "measurements."

20 CHMN. CHENAL: Okay. All right, thank you
21 for that.

22 All right. So let's look at Condition 18
23 Lines 9 through 25. May I have a motion to approve?

24 MEMBER HAMWAY: So moved.

25 CHMN. CHENAL: And a second?

1 MEMBER PALMER: Second.

2 CHMN. CHENAL: Any further discussion?

3 (No response.)

4 CHMN. CHENAL: All in favor say aye.

5 (A chorus of ayes.)

6 CHMN. CHENAL: Let's look at Lines 22, then,
7 through -- Lines 22 on Page 10 of Exhibit 42 through
8 Line 10 on Page 11 of Exhibit 42. Again, the word
9 "studies" have been substituted for "measurements."

10 Now, I do note that on Line 4, Line 4 of
11 Page 11, there's a note, "NTD, have we not already
12 performed bullet two studies?" I can guarantee you
13 that that's not from me.

14 MS. GRABEL: We are removing that. Sorry,
15 Chairman. We neglected to delete that. It was an
16 internal team comment.

17 CHMN. CHENAL: Isn't it fortunate that it's
18 not something else?

19 Any further discussion on Condition --
20 bear with me -- 18, Lines 22 through 9, going over to
21 Page 11?

22 Yes, Member Drago.

23 MEMBER DRAGO: I've got a question -- the mic
24 is not working, actually.

25 Can someone explain, on the paper copy that

1 we're working from, Line 25? A hundred feet of the
2 existing natural gas or hazardous liquid pipeline. Is
3 it necessary to define it like that?

4 CHMN. CHENAL: What line is that again?

5 MEMBER DRAGO: Paper copy, Page 10, Line 25.

6 CHMN. CHENAL: And your question, Member
7 Drago, was the reference to natural gas or hazardous
8 liquid pipeline?

9 MEMBER DRAGO: Yeah.

10 CHMN. CHENAL: Versus?

11 MEMBER DRAGO: It says it's the existing. It
12 says it's existing. Do we know that?

13 CHMN. CHENAL: Oh, your concern is if the
14 line -- if the gas line is built in the future; is that
15 correct?

16 MEMBER DRAGO: Well, just, to me, what is
17 existing? Is it both or one?

18 CHMN. CHENAL: Do you have some language that
19 you would propose that would alleviate your concern?

20 MEMBER DRAGO: I was just thinking that
21 whatever is existing, let's mention it. Is it an
22 existing natural gas line? That's what I thought was
23 out there. I didn't know about a hazardous liquid
24 pipeline.

25 MS. GRABEL: Chairman, I think at the very

1 top on Line 10 it says, any existing natural gas; that
2 kind of gives you the global "any." And then later, it
3 refers to the specific "the." So to the extent that
4 there are any, this refers to the existing that were
5 under that broader umbrella. That's how I interpreted
6 that when I read it. Are you following me?

7 CHMN. CHENAL: I think it's okay, Member
8 Drago.

9 MEMBER DRAGO: Okay, that's fine.

10 CHMN. CHENAL: Yeah. Because it could be
11 existing today, it could be existing in the future. I
12 mean, we don't know. But we don't want gas lines next
13 to these big power lines without appropriate studies
14 being done, I would think.

15 MEMBER DRAGO: Okay. I just think I got
16 tripped up on the word "existing."

17 CHMN. CHENAL: And I think Member -- Ms.
18 Grabel -- I'll say that a hundred times to remember to
19 get it straight. Ms. Grabel, Ms. Grabel, I think her
20 explanation, yeah, kind of the any existing would kind
21 of define the following parts.

22 MEMBER DRAGO: I'm good, thank you.

23 MS. GRABEL: And just for the record, there
24 are no hazardous pipelines located within our project,
25 and so that portion is irrelevant to this project.

1 MEMBER DRAGO: Yeah, that was sort of my
2 point, whether or not that was the case.

3 CHMN. CHENAL: Okay. Any further discussion?
4 (No response.)

5 CHMN. CHENAL: I've lost track. Do we have a
6 motion and a second already on Lines -- let's do it
7 over again.

8 MEMBER HAMWAY: So moved.

9 MEMBER PALMER: I'll second.

10 CHMN. CHENAL: Let's make sure we know what
11 we're moving and seconding on. It's Lines 22 on Page
12 10 over to Line 10 on Page 11, Exhibit 42.

13 MEMBER HAMWAY: So moved.

14 CHMN. CHENAL: We have a motion and a second.
15 All in favor say aye.

16 (A chorus of ayes.)

17 MEMBER WOODALL: Pass.

18 CHMN. CHENAL: Sorry, Member Woodall, you
19 passed?

20 MEMBER WOODALL: Yes, I did, on the basis of
21 relevance, since apparently it's not pertinent to this
22 project.

23 CHMN. CHENAL: All right. Just for the
24 record, the Commission -- or, the Committee Staff is
25 recommending this provision.

1 MEMBER WOODALL: Yes, I understand that.

2 Thank you very much.

3 CHMN. CHENAL: All right, 19. We can go
4 through a couple of these pretty quickly. We've added
5 a few -- town of Quartzsite to the compliance letter,
6 to send it to Quartzsite. Any further discussion on
7 Condition 19?

8 (No response.)

9 CHMN. CHENAL: If not, may I have a motion?

10 MEMBER HAMWAY: So moved.

11 CHMN. CHENAL: And a second?

12 MEMBER PALMER: Second.

13 MS. GRABEL: Chairman, I know you're a
14 stickler about this, and I just noticed that on Line
15 21, Bureau of Land Management, you wanted that to be
16 BLM, and it needs a comma between SHPO and BLM.

17 CHMN. CHENAL: Yes, thank you very much. I
18 think that would be included in Member Woodall's motion
19 for scrivener's errors, I think that would be
20 encompassed by that, but yes, let's clean it up now.

21 MEMBER WOODALL: His empowerment.

22 CHMN. CHENAL: So with those changes, any
23 further discussion?

24 (No response.)

25 CHMN. CHENAL: All in favor say aye.

1 (A chorus of ayes.)

2 CHMN. CHENAL: Okay, Number 20, providing
3 copies of the certificate. Any further discussion on
4 20?

5 MEMBER WOODALL: I do. Is there a deadline
6 that we want these copies to be provided, so many days
7 after the decision is issued in this case or... I know
8 we don't have one. I'm just raising it for discussion
9 purposes.

10 CHMN. CHENAL: Sure. Do you have a
11 suggestion?

12 MEMBER WOODALL: I don't know. 30 days.

13 CHMN. CHENAL: Well, I think it would have to
14 be after the Commission rules on it.

15 MEMBER WOODALL: That's what I'm saying. I
16 beg your pardon. When I said decision, I meant the
17 decision of the Corporation Commission.

18 CHMN. CHENAL: Well, do we want it, or does
19 it matter if it's just certificate? Maybe it would be
20 good to have the parties receive the certificate,
21 because then they're on notice that this matter will be
22 heard before the Commission.

23 MEMBER WOODALL: Excellent, excellent
24 observation.

25 CHMN. CHENAL: So should we -- 30 days?

1 MEMBER WOODALL: So the certificate would be
2 our decision, correct --

3 CHMN. CHENAL: Correct.

4 MEMBER WOODALL: -- Mr. Chairman? Okay. I
5 just think there should be some time frame, and I would
6 defer to the wisdom of the other Members regarding
7 what.

8 CHMN. CHENAL: Is 30 days appropriate?

9 MS. GRABEL: Chairman and Member Woodall, we
10 won't have a certificate until the Commission votes on
11 it. We'll have a recommendation for issuance of a
12 certificate.

13 MEMBER WOODALL: Kind of the way I had always
14 thought this is that we issue a certificate, and then
15 the Commission issues a decision approving it or
16 denying it. But regardless of the niceties, I just
17 think there should be a time frame.

18 MS. GRABEL: I agree, but just in terms of
19 compliance, for my client to want to know --

20 MEMBER WOODALL: Right, what's the triggering
21 event.

22 MS. GRABEL: Correct.

23 MEMBER WOODALL: What the Chairman files or
24 what the Commission files.

25 MS. GRABEL: Correct.

1 MEMBER WOODALL: So I don't have a position
2 on that. I withdraw it, because this is getting a
3 little more complicated. I have confidence that the
4 Applicant is going to be informing the pertinent
5 agencies in a timely fashion, so I don't think we need
6 to add a date, because it sounds like it's going to be
7 a little more complicated. Thank you.

8 CHMN. CHENAL: I'm fine with that.

9 So do we have a motion to approve 20 with the
10 changes made?

11 MEMBER PALMER: Motion to approve 20.

12 MEMBER RIGGINS: Second.

13 CHMN. CHENAL: We have a motion and a second.
14 All in favor say aye.

15 (A chorus of ayes.)

16 CHMN. CHENAL: 21. Here is the one that
17 addresses the assignee, and this has been one that's
18 been in all of our CECs, not just these three. So is
19 there any further discussion with 21?

20 (No response.)

21 CHMN. CHENAL: If not, may I have a motion?

22 MEMBER HAMWAY: So moved.

23 CHMN. CHENAL: And a second?

24 MEMBER PALMER: Second.

25 CHMN. CHENAL: All in favor say aye.

1 (A chorus of ayes.)

2 MEMBER WOODALL: Pass.

3 CHMN. CHENAL: Okay, 23. Scroll down, Eli,
4 on the left-hand side. Well, I'm looking at the
5 screen, it says 23.

6 MEMBER WOODALL: Can you read the first
7 sentence?

8 CHMN. CHENAL: The Applicant shall provide.

9 MEMBER HAENICHEN: We're on 23 now?

10 CHMN. CHENAL: Yes, 23, on Page 12.

11 MEMBER HAMWAY: Oh, I thought we were on 22.
12 We haven't approved 22 --

13 CHMN. CHENAL: Oh, 22. I'm sorry.

14 MEMBER HAMWAY: -- on the paper, Line 6 on
15 Page 12 of DCR-42.

16 CHMN. CHENAL: All right. So this is what's
17 happened. So, okay, 22, with regard to modification of
18 the terms and with the change of Bureau of Land
19 Management to BLM. Is there any further discussion?

20 (No response.)

21 CHMN. CHENAL: May I have a motion to approve
22 Condition 22?

23 MEMBER HAENICHEN: Motion to approve.

24 MEMBER HAMWAY: Second.

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

1 All in favor say aye.

2 (A chorus of ayes.)

3 CHMN. CHENAL: All right. Next there's some
4 language on Page 12, Lines 12 through 16, dealing with
5 a transmission service agreement. And that's been
6 struck, and I think appropriately, because we had a
7 discussion on that yesterday with Mr. Rogers, others,
8 and this is a regulated line, so it seems like it's not
9 appropriate in this case.

10 So let's go to what's listed as Exhibit --
11 or, excuse me -- Condition 23 regarding the
12 interconnection agreements.

13 MEMBER HAENICHEN: Mr. Chairman, I move
14 Condition 23 as written.

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

17 MEMBER HAMWAY: Second.

18 CHMN. CHENAL: Any further discussion?

19 (No response.)

20 CHMN. CHENAL: All in favor say aye.

21 (A chorus of ayes.)

22 MEMBER WOODALL: No. There wasn't any
23 evidence in the record for me to include this, so -- I
24 mean, somebody else may have a different recollection,
25 but...

1 CHMN. CHENAL: All right. Number 24. You
2 know what? I'm going to suggest we take our morning
3 break at this point. We've been at it a little while,
4 and this might take a little discussion. So let's
5 break for 15 minutes, and we'll come back and discuss
6 Number 24. Thanks, everybody.

7 (Off the record from 10:54 a.m. to
8 11:18 a.m.)

9 CHMN. CHENAL: All right, everybody, should
10 we go back on the record and continue with going
11 through the conditions?

12 We're going to pick up with Condition 24,
13 which is the bottom of Page 12 of Exhibit 42. And this
14 is going to take a little discussion. This, again,
15 is -- if you look at the bottom, this comes from
16 Condition Number 5 in the Southline project, but there
17 are similar conditions in the main -- the big power
18 line projects we have, such as SunZia, I think the
19 Nogales project as well. I just cited to the
20 Southline.

21 And the purpose in the past, and I would
22 argue in this case, is that the Plan of Development --
23 we'll have Mr. Rogers talk about this a little more to
24 flesh this out a little, but the Plan of Development
25 has outlines and details, design, construction,

1 mitigation, restoration, and compliance requirements.
2 That basket of obligations only applies to the federal
3 land.

4 So the intent of this condition in these long
5 transmission cases has been to apply those basket --
6 that basket of obligations on state land and private
7 land as well.

8 So there's a couple changes that are
9 suggested here. The one that I'm going to push back
10 on, however, and we'll talk about it, is the change --
11 and I know if you look at the language on the left
12 screen, Exhibit 42, it's kind of hard to follow. But
13 it says, on Line 27 and 29 -- through Line 2 of the
14 following page, the way my language had was the
15 Applicant agrees to follow the terms of the POD for the
16 entirety of the CEC route, including construction and
17 operation on federal, state, and privately-owned land.

18 The Applicant, I think, has proposed the
19 language that the Applicant would agree to follow the
20 mitigation measures addressed by the POD for the
21 entirety of the CEC route. And so that's quite a
22 limiting -- that, to me, is very limiting, because it
23 leaves out the design, construction, restoration, and
24 compliance requirements, and it just requires the
25 Applicant to follow the mitigation measures on state

1 and private land. We didn't do that in Southline and
2 the other cases.

