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1 BE IT REMEMBERED that the above-entitled and  
2 numbered matter came on regularly to be heard before the  
3 Arizona Power Plant and Transmission Line Siting  
4 Committee, Esplendor Resort at Rio Rico, 1069 Camino  
5 Caralampi, Rio Rico, Arizona, Ball Room, commencing at  
6 2:06 p.m. on the 3rd day of June, 2009.

7

8 BEFORE: JOHN FOREMAN, Chairman  
9 DAVID L. EBERHART, Thunderbird Consulting  
10 Group  
11 PAUL RASMUSSEN, Department of Environmental  
12 Quality  
13 JESSICA YOULE, appointed member  
14 PATRICIA A. NOLAND, appointed member  
15 JEFF McGUIRE, appointed member  
16 MIKE WHALEN, appointed member  
17 BILL MUNDELL, appointed member  
18 MIKE PALMER, appointed member  
19 BARRY WONG, appointed member

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21

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Certificate No. 50378

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1 CHMN. FOREMAN: All right. Let's go back on the  
2 record. It is shortly after 2:00 on the afternoon of  
3 Wednesday, June 3rd. We completed the tour this  
4 morning. Most of the members of the Committee were  
5 either on the tour or individually observed the portions  
6 of the route that they were interested in, and I thought  
7 that at the beginning, we would ask that Mr. Warner and  
8 Mr. Beck, who are presently testifying, could address  
9 some of the questions that were asked by Committee  
10 members while we were on the tour and see if we would  
11 get that information on the record and then if there  
12 were follow-up questions from Committee members who were  
13 on the tour or who were not on the tour, we could deal  
14 with those now.

15 So counsel --

16 MR. DERSTINE: Good afternoon, chairman, members  
17 of the Committee, I think Mr. Beck --

18 CHMN. FOREMAN: Sorry, I'm remiss here. The  
19 record should reflect the presence of applicant and  
20 counsel, Mr. Magruder, and Ms. Webb. So, again, I'm  
21 sorry. Please proceed.

22 MR. DERSTINE: I'm sorry. I didn't state my  
23 appearance. I should have done that.

24 I just -- I wanted to note from the tour this  
25 morning, there were a number of questions. Mr. Beck

1 jotted them down as we broke and moved from each spot.  
2 A number of the questions, several from Member Wong,  
3 some from the others related to notice issues. As I  
4 indicated in my opening, we have a separate witness,  
5 George Miller from Transcon, who is going to address all  
6 of the notice of public process issues and notice --

7 MEMBER PALMER: Mr. Chairman, can we get the  
8 system amp'd up?

9 CHMN. FOREMAN: We are having difficulty hearing  
10 you over here.

11 MR. DERSTINE: Mr. Jerden always claims I kick  
12 the box. I swear it is not me, but maybe it is.

13 Let me start over, then. From the tour this  
14 morning, there were a number of questions that were  
15 directed to notice to specific landowners or businesses  
16 along the route. We have a separate witness,  
17 George Miller from Transcon, who is prepared to address  
18 public process in general, notification in general, and  
19 we have passed along those specific questions that came  
20 up this morning to Mr. Miller.

21 In terms of the sequence of our witnesses, we  
22 anticipated calling Mr. Miller after we released this  
23 panel, so if it is okay, we would defer those notice  
24 questions to Mr. Miller. The remaining questions I had  
25 that we had written down, Mr. Beck is able and ready to

1 answer. So if that is acceptable?

2 CHMN. FOREMAN: Is that agreeable to the members  
3 of the Committee?

4 All right. Let's do that.

5 MR. DERSTINE: Mr. Beck, one of the questions  
6 that was raised this morning on the tour was the number  
7 of poles and the spacing of those poles on the bypass  
8 route or the Alternative 2 from the morning.

9 CHMN. FOREMAN: It would be helpful if we had  
10 the route maps up, starting perhaps with the Segment 4.

11 MR. BECK: I believe the question that was asked  
12 this morning by Mr. Wong was the number of poles that  
13 would be required on the reroute section from the Old  
14 Tucson Road connection with Grand Avenue going around  
15 through the warehouse area and back to the existing  
16 alignment on Grand. And we have identified eight  
17 structures within that area that would be required for  
18 the reroute. I didn't divide that. It is nine-tenths  
19 of a mile. I didn't determine the span. It is eight  
20 structures in nine-tenths of a mile.

21 CHMN. FOREMAN: Member Wong.

22 MEMBER WONG: Thank you, Mr. Beck. So eight  
23 structures, nine-tenths of a mile would be the total  
24 stretch, total length; is that correct?

25 MR. BECK: On that -- on the preferred route

1 going around through the warehouses, that's correct.

2 MEMBER WONG: So between structures?

3 MR. BECK: Specifically, it is from this point  
4 down to this point here. Right here.

5 CHMN. FOREMAN: It would have been between --

6 MR. BECK: Excuse me, it is this. The portion  
7 we do not show in the existing alignment as an  
8 alternate, so it is this portion right here.

9 CHMN. FOREMAN: It would have been between stop  
10 3 and stop 5; is that correct?

11 MR. BECK: That's correct.

12 MEMBER WONG: And we were standing on the hill  
13 side next to that -- the warehouse facility KCS or  
14 something to that effect; is that right?

15 MR. BECK: On stop 4, we were up in this area  
16 right in here.

17 MEMBER WONG: How many poles could you see from  
18 that vantage point, just an estimate?

19 MR. BECK: You would probably see half of them.

20 MEMBER WONG: Half of them. Are you prepared to  
21 talk about the public participation of some of those  
22 adjacent property owners in that vicinity?

23 MR. BECK: Again, I think that is an issue  
24 Mr. Miller will address.

25 MEMBER WONG: Thank you.

1 MR. BECK: Just for the record, the span lengths  
2 between those structures would be approximately  
3 600 feet.

4 CHMN. FOREMAN: I think we also asked about  
5 whether there were any residential structures along that  
6 route, and you were going to check on that.

7 MR. WARNER: This is Mr. Warner. Yeah, we did  
8 check on that. There are no residential structures.  
9 This structure is owned by a commercial interest we met  
10 with directly on a lot of his properties. That is the  
11 property that appeared to be a residence located on the  
12 intersection of Old Tucson Road across the street from  
13 one of the stops that we had. Old Tucson Road and Grand  
14 Avenue. It was surrounded by a chain link fence with  
15 barbed wire on top.

16 CHMN. FOREMAN: Proceed.

17 MR. DERSTINE: All right. If that addressed the  
18 questions that came up on the tour, Mr. Warner, I want  
19 to just ask you and Mr. Beck, then, given that we spent  
20 a significant amount of time on the tour in Nogales  
21 looking at the preferred route and looking at some of  
22 the alternatives, Mr. Warner, could you just, again,  
23 summarize and maybe compare and contrast the preferred  
24 route to the alternative, and when I say "the  
25 alternative," really the Segment 2 alternative, the

1 lower end of Segment 4 for the Committee, please?

2 MR. WARNER: In summary, the total length of  
3 Segment 4 is about eight and a half miles. It has about  
4 eight to nine-tenths of a mile that is a new  
5 transmission line that avoids the most congested area  
6 along Grand Avenue. So a little over seven and a half  
7 miles uses the existing transmission line. We selected  
8 as the preferred alternative because it maximizes the  
9 use of the existing transmission line and it ultimately  
10 was felt that there was -- that it was a better  
11 arrangement for those property owners in proximity for  
12 the line and that developed around it rather than  
13 introducing a new line on property owners that don't  
14 have an existing transmission line.

15 It was, as it turned out, the most cost  
16 effective, as well. And it was considered compatible  
17 with the land uses that were in that area developed  
18 around it.

19 MR. DERSTINE: Mr. Warner, let me ask you, in  
20 terms of one of the suggestions has been to use the  
21 preferred route in Segment 4, but to jog over, and using  
22 my pointer on the slide on the right, jog over on this  
23 lower alternative and to use that rather than coming  
24 down along the preferred existing line. Why was the  
25 preferred route chosen here over this alternative?

1 MR. WARNER: For the same reasons that I  
2 mentioned. Basically, by going over to the other route,  
3 the alternate alignment that is depicted in blue, it  
4 introduces a line to a group that hasn't got a line  
5 already. It puts it in closer proximity to residences  
6 in that area, and we felt like incrementally there was a  
7 higher probability of a visual impact to a more  
8 sensitive receptor than what was down into the  
9 industrial areas, which have a tendency to be less  
10 sensitive to this kind of infrastructure.

11 MR. DERSTINE: Mr. Beck, are there -- can you  
12 compare and contrast the preferred route, the lower  
13 piece on Segment 4, to this lower alternative, the  
14 Alternative 2 from the company's perspective.

15 MR. BECK: Yes. The big perspective from our  
16 perspective is the cost of right-of-way. On that  
17 eastern alignment, we would have to buy a considerable  
18 amount of right-of-way, new right-of-way we didn't have  
19 today. On the preferred alignment, we estimated the  
20 right-of-way cost to be in the range of \$9 million, but  
21 on those alternatives, we are getting closer to  
22 \$16 million for right-of-way cost. So approximately,  
23 \$7 million more just in right-of-way.

24 MR. DERSTINE: And is there a difference between  
25 the two alternatives in terms of infrastructure costs?

1           MR. BECK: There is a difference in the  
2 infrastructure cost. It is much less than the  
3 right-of-way issue, but there is an approximately  
4 \$1 million -- actually, \$1.8 million of difference  
5 between the preferred alignment and the alternative  
6 alignment.

7           MR. DERSTINE: Mr. Warner, is there anything  
8 more that the Committee should know about Segment 4 and  
9 the routes that we proposed?

10           MR. WARNER: I think the alternative alignment  
11 does present an option that works, and I would only add  
12 that as a parting comment. I think the summary that I  
13 provided so far is enough to summarize the advantages of  
14 the preferred alternate route.

15           MR. DERSTINE: That covers the segments as we  
16 broke down the project. Do you have a summary, kind of,  
17 of your overall testimony, about the environmental  
18 considerations the Committee should take into account in  
19 making a decision on our application?

20           MR. WARNER: Yes.

21           Clark, if you could bring up that slide, please?

22           In regards to the preferred alignment here,  
23 there are no significant or detrimental effects to fish,  
24 wildlife, plant life, associated forms of life which  
25 they depend. Their impacts, recognizable in some areas,

1 in the removal of some vegetation, these alternatives  
2 largely do not -- do not implement effects in a  
3 significant way.

4 In regards to noise and emission levels, those  
5 are not significant, as well. The project, as it is  
6 contemplated, could be constructed safely in accordance  
7 with applicable regulations. The project is compatible  
8 with the total environment of the project study area.  
9 There are no significant or detrimental effects to  
10 geology, soils, surface water, groundwater quality or  
11 availability.

12 We chose the preferred alternative, the  
13 preferred alignment, for the following reasons:

14 It best utilizes the existing assets of  
15 infrastructure that are there.

16 It balances the ability to construct and  
17 maintain the facilities with minimizing the need to  
18 acquire new right-of-way.

19 It minimizes impacts to sensitive environmental  
20 resources.

21 It best achieves a desired condition for safe  
22 and reliable operations and maintenance.

23 It has more public support relative to the other  
24 alignments before it. Now, in regard to that comment, I  
25 would also add that in the bosque area, as it relates to

1 those, both alternatives have support and are, from the  
2 environmental perspective, have merits.

3 It is preferred by the jurisdictions.

4 It maximizes the use of existing corridors and  
5 compatible -- and it is compatible with land uses it  
6 surrounds.

7 It avoids encroachments to the existing 115 kV  
8 line in the areas that those problems are most acute.

9 It allows for a cost-effective and safe  
10 construction methods by avoiding some of those areas.

11 It minimizes direct and indirect impacts to  
12 existing and future land uses and land management areas.

13 MR. DERSTINE: Mr. Warner, if the Committee were  
14 to decide with regard to Segment 2 that the route should  
15 be the existing alignment, that is the Alternative Route  
16 1, Segment 2, would any of your conclusions and your  
17 recommendations for a certificate of environmental  
18 compatibility change this in any way?

19 MR. WARNER: I think choosing the existing  
20 alignment, and I think you are asking specifically as it  
21 relates to that bosque area where public comment was --  
22 was very critical of us selecting that alternative along  
23 the railroad. No, I think that choosing the existing  
24 alignment can certainly be in line with these things  
25 that we've mentioned here. It certainly would be

1 compatible in its existing alignment.

2 MR. DERSTINE: Mr. Beck, can you summarize your  
3 testimony and maybe highlight some of the key aspects of  
4 your testimony for the Committee considering the  
5 issuance of a certificate of environmental  
6 compatibility?

7 MR. BECK: Yes. First of all, as I've  
8 testified, UNSE has a need to provide a capacity  
9 increase over what is available from the WAPA system  
10 today, and to be able to do that, we need to provide  
11 more resource to the Nogales Tap point, and from our  
12 perspective the best thing to do is to connect to TEP.  
13 We think the proposed project balances our ability to  
14 construct and maintain facilities while minimizing  
15 impact to environment, impact to existing residents, the  
16 cost of acquiring new right-of-way, and the cost of  
17 upgrading infrastructure. The proposed project provides  
18 the capacity increase while it also reduces the wheels  
19 cost UNS Electric will have to pay for its transmission  
20 service.

21 MR. DERSTINE: In the light of the public  
22 comment that we heard on Segment 2, can you, again, kind  
23 of summarize what the company's position is with regard  
24 to Segment 2 and the selection of the alternative or the  
25 preferred route in Segment 2?

1 MR. BECK: Yes, relative to Segment 2, the  
2 reason that UNS Electric looked at identifying its  
3 preferred route as being along the railroad was because  
4 of the public input we received early on in the process  
5 of our public process. During this hearing, we received  
6 a lot more input regarding residents' preferences to  
7 maintain the line along the existing route. Either  
8 route will work from an UNSE perspective, as I indicated  
9 it will be slightly more difficult to build along the  
10 existing alignment, but it is doable. As you saw on the  
11 route tour today, the major portion of the existing  
12 alignment has already been cleared and is wide open for  
13 construction; therefore, UNS Electric is satisfied  
14 building on either the preferred route that we  
15 identified or the existing alignment that is out there  
16 today.

17 CHMN. FOREMAN: Question?

18 Member Wong.

19 MEMBER WONG: Thank you, Mr. Chairman.

20 Mr. Beck, I'm looking at Segment 2, and  
21 referring to the -- we had to stop near the Canez  
22 substation. Do you recall that?

23 MR. BECK: Yes, I do.

24 MEMBER WONG: Where we talked about the existing  
25 route and where the existing part -- part of the

1 existing route travels through the immediate backyard of  
2 a number of residential homes, and you said that the --  
3 we could route that so that it avoids those homes.

4 Would you talk about your description there again?

5 MR. BECK: Clark, could you zoom in on the area  
6 of Canez South?

7 Up in the top part of this Google Earth flyover  
8 on the left screen is Canez substation. What I was  
9 referring to was coming down that existing alignment to  
10 a point near Pendleton Road. Anywhere in that area we  
11 feel we will avoid any residences and be able to come  
12 down at that point, at any of those points to the  
13 railroad alignment. Or as in our application, come out  
14 of Canez to the railroad alignment and head south along  
15 the railroad in that area.

