

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

PCN 1

In the Matter of the Petition of)
UMATILLA ELECTRIC COOPERATIVE) UMATILLA ELECTRIC
Petition for Certificate of Public) COOPERATIVE’S POST-HEARING
Convenience and Necessity) BRIEF
_____)

I. Introduction

Pursuant to the Prehearing Conference Memorandum issued by Public Utility Commission of Oregon (“Commission”) Administrative Law Judge Patrick Power (“ALJ”) dated September 26, 2016, Umatilla Electric Cooperative (“UEC”) respectfully submits this Post-Hearing Brief. Based on the uncontested evidence and record in this proceeding, UEC respectfully requests that the Commission grant its Petition for a Certificate of Public Convenience and Necessity (“CPCN”) and authorize UEC to proceed with 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”).

II. Background

UEC provides electric service to its Oregon members in Morrow, Umatilla, Union and Wallowa counties.¹ UEC’s service territory is located west of Boardman in Morrow County and covers much of Umatilla County, surrounding the cities of Hermiston and

¹ UEC/200, Echenrode/1.

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.²

On August 19, 2016, UEC filed a Petition with the Commission for a CPCN authorizing the construction of the Transmission Line. UEC has obtained consent from a majority of land owners along the proposed route to place the Transmission Line on private property. While UEC remains optimistic that it will continue to obtain land owner consents for the remainder of the line, out of an abundance of caution, and in anticipation that a small number of property owners may not provide timely consent, UEC filed the Petition and initiated this proceeding in the event condemnation is ultimately required.

On September 22, 2016, the Commission held a public comment hearing and prehearing conference in this matter. At that time, UEC and Commission Staff made presentations and answered questions, and ALJ Power established a schedule for this proceeding. No public comments were received at the public comment hearing, although the Commission has received some written comments. UEC filed detailed pre-filed testimony with its Petition, discussing the technical and legal requirements of the Transmission Line. Staff propounded extensive discovery requests and then filed detailed testimony of its own to address the same technical and legal requirements. At the evidentiary hearing on December 12, 2016, the pre-filed testimony of UEC and Commission Staff was offered and admitted into the record. As of the close of the

² Umatilla Electric Cooperative Petition For Certificate of Public Convenience and Necessity ("Petition") at p.1.

record, no other party intervened in this proceeding. There are no contested issues of fact or law among the parties and Commission Staff supports the issuance of a CPCN.

III. 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. ORS 758.015 provides:

When any person, as defined in ORS 758.400, providing electric utility service, as defined in ORS 758.400, or any transmission company, proposes to construct an overhead transmission line which will necessitate a condemnation of land or an interest therein, it shall petition the Public Utility Commission for a certificate of public convenience and necessity setting forth a detailed description and the purpose of the proposed transmission line, the estimated cost, the route to be followed, the availability of alternate routes, a description of other transmission lines connecting the same areas, and such other information in such form as the commission may reasonably require in determining the public convenience and necessity.

(2) The commission shall give notice and hold a public hearing on such petition. The commission, in addition to considering facts presented at such hearing, shall make the commissions own investigation to determine the necessity, safety, practicability and justification in the public interest for the proposed transmission line and shall enter an order accordingly. Except for petitions for a proposed transmission line for which the petitioner also seeks approval from the Energy Facility Siting Council for the same transmission line, the order shall be subject to review as in other cases. Orders on petitions for a proposed transmission line for which the petitioner also seeks approval from the Energy Facility Siting Council for the same transmission line are subject to judicial review in the same manner as an order in a contested case as set forth in ORS 758.017 . In any proceeding for condemnation, a certified copy of such order shall be conclusive evidence that the transmission line for which the land is required is a public use and necessary for public convenience.

The Transmission Line does not require approval from the Energy Facility Siting Council. Review of UEC's Petition therefore must satisfy only those requirements imposed by ORS 758.015 and the Commission's rules implementing that statute.

