

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

PCN 2

In the Matter of

TILLAMOOK PEOPLE'S UTILITY
DISTRICT,

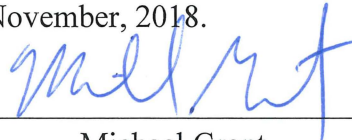
Petition for Certification of Public
Convenience and Necessity.

NOTICE OF *EX PARTE*
COMMUNICATION

On October 31, 2018, Commissioner Stephen M. Bloom received an electronic mail message from David McClain, a member of the public. The message contains information that relates to the merits of an issue pending in this proceeding. Commissioner Bloom did not reply to the message. A copy of the message is attached.

Although Mr. McClain is not himself a party to this proceeding, the nature of the message suggests that the message was sent on behalf of a party or a person with interests similar to those of a party. Accordingly, I deem the message to be an *ex parte* communication in this proceeding under OAR 860-012-0015 and provide notice of its filing to all parties in this docket. Moreover, a copy of this notice will be made part of the official record in this proceeding. Parties have the right to rebut the communication within 10 days of this notice, with service to all parties of record.

Dated at Salem, Oregon, this 1st day of November, 2018.



Michael Grant
Chief Administrative Law Judge
Administrative Hearings Division

Attachment



Tillamook Hearing

2 messages

David McClain <david@dwmac.com>
To: Steve Bloom;

Wed, Oct 31, 2018 at 11:06 AM

Hi,

You are going to Tillamook for a hearing tomorrow. It is about the Tillamook PUD 115 kV transmission line petition for Certificate of Convenience and Necessity. I have some advice for you.

It is all about the easements. The TPUD has not offered a form of easement to the Dairy Farms that is remotely reasonable. In fact it looks like an old PacifiCorp easement from Wyoming. One page, give us your land and shut up.

Here are three critical issues with regard to the easements.

1) Bio-security: Dairy operations are not cattle ranches. Each dairy must control vectors entering into the pasture to maintain herd health. Moving transmission line construction equipment between dairies will move manure from one dairy to the next. The Plan of Operations the TPUD gave the PUC does not even discuss this. They say they will use Best Management Practices. In other words, "Trust Us". From a dairy operations perspective that means that the equipment must be washed prior to entering into each separate dairy. My brother in laws cows are very valuable. He sells prime breeding cows with high milk production for over \$10,000 per cow. He has a closed dairy. No cows are allowed in. They breed the herd at the farm. No trucks are allowed onto the pasture. All vehicles and tractors used on the pasture are not used anywhere else. So Bio-security is a big thing. The TPUD seems to ignore this and the farmers want easements that guarantee their bio-security.

2) Herd disruption. Dairy cows don't like excitement. They have a very slow and quiet life. That makes for good milk production. Equipment operations, multiple trucks, etc. will impact milk production. The TPUD seems to be not-receptive to talking about how to minimize these impacts. Each dairy is set up differently. The disruption impacts can be huge. In our case, about 1/3 of the pasture will be cut off from the rest of the dairy during construction. That is a lot of feed that is not available to the cows so we would have to buy that feed (hay from Christmas Valley) to replace the pastures.

Because of bio-security concerns we will want to keep the cows out of the construction area until the line is built and there are no more trucks coming and going. This could be months.

3) Fences, Roads and Gates. The transmission line will cut across pastures. This will require significant fence enhancement to isolate pastures from the transmission line. At least provide the ability to isolate the transmission line from the dairy barn side of the easement. This is to keep cows away from construction or maintenance operations while allowing cows to access the milking parlor. (3 times a day). Gates and road entries have to be steel tube gates, not wire gates. Fences will need to be grounded. Access roads have to be constructed and finished as cow paths. The PUD will need to put down stone sub-base rock across these pastures because of the amount of rain, all roads need to be built up. Large stones bruise the hoofs and cause hoof rot. The construction access and maintenance roads to poles across pastures have to be finished to meet cow path criteria. Either cement or the road base is crowned with 6" to 10" of crushed gravel with clay mix and shoulders dressed down to the grass, so that cows can walk over the road and down the road without bruising the hoofs.

These are just three issues. There are many more. The TPUD wants the PUC to grant them the power of Eminent Domain and offered to the PUC as evidence their form of easement. But their own plan of operations, form of easement and general description lacks detail discussion of how they will mitigate impacts on dairy operations, work with each dairy to tailor a plan for each separate dairy so that they minimize the impacts to these small business operations.

Loss of several weeks of pasture use is a major impact. Putting a transmission line across a set of pastures will be very disruptive and will change how the dairy operates. The TPUD seems to be unwilling or unable to discuss this. They want the PUC approval, then they will negotiate easements.

I think you should ask some questions regarding how they are working with farmers on easement. Ask them how they plan to address bio-security for each dairy. Ask for examples. Bottom line, I think the PUC should tell the TPUD to go back and bring the PUC some easements that are tailored to meet dairy farm operations before asking for Eminent Domain power. **It is all about the easements.** They failed to provide the PUC the forms of easement that would be considered reasonable and compatible with dairy operations. One form of easement, the terms and conditions does not fit all land uses. The form of easement that the TPUD provided to the farmers and to the PUC sucks. You would never have written or offered the form of easement that the TPUD is pushing. I have drafted an easement for my brother in law that takes into consideration a lot of farm specific issues. The TPUD appears to not want to discuss any of these issues until they have the PUC Certificate of Convenience and Necessity. I think you should ask some questions and demand some answers.