16 MEMBER WONG: At which point would be the  
17 optimal that would also take into consideration some of  
18 the public testimony yesterday?

19 MR. BECK: Well, I think there were two issues  
20 we heard. Well, there is one issue we heard from the  
21 public that suggested going from Canez along the  
22 existing alignment, and I believe it was .6, six-tenths  
23 of a mile, which takes us somewhere down into this area,  
24 and then coming across, which ideally probably would be  
25 in one of these areas where there is a partial clearing,

1 and/or coming all the way down to the corner of  
2 Pendleton Road and then using -- skirting along this  
3 agricultural area. Either one of those is workable from  
4 a UNS standpoint. I think the other issue that was  
5 raised yesterday was relative to notice and whether or  
6 not there is a notice issue if we were to choose a  
7 portion of that route to come over to the railroad.  
8 From the standpoint of notice, it might be cleanest to  
9 just go from Canez to the railroad alignment along the  
10 distribution line.

11 MEMBER WONG: And, Mr. Beck, if we did it from  
12 the Canez alignment to -- from the existing route,  
13 existing route connecting to the preferred route, so  
14 that would meet any potential argument about the notice  
15 issue; right?

16 MR. BECK: That is a legal question.

17 MEMBER WONG: That is a legal question, and  
18 would that then also alleviate any conflicts of the  
19 public testimony, as you heard it?

20 MR. BECK: I believe at least one group  
21 preferred coming down that existing alignment to the  
22 south.

23 MEMBER WONG: Okay. Mr. Chairman, I don't want  
24 to belabor the point, but my concern is I would like to  
25 avoid having to -- having the route go back into the

1 back yard of the residences, the existing route.

2 MR. BECK: If I could just point out, there are  
3 no residences between Canez substation and this  
4 agricultural field. The residences are on the other  
5 side of Pendleton and to the south as well as to the  
6 north of Canez substation.

7 CHMN. FOREMAN: That was the issue I wanted to  
8 raise. I remember asking, I believe, at the Canez  
9 substation whether or not there were any residences to  
10 the south, and my understanding is there are no  
11 residences to the south. There is bosque to the south  
12 of Canez, but no residences down to the Pendleton Road  
13 intersection; is that correct?

14 MR. BECK: That is correct. The agricultural  
15 fields -- further south from the northern edge of those  
16 agricultural fields back to Canez, there are no  
17 residences in that area.

18 CHMN. FOREMAN: Could we back -- go north on the  
19 picture on the left screen so that we can get Canez  
20 station in. My understanding is that all of the public  
21 comment concerning difficulties with backyards and  
22 setbacks concern residents who were north of Canez up to  
23 Stop Number 9 today; is that correct?

24 MR. BECK: Well, actually, up to approximately  
25 this point here. This stretch up to stop 9 is all -- no

1 residences in there. From this point back to Canez,  
2 there are residences, as you can see on this map. Those  
3 were the commenters yesterday.

4 CHMN. FOREMAN: I will tell you after viewing  
5 the scene and based on the record so far, I would have  
6 serious difficulty finding that a route other than the  
7 connection from the Canez station to the preferred route  
8 is generally described in the notice that has been  
9 provided so far. And I think that would put the  
10 applicant in the position of if you wanted to go south  
11 of the Canez station to interconnect between the  
12 existing route and the preferred route, you would  
13 probably have to renotice. Again, that is based on what  
14 I've been shown so far, but I would have difficulty, I  
15 think, making -- coming to any different legal  
16 conclusion based on what we saw at the Canez station.  
17 I'm very comfortable saying, even though there wasn't an  
18 explicit reference to an interconnection between the  
19 preferred route and the existing route through the Canez  
20 substation, because of the existence of the distribution  
21 line that is already there, because of the cutting  
22 through the bosque that is already there, and because of  
23 the comments that have been made and the obvious  
24 awareness of the local residents with regard to that  
25 route, that I think that that would fall within the

1 language of ARS Section 40-360.04(A) as being generally  
2 described in the notice that is made. Again, I will  
3 revisit that if you folks want me to revisit that at a  
4 later time, but that would be my ruling based upon what  
5 I've been shown so far.

6 MR. BECK: To keep the process clean, we don't  
7 want questions of notice, so we are satisfied using the  
8 route coming out of Canez over to the railroad alignment  
9 to go south.

10 CHMN. FOREMAN: So I think for the Committee  
11 during our deliberations that means that if there are  
12 members of the Committee who would reject the  
13 interconnection at the Canez station and want the  
14 interconnection to occur below the Canez station between  
15 the existing route and the preferred route, again,  
16 assuming that that is a conclusion that the Committee  
17 should come to, then the Committee is going to have to  
18 assume as a cost of that the continuation of the hearing  
19 and renoticing for some sort of alternative route or  
20 routes between the preferred alignment and the existing  
21 alignment.

22 MR. WARNER: Mr. Chairman, let me also add, it  
23 is essential the line come into Canez substation  
24 regardless of the route. So it does need to make that  
25 interconnection at that point.

1 CHMN. FOREMAN: Well, logically, you can bring  
2 it in from one side and take it back out that side, but  
3 it just makes an awful lot of sense to do the crossover  
4 there, because it is so close, because the brush has  
5 already been cleared away. Any sort of environmental  
6 impact has already occurred. You would minimize new  
7 environmental impact and cost by making that connection  
8 there.

9 Member Eberhart.

10 MEMBER EBERHART: Thank you, Mr. Chair.

11 Mr. Beck, do you know offhand what the  
12 right-of-way width or easement width is on the preferred  
13 route through this area?

14 MR. BECK: The existing that UNS already owns?

15 MEMBER EBERHART: Yes.

16 MR. BECK: For the distribution line or the 115  
17 line?

18 MEMBER EBERHART: Both.

19 MR. BECK: The distribution line that is  
20 adjacent to the railroad is 37-and-a-half feet, and so  
21 we would be purchasing additional right-of-way to make  
22 up the width of 100-foot. The existing 115 kV alignment  
23 is a 100-foot wide right-of-way.

24 MEMBER EBERHART: When we were on the tour  
25 today, it seemed out in the world that the lines are a

1 lot closer to each other than it appears on the map. My  
2 concern is that some of the testimony yesterday from the  
3 public didn't appreciate or understand the concept of  
4 the 100-foot right-of-way versus 500-foot right-of-way,  
5 and if I were a landowner in that area and had an  
6 opportunity to get rid of one of the power lines in my  
7 yard, I would want to do that. I have a real concern  
8 that the testimony we heard yesterday was based on  
9 faulty understanding of how much land was really going  
10 to be needed along the railroad. So I'm not totally  
11 buying into the concept of keeping it or not using the  
12 preferred route. Although the testimony was they wanted  
13 it in their front yards, I'm at the point where I think  
14 I would like to see if we could be flexible and maybe  
15 even have them come back and testify again or something,  
16 because I don't think they understood and maybe I'm -- I  
17 should wait for the proper time for this, but...

18 CHMN. FOREMAN: You're raising another issue  
19 here, and that is the -- what exactly the public comment  
20 is. It is not testimony. It is not sworn. And the  
21 statute, the line siting statute requires the Committee  
22 to base its decision on testimony sworn before a court  
23 reporter and comment. And the statute appears to  
24 contemplate comment only by someone who has been granted  
25 a limited appearance. We have a separate category of

1 input from public comment now that comes from the  
2 application of the open meetings law, which allows but  
3 does not require public comment, and so I have some  
4 concern about the Committee basing its decision on  
5 public comment that is not confirmed by testimony that  
6 is later received. And it seems to me that you can --  
7 you can coordinate the two statutes by using public  
8 comment as a guidepost for testimony in the way that we  
9 are doing, asking witnesses who are sworn to testify  
10 concerning issues that are raised by the public comment.  
11 But as to factual assertions that are made on public  
12 comment, I'm a little concerned there. But I take your  
13 point with regard to the two different routes. I just  
14 want to make sure that the Committee members make their  
15 decisions based upon testimony.

16 MEMBER EBERHART: Mr. Chair, one other question  
17 I had. I don't know if it is from Mr. Beck, was there  
18 has been testimony that either at previous public  
19 hearings there has been public input, that is how you  
20 came about selecting the preferred route along the  
21 railroad. And I wondered if that was documented through  
22 letters or anything written or was that just verbally  
23 presented to you, and that is how the applicant came by  
24 the preferred route along the railroad?

25 MR. BECK: I believe there is a combination of

1 items and that Mr. Miller will be able to address those  
2 when he speaks to the public process.

3 MEMBER EBERHART: Thank you, because here again,  
4 I don't want to base our ultimate route on something  
5 that may be hearsay or not. I'm not fully weighted in  
6 the proper weight that it should be given. Thank you.

7 CHMN. FOREMAN: Proceed.

8 MR. DERSTINE: Mr. Beck, I don't want to belabor  
9 the point, but I just want to make sure we are all on  
10 the same page with regard to this segment north of Canez  
11 and then dropping down and why the preferred is where it  
12 is in Segment 3.

13 So, Clark, can you take us just north of Canez,  
14 please?

15 CHMN. FOREMAN: And for the record, this  
16 mysterious Clark person to whom reference is made on a  
17 regular basis is the person who is controlling the map  
18 that is being projected onto the screen.

19 MR. DERSTINE: Yes, Mr. Clark Bryner is an  
20 employee of Transcon and whiz around of Googles and all  
21 things computers, so we appreciate his skills.

22 MR. DERSTINE: Mr. Beck, in Segment 2, the  
23 preferred route leaves the existing line and moves over  
24 to the railroad. At that point, are there property  
25 owners or residents just south of that where it -- the

1 line moves west?

2 MR. BECK: Clark, can you go to just a little  
3 higher elevation?

4 The portion that is dark green and has no white  
5 on it, which is from the point where we would go over to  
6 the railroad right-of-way down to a point approximately  
7 half way to Canez substation, is one property owner.

8 MR. DERSTINE: And who is that property owner?

9 MR. BECK: It is Rio Rico Properties. Early in  
10 our public process, in a meeting with them, they liked  
11 the idea of moving from our existing alignment over to  
12 the railroad so that the line would not bisect their  
13 properties. One of the discussions we had with Rio Rico  
14 Properties was, would they be open to swapping the  
15 100-foot right-of-way that we have on the existing or  
16 100-foot adjacent to the railroad. And they said, yes.  
17 They liked the concept of not bisecting their property,  
18 and in exchange for that, they were willing to swap the  
19 right-of-way so there would be no cost to UNS Electric  
20 to obtain right-of-way on that portion.

21 MR. DERSTINE: And is Rio Rico Properties just a  
22 husband and wife who own there? Are they a large  
23 corporation? Who is Rio Rico Properties?

24 MR. BECK: They are part of a corporation  
25 headquartered in Florida. One of the issues that we've

1 had when we asked, could they show up to give any public  
2 comment or any position on this project, was that they  
3 would need to obtain corporate approval from Florida,  
4 and apparently, so far that has not been forthcoming.

5 MR. DERSTINE: So Rio Rico Properties, our last  
6 stop, is at where the preferred route moves to the west.  
7 Am I right about that?

8 MR. BECK: That is correct. Stop 9 is where I'm  
9 pointing to on the slides.

10 MR. DERSTINE: From there south again, how much  
11 does Rio Rico Properties own?

12 MR. BECK: Again, it is approximately half the  
13 distance down to Canez sub. It is down to the point I'm  
14 pointing to now where the first residence is.

15 MR. DERSTINE: We didn't hear any public comment  
16 from Rio Rico Properties; is that right?

17 MR. BECK: That's correct.

18 MR. DERSTINE: Now, the folks that we did hear  
19 extensive public comment from, where do they live? Can  
20 you show us, generally?

21 MR. BECK: They live basically from the bottom  
22 of the Rio Rico Properties, which I'm pointing to, down  
23 towards Canez. There is probably one property owner  
24 right just north of Canez. The others are kind of  
25 concentrated in the mid-portion of the Segment 2

1 reroute.

2 MR. DERSTINE: So Mr. Jakle, who urged that we  
3 not adopt the preferred route because of the better  
4 quality bosque habitat and the other commenters who  
5 urged through public comment that we not move the line  
6 over because it conflicts with the existing use of their  
7 property, they live in that segment that you just  
8 identified with your laser?

9 MR. BECK: Right, Mr. Jakle lives somewhere in  
10 the middle of this area, probably in the southern  
11 portion of this area of development right here.

12 MR. DERSTINE: Now, point out Canez substation,  
13 please.

14 MR. BECK: It is right there.

15 MR. DERSTINE: Now, if the preferred route that  
16 is moving from the existing line to the west along the  
17 railroad is not adopted for Segment 2, the existing line  
18 will enter Canez substation as it currently does; right?  
19 There would be no change to that interconnection?

20 MR. BECK: That's correct.

21 In fact, Clark, if you could zoom in on Canez.

22 Currently, we have our line that is overlaid on  
23 the existing line. Right underneath that is the  
24 existing line that comes in and drops into the  
25 substation on the east side of the substation off of a

1 pole that is directly east of the substation and then it  
2 comes back out of the substation to that same pole and  
3 heads to the south.

4 MR. DERSTINE: Now, if the Committee were to  
5 consider staying with the existing line into Canez and  
6 then moving over to the preferred route, how would that  
7 occur? Would that connection occur just straight across  
8 to the west?

9 MR. BECK: We would come out of the Canez  
10 substation and go to the west to the railroad alignment.

11 MR. DERSTINE: And, in fact, that was already  
12 contemplated by the application for the preferred route  
13 and described in the application. That is, that the  
14 preferred route, if it was adopted, would drop down to  
15 Canez and move east and interconnect with the Canez  
16 substation and then move back out to the west again  
17 along that identified preferred route; correct?

18 MR. BECK: That's correct.

19 MR. DERSTINE: So that interconnection was  
20 already described and anticipated in the application for  
21 the preferred route?

22 MR. BECK: Yes.

23 MR. DERSTINE: And if this combination of using  
24 the existing route on Segment 2 and the preferred route  
25 on Segment 3, that interconnection would stay -- would

1 stay essentially the same with the only change, the  
2 existing would drop in to Canez where it stands and the  
3 preferred would -- and the line would run out of Canez  
4 to the preferred dropping south?

5 MR. BECK: That's correct.

6 MR. DERSTINE: Are there any residences impacted  
7 by the preferred route or the existing line south of  
8 Canez before the eastward bend in the line, bend in the  
9 existing line?

10 MR. BECK: From Canez sub down to the bend in  
11 the line, there are no residences in that area. From  
12 all the way from the railroad to Pendleton.

13 MR. DERSTINE: How far south do we get to the  
14 situation where the existing line is in the backyards  
15 and over the patio walls of homes in Segment 3?

16 MR. BECK: Clark, could you slide this -- I  
17 think the first place we see that is on the south side  
18 of Pendleton, and as we cross Pendleton, those who are  
19 on the tour, on the way back, you probably saw the  
20 clearing that took place all along the homes that are  
21 adjacent to Pendleton, and so we are right in or behind  
22 the backyards of all of the properties along Pendleton.

