Underground Arizona
https://undergroundarizona.org
Daniel Dempsey, Executive Director
daniel@undergroundarizona.org

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Planning and Development Services
Attn: John Beall, Entitlements Section
PO Box 27210
Tucson, AZ 85726-7210

REF: Comment on SELUP Application TP-ENT-1025-00021

I. INTRODUCTION

Tucson Electric Power Company's (TEP) application TP-ENT-1025-00021 for a Special Exception Land Use Permit (SELUP) for the Vine Avenue Substation must be denied because the required findings under UDC 3.4.5.A.2 and 3.4.5.A.5 cannot be made. The proposed substation and associated above-ground transmission facilities would negatively impact adjacent land uses in ways that cannot be substantially mitigated, contrary to UDC 3.4.5.A.2. In addition, the project's above-ground design is incompatible with the City's adopted plans, in violation of UDC 3.4.5.A.5.

Underground Arizona is not opposed to building new transmission facilities. We are opposed to building them in ways that needlessly harm Tucson's residents, businesses, competitiveness, and economic development—based on obstacles fabricated by TEP. Underground lines are not only possible, but they are also superior to above-ground lines in nearly every way.

PDSD's analysis is fatally flawed. It again recommends approval by stating the development is consistent with plans when it plainly is not. This is now the fifth time PDSD has recommended approval for this project. In the prior four decisions, the Zoning Examiners denied the applications. The primary reason: undergrounding is both possible and preferred or required by plans. As Zoning Examiner Cassidy wrote in his decision: "*…nothing in the TEP Application suggests that the benefits of the new 138 kV system will be lost by having this segment underground."*

Underground lines are safer and more reliable—protected from wind and lightning—cheaper to operate and maintain—the total lifetime cost can be less than above-ground lines—and serve the express goals of protecting views, aesthetics, and encouraging new development found in City plans compared to above-ground lines. That is why APS undergrounded 14 miles of new transmission lines in Central Phoenix in the 1960s. It is why APS undergrounded 8 miles of transmission lines adjacent to Arizona State University. It is why the City of Mesa's municipal electric utility has three times better reliability than TEP. Tucson should not allow itself to be treated as a second-class city simply because of TEP's misplaced intransigence.

The Vine substation cannot be analyzed in isolation from the rest of the project. TEP's simulations show new above-ground infrastructure throughout the area. How lines and very tall poles impact adjacent areas matters—not just in our opinion but according to the four prior Zoning Examiner decisions. Nothing has materially changed in this new application compared to the May 2021 Zoning Examiner denial. The new design is not more compatible than the prior design. If anything, the new Plan Tucson 2025 is more strongly in favor of undergrounding and infill development than the prior Plan Tucson.

The Arizona Corporation Commission (ACC) approving routes is not and never was determinative. The ACC has zero jurisdiction on substations, undergrounding, or the enforceability of a municipality's plans and ordinances. Its powers are limited to transmission line routing. See *A.R.S. 40-360 et seq.* How something is built within a route is up to local law. See *APS v. Town of Paradise Valley, Arizona Supreme Court (1980).* The City attorney's office has been clear that the ACC and City processes are parallel and not serial, meaning the outcome of one does not determine the outcome of the other. Thus, the ACC's approval is not evidence of compatibility.

The bottom line is: undergrounding a mere 2 miles in the economic heart of Tucson, adjacent to the the University of Arizona, the highest-density infill development in the city, residential neighborhoods, and long-time historic districts, to comply with City plans is not only doable but required. TEP's claims that undergrounding is disallowed by law, disallowed by the ACC, too expensive, or must be paid for by the City, are fabricated excuses that are belied by basic due diligence.

The following pages provide background that support our position and end with analysis and a conclusion. TEP provided over 2,000 pages of testimony on this project under oath before the ACC in a line siting hearing from July 8th to the 19th, 2024. It is available on ACC Docket L-00000C-24-0118-00232.

Underground Arizona is supported by current and former Tucsonans, University of Arizona students, staff, and alumni, neighborhoods, businesses, business associations, and investors, including most if not all neighborhood associations surrounding the University of Arizona.

II. ACC TESTIMONY

1. TEP testified that it is possible to underground its transmission lines (p. 26):

   Meghan Grabel (TEP): We do not contest that the line can be constructed below ground. It is physically possible to do so.

2. And again here (pg. 1813):

   Roi Lusk (City of Tucson): So, and I don't think anybody has testified that you can't [underground] physically or technologically. Is that correct?

