

EXHIBIT 21

TO COMPLAINT FOR SPECIAL ACTION

FRANTI III HOLDINGS, LLC, ET AL V. CITY OF TUCSON



Tucson Electric Power
88 East Broadway Blvd., Post Office Box 711
Tucson, Arizona 85702

February 10, 2026

VIA E-Mail (John.Beall@TUCSONAZ.GOV, TucsonRezoning@tucsonaz.gov)

Jim Mazzocco
Zoning Examiner
City of Tucson
Planning & Development Services Department
201 North Stone Avenue
P.O. Box 27210
Tucson, AZ 85726

Subject: City of Tucson Zoning Examiner Continuance: Request for Additional Information

Mr. Mazzocco,

Tucson Electric Power Company (TEP) has requested a Special Exception Land Use Permit (SELUP) for the 138 kilovolt (kV) Vine Substation (Vine Substation). The request was presented at the City of Tucson Zoning Examiner (ZE) hearing on January 29, 2026. At the conclusion of the hearing, ZE Jim Mazzocco issued a two-week continuance to allow TEP to prepare responses to three (3) requests.

- 1. Address as best you can, the impact on historic neighborhoods of the line (MRP 138 kV transmission line) that you have here.*
- 2. I would like you to look at the University Area Plan and look at that and its impact on your line and where there are possibilities of doing something a little out-of-the box, if you will.*
- 3. Look at both of those and tell me as clearly as you can the feasibility and costs that are involved, and the costs, what I am saying, "general costs", you don't have to get down to detailed costs, but the feasibility and costs to your company to put underground in those particular kinds of areas of a historic neighborhood, near a historic neighborhood or near the university area plan.*

... "I would like to have that in writing where you've thought about it a little bit and talked to your colleagues about that"

The Zoning Examiner's requests pertain to the approved Midtown Reliability Project's 138 kV transmission **line** (MRP Line), which is not the subject of the current SELUP request and is not something over which the ZE has jurisdiction as part of this request. The construction of the MRP Line has been approved by the Arizona Corporation Commission (ACC) through the issuance of a Certificate of Environmental Compatibility (CEC) following a 2-week public hearing in which the City of Tucson, Underground Arizona, and other interested stakeholders were parties.

Further, the construction of the MRP Line across Gateway Routes has been previously resolved through a zoning examiner hearing and Mayor and Council proceeding in which Mayor and Council authorized the construction of the line across Kino Parkway (at 36th), Broadway (at Euclid) and Oracle (at Grant). Underground Arizona and numerous public stakeholders were also active participants in the Gateway Route crossing proceedings.

To be crystal clear: **the MRP Line has been approved for construction in an overhead fashion, except for an underground crossing at Broadway/Euclid, and TEP will build the line according to requirements of the CEC and Mayor and Council crossing authorizations regardless of whether the Vine SELUP is approved or denied.**

Nevertheless, TEP appreciates and understands that the Zoning Examiner has not been involved in prior proceedings and public outreach over the last several years and we are thankful that the ZE is taking a prudent approach to understand the full history. TEP is therefore providing the necessary background information regarding the ACC's issuance of the CEC for the MRP Line as well as the previous SELUP process in which Mayor and Council authorized the construction of the line across certain Gateway Routes. In addition, TEP will also address the Vine Substation's Special Exception compliance with historic neighborhoods and the University Area Plan (UAP).

The ACC Approves the Location of a Transmission Line Through a Public Process Background

In the state of Arizona, prior to construction of a transmission line (115 kV or greater), state law (A.R.S. § 40-360.03) requires that a utility must obtain a CEC from the ACC. A CEC is the order authorizing the specific route where the transmission line may be located. The process is public at every stage and begins with a robust public outreach process before the submission of an application to the Arizona Power Plant and Transmission Line Siting Committee (the Committee) that, per A.R.S. § 40-360.06, considers a number of environmental factors:

1. Existing plans of this state, local government and private entities for other developments at or in the vicinity of the proposed site.
2. Fish, wildlife and plant life and associated forms of life on which they are dependent.
3. Noise emission levels and interference with communication signals.
4. The proposed availability of the site to the public for recreational purposes, consistent with safety considerations and regulations.
5. Existing scenic areas, historic sites and structures or archaeological sites at or in the vicinity of the proposed site.
6. The total environment of the area.
7. The technical practicability of achieving a proposed objective and the previous experience with equipment and methods available for achieving a proposed objective.
8. The estimated cost of the facilities and site as proposed by the applicant and the estimated cost of the facilities and site as recommended by the committee, recognizing that any significant increase in costs represents a potential increase in the cost of electric energy to the customers or the applicant.
9. Any additional factors that require consideration under applicable federal and state laws pertaining to any such site.

