

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

PCN-2

In the Matter of the Petition of)
)
TILLAMOOK PEOPLE'S UTILITY)
DISTRICT)
)
PETITION FOR CERTIFICATE OF)
PUBLIC CONVENIENCE)
AND NECESSITY)
)
_____)

INTERVENOR REPLY TESTIMONY OF KURT MIZEE

March 12, 2019

Kurt Mizee – Intervener Reply Testimony

I. Introduction

Pursuant to the Prehearing Conference Memorandum issued by Public Utility Commission of Oregon (“Commission”) Administrative Law (“ALJ”) Judge Patrick Power dated February 5, 2019, Kurt Mizee submits this intervener Post-Hearing Reply Testimony. Kurt Mizee respectfully requests that the Commission deny its Petition for a Certificate of Public Convenience and Necessity (“CPCN”) for the construction of an 8.6-mile-long overhead transmission line from a breaker in the Tillamook Substation owned by the Bonneville Power Administration to the proposed new Oceanside Substation

II. Background

Tillamook PUD (TPUD) has applied for a Certificate of Public Convenience and Necessity through the Oregon Public Utility Commission as required by ORS 758.015. Tillamook PUD has created a scenario where they wrongly believe they have no other option but to construct the above mentioned transmission line. This is the result of not fully looking at alternative projects to address power needs in their service area.

III. Legal Standard

Under ORS 758.015 the applicant shall set forth “a detailed description and the purpose of the proposed transmission line, **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.”

A utility facility established under ORS 215.213 (1)(c)(A) or 215.283(1)(c)(A) **is necessary for public service if the facility must be sited in an exclusive farm use zone in order to provide the service.**

(2)To demonstrate that a utility facility is necessary, an applicant for approval under ORS 215.213 (Uses permitted in exclusive farm use zones in counties that adopted marginal lands system prior to 1993) (1)(c)(A) or 215.283 (Uses permitted in exclusive farm use zones in nonmarginal lands counties) (1)(c)(A) **must show that reasonable alternatives have been considered and that the facility must be sited in an exclusive farm use zone due to one or more of the following factors:**

(a) Technical and engineering feasibility;

(b) The proposed facility is locationally dependent. A utility facility is locationally dependent if it must cross land in one or more areas zoned for exclusive farm use in order to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;

(c) Lack of available urban and nonresource lands;

- (d) Availability of existing rights of way;
- (e) Public health and safety; and
- (f) Other requirements of state or federal agencies.

(3) Costs associated with any of the factors listed in subsection (2) of this section may be considered, but cost alone may not be the only consideration in determining that a utility facility is necessary for public service. Land costs shall not be included when considering alternative locations for substantially similar utility facilities. The Land Conservation and Development Commission shall determine by rule how land costs may be considered when evaluating the siting of utility facilities that are not substantially similar.

IV. Argument

Purpose

TPUD's purpose of the project to build a transmission and substation to Oceanside – Netarts is to adequately provide service to existing and new loads in a portion of Tillamook PUD's service territory, and to increase safety and reliability of TPUD's existing system.¹

The proposed purpose is skewed. This project began as a means to an end. A transmission line and substation first surfaced in 2008 when in March General Manager Patrick Ashby spoke of the Oceanside transmission line and a Federal Energy Regulatory Commission permit to look into wave energy². This was followed up by a signing of Memorandum of Agreement with Principle Power November 6 of 2008. The result of this study showed that there was a need for an 115kv transmission line from the headlands to the grid. Tillamook PUD continues to state that they are not building for off-shore energy production, however, the PUD website does state that if energy was being produced via wind or waves off the shore from a connection point they would be required by Federal law to connect. Without such a project in mind there is no purpose behind an overbuilt transmission line (300kv conductors) servicing such a small population such a short distance away from existing facilities.

Necessity

Necessity for the transmission line is largely if not totally artificially created by the applicant. Oregonians are only forgoing something desirable and useful (safe and reliable power)³ as a result of Tillamook PUD's lack of effort or willingness to improve Feeder 51. Stimson Timber, as an agreeable land owner has offered to give additional land to move the line farther off of Oregon State Highway 131 to help avoid auto collisions. There are trees growing within 10' of the lines between the villages of Oceanside and Netarts that are the cause of many of the outages. Better vegetation management would result in less outages. The conductors themselves should have been replaced over a decade ago but instead are being used to keep Oceanside and Netarts residents asking for a solution.

¹ TPUD Proposed Issues list

² March 2008 Tillamook PUD Ruralite page 32

³ TPUD's opening post-hearing brief

The build out of the transmission line and distribution lines away from the substation also create additional and even greater chance for loss of reliable and safe power. The change in distribution lines will mean that the entire village of Cape Meares will now also be at the mercy of Feeder 51. This will more than double the distance that power has to travel to safely and reliably reach Cape Meares⁴. Furthermore, Oregonians at a significant cost will add capacity with a substation in Netarts but will do so at the cost of having that capacity returned on what Tillamook PUD has deemed a poorly designed and maintained (old and failing⁵) feeder. The same feeder that TPUD states is the reason it needs the substation.

Necessity must also be considered when siting a utility facility on Exclusive Farm Use lands under the statutes. This proposed project crosses many EFU parcels.