IV. Argument

A. UEC has Satisfied the Legal Requirements for Granting a CPCN.

UEC's Petition and supporting testimony included a detailed description and the purpose of the proposed Transmission Line,³ the estimated cost,⁴ the route to be followed,⁵ the availability of alternate routes,⁶ a description of other transmission lines connecting the same areas,⁷ and other information to aid in the determination that the line is necessary and in the public convenience. UEC's Petition includes evidence that the Transmission Line meets the requirements imposed by ORS 758.015 and OAR 860-025-0030. Commission Staff also filed detailed testimony concluding that the Transmission Line meets the requirements imposed by ORS 758.015 and OAR 860-025-0030.

The uncontested evidence in the record demonstrates that the Transmission Line satisfies the necessity, safety, practicability and justification requirements under ORS 758.015 (2), as well as the additional requirements imposed under OAR 860-025-0030(2) relating to compatibility with land use regulations. Each of these requirements is discussed below.

1. UEC Has Met the Necessity Standard under ORS 758.015(2).

The Commission has previously determined that the "necessity" standard means that a petitioner must demonstrate "that Oregonians will forego something desirable and useful without it."⁸

³ See e.g., UEC/100, Toth/12.

⁴ UEC/106, Toth/12.

⁵ UEC/102, Toth/1.

⁶ UEC/100, Toth/10; UEC/102, Toth/2.

⁷ UEC/100, Toth/4-9.

⁸ See *In re Pacific Power & Light*, OPUC Docket No. 1495, Order No. 11-366 at 4 (Sept. 22, 2011).

UEC is growing rapidly.⁹ As of the end of 2015, power sales were up approximately 17 percent over the prior year, and more than 70 percent over the last five years.¹⁰ While the regional growth is good for the economy, it has put strains on the UEC system. As a result, UEC is expanding, replacing, and adding infrastructure to accommodate this growth and to reliably serve existing members.¹¹

UEC identified the necessity of the Transmission Line on two separate occasions. First, on February 26, 2015, UEC's Board adopted its Construction Work Plan, which identifies the proposed Transmission Line as part of UEC's overall construction needs.¹² The UEC Board later addressed the proposed Transmission Line specifically and, on July 29, 2015, concluded the line is necessary for the continued public health, safety and economic welfare of UEC to construct the proposed Transmission Line.¹³

UEC has demonstrated that the Transmission Line is necessary: (a) to adequately provide reliable and safe service to existing and new member loads in the City of Hermiston and UEC's surrounding service territory, and (b) for the continued public health, safety and economic welfare of UEC's members. The Transmission Line will directly and indirectly benefit Oregonians by supporting economic development, jobs, and the tax base, and by providing reliable service to UEC's diverse members in the area (including residential, small commercial, large commercial, industrial, irrigation uses and several critical loads).¹⁴

⁹ UEC/200, Echenrode/2.

¹⁰ UEC/200, Echenrode/2.

¹¹ UEC/200, Echenrode/2.

¹² UEC/200, Echenrode/3; UEC/201, Echenrode/2.

¹³ UEC/200, Echenrode/3; UEC/203, Echenrode/1.

¹⁴ UEC/100, Toth/6.

The area to be served by the proposed Transmission Line is currently served from a 115kV line owned by UEC sourced from BPA's McNary Substation. The existing 115kV line has limited capacity and limited reliability, and has subjected UEC members to outages. UEC first looked at upgrading the 115kV line, but determined that the upgrades would be an inferior choice and more expensive than building the Transmission Line.¹⁵ With the load growth UEC has and continues to experience, reliability issues on the existing 115kV line are expected to increase unless the Transmission Line is built. The proposed Transmission Line is the best option to increase system reliability and ensure that UEC can adequately serve its existing and future members, which is in the public interest.