   Clark Bryner (TEP): Correct.

3. TEP testified that it avoided certain routes because high-density infill development had already occurred (p. 760):

   Daniel Dempsey (Underground Arizona): Would you say this is the most rapidly densifying area in your service area?

   Clark Bryner (TEP): I think the only thing I could say is it's a dense area and yes, it's getting more dense.

   Daniel Dempsey (Underground Arizona): Okay. So in the Route C simulation, Larry, you said, "They have to avoid the east Speedway area because of tall buildings on both sides of the street." So I guess my question for either of you is how does a transmission line affect high-density infill development?

   Larry Robinson (TEP): Again, according to National Electric Safety Code requirements, we have to maintain certain separations between structures, buildings, signs, lights, traffic signals and things like that; right?

   So if the area is already occupied by some of those facilities that we can't maintain separation from, we do have options; right? We could buy the building and tear down the building or do something like that.

4. TEP testified that new buildings would have to be set back at least 16 feet from its transmission lines when blown out—meaning 25+ feet—due to code requirements (p. 764):

   Clark Bryner (TEP): So the blowout is the sag in the conductor.

   Daniel Dempsey (Underground Arizona): Right.

   Larry Robinson (TEP): So in [UMC Banner's] counter she asked what that distance was and what we were looking for was 15 to 16 feet on the private easement. That's to account for that blowout and the NESC code requirements.

   Daniel Dempsey (Underground Arizona): So 15 to 16 feet is a fair assumption?

Larry Robinson (TEP): That's correct. From property line, and also from the conductor blown out.

5. UMC Banner testified that transmission lines interfere with new investment (p. 1254):

   Michele De Blasi (UMC Banner): And so if you're in the building, as opposed to a homeowner who this line would be above their home and not in eyesight, would this line be directly at eye level for someone standing in the building?

   Mark Barkenbush (UMC Banner): It would be eye level for the majority of our floors in our patient tower.

   Michele De Blasi (UMC Banner): And would this interfere with the whole purpose of the amount of investment in your patient areas and your towers?

   Mark Barkenbush (UMC Banner): Yes. It would.

6. UMC Banner testified that it expects the City to enforce ordinances and plans that protect views. (p. 1321):

   Daniel Dempsey (Underground Arizona): Generally speaking, do you expect the City to enforce its ordinances and plans that protect views?

   Mark Barkenbush (UMC Banner): Yes, I would.

7. TEP testified that it has no control over what joint-use attachers will do (p. 748):

   Daniel Dempsey (Underground Arizona): You seem to be very optimistic that communication wires will be undergrounded instead of using new poles or something like that. Do you have any way to guarantee that it will be undergrounded or visually improved?

   Larry Robinson (TEP): So the joint-use attachers, we don't have right to tell them exactly how they're going to mitigate the use of that pole. So it would be inappropriate for me to answer that question.

   Daniel Dempsey (Underground Arizona): So you don't have control over what they do, though, is what you're saying? Yes?

   Larry Robinson (TEP): That's correct.

8. TEP testified that joint-use attachers may install their own poles (p. 755):

   Daniel Dempsey (Underground Arizona): So you're removing these poles, the distribution poles. Can the communication companies say, "Hey, no, just cut the tops off, we're going to keep using them"?

   Larry Robinson (TEP): They cannot. We own those poles, as Clark said, and we no longer have to maintain that joint-use agreement once we've taken our facilities off.

Daniel Dempsey (Underground Arizona): So they would have to, if they wanted to continue to use poles and not, you know, trench or whatever underground, they would have to install their own new poles?

Larry Robinson (TEP): That's correct.

9. TEP testified that some of the distribution poles have six joint-use attachers that would have to be relocated or moved underground (p. 493):

   Clark Bryner (TEP): So you've got existing distribution facilities and 46kV facilities on the east side of Euclid Avenue in this location, with quite a number of communication attachers here. It looks like about five.

   Larry Robinson (TEP): Six.

   Clark Bryner (TEP): Six communication attachers, so all of that equipment would be relocated or moved underground.

10. TEP testified that each joint-use attacher would need at least one conduit in its trench. (p. 842):

    Daniel Dempsey (Underground Arizona): As far as the communications go, they each get their own conduit. How does that work?

    Larry Robinson (TEP): Yeah, my understanding is that each service provider, joint-use attacher, would put their own conduit in the ground.