3 The other is that the Applicant -- the other
4 limiting language refers to the Applicant following
5 those measures for the entirety of the route, including
6 construction and operation on federal, state, and
7 privately-owned land, with words "in consultation with
8 and subject to the consent of the owner of such
9 land." So I know -- I'm not sure I understand if that
10 just refers to the private land or not; but if it does,
11 probably that's okay with me, but maybe we should have
12 a little discussion on it.

13 But anyway, that's the reason for the -- and
14 there's a few other changes the Applicant is
15 suggesting. For example, the Applicant shall, after
16 consultation with the landowner, use existing roads for
17 construction and access to the extent practicable. I
18 don't personally have a problem with that. There are
19 other limitations, minimize vegetation disturbance, it
20 says outside of the CEC route right-of-way. And I'm
21 not sure I have a problem with that change either.

22 So I guess the concern I have is that this
23 provision that I had proposed for discussion, which is
24 taken from other cases, would require that the full
25 basket of obligations set forth in the POD would apply

1 to state and private land, and not just mitigation
2 measures. Those are my comments.

3 Maybe we'll hear from the Applicant, and
4 certainly if the Committee has other questions we'll
5 have to address that as well.

6 Mr. Rogers or Ms. Grabel.

7 MR. ROGERS: Chairman, I can respond. So
8 fundamentally, the POD, its purpose, at least for us,
9 is to document how we plan to construct, operate, and
10 maintain the project in accordance with the
11 requirements of the landowner. That's kind of
12 fundamentally how I view this.

13 And we are producing a POD for the BLM. We
14 will also have, essentially, a Plan of Development for
15 all of the project that we work with all of our
16 construction contractors, restoration contractors,
17 operations contractors, et cetera, et cetera that
18 details how they are to do their work project-wide.

19 What we are asking here is that, and it
20 doesn't specifically say in this -- well, it -- it
21 reflects it later that the BLM-approved POD shall apply
22 to all of the Arizona portion of the project, private
23 lands, state lands. What we would ask is that we have
24 a POD that is approved by the BLM for federal lands.
25 This would also include Reclamation's requirements,

1 DOD's requirements, so on and so forth.

2 We would ask that that be separated from
3 another POD specific to the landownership that we are
4 going over. And we are asking that because, in some
5 cases, the desires and wishes of the landowner and how
6 we implement certain mitigation may be different than
7 how the BLM interprets implementing those mitigations.

8 We would like Arizona State Lands to have the
9 flexibility to work with us in good faith to build this
10 project to their needs, satisfying these mitigation
11 measures. At the end of the day, it may be more
12 stringent than what the BLM requires, it may be less
13 stringent; that's hard to say. But it could be either
14 way.

15 And we're kind of doing a similar thing in
16 California. We have different areas that we go through
17 in California, whether they're federally owned or state
18 owned -- I'm sorry, privately owned. So if you really
19 boil our concerns down to its fundamental elements, we
20 would like to provide a POD that satisfies the
21 mitigation requirements of the FEIS and the ROD, but
22 have the approach to that satisfaction be a discussion
23 with the landowners.

24 MS. GRABEL: Chairman, if I can add to that
25 for just a second?

1 CHMN. CHENAL: Yeah.

2 MS. GRABEL: The requirements and applicable
3 conditions are found in the ROD, not the Plan of
4 Development, and I think that's the fundamental portion
5 of our disagreement with the way this is currently
6 written. We can have a plan that's specific to how
7 ASLD as a landowner would like us to implement the
8 requirements of the ROD, and as private landowners
9 would like us to implement the requirements of the ROD.

10 But requiring us to follow the BLM's Plan of
11 Development on all areas, first of all, may not be
12 affable, if that's the right word, agreeable to the
13 State Land Department or to private lands, and could
14 impose high costs that don't do any benefit to the
15 landowner, whether it's private or state.

16 MR. ROGERS: For example, we may be in
17 discussions with a private landowner that has real
18 plans to develop this land in a different way, for a
19 different use, in the near term. I mean, we're talking
20 about one in particular that is looking at a solar
21 development, for example.

22 They may not want us to construct an access
23 road as laid out in our FEIS POD -- I'm sorry -- with
24 our BLM-approved POD. They might have different
25 motivators, and we would like not to be limited by the

1 BLM's interpretation of those means and methods in all
2 cases.

3 CHMN. CHENAL: Okay, I think I see. I'm
4 still confused, and I might have a suggestion for that,
5 and it would be very simple. Unless otherwise agreed
6 by state or private landowner, to follow the POD unless
7 otherwise agreed would resolve that issue.

8 But the other issue is you still seem to be
9 focusing just on mitigation measures, when the POD will
10 cover design, construction, restoration, and
11 compliance, as well as mitigation. So why are we
12 just -- why are you suggesting we just limit this to
13 mitigation and not the other basket of obligations?

14 MS. GRABEL: That wasn't -- Chairman, if I
15 could jump in. I don't think that's what we intended
16 as we were drafting this. I think it was -- the better
17 solution, in our minds, would have been to just replace
18 the POD with the ROD, but we were trying to accommodate
19 your request that we make as little redline changes as
20 possible. So we thought we would get to the core of
21 what we heard your concern, which is that the
22 mitigation measures be applied to private lands.

23 If I can offer another suggestion. This
24 term, I guess, was used in SunZia, and I know it was in
25 Southline. Other similar phrases that give the

1 applicant a little bit more flexibility were used in
2 the Sun Valley to Morgan line, and we didn't do an
3 exhaustive search, I wish we had done so right now.

4 But if I can read you Condition 11 from the
5 Sun Valley to Morgan line, which was APS's line, that
6 also went through a NEPA process, as I understand it,
7 which more broadly says, before construction on this
8 project may commence, the applicant must file a
9 construction, mitigation, and restoration plan with ACC
10 docket control. Where practicable, the plan shall
11 specify the applicant's plans for construction access
12 and methods to minimize impacts to wildlife and to
13 minimize vegetation disturbance outside the project
14 right-of-way, particularly in drainage channels and
15 along stream banks, and shall revegetate, unless waived
16 by the landowner, needed areas of construction
17 disturbance to its preconstruction state outside of the
18 power line right-of-way after construction has been
19 completed. And it goes on a little from there.

20 So it basically gives the applicant the
21 ability to create a plan specific to each type of
22 ownership of the land.

23 MR. ROGERS: Ms. Grabel is absolutely right.
24 It's our intent to include a POD that addresses the
25 design, construction, mitigation approaches to

1 compliance and restoration. That's our intent. So we
2 don't --

3 CHMN. CHENAL: And that's the intent for
4 what? To prepare a POD covering all those items for
5 the BLM land?

6 MR. ROGERS: And other lands, but not as
7 dictated by the BLM on these other lands.

8 CHMN. CHENAL: So what would be the vehicle
9 for that?

10 MR. ROGERS: We will produce a POD that is
11 specific to state lands and private lands in Arizona,
12 and we will submit that, I believe as part of another
13 requirement, to the Commission as documentation of what
14 we did. So whether it's called a Plan of Development
15 or just simply a plan, I see it as the same thing.

16 CHMN. CHENAL: Here is what I'm struggling
17 with. First of all, this is the provision we've used
18 in other long lines, and I have a hard time personally
19 with diluting a provision that we have on our other
20 long lines in favor of this Applicant, number one. I
21 think that's very important.

22 Number two, I'm just very sensitive to the
23 notion that the Plan of Development for BLM land will
24 have requirements in it that, yeah, maybe are harder to
25 meet, and those won't be used on state land or the

1 private land. Yes, I hear what you're saying. Yes, I
2 hear there will be a plan that will be developed, but
3 we have no control. We, the State at that point,
4 certainly the Committee and the Commission, won't have
5 any control over what's going to be in that plan.

6 We know, from experience, that the Plan of
7 Development with the BLM will be tight and will be very
8 specific as to the requirements. My understanding of
9 the concern you've raised that maybe the private land
10 owners, maybe the State may have desires to deviate
11 from the Plan of Development for the BLM, the simple
12 solution to me would be that the Applicant has to
13 follow the POD through the entirety of the Arizona
14 route, unless otherwise agreed to by the State, by the
15 State Land Department, or the private landowner.

16 That way there's some security for us to know
17 that, yeah, we start with a high standard, and if
18 you're going to deviate from that, it's going to be
19 with the agreement of the parties who are most
20 affected. That's my thought. As opposed to leaving it
21 to the Applicant to develop a separate plan that's not
22 tied to what I think is going to be a pretty stringent
23 Plan of Development with the BLM. Maybe I need to hear
24 from the Committee.

25 Member Drago.

1 MEMBER DRAGO: Thanks, Mr. Chairman. So I'm
2 on the paper copy, Page 12, Line 27 and 28. So it
3 talks about the POD detailing requirements, and the
4 requirements it details is relevant to design,
5 construction, mitigation, restoration, and compliance.
6 The next sentence pulls out one of those, which is
7 mitigation, on Line 28, mitigation measures.

8 Would the Applicant be okay if we just
9 removed the word "mitigation," and agrees to follow
10 these requirements as stated in Line 27? Because it
11 says that these are requirements, and you're
12 acknowledging those requirements in the POD.

13 MS. GRABEL: So I think that there's -- I
14 think we need to explain better the difference between
15 a Record of Decision and the Plan of Development. The
16 requirements are contained in the Record of Decision,
17 and that's why, Chairman, when we gave you the list of
18 the items, the Record of Decision was the one that we
19 said was probably the most relevant.

20 The Plan of Development dictates the means
21 and methods by which we are going to implement the
22 requirements contained in the ROD. What the BLM might
23 want could be far different from how the ASLD wants us
24 to implement those requirements, and that's why it's
25 not the reference to the mitigation or the measures,

1 it's really the reference to the POD in that sentence.
2 Because that's the BLM's specific POD, as opposed to a
3 Plan of Development that we could negotiate with
4 Arizona State Land or private landowners.

5 And Chairman Chenal, I realize we did use
6 this for SunZia and Southline, but there is other
7 precedent out there for long transmission lines that
8 Arizona's largest utility gets the benefit of. So I
9 don't think you're necessarily giving special treatment
10 to Ten West Link in this instance if we do accommodate
11 these requests.

12 CHMN. CHENAL: So let's talk about the Plan
13 of Development and what kind of stuff is in it.

14 MR. ROGERS: Can I give an example?

15 CHMN. CHENAL: Of?

16 MR. ROGERS: What's in the Plan of
17 Development.

18 CHMN. CHENAL: Sure.

19 MR. ROGERS: A requirement of the ROD is for
20 visual mitigation, to use structures that are of a
21 surface appearance that is acceptable to the BLM. I'm
22 paraphrasing. But in general, there's a mitigation
23 measure that says, DCRT, you've got to pick a structure
24 color to use that we like that matches the background.

25 We got samples, we went out in the field with

1 the BLM, had long discussions about what types of
2 dulled galvanizing, what shades they want. I testified
3 on it earlier. If you recall, there were three
4 samples, and the BLM chose one.

5 We then document that in our POD. It will
6 be, for example, a 16 percent reflectivity dulling
7 applied exactly on these structures, so on and so
8 forth. It's like specific in direction to our
9 contractor, this is what you're going to build.

10 Similarly, it says, you know, you shall match
11 structure types with the existing DPV line. And then
12 in areas where the DPV line is another -- you know, the
13 BLM has the ability to opine and direct us that what
14 structures we provide are acceptable to them from a
15 visual point of view.

16 We may -- we may be in an instance on another
17 area where Arizona State Lands might prefer actually a
18 different kind of dulling. If they did, we would also
19 identify that approach for these parts of the project.
20 And you could use that kind of philosophy throughout,
21 whether it be how to delineate habitat. The BLM says
22 we can do one thing; State Lands might want us to do
23 something else. And all of those plans on how we're
24 going to develop the project and implement compliance
25 with the mitigation measures are captured in the Plan

1 of Development.

2 We write the Plan of Development to comply
3 with the myriad of mitigation that we're obligated to
4 comply with, as well as engineering codes and standards
5 and land use requirements and all of -- there's
6 additional rules that we need to follow that are in the
7 ROD, but we need to follow them anyway. For example,
8 stipulations of this Committee.

9 CHMN. CHENAL: Let me just ask a couple
10 questions. So regarding structure types, your Plan of
11 Development with BLM will specify a particular
12 structure type.

13 MR. ROGERS: It will.

14 CHMN. CHENAL: What does the Record of
15 Decision say about structure types? Is it more
16 general? How does that address the structure types?

17 MR. ROGERS: It references the mitigation
18 measure of the FEIS. The Record of Decision
19 essentially says the analysis and the BLM's preferred
20 alternative in the FEIS, it's our decision as a
21 landowner to implement those, and we implement all of
22 the requirements of the FEIS. In the Record of
23 Decision it is possible that they could have modified
24 something as the, you know, authorized agent of the
25 government and for management of that land, they could

1 have changed it.

2 CHMN. CHENAL: I'm not making myself clear,
3 Mr. Rogers.

4 MR. ROGERS: I'm sorry.

5 CHMN. CHENAL: The Plan of Development
6 implements what's in the Record of Decision.

7 MR. ROGERS: Yes.

8 CHMN. CHENAL: So the Record of Decision will
9 address structures in some way. Will it say -- how
10 does it address structures? Does it say the Applicant
11 shall -- what regarding structures, that's implemented
12 by the Plan of Development? What's the instruction to
13 the Applicant in the Record of Decision, for example,
14 on structures? We're using this as an example. Does
15 it say design it in the least offensive manner?

