

VIA ELECTRONIC FILING
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RE: Docket AR 626 – Continuing Comments of Jim Kreider

I'm going to try keeping this document at a higher level for the public meetings tomorrow and will detail more specific comments later in the rulemaking process.

I'd like to thank the staff of the OPUC for their work on this docket and being available for questions to help a member of the public navigate this process. I am sad to see that the staff member herding this process, Nadine Hanhan, has retired from the OPUC. I hope a new staff member can be assigned soon to complete the important work that still needs to be accomplished in this docket. Having participated in this docket since 2019 I am happy to see it move from informal to formal rulemaking. I have been disappointed that I have been the only member of the public to participate as I do not claim to represent the views of the general public.

An opening section of the Notice of proposed rulemaking is titled, Statement Identifying How Adaption of Rule(s) will Affect Racial Equity in this State, at the end states, "No party provided comments that the Commission's proposed Division 025 rule changes would have a negative effect on racial equity in Oregon". I must disagree with this statement if its intention is to claim that since no one from the public commented on this that there will be no negative effect on racial equity in Oregon. I submitted many comments and suggestions on incorporating Environmental Justice considerations into this rule and they are not here. There were to be in the Standard Data Requests which are missing and have not been reviewed or discussed and have been MIA for 6 to 9 months. There is a reference at (r) on page 6 of the notice speaking about the standard data requests being at a non-existent web link. I do not see how this docket can move forward in good faith if the commission does not include the Standard Data Requests in this rulemaking for review and that low income and communities of color are reached out to for comments.

Also the Notice of proposed rulemaking is extremely difficult to read and understand due to all the cross outs and additions in the track changes and the lack of space between the lines in the document. If possible could a more reader friendly document be published to make it easier to read and therefore comment on.

860-025-0030

RULE SUMMARY: The changes to this rule specify the filing requirements for a petition for a Certificate of Public Convenience and Necessity.

I agree with the COU's in asking that the rules clearly distinguish between the criteria the Commission will use for its decision to approve or deny a Certificate and the information the Commission will use to determine if those criteria are satisfied. A matrix of sorts could be developed to cover the commissions' criteria (Need, Safety, Practicability and Feasibleness, Public Benefits-balancing test, and other factors) and an information checklist developed to meet that criteria. In appendix 1 and 2 at the end of the document are checklists for ODOE/EFSC standards process and a Federal NEPA Process Outline. All transmission lines should be compared to the checklist to ensure consistency and transparency on what is being reviewed.

The discussions on alternative transmission routes should seriously consider a reasonable range of alternatives like the proposed route, variations, alternative routes, non-wires solutions, and the no action alternative among a few.

The community being impacted by the route and its alternatives in addition to the owner of the land being condemned should be notified. To think that only the landowner being condemned will be affected is not realistic. A transmission line will change the nature of a neighborhood and the larger the line the more impact it will have. As we have found with the Boardman to Hemingway 500 kV line builders and regulators of transmission lines do not know the local terrain or environment and could choose to do impossible or very unpractical things because they just looked at a map or a report but did not ground truth the environment or terrain. And as several others mentioned the infrastructure plan is advertized to build many new transmission lines and to not let the community know will look like the government and Power Company colluded to pull the wool over the communities eyes because they were not transparent and only told a few landowners directly impacted.

860-025-0040

RULE SUMMARY: This rule sets forth how the Commission will make findings that issuing a CPCN for a proposed transmission line will be in compliance with statewide planning goals and land use regulations and compatibility with acknowledged plans and regulations.

It is my opinion that a waiver and a provisional issuance of a CPCN should only be considered when a transmission project is considered critical to fill a need or reliability issue that is imminent. Imminent meaning that if the time it will take to evaluate a CPCN application will put the electrical grid the transmission line is to serve into a critical need or reliability situation a wavier process should be considered.

A wavier and a provisional issuance of a CPCN needs to have a high bar. The provisional part of the CPCN will get lost in the communication process or spun in such a way that the public will believe that a CPCN was actually issued. This will skew negotiations with landowners being condemned as public perception will be it is a done deal. During the Boardman to Hemingway EFSC contested case Idaho Power began serving pre-condemnation court papers on landowners and the local media picked up the stories. The public believed that the deal was done and the line was going to be built. Months later we are still doing damage control letting the public know that it is not a done deal, that the landowners land was not condemned, the public process continues and they still need to comment on the various proceedings.

We need to have discussions on the use of [ORS 772.210 -- Right of entry and condemnation of lands for construction of service facilities](#) and [ORS 35.220 Condemnation entry on real property](#). At the beginning of this year Idaho Power used these in the B2H process to force entry onto landowners property who did not want them on their property. It was to conduct "surveys" before EFSC required them to be done and EFSC has an "over the fence" survey method in their draft proposed order for landowners that do want the power companies on their property. There was no need for this intimidation. In discussions with ODOE staff these are the guidelines they have for this process, [OAR 860-025-0030 - Petitions for Certificate of Public Convenience and Necessity \(CPCN\) for Construction of Overhead Transmission Lines](#) and [ORS 758.015 – Certificate of public convenience and necessity](#). These pre-construction activities should not be allowed until the site certificate and the CPCN process is completed.