23 MR. DERSTINE: But the real dense development  
24 and building up to and under the line occurs further  
25 south; is that right?

1           MR. BECK: That's correct. The closer you get  
2 to Sonoita sub, the more dense it gets.

3           MR. DERSTINE: And can you show that on the  
4 Google?

5           MR. BECK: Yes.

6           Stop for just a minute, Clark.

7           Along the existing line across this area, we are  
8 hitting ridge tops. There is a lot of hills, extreme  
9 terrain we are crossing, and you can see there is -- is  
10 a few residents. Go further south. Now you can see as  
11 we are going further south, we are getting into a lot  
12 more dense construction and, in fact, from the Rio Rico  
13 Road back to Sonoita, a lot of development, but extreme  
14 development under the line in the last short portion  
15 coming into the Sonoita substation.

16          MR. DERSTINE: And that dense development up to  
17 and under the line there that we've just shown with your  
18 laser in Segment 3, that is what the preferred route,  
19 which moves off the existing line to the west and  
20 follows the railroad, was intended to address; is that  
21 right?

22          MR. BECK: There are two items that it is  
23 attempting to address. The primary is what we've  
24 identified as encroachments. It is the fences, walls  
25 structures that have been built up under and around the

1 line. The other issue is there are some places on the  
2 northern portion before you get to -- between Canez and  
3 Sonoita, but closer to Canez, we are on these ridges and  
4 the poles are sitting up on top of the ridges. I  
5 believe I mentioned this yesterday, the old access was  
6 along the ridge lines to get to the line to the  
7 structures that are placed. As you can see, there are  
8 now houses on either side of the line on the ridge lines  
9 limiting access into certain structures. And there was,  
10 in fact, one pole, if you noticed today, the steel pole  
11 had been replaced sitting -- standing right up on a  
12 point on the ridge that is very difficult to get to,  
13 because of the surrounding neighborhood development.

14 MR. DERSTINE: I have no further questions for  
15 Mr. Beck or Mr. Warner. Before I release them for  
16 cross, I ask to move the admission of exhibits UNS-1,  
17 UNS-3, UNS-7, and UNS-9. UNS-1 is the application.  
18 UNS-3 is Mr. Beck's PowerPoint presentation, which he  
19 has used in part of his testimony. UNS-7 is  
20 Mr. Warner's PowerPoint presentation, which he used as  
21 part of his testimony. UNS-9 is the notice of sign  
22 postings and including the map and the photographs of  
23 the signs that were posted along the route as well as  
24 the affidavit of publication in the various newspapers  
25 as published and required by statute. I would also, I

1 guess, move the admission of UNS-12, which is the route  
2 itinerary.

3 CHMN. FOREMAN: Any objection to any of those?

4 MS. WEBB: No objection.

5 MR. MAGRUDER: No. Objection.

6 CHMN. FOREMAN: No objection, good cause  
7 appearing, it is admitting UNS-1, 4 -- 1, 3, 7, 9, and  
8 12.

9 (UNS-1, 3, 7, 9, and 12 admitted.)

10 MR. DERSTINE: Yes.

11 CHMN. FOREMAN: All right. Very good. Now,  
12 Member Youle, you had a question.

13 MEMBER YOULE: I do. Could you move the left  
14 screen back up to the -- what is essentially the inset  
15 on Segment 2 that we were talking about? That is great.

16 When we were out there on the tour today, it  
17 looked as though only a portion of that section where  
18 there are residences had been actually clear-cut. Can  
19 you indicate to me where the clear-cutting occurred as  
20 opposed to your five-year trim?

21 MR. BECK: I believe the majority of the  
22 clear-cutting is on this northern Rio Rico Properties as  
23 well as from Canez out to Pendleton Road. Those two  
24 areas were the primary areas and there may have been a  
25 little piece in here in the middle that got cleared.

1 CHMN. FOREMAN: Let me ask a clarifying  
2 question. By "clear-cutting," you mean clear-cutting  
3 along the line of the existing --

4 MEMBER YOULE: Correct.

5 CHMN. FOREMAN: -- the existing line?

6 MEMBER YOULE: As opposed to just the tree  
7 topping.

8 MR. BECK: Yes, as was mentioned I think in  
9 public comment yesterday, in some of these areas, UNS,  
10 when we went through to do the clear-cutting or  
11 vegetation management, got with the landowners along the  
12 route and said, we are coming through here. We are  
13 going to clear. We need to clean the right-of-way up,  
14 and the areas where we clear-cut right down to the  
15 ground, the residences knew about it and we did it. In  
16 the area where the residents had objections to that, we  
17 did as was mentioned, a five-year trim where we topped  
18 trees as required to provide a clearance from the  
19 conductor to the top of the trees, but not taking them  
20 down to the ground.

21 MEMBER YOULE: Thank you.

22 CHMN. FOREMAN: Member Eberhart.

23 MEMBER EBERHART: Thank you, Mr. Chair.

24 Mr. Beck, in the Rio Rico Property area, you  
25 testified that there was a proposal made to them to move

1 the line to the preferred alignment. What would the  
2 right-of-way width -- there is an existing 37-and-a-half  
3 feet of distribution right-of-way.

4 MR. BECK: That's correct.

5 MEMBER EBERHART: Would the 100 feet that you  
6 need for the proposed be in addition to that  
7 37-and-a-half feet or...

8 MR. BECK: I don't think we had settled on a  
9 final definition of that width with the Rio Rico  
10 Properties. Our position was that if we were giving up  
11 100, we should get a hundred. There was potentially  
12 some flexibility to incorporate the 37-and-a-half foot  
13 into that 100.

14 MEMBER EBERHART: So you didn't make a  
15 commitment either way as far as underbuild or combining  
16 the distribution and transmission to Rio Rico?

17 MR. BECK: No, not at this point.

18 MEMBER EBERHART: Did you made that same offer  
19 to the residents, the local residents there between Rio  
20 Rico and the Canez station?

21 MR. BECK: I don't believe the discussions with  
22 the property owners we had were conducive to a swap like  
23 that.

24 MEMBER EBERHART: The reason I ask is, again, I  
25 am not -- I can't read their minds, but I'm not sure

1 they fully understood the opportunity that they may have  
2 to consolidate or get rid of one of the lines through  
3 their properties by either combining or consolidating  
4 the right-of-ways adjacent to each other, so I -- it  
5 would have been nice if they had been made aware of the  
6 offer that was made to Rio Rico because if they had that  
7 same opportunity, they may have not testified yesterday  
8 the way they did. Thank you.

9 MR. BECK: Just for the record, we did talk to  
10 the property owners about abandoning or releasing  
11 potentially the 115 kV alignment and that was a  
12 potential part of any movement of the line. But we  
13 didn't get into the details about would there be any  
14 dollars involved, would there be a swap, would we buy  
15 the new right-of-way. We didn't get into that type of  
16 detail, and if I could, I'm a little frustrated in the  
17 public process discussion we've had so far in that we  
18 did undertake a very extensive public process. We will  
19 be presenting testimony to that effect shortly, but  
20 early on in our public process, we got comment from the  
21 public that drove us in the direction of identifying the  
22 preferred route that we did. Now, within the past week  
23 or two, there has been a lot of points made as to why we  
24 shouldn't be doing that. They had the opportunity to  
25 bring that forward early in the process, and it didn't

1 happen. As I've said, UNS is fully willing to stay with  
2 the existing alignment in this area based on the public  
3 comment that came in at this hearing. That is one  
4 reason for having these public sessions is to get that  
5 public input. But it is discouraging when you run a  
6 very extensive public process that went over a long  
7 period that we don't get this feedback or input until  
8 the day of or maybe a week before the hearing.

9 CHMN. FOREMAN: Member Eberhart.

10 MEMBER EBERHART: Thank you, Mr. Beck, and I  
11 appreciate that, and I want to make sure that you don't  
12 misunderstand my comments. I am personally very  
13 appreciative of the position that UNS has taken in  
14 agreeing to be open to using either alignment through  
15 this area. I think that is wonderful. As I said  
16 earlier, if I was a landowner in that area, I would want  
17 it in my backyard, not my front yard, and I would try to  
18 see if I can consolidate two into one, and that seems  
19 the common sense desire to make, and that is why I don't  
20 understand where they or appreciate fully where they  
21 were coming from. So that is where I'm at. I don't  
22 want you to misread that I believe UNS didn't undertake  
23 a full public process, because that is not what I  
24 believe.

25 MR. BECK: I appreciate that. Just to comment

1 back to backyard/front yard. I believe at least one of  
2 the landowners may look at the railroad as his front  
3 yard.

4 CHMN. FOREMAN: Member Mundell.

5 MEMBER MUNDELL: Thank you, Mr. Chair.

6 Mr. Beck, so I can get my bearings, I think I  
7 know, but we were talking about the clear-cutting a  
8 little earlier. Show me on there where we were when we  
9 were looking in one direction where it was clear,  
10 totally clear-cut, and then looking the other way, it  
11 was just a lot of trees close to the --

12 MR. BECK: Well, when we were at the Canez  
13 substation down here, if you look to the south, it was  
14 clear-cut as far as you could see. When you look to the  
15 north, it was not clear-cut. It was not cleared to the  
16 ground.

17 MEMBER MUNDELL: And that is the Rio Rico  
18 property that is clear-cut?

19 MR. BECK: Up in the Rio Rico Properties up  
20 here, on the north end of the preferred alignment, I  
21 believe this is all cleared through here.

22 MEMBER MUNDELL: So it is clear-cut where you  
23 just were there. Then it becomes further south, it is  
24 not clear-cut again and then clear-cut where we were  
25 near the substation. Is that what we are understanding?

1 We didn't get to go the whole way north of the  
2 substation.

3 MR. BECK: That's correct. I believe most of  
4 the properties through the middle section that we did  
5 the five-year trimming.

6 MEMBER MUNDELL: Just like doing south, when we  
7 looked south.

8 MR. BECK: No, the portion from the south of the  
9 substation was clear to the ground. That is called the  
10 "clear-cutting."

11 MEMBER MUNDELL: I had my directions backwards.

12 MR. BECK: To the north, it would be similar to  
13 what was to the north.

14 MEMBER MUNDELL: Then you were going to answer  
15 my question, because you kept talking about you had this  
16 five-year plan as opposed to just clearing it out where  
17 the -- where it built up near the homes with the safety  
18 zone. You were going to tell me -- I asked generically,  
19 what is the safety zone?

20 MR. BECK: And I do apologize. I've asked that  
21 question of our engineering department. They came back  
22 with a three-foot clearance, which is only -- it is a  
23 safety clearance that the power will arc across. That  
24 is really not our vegetation management plan clearance.  
25 I'm still working on getting that information for you.

1 MEMBER MUNDELL: Okay. Maybe you thought I  
2 forgot.

3 MR. BECK: I didn't really expect that you  
4 forgot.

5 MEMBER MUNDELL: I was just kidding, Mr. Beck.  
6 Thank you, Mr. Chairman.

7 CHMN. FOREMAN: Member Noland.

8 MEMBER NOLAND: Thank you. I did travel all the  
9 way up to where the line crosses Paradise and goes off  
10 of that area, and one of the things I noticed, I believe  
11 we had one of the people that was giving testimony lived  
12 on Popo Lane, there is a lot of four-letter word streets  
13 in there. Popo Lane I went down to get an idea of what  
14 they were seeing and what the line actually looked like,  
15 and they had it fenced off with a gate. And it was  
16 somewhat clear. It wasn't bosquey, particularly,  
17 because they had horses in there that were feeding on  
18 the vegetation and so on. But the question I had is:  
19 What type of grading or clearing would be done to  
20 replace a line in that area or to remove the old line if  
21 we went along the existing alignment?

22 MR. BECK: Okay. If we stay on the existing  
23 alignment through this area, we will have to clear -- if  
24 we have structures that are located in an area different  
25 than the structure is today, we would have to clear

1 enough zone to actually assemble and install the  
2 structure. So there would be a cleared area around the  
3 pole for installation purposes. We would also trim any  
4 trees that would come into, what we called, the danger  
5 zone, the vegetation clearance zone, which I will be  
6 getting the information for you, that would require  
7 possibly some tree trimming depending where the poles  
8 are. To the extent the poles are adjacent to existing  
9 structures, there would not be the need for much, if  
10 any, additional tree topping or trimming other than  
11 where we need to get in to actually install the  
12 structure.

13 MEMBER NOLAND: Okay. Now, let's say that  
14 you're not going to put a pole in that area exactly as a  
15 replacement because of the location near where the house  
16 is, and this one was fairly close to the home, how much  
17 cutting, whatever, would you have to do to remove the  
18 existing pole?

19 MR. BECK: Minimal. We would have to have  
20 enough clearing to get construction equipment into the  
21 pole location. One option would be to leave the  
22 structures in place if the residents said, we would  
23 rather not disturb anything. Leave the pole there, we  
24 could go in and just top the top of the pole, cut the  
25 top off once we pulled the old conductors out.

1           MEMBER NOLAND: Okay. I think that is basically  
2 most of what I have. I, again, really feel that the  
3 people that testified here very much did not want to see  
4 the alignment moved to by the railroad area, but what I  
5 would like to hear, I assume from Mr. Miller or whoever  
6 is going to testify about the public meetings and so on,  
7 I'm still not sure who it was you heard from that  
8 convinced you to move the line along the railroad, other  
9 than Rio Rico Properties, so I would like to have some  
10 information on that. If, in fact, people were involved  
11 in that process, who were they and where did they live?  
12 Because I don't think we heard from them in the public  
13 testimony here, and I can truly understand your  
14 frustration if you thought you were doing what the will  
15 of the people was in that area in moving the preferred  
16 alignment down along the railroad. Thank you.

17           MR. BECK: I can address two parties, the one  
18 was the Rio Rico property owners and the other was  
19 Mr. Campano. We have two members of the audience today  
20 that were contacted. Mrs. Campano, also, and they  
21 supported moving the line to the railroad route, and I  
22 believe still do and commented to that effect yesterday.  
23 And Mr. Miller will address other contacts that were  
24 made and the responses.

25           CHMN. FOREMAN: Member Mundell.

1 MEMBER MUNDELL: Thank you, Mr. Chairman.

2 Mr. Beck, the new poles will be what height?

3 MR. BECK: We show a range in the application,  
4 but on average, the new poles will probably be 85 to  
5 90 feet tall.

6 MEMBER MUNDELL: In the area we are discussing  
7 right now, what will the height be?

8 MR. BECK: Well, that is where we have a little  
9 bit of flexibility. We can put in taller poles and  
10 increase the spans, and if that makes sense from  
11 vegetation standpoint and a resident's standpoint, we  
12 will do that. We will work with the landowner. Where  
13 is the best location for a pole on your property and,  
14 within reason, we can make adjustment in the pole  
15 locations, but as we do that, it will result in changing  
16 the pole height potentially. If we do span out, the  
17 poles also get taller.

18 MEMBER MUNDELL: When you were answering  
19 Committee Member Wong's question earlier about the  
20 distance between the new poles, what would the distance  
21 between the new poles be in this, what I will call,  
22 congested area where you have a lot of the structures?