16 MR. ROGERS: It says match DPV for type and
17 color treatment, but that's kind of subjective.

18 CHMN. CHENAL: So I guess I'm going to go
19 back, because I'm still -- I'm digging in a little, I
20 guess, on this. At least my personal preference is
21 that we follow the standards that we've used in the
22 past, that if we say that, you know, the ROD requires
23 you to do a Plan of Development, but the Plan of
24 Development we've already agreed only applies to the
25 federal portion, but we say it applies to the state and

1 private land, unless otherwise agreed by Arizona State
2 Land Department and the private landowner, that I think
3 addresses your concern that, hey, State Land might want
4 to use a different color or tag things differently.

5 It's not -- it might be more work, but it
6 gives me a warm and comfy feeling that the Applicant
7 will do all these things on state land and private
8 land, unless agreed to otherwise by those landowners.

9 MS. GRABEL: Mr. Rogers, can I take a quick
10 shot at something?

11 So Chairman Chenal, I think perhaps another
12 reason why this project is different from SunZia and
13 Southline is we're much further along in the
14 development and design of this project compared to the
15 others. So we've hired an EPC contractor, we've gone
16 through a lot of -- so we'd be starting at a much more
17 advanced point, as opposed to Southline and SunZia, who
18 would be negotiating with three entities simultaneously
19 and could develop a plan that was potentially
20 applicable to everybody.

21 So now we're coming to other landowners
22 saying, here is what we've already decided with the
23 BLM, and the Corporation Commission has told us we have
24 to follow this unless you disagree, and it's a very
25 lengthy document. Mr. Rogers can probably explain

1 better.

2 CHMN. CHENAL: Has a Plan of Development
3 already been prepared?

4 MR. ROGERS: Yes, twice. We produced an
5 initial Plan of Development for the entire project that
6 fed into the analysis in the Draft EIS. After the
7 Draft EIS was submitted, it included additional
8 mitigation requirements. We revised the Plan of
9 Development to comply, as best that we interpreted, of
10 how we would comply with these new mitigation measure
11 requirements.

12 And it also drilled into the preferred
13 alternative. Since we had a preferred, we were able to
14 more design, just -- we just drilled in and got more
15 accurate. And then we will produce another Plan of
16 Development to get our authorization to construct.

17 CHMN. CHENAL: And the other Plan of
18 Development is with whom or will be for whom?

19 MR. ROGERS: It's for the BLM right now.

20 CHMN. CHENAL: And it will cover just the BLM
21 land?

22 MR. ROGERS: We would like to --

23 CHMN. CHENAL: Yes?

24 MR. ROGERS: We would like to limit the BLM's
25 review to federal land so we can have Arizona State

1 Land review on their land. My concern --

2 CHMN. CHENAL: What will State Land be
3 reviewing, though?

4 MR. ROGERS: They will be issuing us a land
5 right, and they want to know that we are complying with
6 what the terms of that land right are. And to show
7 that we are complying, we will provide another Plan of
8 Development to them.

9 I guess my concern is if we submit a full
10 Plan of Development for Arizona to the BLM, they will
11 opine on the whole thing. And then if we then take
12 that and submit it to State Lands, and they want to
13 change something, then we need to go back to the BLM
14 and --

15 CHMN. CHENAL: Sorry to interrupt, but I'll
16 forget what I want to ask you. If you do the Plan of
17 Development just for the federal land before the -- and
18 it's reviewed and approved by the BLM, and then you
19 take that document, you don't have to -- you can simply
20 take that document and present it to State Land and
21 say, this is what we're going to use over the state
22 land, unless you disagree and want us to do something
23 differently.

24 That wouldn't require you to go back to the
25 entire process with the BLM to approve what's going to

1 go over Arizona land. And we haven't asked that in
2 previous cases. The Plan of Development would only
3 cover the federal land, but we're saying but whatever
4 you agree to in that is also going to apply to the
5 state land unless the state landowner agrees otherwise.

6 MR. ROGERS: As written, I believe it says
7 that it's a BLM-approved POD. So if State Lands wants
8 to change the BLM-approved POD, it's no longer
9 BLM-approved, and we would need to go back and get
10 concurrence with the BLM. It puts us in a
11 regulatory --

12 CHMN. CHENAL: Okay. If that's the problem
13 you're having, that's easily corrected, because we can
14 define it here as being, Applicant agrees to follow
15 the -- again, I'm going push a little back on the
16 mitigation measures -- on the terms of the POD
17 applicable to federal lands for the entirety of the CEC
18 route, and then the rest of that language.

19 MR. ROGERS: That's fine.

20 CHMN. CHENAL: Let's put that language in
21 there, Eli, right now, before we lose it, and then we
22 can discuss it further.

23 MR. ANCHARSKI: Where would you like that?

24 MR. ROGERS: Essentially what you're saying,
25 Chairman, is that the mitigation applies statewide.

1 CHMN. CHENAL: Well, mitigation, but also
2 restoration as well, right, compliance, construction,
3 aren't those other elements in the Plan of Development?

4 MR. ROGERS: Does it -- yeah, it does.

5 CHMN. CHENAL: So let's try --

6 MR. ANCHARSKI: So where would you like what?

7 CHMN. CHENAL: Can we get rid of the box.
8 Okay. Applicant agrees to follow the -- let's strike
9 the word "mitigation measures" and "addressed by."
10 Let's bring back "the terms of." Maybe take out the
11 word "follow," because we have follow the, and then
12 just have terms of. And after the word -- the POD,
13 applicable to federal lands. Well, I think you've got
14 some in consultation with and subject to consent of the
15 owner of such land. I would change it to, unless
16 modified by the owner of such land.

17 Anyway, maybe that's not king's English, but
18 it captures the thought and we can work on it. But
19 there the POD would only be the POD that's been
20 developed for the federal lands, but we're taking that
21 body of obligations and applying it to the state land
22 and private land, unless the state or the private land
23 owners agree that it should be modified because they
24 want different structures or different colors or
25 different tagging. And it wouldn't be limited to

1 mitigation only, it would be also with construction,
2 reclamation, and other items.

3 MR. ROGERS: I think we're -- I am
4 approaching this differently. I don't see the POD as
5 an obligation to comply. I see the POD as our
6 documentation of our plan to comply. So for
7 reclamation, there are mitigation measures in the ROD
8 that we are obligated to comply with, and the POD is
9 the nitty-gritty of how we're going to comply with
10 those as reviewed by the BLM.

11 So I guess we're just looking for the
12 landowner to review what our plan to comply with -- if
13 the landowner wants us to do something that doesn't
14 comply with the mitigation measure -- and we're fine
15 with you telling us, you know, as a stipulation that we
16 need to comply with the mitigation that's in the ROD.
17 If the landowner just blanketly doesn't want us to
18 comply with something, then, you know, perhaps it would
19 fall under the good faith effort.

20 But it's really the how you comply, not --
21 it's not the requirement itself. From a perspective --
22 I'm sorry, that's kind of how I think of it. It's like
23 the -- it's like the mitigation measure is you will
24 provide cookies. How I actually get you cookies, if
25 they're cookies you like, and so on, that's the

1 nitty-gritty and that's specific to the landowner. We
2 still comply -- we still provide cookies, it's just how
3 we do it.

4 CHMN. CHENAL: What's the -- well --

5 MR. ROGERS: And I guess I'm really
6 concerned, sir, about BLM approving a POD, and then
7 taking that POD to another entity, and they -- it's
8 going to be a large, complex document, and I almost
9 guarantee you that there will be some sort of change,
10 which there should be. That really should be the
11 process, that the landowner has the ability to change
12 it.

13 If the requirement that the Commission puts
14 on us is that we have a BLM-approved POD applicable
15 everywhere, that would technically require that I take
16 those changes back to the BLM and get them to approve
17 it. And I could potentially get in a bind because a
18 landowner might want us to do one thing to comply, and
19 the BLM might say that's not our standard way to do it.
20 It's that circular juxtaposition that I'm really
21 concerned about.

22 CHMN. CHENAL: Yeah, I'm not understanding
23 that either. If the POD applies to the federal land
24 and specifies, you know, chocolate chip cookies, and
25 you go over to the State Land and they want, you

1 know --

2 MEMBER HAMWAY: Macadamia.

3 CHMN. CHENAL: -- macadamia nut, I'm not
4 understanding why the BLM is going to care. And I'm
5 also not understanding why we haven't heard this in
6 other cases when we've gone over this in some detail.

7 Let's try it a different way just for a
8 moment. Maybe it goes back to my first question. What
9 is -- you've said that the Record of Decision outlines
10 the general obligation and the Plan of Development
11 implements that; you and Ms. Grabel said that. So what
12 is in the Record of Decision in terms of detailing
13 design, construction, mitigation, restoration, and
14 compliance requirements?

15 If we said, you've got to follow the ROD and
16 substitute ROD for POD, how does that work? In other
17 words, you've got to follow the ROD on state and
18 private land, just like it's applicable to the federal
19 land.

20 Member Palmer.

21 MEMBER PALMER: Following that logic, then,
22 could it say the Applicant shall follow the provisions
23 of the Record of Decision in developing a Plan of
24 Development for state and private land that is
25 acceptable to the property owners? Not very good

1 wording, but something to that effect.

2 CHMN. CHENAL: Mr. Rogers.

3 MR. ROGERS: Would you please repeat that so
4 I can make sure?

5 MEMBER PALMER: Maybe.

6 MS. GRABEL: Member Palmer, I wrote down
7 something very similar, if you don't mind my kind of
8 saying it.

9 So keep the first sentence as is and let the
10 second sentence read, Applicant agrees to create a Plan
11 of Development for Arizona that describes how it will
12 implement the ROD requirement for the entirety of the
13 CEC route. And then continue with the rest.

14 MEMBER PALMER: And I would add in, for
15 Arizona and for private landowners.

16 MS. GRABEL: Okay. We meant the entirety of
17 the -- yes, Arizona State Land.

18 MEMBER WOODALL: Mr. Chairman.

19 CHMN. CHENAL: Member Woodall.

20 MEMBER WOODALL: I have a predilection for
21 ultra-simplicity, and I have some questions about how
22 what we're currently discussing would relate to the
23 provision of Condition Number 13, which talks about
24 what the Applicant needs to include in a right-of-way
25 agreement.

1 And from my perspective, if that requires
2 tweaking up to add something in terms of visual or
3 general -- because I think this is already here. And
4 if we have this other condition, I'm not sure how the
5 two would interrelate. So from my perspective, in view
6 of Paragraphs 3, 4, and 13 -- or, Conditions 3, 4, and
7 13, the topic under discussion is really redundant.

8 CHMN. CHENAL: All right. Let's stay with
9 Member Palmer's suggestion for now.

10 And Ms. Grabel, I know you read some language
11 into the record. Can you read your language again?
12 Because I like Member Palmer's better.

13 MS. GRABEL: My language was --

14 CHMN. CHENAL: Can you start with the full
15 sentence, and let's just see how it would read.

16 MS. GRABEL: With the top of Condition 24,
17 starting with the ROD?

18 CHMN. CHENAL: Please.

19 MS. GRABEL: The ROD issued by BLM requires
20 Applicant to prepare a Plan of Development outlining
21 and detailing the relevant design, construction,
22 mitigation, restoration, and compliance requirements.
23 Applicant agrees to create a Plan of Development for
24 Arizona State Land and private landowners that
25 describes how it will implement the ROD requirements

1 for the entirety of the CEC route, including
2 construction and operation on federal, state -- well, I
3 guess you wouldn't even need that, but you could keep
4 it -- including construction and operation on federal,
5 state, and privately-owned land in consultation, or
6 whatever language you preferred, Chairman.

7 CHMN. CHENAL: Let me try a stab at it. It
8 kind of blends both, but I think Member Palmer's was a
9 little tighter.

10 So Eli, may I ask you, please, on the right
11 screen. The ROD issued by BLM requires Applicant to
12 prepare a Plan of Development, POD. Put a period
13 there. Applicant shall prepare a POD outlining, and
14 state -- the rest of the language would be the same --
15 outlining and detailing the relevant design,
16 construction, mitigation, restoration, and compliance
17 requirement.

18 Applicant agrees to follow along -- after the
19 words, follow with respect to state and -- with respect
20 to Arizona State -- ASLD -- I'm struggling with this --
21 ASLD and private land owners in Arizona for the
22 entirety of the CEC route, period.

23 MR. ROGERS: Eli, could I ask you to zoom in,
24 just increase the size of that as much as possible?

25 MS. GRABEL: I think the third sentence is

1 missing a verb or something or a noun. What are we
2 following?

3 CHMN. CHENAL: Yes. Let's strike the words,
4 "Applicant agrees to follow."

5 MR. ANCHARSKI: Right here?

6 CHMN. CHENAL: Yes. And then you'd strike
7 Lines 8, 9, and 10.

8 MEMBER DRAGO: Mr. Chairman.

9 CHMN. CHENAL: Yes, Member Drago.

10 MEMBER DRAGO: You've eliminated -- so
11 there's two parts to this: You prepare it, and then
12 you execute it. You've removed what they said they
13 would follow -- or, what did they say -- yeah, they
14 would follow. In this case, the way it was written, it
15 would just follow mitigation. But the POD requires
16 more than just mitigation.

17 So it felt like they chose just one condition
18 of that POD to follow, which was mitigation, and not
19 all the others, design, compliance...

