

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

PCN 5

In the Matter of

IDAHO POWER COMPANY,

Petition for Certificate of Public  
Convenience and Necessity.

ORDER

DISPOSITION: CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY  
GRANTED

**I. INTRODUCTION**

This order addresses Idaho Power Company's petition for a certificate of public convenience and necessity (CPCN) for its proposed Boardman to Hemingway Transmission Line Project (B2H or B2H Project). We appreciate the robust participation in this docket from intervening organizations and individuals. We recognize that a proceeding that could lead to the taking of private property represents an extremely concerning event for the individuals involved. In light of the potentially significant impacts of the B2H project on individuals' property and their economic and personal well-being, we deeply appreciate that engagement with Staff, Commissioners, and other parties was so constructive, considerate, and well-informed. We are thankful for the time and effort to voice concerns and help us conduct the comprehensive review of Idaho Power's proposal that it deserves.

The legislature has delegated us the duty of determining whether transmission lines requiring condemnation, like the B2H project, are necessary, safe, practicable, and justified in the public interest. Where we find that a transmission line meets those criteria, we are to grant a CPCN for the benefit of the greater public interest, despite the private properties that are implicated in its construction and operation. We take this obligation seriously and recognize the importance of scrutinizing such proposals. We make our decision only after carefully weighing the interests involved.

We conclude that the B2H project meets the necessity, safety, and practicability standards set forth in ORS 758.015 and our rules, that it is justified in the public interest, and that it complies with Statewide Planning Goals and local land use regulations. Idaho Power and its partners have demonstrated through robust analysis of increasing customer electricity loads a need for additional transmission capacity that will be served by B2H, which we find will be constructed, operated, and maintained safely according to best practices and subject to ongoing scrutiny in wildfire mitigation plans. We recognize that Idaho Power considered and received feedback on

many possible routes during years of permitting processes, and we conclude that Idaho Power's chosen and permitted route is practicable, feasible, and that it can be constructed in a commercially reasonable manner. Finally, we conclude that the B2H project is justified in the public interest. The B2H project has many positive local, state, and regional benefits, and yet we acknowledge that negative impacts exist and that certain individuals and businesses located along B2H's route will bear those negative impacts. However, we conclude, after weighing all the relevant evidence, that the project is in the public interest when compared to the alternatives. We therefore find it to be justified in the public interest and consistent with the statutory standards.

## II. BACKGROUND AND PROCEDURAL HISTORY

On September 1, 2022, Idaho Power filed a notice indicating its intention to petition the Commission for a CPCN for its B2H project. The Commission adopted rules governing its review of CPCN petitions on September 29, 2022, in Commission docket AR 626.<sup>1</sup> On September 30, 2022, Idaho Power filed its petition for a CPCN for its B2H Project along with supporting testimony and exhibits. Idaho Power filed a supplement to its petition on October 7, 2022, with new materials related to the Energy Facility Siting Council's (EFSC) site certificate for the B2H Project.

Staff of the Public Utility Commission of Oregon (Staff) participated in this matter as a party. Several other individuals and groups participated as intervenors, including: STOP B2H Coalition (STOP B2H); Margie Marie Lyon; Tim Proesch & Miranda Aston Proesch; Whitetail Forest LLC and Glass Hill State Natural Area (Susan Geer); Sam Myers; Greg Larkin (through his representative Irene Gilbert); PacifiCorp; James Foss & Kaye Bishop Foss; Carl & Julie Morton; John Williams; and Wendy King.<sup>2</sup>

The Commission held a public comment hearing at Eastern Oregon University in La Grande, Oregon on November 16, 2022, where it heard oral comments from interested members of the public in-person and by phone.<sup>3</sup> The Commission held an additional public comment hearing by Zoom video conference on December 5, 2022.<sup>4</sup> The Commission also solicited written comments from the public on Idaho Power's petition.

On December 29, 2022, STOP B2H filed a motion regarding Idaho Power's notice to potentially affected landowners. On January 13, 2023, the ALJ issued a ruling denying the motion. Sam Myers filed a motion to certify the ALJ ruling for Commission consideration on January 17,

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<sup>1</sup> *In the Matter of* Rulemaking Regarding Certificate of Public Convenience and Necessity Rule, Docket No. AR 626, Order No. 22-351; *see also* OAR 860-025-0030, OAR 860-025-0035, OAR 860-025-0040.

<sup>2</sup> The following intervenors did not participate in the evidentiary hearing, nor did they file briefing in this docket: Margie Marie Lyon; Tim Proesch & Miranda Aston Proesch; James Foss & Kaye Bishop Foss; and Carl & Julie Morton.

<sup>3</sup> *See* Notice of Public Comment Hearing (Oct. 27, 2022); *see also* Transcript, Public Comment Hearing (Nov. 16, 2022).

<sup>4</sup> *See* Notice of Public Comment Hearing (Nov. 8, 2022); *see also* Transcript, Public Comment Hearing (Dec. 5, 2022).

2023. The Commission affirmed the ALJ ruling on March 20, 2023.<sup>5</sup>

On January 30, 2023, Greg Larkin filed a motion seeking review of a discovery request from Idaho Power. The ALJ held a discovery conference on February 7, 2023, and the discovery dispute was ultimately resolved informally.

On February 7, 2023, the ALJ issued a ruling granting a petition to intervene for Wendy King and denying her motion to file amended opening testimony late. Ms. King filed a motion to certify the ALJ's ruling for Commission consideration on February 7, 2023. The Commission affirmed the ALJ ruling on March 20, 2023.<sup>6</sup>

On March 15, 2023, Idaho Power filed a motion to compel, seeking a response to data requests from Sam Myers. The ALJ held a procedural conference to discuss the motion on March 21, 2023. On March 27, 2023, the ALJ issued a ruling denying Idaho Power's motion to compel as moot and denying Idaho Power's request for additional relief.

On March 23, 2023, the Chief ALJ conducted a workshop with parties to explain the remaining procedural process in the docket and to answer procedural questions from the parties.

The parties submitted multiple rounds of testimony, and an evidentiary hearing was held on April 19 and April 20, 2023. A highly confidential session of the evidentiary hearing was held on April 20, 2023. On May 8, 2023, the ALJ issued a ruling sustaining evidentiary objections in part and overruling evidentiary objections in part. The ALJ issued a ruling admitting evidence and testimony on May 10, 2023. The parties submitted briefing on May 15 and May 30, 2023. The ALJ issued a ruling closing the record on June 23, 2023.

### III. IDAHO POWER'S PETITION

According to Idaho Power, the B2H project "consists of approximately 298 miles of electric transmission line, with 274 miles located in Oregon and 24 miles in Idaho."<sup>7</sup> It requires "298 miles of single-circuit 500-kV transmission line, removal of 12 miles of existing 69-kV transmission line, rebuilding of 0.9 mile of a 230-kV transmission line, and rebuilding of 1.1 miles of an existing 138-kV transmission line into a new right-of-way."<sup>8</sup> The proposed transmission line would run from approximately Boardman, Oregon southeast to Hemingway, Idaho.

Idaho Power submitted a petition for a CPCN for the B2H project on September 30, 2022, and later supplemented it with additional information from the EFSC site certificate process. Idaho Power's petition included descriptions, data, maps, and other information required by the Commission's rules to enable the Commission and the public to assess Idaho Power's proposal. Idaho Power's petition asserts there is a need for the B2H project, that it will be safe, that the

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<sup>5</sup> See Order No. 23-103 (Mar. 20, 2023) (affirming Ruling Denying Motion (Jan. 13, 2023)).

<sup>6</sup> Order No. 23-103 at 2 (Mar. 20, 2023) (affirming Ruling Denying Motion (Feb. 7, 2023)).

<sup>7</sup> Idaho Power Initial Petition at 12 (Sept. 30, 2022).

<sup>8</sup> *Id.* at 12-13.

company can construct the project in a practicable, feasible, and commercially reasonable manner, and that the project is justified.

#### IV. APPLICABLE LAW

When an Oregon electric utility “proposes to construct an overhead transmission line which will necessitate a condemnation of land or an interest therein,” it must seek a CPCN from the Commission.<sup>9</sup> The petition for a CPCN must provide “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.”<sup>10</sup>

After receiving such a petition, the Commission must “give notice and hold a public hearing on such petition.”<sup>11</sup> In addition to considering facts presented at the hearing, the commission must make its “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.”<sup>12</sup>

OAR 860-025-0030 provides additional requirements for petitions for a CPCN, including information that must be provided to the Commission in or accompanying the petition and requirements to notify individuals with interests in potentially affected lands.

In reviewing a petition for a CPCN, the Commission must consider a number of factors.<sup>13</sup> These factors include:

- (a) Whether the transmission line will meet a demonstrated need for transmission of additional capacity or improved system reliability that enables the petitioner to provide or continue to provide adequate and reliable electricity service;
- (b) Whether the petition has demonstrated that it will ensure the transmission line is constructed, operated, and maintained in a manner that protects the public from danger and conforms with applicable Commission rules, and other applicable safety standards and best industry practices;
- (c) Whether the transmission line using petitioner’s proposed route is practicable and feasible, whether it will be effectively and efficiently constructed in a commercially reasonable manner;
- (d) Whether petitioner has justified construction of the proposed transmission line as in the public interest, as compared with feasible alternatives for meeting the identified need, considering the public benefits and costs of the project, as they relate to the interests in land proposed to be condemned, petitioner’s existing facilities and equipment, petitioner’s

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<sup>9</sup> ORS 758.015(1).

<sup>10</sup> *Id.*

<sup>11</sup> ORS 758.015(2).

<sup>12</sup> *Id.*

<sup>13</sup> OAR 860-025-0035(1).

Oregon customers, and other considerations that may be relevant to the public interest. Other such considerations include but are not limited to, the benefits and costs to other Oregon utilities, their customers, and all Oregonians, the value of connections to regional and inter-regional electricity grids and to a petitioner’s non-Oregon service territories, and all Oregonians.<sup>14</sup>

The Commission may also consider any “other factors it deems relevant to the statutory criteria.”<sup>15</sup> As an Oregon natural resource agency, the Commission must also consider the effect of its decision on environmental justice issues.<sup>16</sup>

If granted, the order approving a petition for a CPCN is “conclusive evidence that the transmission line for which the land is required is a public use and necessary for public convenience” in any related condemnation proceeding.<sup>17</sup>

The Oregon Supreme Court affirmed the EFSC site certificate for the B2H project on March 9, 2023.<sup>18</sup> The Oregon Supreme Court concluded EFSC did not err in denying full party status to STOP B2H and Irene Gilbert, and upheld EFSC’s findings and conclusions related to noise, scope of landowner noise assessments, visual impacts, the Glass Hill alternative, impacts on historic sites, associated mitigation, and changes to a mandatory site certificate condition.<sup>19</sup>

## V. DISCUSSION AND RESOLUTION

### A. Requests to Extend the Proceedings

Multiple intervenors requested that we pause the CPCN process to allow additional information to be collected and more permits or approval processes to be completed related to the B2H transmission line project. We resolve the issue of outstanding permits and approvals below, and here address concerns about our process timeline.

Although Idaho Power sought a decision in this matter on a timeline that was faster than advocated for by some parties, we find that ample time and process was provided to review Idaho Power’s application, which was filed in September 2022. Idaho Power delayed filing its petition to accommodate the promulgation of new CPCN rules even though it could have proceeded under our prior CPCN rules at an earlier point in time. The adopted schedule in this matter was longer than that requested by Idaho Power. In addition, the Administrative Law Judge made numerous adjustments to the procedural schedule to accommodate the needs of self-represented litigants and provided them with more time and assistance than is customary to submit testimony and briefing, including after missed deadlines or misinterpreted requirements for certain filings. Furthermore, the Chief Administrative Law Judge made himself available to

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<sup>14</sup> OAR 860-025-0035(1)(a)-(d).

<sup>15</sup> OAR 860-025-0035(1)(e).

<sup>16</sup> ORS 182.545(1).

<sup>17</sup> ORS 758.015(2).

<sup>18</sup> See *STOP B2H Coal. v. Or. Dep’t of Energy (In re Site Certificate)*, 370 Or 792, 525 P. 3d 864 (2023) (correct Mar. 11, 2023)

<sup>19</sup> *Id.*

assist parties with procedural matters, including through individual phone calls and emails as well as workshops open to all parties to explain Commission processes and procedural requirements.