In addition to these substantive factors, the Committee is required to ensure that there was extensive public engagement including, per A.R.S. § 40-360.05, the opportunity for verbal and written public comment, the right of the county, city or state agency to intervene as a party, the right of environmental conservation and beautification organizations to intervene as a party, and the right of other relevant stakeholders to intervene as a party. The Committee presides over a trial in which all relevant stakeholders may present evidence and all relevant comments from the public are considered before a decision can be made (A.R.S. § 40-360.04) (A.R.S. § 40-360.05).

The MRP Line's Approval

In July 2024, a two-week public hearing was held in Tucson, Arizona. Underground Arizona, the City of Tucson, and Pima County were intervening parties in the case. During the case, opponents of the line raised nearly identical arguments against the line's construction as has been submitted in this current SELUP request for the Vine Substation. Opponents argued against locating the line along certain roads and advocated for the entirety of the line to be built underground. These points of opposition were the subject of *exhaustive* evidentiary and legal analysis at the CEC hearing. Crucially, as will be discussed more fully below, one of the ZE's requests – compliance with the UAP – was also specifically litigated in the hearing where it was agreed by the City and determined by the Committee that the UAP does not require building the MRP Line underground.

Based on the evidence and legal arguments presented by all stakeholders, both supporting and opposing the MRP Line, the Committee issued a written recommendation to the ACC to approve the construction of the MRP Line. The ACC reviewed that recommendation and issued the CEC on September 13, 2024.¹ The Conditions and Findings of Fact and Conclusions of Law incorporated in the CEC fully and finally resolve matters concerning the need for the MRP Line and its impact on the environment and ecology of surrounding areas. These conditions also incorporated measures to address concerns raised by Underground Arizona, City of Tucson, and members of the public. Included in the Conditions and Findings are requirements that TEP also comply with local statutes, ordinances, master plans and regulations of any government with jurisdiction which include:

- Impact of the MRP Line on historic neighborhoods,
- Applicability of the UAP to the MRP Line, and
- Feasibility and cost of undergrounding the MRP Line.

Below are TEP's responses to the Zoning Examiner's requests addressing the concerns listed above. Excerpts from the CEC Conditions and Findings of Fact, CEC application materials, and CEC hearing testimony are referenced and attached for the Zoning Examiner's full review.

¹ ACC Decision no. 79550

Request 1:

Address as best you can, the impact on historic neighborhoods of the line (MRP 138 kV transmission line) that you have here.

Response:

During the MRP line siting process, TEP contracted Tierra ROW Services and The Architecture Company to complete an assessment and analysis of potential impacts to historic properties and districts located near the MRP Line.² TEP presented the results in the CEC application and the hearing which concluded (p 5):

Although all routes will have a negative visual impact to the surrounding historic districts, structures that are located directly adjacent or in front of a proposed power pole will have the greatest impact. It has been confirmed with the City of Tucson Historic Preservation Officer that no historic contributing property, individually listed property or historic district will be removed or delisted as a result of any power pole location or transmission line. The historic significance of any contributing property, landmark or district identified as historically significant by the City of Tucson, Pima County, the State Historic Preservation Office and/or the National Register of Historic Places will not be diminished.

The Committee and ACC considered this and all other evidence presented when it authorized the construction of the MRP Line. The Committee also clarified the legal requirements applicable to all utility work in this State that obligates TEP to coordinate with the State Historic Preservation Office (SHPO) if, during the construction, any archaeological, paleontological, historical site or significant cultural objects are discovered during the course of construction.³

Finally, during the Vine Substation site selection (pg. 2, Vine Substation SELUP Application), one of the site selection criteria was avoiding historic properties. The Vine Substation location is outside the Jefferson Park historic district and its historic contributing properties, as seen in **Figure 1** below.

² *Historic District Analysis. Report, May 17, 2024*

³ *ACC Decision no. 79550, condition 7*



Figure 1

Both the ACC and the Line Siting Committee concluded the MRP Line does not affect any historical neighborhood. TEP is legally bound by this conclusion. Under the conditions of the CEC, TEP is required to engage SHPO if, during construction, historically sensitive sites or artifacts are discovered.