11. TEP testified that, unless individual customers pay for underground service drops, poles will be required for each service drop (p. 463):

    Member Hill (ACC): And so if you're undergrounding along my street a distribution line—like my house currently connects connects to a pole. Will I have a cost for bringing the line into my home if it's underground?

    Larry Robinson (TEP): The way our current rates and rules are applied, that cost to put up a new underground service panel and to run from the underground service panel to our connection point would be borne by the customer. That's correct.

    Member Hill (ACC): So in the road, or along the corridors where you are now taking aboveground distribution and putting it underground, each homeowner will have to incur a cost to connect to that underground trenched line?

    Larry Robinson (TEP): No. Each owner can decide to stay with their overhead service, and in that situation we would run the underground cable over to the overhead service pole and come up the pole, and there they would be served the same way they are currently being served with an overhead service.

12. TEP testified that the minimum trench width to underground its distribution lines with the minimum two 6” conduits would be at least 2ft wide and at least 42 inches deep to the top of the conduit and become wider and deeper as more conduit is added (p. 889):

> **Daniel Dempsey (Underground Arizona):** So you mentioned that to underground the distribution you need two six-inch conduits, right? And then potentially more if the communications providers want to add their stuff. What's the depth and the width of that trench?
>
> **Larry Robinson (TEP):** So in clarification, I said one six inch with a spare is what we normally put in.
>
> So it's two. But that would be for feeder. The trench width is usually dug about two feet wide because that's kind of the minimum width of the trench because you have to get down and place the conduit and do any trench work on the bottom of the trench to prepare for backfilling.
>
> In addition to that, the minimum depth is 42 inches in depth. That's our minimum burial depth.
>
> **Daniel Dempsey (Underground Arizona):** What are the maximums?
>
> **Larry Robinson (TEP):** There are some settings depending on topographical features and things like that that can get well over 10 to 12 feet deep depending on what other underground conflicts or other topographical features you're trying to go around.
>
> **Daniel Dempsey (Underground Arizona):** And how about maximum width?
>
> **Larry Robinson (TEP):** For distribution, this is average. I wouldn't be able to tell you the maximum we have on our system, but maximum normally would be like a three foot-wide trench so we could put four conduits in a duct bank. That's generally speaking the maximum width.

13. TEP testified that undergrounding a transmission line occurs at about 100 feet per day (p. 988):

> **Meghan Grabel (TEP):** And how long does it take to construct an underground transmission facility?
>
> **Jason Jocham (TEP):** So an underground transmission facility kind of as identified here, typical installation is about 100 feet a day.

14. TEP testified that undergrounding a distribution line also occurs at about 100 feet per day and would require the closing of up to two lanes of traffic (p. 1163):

> **Daniel Dempsey (Underground Arizona):** And you might have communication conduits as well, and my understanding is that you have to go to the same minimum

depth. So would you potentially run into the exact same conflicts [as transmission] that you'd have to go around or under or whatever?

Larry Robinson (TEP): Yes. The nature of undergrounding anything is that there are linear obstructions that you need to avoid during construction. You try to identify those during design and anticipate what those would look like by either relocating the obstruction or by going underneath it. But that has to happen whether it's a distribution voltage or whether it's a transmission voltage.

Daniel Dempsey (Underground Arizona): And is undergrounding distribution voltage, given it might be not as wide, but it has to be the same depth. Is it going to close the same amount of traffic lanes?

Larry Robinson (TEP): No, the equipment needed to dig that trench is a much smaller piece of equipment. The trench is 18 inches to two feet in width. So you can have a smaller equipment with a dump truck. We would probably close one to two lanes of that traffic.

Daniel Dempsey (Underground Arizona): Then it's the same hundred feet a day?

Larry Robinson (TEP): Roughly give or take, yes.

15. TEP testified that transmission lines interfere with communications signals (p. 584):

    Clark Bryner (TEP): So communications interference, that's one of the factors that is in the statute required to be looked at and factored into the decision of the Committee.

    So some communication lines—and I'm not a communications expert, so I'm going to translate it to my understanding. But some communications are point-to-point, and especially microwave communications have a very specific, small path where that communication signal travels through, and anything that breaks that path can make that obsolete.

    And so it's a real thing that we need to watch out for if we break that specific path. And then, as we all know, if you drive under a high voltage line, if you've got the radio going, a lot of times you'll get nothing but static for a minute, so there are other communication factors as well.