Commission Staff agrees that UEC has satisfied the "necessity" standard. In its Testimony, Staff stated the following:

In this case need means that without the Project, members of the Oregon public will forego something desirable or useful. Staff notes that most specific projects are not truly "necessary" in the sense that no alternatives exist at any price. Therefore Staff believes that the necessity requirement should be deemed met if it is shown that some action should be taken to provide the Oregon public something desirable or useful, and the transmission construction Project in question is shown to be favorable to other options available, if any.¹⁶

Staff ultimately concluded:

In the course of planning to accommodate a growing system, UEC identified the need for this Project. Alternatives to this Project were found to be inadequate to support UEC's long-term needs, and were therefore appropriately rejected. Without the Project, UEC's customers will likely be exposed to increasing reliability issues. Improving reliability is in the public interest. Therefore Staff concludes that the Project is necessary and in the public interest.¹⁷

¹⁵ UEC/100, Toth/8-9.

¹⁶ Staff/100, Ihle/7.

¹⁷ Staff/100, Ihle/10.

UEC requests the Commission determine that the Transmission Line is necessary and in the public interest. If UEC does not receive authorization to construct the Transmission Line, service to existing members will be impaired, reliability will be compromised, and UEC will not be able to accommodate future load growth.

2. UEC Has Met the Safety Standard under ORS 758.015(2).

The Commission previously determined that the “safety” standard in ORS 758.015(2) means that a petitioner must demonstrate that the “project will be constructed, operated, and maintained in a manner that protects the public from danger.”¹⁸

Formed in 1937, UEC has constructed, operated and maintained a safe utility. Safety is a priority for UEC. UEC requires safety meetings and training for its employees, created a Safety Steering Committee that actively looks for ways to increase safety awareness, participation, and promotion on behalf of all employees, and has a safety policy its employees must adhere to.¹⁹ 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 Electric Safety Code standards, as well as all applicable federal, state and local laws, regulations, and ordinances.²⁰ UEC designs and maintains all electrical facilities to be in conformance with State of Oregon requirements contained in PUC Division 24 Safety Standards and with the United States Department of Agriculture—Rural Utilities Service’s (“RUS”) documents related to materials, assembly types, design and construction.²¹ UEC also has significant experience in constructing, operating and maintaining transmission lines in a safe, efficient manner.

¹⁸ See *In re Pacific Power & Light*, OPUC Docket No. 1495, Order No. 11-366 at p.4 (Sept. 22, 2011).

¹⁹ See, e.g., Staff/203, Gibbens/3.

²⁰ UEC/100, Toth/15.

²¹ See Staff/200, Gibbens/4.

Staff agrees that UEC has met the safety standard, noting that: (a) UEC’s construction process will adhere to relevant safety standards, (b) UEC will follow the guidelines set forth by the RUS, (c) UEC considered the safety of the environment, including devices to prevent the electrocution of avian species, and (d) UEC has limited the external risks and the landowners directly affected by proximity of the line are unlikely to be harmed.²²

UEC commits to meeting or exceeding all applicable safety standards and rules. These standards and rules will ensure that the Transmission Line is constructed, operated and maintained in a manner that protects the public from danger.²³

3. UEC Has Met the Practicability Standard under ORS 758.015(2).

The Commission has previously determined that the “practicability” standard set forth in ORS 758.015(2) means that a petitioner must demonstrate that the “project is feasible and will be effectively and efficiently constructed.”²⁴

UEC has selected the most practical, least-cost route for the Transmission Line.²⁵ The starting and ending points for the line are fixed, as UEC must be able to transmit electricity from the McNary Substation to the Hermiston Butte Substation.²⁶ 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 possible, will occupy a

²² Staff/200, Gibbens/4-6.