If 860-025-0040(4) is going to give a transmission line in the EFSC process automatic approval if a site certificate is issued, meaning that the EFSC criteria meet or exceed all OPUC CPCN criteria I suggest using EFSC's Applicable Requirements from OAR chapter 345, Division 21 (Appendix 1) as a checklist for all transmission lines going through the CPCN process. I would also suggest using the federal NEPA process outline as a checklist (Appendix 2).

As mentioned earlier I will submit more detailed comments later but wanted to share some bigger picture ideas for the upcoming public meetings.

Thank you



Jim Kreider

Appendix 1
Energy Facility Siting Council Project Order March 2, 2012

VI. APPLICABLE REQUIREMENTS FROM OAR CHAPTER 345, DIVISION 21

- (a) Exhibit A – General Information about the Applicant
- (b) Exhibit B – General Information about the Proposed Facility
- (c) Exhibit C – Location
- (d) Exhibit D – Organizational Expertise
- (e) Exhibit E – Permits
- (f) Exhibit F – Property Owners
- (g) Exhibit G – Materials Analysis
- (h) Exhibit H – Geology
- (i) Exhibit I – Soils
- (j) Exhibit J – Jurisdictional Waters
- (k) Exhibit K – Land Use (Statewide Planning Goals)
- (l) Exhibit L – Protected Areas
- (m) Exhibit M – Financial Capability
- (n) Exhibit N – Need for the Facility
- (o) Exhibit O – Water Use
- (p) Exhibit P – Fish and Wildlife Habitat
- (q) Exhibit Q – Threatened and Endangered Species
- (r) Exhibit R – Scenic Resources
- (s) Exhibit S – Historic, Cultural and Archaeological Resources
- (t) Exhibit T – Recreation
- (u) Exhibit U – Public Services
- (v) Exhibit V – Solid Waste and Wastewater
- (w) Exhibit W – Facility Retirement
- (x) Exhibit X – Noise
- (y) Exhibit Y – Carbon Dioxide Emissions
- (z) Exhibit Z – Cooling Tower Impacts
- (aa) Exhibit AA – Electric and Magnetic Fields
- (bb) Exhibit BB – Other Information
- (cc) Exhibit CC – Other Law
- (dd) Exhibit DD – Specific Standards

Appendix 2

Federal NEPA Process Outline

1.0 PURPOSE AND NEED FOR THE PROPOSED ACTION

- 1.1 PROJECT HISTORY AND OVERVIEW
- 1.2 BASIS FOR THE FEIS
- 1.3 PURPOSE AND NEED
- 1.4 PLANNING CONTEXT

2.0 ALTERNATIVES CONSIDERED

- 2.1 ALTERNATIVES PREVIOUSLY CONSIDERED
- 2.2 ALTERNATIVES EVALUATED IN THE FINAL ENVIRONMENTAL IMPACT STATEMENT

3.0 SOCIAL EFFECTS

- 3.1 LAND USE AND SOCIOECONOMICS
- 3.2 NEIGHBORHOODS, COMMUNITY SERVICES, AND COMMUNITY COHESION.
- 3.3 ACQUISITIONS AND DISPLACEMENTS/RELOCATIONS
- 3.4 CULTURAL RESOURCES
- 3.5 PARKLANDS AND RECREATION AREAS
- 3.6 VISUAL QUALITY AND AESTHETICS
- 3.7 SAFETY AND SECURITY
- 3.8 ENVIRONMENTAL JUSTICE

4.0 ENVIRONMENTAL EFFECTS

- 4.1 GEOLOGY, GROUNDWATER RESOURCES, AND SOILS
- 4.2 WATER RESOURCES
- 4.3 BIOTA AND HABITAT
- 4.4 THREATENED AND ENDANGERED SPECIES
- 4.5 AIR QUALITY
- 4.6 NOISE ANALYSIS
- 4.7 VIBRATION
- 4.8 HAZARDOUS/REGULATED MATERIALS
- 4.9 ELECTROMAGNETIC INTERFERENCE AND UTILITIES
- 4.10 ENERGY

5.0 ECONOMIC EFFECTS

- 5.1 ECONOMIC CONDITIONS
- 5.2 STATION AREA DEVELOPMENT
- 5.3 DEVELOPMENT EFFECTS

6.0 TRANSPORTATION

- 6.1 TRANSIT EFFECTS
- 6.2 EFFECTS ON ROADWAYS
- 6.3 EFFECTS ON PARKING
- 6.4 OTHER TRANSPORTATION FACILITIES

7.0 EVALUATION

- 7.1 BACKGROUND INFORMATION AND REGULATORY REQUIREMENTS
- 7.2 METHODOLOGY

- 7.3 PROPOSED ACTION
- 7.4 PURPOSE AND NEED
- 7.5 PROPERTIES PROTECTED BY SECTION 4(F)
- 7.6 AVOIDANCE ALTERNATIVES
- 7.7 MEASURES TO MINIMIZE HARM
- 7.8 COORDINATION
- 7.9 CONCLUSIONS

- 8.0 **FINANCIAL ANALYSIS**
- 8.1 SUMMARY OF FINANCIAL PLAN CHANGES AND IMPROVEMENTS
- 8.2 PROJECT SPONSORS AND FUNDING PARTNERS
- 8.3 CAPACITY OF PARTNERS TO FUND THE PROPOSED PROJECT
- 8.4 MAINTENANCE (O&M) COSTS