23 MR. BECK: Relative to if we rebuild the line in  
24 the existing alignment and then built the line adjacent  
25 to that in that existing alignment?

1 MEMBER MUNDELL: Correct.

2 MR. BECK: They will be placed approximately ten  
3 feet offset from the poles that are there.

4 MEMBER MUNDELL: I didn't ask my question very  
5 well. What will the distance be between each pole?

6 MR. BECK: Approximately, 750 feet. That is our  
7 typical span length.

8 MEMBER MUNDELL: And so in that area, how  
9 much -- I mean, I'm trying to get a handle on the  
10 disruption that will occur if you put in new poles in  
11 this area where there has been encroachment, I think we  
12 used that word yesterday, encroachment on the current  
13 line, and so, 750 feet?

14 MR. BECK: Mike, do you know what the distance  
15 is in that segment?

16 MR. WARNER: Clark is going to perform just a  
17 couple of measurements here so you can kind of get an  
18 idea of what a span length is. In regards to the  
19 construction activities that would be required, you  
20 know, obviously, there is a clearing around the pole  
21 that is necessary, a patrol truck needs to drive down  
22 the right-of-way to carry a sock line that is put on  
23 the -- into the pulleys on the pole, so there is some  
24 disturbance along the line that needs to be there for an  
25 access road, as well.

1 MEMBER MUNDELL: So you are sort of  
2 filibustering while he is doing the calculations?

3 MR. DERSTINE: If I can filibuster further.

4 MEMBER MUNDELL: There is no question out there,  
5 but go ahead.

6 MR. DERSTINE: You used the term "in this  
7 encroachment area," we are kind of talking about two  
8 different things. In terms of the bosque area, there is  
9 no real encroachment under the line. The line was being  
10 moved for different reasons, the encroachment is further  
11 south in Segment 3. I don't know if it matters for  
12 purposes of the span lengths are different down in  
13 Segment 3 where we really have encroachment areas as  
14 opposed to the bosque area, but they are really two  
15 different areas.

16 MEMBER MUNDELL: I appreciate that and maybe the  
17 answer can be given for both.

18 MR. BECK: That is a -- what is shown on the  
19 screen right now is a 750-foot long segment, which will  
20 show relatively how we would span across. As you can  
21 see, we could go from a cleared area on the southern  
22 end. We have enough flexibility that we could actually  
23 reach that roadway if we could get to the edge of that,  
24 so rather than 750, maybe 760 or 770.

25 MEMBER MUNDELL: Thank you.

1 CHMN. FOREMAN: Member Whalen.

2 MEMBER WHALEN: Thank you, Mr. Chairman.

3 I'm assuming the property owners --

4 CHMN. FOREMAN: Your mic still doesn't work,  
5 Mike.

6 MEMBER WHALEN: I've got it on. It hasn't  
7 worked in two days. I don't think it is going to start.  
8 At any rate, can you hear me?

9 I'm assuming the property owners own land all  
10 the way to the low voltage right-of-way along this  
11 segment of land?

12 MR. BECK: It varies. The property ownership is  
13 kind of in different shapes, and some of the property  
14 owners own --

15 CHMN. FOREMAN: We need one at a time for the  
16 court reporter, so back up.

17 MR. BECK: The properties vary in that area.  
18 Some property owners, I believe, do own all the way from  
19 Pendleton back to the railroad. Others own just  
20 individual lots that are in some cases more or less a  
21 triangle or pie shape, and so they may or may not reach  
22 both rights-of-way.

23 MEMBER WHALEN: Do you know the ownership of the  
24 entire right-of-way perimeter along that area?

25 MR. BECK: We do have that information.

1           MEMBER WHALEN: It is some owners that are not  
2 represented by the owners that live in the front,  
3 obviously, flag lots of some sort?

4           MR. BECK: It is a variation of ownership. We  
5 know who the owners are. Whether they have all spoken  
6 here, we would have to look at the list.

7           MEMBER WHALEN: From previous hearings when you  
8 go in with a flatbed truck and a pole, I'm assuming it  
9 comes in three or four sections, you've got to get the  
10 truck in. You've got to get a crane in. To me, it  
11 seems quite disruptive to take the existing line area to  
12 where we saw in one particular case a house right next  
13 to the Canez substation to get a vehicle in there in  
14 order to perform the setting of a pole. Do you expect  
15 that to be quite difficult? If so, how much clearance  
16 around that pole is needed to get a crane, a dozer, a  
17 drill, and then the flatbed?

18           MR. BECK: Those -- that information I would  
19 have to look in the application, because we do address  
20 the clearance area around the structures needed for  
21 construction. It will be a challenge, and we will have  
22 to work with each and every property owner along the  
23 route relative to what works best from their perspective  
24 as well as a construction perspective. To the extent  
25 possible, we would utilize their existing driveways or

1 roads to get in and to the extent possible, set adjacent  
2 to those roads to limit the need to clear vegetation.

3 MEMBER WHALEN: Then if I can continue, if the  
4 other option is taken along the railroad line, that  
5 100-foot right-of-way then would contain a service road  
6 and any applicable diagonals that would reach that  
7 service road?

8 MR. BECK: There would definitely be a service  
9 road along the line for additional construction as well  
10 as future maintenance and review. If there is an  
11 opportunity to come in in-between Canez sub and the  
12 north end of that alignment to get in and access that  
13 road, we might do that. We could also just access from  
14 both ends, drive the length.

15 MEMBER WHALEN: Thank you.

16 MEMBER EBERHART: One last question.

17 CHMN. FOREMAN: Member Eberhart.

18 MEMBER EBERHART: This is the second or third  
19 time I told him one last question.

20 Mr. Beck --

21 CHMN. FOREMAN: Today.

22 MEMBER EBERHART: -- is the 100-foot  
23 right-of-way along the railroad absolutely required or  
24 would UNS be able to live with a smaller right-of-way  
25 width that perhaps would solve all of these problems?

1           MR. BECK: We could probably live with a  
2 somewhat reduced right-of-way, but I'm not sure that  
3 really reduces any problems. It is, you know, do you  
4 want the line there or not? To the extent we built the  
5 line there, if we built it a little closer to the  
6 railroad or not to the railroad right-of-way, yeah, we  
7 are flexible and can work with some of those things.  
8 Maybe we can go with a 90-foot right-of-way. Possibly  
9 we could get by with an 80-foot. We can look at that  
10 closely. Partially to do that, we may limit the span  
11 lengths and say, okay, we will put the poles closer;  
12 therefore, you have less blow out. Therefore, you don't  
13 need as much right-of-way. That is one of the  
14 impacts -- the right-of-way width is impacted by span  
15 lengths because of the wind blow out of conductor. So  
16 there are some options to work with and maybe we could  
17 live with a somewhat smaller right-of-way. The issue  
18 with that is our standard is 100-foot, so the next  
19 person working on the project in the area sees a, in  
20 this case, 138 kV line, would assume we have a 100-foot  
21 right-of-way. Maybe we only have 90. All those things  
22 can be dealt with. We can potentially reduce it a  
23 little bit. Even if we had 120-foot right-of-way, it  
24 won't really change what the line will look at or where  
25 it is at, within reason.

1 CHMN. FOREMAN: Member Noland.

2 MEMBER NOLAND: Just above the -- mine works  
3 really good. Just above the yellow line that you have  
4 up there for the measurement, if you can kind of drill  
5 down. Do you see where -- okay.

6 THE WITNESS: Right there. The yellow proposed  
7 line is going through a building at that point. Now, I  
8 realize this is probably not 100 percent accurate. Do  
9 you know how many structures may be impacted by a  
10 100-foot right-of-way in this area?

11 MR. BECK: From the reviews we've done, there is  
12 only several structures and they are basically right  
13 down in this area right here that would be impacted.  
14 Keep in mind that that yellow line that is shown on  
15 there is for visual purposes, and isn't the width  
16 necessarily of the right-of-way. Definitely not the  
17 width of where the conductors would be placed, but these  
18 structures here potentially could be impacted. One of  
19 the things we have been reviewing is what, if any,  
20 mitigation measures would be required of the structures.  
21 Would they have to be moved? Could some of them stay?  
22 If they stayed, what do we have to do relative to  
23 grounding, and so on? Grounding of the structures so it  
24 doesn't have static electricity.

25 MEMBER NOLAND: Do you know what those

1 structures are?

2 MR. BECK: For the most part, they are out  
3 buildings related to these property owners.

4 MEMBER NOLAND: And then I guess the only other  
5 thing was the potential for putting them in violation of  
6 county codes with regard to setbacks. If they used it  
7 as a front yard, there is one kind of setback and if  
8 they use it as a side yard, there is another type of  
9 setback from property lines. Have you addressed that  
10 issue that you may put them in violation of those county  
11 requirements?

12 MR. BECK: At this point, we have not addressed  
13 those issues. Those are some of the technical design  
14 issues that will be dealt with during engineering and  
15 our land department will be working with the landowners  
16 directly, and to the extent issues with county zoning  
17 requirements come up, we will work with the property  
18 owner on those.

19 MEMBER NOLAND: They probably would have to have  
20 a variance of some sort of if it were after the fact,  
21 maybe you would have to have a variance of some sort to  
22 do this with the county.

23 MR. BECK: Potentially, yes.

24 MEMBER NOLAND: Okay, thank you.

25 CHMN. FOREMAN: Member Youle.

1           MEMBER YOULE: You said for the most part these  
2 are out buildings. Are there some primary residences  
3 within that line?

4           MR. BECK: Clark, can you actually zoom in on  
5 those?

6           We have -- it is a house and a pool I'm  
7 informed. There is the pool and the house is adjacent  
8 to that and these are sheds, storage buildings, and a  
9 shop, and I believe one might be a hay barn maybe up --  
10 I'm not sure which one.

11          MEMBER YOULE: Okay. Thank you.

12          CHMN. FOREMAN: I have a couple of questions.

13          Mr. Warner, how long would it take the area that  
14 has been clear-cut to revegetate consistent with the  
15 surrounding vegetation, the bosque area?

16          MR. WARNER: That is a question that has come up  
17 a couple of times as we analyzed this area. The  
18 vegetation management folks have indicated they need to  
19 come through this area and do a major clearing, like  
20 they've done recently, every five years. Now, I think  
21 that what they have traditionally done, based on the  
22 comments that they have made about clearing that area,  
23 that has turned out to be more like ten years to get it  
24 back to that.

25          The vegetation that people that have spoken of

1 in the back has a multi-story canopy. Now, what that  
2 means is is that there are different types of vegetation  
3 that have grown up there and there is a substantial  
4 diverse group of trees. To restore that type of  
5 vegetation in the same kind of complexity that it exists  
6 now takes a much longer period of time. And I would  
7 estimate more than 25 years.

8 CHMN. FOREMAN: If the new line goes on the  
9 present alignment, there will be some new damage to the  
10 bosque that will be caused by taking the old poles out  
11 and putting the new poles in; correct?

12 MR. WARNER: Yes, that is right.

13 CHMN. FOREMAN: If the preferred alignment is  
14 used, there will be some damage to the old alignment  
15 that would be associated with taking the old poles out;  
16 correct?

17 MR. WARNER: That's correct.

18 CHMN. FOREMAN: In addition, there would be some  
19 damage caused by inserting new poles along the railroad;  
20 is that correct?

21 MR. WARNER: That's correct.

22 CHMN. FOREMAN: Can you quantify the damage that  
23 we would be causing by putting the poles along the  
24 preferred route and taking the poles out along the  
25 existing route compared to the damage that we would be

1 causing by placing the new poles along the existing  
2 route?

3 MR. WARNER: Let me mention a couple of things  
4 that requires sort of a broad answer. Habitat quality  
5 is measured in different ways. The aggregate size of  
6 the vegetation, the vegetation area, is part of the  
7 evaluation of what its quality is. Also, the type of  
8 canopy that you have is another measurement of that --  
9 of the quality of that vegetation. If you move the  
10 line -- now and let me make one other statement. The  
11 forest service, for example, considers vegetation  
12 ephemeral. What this means is when they do their  
13 evaluation on where vegetation is, they recognize it may  
14 go away and may come and may go. Vegetation grows and  
15 changes over the years. If a fire comes through here,  
16 it completely takes out all of this vegetation and it  
17 must grow back and then it grows back through a sequence  
18 of events.

19 So when you try to decide what it is that is  
20 best for this area, my training tells me reducing the  
21 amount of, in the future, aggregating things into a  
22 common area and allowing the vegetation to grow back in  
23 other areas is probably the best long-term solution.  
24 Now, others have testified and said, arguably, that the  
25 vegetation along the railroad right-of-way is better

1 quality and so that doesn't necessarily play out, and I  
2 think that is also a legitimate argument.

3 Now, let me come to answering your question with  
4 all of that said. In my training, I would prefer to see  
5 the alignment in one location. Having said that, this  
6 is private land. People are going to come in and cut  
7 through this area and take out vegetation as years to  
8 come and it will change, and they have the ability and  
9 freedom to do that.

10 The temporary step is that when you go in and  
11 you take out these poles and you move the line over to  
12 the new location, the aggregate temporarily is bigger  
13 disturbance. More disturbance, taking out more quality  
14 vegetation, especially along that one side. In the  
15 long-term, you are aggregating that into one location.

16 Did that answer your question enough?

17 CHMN. FOREMAN: I think we are in the  
18 neighborhood.

19 MR. WARNER: Okay.

20 CHMN. FOREMAN: I didn't hear much in the way of  
21 quantification, but I also recognize it is probably very  
22 difficult to quantify.

23 Mr. Beck, if you put the new line along where  
24 the existing line is on the preferred -- using the  
25 preferred route now in this area, could you place the

1 new poles in approximately the same distance from the  
2 railroad as you now have the old poles? Do you  
3 understand the question?

4 MR. BECK: If you could rephrase it maybe.

5 CHMN. FOREMAN: Sure. When we saw the preferred  
6 route from stop 9 to stop 8, there is presently a  
7 distribution line along the railroad; correct?

8 MR. BECK: Correct.

9 CHMN. FOREMAN: That distribution line has, I  
10 believe you indicated, a 37-and-a-half foot  
11 right-of-way?

12 MR. BECK: That's correct.

13 CHMN. FOREMAN: And the poles are within that  
14 37-and-a-half foot right-of-way, and I'm assuming that  
15 37-and-a-half right-of-way abuts along one side of the  
16 railroad line?

17 MR. BECK: That's correct.

18 CHMN. FOREMAN: With the new poles that will  
19 presumably be larger poles, would you be able to place  
20 those poles within that 37-and-a-half foot right-of-way,  
21 and I'm not suggesting that you would have to have a  
22 37-and-a-half foot right-of-way, you could have a  
23 100-foot right-of-way, but place them within the present  
24 37-and-a-half foot right-of-way, roughly the same  
25 distance that they now are from the railroad?

1           MR. BECK: We could approximately match up the  
2 distance from the edge of the actual railroad  
3 right-of-way versus the railroad line for the record.

4           CHMN. FOREMAN: So the new poles would have to  
5 be no further from the railroad than the present pole;  
6 correct?