The Administrative Hearings Division conducted the proceedings in a manner enabling self-represented litigants to fully participate in this docket and we observe the ALJ overruled numerous evidentiary objections to ensure robust public participation and record development. We have an obligation to respond to petitions in a timely manner and we are committed to doing so here. The parties have had a full and fair opportunity to present testimony and exhibits to us regarding Idaho Power's petition over the course of nine months and we decline to delay the proceedings.

**B. Notice under the Oregon Administrative Procedures Act**

Greg Larkin asserts that the Commission failed to provide notice to individuals living within one half mile of the proposed transmission line route because those individuals may be affected by noise associated with the operation of the transmission line.

Idaho Power disagrees with Mr. Larkin, arguing that the Commission provided parties with notice of their rights in contested cases when granting petitions to intervene and that the company provided proper notice to potentially affected landowners.

Staff also disagrees with Mr. Larkin, noting that ORS 183.415 does not apply to the Commission under ORS 183.315(6) and that the Commission properly noticed the public comment and evidentiary hearings in this docket.

Under the Oregon Administrative Procedures Act (APA), state agencies generally are required to provide parties in contested cases an opportunity for a hearing after reasonable notice, including a variety of information regarding the hearing and the party's rights related to that hearing.<sup>20</sup> The Oregon APA exempts the Commission from that requirement.<sup>21</sup>

Even though we are exempted from the APA notice requirements, we note that substantively all parties in this docket were provided notices of contested case rights and procedures. These notices were served on each party through the Commission's Filing Center or via U.S. Mail, including to all intervenors.<sup>22</sup>

Individuals with interests in land physically impacted by the proposed B2H route received notices of the filing of Idaho Power's petition from Idaho Power in compliance with our CPCN rules, as discussed in greater detail below.<sup>23</sup> Although not legally required, we published official notice of key events regarding Idaho Power's petition on the PCN 5 docket website page, on our website landing page, and on social media. We issued a press release surrounding this docket's

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<sup>20</sup> ORS 183.415(2)-(3).

<sup>21</sup> ORS 183.315(6).

<sup>22</sup> ALJ Ruling on Greg Larkin Petition to Intervene (Dec. 13, 2023).

<sup>23</sup> Order No. 23-103 (Mar. 20, 2023) (affirming Ruling Denying Motion (Jan. 13, 2023)).

public comment hearings and placed public notices in newspapers that serve readers along the proposed B2H route regarding the public comment hearings.

We conclude the public notices in this docket met all statutory and regulatory requirements and provided sufficient notice.

**C. Idaho Power’s Petition for Certificate of Public Convenience and Necessity**

**1. Requirements for a Petition for Certificate of Public Convenience and Necessity**

A petition for a CPCN must be filed in accordance with OAR 860-001-0170 and, by statute in relevant part, must:

[set] 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.<sup>24</sup>

The Commission adopted rules articulating additional requirements for CPCN petitions in September 2022.<sup>25</sup> These rules require a petition to include:

a description of the proposed route, voltage, and capacity of the line; maps depicting the proposed route and alternative routes; maps of each parcel of land that the petitioner has acquired or may need to acquire an interest in; estimates of incurred and anticipated future costs; costs and benefits of the proposed transmission line; load forecasts; narrative descriptions of land use approvals required for the proposed transmission line; evaluation of alternatives; the names and addresses of individuals with an interest in land that may be physically impacted by the proposed transmission line; and certification that individuals whose land may be physically impacted by the proposed transmission line have received notice of the CPCN petition, amongst other requirements.<sup>26</sup>

**2. Parties’ Positions**

**a. Idaho Power**

Idaho Power asserts its CPCN petition is complete, and that information multiple intervenors state is missing is included in the petition or in the company’s testimony. The company maintains it need not wait to submit its petition until it has completed all mitigation plans or acquired all permits and approvals for the B2H transmission line. Idaho Power also explains that the pending EFSC site certificate amendment is not relevant as it is not seeking condemnation

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<sup>24</sup> ORS 758.015(1).

<sup>25</sup> OAR 860-025-0030.

<sup>26</sup> *Id.*

authority related to the new parcels affected by the amendment and that it can always revert to the original route authorized by the existing site certificate.

Idaho Power argues its petition met the Commission's notice requirements as it provided notice of the petition to all potentially impacted landowners and the Commission already affirmed the Administrative Law Judge's denial of a motion related to this notice.

*b. PacifiCorp*

PacifiCorp argues it is not required to file a separate CPCN petition and that through its participation in this docket, it has provided substantial information regarding its role in, investment in, and future use of the proposed B2H transmission line.

*c. Staff*

Staff asserts that Idaho Power's initial CPCN petition did not include complete information to meet OAR 860-025-0030(2)(d)'s requirement for an estimate of costs already incurred and forecasted costs for developing the transmission line. Specifically, Staff explained that Idaho Power only provided incurred cost estimates regarding other parcels of land and interests therein acquired or to be acquired and did not provide estimates for incurred costs in the other required categories. Additionally, Staff did not believe Idaho Power's cost estimates were "adequate to enable a full understanding of their basis and derivation" as required by OAR 860-025-0030(2)(d)(F).<sup>27</sup> In its rebuttal testimony, Staff explained it believed that Idaho Power had later provided the missing information in the course of this docket.<sup>28</sup> Given that the Commission's CPCN rules were amended four days before Idaho Power filed its CPCN petition and that Idaho Power subsequently provided the additional missing information, Staff concluded Idaho Power's Petition "may be considered adequate to meet the filing requirements \* \* \* ."<sup>29</sup>

Staff disagrees with various arguments from Intervenors regarding the completeness of Idaho Power's CPCN petition. Staff argues that PacifiCorp need not file its own CPCN petition; that the Oregon Department of Energy (ODOE) is not a party to this docket and that it had no requirement to provide notice of hearings in this docket; that CPCN approval is not premature on account of Idaho Power needing to acquire additional approvals and otherwise comply with conditions in the EFSC site certificate; and that Staff is satisfied with the budget information provided in the CPCN petition and through data request responses.

*d. Intervenors*

STOP B2H argues that Idaho Power's CPCN petition is incomplete because Idaho Power has not yet met the terms of all its acquired permits and has further permits and approvals to acquire. STOP B2H also asserts the petition is incomplete because Idaho Power is seeking amendments to its EFSC site certificate. STOP B2H states it "has not heard of any landowner getting" the information required by OAR 860-025-0030(2)(f), including explanation of the intended use, and

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<sup>27</sup> Staff/100, Pal/14-15.

<sup>28</sup> Staff/400, Pal/7.

<sup>29</sup> Staff Opening Brief at 3 (May 12, 2023).



the specific necessity and convenience of each parcel of land Idaho Power needs to acquire an interest in.<sup>30</sup>

STOP B2H also maintains Idaho Power's CPCN petition is incomplete because it is missing information to comply with OAR 860-025-0030(2)(d)(A)-(F) and OAR 860-025-0030(2)(e). Specifically, STOP B2H asserts Idaho Power started the process with an outdated budget; the budget is not yet complete because it started with a 30 percent detailed design package and now only has a 90 percent detailed design package that is not yet at the bid or tender stage; the budget does not have a 20 percent contingency included; and the contingency fund has decreased from November 2018 to December 2022.

Greg Larkin asserts Idaho Power's petition is incomplete because PacifiCorp has not submitted its own CPCN petition.

John Williams asserts Idaho Power's petition is incomplete because the company has not completed the federal section 106 process regarding historic properties and because he asserts Idaho Power's maps of his property are not clear.

### ***1. Resolution***

As described in more detail below, we conclude that, as supplemented by its testimony and exhibits, Idaho Power's CPCN petition is complete and meets the requirements of ORS 758.015(1) and OAR 860-025-0030.

#### ***a. Cost Information***

Over the course of the proceeding, Idaho Power provided all information required by rule in the proceeding, which commenced just days after we adopted new rules in September 2022. As Staff explains in its rebuttal testimony, Idaho Power provided additional information to comply with our rules during the discovery process and that information was included in testimony that enabled us to thoroughly review Idaho Power's proposal. The parties had the opportunity to review the cost information identified by Staff during the discovery process and to seek clarifying information from Idaho Power, as well as the opportunity to submit their own testimony to rebut that information. Furthermore, the parties had the opportunity to cross-examine the relevant witnesses at the evidentiary hearing regarding this information, and several did.

We conclude that the initial petition and subsequent information provided in testimony are sufficient under our newly adopted rules to allow us to review Idaho Power's CPCN petition.<sup>31</sup>

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<sup>30</sup> STOP B2H Opening Brief at 6 (May 15, 2023).

<sup>31</sup> While we do not believe it is necessary, to the extent a waiver of our rules under OAR 860-001-0000(2) is necessary to conclude that Idaho Power's petition complete, we waive our rules for these limited purposes for good cause, including that the company provided any missing information in a timely manner that did not delay the proceedings and that our new rules with requirements for CPCN petitions were finalized shortly before Idaho Power submitted its petition.

*b. Notice to Potentially Impacted Landowners*

Our rules require a CPCN petition to include:

[a] description of the parcels of land that petitioner determines it should obtain an interest in and for which condemnation is assumed to be necessary at the time of the petition, a full explanation of the intended use, and the specific necessity and convenience of each. The description must be accompanied by the names and addresses of all persons who have interests, known or of record, in the land to be physically impacted or traversed by the proposed route from whom petitioner has not yet acquired the interest, rights of way or option therefor. Petitioner must include with the petition certification verifying that notice of the petition has been mailed to said persons[.]<sup>32</sup>

STOP B2H filed a motion regarding notice to potentially affected landowners in December 2022. We affirmed the Administrative Law Judge's ruling on the motion, concluding that Idaho Power met the notice requirements and had no continuing obligation to keep potentially affected landowners updated on procedural schedule changes in this docket.<sup>33</sup>

We again conclude Idaho Power met all notice requirements related to its CPCN petition. Idaho Power's CPCN petition includes a list of the names and addresses of the persons with interests in potentially affected land as well as a certification that notice of the petition had been mailed to said persons.<sup>34</sup> Idaho Power's petition contained the information required by OAR 860-025-0030(2)(f) by including maps of the individual parcels potentially affected by the transmission line's proposed route showing the proposed route and transmission tower locations on each parcel, among other details.<sup>35</sup> OAR 860-025-0030(2)(f) only requires that the listed individuals be mailed notice of the CPCN petition and does not require that all the information contained in the petition be transmitted to those individuals. No party provided evidence or testimony that any person with an interest in land to be physically impacted or traversed by the proposed route did not receive the notice required by our rules. We conclude that Idaho Power's notice was sufficient.

*c. Transmission Line Permits and Approvals*

Multiple intervenors assert Idaho Power's petition is incomplete, arguing that Idaho Power has not yet complied with all of the conditions contained in various permits or approvals it has acquired and that it still has to acquire additional permits or approvals.<sup>36</sup> Among other things, these include mitigation plans related to the EFSC site certificate and site certificate amendments that are pending at EFSC or will be filed, as well as items related to the federal section 106

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<sup>32</sup> OAR 860-025-0030(2)(f).

<sup>33</sup> Order No. 23-103 (affirming Ruling Denying Motion (Jan. 13, 2023)).

<sup>34</sup> Idaho Power Initial Petition, Attachment 10 (Sept. 30, 2022).

<sup>35</sup> *Id.* Note that while Idaho Power's maps meet the requirements of OAR 860-025-0030(2)(f) here, we do not conclude that the maps are the best or only way to meet our rule's requirements.

<sup>36</sup> STOP B2H Coalition Opening Brief at 5-6 (May 15, 2023).

process regarding historic properties. Intervenors request that we pause the CPCN process to allow additional information to be collected and more permits or approval processes to be completed related to the B2H transmission line project.

