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August 19, 2016

Public Utility Commission of Oregon
PO Box 1088,
Salem, OR 97308-1088
Attn: Filing Center

Re: Umatilla Electric Cooperative's
Petition for Certificate of Public Convenience and Necessity

Dear Filing Center:

Enclosed for filing is Umatilla Electric Cooperative's Petition for Certificate of Public Convenience and Necessity ("Petition"). Pursuant to our discussion with Commission staff, we are submitting an electronic copy of the Petition to the Filing Center, along with supporting testimony. Given the size of the exhibits to the testimony, however, the exhibits are being submitted only in hard copy and on disk, all of which are being mailed today.

The complete filing contains the following:

1. Petition
2. Pre-filed Testimony of Louis S. Toth, PE (UEC/100) ("Toth Testimony")
3. Exhibits UEC/101 through UEC/109 of the Toth Testimony
4. Pre-filed Testimony of Robert Echenrode (UEC/200) ("Echenrode Testimony")
5. Exhibits UEC/201 through UEC/205 of the Echenrode Testimony

Please note that Exhibit UEC/103 is confidential and is being submitted confidentially pursuant to OAR 860-001-0070 in a redacted form with this filing. A non-redacted, confidential version of that exhibit will be transmitted to the Commission under separate cover. UEC intends to file a motion for a protective order.

Very truly yours,



Tommy A. Brooks

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

PCN-1

In the Matter of the Petition of
UMATILLA ELECTRIC COOPERATIVE
**PETITION FOR CERTIFICATE OF
PUBLIC CONVENIENCE AND
NECESSITY**

**PETITION FOR CERTIFICATE OF
PUBLIC CONVENIENCE AND
NECESSITY**

Pursuant to ORS 758.015 and OAR 860-025-0030, Umatilla Electric Cooperative (“UEC”) petitions the Public Utility Commission of Oregon (“Commission”) for a Certificate of Public Convenience and Necessity (“CPCN”) authorizing the construction of a five (5) mile overhead transmission line from a breaker in the McNary Substation owned by the Bonneville Power Administration (“BPA”) to UEC’s existing Hermiston Butte Substation (“Transmission Line”). In support of this Petition, UEC relies in part on the prefiled testimony of Robert Echenrode and Louis S. Toth, included with the filing, and states the following:

I. Introduction

UEC provides electric service to its Oregon members in Morrow, Umatilla, Union and Wallowa counties. UEC’s service territory is located west of Boardman in Morrow County and covers much of Umatilla County, surrounding the cities of Hermiston and Pendleton and into the Blue Mountains. UEC was originally incorporated in 1937. As a consumer-owned utility, UEC is not subject to the Commission’s jurisdiction with regard to its rates, service and accounting practices.

ORS 758.015(1) requires all utilities, including consumer-owned utilities, proposing to construct overhead transmission lines to petition the Commission for a CPCN if a transmission line will necessitate condemnation of land or an interest in land. ORS 758.015(2) requires the Commission to give notice of this Petition and to hold a public hearing. The Company respectfully requests that the Commission provide public notice of a hearing within thirty (30) days of receiving the Petition, hold the public hearing within ninety (90) days after the date of the Petition filing, and issue a final determination within 30 days after the public hearing. This recommended schedule is informed by ORS 758.435(2), which governs the designation of exclusive service area and requires a thirty (30) day notice of application. Like the allocation of service territory, the requirement to obtain a CPCN implements statutes relating to avoiding the duplication of facilities. The timing is also critical for UEC to be able to acquire the necessary land rights to move the project forward, which is needed to enhance system reliability for existing and new members.

The Transmission Line is needed to adequately provide reliable service to existing and new member loads in the City of Hermiston and UEC's surrounding service territory. The members served in the area are diverse and include residential, small commercial, large commercial, industrial, and irrigation uses. The area to be served by the proposed Transmission Line is primarily served from a 115 kV line owned by UEC and also sourced from BPA's McNary Substation.¹ The existing 115 kV line has limited capacity from ampacity and voltage standpoints under single contingency situations and has limited reliability, and has subjected UEC members to outages. With the load growth UEC has and continues to experience, reliability issues on the

¹ Confidential Exhibit UEC/103.

existing 115 kV line are expected to increase. The proposed Transmission Line will increase system reliability and ensure that UEC can adequately serve its existing and future members.

Communications regarding this Petition should be addressed to:

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and

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II. Legal Standard

Under ORS 758.015, an electric utility must petition the Commission for a CPCN when condemnation of land is necessary for the construction of an overhead transmission line. As explained in more detail below, UEC has obtained consent to construct the Transmission Line from a majority of property owners along the route. Further, UEC remains optimistic that it will continue to obtain property owner consents, reducing the likelihood that condemnation will be necessary. However, out of an abundance of caution, and in anticipation that a small number of property owners may not provide timely consent, UEC is submitting this application in the event condemnation is ultimately required.

