

June, 22, 2022

RE: Docket AR 626 – Continuing Comments of Jim Kreider and the STOP B2H Coalition

Thank you for taking the time dig deeper into this topic. Having it spread out over this 3 year timeframe made the process a bit fragmented. Since we may be looking at a significant re-write and comments were submitted on 4/25/22, 8/13/21, 6/12/20 we will not get into rule detail here. **The 2021 and 2020 comments will be submitted with these comments.**

STOP and myself hope to be positive contributors to this refreshed docket as the group focuses on some of the finer and more pernicious points of condemnation. The utilities seem to feel overburdened with the regulations or permits that they must receive in order to construct a transmission line. STOP is frustrated with the thought of the commission approving a Certificate of Public Convenience and Necessity (CPCN), aka condemnation, and taking a landowner's land before there is proof positive that the public good will be served and transmission line can be constructed.

Since this process moved from the informal towards formal with the commission's involvement the tone of the discussions, in my opinion, has move towards a pro-utility and away from a public good based framework as was envisioned at the beginning with the CPCN being the capstone of the project. Now we are talking about taking someone's land in order to attempt to satisfy the conditions of, one or two permits, which might not get approval! If these permits are not received, the landowner's land has been taken and their life thrown into the unknown for what?

Condemnation is to be used as a last resort. Not being able to get a permit--when a rule or law can to be modified by the issuing agency or legislature--should be attempted first. At the start of this case the CPCN was to be a capstone, the last stop. The utilities came to the OPUC commissioners as an agency to fix the problems of other agencies so that the OPUC looks to be putting the utilities before the people. The OPUC has gone from the last stop to saying, if the other agencies say it is possible but not certain for the utility to get this permit the OPUC will give you a CPCN. **Granting a CPCN before the issuing agency can see the details of the application is irresponsible given the stakes to the landowner.**

The LUCS, if developed, will make all stake holders aware of the all the permits the utilities need to receive from the counties and hopefully other permitters. It appears that if the counties and other permitters indicate it is possible for the utility to get these permits the commission will issue a CPCN for the utility to condemned the land as well as any other issues where securing the permit is possible but not certain. **The OPUC is taking on a serious responsibility by making findings for other agencies using [OAR 660-030-0065\(3\)](#).**

The OPUC staff and OPUC commissioners may be good to consult, but to ask them to make decisions on behalf of the other commissions (i.e.: LCDRC, Counties) that the OPUC has little experience in, is not a prudent decision in my opinion. Regarding this opinion Commissioner Decker said in the afternoon session of 4/26/22, "And you express this morning a concern that we don't have that expertise, I think we're attempting to fulfill our obligations under the statute, as it relates to CPCN, which has some requirements for us related to land use. And we're trying to find that balance between sort of deference to others who are better positioned to make those decisions, and fulfilling our obligations."¹ A discussion of the body of law, competencies, staff resources, and time required hopefully are a part of this discussion. During the meeting in a discussion about the Environmental Justice framework Commissioner Decker said her "understanding was that they're moving sequentially just do to resource

¹ Otter transcription of meeting audio 1h20m

constraints.²” **Given these resource constraints, is this the best time to take a significant step like this? Maybe an interagency task force made up of all the agencies involved is a better incremental step to address this problem?**

During the April 26, 2022 commission meeting the Environmental Justice (EJ) framework that I have been promoting was discussed. **EJ was brought up in my prior comments on 8/13/21 and 6/12/20 but received little traction and was moved to the standard data requests with the commitment that they would be discussed at a later date. That never happened** and it appears that the data request questions drafted, as meager as they were, will not be a part of this rulemaking. Something I am disappointed to hear.

To clarify again I am a member of the state’s Environmental Justice Task Force, now the Environmental Justice Council and we advise the state’s natural resource agencies on EJ issues. The OPUC is a natural resource agency and if the commission would like, **I can request that this topic be put on one of our upcoming agendas for discussion.**

As the EJ Council’s rural representative and Co-Chair of the STOP B2H Coalition with over 900 members in five eastern Oregon counties that are being threatened by a 300 mile 500kV transmission line, these discussions and outcomes are very real to me. These people are my neighbors! As I have gotten to better know them and understand the diversity of their jobs, communities, life struggles, and love of the land, they need to be at the table and have a voice in their futures’. They do not have the time or money to hire a cadre of attorneys as the utilities do. Which by the way we, the ratepayers, pay for – but you know that. But we have you the OPUC to act as arbitrator to try to decide what is best. I grant you at times these can be very difficult decisions. **This is why I am pressing for some type of EJ framework to assist the commission in looking at elements not usually looked at. A transmission line has socioeconomic ramifications that are not evaluated in EFSC process nor OPUC’s.**