Our rules do not require that Idaho Power wait to file its CPCN petition until it has acquired all permits and approvals to construct the B2H transmission line, nor do our rules require demonstrated compliance with all conditions contained in permits and approvals already obtained. Indeed, our rules explicitly contemplate that a utility will be in the process of acquiring permits and approvals for the transmission line at the time of its petition in that they require the utility to provide a description of all approvals and permits that are required for construction of the transmission line and the status of any permits or approvals that have not yet been obtained.<sup>37</sup>

Our rules do provide that we will not issue a CPCN for a transmission line under EFSC's jurisdiction until EFSC issues a site certificate; however, the rules do not preclude filing a CPCN petition before that occurs.<sup>38</sup> A utility runs the risk of pursuing a CPCN too early, and we could conclude in a CPCN proceeding that too many permits and approvals remain outstanding for us to have confidence in the feasibility of a given project. Here, we do not find that to be the case. Although an amendment to the EFSC site certificate is pending, Idaho Power makes clear that they do not seek condemnation authority related to any new lands impacted by the amendment request.

While we appreciate the desire to know more about the outstanding permits and approvals, our review of Idaho Power's petition is not contingent on those other permitting and approval processes. For a project the size of the B2H transmission line, our contemporaneous review while some of those remaining processes proceed is appropriate and consistent with our rules. We have sufficient information to assess Idaho Power's petition and Idaho Power has provided a list of all pending permits, approvals, consultation processes, and mitigation plans yet to be completed or acquired.<sup>39</sup> As such, we conclude Idaho Power's petition is complete even though it must still acquire additional permits and approvals, and otherwise comply with permits and approvals already acquired, as allowed and contemplated in our rules.

*d. Idaho Power's Budget*

STOP B2H asserts Idaho Power's petition is incomplete for a variety of reasons associated with the transmission line's budget and contends that Idaho Power started with an outdated budget and that the budget is not complete as it is not yet ready for bid or tender. STOP B2H also raises issues with the budget related to contingencies.

We conclude that these issues do not implicate the completeness of Idaho Power's CPCN petition. Idaho Power provided the information required by OAR 860-025-0030. Whether or not that information, along with other record evidence, persuades us to approve the CPCN is analyzed in other sections of this order.

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<sup>37</sup> OAR 860-025-0030(2)(p).

<sup>38</sup> OAR 860-025-0040(7).

<sup>39</sup> Idaho Power/1601, Barretto/1-3; Idaho Power/1602, Barretto/1; Idaho Power/1603, Barretto/1.

*e. Need for a PacifiCorp CPCN Petition*

Greg Larkin asserts we cannot grant Idaho Power’s CPCN petition until PacifiCorp submits its own CPCN petition and we assess that separate CPCN petition. We conclude that PacifiCorp has no obligation to submit its own CPCN petition. Idaho Power is the entity with responsibility for the construction of the B2H transmission line and, under ORS 758.015(1), it is the appropriate entity to file the petition. PacifiCorp is a party in this docket and has submitted testimony and briefing regarding its role in the transmission line and the substantive criteria for granting the CPCN petition.<sup>40</sup>

**D. Necessity**

To determine whether a proposed transmission line is necessary, our rules require us to ask whether “the transmission line \* \* \* meet[s] a demonstrated need for transmission of additional capacity or improved system reliability that enables the petitioner to provide or continue to provide adequate and reliable electricity service.”<sup>41</sup> As described below, we conclude there is a demonstrated need for additional transmission capacity that would be served by the B2H transmission line.

**1. Parties’ Positions**

*a. Idaho Power*

Idaho Power argues that it has demonstrated a need for additional transmission capacity and improved system reliability. Idaho Power explains that, beginning with its 2000 IRP, its analyses began showing transmission deficiencies under low water conditions. This led it to begin planning for increased transmission capacity. In its 2021 IRP, Idaho Power used a long-term capacity expansion model (LTCE), which it describes as a more sophisticated approach than that used in earlier IRPs, and a branching scenario strategy, to select IRP portfolios. The LTCE modeling and branching analysis used in the 2021 IRP selected the portfolio with the B2H transmission line as the least cost, least risk portfolio.

The original B2H CPCN petition filed in September 2022 was based on a 30 percent design package. However, Idaho Power later updated its analyses based on a 60 percent design package. According to Idaho Power, the greater level of detail contained in the 60 percent design package allowed it to produce more accurate analyses than that provided in its original CPCN petition. As a result of these updated analyses, Idaho Power explains the total cost of all components of the B2H transmission line is approximately \$668 million and represents an \$85 million net present value portfolio cost increase for the Preferred Portfolio from the 2021 IRP. Despite this, Idaho Power asserts that, because of increased costs for all of the 2021 IRP portfolios, this reduced the difference between the least-cost B2H portfolio and the least-cost non-B2H portfolio, from a \$266 million difference in the 2021 IRP to a \$228 million difference based on the updated

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<sup>40</sup> PAC/100, Link/3.

<sup>41</sup> OAR 860-025-0035(1)(a).

analyses. According to Idaho Power, this confirms that the least-cost B2H portfolio remains the optimal portfolio despite updated and increased costs.

Idaho Power also argues B2H increases the reliability of the regional transmission system. It asserts B2H will increase the grid's ability to recover from unexpected disturbances, including a potential outage on the only currently existing 500-kV connection between the Pacific Northwest and Idaho Power. Idaho Power also contends B2H adds resource reliability. Idaho Power points to a loss of load expectation (LOLE) analysis from the 2021 IRP demonstrating the need for the capacity B2H will provide. According to Idaho Power's analysis, comparing the reliability of the 2021 IRP Preferred Portfolio with the reliability of the least-cost non-B2H portfolio supports the necessity of B2H. Idaho Power disagrees with Staff's conclusion that Idaho Power has not demonstrated that B2H is necessary to maintain the reliability of Idaho Power's system. Idaho Power explains it believes the LOLE analysis in its 2021 IRP provides support for a conclusion that B2H is necessary for reliability.

Idaho Power also notes that B2H has been identified as a regionally significant project in the Northern Tier Transmission Group (NTTG) and NorthernGrid biennial regional transmission plans since 2007.

The company also reiterates PacifiCorp's argument that the 2021 PacifiCorp IRP demonstrates PacifiCorp's need for B2H to avoid a shortfall in load-serving capability and that B2H is also needed to serve BPA's load.

*b. Staff*

Staff asserts Idaho Power has demonstrated a need for additional transmission capacity but has not demonstrated a need for specific improved system reliability.

Regarding a need for additional transmission capacity, Staff notes Idaho Power's system load has increased, with recent increases due to major industrial customers siting in Idaho Power's service area. Staff points to Idaho Power's acknowledged 2021 IRP as demonstrating Idaho Power's growing transmission needs on account of IRP forecasts showing system loads increasing at an average rate of 1.4 percent through 2040.<sup>42</sup> Staff also points to Idaho Power's draft 2022-2023 Local Transmission Plan filed with FERC showing a 750-MW deficit for Path 14 by 2042.<sup>43</sup> Finally, according to Staff, Idaho Power's acknowledged 2021 IRP notes the company's plans to exit from the Valmy Unit 2 and Jim Bridger Unit 3 coal plants in 2025, which would increase Idaho Power's capacity needs by 350-550 MW.<sup>44</sup>

Staff explains it "does not dispute Idaho Power's assertion that the line will enhance reliability."<sup>45</sup> However, Staff ultimately concludes that "Idaho Power's transmission system will not be compromised or otherwise render it incapable of providing safe and adequate service to

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<sup>42</sup> Staff/100, Pal/23.

<sup>43</sup> Staff/100, Pal/25.

<sup>44</sup> Staff/100, Pal/24.

<sup>45</sup> Staff Opening Brief at 7 (May 12, 2023).

all customers” if the B2H transmission line is not constructed.<sup>46</sup> Staff argues that the evidentiary record does not contain an engineering analysis of Idaho Power’s current system that indicates the company has a system reliability need.<sup>47</sup> According to Staff, that B2H is not needed for specific reliability, but that does not counsel against a necessity finding.

Additional factors identified by Staff as supporting a necessity determination include that the B2H transmission line project increases the transmission capacity of the national electric grid and improves its flexibility as more renewable energy resources are added.<sup>48</sup> Staff also explains the B2H transmission line enables 600 MW of interconnection, according to PacifiCorp’s 2021 IRP modeling, and that PacifiCorp will also be able to serve load in central Oregon as a result of the project.<sup>49</sup> Finally, Staff notes that BPA will gain transmission service through B2H enabling it to deliver power to public power customers in southeast Idaho.<sup>50</sup>

*c. PacifiCorp*

PacifiCorp asserts the “B2H transmission line is necessary to meet PacifiCorp’s need to reliably and cost effectively serve its customers.”<sup>51</sup> PacifiCorp explains its 2021 IRP and 2021 IRP Update concluded the least-cost, least-risk outcome included the B2H transmission line.<sup>52</sup> According to the 2021 IRP, the B2H transmission line was projected to result in \$453 million in risk-adjusted net benefits from 2021-2040.<sup>53</sup> The 2021 IRP Update forecast \$439 million in risk-adjusted net benefits during the same time period.<sup>54</sup> PacifiCorp explains it also updated its analysis to account for changes since the 2021 IRP, including increased load forecasts, the impacts of the Environmental Protection Agency’s Ozone Transport Rule, tax incentives under the Inflation Reduction Act, and evolving transmission service requirements.<sup>55</sup> According to PacifiCorp, this updated analysis projects risk-adjusted net benefits from the B2H transmission line of \$1.713 billion from 2023-2042.<sup>56</sup>

PacifiCorp also explains other benefits exist supporting the need for the B2H transmission line, including that it will allow it to avoid a shortfall in 2026; it will allow the company to export additional energy generation capacity from its East balancing authority area to its West balancing authority area; it will enable the company to integrate its portfolio of clean, renewable energy and storage resources between its two balancing areas; and it will improve grid reliability as it currently only has one 500-kV transmission line connecting its two balancing authority areas.<sup>57</sup>

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<sup>46</sup> Staff Opening Brief at 6 (May 12, 2023).

<sup>47</sup> Staff Reply Brief at 5 (May 30, 2023).

<sup>48</sup> Staff/100, Pal/27.

<sup>49</sup> Staff/100, Pal/26; Staff/400, Pal/10-11.

<sup>50</sup> Staff/100, Pal/26.

<sup>51</sup> PacifiCorp Opening Brief at 5 (May 15, 2023)

<sup>52</sup> PAC/200, Link/3.

<sup>53</sup> *Id.*

<sup>54</sup> *Id.*

<sup>55</sup> PAC/200, Link/3-4.

<sup>56</sup> PAC/200, Link/4.

<sup>57</sup> PacifiCorp Opening Brief at 6.

*d. STOP B2H Coalition*

STOP B2H argues Idaho Power “has not justified the need for more system reliability.”<sup>58</sup> STOP B2H also asserts Idaho Power is too dependent on energy imports and should build additional generation facilities instead of constructing the B2H transmission line. STOP B2H also argues that other projects, such as the Gateway West project, provide Idaho Power with sufficient additional capacity and benefits to obviate the energy and reliability needs for the B2H project.

**2. Resolution**

We conclude there is a demonstrated need for additional transmission capacity that would be served by the B2H transmission line. Specifically, we determine that the line is necessary to reliably meet the electricity needs of Idaho Power, PacifiCorp, and BPA customers.

Idaho Power’s IRPs and updated analyses provided in this docket demonstrate a need for additional transmission capacity that would be served by the B2H transmission line.<sup>59</sup> Idaho Power has analyzed adding transmission capacity to meet consistently increasing system load needs since its 2000 IRP.<sup>60</sup> Subsequent Idaho Power IRPs have established the need for new resources to serve electricity load growth and have determined that resource portfolios including the B2H project are the least cost and least risk way to meet those needs.<sup>61</sup> Idaho Power’s 2021 IRP, its most recently filed, forecasts system loads continuing to increase at an average rate of 1.4 percent through 2040 and increased capacity needs resulting from planned coal plant exits in 2025-2026.<sup>62</sup> In addition to Idaho Power’s IRPs, a draft 2022-2023 Local Transmission Plan filed with the Federal Energy Regulatory Commission shows deficits in transmission capacity.<sup>63</sup>

Similarly, PacifiCorp’s IRPs and updated analyses provided in this docket demonstrate a need for additional transmission capacity that would be served by the B2H transmission line. PacifiCorp’s 2021 IRP discusses increasing load forecasts, impacts of the EPA’s Ozone Transport Rule, and evolving transmission service requirements.<sup>64</sup> Additionally, the B2H transmission line will increase the transmission capacity of the national electric grid, enable 600 MW of interconnection, enable PacifiCorp to serve load in central Oregon, and enable BPA to deliver power to public power customers in southeast Idaho.<sup>65</sup> The B2H project will also enable PacifiCorp to export 600 MW of additional energy generation capacity between its East and West balancing authority areas and is needed to help PacifiCorp move clean energy resources to meet Oregon’s greenhouse gas emissions reduction requirements.<sup>66</sup>

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<sup>58</sup> STOP B2H Coalition Opening Brief at 33.