Request 2:

I would like you to look at the University Area Plan and look at that and its impact on your line and where there are possibilities of doing something a little out-of-the box, if you will.

Response:

The University Area Plan (UAP) is being sited to by opponents of the Vine Substation and MRP Line as a legal authority requiring underground utilities. This was specifically litigated during the CEC hearing as was the issue of whether the City of Tucson's Gateway Corridor Zone ordinances can require that portions of the MRP Line be undergrounded. The City of Tucson, through its attorney, gave the following testimony confirming that the UAP has no authority over the MRP Line and that the only portion of the MRP Line potentially subject to undergrounding requirements are the segments that cross Gateway Routes, specifically, Kino at 36th, Broadway at Euclid, and Oracle at Grant. The testimony is as follows:

"And so the discussion has been prior that because of the uncertainty that whether or not this complies -- the request -- requested special exception would -- would comply with the University Area Plan,

there's been a discussion that perhaps the – a condition of the special exception would be that you'd have to underground everywhere within the University Area Plan. And I would suggest that's just a red herring, because here's what could happen and what decision could be made.

*There are three intersections. The only concern I think I heard from Mr. Bryner is that Broadway intersection as it relates to the University Area Plan, and that is the only intersection within the University Area Plan. A special exception process could be -- could proceed on that intersection, and if it fails only underground that intersection. So, there is **no way** in the applicant's preferred route that you would ever have to underground 3.2 miles. In fact, you would never have to underground more than those three intersections" (pgs 1914-15). ⁴*

"So, more important, though, the University Area Plan is not either an ordinance nor a master plan, nor a regulation. Master plan in this context is something like what Banner has, a planned area development, and you heard Mr. Castro talk about that. That is not a neighborhood or a specific plan. Nor is it a regulation. And you heard Mr. Castro talk about that as well" (p 1927). ⁵

Mark Castro, City of Tucson Planner, testified at the ACC hearing regarding the authority of the University Area Plan to require undergrounding:

Question asked by TEP counsel Meghan Grabel. Response provided by Mark Castro, COT Planner.

Q. "Thank you. And now I'll ask you to turn to page 35. No, page 30. I'm sorry. 35 is -- And this is where the language regarding undergrounding is found. And it's entitled under -- it's in a section entitled "Public Services." And if you'll see, it says, "Goal is to ensure an adequate supply of high-quality public services to meet the current and projected needs of university areas and residents."

"And if you hop down to 6 it says, "Wherever possible place utility and service equipment underground or in visually screened locations."

"Would you agree that that language does not mandate the underground construction of transmission lines?"

A. "I would say so."

It was therefore agreed by the City of Tucson, and concluded by the Committee and ACC, that the UAP does not place any requirements on undergrounding any portion of the MRP Line. It certainly places no requirements on anything associated with the Vine Substation which, even if the MRP Line was built underground, would still need to be constructed in nearly identical fashion (e.g. there is no such thing as an underground 138kV substation).

⁴ Midtown Reliability Evidentiary Hearing, July 18, 2024

⁵ Midtown Reliability Evidentiary Hearing, July 16, 2024

TEP has Completed Substantial Outreach and Engagement Efforts

During the MRP project's development, TEP held over 50 meetings with neighbors and stakeholders discussing the impacts of the transmission line on individuals, neighborhoods, the community, and on environmental factors. **Figure 2** below demonstrates the extensive outreach and engagement plan TEP completed leading up to the CEC hearing.