16. TEP testified that there are no existing transmission lines near the University of Arizona (p. 747):

    Daniel Dempsey (Underground Arizona): But generally speaking around the University of Arizona there are no transmission lines?

    Clark Bryner (TEP): No transmission lines; correct.

17. The City pointed out that TEP has a history of leaving topped poles in place for joint use attachers (p. 2192):

> **Roi Lusk (City of Tucson):** Well, Mr. Chair, I was actually going to ask for some clarification on that because, as we saw during the tour, there are multiple poles in the right-of-way that are what are called topped poles where TEP had poles in the right-of-way. They had attachers. And then through their agreements with their attachers they removed their infrastructure from the poles but then left the poles. So that's what I think might be the concern for the community.

III. PLANS AND ORDINANCES

The City of Tucson has many plans and ordinances that encourage or require: 1) high-density development in specific locations; 2) neighborhood compatible development that improves or protects aesthetics, streetscapes, and views; and/or 3) the undergrounding of utility infrastructure. The following is a non-comprehensive sample of plans and ordinances that apply to this project generally or at specific locations:

A. PLAN TUCSON 2025 (GENERAL PLAN)

1. Plan Tucson 2025 is the City's General Plan. Chapter 4 of Plan Tucson 2025 states: *"These Guidelines will provide primary guidance for those seeking to rezone the land and staff who review the proposed development."* Relevant guidelines include:

    a. A.25: *"Improve the appearance of above-ground utilities and structures by requiring facilities to be located, installed, and maintained to minimize visual impact and preserve access to views.* ***Utilities should be installed underground where possible, and the visual impact of above-ground utility infrastructure should be a prime consideration in the City's acceptance and approval****."* [Emphasis added]

    b. A.2: *"Support land use, transportation, and urban design improvements that will link the Downtown activity center, Fourth Avenue, the Warehouse District, and the University of Arizona and enhance the historic and cultural quality within the greater Downtown. Continue to work with the University of Arizona, private developers, and neighborhood groups to enhance these linkages and Downtown design character."*

    c. A.22: *"Support developments that are informed by engagement from surrounding communities."*

    d. N.2 and MUAC.1: *"High-density residential (R3 and similar zones) development is generally appropriate where primary vehicular access is provided to an arterial or collector street and is directed away from the interior of low-density residential*

areas."

e. N.7: *"Support environmentally sensitive design that protects the integrity of existing neighborhoods, complements adjacent land uses, and enhances the overall function and visual quality of the street, adjacent properties, and the community."*

f. MUAC.4*: "Support environmentally sensitive design, mixed-use infill, and appropriate nonresidential uses that are consistent with or enhance the vitality of the existing neighborhoods, complement adjacent land uses, and enhance the overall function and visual quality of the street, adjacent properties, and the community."*

B. THE UNIVERSITY AREA PLAN (SPECIFIC PLAN)

1. According to UDC 11.4.20, a "Specific Plan" is defined as: *"A detailed policy plan or regulation that implements the General Plan or any of the elements of that Plan. Specific Plans include subregional, area, and neighborhood plans; the Major Street & Routes (MS&R) Plan; the Unified Development Code (UDC); and any other similar plan."*

2. Between Broadway Blvd and Grant Rd, and between Stone Ave and Country Club Rd, TEP's project is within the duly-adopted University Area Plan ("UAP")—a Specific Plan.[1] The UAP, by definition, is an implementation of Plan Tucson. Here are some relevant policies:

   a. Section 6, Policy 6 requires undergrounding wherever possible: *"**Wherever possible, place utility and service equipment underground or in other visually screened locations."*** [Emphasis added]

   b. Section 3.A, Policy 3 encourages development on the perimeter of neighborhoods: *"Support new development on the perimeter of residential areas which serves to protect and enhance the quality of life for neighborhood residents."*

   c. Section 3.B, Policy 2.3.2 encourages high density infill development along arterial and collector streets: *"high density (15 or more units per acre) residential development is appropriate in conformance with the following criteria: Vehicular access is provided to an arterial or collector street, and vehicular traffic is directed away from the interior of low-density residential areas…"*

[1] https://beta.tucsonaz.gov/files/sharedassets/public/city-services/planning-development-services/documents/university_area_plan.pdf

C. OTHER PLANS AND ORDINANCES

There are many more plans and ordinances that may also conflict with the project, such as overlay zones (e.g. Main Gate Square, Sunshine Mile, Grant Road Investment District, etc.), Historic Preservation Zones (e.g. West University), Neighborhood Preservation Zones (e.g. Jefferson Park, Pie Allen, and Feldman's), neighborhood plans, and base zoning ordinances. Due to the limited availability of sufficient public right-of-way, in many of these areas, TEP will have to acquire private property for its poles and easements for its lines. It is not clear that high voltage transmission poles are compatible with most base zoning on private property or in the right of way.