20 CHMN. CHENAL: Right. And I think the
21 attempt here is to put those back in.

22 MEMBER DRAGO: Where does it say "follow"?

23 CHMN. CHENAL: The right side, the screen,
24 Exhibit 43.

25 MEMBER DRAGO: Shall prepare?

1 CHMN. CHENAL: Yeah. Applicant shall prepare
2 a POD outlining and detailing the relevant design,
3 construction, mitigation, restoration, and compliance
4 requirements with respect to ASLD and private
5 landowners in Arizona for the entirety of the CEC
6 route. Maybe we should say, in Arizona.

7 MEMBER HAMWAY: Maybe what you say, because
8 you've kind of left out the BLM, maybe you say in
9 addition to, the Applicant will create all of that with
10 respect to Arizona.

11 CHMN. CHENAL: Okay, yes. Before the word
12 "Applicant," yes. In addition, comma -- very good.

13 MEMBER HAMWAY: And I think that goes back to
14 what Mr. Rogers was saying they were willing to do, two
15 separate PODs, one approved by the BLM, and one
16 approved by Arizona State Land and private owners.

17 MR. ROGERS: And in practicality, we'll
18 probably produce one, put it in front of the BLM for
19 the whole state. They approve it for federal lands, we
20 take that, and then modify it and it becomes a
21 different one. But that's practically how it would --

22 CHMN. CHENAL: I thought that's what I was
23 arguing for from the very beginning. You take --

24 MR. ROGERS: Yeah, but it required us to have
25 a BLM-approved POD throughout.

1 CHMN. CHENAL: Oh, okay. So is that the
2 distinction?

3 MR. ROGERS: That's it.

4 CHMN. CHENAL: Okay. Because -- yes, okay.

5 MEMBER HAMWAY: Is it a separate POD, or is
6 it the same POD?

7 MR. ROGERS: Technically it would become a
8 separate POD, because it could be modified by the
9 landowner.

10 MEMBER HAMWAY: So you don't have to go back
11 to the BLM, maybe we should specify a separate POD will
12 be developed.

13 MR. ROGERS: And I think that's what it says
14 now. It says, in addition, we'll prepare a POD.

15 MEMBER HAMWAY: A POD, okay.

16 MEMBER RIGGINS: Mr. Chair.

17 CHMN. CHENAL: Yes, Member Riggins. I have
18 one more in addition to Member Riggins.

19 MEMBER RIGGINS: So to Member Woodall's
20 point, looking back at Condition 13, and actually even
21 looking back further at 11, 12, and 13, there are
22 efforts -- the good faith efforts to work with the
23 landowners, discussions with the landowners.

24 So I see Mr. Rogers' point about if it's a
25 blanket BLM POD, you know, that might put unnecessary

1 regulations on the Applicant that would not be
2 applicable to state land and to private land. So
3 somehow building in that flexibility to this.

4 But I just wanted to point out that the
5 conditions -- or, Condition 13 does have some similar
6 language as far as working with landowners. So I don't
7 know if there is some way of including, or maybe we've
8 already sort of touched on some of the subjects and
9 some of the issues. I know 13 is not directly related
10 to the POD, but I think there's some similarities as
11 far as discussions with landowners.

12 MR. ROGERS: That's what we want to do.
13 That's really the point of our concerns about, you
14 know, an omnibus BLM-approved POD is it could limit our
15 ability to work with landowners.

16 CHMN. CHENAL: So let's look at 13 for a
17 second. And it does address --

18 Member Riggins, which was the one you were
19 referring to?

20 MEMBER HAMWAY: It's Condition 13 talking
21 about the right-of-way.

22 MEMBER RIGGINS: Correct.

23 CHMN. CHENAL: So that already requires that
24 the Applicant use existing roads, et cetera.

25 MS. GRABEL: It's actually verbatim, the

1 same.

2 CHMN. CHENAL: Yeah. So maybe we don't need
3 that additional language in Condition 24, so we can
4 take that part out.

5 Now, let's go back up, though, because this
6 is a modification of what the original intent was. It
7 might be appropriate, but it is a rather significant
8 deviation. Because the original intent was whatever
9 you agree, you know, to the construction, operation,
10 reclamation, whatever those requirements are that had
11 been negotiated and approved by the BLM, would be
12 applied for the entirety of the route in Arizona over
13 state and private land.

14 This just says, you guys develop a plan. It
15 doesn't tie it into anything. So I think there ought
16 to be at least some pinning of this Plan of Development
17 to the Record of Decision.

18 MR. ROGERS: I believe that was our attempt
19 in saying the plan would comply with the mitigation
20 requirements of the ROD.

21 CHMN. CHENAL: Well, let's not just limit it
22 to the mitigation, but -- hold the thought just one
23 second. How about if we do this. On Line 6 on the
24 right-hand side, after the word "requirements," add the
25 words "of the ROD." And then if we could get rid of

1 the...

2 Because I think you said that the ROD
3 outlines, in more general terms, the general
4 requirements, make a cookie, and then the Plan of
5 Development is the implementation of that. So that
6 would require the Applicant to create a specific Plan
7 of Development with the state and private landowners in
8 Arizona, tied to the Record of Decision, but would
9 allow the flexibility that you are asking for.
10 Otherwise, the Plan of Development could just be
11 anything.

12 MS. GRABEL: We're okay with that.

13 CHMN. CHENAL: Okay. Are we ready for a
14 motion? May I have a motion?

15 MEMBER PALMER: Mr. Chairman, I make a motion
16 that we approve Condition 24 as amended on the
17 right-hand screen.

18 CHMN. CHENAL: Which is Exhibit 43.

19 MEMBER PALMER: 43.

20 CHMN. CHENAL: Do I have a second?

21 MEMBER HAENICHEN: Second.

22 CHMN. CHENAL: We have 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 MEMBER WOODALL: No.

3 CHMN. CHENAL: Certain natives are restless
4 over here for lunch. It's 12:15, approximately. I'm
5 wondering if we take a half-hour lunch break and come
6 back and finish it up. That was a lot of progress we
7 made on that, and I think that's going to be very
8 helpful in getting through the rest of the conditions.

9 MS. GRABEL: That's fine with us.

10 CHMN. CHENAL: So let's take a half hour for
11 lunch. Thank you.

12 (Off the record from 12:11 p.m. to
13 12:49 p.m.)

14 CHMN. CHENAL: Everyone, are we ready to
15 resume? I have a feeling we're on the final stretch,
16 maybe.

17 I had a thought. Eli, if you'd be kind
18 enough to go to, on the right screen, Exhibit 43,
19 Line 4, where it says, in addition, the Applicant shall
20 prepare. After the word prepare, I'm going to say and
21 execute. And I don't know if the operative word should
22 be execute or some other word. Follow, execute.

23 I'm open to suggestions, Committee, but I
24 think the thought is it's preparing it and, you know,
25 implementing, following, executing.

1 MEMBER HAMWAY: I like "implement" better.

2 CHMN. CHENAL: Okay. Member Hamway
3 prefers "implement," and I think that was the word that
4 Ms. Grabel used. All right, I like "implement" better
5 too.

6 All right. So we've already approved the
7 language of Condition 24. But with that amendment, is
8 there any further discussion?

9 (No response.)

10 CHMN. CHENAL: May I have a motion to approve
11 Condition 24 as modified?

12 MEMBER HAMWAY: So moved.

13 MEMBER PALMER: Second.

14 CHMN. CHENAL: We have a motion and a second.
15 All in favor say aye.

16 (A chorus of ayes.)

17 MEMBER WOODALL: No.

18 CHMN. CHENAL: Thank you. Can we move to
19 Condition 25, please.

20 MR. ROGERS: Chairman and Members, I'd like
21 to make a comment on this.

22 CHMN. CHENAL: Let's take a second just to
23 read it first. I haven't gotten through it quite yet.
24 I frankly got hung up on the 50-year-old relic part of
25 it, that if a 50-year-old relic is found on the site,

1 it's got to be immediately reported to the director of
2 the museum. And I just was wondering if I was walking
3 around out there and you guys started building out
4 there, whether that would apply to me. But let me
5 finish the rest of it.

6 MEMBER HAENICHEN: But it finally showed you
7 how to spell paleontological.

8 CHMN. CHENAL: I have certain questions,
9 Mr. Rogers, but go ahead and make your comments,
10 please.

11 MR. ROGERS: I need to correct a statement I
12 made yesterday about the Paleontological Resource
13 Management Plan. I had referred to the Programmatic
14 Agreement. And while that plan is not in the
15 Programmatic Agreement, which is where I expected to
16 find it, it is a required mitigation measure in the
17 ROD. And we actually have a draft of it created
18 already.

19 So when I said it did not exist, I was
20 mistaken, and I'd like to correct that in the record
21 and undelete this section. If you would like that plan
22 to apply to --

23 CHMN. CHENAL: Yes.

24 MR. ROGERS: -- the other areas.

25 CHMN. CHENAL: So let's undelete the

1 deletion.

2 MS. GRABEL: Do you then also need to change
3 Programmatic Agreement to ROD? Shall be developed
4 pursuant to the ROD, as opposed to Programmatic
5 Agreement?

6 MR. ROGERS: Yes, that's correct. Well, the
7 HPTP is specific to the Programmatic Agreement, and the
8 PRMP is specific to the ROD. Or, since the
9 Programmatic Agreement is referenced in the ROD, you
10 could globally make it to reference the ROD, however
11 you'd like to approach it.

12 CHMN. CHENAL: Well, the Historic Properties
13 Treatment Plan is found where, ROD or Programmatic
14 Agreement?

15 MR. ROGERS: Programmatic Agreement.

16 CHMN. CHENAL: So let's -- after historical
17 sites on Line 26, why don't we add the words, developed
18 through the -- developed pursuant to the Programmatic
19 Agreement. And then after the word "sites," remove the
20 comma. Developed pursuant to the ROD, period, and then
21 strike the rest of the sentence.

22 Is that accurate, then, Mr. Rogers?

23 MR. ROGERS: Yes, Chairman.

24 CHMN. CHENAL: Member Hamway.

25 MEMBER HAMWAY: Is 50 years our

1 normal standard? Is that a standard somewhere? I
2 mean, you could find a Coke bottle that is 50 years,
3 and that would halt everything.

4 MR. ROGERS: And we have.

5 MEMBER HAMWAY: Oh, all right.

6 CHMN. CHENAL: That's the law, though, right,
7 Mr. Rogers?

8 MR. ROGERS: That's the law, yes.

9 CHMN. CHENAL: Can we make it longer than 50
10 years?

11 MR. ROGERS: Well, it has to be significant.
12 So, I mean, you know...

13 CHMN. CHENAL: Yeah.

14 MR. ROGERS: Eligible.

15 CHMN. CHENAL: Now, the last clause, the HPTP
16 and the PRMP. If a historic item is found -- clearly,
17 then, if an historic relic is found on BLM land, those
18 two agreements come into play; is that correct?

19 MR. ROGERS: Yes.

20 CHMN. CHENAL: A paleontological or historic
21 relic. What if it's found on state land, do those
22 agreements still come into play?

23 MR. ROGERS: Right. The Programmatic
24 Agreement is written for the whole what they call
25 endeavor, and the Arizona SHPO is a part of that,

1 they're a reviewer and participant.

2 CHMN. CHENAL: And then what about the --
3 okay. The Programmatic Agreement applies to the entire
4 endeavor, the entire project. And what about the HP --

5 MR. ROGERS: Undertaking, I think, is the
6 technical term.

7 CHMN. CHENAL: Okay, undertaking. But what
8 about the HPTP? I'm sorry. That is -- what about the
9 next one, the PRMP?

10 MR. ROGERS: It's my understanding that it's
11 currently applicable to federal lands.

12 MS. GRABEL: But wouldn't your previous
13 condition make it applicable, then, also to state and
14 private? I thought that was the purpose of that
15 condition.

16 CHMN. CHENAL: Yeah.

17 MR. ROGERS: So the PRMP is a plan, is part
18 of our POD, as is the HPTP. This is our POD, and these
19 are our plans to comply with the requirements. And
20 they're just kind of standalone plans as part of our
21 POD.

22 CHMN. CHENAL: So in other words, if you
23 found a paleontological item, a fossil on state land,
24 you'd still do the PRMP plan based on the previous
25 condition.

1 MR. ROGERS: We would do a plan for all of
2 them. How it would be treated would be -- in that
3 case, we would go to the state entity, rather than the
4 federal entity. And again, it goes back to the, you
5 know, specific interest of the landowner. So it would
6 be more the state SHPO, rather than through the BLM
7 first.

8 CHMN. CHENAL: Okay, I think I understand it.

9 MR. ROGERS: And that's the best I understand
10 it.

11 CHMN. CHENAL: Okay. Yes, Member Hamway.

12 MEMBER HAMWAY: If a fossil is found on
13 private land, who owns it, or an artifact or anything
14 or a Coke bottle?

15 MR. ROGERS: That has various levels of
16 legality that I don't know I can comment on. It is
17 much more of a private landowner issue at that point.
18 There is a difference in how it's approached, but I
19 can't get into the specifics of the differences.

20 CHMN. CHENAL: All right. So Condition 25 as
21 amended. Is there any further discussion?

22 And of course, Eli, the references to the
23 CECs at the end need to be deleted. All right, thank
24 you.

25 Any further discussion?

1 MEMBER PALMER: Motion to approve 25.

2 MEMBER HAMWAY: Second.

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

4 All in favor say aye.

5 (A chorus of ayes.)