<sup>59</sup> Idaho Power/100, Ellsworth/24-29; Idaho Power/300, Barretto/1-6; Idaho Power Opening Brief at 13-18 (May 15, 2023).

<sup>60</sup> Idaho Power/100, Ellsworth/17-18; Staff/100, Pal/23.

<sup>61</sup> Idaho Power/100, Ellsworth/23.

<sup>62</sup> Staff/100, Pal/23-25.

<sup>63</sup> Staff/100, Pal/24-25.

<sup>64</sup> PAC/200, Link/3-4.

<sup>65</sup> Staff/100, Pal/26-27.

<sup>66</sup> PAC/100, Link/3-5.

The B2H transmission line will enhance reliability in a variety of ways, including by allowing Idaho Power, PacifiCorp, and BPA to reliably serve increasing loads and resource needs. However, we agree with Staff that no party has proven B2H will remedy a specific, current grid reliability problem. For current or projected reliability concerns that are unrelated to resource needs, proponents should submit appropriate power flow studies or engineering analysis that, for example, explore the reliability implications of extreme weather conditions or loss of other transmission assets due to resiliency events.

Finally, we recognize and understand the arguments regarding other resource alternatives that Idaho Power has for serving its customers' electricity needs. We will address those arguments below, in the section on the criterion of justification for the B2H project, because the presence and consideration of alternatives is more relevant to the balancing we perform when evaluating the criterion of justification in the public interest. For purposes of demonstrating need, we find ample evidence that the B2H project is a reasonable way to meet thoroughly analyzed and well-documented needs for reliable electric load service.

## **E. Safety**

To determine whether a proposed transmission line is safe, our rules require us to ask whether or not a transmission line will be constructed, operated, and maintained “in a manner that protects the public from danger and conforms with” Commission rules, other safety standards, and best industry practices.<sup>67</sup>

As discussed below, we conclude that the B2H transmission line will be constructed, operated, and maintained in such a manner.

### **1. Parties' Positions**

#### *a. Idaho Power*

Idaho Power argues it will construct, operate, and maintain the B2H transmission line in a safe manner that protects the public from danger. The company points to its long history of safely operating transmission lines in Oregon and Idaho and the sworn statement included in its petition that it will adhere to all Commission rules and applicable safety standards for the construction, operation, and maintenance of the transmission line.

Idaho Power explains it will meet or exceed all relevant requirements for the construction, operation, and maintenance of the B2H transmission line, including National Electric Safety Code (NESC) standards, American Society of Civil Engineers (ASCE) 7-22 Minimum Design Loads for Buildings (ASCE 7), ASCE Manual 74 Guidelines for Electrical Transmission Line Structural Loading, and BPA's STD-DT-000035 Transmission Tower Loading Policy.

Idaho Power disagrees with intervenor arguments on its tower and transmission line design. Idaho Power asserts that other engineering standards described by intervenors do not apply to

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<sup>67</sup> OAR 860-025-0035(1)(b).



transmission line design in Oregon and should not replace NESC and ASCE standards. Idaho Power also disagrees with intervenor arguments that it did not properly assess potential wind speeds. Idaho Power argues it used the applicable ASCE 7 standards and selected a BPA tower design with a wind loading capacity of 120 miles per hour on towers and 100 miles per hour on wires, which exceeds both the applicable standards and the potential wind speeds cited by intervenors. Idaho Power also disagrees with intervenor arguments that it needs to conduct additional analyses regarding tower fragility and wind coupling vibration. The company states that in complying with NESC standards it would only conduct the fragility analysis in heavy loading districts, which do not include the proposed B2H transmission line route. Idaho Power also states it has sufficiently analyzed risk from tornados and seismic activity and that the proposed transmission line is built in accordance with relevant standards to withstand anticipated wind speeds from tornados and to avoid dangers to human safety presented by any seismic or non-seismic geological hazards.

Regarding fire risk, Idaho Power argues the probability of fire ignition associated with the B2H transmission line is low and that the company's fire-related plans will further reduce that probability. Idaho Power explains its fire expert's testimony shows that 500-kV transmission lines are unlikely to cause fire and that the probability of ignition is reduced with a higher voltage line. Idaho Power's expert analyzed available fire history along and near the proposed B2H transmission line route as well as fires reported to be associated with transmission lines and concluded that fires from 500-kV lines are rare. According to Idaho Power's expert, between 2014 and 2021, of 4,462 total fire ignitions related to transmission lines reported to the California Public Utilities Commission, four were related to 500-kV transmission lines.

Idaho Power asserts it is committed to implementing fire risk reduction measures required of it by the EFSC site certificate final order, including the Fire Prevention and Suppression Plan (FPSP), Right of Way Clearing Assessment, and Vegetation Management Plan. Idaho Power also explains its proposed 2023 Wildfire Mitigation Plan (WMP) provides additional mitigation measures related to the proposed B2H transmission line route.

Idaho Power disagrees with intervenor arguments regarding other wildfires being evidence of a safety issue with the B2H transmission line. Idaho Power explains its view on the differences between those fires and the facts surrounding the B2H transmission line and argues that just because fires have occurred does not mean that Idaho Power cannot construct, operate, and maintain the B2H transmission line in a safe manner. Idaho Power disagrees with intervenor arguments regarding the risk of fire through arcing from dust or chaff clouds and states the company's expert concluded that the transmission lines safety features are designed to prevent such an event. Idaho Power also disagrees with intervenor arguments regarding the potential for soil damage from a fire caused by the B2H transmission line.

Regarding noise, Idaho Power notes that EFSC found corona noise from the B2H transmission line poses no threat to public health and argues that intervenors have not presented any persuasive evidence to the contrary. Idaho Power explains that corona noise may increase during wet weather, but that corona noise will never exceed Oregon's sound level standard of 50 decibels. Idaho Power asserts that its expert concluded corona noise from the transmission line will be far below a level that could pose a health risk. Idaho Power also explains that because the

B2H transmission line route goes through rural areas the existing ambient noise levels are low and Oregon's ambient antidegradation standard may be exceeded during foul weather at certain locations. As a result, EFSC granted a variance to the ambient antidegradation standard and concluded such exceedances would be infrequent and would not be detrimental to the public. Idaho Power argues its noise mitigation methods will be sufficiently protective of public health and safety and that its monitoring methodology is sound.

Idaho Power disagrees with intervenor arguments regarding the effects of noise and that the company's noise monitoring methodology was flawed. Idaho Power's expert provided testimony that expected corona noise will not pose a risk to public health and safety based on his review of studies on noise impacts on human health and Idaho Power's planned noise mitigation measures.

*b. PacifiCorp*

PacifiCorp argues that wildfire risk is inherent to operating an electric utility and that it proactively mitigates wildfire in its Oregon service territory. It notes its 2022 WMP was approved by the Commission and an independent evaluator concluded PacifiCorp met or substantially met all its requirements for its 2023 WMP. PacifiCorp argues intervenor arguments regarding its role in past wildfires fails to establish any causation and does not establish that transmission lines increase the probability of wildfires. PacifiCorp agrees with Idaho Power's testimony concluding that 500-kV transmission lines present a low probability of ignition.

*c. Staff*

Staff concludes the B2H transmission line will be constructed, operated, and maintained in a safe manner that protects the public from danger. Staff explains Idaho Power is required to comply with all applicable NESC standards for construction, operation, and maintenance of a transmission line. Staff further finds that Idaho Power's lattice tower design is appropriate for a high-voltage transmission line that can support large wires and insulators, and the higher wind and ice loading associated with them. Staff further explains that Idaho Power followed multiple industry standards in addition to the NESC, implemented design features to dissipate lightning current in the event of strikes, and will also comply with conditions from the EFSC site certificate final order to address seismic hazards. Staff concludes Idaho Power's project design is reliable and will meet or exceed relevant standards.

Staff disagrees with intervenor arguments asserting Idaho Power's tower design is flawed and notes intervenors do not point to any applicable industry standards or evidence compelling the use of a different design or standard by the project's engineers.

Regarding noise, Staff states it considered both corona effect and electromagnetic field (EMF) and concludes there is no conclusive medical evidence that properly constructed transmission lines pose a health risk to humans living in proximity to those lines, outside of the horizontal clearance zone. Staff notes that a legislative policy statement regarding noise in ORS 467.010 cited by intervenors does not impose any requirements or conditions in the context of this CPCN petition. Staff also explains that while it does not believe corona noise to be a safety issue, it

recognizes it is a negative effect and is relevant to the Commission's consideration of the B2H transmission line's justification in the public interest.

As to wildfire risk, Staff explains it considered Idaho Power's 2022 WMP and the company's draft FPSP and concludes that together, they present a reasonable approach to mitigating wildfire risk associated with the B2H transmission line.

Staff disagrees with intervenor arguments that Idaho Power has not sufficiently addressed wildfire risk, including for dryland farming areas. Staff explains the company is required to submit annual WMPs and that the public will have the opportunity to participate in those processes should concerns arise in the future.

*d. STOP B2H Coalition*

STOP B2H alleges the B2H transmission line presents public safety risks related to wildfire risk and industrial noise intrusions. Regarding wildfire, STOP B2H argues Idaho Power's WMP does not address the B2H transmission line, that it failed to designate high-risk area along the B2H route when other governmental and utility entities did so, and that another utility has a Public Safety Power Shutoff zone in an area along the B2H route.

STOP B2H further questions the adequacy of Idaho Power's wildfire expert's testimony and adopts the testimony and exhibits of other intervenors questioning the adequacy of Idaho Power's analysis of wildfire issues related to wildfire risk in dry farmland areas in Morrow County.

Regarding noise, STOP B2H asserts the Commission cannot issue the CPCN because Idaho Power was required to acquire a noise variance and that otherwise, the project would have violated State noise standards. STOP B2H states corona noise, especially as the transmission line ages, causes a public safety issue. STOP B2H also asks the Commission to impose additional safety measures related to noise, including requiring site-specific monitoring upon request and expanding the list of noise sensitive receptors/properties. STOP B2H explains it views the process for landowners experiencing noise issues onerous and may require landowners to spend large amounts of time and money to challenge any decisions regarding noise impacts and mitigation.

*e. Sam Myers*

Sam Myers argues the B2H transmission line will not be constructed, operated, and maintained in a safe manner. Mr. Myers states Idaho Power's wildfire expert mischaracterized the fire history in Morrow County, Oregon. Mr. Myers asserts the middle-third of the county has more fire ignitions than the forested southern portion of the county and that more of the ignitions come from lightning strikes than human-caused events. As a result, Mr. Myers states Idaho Power's fire analysis is incorrect and there are no mitigation plans to deal with this aspect of fire risk. Mr. Myers argues that several aspects related to the transmission line will increase the risk of fire ignitions, including the presence of the transmission line during lightning storms, increased wind speeds, wind attack angles, seismic activity, improper transmission tower engineering, potential

extreme weather related to climate change, and wind-induced vibrations. According to Mr. Myers, these factors are evidence that the B2H transmission line will not be operated in a safe manner. Mr. Myers provided details of high-wind events in Morrow County, Oregon generally and measurements taken with his own local weather metering device, as well as regional weather variances between the weather station in Pendleton, Oregon and the location of Mr. Myers' property in Morrow County, Oregon.

Mr. Myers also argues that Idaho Power has made a critical design flaw for its transmission towers by not using local wind data and therefore designing the towers with Design Wind Speeds less than what local wind data would require. As a result of greater localized wind speeds, Mr. Myers argues the B2H transmission towers should have been designed using a 100-year mean recurrence interval (MRI) of 98.8 miles per hour. Mr. Myers also asserts that Idaho Power failed to use an MRI associated with elevated reliability or updated ASCE Manual 74 design suggestions. Mr. Myers suggests the towers are under-engineered for a variety of reasons, including that Idaho Power did not conduct all the tests it could have on the selected tower design, uncertainty about any enhancements to the BPA-developed tower design, purported failures to provide information about conductor failure, meteorological information, and coefficients used in tower design.