The Unified Development Code ("UDC")—also legally defined as a Specific Plan—must be interpreted and enforced in a way that is consistent with the City's general and specific plans. Specifically, UDC 1.4.1.D reads: *"All provisions of the UDC shall be consistent with, and conform to, the General Plan and other related plans and policies adopted by the Mayor and Council."* Additionally, UDC 1.4.2.G reads: *"The Zoning Administrator may allow, within the right of way, only those uses or structures that are permitted on the property immediately abutting the right of way."*

IV. PRIOR ZONING EXAMINER FINDINGS

1. From decision SE-20-16 by Zoning Examiner Iurino on May 13, 2021:

    a. On compatibility with plans (p. 8): *"PT provides policy direction to protect established residential neighborhoods by supporting compatible development and environmentally sensitive design that protects the integrity of existing neighborhoods, complements adjacent land uses, and enhances the overall function and visual quality of the street, adjacent properties, and the community.* ***The UAP specifically directs that utility lines be placed underground where possible to mitigate impacts on adjacent uses.***

    Based on the testimony at the Zoning Examiner hearing and the record, the Applicant does not intend to place the transmission lines underground. *While this proceeding is separate from the line-siting process, as a practical matter the two are interrelated. Given the uncertainty regarding the route(s) to be selected for the Kino DMP Transmission Line Project,* ***and the uncertainty of the location of the power lines which will connect with the proposed Vine substation****, compliance with PT and UAP cannot be determined on the current record."* [Emphasis Added]

2. From decision TP-ENT-1024-00023 by Zoning Examiner Cassidy on February 21, 2025:

    a. On UDC 3.4.5.A.2 (p. 12): *"****The Acting Zoning Examiner also finds that other adverse impacts of overhead lines, including their constrictions on surrounding private and public development and their safety hazards, are significantly reduced***

or even eliminated by being underground. These adverse effects cannot be substantially mitigated through the use of conditions if the lines are permitted to be installed overhead. *Consequently, the Zoning Examiner cannot make the finding required by UDC Section 3.4.5.A.2. In the Zoning Examiner's opinion, the proposed overhead transmission lines are not "contextually sensitive" to adjacent and surrounding zoning and land uses."* [Emphasis Added]

b. On UDC 3.4.5.A.5 (p. 12): *"Plan Tucson seeks to maintain and improve the appearance of the City of Tucson. Policy LT1 seeks to achieve more esthetically pleasing public spaces. Although specifically addressed to telecommunications facilities and not electric transmission facilities, Guideline LT28.1.2 requires cabling to be installed underground where possible. Guideline LT28.2.12 supports "environmentally sensitive design that … enhances the overall function and visual quality of the street, adjacent properties, and the community." The University Area Plan's "Public Services" policies expressly provide that utility and service equipment should be placed underground whenever possible. As a result,* ***the Zoning Examiner cannot make the finding required by UDC Section 3.4.5.A.5 because this request conflicts with specific language in Plan Tucson and the University Area Plan."***

c. On impact to adjacent land uses (p. 13): *"****The Zoning Examiner disagrees with Applicant, and instead finds that transmission poles that may reach as high as 95 feet will have a significant impact on the immediately adjacent residential areas****."* [Emphasis Added]

d. On undergrounding (p. 13): ***"…nothing in the TEP Application suggests that the benefits of the new 138 kV system will be lost by having this segment underground."***

V. ANALYSIS

1. TEP's application does not meet the requirements of UDC section 3.4.5.A.2.

UDC 3.4.5.A.2 says: *"To grant a special exception the PDSD Director and the Zoning Examiner must find that the requested special exception: Does not adversely affect adjacent land uses or the surrounding neighborhood or that such adverse effects can be substantially mitigated through the use of additional conditions as provided in Section 3.4.6;"*

As established in the TEP and UMC Banner testimony before the ACC, and Zoning Examiner Cassidy's findings, new high voltage transmission lines and poles in high-density urban areas adversely impact adjacent land uses and the surrounding neighborhood.