6 MEMBER WOODALL: No. I believe it's
7 redundant to Conditions 3 and 4 and other ones as well.

8 CHMN. CHENAL: Let's move to 26, Condition
9 26, then. I think I saw that there had been a change
10 to this suggested by the Applicant that the word
11 "preconstruction" was removed, or maybe I'm not
12 remembering that correctly. Or maybe we discussed it
13 yesterday, and I thought that one of the objections was
14 that -- one of the options of proceeding with
15 construction, and then if something were found during
16 construction.

17 MR. ROGERS: I believe our concern was on
18 Stipulation 27, before construction of the CEC --

19 CHMN. CHENAL: Okay. So any further
20 discussion on 26?

21 (No response.)

22 CHMN. CHENAL: I think the Programmatic
23 Agreement we should probably not define it there, but
24 define it in the earlier reference. Yeah, okay.

25 Any further discussion?

1 (No response.)

2 CHMN. CHENAL: If not, may I have a motion
3 for Condition 26 as amended?

4 MEMBER HAMWAY: So moved.

5 MEMBER PALMER: Second.

6 CHMN. CHENAL: We have a motion and a second.
7 All in favor say aye.

8 (A chorus of ayes.)

9 MEMBER WOODALL: No. Again, I believe this
10 is redundant.

11 CHMN. CHENAL: 27, please. I think the
12 Applicant, Ms. Grabel, I think the words that you
13 wanted struck from the language that I had added were
14 the HPTP and the PRMP; is that correct?

15 MS. GRABEL: Yes, Chairman, that is correct.
16 The reason is that we're concerned we won't actually
17 have those documents prepared before construction of
18 the CEC, so we wanted to be sure we weren't doing
19 construction in phases.

20 CHMN. CHENAL: Okay. And the rest the
21 Applicant is okay with, I assume?

22 MS. GRABEL: Correct.

23 CHMN. CHENAL: Okay. Any further discussion
24 with regard to Condition 27?

25 (No response.)

1 CHMN. CHENAL: If not, may I have a motion to
2 approve?

3 MEMBER HAMWAY: So moved.

4 MEMBER PALMER: Second.

5 CHMN. CHENAL: We have a motion and a second.
6 All in favor say aye.

7 (A chorus of ayes.)

8 CHMN. CHENAL: And let's go to Number 28.
9 The first change I'd like to make is to delete the
10 words Bureau of Land Management and substitute BLM.
11 Now, this incorporates some additional documents, just
12 binds the Applicant to comply with those documents.
13 The Applicant has requested that the words "and the
14 POD" be deleted. Based on our discussion, I think
15 that's -- I understand that better now and that makes
16 sense to me. And the Applicant is okay with the rest
17 of it, I assume?

18 MS. GRABEL: Yes, Chairman.

19 CHMN. CHENAL: Okay. Any further discussion?

20 MR. ROGERS: I'm sorry. Could I interject?

21 CHMN. CHENAL: Yes, Mr. Rogers.

22 MR. ROGERS: So the BLM's notice to proceed
23 and right-of-way grant will contain provisions that
24 won't line up with both our private property rights and
25 our Arizona State Land rights. For example, we have

1 bonding requirements on BLM lands that will differ from
2 the requirements on Arizona state lands and private
3 lands.

4 So in that case, I would ask that the
5 right-of-way grant be -- maybe I should refer to
6 counsel on this before proceeding.

7 The requirements of the BLM grant do not
8 apply to the entire CEC route.

9 MS. GRABEL: The way I interpret this
10 condition is it's just requiring the Applicant to
11 follow the requirements contained in each of these
12 various documents. These were given to the Chairman's
13 office based on what we said were the governing
14 documents for the requirements applicable to this
15 project.

16 MR. ROGERS: I apologize.

17 CHMN. CHENAL: And that's the intent,
18 Mr. Rogers. It's not to require the Applicant to
19 comply with, for example, the BLM notice to proceed, to
20 make that apply over the state or the private land.
21 It's just where that document is applicable, that the
22 Applicant will comply with the terms in the area.

23 MR. ROGERS: Thank you. I appreciate that.

24 CHMN. CHENAL: Okay. Any further discussion
25 with Condition 28?

1 (No response.)

2 CHMN. CHENAL: May I have a motion?

3 MEMBER PALMER: Move to approve 28.

4 MEMBER HAMWAY: Second.

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

6 All in favor say aye.

7 (A chorus of ayes.)

8 MEMBER WOODALL: No. I believe it's

9 redundant.

10 CHMN. CHENAL: Condition 29, please. This
11 was actually a condition -- I think it's one that is a
12 good one, and I'm not sure we shouldn't consider it for
13 future cases, which is to require that the Applicant
14 place the certificate -- publish the certificate on the
15 website. We don't really address how long. I guess
16 the Applicant can take down the website, you know, for
17 the project when it wants to. But at least while the
18 website is up, the certificate will be part of it.

19 I'm going to be interested to hear if Member
20 Woodall objects to this one, because I got this out of
21 the CEC that she was the Chairman of, and it was
22 Condition 22.

23 MEMBER WOODALL: You know, I did not have
24 gray hair at that time and I do now. But I think it's
25 a good one and I appreciate your inclusion of it in

1 this and the reference to me as being the source.

2 CHMN. CHENAL: So do you want to move this
3 one, Member Woodall?

4 MEMBER WOODALL: Any time you can get my name
5 in in a positive way, Mr. Chairman, I'm always happy to
6 hear it. No, I do think it's a very good idea.

7 CHMN. CHENAL: I've been trying the entire
8 hearing, Member Woodall, but this is the first
9 opportunity.

10 MEMBER WOODALL: Now, now. Now, now.

11 CHMN. CHENAL: I'm just kidding.

12 MEMBER WOODALL: I know you are. Thank you.

13 CHMN. CHENAL: So would you like to move for
14 Condition 29?

15 MEMBER WOODALL: I'll let someone else take
16 that honor.

17 MEMBER GENTLES: Mr. Chair, I'll move.

18 MEMBER HAMWAY: And I'll second.

19 CHMN. CHENAL: We have a motion and a second.
20 And I was just kidding, Member Woodall.

21 MEMBER WOODALL: I know you were,
22 Mr. Chairman. Your sense of humor is well known.

23 CHMN. CHENAL: So we have a motion and a
24 second. All in favor say aye.

25 (A chorus of ayes.)

1 CHMN. CHENAL: All right. Now, the last,
2 again, is a standard one that we've used, and I've
3 explained ad infinitum why I think it's extremely
4 important. So is there any further discussion on
5 Condition 30?

6 (No response.)

7 CHMN. CHENAL: If not, may I have a motion?

8 MEMBER HAMWAY: So moved.

9 MEMBER GENTLES: Second.

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

12 (A chorus of ayes.)

13 MEMBER WOODALL: Pass.

14 CHMN. CHENAL: Okay. Now, before we get to
15 the findings of fact and conclusions of law, let's talk
16 about the exhibit to the CEC. This always gets a
17 little interesting on how we're going to define what
18 the route looks like. So maybe we can go to that --

19 Oh, and one more thing, because I'm not going
20 to forget it this time. I'm looking at Kathryn. We
21 have asked Kathryn to attach all the exhibits to the
22 transcripts, but there's one exhibit that does not need
23 to be attached to the transcripts, and that's the
24 Applicant's Exhibit 1, because that's the application,
25 and that's already -- you know, it's bulky and large.

1 It's already in the record and it doesn't need to be
2 attached as Exhibit 1.

3 So there is Exhibit 1 as a place setting,
4 it's basically the document that just refers to the
5 exhibit, and that's sufficient to be attached to the
6 transcript.

7 So let's see if we can fast forward, Eli, to
8 the exhibit to the CEC, and let's look at how that
9 looks. Because this is, I think, something important
10 that we should get into.

11 Now, we've had a lot of discussion in
12 previous cases about what the exhibit should look like.
13 And a lot of times the Committee has liked to see, you
14 know, some specificity at least to depict where the
15 corridor is going to be located, and at a scale that's
16 different than this. The one that we're looking at on
17 the screen is basically the one page showing the
18 entirety of the route.

19 Because, you know, this is a CEC, it's
20 supposed to site it. And with a document of that
21 scale, that's pretty loose as to where the actual
22 corridor would be located. On the other hand, a route
23 of this size having a legal metes and bounds would not
24 be possible either.

25 I'm sure that there are documents, though,

1 that would, and maps, and I believe I've seen some
2 attached even to the application, that show a scale
3 where the corridor is to be located that is more
4 specific than the one that's shown on the screen that
5 we might want to substitute that would show with more
6 specificity the exact corridor.

7 MEMBER WOODALL: Mr. Chairman, could I ask,
8 is there someone in this proposed form of CEC the
9 right-of-way width requested? Because I'm having
10 trouble finding it.

11 CHMN. CHENAL: Excellent point, Member
12 Woodall. We're going to have to make sure that the
13 corridor width and the right-of-way width are spelled
14 out.

15 Mr. Rogers, you look like you want to say
16 something.

17 MR. ROGERS: Our requested right-of-way width
18 to the BLM, to Arizona State Lands, and analyzed in the
19 FEIS is 200 feet, generally. There are very finite
20 locations where it is slightly wider; Copper Bottom
21 Pass is an example.

22 MEMBER WOODALL: I guess my question was, is
23 that anywhere described in this proposed form of
24 Certificate of Environmental Compatibility?

25 MS. GRABEL: It is not spelled out in the

1 proposed form of CEC, no. It's in the application.

2 MEMBER WOODALL: Normally I know -- I'm
3 waving the flag for Ms. Noland now, who is not here.
4 But normally she feels more comfortable if there's a
5 description somehow. And I realize it's waxing and
6 waning, based on your environmental documents. But is
7 there some language that you could consider that would
8 give the reader of this document an idea? And that's
9 just my thought. The other Committee Members may not
10 want it, so...

11 CHMN. CHENAL: Yes, Member Palmer.

12 MEMBER PALMER: I thought I had, and I don't
13 think it would be exclusively definitive, but it might
14 be something that would add to the record would be a
15 copy of the narrative that was read to us on the tour
16 that described how many feet it was from the freeway or
17 on the north side, south side of the power line. That
18 may add some clarity, in addition to some kind of a
19 description.

20 CHMN. CHENAL: Well, there's a couple of
21 ideas floating here. I think one idea is that -- I
22 think Member Woodall is absolutely right -- we need to
23 have a basic corridor width and a right-of-way width
24 spelled out in the body of the CEC. We have not issued
25 a CEC without that.

1 So somewhere it's got to be a standard, you
2 know, width of whatever the maximum feet would be, the
3 corridor not to exceed X feet and a right-of-way not to
4 exceed X feet.

5 Separately from that, I think we need better
6 maps to show where the corridors are going to be
7 located.

8 MS. GRABEL: So if you look at Exhibit A to
9 the CEC application, we do have a series of small-scale
10 maps which potentially may --

11 CHMN. CHENAL: That's what I was thinking.

12 MS. GRABEL: -- be what you're looking for.
13 Looks like Exhibit A, Section 2, project details
14 small-scale map, may get you what you want.

15 MR. ANCHARSKI: Chairman, that starts at
16 Page 37 on the iPad of DCR-1.

17 MEMBER WOODALL: Mr. Chairman, with respect
18 to the width of the right-of-way, if there's some
19 specific reference in any of the documents that have
20 been filed, such as the application or the Record of
21 Decision, that describe the width of the right-of-way,
22 I personally would feel comfortable by incorporating a
23 reference to that in the CEC, you know, providing a
24 page number, et cetera.

25 MR. ROGERS: There's a section of the FEIS in

1 the ROD that describe it; perhaps we could reference
2 that language.

3 CHMN. CHENAL: Well, what is the corridor
4 width going to be?

5 MR. ROGERS: 200 feet.

6 CHMN. CHENAL: And what's the right-of-way
7 width going to be?

8 MR. ROGERS: 200 feet.

9 CHMN. CHENAL: Both?

10 MR. ROGERS: Both.

11 MS. GRABEL: Those are also contained in the
12 CEC application.

13 CHMN. CHENAL: So let's just put language in
14 the narrative, somewhere in the CEC, that says that the
15 corridor width and the right-of-way width will be --

16 MS. GRABEL: As reflected in the CEC
17 application.

18 CHMN. CHENAL: Well, 200 feet, yeah.

19 MS. GRABEL: Okay.

20 MR. ROGERS: Can I ask for an expansion on
21 that? That is for the transmission line. We're also
22 seeking right-of-ways for various access roads. They
23 are not 200 feet; they are between 16 and 30, depending
24 on topography, sometimes larger if there's a large side
25 slope. It's more complicated to describe those

1 right-of-ways.

2 CHMN. CHENAL: Well, we could say that the
3 corridor width of the transmission line itself will
4 be -- and the right-of-way for the transmission line
5 itself will be 200 feet. We don't have to necessarily
6 address the access roads, I don't think, at this point.
7 I think it's just more important that the route of the
8 line, you know, we know what the width is going to be.

9 MR. ROGERS: Very good. Thank you.

10 CHMN. CHENAL: And those maps that are
11 attached are...

12 MS. GRABEL: The maps to which I was
13 referring start on iPad Page 38.

14 MR. ROGERS: Could I ask, actually, for a
15 legal interpretation of the difference between
16 right-of-way and corridor in this context?