Upon receipt of a petition, the Commission must conduct an investigation to “determine the necessity, safety, practicability and justification in the public interest for the proposed transmission line....”² The Commission considers the “public interest” when addressing each of these requirements, not as a separate standard.³ The Commission must also determine whether the proposed Transmission Line is compatible with local land use regulations.⁴

III. Compliance with OAR 860-025-0030 Filing Requirements

A. OAR 860-025-0030(1)(b): Information required under OAR 860-025-0005.

OAR 860-025-0005 requires that an application for a CPCN “comply with all other applicable Commission rules.” Other than procedural rules, which UEC will follow, no other Commission rules apply to this application.

B. OAR 860-025-0030(1)(b): Detailed description and purpose of the proposed transmission line.

1. Detailed Line Description

UEC's proposed Transmission Line will be operated at 115 kV and will be sourced from a breaker in the McNary Substation owned by BPA. The proposed Transmission Line will run approximately five (5) miles south from the McNary Substation and terminate at UEC's existing Hermiston Butte Substation.⁵ To reduce the physical disruption to the community, most of the Transmission Line will be overbuilt or rebuilt on existing electrical 12.47 kV distribution

² ORS 758.015(2).

³ See *Pacific Power Petition for Public Convenience and Necessity*, UM 1495, Order No. 11-366 (Sept. 22, 2011).

⁴ OAR 860-025-0030(2).

⁵ Exhibit UEC/102.

circuits, thus making effective use of the existing electrical line routes in the area. The proposed line route has been used for a smaller transmission line, part of which has been retired.

BPA's McNary Substation, the northern terminus of the line, is an existing major transmission switching station with numerous lines running north, east, south and west from the substation. The numerous existing transmission lines include voltages of 69 kV, 115 kV, 230 kV, 345 kV, and 500 kV. BPA's McNary Substation receives power from the adjacent McNary lock and dam hydroelectric facility, in addition to area gas generating plants and solar and wind generation plants. The McNary Substation complex has several voltage transformation facilities linking the different system voltages at the facility.⁶

UEC's Hermiston Butte Substation, the southern terminus of the line, is approximately five (5) miles south of BPA's McNary Substation. The Hermiston Butte Substation has two 3-phase transformer units that step voltage down from 115 kV transmission voltage to 12.47 kV distribution voltage. Each transformer is rated at 15/20/25 MVA of capacity. Distribution lines exiting the station feed retail loads in and around the city of Hermiston, Oregon, as well as surrounding areas and smaller communities. The high side of the existing Hermiston Butte Substation ties two existing 115 kV lines together at the station through a ring bus switching configuration. Following completion, the new 115 kV Transmission Line will be connected through breaker(s) and switch(es) to the existing ring bus and become the main feed to the station. The line will then also serve as a backup to the two existing 115 kV lines presently terminating at the station's ring bus.⁷

⁶ Exhibit UEC/100, Toth/5.

⁷ UEC/100, Toth/5-6.

The proposed 115 kV line construction will consist of RUS TP-115 assembly construction and will primarily utilize single wood poles directly embedded in native soil utilizing crushed rock backfill or other equivalent materials. The elevation views of the TP-115 assembly are shown on Exhibit UEC/108 included in the pre-filed testimony of Louis S. Toth (“Toth Testimony”). Concrete foundations and/or steel poles may be needed in a few discrete locations where soil strength or design loadings dictate added ground bearing strength is needed for safety. Utility poles will be spaced approximately three hundred (300) feet apart but will vary due to physical constraints such as road crossings, buildings, trees, driveways, other utilities, land use, topography, or other items that may impact the proposed Transmission Line.

The proposed Transmission Line will consist of three phase conductors or wires and one overhead neutral or static conductor/wire per supported structure. The three phases of transmission conductors will consist of 1272 MCM ACSR and the overhead static will be optical ground wire consisting of communication fibers wrapped with aluminum clad steel wire. The majority of the line will also have 12.47 kV distribution conductors installed below the described transmission circuit.

Exhibit UEC/108 of the Toth Testimony also shows an example of the typical distribution underbuild assembly and shows how both transmission and distribution circuits will be located on utility poles. The primary distribution conductor utilized as underbuild will be 556 MCM AAC conductor. Where existing phone, communications, or cable type facilities are installed on existing poles, the facilities will be transferred to the new Transmission Line poles with appropriate clearances and strength requirements considered. All energized wires/conductors will be supported by insulators that will isolate the conductors from the poles. The clearance for transmission and distribution conductors/wires above ground will meet all

design and safety requirements for transmission lines. The proposed Transmission Line will be designed by registered professional engineers, and the design will meet appropriate industry standards including federal RUS requirements, and all state and local requirements regarding safety, clearances, strength, and design. Further, the Transmission Line will be constructed, operated, and maintained to meet or exceed all applicable National Electric Safety Code standards, as well as all applicable federal state and local laws, regulations, and ordinances. Further, the proposed Transmission Line will also meet applicable NERC and WECC reliability standards, including critical infrastructure protection standards.