7           MR. BECK: That's correct, we could do that,  
8 yes.

9           CHMN. FOREMAN: If you did that --  
10 Member Eberhart has asked repeatedly about underbuilding  
11 and putting the distribution line lower. You've  
12 indicated you have some problems with that because it  
13 would require you to use a taller pole because you would  
14 have to get the distribution line out there and then you  
15 would also have to be forced to put communication lines  
16 in. That would mean you would have to increase the size  
17 of the poles?

18           MR. BECK: That's correct, both in height and  
19 strength of the pole, and the major problem that we have  
20 is if we put distribution underbuild on the transmission  
21 line, we can design for that. We can do that. We can  
22 make it work. Typically, because the distribution line  
23 spans are shorter, it will shorten the span lines up  
24 some, so you will have poles a little closer. We can  
25 work through that. Our problem is once we have

1 distribution on there, the obligation that goes with  
2 that to allow communications to attach to the poles,  
3 there have been instances where communication lines have  
4 appeared on the transmission poles that nobody seemed to  
5 be aware of, and they are over stressing the poles that  
6 we have out in the field. And it is just a risk issue  
7 from our perspective.

8 CHMN. FOREMAN: And so your preferred  
9 engineering and building approach on your preferred  
10 route in this area would be to build a second set of  
11 poles and a second set of lines close in proximity to  
12 the present distribution line and leave the present  
13 distribution line on the poles that it now has.

14 MR. BECK: That is one option. Another option  
15 could be to underground the distribution, but there  
16 would be considerable cost to that, which is a cost  
17 added to our UNSE customers in the end.

18 CHMN. FOREMAN: And I assume that you would  
19 prefer that the local folks, through some sort of  
20 district, pay for that?

21 MR. BECK: Yes, because you run into the issue  
22 that if you do it for a small area, that undergrounding  
23 gets subsidized by the whole service territory, which in  
24 the case of UNS Electric, is both Santa Cruz as well as  
25 Mohave customers. They are one single rate. So to the

1 extent if UNS on its own were to do that, people up in  
2 Kingman are paying for a piece of underground down in  
3 the Nogales area.

4 CHMN. FOREMAN: It seems to me that if you have  
5 railroad track on one side and you can run your poles  
6 approximately in the place that poles are now being set,  
7 that you are probably not going to impact the trees or  
8 bosque that are on the other side of the poles from the  
9 railroad track as much as if you cut a new pole  
10 placement through the existing trees or bosque; is that  
11 fair?

12 MR. BECK: One item that has been brought up by  
13 the public is that there are trees between the  
14 distribution line and the railroad today, and to the  
15 extent we have to clear some of that, that has an impact  
16 to them.

17 CHMN. FOREMAN: And there is a road that would  
18 provide the appropriate maintenance and access presently  
19 in existence along the distribution line next to the  
20 railroad tracks?

21 MR. BECK: Yes, it may need some upgrade, but  
22 there is a -- there is road access along the  
23 distribution line.

24 CHMN. FOREMAN: If the preferred route was  
25 selected by the Committee, could you live with a

1 100-foot wide corridor adjacent to the railroad track?

2 MR. BECK: We could. What that does is limit  
3 any flexibility to shift width wise where the poles  
4 would go. But that is workable and doable.

5 CHMN. FOREMAN: Let's take a --

6 MR. BECK: Mr. Chairman, just quickly, I do have  
7 some information on the vegetation management issue.

8 CHMN. FOREMAN: Okay.

9 MR. BECK: Our vegetation management program  
10 identifies a clearance to trees between conductors and  
11 vegetation of 24 feet. So that -- our vegetation plan,  
12 which is filed with NERC and FERC, requires us to  
13 maintain 24 feet between the conductor position and the  
14 vegetation position.

15 CHMN. FOREMAN: And the Canez substation, we  
16 viewed some one direction was clear-cut and the other  
17 direction was not, and we discussed the clearance area,  
18 and I believe that is where Member Mundell asked his  
19 question about clearance. What was the height of the  
20 lowest conductor above us at that point?

21 MR. BECK: Offhand, I do not know. Probably in  
22 the range of 65 feet, but that is without having looking  
23 at any profile drawings.

24 CHMN. FOREMAN: Let's take 15 minutes. We will  
25 come back at 3:50 p.m.

1 (Recess from 3:36 p.m. until 3:50 p.m.)

2 CHMN. FOREMAN: All right. Let's go back on the  
3 record. Direct examination of the witnesses has  
4 concluded, and Committee has asked its questions for the  
5 time being.

6 Let's go to Mr. Magruder. Do you have questions  
7 you would like to ask cross-examination of the  
8 witnesses?

9 MR. MAGRUDER: Yes, chairman. Is it working?

10 CHMN. FOREMAN: I obviously have no control over  
11 the system, so let's see what we can do.

12

13 CROSS-EXAMINATION

14

15 MR. MAGRUDER: Yes, name is Marshall Magruder.  
16 I do have a couple questions.

17 Let's leave the Segment 2 up on the screen,  
18 because I would like to ask some questions on those, but  
19 I would really like to expand in the area we did a  
20 little while ago where we showed the house with the  
21 swimming pool so we can see the very closest-type  
22 picture. Is that about as close as we can get?

23 So let's look at this picture and, Mr. Beck, to  
24 the right is the present alignment; is that correct?

25 MR. BECK: That's correct. And present existing

1 alignment is in blue on that screen.

2 MR. MAGRUDER: And that right-of-way is  
3 100 feet; is that correct?

4 MR. BECK: That's correct.

5 MR. MAGRUDER: And --

6 MR. BECK: The line may or may not be 100 feet  
7 wide, but the right-of-way is 100-foot.

8 MR. MAGRUDER: And the yellow line is the  
9 preferred alternative to the left of that?

10 MR. BECK: Correct.

11 MR. MAGRUDER: And that is going to also be  
12 100-foot wide right-of-way, maybe not exactly as shown  
13 on the picture?

14 MR. BECK: Right. That is our proposal,  
15 100-foot wide right-of-way.

16 MR. MAGRUDER: To the left of that line is  
17 approximately the edge of where the 37-and-a-half foot  
18 right-of-way now exists for the distribution line; is  
19 that correct?

20 MR. BECK: That's correct.

21 MR. MAGRUDER: Okay. And, then, from that line  
22 to the left of the yellow to the railroad track is how  
23 far, or what is their right-of-way width?

24 MR. BECK: That, I do not know offhand. We are  
25 looking to see if we have that.

1 MR. MAGRUDER: Okay. Now, let's look also at --  
2 do you see the railroad track on the map?

3 MR. BECK: Yes.

4 MR. MAGRUDER: And right to the right of that  
5 railroad track, does it look like there is a road there?

6 MR. BECK: Looks like it is possible there is a  
7 road there.

8 MR. MAGRUDER: Have you looked at that railroad  
9 track, you or Mr. Warner, to see if there is a road  
10 right next to the railroad track?

11 MR. BECK: Mr. Warner has, yes.

12 MR. MAGRUDER: And does he confirm that there is  
13 a road next to the railroad track?

14 MR. WARNER: The area has been scraped and  
15 cleared from vegetation. I'm not sure that the railroad  
16 would call that a road. But I think they cleared it  
17 from vegetation.

18 MR. MAGRUDER: Did you think it is the type of  
19 road a railroad would -- employee would use to ride up  
20 and down and look at the railroad?

21 MR. WARNER: I think that if they did, they  
22 would have to be very aware of the train schedule,  
23 because it is very close to the tracks.

24 MR. MAGRUDER: I understand. Now, we have the  
25 track, and then we go -- continue going west, and then

1 generally, do you see there is maybe 50 or 75 feet to  
2 the west there is sort of a clearing area? Is there  
3 another road further to the west?

4 MR. WARNER: What you see depicted in the  
5 photograph as the white area, that appears to -- to be a  
6 road to me.

7 MR. MAGRUDER: Or a place people could transit  
8 in a vehicle?

9 MR. WARNER: Yes.

10 MR. MAGRUDER: Okay. I'm not going to call  
11 these roads. It is a place a vehicle looks like they  
12 could go?

13 MR. WARNER: Yes.

14 MR. MAGRUDER: Now let's look --

15 MR. WARNER: Certainly cattle that are out  
16 there, yeah.

17 MR. MAGRUDER: We know there are cattle out  
18 there. Let's look at the land use description. To the  
19 right of the railroad track, is that platted for houses  
20 and homes and businesses where compared to the left of  
21 the railroad track or to the west, it is platted as  
22 agricultural land?

23 MR. WARNER: I'm sorry, are you asking a  
24 question?

25 MR. MAGRUDER: I'm asking a question. Is it

1 agricultural land to the left of the railroad track? I  
2 have a platted map if --

3 MR. WARNER: Its current use is in agriculture.  
4 There are cattle grazing on it now.

5 MR. MAGRUDER: Do you know the landowner for the  
6 agricultural land?

7 MR. WARNER: I don't know offhand.

8 MR. MAGRUDER: Is that Rio Rico Properties,  
9 also?

10 MR. WARNER: I don't know offhand. I can look  
11 it up.

12 MR. MAGRUDER: Are you familiar with the gross  
13 amount of area in Rio Rico owned by Rio Rico Properties?

14 MR. WARNER: Not offhand.

15 MR. MAGRUDER: If I said, 10,000 or 20,000  
16 platted lots, would that number be too high or within  
17 your expectation?

18 MR. WARNER: I really don't know how much  
19 property they own. I'm sorry, Mr. Magruder.

20 MR. MAGRUDER: I can't enter it into evidence.

21 CHMN. FOREMAN: Mr. Magruder, let me help you  
22 out. I will try and be very helpful to you. There is a  
23 difference between cross-examination and testimony. If  
24 you want to testify about how many lots they have and  
25 what the nature is of that land, when you testify, that

1 will be fine. If the witness doesn't know, then  
2 multiple times having him say, I don't know, is probably  
3 not helpful.

4 MR. MAGRUDER: I understand.

5 CHMN. FOREMAN: Let's move on then.

6 MR. MAGRUDER: In general, you understand it is  
7 agricultural land to the west; is that correct?

8 MR. WARNER: Yes, that's correct.

9 MR. MAGRUDER: Okay. You see there -- would you  
10 agree there is a difference in the property value and  
11 the concern for land that is owned by people on platted  
12 lots, those people would be probably more concerned with  
13 their value of their property than the people who own  
14 agricultural land?

15 MR. WARNER: I wouldn't necessarily agree with  
16 that opinion, no. I think -- I think people have very  
17 different ideas and passions of what their own property  
18 is and what they have. The case in point, I think there  
19 was a gentleman that testified that he had a ranch  
20 further up north. I don't suspect he is in a platted  
21 subdivision, but he was very passionate about his ranch  
22 and the views across his property.

23 MR. MAGRUDER: And do you remember when we  
24 looked at his ranch on the map, it showed it was to the  
25 east of the railroad?

1 MR. WARNER: On that particular individual, yes,  
2 I do.

3 MR. MAGRUDER: Okay. Earlier, you testified to  
4 the west of the railroad was in the river -- in the --  
5 what is the right word? The floodplain and the  
6 floodway; is that correct?

7 MR. WARNER: That's correct.

8 MR. MAGRUDER: I would like to introduce -- have  
9 you ever seen a utility pole, a transmission line pole  
10 that has been in -- placed inside a river floodway?

11 MR. WARNER: I have seen them before in rivers  
12 and in floodways.

13 MR. MAGRUDER: I can't enter this. Can I show  
14 you a picture of a TEP pole that is in a river, in Santa  
15 Cruz River, in Tucson to see if that might be an  
16 acceptable pole that could possibly be placed in a  
17 river?

18 MR. WARNER: Sure.

19 MR. MAGRUDER: Can I show you this Exhibit  
20 Number 17 and show it to the Committee?

21 CHMN. FOREMAN: Maybe, maybe not. Did you  
22 disclose it?

23 MR. MAGRUDER: This is a picture taken from the  
24 Grant Road.

25 CHMN. FOREMAN: Did you disclose it?

1 MR. MAGRUDER: Yes, I have disclosed it to the  
2 applicant before the meeting today.

3 CHMN. FOREMAN: Then go ahead and show it. By  
4 the way, do you have an estimate of how long your  
5 examination is going to last? Mrs. Campana has asked to  
6 have public comment after these witnesses testified and  
7 I was hoping to get her.

8 MR. MAGRUDER: I won't finish today, but I would  
9 enjoy giving up my time so she could give her comments.

10 CHMN. FOREMAN: Okay. Well, then, we will go  
11 ahead and pursue this line of testimony for a little  
12 ways and then we will have public comment.

13 MR. DERSTINE: Mr. Chairman, I just want to note  
14 for the record, Mr. Magruder did give me a copy of this  
15 photograph before we started the hearing this afternoon.  
16 I'm just not -- I want to be careful about where he is  
17 going with this exhibit. I heard Mr. Warner say, yes, I  
18 am aware there are power poles that are built in rivers.  
19 I think the testimony about the constructability and the  
20 construction issues came from Mr. Beck and Mr. Warner  
21 testified about the floodplains, so I want to make sure  
22 we are going to the right witness with this, wherever we  
23 are going with this.

24 CHMN. FOREMAN: We have gone over the first  
25 hurdle of disclosure. We haven't gotten to the second

1 hurdle or the third hurdle or the fourth hurdle, so we  
2 will see about whether this is something that the  
3 witness can comment on and then we will see whether or  
4 not it is something that can be admitted into evidence.  
5 So, but it has been disclosed and so Mr. Magruder has  
6 the opportunity to proceed.

7 MR. MAGRUDER: Mr. Beck -- can I ask Mr. Beck  
8 the question?

9 CHMN. FOREMAN: Yes, you may ask either witness,  
10 but please designate which witness you are asking.

11 MR. MAGRUDER: Mr. Beck, has your company  
12 constructed similar-type poles in river floodways as  
13 shown in that picture?

14 MR. BECK: Tucson Electric Power has constructed  
15 poles like this.

16 MR. MAGRUDER: Would that type of a pole be a  
17 reasonable equivalent to be put into a floodway in  
18 Santa Cruz County?

19 MR. BECK: The type of pole could be used in a  
20 floodway, yes, with a concrete foundation underneath it.

21 MR. MAGRUDER: Do most poles have a concrete  
22 foundation?

23 MR. BECK: No.

24 MR. MAGRUDER: Okay. In the area we are looking  
25 at in the bosque, which is the -- if we zoom out again,

1 about how many total poles, if we went to the west,  
2 would be needed to be put into the floodway? And either  
3 one of you might want to answer this question.

4 MR. BECK: Clark, do you know what the distance  
5 is from the point up here to Canez?

6 We probably would have approximately ten poles  
7 in that stretch.

8 MR. MAGRUDER: And approximately, how much would  
9 the cost increase be if you used a concrete foundation  
10 instead of using a nonconcrete foundation, in percent?

11 MR. BECK: It is very subjective at this point,  
12 because we have no detail on where the water table is,  
13 what permits might require us for access down through  
14 the floodplain wetlands, floodway area. Whether or not  
15 we could even get permitted from the county, because it  
16 would be in a floodway. There is a big question to  
17 that.

18 From a foundation standpoint, it could easily be  
19 \$100,000 to \$150,000 or more per foundation for  
20 installation of a drilled pier caisson.