*f. Wendy King*

Wendy King also argues the B2H transmission line will not be safe. Ms. King states the Oregon Building Code requires structures in parts of Morrow County, Oregon to be able to withstand winds of between 115-130 miles per hour and argues this is proof that Myers Farm is in a high wind speed area with heightened safety concerns. Ms. King explains that the dryland wheat crops, which are not irrigated, on Myers Farm is a similar environment to the conditions that led to the 2020 Holiday Farm Fire in western Oregon's McKenzie River corridor. Ms. King notes dry fuels are present and in combination with the area's high wind speeds lead to increased fire risk. Ms. King argues that since the transmission towers are designed to withstand greater wind speeds than the lines, a high wind event could lead a line to break before the tower would fail and is evidence of a greater risk of fire ignition. Ms. King also explains that currently, landowners and their neighbors frequently work to suppress fires, however, with the B2H transmission line, they may be unable to do so quickly as they would need to wait for the transmission line to be de-energized, thereby delaying fire suppression activities and putting more people and structures at risk.

Ms. King also argues that the risk of ignition is not just from the future operation of the B2H transmission line, but also relates to its construction. Ms. King notes that proposed alternative routes in Morrow County would place the proposed transmission line away from cropland, near lower-value soils, and closer to existing roads. Additionally, Ms. King explains that fire ignition risk will result from access roads that may be used by unauthorized parties in an unsafe manner.

Ms. King argues Idaho Power places little value on potential impacts to crop land and that impacts to such land were not adequately considered in analyses looking at potential losses from a fire. For example, Ms. King points to the loss of crops, reduced future crop yields, and loss or reduction in high quality soil. Ms. King notes that although Idaho Power recognizes these

impacts, the company does not have a mitigation plan for these types of losses. Ms. King also explains that the tool used by Idaho Power's expert to assess fire risk, LANDFIRE, did not take into account that dryland crops are not irrigated and therefore indicated those lands posed less fire risk.

*g. Greg Larkin*<sup>68</sup>

Greg Larkin argues the B2H transmission line will not be safe. Mr. Larkin argues noise created by the operation of the B2H transmission line is a safety hazard. Mr. Larkin explains Oregon statutes recognize that noise is a threat to the health, safety, and welfare of people and that Oregon law prohibits emitting noise in excess of levels set by the Environmental Quality Commission. Mr. Larkin explains there are two parts to these requirements. First, there is a maximum allowable noise limit. Second, there is an ambient degradation standard limiting the amount a new noise source can increase the ambient noise at a site. Mr. Larkin argues that the Oregon Supreme Court's resolution of noise standard issues related to the EFSC site certificate does not change the Commission's duty to assess noise created by the B2H transmission line. He further asserts the Commission must ensure compliance with Oregon's noise regulations and statutes.

Mr. Larkin asserts Idaho Power must provide the Commission with information regarding all individuals that will be exposed to noise beyond state standards and ensure mitigation for exceedances of those standards. Mr. Larkin argues that the Commission must require Idaho Power to provide current ambient noise levels from all residences where individuals will be exposed to noise created by the B2H transmission line, information regarding all pre-existing conditions that may be exacerbated by noise created by the B2H transmission line, and all mitigation plans for individuals exposed to B2H-related noise. Mr. Larkin provided several suggestions for addressing noise-related impacts from the B2H transmission line, including burying the line, choosing a route where noise impacts would not affect individuals, utilizing other portfolio options to address Idaho Power's purported need, and purchasing noise exemptions from property owners as Mr. Larkin asserts wind developers do.

Mr. Larkin also argues that the B2H transmission line would be unsafe due to wildfire risk. Mr. Larkin argues that there is no final wildfire management plan, Idaho Power has not demonstrated effective mitigation to address increased fire risk, there are high-risk fire areas that Idaho Power has not identified, and according to him, PacifiCorp has a poor history regarding wildfire mitigation and management.

## **2. Resolution**

We conclude that the B2H transmission line will be constructed, operated, and maintained in a manner that protects the public from danger and conforms with Commission rules, other safety standards, and best industry practices. Although our conclusion is broader, the parties primarily

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<sup>68</sup> Mr. Larkin presented highly confidential personal health information in this matter. Although that information was at issue during the evidentiary process, Mr. Larkin has made clear that while his personal health information may be relevant to potential future condemnation proceedings, it is not relevant to his arguments in this matter and as such, we do not address it in this order.

focus on the safety of the B2H transmission line as it relates to wildfire risk and noise. We address each in turn.

*a. Fire Risk and Project Engineering*

We must determine whether the B2H transmission line will be constructed, operated, and maintained in a safe manner that protects the public from danger. We recognize that electric transmission and distribution lines can be sources of fire ignition, and that best practices for constructing and operating electric infrastructure safely in the face of wildfire threats are evolving. We must consider the evidence in this case to determine whether Idaho Power's plans to mitigate fire risk from the B2H project and ensure public safety are sufficient.

We appreciate the data and additional information provided by intervenors on fire risk. The first-hand experiences of individuals living along or near the proposed B2H transmission line route, including the reality of fire suppression activities in rural Oregon, will be considered in our WMP process and we encourage intervenors to continue to participate in those future processes to ensure we continue to be apprised of that localized knowledge.

The evidence in the record makes us conclude that Idaho Power has shown there is a low probability of fire ignition from the operation of the B2H transmission line and that Idaho Power's fire-related planning and mitigation documents will effectively reduce the probability of fire ignition during construction of the line. We note we approved Idaho Power's 2022 and 2023 WMPs<sup>69</sup> and we expect Idaho Power will continue submitting WMPs that will evolve as the B2H transmission line is constructed and once it is operational. The evolving nature of WMPs ensures that Idaho Power will respond to new information and threats that emerge during the life of the B2H transmission line. In combination with Idaho Power's FPSP, Right-of-Way Clearing Assessment, and Vegetation Management Plan, we conclude these plans will ensure public safety during the construction, operation, and maintenance of the B2H transmission line.

We also conclude that Idaho Power's fire expert has explained the low risk of arcing related to dust/chaff clouds and we agree that the safety mechanisms in place for the B2H transmission line should prevent any such events.<sup>70</sup> We also conclude that Idaho Power's fire expert's model for assessing fire risk is reasonable and while other models may exist, we are satisfied with the adequacy of Idaho Power's fire risk modeling.<sup>71</sup> We recognize that the consequence element of fire risk modeling centers on human life and structure loss, rather than loss of other resources and that this deeply troubles intervenors. However, the record demonstrates Idaho Power's design and fire mitigation planning still seek to minimize the risk of ignition, despite the characterization of the consequences of an ignition. Furthermore, we find no evidence in this record to contradict Idaho Power's ability to maintain the B2H transmission line in a manner that will continue to keep the risk of ignition low.

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<sup>69</sup> We note that we approved Idaho Power's 2023 WMP after briefing in this docket concluded. While the parties were unable to rely on the 2023 WMP in their filings, we discuss only to illustrate the evolving nature of WMPs and to express our confidence that the WMP process will enable us to monitor B2H transmission line fire risk on a continuing basis into the future.

<sup>70</sup> Idaho Power/1300, Lautenberger/50.

<sup>71</sup> Idaho Power/2300, Lautenberger/13-16.

Regarding the engineering behind B2H towers and transmission lines, we conclude that the record does not support a finding that Idaho Power's engineering is flawed. On the record before us, we find that Idaho Power selected a tower design that has been thoroughly studied and meets or exceeds all applicable and relevant standards.<sup>72</sup> Indeed, the selected lattice towers are used throughout the Pacific Northwest and exceed tower design requirements, including for minimum loading criteria.<sup>73</sup> The BPA lattice towers have wind loading of 120 miles per hour while the wire has wind loading of 100 miles per hour.<sup>74</sup> With that wind loading, the MRI, which refers to how often a weather event is likely to occur, is between 700 and 10,000 years, while the NESC design requirement is for an MRI of greater than 50 years.<sup>75</sup> While intervenors assert these wind loading calculations are flawed, we disagree. We also find no standard that would require additional fragility analyses from Idaho Power and conclude Idaho Power has adequately assessed seismic and tornado risk, which will be further reduced as a result of the company's compliance with the requirements of the EFSC site certificate final order.

There is no evidence that rebuts Idaho Power's calculations or supports assertions that it has deviated from required engineering standards. Furthermore, Staff agrees that the B2H transmission line meets all safety and engineering requirements. We conclude that Idaho Power has shown it will comply with all relevant safety requirements and standards, which supports that the B2H transmission line project will be constructed, operated, and maintained in a safe manner that will protect the public from danger.

*b. Noise*

We conclude that the level of additional noise expected along the proposed B2H transmission line route does not preclude a finding that the B2H transmission line will be constructed, operated, and maintained in a safe manner that protects the public from danger. As intervenors assert, sound can be a potential hazard to public health and safety, and we recognize that some individuals may be more sensitive to sound or have pre-existing medical conditions that may be exacerbated by sound. Nonetheless, the evidence before us does not lead us to conclude that the B2H transmission line will jeopardize public health and safety.

OAR 860-025-0035 provides the standards we apply to our review of a CPCN petition. We are to consider safety issues, and part of that review may be to consider how impacts are anticipated to be mitigated by the petitioner. After reviewing the record and the parties' arguments, we conclude that the mitigation measures undertaken by Idaho Power, including conditions and mitigation imposed by the EFSC site certificate final order, are sufficient.<sup>76</sup> For example, the EFSC Final Order requires Idaho Power to comply with safety measures during construction and develop site-specific noise mitigation plans to minimize or mitigate ambient noise exceedances,

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<sup>72</sup> Idaho Power/1500, Stippel/9-14.

<sup>73</sup> Idaho Power/1500, Stippel/12.

<sup>74</sup> Idaho Power/1500, Stippel/9-14.

<sup>75</sup> Idaho Power/1500, Stippel/13.

<sup>76</sup> See Final Order on Application for Site Certificate, In the Matter of Application for Site Certificate for the Boardman to Hemingway Transmission Line at 684-699 (Sept. 27, 2022) (describing noise conditions and micro siting efforts) (Final Order)

which can include the installation of sound attenuating windows at residential structures.<sup>77</sup> The EFSC Final Order also includes a noise complaint process that can result in additional mitigation measures for affected landowners.<sup>78</sup> We decline to impose any additional mitigation measures related to sound.

Intervenors argue that ORS 467.010 establishes that noise standard exceedances are, by definition, a safety hazard. We disagree. We recognize that the B2H transmission line required a noise variance on account of an exceedance of ambient noise standards, however, we disagree with intervenors that the presence of a noise variance creates a safety hazard. We are persuaded by the fact that the transmission line is not expected to create sounds that violate the maximum allowable noise limit or at levels that may result in hearing loss, but rather will increase ambient noise levels in places along the transmission line's proposed route at certain times, potentially in times of extremely low ambient noise. Based on the evidence, including Staff's assessment that it is unaware of any conclusive evidence that properly constructed transmission lines pose a health risk to humans living in proximity to those lines, we are unpersuaded that the anticipated increased noise from the B2H transmission line presents danger to the public.

We also do not agree with intervenors that Idaho Power was required to ascertain the pre-existing conditions of all people living in proximity to the B2H transmission line. Rather, it was reasonable for Idaho Power to assess the potential sound-related impacts to people generally, including the potential for sound to exacerbate medical conditions, and commit to mitigating those impacts as required by the EFSC site certificate final order. We also note that, while mitigating outdoor sound may prove to be difficult, the EFSC site certificate requires Idaho Power to offer alternative mitigation proposals upon request from certain property owners, which should include mitigation for sound experienced outside.

## **F. Practicability**

To determine whether a proposed transmission line satisfies the statutory requirement of practicability, we are required to determine whether the proposed transmission line route is practicable and feasible, and whether it will be constructed in a commercially reasonable manner.<sup>79</sup> As discussed below, we conclude that the proposed B2H transmission line route is practicable and feasible and will be constructed in a commercially reasonable manner.

### ***1. Parties' Positions***

#### ***a. Idaho Power***

Idaho Power argues the B2H transmission line project is practicable. It points to the land use approvals it has received for the proposed route, including the EFSC site certificate. Idaho Power asserts the land use approvals support the practicability and feasibility of the project. Idaho

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<sup>77</sup> *Id.*

<sup>78</sup> *Id.*

<sup>79</sup> OAR 860-025-0035(c).