2. Purpose of proposed line

As described above, the proposed Transmission Line is needed to adequately provide service to existing and new loads in a portion of UEC's service territory. The portion of UEC's service territory that will be served by the proposed Transmission Line is primarily served from a single 115 kV line owned by UEC and also sourced from BPA's McNary Substation.⁸ The existing 115 kV line has limited capacity from ampacity and voltage standpoints under single contingency situations and has limited reliability. UEC members served by the existing 115 kV line have experienced outages. The proposed Transmission Line is needed to continue to provide safe and adequate service to current and future UEC members.

By the plain terms of the Commission's governing statutes, the Commission must consider the "necessity, safety, practicability and justification in the public interest of the proposed Transmission Line."⁹ As the Commission has recognized, these are delegative terms

⁸ Confidential Exhibit UEC/103.

⁹ ORS 758.015(2).

and the Commission has a great deal of discretion to construe and apply them in the context of the laws and policies governing condemnation of private property.

Necessity of the Proposed Transmission Line

As described above and in the prefiled testimony of Robert Echenrode (“Echenrode Testimony”), the proposed Transmission Line is necessary to provide safe and reliable service to UEC’s existing load and future load that is anticipated to come online. The proposed Transmission Line is needed to enhance reliability on the UEC system. UEC’s Board of directors has independently reviewed the need for the Transmission Line and adopted a resolution identifying that need. A copy of the Resolution is included with the Echenrode Testimony.¹⁰

Safety of the Proposed Transmission Line

As described in the Toth Testimony, the proposed Transmission Line will satisfy the Commission’s safety criterion, because it will be constructed, operated, and maintained to meet or exceed all applicable National Electrical Safety Code standards, as well as all applicable federal state and local laws, regulations, and ordinances. Further, UEC has substantial experience in constructing, operating, and maintaining transmission lines in a safe, efficient manner.

Practicability of the Proposed Transmission Line

UEC has selected the most practical, least-cost route for the Transmission Line. The starting and ending points for the line are fixed, as UEC must be able to transmit electricity from

¹⁰ Exhibit UEC/203.

the McNary Substation to the Hermiston Butte Substation. By utilizing an existing transmission corridor that takes a relatively straight route between those two points, the Transmission Line will impact as few properties as is reasonably possible, will occupy a space already set aside for that purpose, and will keep costs lower than other, longer routes.

Justification of the Proposed Transmission Line

As indicated above, the proposed Transmission Line will provide many benefits to UEC and its members and will allow UEC to continue to meet its obligation to provide safe and reliable service to its members and future members.

C. OAR 860-025-0030(1)(c): Spatial information

This rule provision requires an application for a CPCN to contain various maps and figures. The rule language is set forth below in *italics*, followed by UEC's response.

(c) A map or maps drawn to appropriate scale showing the general location and boundaries of petitioner's service area to be connected or served by the proposed transmission line and showing, by appropriate distinguishing colors and symbols, but not limited to, the following information:

(A) Proposed route, voltage and capacity of the proposed transmission line.

Exhibit UEC/101 included with the Toth Testimony shows UEC's service territory. Exhibit UEC/102, Toth/1 included with the Toth Testimony shows the proposed route of the Transmission Line. Capacity of the proposed line is 961 amps based on conductor size, and nominal line voltage of 115 kV is subject to +/- 5% voltage variation.

(B) Available alternate routes.

The beginning and end of the transmission route are the McNary Substation and the Hermiston Butte Substation. UEC selected the initial route between these two points by analyzing existing easements, property boundaries, transmission corridors, land use, natural

resources, and other development in the area. This analysis lead to a general route, which UEC has refined through discussions with its consultants and affected landowners. Alternate line routes were reviewed and eventually ruled out since they would have to run essentially parallel to the existing route either to the east or to the west of the existing route. Any alternative route would require completely new easements for the new transmission route, the possible condemnation of more private property, and potential impacts to resource lands such as agricultural parcels. The route shown in Exhibit UEC/102 included with the Toth Testimony takes all of these factors into account and is the preferable and least disruptive route. The alternative routes are shown in Exhibit UEC/102, Toth/2-3

(C) Other transmission lines and substations of petitioner connecting or serving or capable of being adopted to connect or serve the areas covered by the proposed transmission line.