TPUD has stated that they have avoided condemnation resolution thus far⁶ as they are attempting to avoid condemnation. However, they have also made little effort to move the project ahead in a manner that brings property owners to the table as shown by the lack of landowner support for the project. They also state that the publicly elected board reviewed and confirmed the need for the transmission line and the preferred route. However, two of those long-time board members were removed in the last election. Those board members also made that decision based on faulty data uncovered in the PUC proceedings by the Mast's.

Safety

While the PUD has stated that because of the robust nature of the construction of transmission lines there will not be a safety issue⁷, this is not entirely true. Certainly the very presence of an 115kv transmission line that is not currently interfering with land use is an added safety hazard. In previous testimony we have shown that there are safety issues to both people and animals as it crosses farm land. Also, in verbal testimony to the Tillamook County Board of Commissioners Stimson Lumber representative Jon Wehage very clearly articulated safety concerns for employees and equipment operators working around transmission lines in the Forest zone.

Practicability

Other more practicable options that have been pointed out in previous testimony have not been explored by PUD nor had the opportunity for in depth public review. Distribution lines to serve outlying areas are far more practicable than a costly transmission line to serve a remote substation and then returning power on a failing distribution line. It is akin to hauling rock across your driveway with a dump truck and then returning it by red wagon. Far more practicable is utilizing existing rights of way to create redundant distribution loops. Again, all public processes for selecting routes to this point have been transmission only with need and distribution options not considered.

TPUD states that the start point for the transmission line is located by existing infrastructure owned by TPUD and Bonneville Power (BPA)⁸. This is the result of a build out TPUD authorized prior to having

⁴ TPUD's construction plan

⁵ TPUD's Opening post-hearing brief page 5

⁶ TPUD's Opening post-hearing brief page 6

⁷ TPUD's Opening post-hearing brief page 8

⁸ TPUD's Opening post-hearing brief page 10

approval for a transmission line in January 2009⁹. Even with repaying the cost of this build out to BPA alternative routes have been shown as lower cost.

Justification

When there are options such as connecting the Cape Meares feeder to Oceanside, rebuilding an improved feeder 51 and Option 3 over Eckloff Road which would aid in reliability, redundancy and capacity you cannot justify this transmission project. When you consider that the project returns all extra capacity resulting from the rate-payers investment in a substation via the worst performing feeder the argument falls on its face. TPUD justifies this project with incorrect growth numbers. It cannot be justified based on actual growth numbers including electrical usage, new home permit numbers or even BPA budget numbers.

Cost Information

Tillamook PUD has yet to conduct a Life Cycle Cost Analysis of the project or proposed alternatives. In any other arena and in other utilities this is the gold standard method of determining true cost of a decision. Cost to build, cost to maintain and the benefits derived from the decision made should be factored in. We believe that the TPUD board has moved ahead without giving sufficient thought to the long term cost of such a project or the potential savings of alternatives. Rate payers will see a 4% increase this spring with an additional 4% increase next spring according to TPUD's budget. While the PUD down plays the increased cost rate payers incur, an 8% increase in a community with low wages and many people on a fixed income is significant. We believe TPUD has significantly under figured the cost of acquiring easements in terms of purchase and legal fees.

Financial Feasibility

The TPUD budget continues to show increased rates and falling equity levels. The rampant spending by the utility continues to put financial stability on a downward trend.

Consent of landowners

TPUD has made little effort to gain the cooperation of landowners as shown by the number of agreements in effect for this route. They appear to instead be waiting for the conclusion of this PCN-2 process so they can instead condemn the property.

Alternatives

We have previously discussed several alternatives to this transmission line. All of which travel along existing county roadways and don't add new impacts to EFU land and meet the standards of the Oregon Revised Statutes outlined on page one of this testimony.

Land Use Information

⁹ Memo from Bonneville Power dated January 6, 2010

Land use approval at the county level for this project is currently under appeal at the Oregon Land Use Board of Appeals.

Summary

We defer to the testimony of David and Doris Mast regarding actual power usage, and financial information. We have found David's lifetime experience in budgeting and financials to be more accurate and realistic than other numbers that have been posted by the applicant. Both David and Doris have been active in this process as concerned citizens and not landowners directly impacted.

- 1) Alternatives to this project should be looked at in the depth that the Tillamook PUD has looked into transmission only options. The rate-payers deserve that much.
- 2) Life Cycle Cost Analysis should be done on all alternatives. Comparisons to this point have had arbitrary numbers assigned to them by people who have repeatedly posted incorrect figures.
- 3) Feeder 51 should be improved prior to investing in a transmission line. Reliability and safety may not be an issue if this line is simply cared for as it should be or moved further out of harm's way.
- 4) Growth is occurring in the central valley of Tillamook. Returning the added capacity on a vulnerable line rather than keeping it in central county puts the investment at risk.
- 5) Professionals and industry organizations in the local area continue to state that this proposed project will have a much bigger impact on farming and logging operations than alternatives suggested.

Based on the evidence in the record in this proceeding, TPUD has not met the legal requirements under ORS 758.015 for granting a CPCN. Kurt Mizee Intervener respectfully requests that the commission deny TPUD's Petition for a CPCN and not authorize the construction of an 8.6-mile-long overhead transmission line from a breaker in the Tillamook Substation owned by BPA to the proposed new Netarts-Oceanside Substation.

Dated this 12th day of March 2019

/s/ Kurt Mizee, Tilla-Bay Farms, Inc.