Power explains that the EFSC site certificate process evaluated compliance with all state laws in addition to the substantive requirements from all affected local governments.

Idaho Power also argues that the company and its contractors have extensive experience in constructing, operating, and maintaining transmission lines in a safe and efficient manner. Idaho Power explains it contracted with multiple engineering and constructability firms to prepare cost estimates and design packages. Idaho Power asserts these dynamics support that it and its contractors have the experience and resources to safely and efficiently construct and operate the B2H transmission line project.

Idaho Power acknowledges that construction of the B2H transmission line project is a significant undertaking but is confident its goal to construct the transmission line for a 2026 in-service date can occur. Idaho Power notes it has continued securing permits and approvals throughout this docket, it has submitted final drafts of all mitigation plans required by EFSC, and it continues to negotiate easements with landowners along the project route.

The company states it will construct the B2H transmission line in a commercially reasonable manner. Idaho Power explains it has included cost controls in contracts and has in place cost controls for internal and external personnel. Idaho Power plans to competitively bid all material and construction services as it enters the construction phase and will have guaranteed maximum price requirements that also includes monetary penalties for delays.

Idaho Power disagrees with STOP B2H that its pending amendment request at EFSC will delay project construction because it believes EFSC will resolve the amendment request promptly and that the company's phased construction approach will enable it to begin construction on transmission line segments not implicated by the amendment request. Idaho Power disagrees with Mr. Larkin that potential future litigation related to noise will increase the cost of the B2H transmission line project. The company believes such potential future litigation is speculative and it therefore did not include such costs in any cost estimates for the project. Idaho Power disagrees that it did not adequately consider alternatives to transmission and alternate routes or that their presence should preclude a finding of practicability, feasibility, or justification.<sup>80</sup>

*b. PacifiCorp*

PacifiCorp disagrees with intervenor arguments regarding PacifiCorp's financial stability, solvency, and liability for wildfire damage. PacifiCorp asserts that Mr. Larkin's evidence does not establish that its transmission lines have been responsible for recent wildfire ignition events and that the evidence establishes a low probability of ignition associated with a 500-kV transmission line, and that it has submitted wildfire mitigation plans to the Commission in both 2022 and 2023. PacifiCorp further argues that Mr. Larkin's evidence does not establish that PacifiCorp has any issues with its financial stability, that no evidence in the record establishes PacifiCorp is liable for wildfire damage, and that intervenors misunderstand its routine filings concerning debt issuances.

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<sup>80</sup> Idaho Power primarily discussed alternative routes and alternatives to the project in its briefing on justification. While we agree these issues are relevant to justification, we discuss and resolve them here.

*c. Staff*

Staff argues that the B2H transmission line is practicable based on Idaho Power's design and planning work to date as well as the process used to develop the proposed route. Staff explains Idaho Power retained engineering firms to create design packages up to and including a 90 percent detailed design package currently undergoing constructability review. Staff notes the B2H transmission line project has already undergone federal environmental review under the National Environmental Policy Act (NEPA), rights-of-way have been granted for the portions of the project crossing federally-managed land, and the company has completed the EFSC site certificate process. Staff also explains Idaho Power reports obtaining easements for 17 percent of private land along the route.

While Staff notes there are pending authorizations yet to be acquired and mitigation plans still needing to be finalized and approved, Staff sees no indication Idaho Power will be unable to obtain these remaining permits or authorizations. Staff explains that it believes the planned in-service date for the B2H transmission line is ambitious and may be unrealistic, however construction or permitting delays do not alter Staff's conclusion on the ultimate value to be derived from the B2H transmission line once operational.

Regarding the proposed route, Staff concludes Idaho Power selected a reasonable and practical route. Staff notes Idaho Power employed a community advisory process to provide input on route selection and identify issues and concerns. Staff notes that the U.S. Bureau of Land Management (BLM) and EFSC assessed alternatives, and ultimately approved the proposed route. Staff concludes the proposed route may be feasibly constructed.

Staff also explains that because Idaho Power's IRP preferred portfolio with B2H remains cost-effective, there is additional support for the feasibility of the project.

Staff disagrees that ORS 35.235 governs the Commission's review of Idaho Power's CPCN petition. Staff recognizes intervenor arguments regarding alternate routes, but ultimately concludes the effects of alternate routes would be similar to the proposed route, and Idaho Power's proposed route remains practicable and feasible.

*d. Intervenors*

STOP B2H, Wendy King, Sam Myers, Susan Geer, and Greg Larkin argue that alternatives to transmission and route alternatives exist for the B2H transmission line project that are more practicable and result in fewer impacts. Specifically, alternatives to exclusive farm use lands, alternatives that would avoid specific parcels of land or habitat types, and alternatives using federally-designated green energy corridors exist and would reduce or eliminate certain impacts from the B2H project. STOP B2H further argues that Idaho Power's pending amendment request at EFSC may impact construction schedules. Greg Larkin argues that the project risks cost overruns and STOP B2H and Mr. Larkin argue Idaho Power has inadequately included contingencies in its cost planning. Mr. Larkin also argues that PacifiCorp is responsible for wildfire damage because of its transmission line maintenance, that the Commission has

authorized PacifiCorp to take on additional debt, and that there are questions surrounding PacifiCorp's solvency.

## 2. *Resolution*

On the record before us, we conclude that the B2H project is practicable, feasible, and can be constructed in a commercially reasonable manner.

### *a. Construction Planning and Scheduling*

Idaho Power has retained numerous contractors with extensive experience planning, designing, and constructing high-voltage transmission lines, in addition to its own experience with the same. The company has worked with its contractors to develop design packages of increasing depth and complexity to inform its preliminary design and cost estimates.

Idaho Power has also successfully navigated federal and state approval processes. The company obtained rights of way for the portion of the route crossing federally-managed land and successfully obtained a site certificate from EFSC, which was ultimately affirmed by the Oregon Supreme Court. The company has obtained many of the necessary permits and approvals for the B2H project and is in the process of obtaining the project's remaining permits and approvals. Idaho Power has also submitted final drafts of all required mitigation plans.

Several intervenors note that Idaho Power has requested an amendment to its site certificate and that this may delay construction. Idaho Power explains that the requested site certificate amendment does not require condemnation of new land parcels and that its phased construction approach allows it to proceed with construction elsewhere in the event of any delays from the amendment process. We conclude that the B2H project remains practicable, feasible, and commercially reasonable despite the pending site certificate amendment.

We agree with Staff that Idaho Power's plans for a 2026 in-service date are ambitious. While we hope Idaho Power can meet its goals, we believe Idaho Power's progress towards construction, plans for phased construction, and contract requirement for its contractors will enable the company to promptly move towards completion. Even if construction delays occur, our rules protect against major delays by requiring that a CPCN expire after 10 years if construction has not commenced.<sup>81</sup>

### *b. Costs*

Idaho Power's petition and testimony included detailed information regarding the anticipated costs for the B2H project. These costs have been updated as its design packages progressed and as the company learned new information. This continual updating of costs is reasonable for a project of the magnitude of the B2H project. Further, Idaho Power's and PacifiCorp's IRPs continue to reflect that a portfolio including the B2H transmission line is the least-cost, least-risk

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<sup>81</sup> OAR 860-025-0035(3).

portfolio.<sup>82</sup> These factors support the practicability, feasibility, and commercially reasonable nature of the B2H transmission line route.

We disagree with STOP B2H's arguments regarding Idaho Power's budget. With such a complex project, it is reasonable that Idaho Power does not have final cost estimates or that its design package is not ready for bid. Our rules do not require Idaho Power to have that level of detail to support a CPCN petition and the record before us does not contain evidence to cast doubt on Idaho Power's cost estimates and budget to date.

STOP B2H and Mr. Larkin raise arguments regarding the amount of contingency included in Idaho Power's project budget, noting that the contingency fund has been decreasing. We find it reasonable that cost estimates evolve throughout the planning process. Here, Idaho Power's updated analyses led it to increase its cost estimate from the \$425 million reflected in the 2021 IRP to \$603 million including a contingency.<sup>83</sup> This increase is reflective of increased costs over time and a more finalized design package. Additionally, contingency was not incorporated in the cost estimate for any resource compared in the IRP modeling, whether alternative transmission projects or potential generators. This enabled an effective alternatives analysis, as all solutions would incorporate similar contingencies during construction. Idaho Power asserts the contingency as a percentage of the entire budget has decreased as the company's budgeting process progressed, its estimates became more accurate, and as costs were incurred thereby not requiring a contingency. We see no evidence in this record that contradicts the efficacy of this approach.

Intervenor arguments regarding PacifiCorp's financial solvency and wildfire damage liability do not impact our conclusion as to the practicability and feasibility of the B2H project. Based on this record, we are not persuaded by Mr. Larkin's assertion that PacifiCorp is insolvent or at risk of becoming insolvent. Furthermore, taking official notice of events outside this record<sup>84</sup> does not alter our conclusion that the B2H project is practicable and feasible. The demonstrated need for and value of the B2H project for utility service remains strong enough to persuade us that, regardless of the ultimate resolution of any financial issues facing PacifiCorp, the B2H project can receive the investments necessary to be constructed.

*c. Route Alternatives*<sup>85</sup>

Although we are mindful that the selected route impacts many individuals who would prefer to not have transmission towers, access roads, or transmission lines on or near their property, we also recognize that such impacts are inherent in transmission line design and that any selected route would impact people and resources in many ways. Despite the inevitability of such

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<sup>82</sup> See *In the Matter of Idaho Power Company, 2021 Integrate Resource Plan*, Docket No. LC 81, Initial Application (Dec. 30, 2021); *In the Matter of PacifiCorp, 2021 Integrated Resource Plan*, Docket No. LC 77, Initial Application (Sept. 1, 2021).

<sup>83</sup> Idaho Power/500, Ellsworth/23.

<sup>84</sup> We take official notice under OAR 860-001-0460 of PacifiCorp's June 15, 2023 filing in UM 2292 titled "Application for Authorization to Defer Costs Related to Wildfire Liability" and the facts contained therein regarding the jury verdict in *James v. PacifiCorp*.

<sup>85</sup> Additional issues regarding route alternatives are resolved in the justification section of this order.

impacts, our task is to ensure that Idaho Power selected a practicable and feasible route for the B2H project. We conclude that it has.

The record indicates that Idaho Power worked with local governments, community groups, and individual landowners to develop the proposed route for the B2H project. Idaho Power used a community advisory process to obtain input and hear issues and concerns with different alternative routes. After initiating the site certificate process, ODOE held public meetings to discuss siting the project in a proposed corridor. Idaho Power incorporated feedback from government agencies to avoid or minimize impacts to resources such as sage grouse habitat. The BLM considered multiple alternatives for the different segments of the B2H project in a federal NEPA process and, later, EFSC considered route alternatives. We understand that the proposed route alternatives were adjusted as Idaho Power progressed through the different processes, but such adjustments are to be expected as the process generated more information to guide route development. Further, the federal and state processes are bound by different legal requirements, and parity between federal and state processes is not a requirement. We also note that a federal district court determined that changing proposed routes did not necessitate additional consideration under NEPA, and the Oregon Supreme Court affirmed EFSC's alternatives process and analysis.<sup>86</sup>

Several intervenors oppose that the proposed route passes near Morgan Lake and through several specific land parcels in the vicinity. While the City of La Grande originally opposed this proposal, the record shows La Grande removing its opposition after Idaho Power agreed to mitigate the effects of its proposed route by paying \$100,000 for recreational improvements at Morgan Lake and altering the tower height within the viewshed of the lake. Although several intervenors suggest that the Glass Hill Alternative is a better route that avoids impacts to Morgan Lake, the record shows that opposition to that route also exists, including from the Confederated Tribes of the Umatilla Indian Reservation. The Confederated Tribes are not a party in this docket, and we decline to consider arguments hypothesizing about their views on the current proposed route beyond the evidence in the record.