(D) The terminals, substations, sources of energy, and load centers related to the proposed project.

Confidential Exhibit UEC/103 included with the Toth Testimony show UEC's transmission system and the proposed Transmission Line. The proposed Transmission Line will provide a second source of power from BPA's McNary Substation into UEC's system surrounding Hermiston, which includes Hermiston Butte Substation, Power City Substation, Columbia Substation, Feedville Substation, and Westland Substation. While there are two other 115 kV lines that connect to the area, these lines are approximately 21 and 14 line miles from the Port of Morrow and Hat Rock Substations, respectively, and are not suitable long term solutions to reliability or anticipated loading issues.¹¹ If UEC were to attempt to upgrade these other

¹¹ Exhibit UEC/10, Toth/9.

transmission lines on its system to enhance reliability, the resulting construction costs would be more expensive and would not provide the same long-term benefits as compared to the proposed Transmission Line.¹² The proposed Transmission Line including related distribution underbuild plus station upgrades to accommodate the line is estimated to cost \$5,740,000, which is less than the cost of upgrading the existing lines.¹³

(E) Land to be condemned.

As of the filing of this application, UEC cannot describe with specificity the land that *will be* condemned. As noted above, UEC has obtained consent, in the form of easements, from a majority of landowners along the proposed Transmission Line route. Some of these easements were pre-existing and accommodate UEC's existing facilities. Other easements have been obtained more recently. UEC remains optimistic that it can continue to negotiate with property owners to reduce the overall number of parcels to be condemned, with the goal of avoiding condemnation altogether.

In order to provide the Commission with information adequate to address this rule provision, UEC is providing information relating to all land for which UEC does not currently have an easement or other consent from the property owner. As UEC continues to negotiate and to obtain easements along the Transmission Line route, it will update the record to reflect that information.

Exhibit UEC/107 included with the Toth Testimony lists each parcel the Transmission Line will cross and notes each parcel for which UEC has already obtained the property owner's

¹² Exhibit UEC/100, Toth/9.

¹³ Exhibit UEC/100, Toth/13.

consent. That exhibit then provides the detail for each property where consent has not yet been obtained. This detail includes property owner information, an aerial photo, a description of the desired easement, and a depiction of that easement on the subject property.

D. OAR 860-025-0030(1)(d): Cost information

This portion of the Commission's rules requires UEC to provide estimated costs of certain components of the Transmission Line. The rule language describing those components is set forth in *italics* below, followed by UEC's response.

(A) Land and land rights to be condemned.

UEC again emphasizes that while it is submitting this Petition for a CPCN, UEC intends to continue to negotiate with landowners affected by the proposed Transmission Line in an attempt to avoid any condemnation. UEC hopes that it will be able to reach a mutually satisfactory agreement regarding all real property issues and will only resort to condemnation if absolutely necessary. Because it is unknown how many, if any, parcels UEC would have to actually condemn, it is not possible to provide a precise estimate of those costs. However, consistent with the approach taken throughout this application, UEC can estimate the cost it would incur if it were to condemn an easement interest on all of the properties for which it has not obtained landowner consent. As UEC obtains additional consents, it will update the information in the record to reflect those new facts.

Using the list of parcels in Exhibit UEC/107, Toth/1-2 included with the Toth Testimony, and removing from that list the parcels for which UEC has already obtained consent, UEC has calculated the real market value of the easement areas that are required from the remaining parcels. That value is approximately \$12,589.00, which would be the estimated cost of the land condemned.

(B) Other land and land rights acquired or to be acquired.

As noted above, UEC has already obtained consents from a majority of property owners along the Transmission Line route. Some of those consents are in the form of existing easements, while others are in the form of easements UEC more recently obtained. The total cost to UEC for the easements it has already obtained, and those it will attempt to obtain, is estimated to be \$59,000.¹⁴

(C) Transmission facilities.

(D) Substation, accessory and miscellaneous labor, plant and equipment.

(E) Indirect and overhead costs including engineering, legal expense, taxes, interest during construction, and itemized administrative and general expenses.

(F) Any other costs, direct or indirect, relating to the project.

(G) Such explanation of the various cost estimates as needed to enable a full understanding of their basis and derivation.

The Toth Testimony contains a breakdown of the various costs estimated for the design, engineering, and construction of the Transmission Line. Specifically, Exhibit UEC/106 contains an itemized accounting of the cost of the proposed Transmission Line. The estimate of the overall costs is \$5,740,000.

E. Financial feasibility information required under OAR 860-025-0030(1)(e)

This portion of the Commission's rules requires an explanation of the financial feasibility of the project:

(e) An explanation of the financial feasibility of the proposed project, including the kind, nature, extent and estimated growth of the energy requirements or reasonably anticipated need, load or demand, for the proposed transmission line.