21 MR. MAGRUDER: For Mr. Warner's viewpoint, would  
22 this solve the problem of the landowners if we put the  
23 route on the west side of the railroad?

24 MR. DERSTINE: Object to the form. I don't  
25 understand the question.

1 MR. MAGRUDER: We have two sets of --

2 CHMN. FOREMAN: Mr. Magruder, this is how it  
3 works when an objection is made, you wait until I  
4 respond. If I want you to give me legal reason, I will  
5 let you know.

6 The objection in this case is overruled. You  
7 may answer.

8 MR. WARNER: I think there has been testimony by  
9 a number of people that indicated that their preference  
10 would be to be on the east side -- or the west side of  
11 the railroad right-of-way, if that was possible.

12 MR. MAGRUDER: Thank you.

13 Mr. Beck, other than the additional cost of the  
14 concrete and the permits, from an electrical sense,  
15 would there be any problem with the electricity being  
16 used on this west side of the railroad?

17 MR. BECK: There are several issues that we  
18 would be concerned with in trying to have structures  
19 down that floodway. One is in case of a flood and the  
20 problem on the line, how would we access it to maintain  
21 it and to fix it and so on? Could we maintain an access  
22 road through that area under any permitting that we  
23 might be able to obtain, and the reliability issue  
24 related to the fact that it is much more likely a pole  
25 could go down if it is located in that floodway than if

1 it is not in the floodway. In particular, protected by  
2 the railroad if it were built on the east side of the  
3 railroad.

4 MR. MAGRUDER: Either one of you, one of you  
5 might have said earlier in your testimony that the  
6 railroad was acting as a berm to prevent flooding; is  
7 that correct?

8 MR. BECK: I believe I specifically said that,  
9 yes.

10 MR. MAGRUDER: Have you talked to our county  
11 flood director and asked him about railroads being berms  
12 in this county?

13 MR. BECK: I have not spoken to the county about  
14 that. Mine was strictly an observation based on the  
15 aerial view that on one side you are bounded by the  
16 interstate and the other side you are bounded by the  
17 railroad and to the extent the river is going to meander  
18 through that area, it is likely not to go past either  
19 structure.

20 MR. MAGRUDER: Are you aware that our county  
21 requires corps-of-engineer certified berms and no  
22 railroads in this county are corps-of-engineer certified  
23 to meet the FEMA standards for a berm?

24 MR. DERSTINE: Object to the form. No  
25 foundation.

1 MR. MAGRUDER: I withdraw my question.

2 Mr. Beck, earlier you talked about possibly  
3 reducing the right-of-way from less than 100 feet. What  
4 determines, engineering-wise, the width that you have to  
5 have for right-of-way?

6 MR. BECK: The right-of-way width is determined  
7 by ultimately the NESC code requirements for clearance.  
8 When you look at design of a transmission line, the  
9 center line that -- the transmission line is a starting  
10 point. Then you determine where your conductors are  
11 placed relative to that center line. Whatever that  
12 distance is. You accommodate any movement of insulators  
13 if they have to be suspension strings. If they are post  
14 insulators, there is no movement of the insulator. Then  
15 you look at the blow out on the conductor and how far  
16 that will blow out and then beyond that distance, you  
17 put the code clearance requirement on top of that. And  
18 that gives you a distance from center line to edge of  
19 right-of-way needed.

20 MR. MAGRUDER: Are these -- are the conductors  
21 all fix mounted or most of them planned to be fix  
22 mounted in this project?

23 MR. BECK: The plan is to use post insulators  
24 which would result in a fixed point for the conductor  
25 attachment.

1 MR. MAGRUDER: Is electric field and  
2 electromagnetic field a part of this criteria?

3 MR. BECK: Not specifically, no.

4 MR. MAGRUDER: What would be the minimum  
5 right-of-way that could be done just in this area here?

6 MR. BECK: I haven't made a determination of  
7 what the minimum could be. If we put poles every two  
8 feet, it would be much, much narrower than it is if we  
9 are stretching them out to the 750-foot. But what that  
10 minimum is, I haven't looked at that specifically for  
11 this case.

12 MR. MAGRUDER: If we put it over agricultural  
13 land that -- over agricultural land, would that require  
14 the same right-of-way as if you put it over land that  
15 was platted for homes, right-of-way width?

16 MR. BECK: Yes, it would, because the  
17 right-of-way is determined from the conductor position  
18 with an electrical clearance out to the edge of  
19 right-of-way, so it doesn't differentiate between the  
20 type of land use.

21 MR. MAGRUDER: What is the distance at sag point  
22 above the ground for your conductors?

23 MR. BECK: Again, that depends on span, because  
24 we are using -- the -- if we are using on average an  
25 85-foot tall tower, we are probably -- you know, I would

1 rather not say without looking at a sag table. I just  
2 don't know what the sag would be.

3 MR. MAGRUDER: Do you remember in the  
4 application number, like, 23 feet and 41 feet over the  
5 railroad track?

6 MR. BECK: I believe what is in the application  
7 is a clearance distance over the railroad track.

8 MR. MAGRUDER: Clearance 41 feet over the  
9 railroad track?

10 MR. BECK: That sounds correct, yes.

11 MR. MAGRUDER: And 23 feet over land?

12 MR. BECK: Areas traversed by vehicles, yes.

13 MR. MAGRUDER: Areas traversed by vehicles,  
14 okay. Earlier, you just discussed that you needed  
15 24-foot clearance for vegetation. Could you explain why  
16 23-foot clearance for vehicles and 24 feet for  
17 vegetation clearance?

18 MR. BECK: Again, the 23-foot is a minimum  
19 clearance that is required, and that is from the ground  
20 up to the conductor. The vegetation management is  
21 conductor down to vegetation, which effectively is the  
22 same thing, you are correct. But as I said, the 23-foot  
23 is a minimum, and we would not design the line to stay  
24 at 23-foot above the ground.

25 MR. MAGRUDER: That is fine. Back to looking at

1 the map of Segment 2 here. You discussed that a service  
2 road would be required. If you went to the west, would  
3 that service road, the white road, appear to be adequate  
4 to meet, with an agreement with the landowner, to meet  
5 the requirements for you to put in and maintain this  
6 line?

7 MR. DERSTINE: Object to the form; misstates the  
8 description of what is to the west of the road.

9 CHMN. FOREMAN: I don't understand your  
10 question. Which alignment are you referring to,  
11 Mr. Magruder?

12 MR. MAGRUDER: I'm referring to a new alignment.  
13 The one I'm talking about, to the west of the railroad  
14 track. If we blow up the map a second, we see to the  
15 left there is a semi road or a path or vehicle trail.  
16 Would something like that be adequate for you to  
17 construct your poles and to do maintenance, if you made  
18 an agreement with the landowner?

19 MR. BECK: If we could reach agreement with the  
20 landowner on a right-of-way, and that included the  
21 ability to go in and construct a road, we could build a  
22 road on that right-of-way. Without actually going out  
23 and seeing what is there on the ground, that could be as  
24 much as just a cattle trail. So I haven't physically  
25 seen it. I don't know if it is sufficient. It probably

1 would need upgrading at a very minimum if, in fact, it  
2 is a two-track road today.

3 MR. MAGRUDER: Mr. Beck, earlier you talked  
4 about the weight of the communication wires on your  
5 poles. Is this a --

6 CHMN. FOREMAN: Mr. Magruder, are we leaving  
7 Segment 2 now?

8 MR. MAGRUDER: No, I'm talking about the height  
9 of the poles in Segment 2, because --

10 CHMN. FOREMAN: I'm trying to find a convenient  
11 spot to break in and have public comment from  
12 Ms. Campana, and I thought when we leave Segment 2 might  
13 be the convenient place.

14 MR. MAGRUDER: Let me just ask one question and  
15 I will get out of here.

16 We saw today there was a communication line  
17 underneath the distribution lines in Segment 2 on the  
18 tour. It was a very small line. It didn't appear to me  
19 to have a lot of extra weight and require significantly  
20 stronger poles for the line that we saw today; is that  
21 correct? Did you see that line?

22 MR. BECK: I did see the line. I don't think I  
23 referred at all to a weight issue. It is a loading  
24 issue on the pole and primary loading on poles is as a  
25 result of wind against cables, wires, whatever.

1 MR. MAGRUDER: Are old-fashioned communication  
2 lines, very big filled with many copper wires that are  
3 very heavy and drag, wind drag resistant, and those type  
4 of communication lines are not in vogue at this time?

5 MR. BECK: That is probably true, but the issue  
6 is not really related to the size or the weight of the  
7 wire. One piece, and it is a small piece, is the wind  
8 loading. The bigger issue that I was referring to was  
9 the clearance required above that communication cable.  
10 In this case to the distribution line, which is pushed  
11 up in higher, it requires higher poles and then as a  
12 result, a transmission above that would be a higher  
13 position.

14 MR. MAGRUDER: Okay. That completes my question  
15 on that subject. Thank you, sir.

16 CHMN. FOREMAN: We will take a brief break,  
17 then, from your cross-examination, and I appreciate your  
18 willingness to do this. I was approached during the  
19 break, which it is Kathy Campana, and the wife of  
20 Ron Campana, who spoke to us yesterday.

21 Ma'am, would you come forward. We have a mic  
22 over here for you. And if you would, just give us your  
23 full name, spell your last name, and tell us where you  
24 live and then tell us what you would like us to hear.

25 MS. CAMPANA: Good afternoon, Mr. Foreman. I am

1 Kathleen Campana, actually. I live at 1520 Pendleton  
2 Drive in Rio Rico. I own the first and second house  
3 north of Canez.

4 CHMN. FOREMAN: It is C-a-m-p-a-n-a?

5 MS. CAMPANA: Yes, Charles, Adam, Mary, Paul,  
6 Adam, Nora, Adam.

7 I'm basically here to let you know, I would like  
8 to answer a few questions that I heard.

9 CHMN. FOREMAN: Actually, this is an opportunity  
10 for public comment. You can tell us what you would like  
11 to tell us, but unless you want to intervene as a party,  
12 you are not able to do that. But if there are things  
13 you want to say that relate to things that have been  
14 said so far, that is fine.

15 MS. CAMPANA: Thank you. My husband and I have  
16 been involved in this process since, I think, the very  
17 beginning. We've received at least four notifications  
18 from UniSource and gone to a number of presentations,  
19 and in fact, as the program chair for the Rio Rico  
20 Property Owners Association, we had them come and do a  
21 presentation to our organization. So this is not  
22 something new. Anyone coming before you now and saying,  
23 I didn't know, doesn't open their mail. That is  
24 terrible.

25 I -- basically, I'm here -- I came in support,

1 actually, of the preferred alternative, because  
2 obviously, I have one of those huge towers in my  
3 backyard, and while I'm used to it, I would just as soon  
4 it be down by the railroad track.

5 I also had heard some comments about why they  
6 had taken this as a preferred alternative, and I can  
7 tell you that because we were attending those meetings.

8 MEMBER WONG: Sorry for interrupting.

9 CHMN. FOREMAN: Member Wong.

10 MEMBER WONG: Ma'am, when you refer to a  
11 "preferred alternative," that is confusing, because  
12 there is a preferred route and then there is the  
13 alternative route. Would you identify which route you  
14 are talking about?

15 MS. CAMPANA: The railroad route, the one on  
16 Segment 2 between Canez heading northbound along the  
17 railroad grade. That --

18 MEMBER WONG: That the -- the yellow color?

19 MS. CAMPANA: Yes.

20 MEMBER WONG: Thank you.

21 MS. CAMPANA: That route, had you, when you were  
22 visiting Canez, gone to the little cul de sac next door  
23 and driven down to that 37-foot right-of-way, and looked  
24 north, you would have seen that there are few, if any,  
25 actual trees on that right-of-way. The trees are

1 actually over on the railroad right-of-way, because they  
2 didn't totally clear their right-of-way, so any mesquite  
3 bosque that is on that right-of-way is not the mature  
4 trees that have been referred to. The walk that we just  
5 took down the railroad had all the trees between the  
6 tracks and their fence. The railroad -- or the  
7 UniSource right-of-way is actually east of that fence,  
8 and it is clear. But when you look down it, you see a  
9 number of structures in it, not trees, because people  
10 have put buildings there. That would probably be a  
11 primary reason why they would oppose having additional  
12 right-of-way, because they put their buildings inside  
13 the existing right-of-way. And this county back years  
14 ago didn't enforce that sort of thing. They didn't come  
15 out and make sure that those easements were protected.

16 I'm here actually wearing several hats. I'm a  
17 director with the Santa Cruz Board of Realtors and we  
18 voted that putting it along the railroad would protect  
19 property values, would enhance people's ability to sell  
20 their property, because whether or not it is rational, a  
21 lot of people are afraid of living below a power line.

22 I am also co-chair of the Baca Flow Coalition.  
23 We are representing over 400 people who live in  
24 northeast Rio Rico and Solero Ranch, Tubac Foothills,  
25 and we voted unanimously to have -- to request UniSource

1 put that transmission line along the railroad grade, get  
2 it out of the residential area, both for public safety,  
3 for the visual impacts, and for property values.

4 And I am vice president of Rio Rico Property  
5 Owners Association, and we voted also unanimously to  
6 send the letter to UniSource supporting the alignment  
7 along the railroad grade. Because TEP can access those  
8 lines. It is open. You can't go across the properties  
9 on those hill sides that they put block walls around  
10 their property. You can't access those poles up there,  
11 and I'm sure you saw that on your tour today.

12 Roads do exist to access the railroad grade and  
13 it would be easier for the utility to maintain their  
14 poles. It would be easier for the property owners not  
15 to worry about encroaching, because it wouldn't be this,  
16 right through the middle of our backyard. And after  
17 listening to them talk about having it on the west side  
18 of the railroad, I have to concur 100 percent. There is  
19 a ranch road and it is not just two tracks, it is an  
20 actual ranch road. The rancher drives his trucks down  
21 there to bring feed to the animals, and is definitely  
22 traversable. Border patrol uses it all the time. It is  
23 accessible, an easy way for a utility to maintain its  
24 facilities, and the only thing impacted is ag land, and  
25 the cows don't care. I can almost guarantee it. It

1 bypasses all the residential encroachments to the  
2 existing easement and to the proposed alignment, the  
3 yellow alignment along the railroad grade.

4           And coming up with that idea, after listening to  
5 my husband, I called Avatar and asked them, would you  
6 have a problem with having UniSource put a right-of-way  
7 along your agricultural land? They are pretty sure they  
8 are going to keep it ag land, because that keeps their  
9 water rights, but having a power pole along it isn't  
10 going to affect their ability to retain those water  
11 rights, and while the local representatives can't speak  
12 for Florida, she said that that is something that they  
13 would strongly recommend. It also improves their  
14 property values because at the north end of this  
15 alignment, they own all of that. It has been subdivided  
16 as horse property. They are trying to sell it as high  
17 end property and it is a little difficult to do when you  
18 have a big old power line running through it.