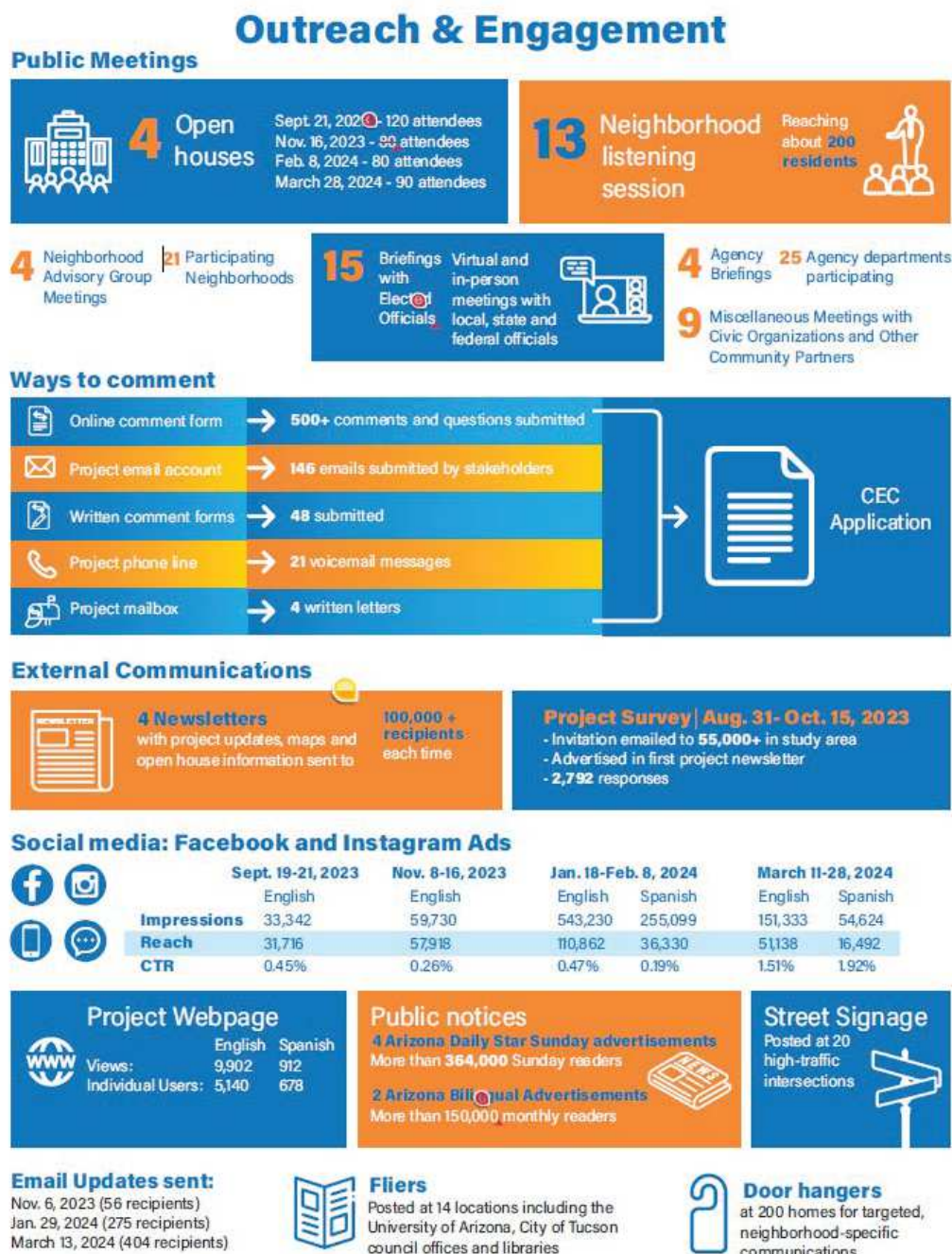


Figure 2

As a result of the meetings with the public and stakeholders, TEP proposed these conditions that were then adopted in the CEC.⁶

15. The Applicant shall remove all 46 kV substations and lines, including wires, poles, and other equipment, that are no longer required as a result of the upgraded 138 kV substation and transmission line. Removals are estimated to begin in 2027 and complete by 2037, based on an estimated in-service date of the Vine Substation and associated 138 kV transmission line in 2027.

16. The Applicant shall move all existing parallel overhead lower voltage *distribution lines underground, currently located within the same road right-of-way as the Project as constructed. The Applicant shall notify all joint use attachers within six (6) months of Certificate approval so they can begin design to relocate their facilities.*

17. *The Applicant shall collaborate with each neighborhood and/or neighborhood association that parallels the route in which the Project is ultimately constructed on residential roads to determine the preferred transmission pole finish for that neighborhood. Pole finishes may include weathering steel, galvanized, or painted in Mojave Sage. In the event the neighborhood cannot decide on a preference following a good faith effort, the Applicant will use the preferred weathering steel pole finish.*

18. *The Applicant will work with the City of Tucson, as part of the Project, to discuss the potential to incorporate any right-of-way enhancements into the approved route including, but not limited to, multi-use pathways, chicanes, artwork, and landscaping.*

In compliance with these conditions *which TEP voluntarily proposed*, after the CEC approval, TEP continued to conduct public outreach with willing neighborhood associations including allowing them to choose the transmission structure finishes to be used in their neighborhood area.