17 MS. GRABEL: We can do that offline.

18 MR. ROGERS: Okay.

19 CHMN. CHENAL: So has the Committee had an
20 opportunity to see, basically, I guess, Pages 38, 39,
21 and 40 of Exhibit A to the application?

22 MEMBER WOODALL: I have. My general query
23 regarding color documents that are filed in the docket
24 is that they will be reproduced in black and white, and
25 sometimes in the reproduction process the lettering on

1 them is not so easy to see.

2 So I would just ask the Applicant to take
3 those concerns into consideration when preparing
4 whatever final attachments they're going to do.

5 CHMN. CHENAL: All right. I'm going to
6 say -- I'm going to ask the Applicant to keep them in
7 color, because the maps that are Pages 38, 39, and 40
8 are color-coded, and the colors mean something. And
9 the documents that I've seen in the docket that are in
10 color do show up in color.

11 MEMBER WOODALL: Yes, I'm not objecting to
12 them being in color. I'm just talking about the font
13 and basically -- because they will be -- if you print
14 up a copy, it will be printed up in black and white.
15 I'm not saying don't file the color ones. I completely
16 agree with the Chairman that that's very helpful and
17 the colors mean something.

18 I'm just saying when you do prepare whatever
19 you're going to file, can you make sure that there's
20 adequate contrast in the font? Just do your best, is
21 all I'm asking, because eventually it will end up a
22 black and white piece of paper. Thank you.

23 CHMN. CHENAL: So does the Committee -- is
24 the Committee okay with the maps on Pages 38, 39, and
25 40 on the iPad, which is Exhibit A3 to the application?

1 MEMBER HAMWAY: I'm fine with them.

2 CHMN. CHENAL: Has the Committee had an
3 opportunity to review them?

4 Okay. Because I think that adds a better
5 scale than the single page that's with the proposed
6 CEC. So I think if we can substitute that --

7 MEMBER HAMWAY: I'd do all three.

8 CHMN. CHENAL: Okay, so two of them. So we
9 can keep -- we'll have to work on the verbiage back on
10 the CEC. We'll go back, but maybe refer to it as
11 Exhibits A and B, but maybe the first -- is it Exhibits
12 A and B or 1 and 2, Ms. Grabel? Do we refer to the
13 exhibit as Exhibit A or Exhibit 1 in the CEC?

14 MS. GRABEL: Exhibit A, I believe.

15 CHMN. CHENAL: Exhibit A, okay.

16 So maybe we can have Exhibit A, keep that,
17 and then Exhibit B will be the three pages that make up
18 Exhibit A3 to the application. So that would be
19 Exhibit B.

20 MS. GRABEL: Right.

21 CHMN. CHENAL: And then let's go back to the
22 body of the CEC, and we have a couple tasks here. One
23 is to define the width of the corridor and the
24 right-of-way, and the other is to supplement the
25 description of the route.

1 MS. GRABEL: So I think that the width --
2 addressing the language with respect to the width of
3 the right-of-way actually falls really nicely on
4 Page 4, if you just add it to the last sentence. I
5 don't think we need to do -- in terms of location.

6 Mr. Rogers did raise a good point, though, in
7 the distinction between a corridor width and a
8 right-of-way width. So the corridor is the study area
9 that you'd look -- at the beginning and end of the
10 transmission line. And the study area that the BLM
11 used was 2,000 feet. The right-of-way that we will
12 request is no more than the 200 feet.

13 So I think we would request that we just
14 define in here that the right-of-way for the
15 transmission line will be 200 feet, as opposed to
16 including the corridor.

17 CHMN. CHENAL: Well, okay. Member Noland is
18 not here, but I can hear what she's saying right now.
19 We need a maximum width on the corridor, and we need a
20 maximum width on the right-of-way. The corridor needs
21 to be somewhat defined.

22 MEMBER WOODALL: Mr. Chairman, I don't think
23 the Applicant is asking us for a corridor. They're
24 asking us for a specific right-of-way area, which has
25 been defined in the federal documents. So I don't

1 think they're asking us to designate a corridor.
2 They're not asking us, we want to put it somewhere
3 between this center line and that center line. They're
4 saying, this is the land that we want. I think that's
5 what they're saying.

6 MS. GRABEL: I think that's accurate, yes.
7 Thank you.

8 CHMN. CHENAL: Okay. Because in the previous
9 cases -- all right. Well, that's helpful. In the
10 previous cases, the applicants usually didn't know
11 exactly where the right-of-way was going to be located.
12 They were going to wait until it went out in the
13 construction of the project, and would determine -- the
14 topography would dictate it would go, you know, over
15 here, over there, within the, say, 2,000-foot corridor,
16 but there would be some flexibility within that
17 corridor to place the actual right-of-way.

18 So I'm assuming that the Applicant wants that
19 flexibility here, and that you would be looking at a
20 corridor of X feet in which the right-of-way would be
21 located. And the right-of-way, when determined, would
22 be a maximum width of 200 feet.

23 MR. ROGERS: That's absolutely correct. We
24 have a corridor that's been studied in the EIS of
25 2,000 feet on either side of the center line. For

1 purposes of developing the environmental impacts, we
2 produced a POD that identified a finite route.

3 We do have flexibility with the BLM to still
4 microsite within that 4,000-foot corridor. We may be
5 required to do additional environmental studies, for
6 example, if we do move. But as far as the EIS is
7 concerned, we have that flexibility; and we would like
8 to retain that flexibility, especially when negotiating
9 with private landowners.

10 CHMN. CHENAL: Sure. I mean, I was thinking
11 that what we would add, then, to the end of page --
12 right before the conditions would be -- what would be
13 the language? Bear with me for a moment.

14 The one I found most readily, the CEC I would
15 refer to is the Nogales transmission, Case Number 176,
16 just as an example. And the last sentence, right
17 before the conditions, reads as follows: The approved
18 right-of-way width for that project, for the Nogales
19 Tap to Kantor CEC route, in this certificate is
20 100 feet. The right-of-way will be located within a
21 thousand-foot corridor, 500 feet on either side of the
22 center line, as described and shown in Exhibit B,
23 attached hereto.

24 So just to get something down on paper --
25 Eli, you're the brains here. Let's get with it. Okay.

1 Why don't we add a new sentence or new paragraph right
2 before conditions. The approved ROW width for the CEC
3 route in this certificate is 200 feet. The ROW will be
4 located within a 4,000-foot corridor (2,000 feet on
5 either side of the center line, as described and shown
6 in Exhibits A and B attached hereto).

7 I don't know if we've referred to Exhibit A
8 already or if it's referred to somewhere else, but we
9 might have to look at that. But I think that would
10 give the Applicant the flexibility, but would also not
11 just leave it wide open.

12 MR. ROGERS: This is outstanding. Thank you.

13 CHMN. CHENAL: Ms. Grabel, are you okay with
14 that language?

15 MS. GRABEL: It is an improvement upon what I
16 drafted, so yes, sir.

17 CHMN. CHENAL: Well, the credit goes to
18 Member Woodall here, let's be clear.

19 MEMBER WOODALL: The credit goes to
20 Member Noland, who has thoroughly educated the rest of
21 the Committee with respect to these issues. Thank you.

22 CHMN. CHENAL: Now, let's see where the
23 exhibit is referred to in the CEC, the exhibits. May I
24 ask Eli to do a word search? Okay. So we can all see
25 right now where it's first described. It's right

1 before Subpart -- it's on Page 3 of Exhibit 42, and
2 it's right before Subpart C, CEC description.

3 So I would make a suggestion, yes, we add
4 Exhibits A and B. And we are in sync, Eli, in terms of
5 referring to them as Exhibit A and Exhibit B, as
6 opposed to Exhibits A and B; is that correct?

7 MR. ANCHARSKI: Yes, Chairman, that's
8 correct.

9 CHMN. CHENAL: Did you see a reference to the
10 exhibits anywhere else, the maps, Exhibits A and B,
11 anywhere else in the document?

12 MR. ANCHARSKI: No, Chairman.

13 CHMN. CHENAL: Okay, good.

14 So we've done a couple things. We've added
15 some language defining the route -- or, excuse me --
16 the right-of-way and the corridor in a new paragraph
17 right before the conditions begin. Is there any
18 further discussion on that language?

19 (No response.)

20 CHMN. CHENAL: If not, may I have a motion?

21 MEMBER HAMWAY: So moved.

22 CHMN. CHENAL: And a second?

23 MEMBER PALMER: Second.

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

25 All in favor say aye.

1 (A chorus of ayes.)

2 CHMN. CHENAL: We also, in the references to
3 the maps, which was right before Subsection C of the
4 CEC, this is right before it says -- which is entitled
5 CEC route description, we added the words Exhibits B --
6 Exhibit B to Exhibit A.

7 So with that change, may I have a motion to
8 approve?

9 MEMBER HAENICHEN: So moved.

10 MEMBER HAMWAY: Second.

11 CHMN. CHENAL: We have a motion and a second.
12 All in favor say aye.

13 (A chorus of ayes.)

14 CHMN. CHENAL: Okay. Is the Committee
15 satisfied right now with the way we've treated the
16 route -- excuse me -- the right-of-way, the corridor,
17 and the maps?

18 MEMBER HAMWAY: Yes.

19 MEMBER WOODALL: Yes.

20 CHMN. CHENAL: Okay. So let's go, then, to
21 the findings of fact and conclusions of law.

22 And I should ask, Mr. Arias, if you have any
23 comments or concerns, speak up. But is there anything
24 that pops out at you at this point?

25 MR. ARIAS: No, Chairman.

1 CHMN. CHENAL: If you do, please just speak
2 up.

3 All right, findings of fact, conclusions of
4 law, we do these one at a time. These were, with one
5 catch, I think, were consistent with what the Applicant
6 had proposed.

7 So findings of fact, conclusions of law, this
8 certificate incorporates the following findings of fact
9 and conclusions of law, and this is found on Page 15,
10 let's say Lines 9 through 13. The project aids the
11 state and the southwest region of the United States in
12 meeting the need for an adequate, economical, and
13 reliable supply of electrical power.

14 Now, we're voting on the language; we're not
15 voting on whether we agree with that substantively.
16 And I think that's clear that as we're going through
17 this we're just working on the form of the document.

18 So is there any discussion regarding, I'll
19 just say, finding of fact. We'll all know that it's a
20 combination of findings of fact and conclusions of law.
21 But is there any further discussion on Finding of Fact
22 Number 1?

23 (No response.)

24 CHMN. CHENAL: Let's have a motion for each
25 one.

1 May I have a motion for Finding of Fact 1?

2 MEMBER PALMER: Motion to approve 1.

3 MEMBER RIGGINS: Second.

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

5 All in favor say aye.

6 (A chorus of ayes.)

7 CHMN. CHENAL: Finding of Fact 2, the project

8 aids the state in preserving a safe and reliable

9 electric transmission system.

10 Any further discussion regarding Finding of
11 Fact 2?

12 (No response.)

13 CHMN. CHENAL: May I have a motion to
14 approve?

15 MEMBER GENTLES: So moved.

16 MEMBER HAMWAY: Second.

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

18 All in favor say aye.

19 (A chorus of ayes.)

20 CHMN. CHENAL: Finding of Fact 3, during the

21 course of the hearing, the Committee considered

22 evidence on the environmental compatibility of the

23 project as required by A.R.S. Section 40-360, et seq.

24 Any further discussion regarding Finding of
25 Fact 3?

1 (No response.)

2 CHMN. CHENAL: If not, may I have a motion to
3 approve?

4 MEMBER HAENICHEN: So moved.

5 MEMBER HAMWAY: Second.

6 CHMN. CHENAL: We have a motion and a second.
7 All in favor say aye.

8 (A chorus of ayes.)

9 CHMN. CHENAL: Finding of Fact 4, the project
10 and the conditions placed on the project in the
11 certificate effectively minimize the impact of the
12 project on the environment and ecology of the state.

13 There's a period missing after state, Line 3.

14 Okay. Any further discussion regarding
15 Finding of Fact 4?

16 (No response.)

17 CHMN. CHENAL: If not, may I have a motion?

18 MEMBER PALMER: Motion to approve 4.

19 MEMBER HAMWAY: Second.

20 CHMN. CHENAL: We have a motion and a second.
21 All in favor say aye.

22 (A chorus of ayes.)

23 CHMN. CHENAL: Condition 5, the conditions
24 placed on the project of the certificate resolve
25 matters concerning balancing the need for the project

1 with its impact on the environment and ecology of the
2 state arising during the course of the proceedings, and
3 as such, serve as findings and conclusions on such
4 matters.

5 Any further discussion regarding Finding of
6 Fact 5?

7 MEMBER DRAGO: So moved.

8 CHMN. CHENAL: If not, may I have a motion to
9 approve?

10 MEMBER DRAGO: So moved.

11 CHMN. CHENAL: Member Drago moved. May I
12 have a second?

13 MEMBER HAMWAY: Second.

14 CHMN. CHENAL: We have a motion and a second.
15 All in favor say aye.

16 (A chorus of ayes.)

17 CHMN. CHENAL: Finding of Fact 6, the project
18 is in the public interest because the project's
19 contribution to meeting the need for an adequate,
20 economical, and reliable source of electric power
21 outweighs the minimized impact of the project on the
22 environment and ecology of the state.

23 Any further discussion regarding Finding of
24 Fact 6?

25 (No response.)

1 CHMN. CHENAL: If not, may I have a motion?

2 MEMBER HAMWAY: So moved.

3 MEMBER GENTLES: Second.

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

5 All in favor say aye.

6 (A chorus of ayes.)