¹⁴ Exhibit UEC/107, Toth/1-2.

UEC has seen significant load growth in its service territory. The existing 115 kV facilities are growing close to capacity for providing service to the area now served by the existing feeder from BPA's McNary Substation. In the event service to the existing 115 kV line out of McNary is interrupted for any reason (e.g. storm, accident, general line maintenance, or equipment failure) service to area consumers would be interrupted for a period due to the fact that the main line to the area is the existing single circuit 115 kV feed from McNary. The other 115 kV connections discussed previously are not configured to provide automatic source restoration or adequate capacity under possible contingency operations.

Because the load center that the existing line is serving has several critical loads including hospital and medical facilities, large merchandise outlets, and industrial processes, loss of this single line even for short periods can be critical.¹⁵

Because of the load growth experienced by UEC, the rate impact to existing members from the proposed transmission line is not expected to be significant.¹⁶ As more members are added to the system, the fixed costs of the Transmission Line will be spread to a larger member base. UEC expects to receive financing for the Transmission Line from the USDA's Rural Utility Service ("RUS"). As part of receiving RUS approval of financing for a facility such as the proposed Transmission Line, UEC must demonstrate that the Transmission Line is justified, and an environmental analysis must be performed where appropriate agencies are contracted and given an opportunity to comment. RUS has given UEC initial approval of this project following review of the Environmental Report covering all facilities recommended in UEC's 2015-2016

¹⁵ Exhibit UEC/100, Toth/6.

¹⁶ Exhibit UEC/200, Echenrode/3-4; Exhibit UEC/202.

Construction Work Plan.¹⁷ A copy of portions of the Construction Work Plan is included as an exhibit to the Echenrode Testimony.¹⁸

F. OAR 860-025-0030(1)(f): Information related to potential condemnation of property

This portion of the Commission's rules requires UEC to provide additional information relating to property that may be the subject of condemnation proceeding. As noted above, UEC has obtained consent, in the form of easements, from a majority of landowners along the Transmission Line route. Some of these easements were pre-existing and accommodate UEC's existing facilities. Other easements have been obtained more recently. UEC remains optimistic that it can continue to negotiate with property owners to reduce the overall number of parcels to be condemned, with the goal of avoiding condemnation altogether.

In order to provide the Commission with information adequate to address this rule provision, UEC is providing information relating to all land for which UEC does not currently have an easement or other consent from the property owner. As UEC continues to negotiate and to obtain easements along the Transmission Line route, it will update the record to reflect that information. The applicable rule language is set forth in *italics* below, followed by UEC's response.

(f) A description of the property and interest to be condemned, a full explanation of the intended use, and the specific necessity and convenience for the taking of said property:

(A) A map must be included whereon the land to be condemned is clearly marked, and the general contour, culture and improvements along that portion of the route are clearly shown.

(B) The names and addresses of all persons who have interests, known or of record, in

¹⁷ Exhibit UEC/201.

¹⁸ Exhibit UEC/201.

the land to be affected or traversed by the proposed route from whom applicant has not acquired the necessary rights of way or option therefor.

The Toth Testimony contains several exhibits relating to the properties for which UEC has not yet obtained property owner consent. UEC's preference is to acquire an easement interest in each property. A sample easement is included as part of Exhibit UEC/107. The easement is substantially similar to the easements UEC has already obtained on other parcels for the Transmission Line and describes with particularity the intended use of these properties. The necessity and convenience for the taking of interests in these properties is to have a complete route for the Transmission Line, which is in the public interest. UEC would not use these properties for any purpose outside the scope of its easement interest.

Part of Exhibit UEC/107 contains a map showing the general location of each of the parcels for which UEC has not yet obtained landowner consent. That exhibit also shows each of these parcels in more detail, using aerial photos and showing the location of the easement UEC desires to obtain. Those photos show existing improvements and the general character of the property. The exhibits contain the required property owner information, which also exists in a table form at the end of that exhibit.

G. OAR 860-025-0030(1)(g): Information related to alternate routes

The express language of this rule requires UEC to provide: "A statement and explanation with supporting data comparable to that described in sections (4) and (5) of this rule for possible alternative routes." The Commission's rule does not contain a section (5), and section (4) does not require the submittal of any specific data. Through consultation with counsel for the Commission, and following a review of the Commission's rulemaking history, it appears that this reference should be to sections (d) and (e) of subsection (1) of the rule. Those sections, in

turn, require the submittal of data relating to costs and financial feasibility of the alternate routes considered.