TEP will Underground Existing Distribution and Retire 46 kV Substations and Overhead Lines

As part of the ACC Decision,⁷ TEP will comply with Finding 5 (below), undergrounding approximately 6.3 circuit miles of distribution lines, and 20.2 miles of communication cables. This equates to 100% of the overhead distribution circuits being undergrounded along the MRP route. Along with the circuit undergrounding, eight existing 46 kV substations and 19 miles of existing 46 kV lines will be retired.

5. As part of the Project as conditioned by this Certificate, TEP will relocate existing overhead distribution lines below ground along the selected route (6.3 circuit miles and 20.2 miles of communication cables).

Additionally, the Project will enable the retirement of up to eight existing 46 kV substations and approximately 19 miles of existing 46 kV lines in the next ten years.

⁶ ACC Decision no. 79550, Conditions

⁷ ACC Decision no. 79550, Findings of Fact

Careful Selection of the Vine Substation Site

TEP acquired the Vine Substation parcel from the Arizona Board of Regents in 2020. Historically, the substation parcel was part of the UA Campus Planning Area, seen in purple in **Figure 3**.

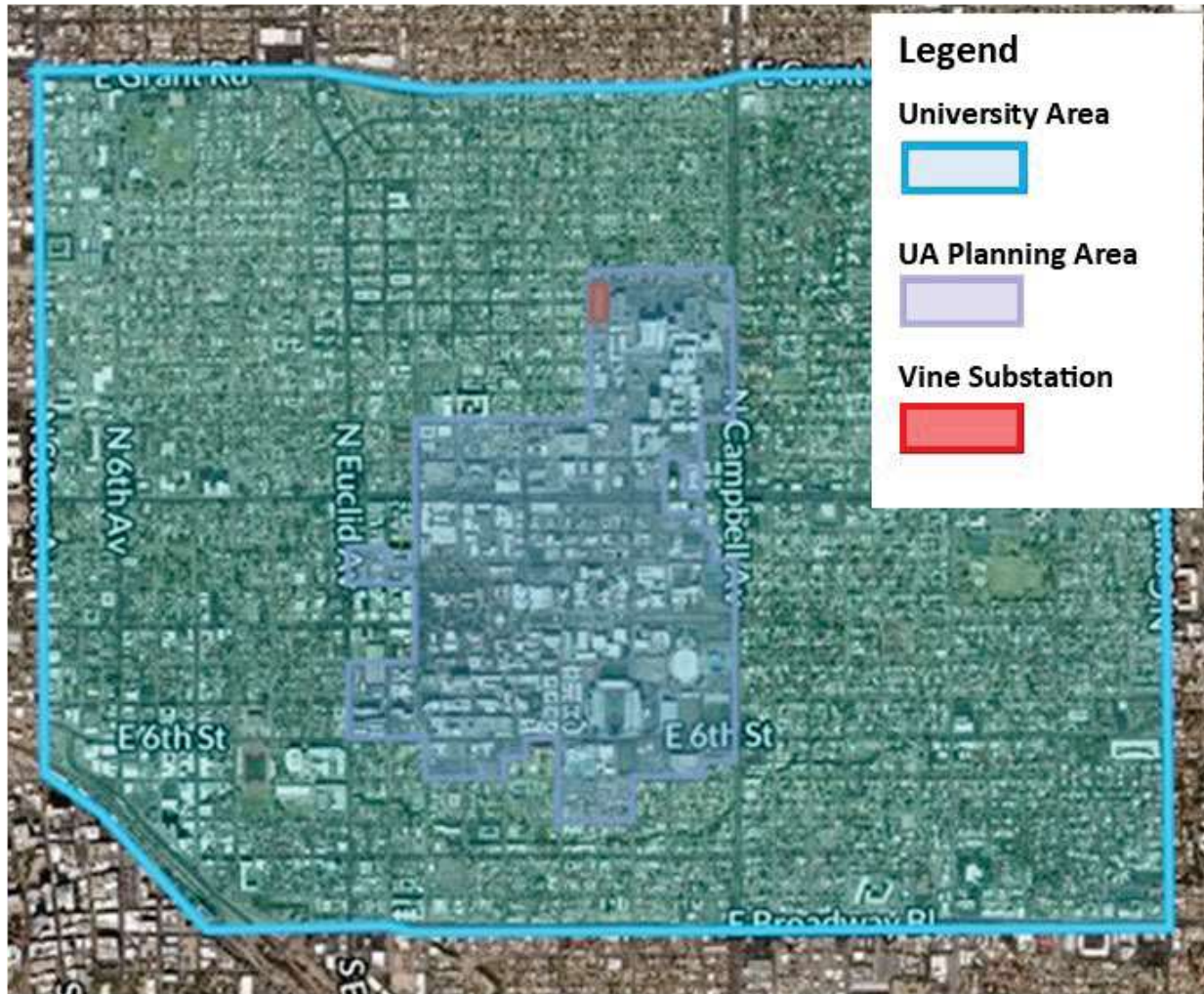


Figure 3

Early in the Vine Substation SELUP process, discussions were held with the City of Tucson's Planning and Development Services Department (PDSD) staff that addressed the substation's compliance with the UAP, summarized as follows:

TEP met with the Jefferson Park Neighborhood Association, local landowners, PDSD staff, and the University of Arizona Facilities Management department to address their concerns and specific goals and policies of the *University Area Plan*. Specifically, the pertinent goals and policies of UAP Sections 1, 3, 6, and 8 were addressed with public outreach and these proposed engineering and design measures:

- Public notification for the public meeting exceeded the UAP requirements along with a project webpage that provided project updates and additional information from public correspondence.
- Sensitivity to surrounding uses and aesthetic concerns were addressed by visually screening the substation with an enhanced masonry security wall matching the existing UA institutional red-brick material and design.
- Proposing an enhanced landscape bufferyard along Vine Avenue with drought-tolerant landscaping compatible in scale, character, and use pattern with established neighborhood landscape/streetscape.
- Improving the electric-system reliability with the conversion to a 138 kV-13.8 kV system from the 46 kV- 4 kV system.
- Respecting the historic neighborhood character by placing the substation outside of historic districts.