Several intervenors also suggest alternative routes to avoid impacts to farmland in Morrow County. While additional route alternatives may exist in Morrow County, we do not agree that their existence alters our conclusion that Idaho Power's proposed route is practicable, feasible, and commercially reasonable. In particular, we determine that the proposed alternative route using the Wheatridge interconnection corridor would impact more landowners, increase the length of the route and thereby increase costs, and result in significant project delays and additional costs to seek new approvals for a new route. Idaho Power analyzed potential routes that would avoid exclusive farm use lands but concluded it could not route the project in eastern

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<sup>86</sup> See *STOP B2H Coal. v. U.S. Bur. of Land Mgmt.*, 552 F. Supp. 3d 1101 (D. Or. 2021); *STOP B2H Coal. v. Or. Dep't of Energy (In re Site Certificate)*, 370 Or 792, 525 P. 3d 864 (2023) (correct Mar. 11, 2023).

Oregon without crossing exclusive farm use lands.

STOP B2H argues that federal west-wide energy corridors<sup>87</sup> should have been used as part of Idaho Power’s route alternatives and that doing so would decrease a variety of impacts. Idaho Power did, in fact, use existing federal corridors for more than twenty miles of the proposed transmission line route. For one segment, in consultation with the BLM, Idaho Power diverged from one such corridor to avoid impacts to a section of the Owyhee River that is being considered for federal Wild and Scenic River designation. For another segment, using the federal corridor would have caused similar impacts to resources as the proposed route. As such, while utilities should consider using such energy corridors, we conclude that Idaho Power reasonably avoided those routes given significant anticipated environmental impacts and reasonable practical considerations.

Ultimately, Idaho Power had to make several tradeoffs in designing its final, proposed route. Any route it selected would be opposed by many. We reiterate that while Idaho Power could have selected a different alternative, its selected alternative is practicable and feasible. It reasonably considered alternatives to its proposed route and amended the proposed route as new information was learned from community members, government entities, non-profit organizations, and others.

#### **G. Justification in the Public Interest**

The statute and our rules require us to determine whether the petitioner has justified construction of the proposed transmission line as in the public interest.<sup>88</sup> In arriving at that determination, we consider the proposal “compared with feasible alternatives for meeting the identified need, considering the public benefits and costs of the project as they relate to the interests in land proposed to be condemned, petitioner’s existing facilities and equipment, petitioner’s Oregon customers, and other considerations that may be relevant to the public interest.”<sup>89</sup> Such other considerations could include “the benefits and costs to other Oregon utilities, their customers, and all Oregonians, the value of connections to regional and inter-regional electricity grids and to a petitioner’s non-Oregon service territories, and all Oregonians.”<sup>90</sup> As an Oregon natural resource agency, we must also consider the effect of our decisions on environmental justice

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<sup>87</sup> The parties refer to designated energy corridors as “368 Corridors,” “Central Oregon ROW,” and “west-wide energy corridors.” We clarify that these terms all refer to federally designated corridors on federally managed lands for energy pipelines and transmission facilities and are authorized under Section 368 of the federal Energy Policy Act of 2005.

<sup>88</sup> OAR 860-025-0035(1)(d).

<sup>89</sup> *Id.*

<sup>90</sup> *Id.*

issues, and discuss and consider such issues here.<sup>91</sup>

As discussed below, we conclude that the proposed B2H transmission line route is justified in the public interest.

***1. Parties' Positions***

***a. Idaho Power***

Idaho Power argues that the B2H project is justified when compared to feasible alternatives. Idaho Power maintains the B2H project has been identified as part of the least-cost, least-risk portfolio in its IRPs. The company asserts that the IRP process identified and evaluated portfolios containing alternatives that did not include construction of the B2H transmission line, and IRP analysis consistently confirmed the transmission line was included in the least-cost, least-risk portfolio.

According to Idaho Power, it considered alternatives to construction of B2H using different resource types, such as additional wind, solar, and standalone storage. The company disagrees that it would be able to serve its growing load solely through additional renewable generation in Idaho and explains its internal studies show diminishing returns on capacity contribution through the continued addition of wind, solar, and storage within the Idaho Power footprint. Regarding microgrids, Idaho Power agrees that decentralized microgrids will likely be a part of Idaho Power's operations in the future, but that they cannot substitute for a reliable transmission grid. Idaho Power notes that B2H allows for bi-directional capacity, which will connect Idaho to diverse resources in the Pacific Northwest and will also connect Oregon to clean energy production elsewhere, such as wind generation in Wyoming connected via the Gateway West project. Idaho Power asserts this geographic diversity is necessary to avoid service disruptions from weather within the Idaho Power footprint. The company also explains that the Gateway West project alone cannot serve the same purpose as the B2H project, as supported by the company's 2021 IRP showing the portfolio containing B2H outperformed all portfolios without it.

Idaho Power argues that several alternatives to the B2H project were thoroughly considered by the company. Idaho Power explains undergrounding is not practical given significantly increased costs and the impacts of ground disturbance. In response to arguments suggesting that increased energy efficiency, demand-side management, and battery storage could be alternatives to the B2H project, Idaho Power maintains that its IRP considered these options and still concluded that the portfolio including the B2H project was the most cost-effective. According to Idaho Power, no evidence in the record supports the assertion that alternatives could match the value of the B2H project. Idaho Power also explains that the Mid-Columbia (Mid-C) market does not present resource adequacy concerns because Idaho Power's need for purchased power primarily occurs during the early summer when the Mid-C market has surplus energy.

Idaho Power argues that the route alternatives it considered would result in substantially similar environmental impacts. The company asserts the designation of the Rice Glass Hill Property as a

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<sup>91</sup> ORS 182.545(1).

State Natural Area does not preclude B2H project construction, but notes it believes the transmission line is routed to minimize impacts, such as by routing the transmission line to avoid delineated wetland features of Winn Meadow and by committing to using micro-siting to attempt to avoid impacts to discrete populations of Douglas clover. Idaho Power also asserts that every potential route involved tradeoffs. For example, while the Morgan Lake route impacts more forested acres than the Glass Hill route, the Morgan Lake route impacts fewer acres of wetlands and non-wetland water bodies. Idaho Power argues that it adequately considered the environmental impacts of the proposed route and that the EFSC site certificate order's conditions and required mitigation plans address those impacts, including impacts on wildlife, waterways, riparian areas, and wildlife habitat.

Idaho Power disagrees that impacts to the National Historic Oregon Trail Interpretive Center (NHOTIC or Oregon Trail) justify rejecting the B2H project. Idaho Power explains there were several revisions to the route in and around the Oregon Trail and several alternatives were rejected for various reasons, including impacts to sage grouse habitat and impacts to agricultural land. Idaho Power notes that BLM, which manages the NHOTIC, approved the final route, which the company admits will cause visual impacts to parts of the Oregon Trail, including hiking trails around the BLM's visitor center. Idaho Power also notes that EFSC concluded the recreational impacts to the Oregon Trail will be less than significant, and explains it changed the project's design to further reduce visual impacts to the Oregon Trail, including by using a different tower design with reduced tower heights for towers that would be visible from the NHOTIC. Idaho Power disagrees that B2H will cause a reduction in tourism, noting that the evidence from intervenors shows that NHOTIC tourism has been declining irrespective of the project's impacts, which EFSC found to be not significant. Idaho Power also disagrees that siting the project in a federal west-wide energy corridor would reduce impacts to the Oregon Trail as no such corridor exists in proximity to it.

Idaho Power disagrees that it should have used a federal west-wide energy corridor near the Owyhee River. Idaho Power, in consultation with BLM, specifically decided to route the B2H project outside of such a corridor at the Owyhee River canyonlands crossing to reduce impacts to a river segment that is being considered for designation as a federal Wild and Scenic River. Idaho Power notes that BLM is the agency with authority to approve rights of way for the B2H project when it crosses land BLM manages, such as at the Owyhee River crossing, and BLM approved a route outside the federal west-wide energy corridor.

Idaho Power argues that the B2H project will provide Idaho Power, PacifiCorp, and BPA customers with substantial benefits. Related to PacifiCorp, Idaho Power explains B2H increases the bidirectional transfer capacity between PacifiCorp's east and west balancing authority areas; enables lower-cost and more reliable transmission service to PacifiCorp's central Oregon loads; and allows for lower cost transmission services near the planned Longhorn substation. PacifiCorp estimates the B2H project will result in \$1.713 billion in risk-adjusted net benefits for its customers from 2023-2042.

Related to BPA, Idaho Power asserts the B2H project will enable BPA to serve its customers in southeast Idaho using only one wheel of transmission beyond the BPA transmission system,



which currently requires two wheels, and would provide an estimated \$720 million of cost savings.

Idaho Power argues the B2H project will increase connections between the Pacific Northwest and the Mountain West, which will reduce transmission congestion in both regions and facilitate the integration of renewable resources. Idaho Power asserts a key regional benefit from the B2H project is increased recovery capability given the current existence of only one 500-kV transmission line between the Pacific Northwest and Idaho Power's service territory in Idaho.

Idaho Power disagrees that B2H will result in cost-shifting to Oregonians and defends the bond approach approved by EFSC. Idaho Power explains that EFSC approved a \$1 bond for the first 50 years of the project's life given the low likelihood the transmission line will be retired before the end of its useful life. According to the company, given that the bond is to protect against decommissioning and site restoration costs, it protects Oregonians from needing to carry the estimated \$880,000 annually for a bond for the entire decommissioning and site restoration amount. Idaho Power also disagrees that B2H pushes too many wildfire response costs to local communities, and points to its plans to further reduce wildfire risk.

Idaho Power asserts its planning processes have protected and will continue to protect the public's interest in historic, cultural, and archaeological resources. The company points to the EFSC site certificate final order concluding that, subject to conditions and planned mitigation, the construction and operation of the B2H project would not likely result in significant adverse impacts to such resources. In addition to mitigation plans for three categories of such resources, the project was required to conduct a NEPA environmental effects analysis, which included an analysis of cultural, historic, and archaeological impacts anticipated to be caused by the B2H project as well as comply with Section 106 of the National Historic Preservation Act (NHPA).

The company acknowledges that its surveys and mitigation plans are not yet complete but maintains that was anticipated by EFSC and that sufficient protections are in place to ensure that impacts to cultural, historic, and archaeological resources will not be significant. The company explains it conducted the required investigations and assessments and describes two cultural resources discovered through surveys on Mr. Williams' property. The company maintains it recommended that these sites be designated as eligible for the National Register of Historic Properties and that mitigation measures be implemented. The company acknowledges that impacts to one of the sites on Mr. Williams' property cannot be avoided, visual impacts may exist for properties, that it has moved an access road to better protect the other site, and that it is going through the federal Section 106 process related to both sites. Idaho Power also explains a total of thirteen sites were identified on Mr. Williams' property and that surveys and other work related to them are ongoing.

The company also explains that, even if the company decided to use the Glass Hill Alternative instead of the Morgan Lake Alternative (which impacts Mr. Williams' property), impacts to cultural, historic, and archaeological resources would remain. The company points to the Confederated Tribes' objections to the Glass Hill Alternative to support its decision to propose using the Morgan Lake Alternative. Idaho Power also asserts that it has consulted with tribal

leaders throughout the development of the project and that BLM led the government-to-government consultation required by federal law.

Idaho Power asserts it conducted an analysis of environmental justice impacts of B2H in response to Staff's data requests in this docket. Idaho Power explains its analysis considered impacts on environmental justice communities defined by statute and for which census data was available. Idaho Power explains the BLM conducted such an analysis under federal law and concluded the B2H project would not have disproportionate impacts on environmental justice communities. Idaho Power noted its community engagement that was not specifically focused on environmental justice communities, but that it engaged landowners and interested parties to obtain input. Idaho Power conducted mapping exercises using census data to demonstrate that the B2H project avoids major population centers and mitigates impacts on environmental justice communities. The company also asserts it did not shift the route away from well-resourced landowners' parcels and on to other landowners in Union County. The company also notes the proposed route does not pass over tribal reservation lands. The company acknowledges the proposed route goes through rural communities but explains this is an inevitable consequence of siting a transmission line in eastern Oregon.

Idaho Power also asserts that the B2H project will have benefits for environmental justice communities, including that the transmission line will facilitate the transition away from fossil fuels, which will benefit environmental justice communities. The company also explains there is an estimated increase of \$5.8 million in annual tax benefits to the counties where the B2H project will be located, which will benefit the affected communities, including environmental justice communities.