With respect to costs, UEC is providing cost estimates for two alternate line routes that were considered. These estimates are contained in Exhibit UEC/106, Toth/12 included with the Toth Testimony. UEC has determined that these alternative routes are not fiscally prudent and do not maximize reliability compared to the proposed route. The increased length of the lines, along with the increased costs of obtaining easements or other property rights, increase the costs of the line in the range of \$400,000 to \$1,260,000 depending on which alternative is considered.¹⁹ Additionally, the added length of the alternative routes tends to lower reliability and line efficiency, as well as raise operation and maintenance costs. Because the Transmission Line is being constructed in large part to increase reliability on UEC's system, reasonable cost containment is necessary and prudent when selecting among alternative routes.

H. OAR 860-025-0030(1)(h): Additional information

In addition to the information provided above, the Echenrode Testimony provides more description of UEC, its system, and the need for the Transmission Line. As noted above, UEC has conducted its own investigation into the need for the line and has determined it is in its members' best interest to construct the line. The Transmission Line is needed to provide safe and reliable service to UEC's members. UEC's membership, in turn, reflects the public at large within UEC's service territory. The Transmission Line also provides benefits to the adjacent

¹⁹ Exhibit UEC/100, Toth/14; Exhibit UEC/106, Toth/12.

system operated by Hermiston Energy Services.²⁰ The Transmission Line should be deemed by the Commission to be necessary and convenient.

I. OAR 860-025-0030(2) and (3): Land use information

The Commission's rules contain requirements relating to various state and local land use regulations. The applicable rule language is set forth in *italics* below, followed by UEC's response.

(2) The Commission, as part of its approval of a Certificate of Public Convenience and Necessity, shall adopt findings which assure the proposed transmission project complies with the Statewide Planning Goals and is compatible with the acknowledged comprehensive plan(s) and land use regulations of each local government where the project is to be located. The Commission's findings shall be developed under the rules and procedures in the Commission's state agency coordination program pursuant to ORS 197.180.

The purpose of this rule provision is to ensure that the Commission's decisions are compatible with Statewide Planning Goals as required by ORS 197.180. The Commission's state agency coordination program ("SAC") implementing ORS 197.180 was adopted in May 1991. At that time, the Commission reviewed all of its programs to determine which ones, if any, affected land use. Of all the Commission's programs, only the Certificate of Need and Public Convenience was deemed to affect land use. Based on that conclusion, the Commission adopted new rules (OAR 860-025-0030 et seq.) to ensure "that the granting of a Certificate of Public Convenience and Necessity will comply with Oregon land use laws."²¹

As noted in the SAC, all comprehensive plans in the state have been acknowledged to be in compliance with Statewide Planning Goals. Thus, when the Commission acts compatibly

²⁰ See Exhibit UEC/109.

²¹ Oregon Pub. Util. Comm., *State Agency Coordination Program*, page iii (May 1991).

with an acknowledged comprehensive plan, it acts compatibly with the Statewide Planning Goals. The Commission's new rules therefore included what is now set forth in OAR 860-025-0030(3), which allows the Commission to demonstrate compliance with local comprehensive plans in lieu of the Commission adopting compatibility filings directly, but which nevertheless allows the Commission to directly adopt compatibility findings if appropriate.

OAR 860-025-0030(2) is not itself an approval standard. Rather, it is an instruction to the Commission to adopt findings of land use compatibility; findings that can be based on information provided pursuant to OAR 860-025-0030(3).

(3) The Commission's land use findings assuring the proposed project's goal compliance and plan compatibility shall be based on the hearing record, which shall include at least one of the following:

(a) A copy of the local land use permit from each affected city or county planning agency, building department, or governing body stating that the proposed transmission project has received the jurisdiction's approval; or

(b) A copy of a letter from each affected local planning agency, building department, or governing body stating that the proposed transmission project is permitted under the jurisdiction's comprehensive plan, land use regulations, and development codes, but does not require specific approval by the jurisdiction; or

(c) Other written or oral land use information and documentation equivalent to OAR 860-025-0030(3)(a) or (b) above properly presented to the Commission from an authorized representative from each affected city or county; or

(d) Commission goal compliance findings adopted pursuant to OAR 860-030-0065(3) in situations when the Commission is unable to assure goal compliance by acting compatibly with one or more of the affected comprehensive plans.

The structure of OAR 860-025-0030(3) is consistent with how most state agencies determine land use compatibility and allows the applicant to show either: (1) it has already received land use permits from the relevant local planning jurisdictions; (2) the proposed project does not require land use permits; or (3) the proposed project has not, but can be approved by the

local jurisdiction if it follows that jurisdiction's procedures and standards. OAR 860-025-0030(3) has a fourth option, which allows the Commission to make direct findings of compatibility with the Statewide Planning Goals, which it has done in at least one prior proceeding.²²

As noted elsewhere in this application narrative, UEC is optimistic that it will be able to work cooperatively with all land owners in an attempt to avoid the need to condemn any land for the Transmission Line. However, if even one parcel must be condemned, there exists a timing issue. UEC's proposed Transmission Line runs through two different planning jurisdictions: (1) Umatilla County, and (2) the City of Hermiston. As explained in more detail below, the construction of a transmission line is allowed along the identified route in each of these jurisdictions. UEC, however, cannot apply for final land use approval from the County unless and until it has a property interest in the land on which the transmission line will be constructed. If condemnation is required to obtain that property interest, however, UEC must first obtain the CPCN.