- Utilization of Defensible Space Guidelines with 0' setbacks next to compatible uses.

Request 3:

Look at both of those and tell me as clearly as you can the feasibility and costs that are involved, and the costs, what I am saying, “general costs”, you don’t have to get down to detailed costs, but the feasibility and costs to your company to put underground in those particular kinds of areas of a historic neighborhood, near a historic neighborhood or near the university area plan.

...“I would like to have that in writing where you’ve thought about it a little bit and talked to your colleagues about that”

Response:

The feasibility and cost of undergrounding the MRP Line is not before the Zoning Examiner, is beyond the scope of this SELUP proceeding addressing only the Vine Substation, and has been extensively litigated in three separate matters: (i) the two-week hearing before the line siting Committee, approving the line being built in an overhead route (ii) the SELUP process, including an appeal to Mayor and Council, concerning the undergrounding requirements of the Gateway Corridor Zone ordinances, concluding with Mayor and Council authorizing overhead crossings of Kino at 36th and Oracle at Grant, but requiring underground crossing of Broadway at Euclid, and (iii) litigation within the Superior Court between the City and TEP, Case No. C20235484, in which the court concluded that the MRP Line is not exempt from Gateway Zone ordinances. Each of these proceedings were public, each included the City as a party, and all concluded with final orders that are binding upon TEP, the City, and other intervening parties. Accordingly, it is TEP’s position that it is improper and beyond the scope of the Zoning Examiner’s authority to allow a collateral attack on the final orders in each of these three proceedings, and it is additionally improper to allow such attacks to color the straightforward analysis of the Vine Substation SELUP request. It is not lost on TEP, and it should not be lost on the Zoning Examiner, that opposition to

the Vine Substation SELUP has nothing to do with Vine Substation, itself, but rather is grounded on opposition to the MRP Line and the misguided belief that approval of the Vine Substation SELUP can be conditioned upon undergrounding the MRP Line or that the denial of the Vine Substation SELUP will cause the MRP Line not to be built. Neither of these are accurate.

With that background in mind, TEP will respond to the Zoning Examiner's request. The CEC Findings of Fact addressed the feasibility and costs of undergrounding the MRP line. Those findings are below:⁸

3. Constructing the Midtown Reliability Project below ground is not needed for safety, reliability, or other utility operational reasons.