7 CHMN. CHENAL: All right. We'll do a roll
8 call vote. But before we do, I just want to make sure
9 we have covered everything we need to cover. I think
10 we've gone through the document thoroughly, the CEC. I
11 think we've gone through the conditions. I think we've
12 gone through the map. I think we made a very good
13 record of the evidence in the case.

14 We've admitted -- we did admit Exhibit -- ACC
15 Exhibit 5. I want to say we did, yes.

16 (Exhibit ACC-5 was admitted into evidence.)

17 CHMN. CHENAL: We admitted Exhibits --
18 Applicant's Exhibits 1 through 41. And 42 and 43 are
19 just marked for identification, 42 being what we
20 started with and 43 what we ended up with during the
21 course of deliberations.

22 All the exhibits will become part of the
23 transcript that will be filed by the court reporter,
24 with the exception of Exhibit 1, which is the
25 application.

1 Is there anything we need to discuss in terms
2 of evidence or the document, the CEC, before we take a
3 roll call vote?

4 Member Woodall.

5 MEMBER WOODALL: Mr. Chairman, my support for
6 the project and my vote does not necessarily mean that
7 I am supportive of all of the conditions in the CEC.
8 Would that be clear?

9 CHMN. CHENAL: That's absolutely clear.

10 MEMBER WOODALL: Okay, I just wanted to make
11 sure. Thank you.

12 CHMN. CHENAL: No, absolutely clear.

13 Let's see. I am empowered to make
14 scrivener's errors, any changes there. Depending on
15 the vote, if it is approved, I'd like the Applicant to
16 do a law review edit of the document, provide copies
17 with exhibits in color, and I will review it carefully
18 as well. And then if it's approved, I will sign it and
19 get it filed, and we can do that Monday or Tuesday.

20 I want to say this just before we begin our
21 roll call vote. I want to compliment Staff, the
22 attorneys, Ms. Scott and Mr. Arias, Ms. Little, I think
23 you all did a very superb job. I really appreciate
24 your assistance in this.

25 Ms. Grabel, Mr. Ancharski -- I butchered

1 that, didn't I?

2 MR. ANCHARSKI: Ancharski, yes.

3 CHMN. CHENAL: Eli is easier. Eli, yeah.

4 You both did a superb job, excellent job in presenting
5 this case. I know it was a little tough. It was over
6 a lot of different areas.

7 I can see Mr. Amirali's moving and shaking
8 right now. He's nervous, I can see that. But I want
9 to thank him for his testimony and the testimony of all
10 the witnesses. But I want to point out I think the
11 attorneys did a wonderful job, and the client should be
12 proud of their performance.

13 So with that -- and of course, the court
14 reporter. And I want to thank the Committee, once
15 again, for the attention and effort the Committee has
16 placed on this. This isn't always easy, but -- and we
17 ask a lot of questions to create a good record, but I
18 think we all learned from it. I know I learned more
19 from this case, again, about how the system works and
20 lots of things that I found very interesting.

21 I mean, some of it was a little tedious, and
22 I'll take the blame for that, but it's important that
23 we create the record for the Corporation Commission as
24 they approve our work.

25 Okay. With that, is there anything further

1 before we go to roll call vote?

2 MS. GRABEL: Not from the Applicant's
3 perspective, no, sir.

4 CHMN. CHENAL: Ms. Scott, Mr. Arias?

5 MR. ARIAS: Nothing from Staff.

6 CHMN. CHENAL: Okay. Anything from the
7 Committee before we go to a roll call vote?

8 (No response.)

9 CHMN. CHENAL: If not, let's start with
10 Member Haenichen. Member Haenichen, let's lead off
11 with you, sir. We'll do a roll call vote. And please
12 feel free to make any comments.

13 MEMBER HAENICHEN: Thank you, Mr. Chairman.

14 I'd like to begin by saying that I think the
15 Applicant did a very good job in presenting their case.
16 I've been doing this for a long time now and many, many
17 cases. Is it coming through? And this one is by far,
18 from my perspective, the most difficult one to judge
19 that I've ever participated in.

20 With that said, I want you to know that -- I
21 want you to bear with me and realize that everything I
22 say on this sheet of paper, I worked on last night, is
23 my opinion and my opinion only.

24 I'd like to begin by just making one
25 statement regarding the EIM. And we've had many

1 discussions about the EIM and how this is one of the
2 things that will benefit from this line, and I don't
3 quarrel with that at all. But I will add that any
4 transmission line, whether new or existing, will also
5 benefit the EIM, so that's not a unique property of
6 this line.

7 We've questioned many, many witnesses,
8 including the charming and brilliant Mr. Amirali. And
9 I don't mean that as a joke. He's been very helpful in
10 trying to understand the case from the Applicant's
11 point of view.

12 I started out initially being a little bit
13 suspicious of the intent of this project, partly
14 because a lot of it didn't make sense to me. And I
15 will go into that a little bit later in this soliloquy.
16 Later on -- oh, by the way, that was partly induced by
17 a question I made repeatedly of the Applicant to give
18 us some idea of how the current transmission lines
19 crossing the Colorado River between the two states were
20 operated, not only in amount of flow, but, very
21 importantly to me, the direction of flow.

22 And I was unable to get an answer to that,
23 but it came much later on in the inquiry. And I
24 believe that, if I've interpreted the answer I got
25 correctly, and that is this is predominantly an

1 east-to-west flow transmission line, or the existing
2 one is, and that this one will most likely be the same
3 thing. Several witnesses directly admitted to that,
4 including a CAISO representative. And you'll remember,
5 CAISO is California Independent System Operator.

6 Because of these facts, this project to me
7 seems to be overwhelmingly beneficial to California,
8 with a relatively small benefit accruing to Arizona
9 ratepayers and other entities in the state of Arizona.

10 I believe there is no reliable cost-effective
11 storage scheme presently extant for solar energy, even
12 though it is desperately needed. And that's the real
13 taboo for me with this project. I am an ardent fan of
14 storage, but it's such a difficult problem that hasn't
15 really been solved.

16 Yes, Tesla has batteries in their cars, as do
17 others, and there are some larger scale utility
18 projects, but the dependability and reliability of
19 these systems has not been achieved as of this date.

20 So what that says for me is, were this
21 project to be built and transmission put on it,
22 particularly solar transmission, I don't think that the
23 storage is capable of adequately augmenting the solar
24 system. There is no reliable system presently
25 available. This solution to this problem is an urgent

1 international need.

2 I'm the biggest fan of storage, but I don't
3 see a solution to it myself at this time. And due to
4 timing issues, namely how quickly the Applicant plans
5 to build and energize this line, I don't see how this
6 project can result in a storage solution.

7 So due to the additional uncertainty that has
8 been thrust on the State of Arizona by this project,
9 they also -- I've lost my train of thought here -- oh,
10 it also is going to result in uncertainty for how the
11 thing is going to turn out. In fact, since we can't --
12 nobody can -- because of legal requirements, nobody can
13 specify who or what type of generation facility can be
14 added to a line like this, this transmission line, if
15 built, might basically be fed by fossil-fired
16 equipment, which would to me be against the intent not
17 only of the Applicant, but of the State of Arizona.

18 Now, this following comment is an observation
19 only, and it's none of my business, but I'm going to do
20 it anyway. And I apologize ahead of time for it. But
21 I believe that California ratepayers would be better
22 served by filling their generation needs, their new
23 generation needs, with a generator placed much closer
24 to the load in Southern California and on California's
25 soil. This would eliminate a \$400 million transmission

1 line, and also chime in with the CAISO admission that
2 the solar storage option is not cost effective.

3 So I believe that somebody is going to -- if
4 this is built that way, with a big, huge solar
5 3,200-megawatt generator, and as they say solar, we've
6 got no information whatsoever on this project, and I
7 know it's not part of this hearing, but it still has a
8 great impact on it. And we might wind up with just a
9 bunch of combustion turbines filling this and fired by
10 natural gas.

11 So what I think is this 3,200-megawatt person
12 trying to connect to the line that we were told about
13 should bear the risk of this system, particularly the
14 storage part of it, and I seriously doubt if they would
15 be willing to do that at this scale, huge scale.

16 Many states have the talent to solve this
17 storage problem. Overwhelmingly, California, they have
18 such a huge array of talent in their national
19 laboratories and their universities, but there's other
20 states that have some of that capability as well, and
21 they might want to send their lobbyists to the
22 Washington, DC and get Congress to set in motion a
23 national JFK-like initiative to solve this storage
24 problem. By the JFK-like initiative, I'm referring to
25 the moon landing. It can be done if there's enough

1 resolve.

2 Solar just will not work at scale without
3 storage, period, or exclamation point, as I wrote here.
4 The solution to this problem may not have anything to
5 do with batteries. There's many other ways to solve
6 the storage problem, many of which have been proposed,
7 but nothing has been done about them. Solar just will
8 not work at scale without storage.

9 So now down to my vote, which I guess you've
10 already ascertained. There's three ways to vote on any
11 of these projects. One is yea, one is nay, and one is
12 pass.

13 And this is now just my personal view. The
14 pass is just not a starter at all for me. I think it's
15 a copout, not in all cases, but on critical votes like
16 this it could become a copout. I believe you should
17 continue to work in your mind on your vote until you
18 finally ascertain whether it is yea or nay.

19 And in this particular case, it's extremely
20 close, at least from my vantage point. And I spent a
21 lot of time and lost a lot of sleep over it over the
22 last couple of weeks. But at the end of the day, I
23 figured the nay vote outweighed the yea vote, so that's
24 how I vote. Thank you.

25 CHMN. CHENAL: Member Gentles.

1 MEMBER GENTLES: Mr. Chair, I have to tell
2 you, it's a very difficult thing to follow Member
3 Haenichen. But as the newest member of this Committee,
4 I absolutely appreciate his thoughtful deliberation and
5 his questions that help people like me that are still
6 learning on this Committee.

7 And so Member Haenichen, thank you very much.
8 Your deliberation and questioning was very helpful
9 along the way.

10 I do commend the Applicant in their follow-up
11 to Member Haenichen's very detailed questions, which,
12 while he is asking those questions, somewhere in the
13 back of all of our minds we're asking those questions
14 as well, but just not as eloquently, given his
15 extensive background in the subject.

16 I did feel like at times it was like pulling
17 teeth to get some information. Some of your
18 information came after multiple questions. And I think
19 that the Applicant might consider, going forward, how
20 they deal with these questions, which in my mind, with
21 the little that I do know, probably should have been
22 available and readily accessible and provided upfront.

23 It's also clear to me the project benefits
24 California more than Arizona. But we as a state -- I
25 don't think we operate independently of each other.

1 And I think we rely on each other, both California and
2 Arizona and other states, for the efficient use of
3 power across our system.

4 So at the same time, I didn't believe that
5 the argument of the economic benefit was a strong one,
6 when it came down to emphasizing that it's a 2 million
7 to a \$7 million benefit. As a ratepayer, I surely
8 don't believe that benefits me. I mean, that's almost
9 a cup of coffee or two a year, which I just don't think
10 is an awful big benefit to the ratepayer.

11 I will tell you that the example depicted on
12 this screen here that showed the interconnection of the
13 line, having it versus not, and what happens when other
14 lines go down, I thought that was immensely useful, it
15 really was. And so that really helped me have a
16 stronger and broader understanding of how this kind of
17 fit into the entire view of things.

18 And having the CAISO representative come
19 finally was very good. I had no idea what CAISO was
20 until today, or this week, and so it was very helpful
21 for them to explain that as well. But again, it was
22 almost -- I felt like it was almost, you know,
23 reluctantly bringing them here to answer questions.
24 And so...

25 But all that being said, I do think the

1 project does help the reliability of our systems. I
2 believe that between Arizona and California, although
3 it's flowing more to California than it is to Arizona,
4 I still think is a beneficial addition to our system.
5 And for that reason, I vote yes.

6 CHMN. CHENAL: Thank you.

7 Member Hamway.

8 MEMBER HAMWAY: Yes. Thank you, Chairman.

9 I too found this extremely complicated, but
10 extremely interesting too. And one of the things I
11 learned quickly was that deregulation in California
12 means that operation is run by a quasi-government
13 organization. So it's just an interesting thing, as
14 our state debates deregulation, how something we would
15 set up like that.

16 And to me there's absolutely no doubt that
17 this is a line that benefits California. All you have
18 to do is follow the money. California realizes over a
19 billion dollars annually in realized benefits. And
20 while Arizona realizes 7 million, it's nothing to
21 sneeze at, but it's not a compelling argument in and of
22 itself.

23 So for me, what this whole thing was about
24 was what does Arizona give up, how do we benefit, and
25 is it worth it to our state. And so I want to thank

1 the Applicant for doing the helicopter tour because,
2 for me, I don't think you can make a land use decision
3 without seeing the land. I have said that over and
4 over and over.

5 And I was looking for disturbed area, how
6 much of this area was disturbed. And I was pleased to
7 realize that most of it is disturbed. I think there
8 were some numbers in there; I don't remember what they
9 were. But it certainly utilizes I10 as a corridor; I
10 think that that's where utility lines need to be. Many
11 people say it inhibits the view as you drive to
12 California. Well, I think that's -- I think
13 transportation, utilities, they all kind of need to be
14 in the same corridor.