The Applicant has worked with the local land use authorities to determine that the Transmission Line is a permissible use along the route in both jurisdictions. Included with the Echenrode Testimony are letters from each jurisdiction confirming that an approval process is either available or unnecessary.²³ The following is a summary of how the Transmission Line is or can be approved in each jurisdiction.

Umatilla County/City Urban Growth Areas

²² *Pacific Power Petition for Public Convenience and Necessity*, UM 1495, Order No. 11-366 (Sept. 22, 2011).

²³ Exhibit UEC/204; Exhibit UEC/205.

Umatilla County has two different sets of land use regulation. The County's Zoning Ordinance applies outside of cities but within those cities' Urban Growth Boundaries ("UGB"). The County's Development Code applies in all other areas. The Transmission Line does not run within the city limits of the City of Umatilla. However, the line does run within that city's UGB. The line also runs within areas outside of Hermiston but within that city's UGB. As noted above, UEC cannot apply for land use approval from the County unless it owns the property to be developed and has the consent of all other owners of the property. This requirement stems from Umatilla Development Code ("UDC") §152.767(B). The County has confirmed that it applies this same requirement to applications made under the Umatilla Zoning Ordinance ("UZO").

Within the City of Umatilla's UGB, the proposed line passes through areas zoned F-2 (General Rural), R-1 (Ag. Residential), R-3 (Urban Residential), C-1 (General Commercial), and M-1 (Light Industrial).

The F-2 zone is rural but is not an Exclusive Farm Use zone. As such, limits that might otherwise apply to non-farm uses such as transmission lines do not apply. Instead, transmission lines are allowed in this zone as a conditional use pursuant to UZO §3.024(14). Each of the other zones similarly allows the transmission line as a conditional use pursuant to the following UZO provisions: §3.072(6) (R-1 zone); §3.094(11) (R-3 zone); §3.113(7) (C-1 zone); §3.136(28) (M-1 zone).

Within the City of Hermiston's UGB, the proposed line passes through these same zones, as well as one parcel zoned C-2 (Tourist Commercial). The line is allowed as a conditional use in that zone as well, pursuant to UZO §3.123(5).

In each of these zones within a city's UGB, the County's regulations do not place any dimensional standards on a transmission line, and the primary approval criterion for conditional

use permits is that the development must protect the best interests of the surrounding area. UZO §7.010(1). To that end, the County may place conditions on its approval.

Umatilla County/Outside Urban Growth Areas

Within the non-UGB areas of Umatilla County, the proposed line passes through the LI (Light Industrial), RR-2, and RR-4 (Rural Residential) zones. One parcel zoned as LI also has an Aggregate overlay zone.

Within the LI zone, transmission lines are allowed as a conditional use pursuant to UDO §152.616 relating to utility facilities. The Aggregate Overlay zone imposes additional standards, each of which relate to mining uses and, therefore, are not applicable to the Transmission Line. The Transmission Line is similarly allowed as a conditional use in the RR-2 and RR-4 zones pursuant to UDO §152.132(G) and §152.157(G), respectively. In those zones, there are dimensional standards that may apply to the Transmission Line, such as setbacks from water features or height limits. The height limit, however, can be modified through a variance process.

In each of these areas, the conditional use permit is an administrative review that requires the applicant to demonstrate compliance with the County's Comprehensive Plan. Pursuant to UDO §152.616, a conditional use is also required to minimize conflicts with surrounding areas and maintain the stability of the land use pattern in the area. To that end, the County can impose conditions of approval to address any compatibility issues.

City of Hermiston

Within the City of Hermiston, the line passes through only two zones: R-4 (Multi Structure Residential) and M-1 (Light Industrial). Within the R-4 zone, transmission lines are permitted outright pursuant to Hermiston City Code §157.025(A)(7). Within the M-1 zone, transmission lines are permitted outright pursuant to Hermiston City Code §157.055(A)(20).

As outright permitted uses, no land use approval is required. The letter included in Exhibit UEC/204 from the City of Hermiston confirms this outcome.

Statewide Planning Goals

In addition to the fact that UEC will have to obtain land use permits from Umatilla County, the Commission can determine that the application is consistent with Statewide Planning Goals, as described below. Only the listed Goals are applicable to the Transmission Line.