19           A question had been raised about any of this  
20 being cut down and what it would take to revegetate it.  
21 And I can tell you that 28 years ago, we walked that  
22 line all underneath, because it was just little stuff  
23 growing up. It had been clear-cut. And you saw today,  
24 looking north from Canez, how much it has grown, so  
25 within 30 years, you've got full size trees and

1 diversity of trees, because it isn't just the mesquites.  
2 We get a lot of the elderberry and some other -- a whole  
3 bunch of other stuff. I'm not a biologist, but anything  
4 cut down is going to come back in a reasonable amount of  
5 time. This isn't something slow growing like a redwood.

6 I think after listening to the people discussing  
7 the west side, that the west side of the tracks would be  
8 the route to go. The existing alignment is really  
9 unsatisfactory, because you can't get to it to maintain  
10 those poles. The proposed alignment, obviously people  
11 are opposed to because they've obstructed it, and  
12 nothing is obstructing the west side of the railroad  
13 tracks from Rio Rico Drive all the way north to Camino  
14 Ostion, which is where it is proposed to come across  
15 Pendleton, so I would request that you seriously  
16 consider that as another alternative, because I think  
17 that would be a win-win for everyone. It is Avenida,  
18 I'm sorry.

19 CHMN. FOREMAN: Thank you for coming and talking  
20 to us.

21 CHMN. FOREMAN: Mr. Magruder, you may resume  
22 your examination.

23

24 CROSS-EXAMINATION (Continued)

25

1 MR. MAGRUDER: I have some questions for  
2 Mr. Beck.

3 The application seems to indicate that WAPA has  
4 a 50.9 megawatt constraint on providing electricity to  
5 the Nogales Tap. Do you concur with that?

6 MR. BECK: That's correct.

7 MR. MAGRUDER: What is the constraint today from  
8 WAPA for power to come to Santa Cruz County?

9 MR. BECK: 50.9 megawatts.

10 MR. MAGRUDER: If today we are drawing  
11 60.9 megawatts, do we have 10 megawatts of generation,  
12 approximately, running turbines in Nogales?

13 MR. BECK: UNSE has a turbine on in Nogales to  
14 support the system. What its output is at this moment,  
15 if those were the right numbers, I don't know.

16 MR. MAGRUDER: But the difference between 50.9  
17 and anything above that is always being done by  
18 turbines?

19 MR. BECK: No. The minute we turn a turbine on  
20 in Nogales, it starts to support the voltage and even  
21 with one megawatt being produced in Nogales, we can  
22 bring additional capacity down in the transmission  
23 system.

24 MR. MAGRUDER: How much additional transmission  
25 can you bring down the system above 50.9?

1           MR. BECK: I believe if you look at the report,  
2 at 64 or 65 megawatts, we are required to put on a  
3 second turbine. The point we are putting on a second  
4 turbine, that means the first -- we are going to run the  
5 first turbine at pretty much its full output, which  
6 would be the 20 megawatts.

7           MR. MAGRUDER: Let me get this straight again.  
8 The 50.9 -- anything above 50.9 megawatts, we have to  
9 furnish all of that power from Nogales turbines?

10           MR. BECK: No. The minute you turn -- that you  
11 reach 50.9 megawatts of load at Nogales Tap, we have an  
12 operating procedure that requires us to turn a turbine  
13 on in Nogales. The minute we turn that turbine on, the  
14 capability across the transmission goes up. It goes up  
15 to maybe, as I said, maybe 64 megawatts.

16           MR. MAGRUDER: Do we receive via the Nogales Tap  
17 from the north any more than 50.9 megawatts during that  
18 time?

19           MR. BECK: As soon as we turn a unit on in  
20 Nogales, we can receive more than 50.9 megawatts.

21           MR. MAGRUDER: And in other words, we reached  
22 65.8 or some number like that?

23           MR. BECK: It is in the range of 65 megawatts,  
24 yes.

25           MR. MAGRUDER: With one megawatt worth of

1 generation in Nogales?

2 MR. BECK: With a turbine on in Nogales.

3 MR. MAGRUDER: The turbine does -- does the  
4 turbine have to generate electricity or can it just be  
5 spinning?

6 MR. BECK: It has to be on line and if it is on  
7 line, it will be producing something.

8 MR. MAGRUDER: Is this -- when did this type of  
9 arrangement come into being?

10 MR. BECK: Last either May or June of 2008 when  
11 UNS Electric signed the network service agreement with  
12 Western or WAPA.

13 MR. MAGRUDER: Is that agreement firm at 50.9 or  
14 will that be negotiated next year to possibly a  
15 different number?

16 MR. BECK: That agreement is 50.9 until there  
17 are major changes within the system that would require a  
18 new study to come up with a new number.

19 MR. MAGRUDER: Just a second. I need to find an  
20 exhibit.

21 CHMN. FOREMAN: Member Palmer.

22 MEMBER PALMER: Mr. Chairman.

23 Mr. Beck, what is the load capacity of the  
24 current 115 kV system -- the current 115 kV system?  
25 What is the load capacity?

1 MR. BECK: The overall system capacity for that  
2 transmission when we got generation running in Nogales  
3 is I believe, roughly, 75 megawatts.

4 MEMBER PALMER: And with the installation of the  
5 proposed 138 kV, that increases to 120 megawatts?

6 MR. BECK: That is correct. It increases to 120  
7 with no required local generation.

8 MEMBER PALMER: So if -- we are dealing with  
9 several things. We are dealing with agreements and then  
10 dealing with the capacity of the system to carry a load,  
11 and we need to be sure to distinguish that, because I  
12 think that is what Mr. Magruder is dealing with right  
13 now. So I will ask it a little different way. If you  
14 combine the generation from the turbines in Nogales with  
15 the load provided from the north on the 115 kV, what  
16 would be the absolute maximum capacity given the  
17 technology of the conductors?

18 MR. BECK: It has been a little while since I  
19 reviewed the report, but I think it was 85 to  
20 90 megawatts.

21 MEMBER PALMER: And at that level, you are still  
22 not fully meeting the demands of the Nogales area?

23 MR. BECK: We have not reached that level yet.

24 MEMBER PALMER: But if you did, you would be  
25 achieving the demand, satisfying the demand, or do you

1 need 120 megawatts to anticipate growth in Nogales and  
2 satisfy the current demand?

3 MR. BECK: That is exactly why we are proposing  
4 the project. It is to meet growth up to 120 megawatts  
5 total.

6 MEMBER PALMER: And I asked this question of  
7 your counsel. I will ask it of you. You can assure us  
8 today that it is not the intent of the applicant to sell  
9 power to Mexico?

10 MR. BECK: The purpose of this project is not to  
11 sell power to Mexico. To be very clear, we do have an  
12 agreement with CFE that has been in place from way  
13 before UNS taking over the Citizens Utilities that  
14 serves one customer across the border of Mexico. It is  
15 approximately a megawatt of load. As I say, it has been  
16 there for a long time. We have no intent to stop doing  
17 that, but we don't -- we are not looking that that will  
18 increase at all.

19 MEMBER PALMER: You don't have an intent to  
20 increase it?

21 MR. BECK: No.

22 MEMBER PALMER: Thank you.

23 MR. MAGRUDER: Mr. Beck, do you have Magruder  
24 Exhibit MM-1, which is what you sent to me in response  
25 to my data request? MM-1, and it is titled, "UNS

1 Electric Santa Cruz System Conversion Point-to-Point  
2 Service to Network Integration Transmission Service  
3 Prepared for the Western Area Power Administration" on  
4 May 22nd, 2008, and it is in my exhibit package MM-1.

5 On page 4, it discusses an import capacity.

6 MR. BECK: Yes, it does.

7 MR. MAGRUDER: And it says, with the Pantano  
8 tie-in, no generation 69.5 or 65.8 megawatts. Do you  
9 agree with that number?

10 MR. BECK: That is what the table says, yes.

11 MR. MAGRUDER: And with one turbine, it is 85 to  
12 92 megawatts' worth of power. Do you agree with that?

13 MR. BECK: I agree that, based on Western's  
14 plans at the time, if they had built that tie-in, that  
15 this is what the report indicates the capability would  
16 be.

17 MR. MAGRUDER: What is the status on the Pantano  
18 230-kilovolt tie-in?

19 MR. BECK: It has been canceled.

20 MR. MAGRUDER: When was it canceled in the --

21 MR. BECK: In the latest Southwest Transcon  
22 ten-year plan, it shows it as being canceled.

23 MR. MAGRUDER: When I asked for data questions  
24 to find out information, this is what you sent me. Did  
25 you also send me something to indicate that this report

1 was in error and that its key elements in that report  
2 had been canceled?

3 MR. BECK: Well, this report is not an error.  
4 It was based on a plan at the time. No, I didn't  
5 specifically read the report and go in and say, oh, by  
6 the way, we realize this was canceled. I do believe we  
7 did indicate to you that the Southwest Transcon report  
8 showed it canceled.

9 MR. MAGRUDER: Do you remember how you revealed  
10 that to me?

11 MR. BECK: At this point, no, I'm not sure. I  
12 believe we did. If we didn't, regardless, the project  
13 was canceled by Southwest Transcon and the reason we are  
14 pursuing a connection to TEP is because we have no  
15 control over what happens on Western's system.

16 MR. MAGRUDER: You realize that report said that  
17 you would need no additional power to 2013 even though  
18 it is in error? What it is is you led me in the wrong  
19 direction. I'm sorry.

20 MR. BECK: Well, regardless of what -- you know,  
21 this report does say nothing is needed until 2013. That  
22 is why we are proposing this project as a 2012 project  
23 in order to meet 2013 requirements that we cannot meet  
24 absent this project.

25 MR. MAGRUDER: That report also says that you

1 would have to light off your generation, on page 10, in  
2 the table on page 10, forecast peak for 2008. Actual  
3 load with -- that is with Pantano, 1,170 hours. Did you  
4 run the turbines 1,170 hours in 2008?

5 MR. BECK: I would have to refer back to my  
6 PowerPoint, which I think I showed the number of hours,  
7 which is on the screen, and in fact, it shows  
8 1,170 hours of generation being run.

9 MR. MAGRUDER: Has your company received any  
10 complaints from citizens in Nogales on running the  
11 turbines in Nogales?

12 MR. BECK: I do not believe so, because we have  
13 been keeping the lights on by doing that.

14 MR. MAGRUDER: I'm talking about the air  
15 pollution complaints?

16 MR. BECK: I'm not aware of any complaints that  
17 were raised.

18 MR. MAGRUDER: Okay. Does the number of hours  
19 you are running the turbine shown on the table equal the  
20 number of hours you exceeded 50.9 megawatts?

21 MR. BECK: The forecast going forward for 2009  
22 and beyond is based on the hours that would exceed 50.9.  
23 Historically, we may have run the generation beyond --  
24 prior to the 50.9 being reached for various reasons.

25 MR. MAGRUDER: In other words, black star test

1 and stuff like that?

2 MR. BECK: That could be one, testing could be  
3 one reason.

4 MR. MAGRUDER: And let me read this again, in  
5 2008, we exceeded 65.8 megawatts, 1,170 hours; is that  
6 correct?

7 MR. BECK: 50.9 megawatts.

8 MR. MAGRUDER: 50.9, okay.

9 Does UNS Electric purchase nonfirm delivery  
10 contracts?

11 MR. BECK: Occasionally, we do that, yes.

12 MR. MAGRUDER: Does that reduce the firm  
13 delivery requirements for Santa Cruz County?

14 MR. BECK: Typically, the reason we have  
15 purchased nonfirm transmission is to supplement the firm  
16 transmission that -- when we reach a limit on the firm  
17 transmission, if there is some nonfirm available, we  
18 have used nonfirm to make up that balance. It is a way  
19 to provide generation at a cheaper cost than generating  
20 it local.

21 MR. MAGRUDER: Do you solicit people to try to  
22 get some nonfirm contracts, especially in a constrained  
23 atmosphere such as we have now?

24 MR. BECK: I think maybe I was talking to a  
25 totally different subject than what you were. I assumed

1 you were talking about nonfirm transmission, which we do  
2 buy. Now I think you are going into a DSM-type program  
3 that is an interruptable load. Is that --

4 MR. MAGRUDER: No, I'm talking about nonfirm.  
5 I'm not doing DSM. What is the difference between firm  
6 and nonfirm transmission?

7 MR. BECK: A firm transmission product cannot be  
8 recalled for any reason other than risk to the  
9 reliability of the system. If the system is going to go  
10 down, a transmission provider can curtail transmission  
11 on a firm product. On a nonfirm product, it can be  
12 recalled for whatever reasons that are in the contract  
13 or agreement.

14 MR. MAGRUDER: And is nonfirm used with WAPA to  
15 be able to obtain additional megawatts above your 50.9?

16 MR. BECK: I don't know that we've used it above  
17 50.9, but historically, we have used nonfirm  
18 transmission when we reached a limit on the firm  
19 contract.

20 CHMN. FOREMAN: Excuse me, Member Eberhart, you  
21 want to ask?

22 MEMBER EBERHART: Mr. Chairman, I just have a  
23 question actually of the chairman, is the questioning  
24 that is going on cross-examination as to what Mr. Beck  
25 has testified to, or is this open questioning to ask any

1 questions that the intervenor wants to ask.

2 CHMN. FOREMAN: You are asking me what is going  
3 on in Mr. Magruder's mind? That is an area outside of  
4 my knowledge and expertise. Arizona is an open  
5 cross-examination state where cross-examination is not  
6 limited to that of which is covered on direct  
7 examination. There is, of course, nothing in the rules  
8 generated by the corporation commission nor the statute  
9 generated by the legislature that gives guidance to  
10 someone in my position about limiting cross-examination.  
11 I have gone to the boundary of what I believe is  
12 propriety trying to encourage the intervenors in this  
13 case to understand the difference between  
14 cross-examination and trying to use a witness to testify  
15 yourself. And it is a line, frankly, that some lawyers  
16 have difficulty with. Mr. Magruder is obviously  
17 struggling with it now.

18 Mr. Magruder, maybe it would be much more  
19 effective for you to testify as to what you are trying  
20 to get into the record now rather than trying to wrestle  
21 with Mr. Beck about it.

22 MR. MAGRUDER: Mr. Chairman, my problem is I  
23 can't get the answers if I testify because I will never  
24 be able to talk to Mr. Beck again.

25 CHMN. FOREMAN: The answer to what?

1 MR. MAGRUDER: To these type of questions.

2 CHMN. FOREMAN: Well, if you have information  
3 that you want to put in the record, then that should be  
4 the subject of testimony. If you don't have  
5 information, then you are trying to get that information  
6 from Mr. Beck now. Is that --

7 MR. MAGRUDER: That's correct.

8 CHMN. FOREMAN: Okay. All right. Please  
9 remember this needs to be information that will be  
10 helpful to your position and let's try and focus in on  
11 what is -- what would be helpful to the Committee.