I’ve suggested using the Federal EPA [EJSCREEN](#) as a possible tool. It allows users to access high-resolution environmental and demographic information for locations in the United States, and compare their selected locations to the rest of the state, EPA region, or the nation. The tool may help users identify areas with:

- Minority and/or low-income populations
- Potential environmental quality issues
- A combination of environmental and demographic indicators that is greater than usual
- Other factors that may be of interest

Oregon Department of Geology and Mineral Industries (DOGAMI) is using the EJ screen in evaluating its projects. It is the EJ Council’s hope that all agencies will adapt some type of EJ screen process in all the decision they make and the Council is currently embarking on a state wide EJ mapping process.

In appendix 2 of the Federal NEPA Process outline in my 4/25/22 comment under social effects there are: land use and socioeconomics, community cohesion, acquisitions and displacements/relocations. In Economic effects are: economic conditions, area development, and development effects. This could include loss of income due to land taking where utilities do not compensate for this life time loss in the case of timber, effects on tourism with destroyed viewshed, parks, and recreational opportunities. The point being that there are critical items that are not reviewed in the issuance of a CPCN by any other agency and since the OPUC is the last stop I would suggest that the OPUC includes this framework in the CPCN process.

Thank you



Jim Kreider

² Otter transcription of meeting audio 1h26m

Date: 8/13/21
To: Nadine Hanhan
Johanna Riemenschneider
From: Jim Kreider
Re: AR 626

I appreciate the opportunity to comment as a member of the public on this restarted Certificate of Public Convenience and Necessity (CPCN) rule making. Staffs consolidation of all the notes and redlines from the prior sessions is helpful but at the same time a little confusing to this commentator. In advance I'd like to apologize for any redundancy in my remarks as I am attempting to work thematically to include Environmental Justice (EJ) within this rulemaking process.

However, we have several rules, some new, which will be the outcome of this process. In trying to ensure there is an EJ framework ingrained in them all some comments might be redundant. Once the track changes and language is clearer I hope the final language we draft will carry the EJ theme throughout all rules involved in the Certificate of Public Convenience and Necessity (CPCN) rule making.

For those unaware of Environmental Justice and the [EJSCREEN](#) it allows users to access high-resolution environmental and demographic information for locations in the United States, and compare their selected locations to the rest of the state, EPA region, or the nation. The tool may help users identify areas with:

- Minority and/or low-income populations
- Potential environmental quality issues
- A combination of environmental and demographic indicators that is greater than usual
- Other factors that may be of interest

In the spirit of transparency I need to let people know that I am a member of the Oregon [Environmental Justice Task Force](#) but I am speaking as myself an individual member of the public.

I look forward to further participation in this process and working to clarify the language in these rules.

Jim Kreider

Comments:

(2)(b)

- How is justification defined? Would like to see it include a no action alternative, non-wires, as well as all other avenues explored to provide the services the line would provide but without the line and why they were not chosen.

- Emergency conditions - Link to OPUC portion of Senate Bill 762-Wildfire Recovery

Directs Public Utility Commission to convene workshops. Requires public utility that provides electricity to have wildfire protection plan. Provides that violation is subject to civil penalty not to exceed \$10,000. Requires consumer-owned utility to have wildfire mitigation plan.

(2)(c)- provide maps in kzm format

(2)(c)(B) – what is the definition of capacity? Is this the bi-directional MW the line can move?

(2)(c)(C) – **Available** alternate **transmission line** routes analyzed **and rational for rejection** by petitioner, if any.

(2)(f) – A description of the property and ~~interests~~ **public benefits to be obtained to be condemned, for which condemnation is necessary at the time of the petition**, a full explanation of the intended use, and the specific necessity and convenience for the taking of said property:

(2)(f)(B) – what is the notification area for the certificate of service? How is this determined?

(2)(j) - A rate impact analysis **for petitioners and partner utilities ratepayers by class**. At a minimum, petitioner's analysis must show any projected increase, if any, in petitioner's/ **partners** total revenues that will be necessary if petitioner/ **partner** constructs and operates the transmission line. Petitioner's/ **partner** analysis must include but is not limited to associated capital costs and operating and maintenance costs of the project. Petitioner/**partner** must also include an estimate of petitioner's/**partner** overall annual revenue requirement, with and without the proposed transmission line, identifying material assumptions. Petitioner/**partner** must also include a projected average monthly bill increase for its customers in each Oregon customer class that may experience a rate increase, given the estimated revenue requirement. A rate impact analysis provided under this rule is used solely for purposes of evaluating the petition.