²³ Although not testimony by a party, the record does contain a public comment submitted by Clarence and Geraldine Charlo raising some health and safety concern. As Staff noted in its testimony, Staff investigated the claims in that letter, finding no evidence that the proposed line would not meet all applicable federal, state, and local safety standards. Further, Staff acknowledged that the proposed line does not pass directly over the Charlo’s house as asserted in their comment. Staff/200, Gibbens/5. UEC remains committed to working with its customer members to provide accurate information about the location of the line and will continue those discussions as final construction plans are developed.

²⁴ See *In re Pacific Power & Light*, OPUC Docket No. 1495, Order No. 11-366 at 4 (Sept. 22, 2011).

²⁵ UEC/100, Toth/9.

²⁶ UEC/100, Toth/9.

space already set aside for that purpose, and will keep costs lower than other, longer routes.²⁷ 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.²⁸ Further, UEC has substantial experience in constructing, operating, and maintaining transmission lines in a safe, efficient manner.²⁹

Staff concurs that the route is feasible because:

it follows the route of existing power lines, i.e. routes that have already been shown to be feasible for this use. In its response to Staff DR 10, UEC indicates that the entire proposed route—with the exception of a single road crossing—utilizes existing transmission corridors. The alternative routes considered are less feasible, as they each require several miles of corridor that are not in existing transmission corridors.³⁰

Finally, Staff agrees that the project would be effectively and efficiently constructed because “UEC’s long and safe operational history make it uniquely qualified to select a contractor that can effectively and efficiently complete the work called for in UEC’s design.”³¹ Staff witness Ihle recommends that “the Commission find that the proposed Project is practicable and in the public interest because it uses a feasible route in an existing power line right of way and is economically favorable to the feasible alternatives studied.”³²

The Commission has adequate evidence in the record on which to base a determination that the Transmission Line is practicable and in the public interest. UEC

²⁷ UEC/100, Toth/9.

²⁸ UEC/100, Toth/10.

²⁹ Staff/100, Ihle/11-12.

³⁰ Staff/100, Ihle/11-12.

³¹ Staff/100, Ihle/11-12.

³² Staff/100, Ihle/14.

chose the best, least-cost location for the Transmission Line. The Transmission Line will use an existing utility corridor, which will minimize the impact to the community and the environment. UEC considered and rejected two alternatives that were more expensive and had a greater impact to the community and the environment.

4. UEC Has Met the Justification Standard under ORS 758.015(2).

The Commission has previously determined that the “justification” standard in ORS 758.015(2) means that a petitioner must show “sufficient reason for the project to be built.” To make this determination, the Commission relies on “benefits and costs that can be quantified in economic terms.”³³

The record shows that 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. 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.³⁴

In addition to the significant benefits to UEC and its members, the Transmission Line will also benefit the City of Hermiston’s electric utility through increased reliability and capacity, and in general support the state’s goal of avoiding the duplication of facilities.³⁵

While there is no question that the Transmission Line will bring significant benefits to the community, UEC understands the Commission will review both the

³³ See *In re Pacific Power & Light*, OPUC Docket No. 1495, Order No. 11-366 at 4 (Sept. 22, 2011).

³⁴ Exhibit UEC/100, Toth/6-7.

³⁵ UEC/100, Toth/15; UEC/109.

benefits and the costs. To reduce the physical disruption to the community, most of the Transmission Line will be overbuilt or rebuilt on existing electrical 12.47kV distribution circuits, thus making effective use of the existing electrical line routes in the area.³⁶ UEC has also committed to working with individual property owners to minimize the impact during the construction of the line.³⁷ UEC also strives to keep its rates low and competitive. Using the most efficient and least cost route, the cost of the line is estimated to be \$5.74 million, and the average impact on a residential member's bill will be \$0.37 per month.³⁸

UEC expects to receive financing for the Transmission Line from 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 contacted and given an opportunity to comment.³⁹

Staff agrees that the line is justified. Staff concluded “[g]iven that the line is necessary, and that the proposed route is the best alternative, along with the fact that UEC has attempted to limit the impact to all customers, Staff finds the proposed Transmission Line justified and is in the public interest.”⁴⁰

5. UEC Has Demonstrated that the Transmission Line is Compatible With Land Use Regulations.

As part of the Commission's review and approval of a CPCN, the Commission requires “a showing that the proposed transmission project complies with Oregon's

³⁶ UEC/100, Toth/4.