15 So I support -- you know, certainly I think
16 the line is sited as well as could possibly be done.
17 And I appreciate the outreach from the Applicant,
18 working with the residents of Quartzsite. Tourism is a
19 huge benefit to Quartzsite. I think over a million
20 people visit there annually. And I think just driving
21 back and forth to Blythe each night we got a wonderful
22 view of the beautiful sunsets and the beautiful
23 beauty -- I know I've said that a thousand times -- but
24 the beauty of the land is just exquisite. So I think
25 that anything we can do to minimize the vistas and

1 allow tourism to really flourish in that area would be
2 great.

3 And I also want to thank the Applicant for
4 making arrangements for us to go to Blythe. You know,
5 I think it's too bad that we couldn't keep those bed
6 and sales tax dollars in Arizona, but I'm real glad I
7 didn't bring home bedbugs. So I appreciate that.

8 And the speculative nature of the new energy
9 generation in La Paz County, while I hope that
10 materializes, it doesn't really weigh for me in my
11 decision of whether or not -- I hope it materializes;
12 that's all I'll say.

13 And then -- and I think the EIM was so
14 interesting. And I've read a lot about the
15 complexities that utilities have with integrating
16 renewables onto the line, and so I think that the EIM
17 is kind of a brilliant way to do that. And I
18 appreciate that, and I think that this line will help
19 in that regard.

20 And so finally, the most compelling argument
21 for me, and I hope you take that forward to the
22 Commission when you're presenting this case, is exactly
23 what Member Gentles was saying, the simulation of the
24 grid. Because I know from personal experience that
25 complex systems, having the ability to reroute and to

1 have redundancy and reliability, is absolutely critical
2 when you're making those split -- you know, very
3 intricate decisions.

4 So I think that this will -- to go back to my
5 questions, I do think Arizona benefits. Maybe not so
6 much economically. Hopefully there will be some
7 economic development in La Paz. But I do think it's
8 worth it. And I also think that even if we didn't have
9 this line, that the EIM -- I do think that APS is
10 already a part of it without this line, and I think TEP
11 and SRP would come on board to the EIM without this
12 line, but I do believe that this line does help the
13 entire region.

14 And we don't live on an island and we are
15 part of the southwest and we do share energy back and
16 forth, and so I do think that this line is important
17 and I do think it is worth it for our state. And with
18 that, I vote yes.

19 CHMN. CHENAL: Thank you, Member Hamway.

20 Member Palmer.

21 MEMBER PALMER: Thank you, Mr. Chairman.

22 I want to thank the Applicant for a job well
23 done. I appreciate all of the sentiments that have
24 been expressed here today, and I feel a lot of those
25 myself. I think it can't be stated strongly enough

1 that having redundancy and a robust infrastructure,
2 whether it be in transportation, communication, or
3 energy, is so important for the future of our state.

4 As it's been said, we don't live on an
5 island. I live in a very remote corner of the state,
6 where a number of years ago, in a very remote part of
7 the state over a hundred miles away, an unsuspecting
8 construction crew dug through a fiberoptic line that
9 brought our community to its knees. People walked out
10 of grocery stores, leaving carts full of groceries
11 because the credit card machines wouldn't work. And
12 the cell phones stopped working and telephones stopped
13 working and banks closed and it was terrible. And we
14 have cried for redundancy in our rural areas.

15 Well, I think the same principles apply here.
16 We have to look to the future to build redundancy, to
17 build a robust system for energizing our future. And I
18 think this, while it comes with questions and while it
19 comes with unknowns in what the future will bring, I
20 believe that we have to look forward and build that
21 redundancy and build that reliability into our
22 infrastructure, and certainly energy is part of that
23 infrastructure.

24 And so I appreciate those that are willing to
25 take a risk and jump out on this. I recognize fully

1 that, at least for the near term, California is the
2 great beneficiary in this. But using the energy
3 imbalance markets, which I think are going to become
4 increasingly important, as we see other major utilities
5 in the state sign onto those, and as we see that
6 benefit our citizens in Arizona, we'll see an increased
7 benefit in Arizona. And with that, I vote aye.

8 CHMN. CHENAL: Thank you, Member Palmer.
9 Member Woodall.

10 MEMBER WOODALL: I vote yes. And I could
11 repeat all the thanks, but I'd just say ditto, ditto,
12 ditto with respect to that. But very well-presented
13 case.

14 I'm supportive of the project because I do
15 believe that there are economic benefits associated
16 with the cost of electric power. I also believe that
17 the existence of the line is going to increase access
18 to resources throughout the south -- excuse me -- the
19 whole western interconnection, I think that's a
20 benefit.

21 So I'm supportive of the project, but I had
22 some concerns about the process. And I know that the
23 Chairman has struggled nobly and mightily with looking
24 at the archaic nature of the rules that govern these
25 proceedings, and I know that the Applicant has tried to

1 meet the most efficient way to follow those rules.

2 I think that there's the potential for
3 inadvertent and technical violations of the rule
4 relating to authorized communications, and I also had
5 some concerns about the lateness of the hour that I was
6 getting materials.

7 Having said all that, I know we're struck
8 with the rules that we have, and I think both the
9 Chairman and counsel for the Applicant have really
10 tried to do the best that they could. I would suggest
11 that if the number of copies that are required by the
12 rules governing the line siting procedures are
13 problematic, and I'll just say I think they are, I
14 think perhaps members of the utility community might
15 want to get together, put their heads together, and see
16 about contacting the Commission about potentially a
17 waiver of that requirement.

18 I know that the Commission has waived rules
19 in the past; I'm not suggesting they would or that they
20 could here. But I understand how very challenging it
21 is to run these proceedings and having to file 25
22 copies of everything, and so I would just make that
23 recommendation.

24 But I'm very much in support of the project.
25 Thank you.

1 CHMN. CHENAL: Thank you.

2 Member Riggins.

3 MEMBER RIGGINS: So this was a difficult
4 case. The proposed project from the get-go essentially
5 was following the comparisons of a CEC that was denied
6 back in 2007. So I want to commend the Applicant and
7 the witnesses and their testimony for essentially kind
8 of going step by step through that CEC and showing the
9 differences between that case and this case, the DPV2
10 versus the Ten West.

11 I think they did a remarkable job of showing
12 the differences, showing how -- just showing a lot of
13 the changes that had taken place, aside from the actual
14 siting of that project, to the market, to just
15 everything involved.

16 So I had been making notes kind of along the
17 way that I was going to summarize, but I think this
18 morning, Ms. Grabel, your closing pretty much
19 summarized everything that I was going to touch on. I
20 thought it was a great summary of this project on how
21 it essentially meets the provisions that are set forth
22 in Title 40 that this body needs to consider when
23 issuing a CEC.

24 And essentially, I vote yes. I think
25 everyone did a great job. I think this project will

1 benefit. So I don't ramble on, I vote yes.

2 CHMN. CHENAL: Thank you, Member Riggins.

3 Member Drago.

4 MEMBER DRAGO: Yes, I would like to echo the
5 thanks to everyone in this room that's contributed to
6 this case, this project. I think when we began to see
7 that the utilities in Arizona support this project,
8 that told me something. And I think what it told me
9 was that, while nothing is perfect, when you're doing
10 something new, I think it can always be improved later.
11 And I think this is kind of a new approach here, and I
12 think it can work.

13 I agree with Jack, I think storage is
14 important in the future, but we have time to get there,
15 but we're just not there yet, but that doesn't mean
16 that I can't vote yes on this project. So with that
17 said, I vote yes.

18 CHMN. CHENAL: Thank you, Member Drago.

19 I just did the math, and it's passed. I
20 could vote no, and it doesn't make any difference.

21 I was told, when I did jury trials, the jury
22 doesn't miss a thing collectively, and I think we all
23 just saw that with the comments of the Committee. I
24 mean, they're excellent points. And my friend Member
25 Haenichen made very, very important points, and the

1 other members as well.

2 I guess in terms of presenting this to the
3 Commission, I think someone has already mentioned the
4 flow analysis was extremely persuasive in terms of the
5 benefits that the line would provide, economics aside,
6 which, you know, is rather de minimus in totality, but
7 the benefit seems like it's more the redundancy, as
8 that flow analysis provided.

9 I was leaving my house probably about two
10 months ago, went up to the end of my street. The light
11 was red, it turned green, I went through on a green
12 light, and some guy ran a red light and hit me. Of
13 course, there were three people in the car, and I was
14 in mine, and the police officer came and asked me what
15 happened. I said, well, that so-and-so ran the red
16 light.

17 Talked to those guys in the car, there were
18 three of them, and they all lied and said that they
19 came through on a green light and I was there on a red
20 light, you know, that I blew through a red light.

21 And of course, there was the erstwhile
22 objective nonpartisan witness who said, no, I went
23 through the green light, the car with the three people
24 went through the red light, and the police should cite
25 the other car. Of course, the policeman listened to

1 all that and did neither and no one was cited, so I
2 still am upset about it.

3 But the objective person who testified in
4 this hearing is Ms. Little. And I understand the
5 Applicant wants to put the best foot forward, and I
6 think they did a very good job of that, explaining the
7 various benefits.

8 I took some comfort in the testimony and the
9 presentation by Staff counsel, and especially
10 Ms. Little, which is kind of an objective disinterested
11 witness who said, in so many words, yes, officially
12 there's no detriment to the Arizona system in having
13 this, but reading between the lines I caught a few
14 glimpses of some positives that Arizona would enjoy as
15 a result of this line, and that made a very good
16 impression on me. And for the other reasons that my
17 fellow Members have said, I vote aye as well.

18 So I want to thank the Applicant and Staff,
19 again, attorneys and all the witnesses. You all did a
20 great job. Even you, Mr. Amirali. No, I mean it. I
21 think the witnesses --

22 I came into this hearing probably more
23 opposed to it than in favor of it, and I read the
24 materials very carefully. And I will say, I did see so
25 many similarities between this project and the other

1 one at certain levels. But I think the Applicant --
2 and I don't think I hid that from the Applicant. I
3 think from the very beginning I said, this is a
4 problem, you're going to have to address it, you're
5 going to have to handle it head on. I think the
6 Applicant did and went through that analysis of one
7 versus the other. Member Riggins I know said, hey,
8 that was very effective; I think we all agree with
9 that.

10 But I think it was the tenacity of the
11 Applicant and the witnesses and the objective -- I
12 don't want to say objective -- everyone was objective,
13 but the non-biased, non-interested testimony of
14 Ms. Little I think carried the day for me.

15 So if the Applicant will provide me with the
16 CEC, with a clean version, with a couple copies of it,
17 we have to provide a couple copies to the Commission,
18 and with the maps attached, you know, I will file that
19 as soon as I get it, within a day of when I receive it,
20 a day or two at the most.

21 Any final comments from the Committee? And
22 again, I thank each and every member of the Committee
23 for their work.

24 Yes, Member Haenichen.

25 MEMBER HAENICHEN: I just want to say I'm

1 happy for the Applicant.

2 CHMN. CHENAL: Thank you, Member Haenichen.

3 Member Gentles.

4 MEMBER GENTLES: I just have to emphasize
5 that I appreciate the deliberation of this body. These
6 are complex problems and issues that we're all here
7 discussing, deliberating. And Mr. Amirali and others
8 who were able to shed some light on the complexity and
9 make it a little bit more understandable for us, I
10 truly appreciate that.

11 And I do -- and going forward, by the way,
12 and I don't know if this will ever come up again, that
13 side-by-side comparison of the two CECs was really
14 helpful as well, and so that was a brilliant stroke of
15 work, so that really helped as well. So thank you.

16 CHMN. CHENAL: Member Woodall.

17 MEMBER WOODALL: While we were tossing our
18 gratitude and applause out like confetti, we left out
19 three people. Our audiovisual experts, this has gone
20 beautifully well, and I want to thank you. The sound
21 has been great, you pulled things up on the screen very
22 quickly. It was an excellent job.

23 And more importantly, the most important in
24 the room, Kathryn Blackwelder, the court reporter.
25 Because without her, we would have no record to send to

1 the Commissioners. And I think she did an outstanding
2 job. Thank you so much, Ms. Blackwelder.

3 CHMN. CHENAL: Anything else? I'll remind
4 the Committee, we have hearings in Tucson, and I
5 believe it's the last week of February, but that will
6 be the next time we get together.

7 But is there anything else, Ms. Grabel?

8 MS. GRABEL: Thank you all for your attention
9 and your diligence in considering this. I really
10 appreciate the vote, the Applicant does. The only
11 thing left, I guess, is just to remember to give us
12 back the iPads.

13 MEMBER HAMWAY: Shoot.

14 MEMBER WOODALL: I resemble that remark.

15 CHMN. CHENAL: Mr. Arias, Ms. Scott, anything
16 further?

17 MS. SCOTT: No, thank you.

18 CHMN. CHENAL: Thank you. This hearing is
19 adjourned.

20 (The hearing adjourned at 2:14 p.m.)

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1 STATE OF ARIZONA)

2 COUNTY OF MARICOPA)

3

4 BE IT KNOWN that the foregoing proceedings
5 were taken before me; that the foregoing pages are a
6 full, true, and accurate record of the proceedings all
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8 proceedings were taken down by me in shorthand and
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10 I CERTIFY that I am in no way related to any
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12 the outcome hereof.

13 I CERTIFY that I have complied with the
14 ethical obligations set forth in ACJA 7-206(F)(3) and
15 ACJA 7-206 J(1)(g)(1) and (2). Dated at Phoenix,
16 Arizona, this 11th of February, 2020.

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25 7-206(J)(1)(g)(1) through (6).

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