Goal 1: Citizen Involvement

Goal 1 requires that local governments provide citizens with opportunities to participate in several phases of land use planning, ranging from broad scale public involvement in the development of comprehensive plans and implementing ordinances to more site-specific review of plan and development proposals. Generally, Goal 1 is satisfied when a local government follows the public involvement procedures set out in its acknowledged comprehensive plan and land use regulations. This Goal is satisfied because there are multiple processes that will allow public participation. For example, this CPCN application will be noticed to property owners along the route. Further, UEC's application for land use permits will occur through the County's normal process, which provides broader notice and will allow participation by anyone in the County.

Goal 2: Land Use Planning and Exceptions

Goal 2 has two parts. Part I requires that actions related to land use be consistent with acknowledged comprehensive plans of cities and counties, and that all decisions be based on an adequate factual record. Part II addresses "exceptions" to the Goals, which are not applicable to this proceeding. Consistency of UEC's Transmission Line with goals and policies in the acknowledged Umatilla County Comprehensive Plan is a necessary requirement of the

conditional use permit UEC will have to obtain from the County. Both that process, and this process before the Commission will be based on a record with a factual basis. This Goal is therefore satisfied.

Goal 3: Agricultural Lands

Goal 3 requires that counties preserve and maintain agricultural lands for farm uses. Counties must inventory agricultural lands and protect them by adopting EFU zones consistent with ORS Chapter 215. UEC's Transmission Line satisfies this Goal through its route selection. The proposed route avoids all EFU lands. Instead, it makes a reasonably direct route through non-EFU zoned lands and along an area already utilized as a transmission line corridor.

Goal 5: Open Spaces, Scenic and Historic Areas, and Natural Resources

Goal 5 requires local governments to adopt programs to protect significant natural resources and to conserve significant scenic, historic, and open space resources for present and future generations. The Transmission Line does not pass through any inventoried significant natural resource areas. If such areas are later discovered along the route, UEC will obtain the appropriate permits for developing within those areas.

Goal 6: Air, Water, and Land Resources

Goal 6 addresses the quality of air, water, and land resources. In the context of an acknowledged comprehensive plan, a development complies with Goal 6 by obtaining permits for applicable federal and state environmental standards, including air and water quality standards. The Transmission Line is consistent with this Goal because its operation will result in little or no waste or material discharges. The construction of the line will be in accordance with all applicable statutes, regulations, and standards.

Goal 8: Recreational Needs

The purpose of Goal 8 is to satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts. The Transmission Line will not have any material impact on recreational opportunities in and around the area that will be developed. To the contrary, by utilizing an existing corridor, the line will avoid development in undeveloped areas, thereby leaving other areas open for recreation. The Transmission Line is therefore in compliance with this Goal.

Goal 9: Economy of the State

The purpose of Goal 9 is to “provide an adequate land supply for economic development and employment growth in Oregon,” and focuses on ensuring that local governing bodies adopt comprehensive plans that allow for a variety of economic opportunities. The Transmission Line satisfies this Goal by increasing transmission reliability in the area and supporting UEC’s future load growth, which includes economic growth by commercial and industrial loads.

Goal 13: Energy Conservation

Goal 13 requires cities and counties to manage and control land uses to maximize the conservation of all forms of energy, based on sound economic principles. Although the Transmission Line itself is used to transmit energy, the construction of the line, from a land use standpoint, conserves energy. It does so by utilizing a straight path, along an existing corridor, thereby limiting the amount of line that has to be constructed. This smaller line avoids the need for more materials and energy to make those materials. The route also avoids significant parcelization of land, thereby retaining the efficient use of the properties it crosses. Additionally, since the proposed line route delivers energy from an electrical source to an electrical load center using the shortest route reasonably possible, the proposed line route results in lower energy

losses than alternatives. This is based on the fact (among other factors) that energy consumed by line losses is proportional to the length of a line. All things equal, the shorter the line, the less the line losses.

J. EFSC information required by OAR 860-025-0030(4)

This rule provides: “If a proposed transmission line is subject to the jurisdiction of the Energy Facility Siting Council (EFSC), the Commission shall adopt findings which assure the project and route have been certified by EFSC, and the requirements of OAR 860-025-0030(2) and (3) shall not apply.”

The Transmission Line is not subject to EFSC jurisdiction. Pursuant to ORS 469.300, a transmission line is subject to EFSC jurisdiction if the line is 230 kilovolts or more, more than 10 miles in length, and to be constructed in more than one city or county in the state. The Transmission Line is only 115 kV and five miles in length. The line therefore falls outside EFSC’s jurisdiction and this rule provision does not apply.

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Respectfully submitted,



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