³⁷ Staff/102, Ihle/4.

³⁸ UEC/200, Echenrode/3.

³⁹ UEC/201, Echenrode/1.

⁴⁰ Staff/200, Gibbens/11.

Statewide Planning Goals and is compatible with the acknowledged comprehensive plans and land use regulations of each local government where the project is to be located.”⁴¹

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.”⁴²

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 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). The structure

⁴¹ See *In re Pacific Power & Light*, OPUC Docket No. 1495, Order No. 11-366 at 9 (Sept. 22, 2011).

⁴² Oregon Pub. Util. Comm., State Agency Coordination Program, page iii (May 1991).

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.⁴³

As demonstrated in the record, 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 confirm that the Transmission Line is a permissible use along the route in both jurisdictions. The record contains letters from each jurisdiction confirming that an approval process is either

⁴³ See *Pacific Power Petition for Public Convenience and Necessity*, UM 1495, Order No. 11-366 (Sept. 22, 2011) at p.9.

available or unnecessary.⁴⁴ The following is a summary of how the Transmission Line is or can be approved in each jurisdiction.

A. Umatilla County/City Urban Growth Areas

Umatilla County has two different sets of land use regulations. 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).

⁴⁴ Exhibit UEC/204; Exhibit UEC/205.

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.

B. 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 UDC §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 UDC §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 UDC §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.

C. 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. A letter in the record from the City of Hermiston confirms this outcome.⁴⁵

D. 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.⁴⁶

1. 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

⁴⁵ UEC/204.

⁴⁶ In addition to the applicable Goals analyzed here, Staff's testimony indicates Staff reviewed all 19 Goals and determined that issuance of the CPCN is consistent with all Goals. Staff/100, Ihle/26.

because there are multiple processes that will allow public participation. For example, this CPCN application was noticed to property owners along the route, and they were provided an opportunity to participate in this proceeding. 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. Staff agrees that the proposed Transmission Line is consistent with Goal 1.⁴⁷

2. 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. Staff agrees that the proposed Transmission Line is consistent with Goal 2.⁴⁸

3. 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

⁴⁷ Staff/100, Ihle/19-20.

⁴⁸ Staff/100, Ihle/20.

as a transmission line corridor. Staff agrees that the proposed Transmission Line is consistent with Goal 3.⁴⁹

4. *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. Staff agrees that the proposed Transmission Line is consistent with Goal 5.⁵⁰

5. *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. Staff agrees that the proposed Transmission Line is consistent with Goal 6.⁵¹

6. *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

⁴⁹ Staff/100, Ihle/21.

⁵⁰ Staff/100, Ihle/22-23.

⁵¹ Staff/100, Ihle/23-24.

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. Staff agrees that the proposed Transmission Line is consistent with Goal 8.⁵²

7. 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. Staff agrees that the proposed Transmission Line is consistent with Goal 9.⁵³

8. 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

⁵² Staff/100, Ihle/24.

⁵³ Staff/100, Ihle/25.

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. Staff agrees that the proposed Transmission Line is consistent with Goal 13.⁵⁴

V. Conclusion

Based on the uncontested evidence in the record in this proceeding, the Commission can find that UEC has met the legal requirements under ORS 758.015 and OAR 860-025-0030(2) for granting a CPCN. UEC respectfully requests that the Commission grant its Petition for a CPCN and authorize the construction of a five (5) mile overhead transmission line from a breaker in the McNary Substation owned by the BPA to UEC's existing Hermiston Butte Substation.

Dated this 11th day of January 2017.

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⁵⁴ Staff/100, Ihle/25-26.