12 MR. MAGRUDER: Thank you. I finished my firm,  
13 nonfirm area.

14 CHMN. FOREMAN: Let's try to be really firm with  
15 your questions from now on, okay?

16 MR. MAGRUDER: I'm trying.

17 CHMN. FOREMAN: Try to get rid of all the  
18 nonfirm questions.

19 MR. MAGRUDER: I will.

20 CHMN. FOREMAN: Thank you.

21 MR. MAGRUDER: Mr. Beck, does TEP operate peaker  
22 turbines?

23 MR. BECK: Yes.

24 MR. MAGRUDER: Would you classify the turbines  
25 in Nogales as peaker turbines?

1 MR. BECK: Yes, I would.

2 MR. MAGRUDER: Is this a common practice in the  
3 industry?

4 MR. BECK: Yes.

5 MR. MAGRUDER: In your viewpoint, there is  
6 really no difference, the way we are operating your  
7 turbines in peaker mode than they are in Tucson?

8 MR. BECK: The difference is that with the  
9 limitations in Santa Cruz County, the cost of running  
10 the peaking units in Santa Cruz County has more impact  
11 to the customers than it would in a larger system like  
12 TEP's, so there is more impact to the customer from  
13 running the peaking units. And we have -- typically,  
14 peaking you are running a small percentage of your load  
15 for peak generation for peak. Which are running a much  
16 larger percentage in the UNS Santa Cruz territory.

17 MR. MAGRUDER: Is an --

18 CHMN. FOREMAN: Is your microphone on, by the  
19 way?

20 MR. MAGRUDER: Is the LM 2500 turbine considered  
21 to be a modern turbine and would be more efficient than  
22 some of the older turbines you are probably describing?

23 MR. DERSTINE: Mr. Chairman, I would like to  
24 make an objection. I understood this line of  
25 questioning was going to the constraints that Mr. Beck

1 testified to.

2 CHMN. FOREMAN: Your objection on the ground of  
3 relevance is sustained.

4 MR. DERSTINE: Yes.

5 MR. MAGRUDER: New subject.

6 Mr. Beck, in response to my data request 1-4, I  
7 have entered it as an exhibit MM-8, which is a statement  
8 of interest for renewable energy transmission project by  
9 TEP and the southwest transmission co-op dated 3-April,  
10 2009. Are you familiar with this document?

11 MR. BECK: Yes, I am.

12 MR. MAGRUDER: Is UNS Electric a joint  
13 participant in that project?

14 MR. BECK: We have identified UNS Electric as a  
15 potential interested party for the project, yes.

16 MR. MAGRUDER: Okay. Does figure 1 on page 3  
17 show the proposed 223 -- 230 kilovolt transmission line  
18 to the Nogales Tap with UNSE line extending to  
19 Santa Cruz County?

20 MR. BECK: The line that was proposed under this  
21 for consideration by Western was an upgrade of their 115  
22 kV line. I'm not sure what the end points were, but it  
23 was an upgrade of the 115 line that includes a Nogales  
24 Tap to 230 kV with the concept that the second -- that  
25 there would be two circuits and the second circuit would

1 be for parties such as Southwest Transcon, TEP, and  
2 possibly some interest by UNS Electric.

3 MR. MAGRUDER: Would this upgrade from the 115  
4 to the 230-kilovolt line to the Nogales Tap solve some  
5 of the problems we have in Santa Cruz County?

6 MR. BECK: If such an upgrade were done, it  
7 would reduce -- or it would increase the capacity to the  
8 Nogales Tap and could potentially help service to  
9 Santa Cruz County if, in fact, there were still a line  
10 connected there, depending on when the project might get  
11 done sometime in the future.

12 MR. MAGRUDER: This document was sent by your  
13 company on the 3rd of April, 2009; is that correct?

14 MR. BECK: That's correct.

15 MR. MAGRUDER: Would you consider it still the  
16 current position of your company?

17 MR. BECK: This is a project that both UNS  
18 Electric and TEP have a strong interest in seeing  
19 completed, but we do not hold much hope, if any, that  
20 Western will adopt this as a potential property.

21 MR. MAGRUDER: Is there anything in this project  
22 that prohibits WAPA system upgrades from helping Santa  
23 Cruz County?

24 MR. BECK: No. But there is nothing in this  
25 project, yet, it is just a -- it is a proposal at this

1 point.

2 MR. MAGRUDER: When do you expect to hear an  
3 answer to this proposal?

4 MR. BECK: Well, Western has formed a task force  
5 or a team within their organization to analyze  
6 multiple -- a multitude of projects that were proposed  
7 under this stimulus funding package, and the initial  
8 discussions with Western were they were having a  
9 preference for projects that really were in the  
10 northwest Arizona area down to the Palo Verde area.  
11 When they will make a final decision on these projects  
12 is not clear.

13 MR. MAGRUDER: Another possible source that I  
14 have of information -- do you have Magruder  
15 Exhibit MM-9, which shows Southwest Transmission  
16 Corporation's -- co-op's substations for the years and  
17 their loads for 2007 and 2009? And in the bottom line  
18 of the table on that exhibit, it shows 112 or so  
19 megawatts coming in and out of the Nogales Tap.

20 MR. BECK: I see a table. I have no idea what  
21 the source of this was.

22 MR. MAGRUDER: It was SWTC's Web site.

23 CHMN. FOREMAN: Mr. Magruder, you are now  
24 testifying.

25 MR. MAGRUDER: I will stop testifying.

1 CHMN. FOREMAN: It is not fair to cross-examine  
2 him on something he doesn't know about or is not the  
3 author of or did not testify about.

4 MR. MAGRUDER: Okay. Do you have exhibit MM-5  
5 available for you to look at?

6 MR. BECK: Yes, I do.

7 MR. MAGRUDER: Do you remember seeing a table  
8 like this, a little bit fewer vertical columns, in about  
9 2005 during another set of hearings we had?

10 MR. BECK: I've seen a table similar to this,  
11 yes.

12 MR. MAGRUDER: Okay. The las- -- the table  
13 references 16, 15, and 14 in the third, fourth, and  
14 fifth columns were data I received in this case. So  
15 they are the most current values. Do you see how to  
16 read this table? Does it talk in terms of the peak  
17 demand requirements and forecast for Santa Cruz County?

18 MR. BECK: That is what it purports to report,  
19 yes.

20 MR. MAGRUDER: And do we see that in 2008, that  
21 the peak demand has a whole series of numbers --  
22 actually, they are very consistent between 76 and 75 or  
23 so megawatts. Do you see that on that forecast?

24 CHMN. FOREMAN: Mr. Magruder, is this a table  
25 that you created?

1 MR. MAGRUDER: I created this table.

2 CHMN. FOREMAN: Okay. Do you know whether this  
3 witness has ever seen it before.

4 MR. MAGRUDER: It was furnished to him prior to  
5 the hearings today.

6 CHMN. FOREMAN: Okay. Mr. Beck, is the  
7 information on this table information that you are  
8 familiar that your company has generated or that you  
9 adopt?

10 MR. BECK: The information that is on this table  
11 looks similar to the information that we adopt. The  
12 best information I have at this point is what is  
13 actually on that slide up there relative to our peak  
14 loads.

15 CHMN. FOREMAN: All right. I will allow you  
16 then to ask a question or two in this area, but, again,  
17 it is not fair to cross-examine a witness about  
18 information that you have generated, and I will allow  
19 this only with your representation that when you  
20 actually do testify under oath, you will provide a  
21 foundation that meets a basis for believing this  
22 information that you are now injecting into the record  
23 in this case has some sort of basis in fact.

24 MR. MAGRUDER: I will, Mr. Chairman. That table  
25 on the screen is one of these references I was just

1 discussing.

2 CHMN. FOREMAN: Well, I'm glad it is one of  
3 them. There is other information in the table, and I  
4 will want to make sure that you -- when you are a  
5 witness, not a cross-examiner, tell us what this means  
6 and where it came from.

7 MR. MAGRUDER: I will.

8 Mr. Beck, using this information or any other  
9 information you have, when would you forecast Santa Cruz  
10 County to reach 120 megawatts of load?

11 MR. BECK: I believe that we were out into the  
12 2023 time range on one of our internal forecasts. It  
13 doesn't appear to show that on your charts, but I'm not  
14 sure that -- I don't see any column on here that matches  
15 the information on this table up here.

16 MR. MAGRUDER: I made a mistake. I will admit I  
17 made a mistake. I'm sorry, Mr. Chairman. I thought I  
18 had this table incorporated. I am in error.

19 CHMN. FOREMAN: Please move on.

20 MR. MAGRUDER: So back to the question I was  
21 going to ask, and I was using this table to help him  
22 answer, what year would you see 120 megawatts being our  
23 peak load?

24 MR. BECK: Well, that is fully dependent on  
25 growth and the economy, the recent downturn of the

1 economy, we are sure the load will not materialize as  
2 fast as we expected previously. I wouldn't expect to  
3 see 120 megawatts until well after 2020, but that is,  
4 you know, as I said yesterday in my testimony, the only  
5 thing you know about forecasting is you are going to be  
6 wrong.

7 MR. MAGRUDER: And I ask you to turn to exhibit  
8 MM-6. Have you seen this exhibit before?

9 MR. BECK: I can't say that I've seen this  
10 specific exhibit. I've seen exhibits like this, and  
11 they are produced by the company.

12 MR. MAGRUDER: Okay. And exhibit MM-7, have you  
13 seen that type of exhibit produced by the company?

14 MR. BECK: We do produce similar exhibits to  
15 this, yes.

16 MR. MAGRUDER: Do you agree predicting peak load  
17 forecast is very important for your company?

18 MR. BECK: It is critically important to be sure  
19 that we have sufficient capacity to meet load. It is  
20 much less critical if we err on the side of overbuilding  
21 and build it too soon. But if we under forecast or  
22 underbuild, and we -- the lights go off, there is a lot  
23 of criticism.

24 MR. MAGRUDER: Have you ever testified the  
25 lights are going to go off in Santa Cruz County?

1 MR. BECK: I don't recall if I did or did not.

2 MR. MAGRUDER: Okay. I won't bring out the  
3 transcripts.

4 Next subject. You discussed the wheeling  
5 charges in your testimony. Previous testimony from you,  
6 you used the term "dollars per kilowatt month." Has  
7 that term been changed to the fractional equivalent of  
8 the percent of the load number that you used in your  
9 testimony?

10 MR. BECK: "Dollars per kilowatt month" is used  
11 under a point-to-point contract. Under network, the  
12 load ratio share is the way that transmission costs are  
13 calculated.

14 MR. MAGRUDER: So there is a new formula that is  
15 now used for calculating wheeling charges; is that  
16 correct? Am I understanding you correct?

17 MR. BECK: Relative to UNS Electric as of June  
18 of last year, under the Western contract, under network  
19 service, we used a different formula than historically  
20 we did when we were under point-to-point service.

21 MR. MAGRUDER: Thank you, I appreciate you  
22 getting me up-to-speed.

23 Who determines the wheeling charge?

24 MR. BECK: In the case of Western, the wheeling  
25 charge is determined by Western in a public customer

1 driven process. They set their rates on a system basis,  
2 on a project basis for the transmission that is serving  
3 UNS Electric, it is called the Parker-Davis system.  
4 Those rates were reviewed and revised in 2009, and so  
5 the current rate structure is of 2009 rate structure.  
6 For TEP and UNS Electric, the rates are set by the  
7 Federal Energy Regulatory Commission through a rate  
8 setting process and hearings they hold typically in  
9 Washington, D.C.

10 MR. MAGRUDER: How often does WAPA and FERC  
11 update the respective wheeling rates?

12 MR. BECK: TEP's last update to its rate was  
13 1997. WAPA, as I said, has a 2009 rate schedule in  
14 place.

15 MR. MAGRUDER: Was TEP's point-to-point or  
16 network-type?

17 MR. BECK: TEP, as well as UNSE, have open  
18 access tariffs and in the TEP open access tariff, we  
19 have both point-to-point service as well as network  
20 transmission service.

21 MEMBER MUNDELL: Mr. Chairman.

22 CHMN. FOREMAN: Member Mundell.

23 MEMBER MUNDELL: Could I ask Mr. Magruder a  
24 question?

25 CHMN. FOREMAN: Yes.

1           MEMBER MUNDELL: Mr. Magruder, is the purpose of  
2 these questions to establish that the line is not needed  
3 or that one of the routes that is selected is not  
4 needed? I'm trying to understand the overall -- it is  
5 late in the day and I'm tired, but I've been listening.  
6 I'm trying to figure out what your general reasoning is  
7 for asking these questions.

8           MR. MAGRUDER: My questions on wheeling concern  
9 we are going to change from WAPA to TEP. What is the  
10 impact on cost? That is why I'm asking the question.  
11 Because I have another solution which is to make it so  
12 we could choose both, but I first want to know, does it  
13 cost more under TEP than it does under WAPA or under --

14           MEMBER MUNDELL: Thank you.

15           CHMN. FOREMAN: Member Eberhart.

16           MEMBER EBERHART: Mr. Chair, is it the purview  
17 of this Committee to get into rates?

18           CHMN. FOREMAN: No, and I've previously advised  
19 them that they may not get into rates. I did indicate  
20 and the statute does say that it is within the  
21 jurisdiction of this Committee to consider costs. There  
22 is a fine line.

23           We are going to take the evening recess now,  
24 Mr. Magruder. Let me offer you some constructive  
25 criticism. You have done your position no good. Let me

1 point out to you on a couple of occasions, including  
2 this last comment about getting the transcripts out or  
3 going to the transcripts. If Mr. Derstine or  
4 Mr. Gellman had made a crack like that when they were  
5 cross-examining you, I would sanction them. Again, you  
6 are to ask questions. You are not to make asides. You  
7 are not to take cheap shots like that at witnesses.  
8 Again, you are doing yourself no good.

9 MR. MAGRUDER: I'm sorry.

10 CHMN. FOREMAN: You are so far talking about  
11 issues that are within the statutory purview of this  
12 Committee and so I am allowing you to proceed, but you  
13 will need to come to the end of these questions soon or  
14 you are going to find that you have lost the interest of  
15 the Committee, because what you are doing is  
16 incomprehensible. So let me ask you this evening to go  
17 over what it is you intend to do by way of  
18 cross-examination tomorrow and focus in on precisely the  
19 points that you want to enter and remember the  
20 difference between cross-examination, which is trying to  
21 find information from the witnesses, and testimony. If  
22 you can cover the points that you want to make through  
23 your own testimony, then do it that way. It will make  
24 it a lot simpler. If you generally don't have  
25 information, then that is a perfect area for you to

1 cross-examine. I will have to tell you that based upon  
2 my ability to understand the questions that you have  
3 asked, most of your questions appear to be questions  
4 along the line of, here is some information in this  
5 document that I have. Isn't this information  
6 inconsistent with what you've said? That is something  
7 that I think is more correctly and, frankly, more  
8 effectively addressed by you in your direct examination  
9 rather than cross-examination. Do you understand?

10 MR. MAGRUDER: Okay.

11 CHMN. FOREMAN: Very good. We will recess for  
12 the evening. We will resume again tomorrow at 9:30.

13 (The proceedings recessed at 5:06 p.m.)

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I, TERESE HEISIG, Certified Reporter No. 50378 for the State of Arizona, do hereby certify that the foregoing printed pages constitute a full, true and accurate transcript of the proceedings had in the foregoing matter, all done to the best of my skill and ability.

WITNESS my hand this 7th day of June, 2009.

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TERESE HEISIG  
Certified Reporter  
Certificate No. 50378