In general wherever the word petitioner is used consider including the word partner like petitioner/partner. If any partner in the transmission line has expenses or revenues they will be passed onto a ratepayer or another party and that financial disclosure will inform the process.

(2)(o) If the petitioner alleges that the transmission line provides needed redundancy or reliability, describe the public process in determining this need, and provide all supporting analysis conducted and prepared by or for petitioner.

(2)(k)(A) - Costs and benefits to petitioner's/partner's Oregon ratepayers and ratepayers of other Oregon utilities and to Oregonians in general.

(4) change may to will – why would the commission not want to notify the petitioner that the application is incomplete? If a petition is filed that does not include the information required under this rule, or the petitioner does not provide responses to all of the Standard Data Requests for Petitions for Certificates of Public Convenience and Necessity, as required by this rule, the Commission will may notify the petitioner that the filing is incomplete and will not be considered by the Commission.

OAR 860-025-0035

(1) – how will improved system reliability be defined and what documentation required?

(4) – what type of public process will occur for this extension?

In the event a CPCN is granted, the certificate shall expire ten years from date of issuance, or if construction does not begin, within five years of the date of issuance. Upon request of a petitioner, the Commission **may grant an extension** on the term of a certificate for good cause shown.

Certificate of Public Convenience and Necessity (CPCN) Standard Data Requests (SDR)

1 c. Elevation and **directional change** mitigation; what is mean by directional change?

d. Any other route-specific factors related to topography, geology, environmental, agricultural, stream crossing, or cultural heritage mitigations, or other conditions relevant to construction costs; **as mentioned elsewhere include Protected Areas, Scenic Resources, and Recreation. FYI - ODOE is currently in rulemaking on this topic. Add noise specifically transmission line noise specifically in rain, fog, and smoke.**

e. Accommodation **and mitigation** of requests by impacted communities such as parks, undergrounding, roads, **traffic, fire,** sidewalks and other improvements.

2 c. **ROE** adders **and basis points awarded** to Federal Energy Regulatory Commission (FERC) transmission or wheeling rates. **Might want to add language that comes from [FREC's Supplemental NOPR](#)?**

3. For each benefit cited in a petitioner's application for federal support, has the petitioner arranged for staffing and programs to deliver said benefit? **Please share any program implementation documents and related budgets.**

4. What percentage of wheeling revenues will accrue to benefit ratepayers **with or without** ~~where~~ an adder **that** has been requested and granted by FERC? In this response, please clarify if the benefits from wheeling revenues are capped

by any assumptions made by the petitioner regarding expected amount of transmission capacity available for wheeling on this proposed line or on average on broader amounts of the petitioner's transmission assets.

8 g. Insurance, guarantees and other provisions to safeguard the petitioner and ratepayers, from mishaps, failure to perform, and accidents. **Add bonding or decommissioning and fire.**

10. Has the petitioner considered statewide or local economic impacts (positive or negative) as a result of construction of the transmission line? If so, please provide a detailed description of the impacts considered and any associated analysis. The petitioner may articulate what economic development is facilitated by the construction of the proposed transmission line. ~~The petitioner may simply indicate that it chose not to respond to this SDR.~~ **Believe petitioner must reply to this. The economic impacts, positive and negative, are critical to determining if the public good is served. Many of the other societal impacts discussed thought this document is critical to good public policy. Is what is given up in the best interest to society for what it will gain?**

19. Please provide a narrative identifying expected capacity utilization in each direction along the proposed transmission line, immediately on energization, **at 5 years** and ten years into operations. **A mid-term data point would add value to the data set and to the predictions of the need and value of the resource.**

21. Please provide a graphical depiction of the expected magnitude of electricity flows over this line seasonally **and bi-directionally**. Accompany this with a narrative explaining whether communities on either end of the proposed transmission line are positioned to benefit from this expected seasonal variation. **What if there are on/off ramps to community's in-between – benefits to these communities should be comments on too. And if there are no on/off ramps why?**

Date: 6/12/20
To: Nadine Hanhan
Johanna Riemenschneider
From: Jim Kreider
Re: AR 626

This seems to be one size fits all CPCN's however transmission lines come in different sizes. There are the 300+ mile 500 kV B2H type lines, the 230/345 kV type lines, and the smaller more localized lines. We should look for scalability and the larger and longer the line the greater the documentation/review.