TEP has offered the removal of 30ft poles as mitigation. Unfortunately, as Zoning Examiner Cassidy found, replacing 30ft poles with 90ft poles—and placing new poles where there currently are none—does not mitigate the adverse effects on adjacent land uses or the surrounding neighborhood. Furthermore, TEP is on the record under oath stating that it would still need new distribution poles for underground-to-above-ground service drops and that it could not prevent joint use attachers from installing new poles.[2] It even asked the ACC to include a reduction in pole counts as a finding of fact in its decision and the ACC refused.[3] The most likely result is a significant increase in pole count and pole height, which does not mitigate the adverse impacts on adjacent land uses and the surrounding neighborhood.

According to the Tucson-Pima County Historical Commission (TPCHC), high voltage transmission lines are incompatible with historic neighborhoods and streetscapes, which is contrary to most if not all City plans, HPZs, and NPZs.[4] TEP even testified that above-ground transmission lines interfere with communications signals, which is a problem next to a hospital, major University, and downtown urban center.[5]

Therefore, the Zoning Examiner cannot reasonably make a finding that TEP's project does not adversely affect adjacent land uses or the surrounding neighborhood or that such adverse effects can be substantially mitigated by additional conditions as required by UDC 3.4.5.A.2.

2. **TEP's application does not meet the requirements of UDC section 3.4.5.A.5.**

UDC 3.4.5.A.5 says: *"To grant a special exception the PDSD Director and the Zoning Examiner must find that the requested special exception: Complies with the General Plan and any applicable sub-regional, area, or neighborhood plan."*

As outlined above, Plan Tucson 2025 and the UAP emphasize pedestrian-friendly infill development along arterial and collector streets on the outer edges of urban neighborhoods. Central Tucson—especially in the high-density, historic University area—has no transmission lines and does not have significant setbacks between the road, sidewalks, and private property. Therefore, the negative effects of a new above-ground transmission line are maximized. Furthermore, UMC Banner testified that looking out a window at a transmission line "interferes with the whole purpose" of new high-density development, even when it is hundreds of feet away.[6] That is undoubtedly an expectation shared by all who live and invest under the City's plans. TEP's application does not comply with the development goals or guidelines of Plan Tucson 2025 or the UAP.

All simulations in TEP's application show new poles and above-ground lines. The UAP requires utilities to underground new lines "wherever possible." Similar language can be found in Plan

[2] ACC Testimony 7, 8, 9, 10.
[3] See July 19, 2024 ACC Transcript and TEP CEC draft exhibits.
[4] https://docket.images.azcc.gov/E000036440.pdf
[5] ACC Testimony 15.
[6] ACC Testimony 3, 4, and 5.

Tucson 2025. By TEP's own admission under oath, it is possible to underground these new transmission lines.[7]

Therefore, the Zoning Examiner cannot make a finding that TEP's project is compliant with plans as required by UDC 3.4.5.A.5.

3. **Disruption will occur either way.**

Another argument TEP has made is that undergrounding transmission lines is so disruptive to neighborhoods and traffic that it defeats the very policy of undergrounding. Setting aside the ridiculousness of that argument, TEP is already required by the ACC to underground distribution lines parallel to these transmission lines.[8] TEP testified that undergrounding distribution lines requires the same minimum depth and similar width of a trench as transmission lines, and that it takes the same amount of time.[9,10] Therefore, even were TEP's argument not ridiculous, it is moot because significant disruption will occur either way.

VI. CONCLUSION

For the aforementioned reasons, the Zoning Examiner cannot reasonably find that TEP's application meets the special exception requirements of UDC 3.4.5.A.2 or UDC 3.4.5.A.5. As such, the application must be denied.

The only realistic way for the project to be approved is for TEP to underground the new transmission lines where required by City plans. The many excuses and roadblocks fabricated by TEP over the years have failed to withstand basic due diligence. Other Arizona electric utilities have performed similar undergrounding for decades without issue—even when it was not required by plans and ordinances. TEP reasonably knows or should know how its application is going to be examined given the May 2021 Zoning Examiner's decision. Yet here we are five years later with a substantively identical application.

Please follow the decisions of prior Zoning Examiners, the will of the people as expressed in our duly adopted plans and ordinances, and deny this application.

RESPECTFULLY SUBMITTED this 19th day of January, 2026.

/s/ Daniel Dempsey
By Daniel Dempsey
Executive Director
Underground Arizona

[7] ACC Testimony 1 and 2.
[8] CEC Condition 16.
[9] ACC Testimony 12.
[10] ACC Testimony 13 and 14.