4. Evidence in the record indicates that constructing portions of the Project below ground could be more expensive than constructing the route entirely above ground.

8. In light of the incremental cost of building the Project underground compared to overhead, the Applicant requested a finding from this Committee that any local ordinance or plan that would require underground construction of the Project was "unreasonably restrictive and [that] compliance therewith is not feasible in view of technology available" pursuant to A.R.S. § 40-360.06(D).

9. The City and Underground Arizona disagree that a finding of fact pursuant to A.R.S. § 40-360.06(D) is necessary and believe that it is feasible to construct the Project consistent with local ordinances and plans with the technology available and those local ordinances are not unreasonably restrictive. The Parties have reserved and asserted all rights to judicial relief on this issue.

10. However, given the Commission's Policy Statement found in Decision No. 79140 (October 4, 2023), the Committee finds pursuant to A.R.S. § 40-360.06(D) that any local ordinance or plan that requires TEP to incur an incremental cost to construct the Project below ground "is unreasonably restrictive and compliance therewith is not feasible in view of technology available." This finding is conditioned on the City and TEP not finding a means to, within six (6) months of the date of the Commission's approval of this Certificate, either (a) fund the incremental cost to construct the Project below ground from a source other than through TEP's utility rates or from TEP, its affiliates, subsidiaries, or parent companies absent agreement between the parties, or (b) obtain the City's authorization to construct the Project above ground through the City's special exception or variance process, provided that TEP files a special exception or variance application for the route approved within ten (10) weeks of the Commission's approval of this Certificate.

11. A.R.S. § 40-360.06(D) provides that "[w]hen it becomes apparent to the chairman of the committee or to the hearing officer that an issue exists with respect to whether such an ordinance, master plan or regulation is unreasonably restrictive and compliance therewith is not feasible in view of technology available, the chairman or hearing officer shall promptly serve notice of such fact by certified mail on the chief executive officer of the area of jurisdiction affected and, notwithstanding any provision of this article to the contrary, shall make such area of jurisdiction a party to the proceedings on its request

⁸ ACC Decision no. 79550, Findings of Fact

and shall give it an opportunity to respond on such issue." The City of Tucson was provided notice and made a party to the proceedings under this provision and was provided an opportunity to respond.

Based upon the above, the Zoning Examiner can clearly see that the issue of feasibility and cost of undergrounding has previously been *heavily* litigated and is now resolved. Indeed, referencing Finding 10 above, the City and TEP *have* found a means to construct the entire MRP Line, including addressing all undergrounding requirements applicable to the line, as reflected by the Mayor and Council's approval of the three Gateway Route crossings.

Conclusion

TEP greatly appreciates the Zoning Examiner's careful attention being given to this matter. We understand that some of this response is quite direct, but TEP believes it is crucial for the Zoning Examiner to have a complete understanding of the project's background, of the legal proceedings that have previously occurred, of the final orders that are already in place controlling the line's location and construction, and of the inapplicability of any of that on the Vine Substation SELUP request.

Additionally, we also want to acknowledge and express our appreciation for staff's thorough review of the Vine Substation SELUP request. Their recommended approval, along with the preliminary conditions, reflects a careful and balanced consideration of the project and its community context. TEP values the professionalism and diligence demonstrated throughout the review process.

We look forward to the continued hearing and will be more than willing to answer any additional questions or provide any additional clarification that you may require.

A handwritten signature in black ink, appearing to read 'SE', with a stylized, flowing design.

Steven Eddy
Director, Public Affairs
UNS Energy Corp. | TEP & UES

References

Arizona Corporation Commission. "07_07-16-2024_CORRECTED_TEP_Midtown Reliability_Evidentiary Hearing – LS 232_FullSize." Corrected exhibit presented at evidentiary hearing in TEP Midtown Reliability Project, LS 232, July 16, 2024.

Arizona Corporation Commission. "07_07-18-2024_CORRECTED_TEP_Midtown Reliability_Evidentiary Hearing – LS 232_FullSize." Corrected exhibit presented at evidentiary hearing in TEP Midtown Reliability Project, LS 232, July 18, 2024.

Arizona Corporation Commission. MRP Decision, Docket no. L-00000C-24-0118-00232, Case no. 232, Decision no. 79550, September 13, 2024.

The Architecture Company, and Tierra Right of Way. TEP Midtown Reliability Project: Historic District Analysis. Report, May 17, 2024.