1. 2(b) and the whole document should reviewed to be in alignment with the [2020 PUC EO 20-04 Implementation Report](#) to insure these directives are included specifically as they relate to wildfire protection plans:
EO 20-04 then specifically directs the PUC to take action in six areas:
 1. Determine whether utility portfolios and customer programs reduce risks and costs by making rapid progress towards reducing GHG emissions.
 2. Encourage electric companies to support transportation electrification infrastructure that support GHG reductions, helps achieve electrification goals set forth in SB 1044 (2019), and is reasonably expected to result in long-term benefit to customers.
 3. Prioritize proceedings and activities that advance decarbonization in the utility sector to reduce GHG emissions, mitigate energy burden experienced by utility customers, and ensure system reliability and resource adequacy.
 4. Evaluate electric companies' risk-based wildfire protection plans and planned activities to protect public safety, reduce risks to utility customers, and promote energy system resilience, all in consideration of the recommendations made by the Governor's Council on Wildfire Response 2019 Report and Recommendations.
 5. Convene workshops to assist electric companies, consumer-owned utilities, and operators of electric distribution systems to develop and share best practices for mitigating wildfire risk.
 6. Partner with Oregon Housing and Community Services to establish a public process to address and mitigate differential energy burden and other inequities of affordability and environmental justice.
2. Bring PUD's and Coop's under this rule if they are not already. Several of the wind farms in central Oregon are using the Umatilla coop to build either distribution or transmission lines from load to an appropriate substation.
3. At 2 c where it says map or maps ask for them on paper and as kmz files or an electronic version that is easily usable by the public.
4. At 2(B) Proposed route, voltage, and capacity of the proposed transmission line.
Suggest ask for all owners of the line and % of ownership and shared responsibilities.
5. At 2 (E) Each parcel of land or interest therein that the petitioner has or must acquire to construct and operate the transmission line.
 - a) Ask for a data base of the impacted owners names, tax lot #, tax lot \$ value, condemnation purchase price, market price, lost production value for life of the taking (farm, timber, commercial, etc.), net tax gain/loss to taxing agencies. Is the total cost of all land taken greater than the societal value of the line? How is societal value measured? What are the cumulative effects on the communities in the path of the line? Calculate the economic impact of the taking of the land against the landowner's wishes to the greater public good of the line;
 - b) impacts on wildlife, and lost revenue to ODFW and other entities that could be impacted by this land/corridor loss.

c) What is the impact to the surround neighborhoods? These things can to be located in poorer neighborhoods and an [EJ screening](#) should be performed as a part of this process.

6. The utility should pay for an independent land assessor chosen by the land owner and utility but supervised by the OPUC or an independent 3rd party. The assessor needs to be independent.
7. If an attorney is required by the landowner the utility should pay for the costs of an attorney chosen by the land owner(s).
8. All landowners within at least one mile of the line need to be notified that a transmission line is moving in.
9. Noise studies need to be conducted.
10. If blasting or deep digging for footings will be done all springs/wells within a 3 mile radius need to be baselined for cfs flow at the developers expense. If this cfs flow is damaged by construction the developer needs to repair or replace the spring/well to the landowners satisfaction.
11. Study the cost of undergrounding the line.
12. The possibility of double circuiting the new line on an existing ROW. i.e. Re-conductor a 230 to a 345 on the same poles in the same ROW.
13. **(B) Any third-party funding approvals or petitioner applications for project funding including but not limited to federal grants or loan guarantees.** – include any FERC related incentives.
14. If in forested land comply with [Goal 4 – Forest Lands](#).

Notes for 8/13/21 comments

Generally like the inclusion of many of the comments already submitted. Appreciate the hard work.

In general wherever the word petitioner is used can we include partner. If any other partner has expenses or revenues they will be passed onto a ratepayer or another party and that financial disclosure will inform the process.

An [EJ screen analysis](#) to identify areas with:

- Minority and/or low-income populations
- Potential environmental quality issues
- A combination of environmental and demographic indicators that is greater than usual; and
- Other factors that may be of interest

An [EJSCREEN](#) allows users to access high-resolution environmental and demographic information for locations in the United States, and compare their selected locations to the rest of the state, EPA region, or the nation. The tool may help users identify areas with:

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Include ODOE rulemaking for scenic, recreational, cultural and protected resources

(2)(b) – have the following been included in the document (demographics of neighborhoods the proposed line will pass through, distance from line to property boundary and dwelling, noise studies with noise impacts on homes and neighborhoods, height of towers, width of right of way, service road details and if temporary or permanent, identified scenic, recreational, cultural resources, etc)

How is justification defined? Would like to see it include a no action alternative, non-wires, as well as all other avenues explored to provide the services the line would provide and why they were not chosen.

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