*b. PacifiCorp*

PacifiCorp asserts that its 2021 IRP and 2021 IRP Update examined portfolios that included the B2H project and portfolios that did not. PacifiCorp argues that the 2021 IRP concluded that the least-cost, least-risk portfolio included the B2H transmission line, and its 2021 IRP update estimated risk adjusted net benefits of \$439 million over the 20-year planning period. Since Idaho Power filed its CPCN petition, PacifiCorp updated its analyses, and now projects \$1.713 billion in risk-adjusted net benefits for 2023-2042 for participating in the B2H project. PacifiCorp also explains that B2H will enable it to avoid a resource shortfall in 2026; PacifiCorp will be able to export additional energy generation capacity from its East balancing authority to its West balancing authority area; PacifiCorp will be able to integrate its renewable energy resources between its two balancing areas; and B2H will increase grid resiliency given that it currently only has one 500-kV transmission line connecting its two balancing authority areas. PacifiCorp argues that these benefits justify the B2H transmission line project.

*c. Staff*

Staff argues that the B2H transmission line is justified because it will provide monetary and non-monetary benefits to Idaho Power customers, to Oregonians, and to the region. In comparing the estimated cost for the project and the potential impacts of constructing and operating the transmission line with the project's benefits, Staff concludes the B2H transmission line project is

justified. Staff points to the conclusion in Idaho Power's IRP that B2H is the least-cost, least-risk resource when compared to feasible alternatives to meet Idaho Power's capacity need for support, and further notes that other available alternatives do not provide the same regional benefits. Staff asserts Idaho Power's IRPs are the best means of analyzing alternatives to meet Idaho Power's need for additional capacity and that the IRP concludes B2H is the least-cost, least-risk resource when compared to feasible alternatives.

Staff argues that the B2H transmission line will provide significant monetary benefits, though recognizes that many of the benefits and costs cannot be easily quantified and that construction delays could delay the onset of benefits. Staff explains the transmission line is expected to provide net benefits of \$228 million to Idaho Power customers in the first 20 years, net benefits of \$720 million for BPA and its customers in the first 30 years, and \$1.7 billion in net benefits for PacifiCorp customers in the first 20 years after the transmission line is energized. Staff notes additional monetary benefits such as wheeling revenue, job creation, and increased local property taxes in the five Oregon counties along the transmission line route. Staff recognizes the value in optimizing transmission rights between the Mid-C and Mona trading hubs to give Idaho Power and PacifiCorp unimpeded transmission without pancaking transmission rights. Staff also explains B2H is expected to relieve congestion between PAC East and PAC West while allowing for the flow of resources from one balancing area to another. Staff asserts the B2H project will enable interconnection of 600 MW of additional resources and double the amount of load service into Central Oregon for PacifiCorp.

Staff also recognizes the monetary and non-monetary costs associated with the B2H project. Staff notes updated project costs of approximately \$1.15 billion.<sup>92</sup> Staff explained the presence of several non-monetary costs, including that condemnation of private land to construct the B2H project may limit the use of that land for other purposes and negatively impact landowners; the presence of sound related to the B2H transmission line, such as the corona effect, may have negative impacts on individuals when it occurs; visual impacts along the transmission line route, including at the NHOTIC, Morgan Lake, and Owyhee River Crossing; impacts on historical and cultural resources; environmental impacts, including damage to protected plant or animal species or their habitat; and negative impacts on environmental justice issues. Staff nonetheless believes that the B2H project is justified in the public interest when comparing the benefits of the B2H project with its costs, especially considering the conditions imposed on Idaho Power by the EFSC site certificate final order and other required mitigation measures.

Related to environmental justice issues, Staff notes the likely presence of positive and negative impacts. Likely positive impacts include broader benefits available to all community members, such as enhanced grid reliability, increase in tax revenue, and increased flexibility to incorporate clean energy into Idaho Power's system. Staff analyzed impacts to environmental justice communities, and concluded that communities of color, and low-income, rural, and tribal communities were likely to be affected by the B2H project. Staff noted few census blocks populated by a significant population of people of color. Staff states negative impacts to communities of color may be minimal because the proposed route will not divide a community of color and appears to avoid impacting such communities. Regarding low-income communities, Staff explains that the proposed route has been designed to avoid highly populated areas, which

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<sup>92</sup> Staff Opening Brief at 16 (citing Idaho Power/401, Barretto/1).

reduces the number of people experiencing negative impacts in general. However, Idaho Power's review of census data shows that there are census blocks along the B2H transmission line route with high concentrations of households meeting low-income criteria.<sup>93</sup>

According to Staff, rural communities are more likely to experience negative impacts from the B2H transmission line given that any population near the B2H route may be considered a rural community. Families engaged in agricultural activity near the B2H route may experience losses in agricultural production because of B2H construction. Staff explained that tribal communities may be impacted by the B2H transmission line, and that Idaho Power and BLM engaged in outreach and coordination efforts with tribal governments. Staff notes the Confederated Tribes expressed concerns with the Glass Hill route alternative due to concerns with impacts cultural and historic properties. Staff explained Idaho Power did not select the Glass Hill route but notes tribal communities may still be impacted by construction activities near cultural and historic resources, impacts on agricultural production, and development of the transmission line on or near areas historically used as tribal resources.

*d. Intervenors*

STOP B2H argues the B2H project is not justified in the public interest. STOP B2H asserts the costs for the B2H transmission line are too high, especially because of its assertions that Idaho Power has not been transparent with costs and there are not sufficient contingency funds in the project budget. STOP B2H also asserts there are alternatives to the B2H transmission line, including demand-side management programs, energy efficiency, co-generation, smart grid technologies, increased renewable generation near existing substations, battery storage, undergrounding, and upgrading and fire-hardening existing 230-kV transmission lines. STOP B2H explains the Mid-C energy hub is entering a period of increasing resource adequacy concerns.

Sam Myers and Wendy King argue the B2H project is not justified in the public interest. They assert several impacts to agricultural operations, including significant potential for fire damage to soil that could impact future soil productivity and crop yield, site-specific meteorological dynamics increasing safety risk, disruptions to agricultural practices such as aerial pesticide application, increased costs on agricultural operators, increased risk of fire ignitions, impacts on non-irrigated farm lands, and the availability of alternative routes that would avoid certain impacts to certain farm lands. They argue that Idaho Power has not adequately considered alternate routes for the transmission line, such as by using the Wheatridge corridor. Mr. Myers also asserts that Idaho Power's transmission line design is flawed, is unsafe and that such deficiencies support that the B2H project is not justified in the public interest. Mr. Myers notes he submitted comments from Dr. Suzanne Fouty explaining issues with Idaho Power's soil analysis during the EFSC proceedings. Ms. King argues the B2H project fails to meet Statewide Land Use Goals.

Greg Larkin argues the B2H project is not justified in the public interest. Mr. Larkin argues the Commission must consider the significant cost of the B2H project that will be passed on to ratepayers. Mr. Larkin asserts the bond amount required of Idaho Power is insufficient and that

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<sup>93</sup> Idaho Power/1000, Weigler/13-14.

PacifiCorp's role in the B2H project raises the project's risk given his view of PacifiCorp's solvency. Mr. Larkin argues the Commission must set the proper amount of compensation Idaho Power should provide landowners. Mr. Larkin asserts alternate routes exist that would create lesser impacts and that alternate energy sources exist. Mr. Larkin explains that imposing new noise sources in rural Oregon is a cost that the Commission should consider in determining the justification in the public interest for the B2H project. Mr. Larkin also argues that the B2H project will cause damage to riparian areas which will cause economic impacts in the area and lead to the loss of aquatic species protected by the federal Endangered Species Act. Mr. Larkin explains that the logging required by the B2H project will have adverse impacts on elk populations and local landowners will suffer economic consequences as a result. Mr. Larkin's reply brief argued that Idaho Power's final draft noxious weed plan failed to comply with the law and requires landowners and the public to pay the costs of compliance. Mr. Larkin argues that the noxious weed plan and his concerns with it are costs that weigh against the justification in the public interest of the B2H project.

Susan Geer argues the B2H project is not justified in the public interest. Ms. Geer, representing Whitetail Forest LLC and Glass Hill State Natural Area, states the B2H project is not justified due to impacts to the Morgan Lake area, including the Glass Hill State Natural Area. Ms. Geer explains that while the Glass Hill State Natural Area is privately owned, it is open to the public for non-motorized recreation and should not be impacted by the B2H project. She explains that the Glass Hill State Natural Area is home to rare plants and animals and their habitats and contains important features such as Winn and Bushnell Meadows. Ms. Geer asserts the B2H project will cause damage to plant and wildlife habitat, including hydrologic impacts on the meadows. Impacts to the Glass Hill State Natural Area would include significant amounts of logging in areas that are currently forested. Ms. Geer also states the B2H project would impact Twin Lake, which she describes as a fragile and unique wetland. Ms. Geer also includes information about the discovery of a potentially new plant species that is believed to be an undescribed species. As a new undescribed species, it lacks protections of any kind and Ms. Geer believes it could be adversely impacted by the B2H project. Ms. Geer describes other environmental impacts from the B2H project, including impacts to fields containing large populations of milkweed, a food source for monarch butterflies. Ms. Geer argues that better options exist than the Morgan Lake alternative and does not believe that the Morgan Lake alternative is justified in the public interest. Ms. Geer explains the Morgan Lake alternative will result in a greater number of logged acres, affects more landowners, and affects more people overall. Ms. Geer also argues that Idaho Power selected the Morgan Lake alternative to placate a single, well-resourced landowner.

John Williams argues the B2H project is not justified in the public interest. Mr. Williams asserts the B2H project is subject to NHPA Section 106 and that the Section 106 process must be completed before the project can move forward. Mr. Williams explains that the identification process for historic properties on his property is not yet complete and that multiple archaeological sites have been identified there already. Given that significant work remains to be completed related to both cultural resources and environmental matter, Mr. Williams argues the

Commission should not yet issue a CPCN. Mr. Williams also states alternatives to the B2H project exist that have not been adequately considered.

## 2. *Resolution*

On the record before us and after considering the parties' arguments, we conclude that the B2H project is justified in the public interest. In reaching this conclusion, we considered several factors, including feasible alternatives for meeting the identified need; weighing the public benefits and costs; Idaho Power's existing facilities and equipment; Idaho Power's Oregon customers; the benefits and costs to other Oregon utilities, their customers, and all Oregonians; the value of connections to regional and inter-regional electricity grids; and environmental justice issues.

### a. *Feasible Alternatives to Serve Electricity Needs*<sup>94</sup>

Several intervenors argue that alternatives exist to the B2H project for meeting the electricity needs of Idaho Power, PacifiCorp, and BPA's customers, including undergrounding, energy efficiency, demand side management, microgrids, and distributed energy generation. We concluded above that the need criterion was satisfied because the record established the B2H project as a reasonable way to meet a resource need documented in a series of IRPs, including the most recent IRP analyses conducted by Idaho Power and PacifiCorp. We noted there, and address now, arguments that the B2H project nonetheless is not justified in the public interest because there are other feasible alternatives for Idaho Power and BPA to serve electricity needs. Our rules do not require that a transmission line be the only available resource alternative to serve the demonstrated need. However, in evaluating the project's justification in the public interest, we will consider how well the proponent justified the transmission line as the best choice relative to alternative resource strategies.

Here, intervenors point to renewable energy located in Idaho, demand side management, energy efficiency, microgrids, and distributed energy generation. The record does not contain evidence that such approaches could entirely cover the demonstrated need for additional transmission capacity. Further, while undergrounding may be an alternative, we are persuaded that for a nearly 300-mile-long transmission line, the cost would be extreme and impose a considerable burden on ratepayers.

We agree that looking at IRP analyses provides a good way to consider the relative value of potential alternatives to transmission. Such analyses look at alternatives in different contexts and include an analysis of the reliability and the costs and benefits of different resource combinations to assess which portfolios represent the least-cost, least-risk set of options. Here, IRP analyses tested a reasonable diversity of alternatives to the B2H project over many years. We find that they sufficiently demonstrated significant reliability and cost concerns with relying solely on renewable energy and load management within Idaho Power's existing transmission footprint and renewable resource weather zone,<sup>95</sup> and that the B2H project is part of the least-cost, least-

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<sup>94</sup> We resolve the issue of alternative routes in the section above on practicability.

<sup>95</sup> Idaho Power/500, Ellsworth/30.

risk portfolios to meet both Idaho Power and PacifiCorp's resource needs.<sup>96</sup> We note that other top performing portfolios that did not include the B2H project required Idaho Power to add new generating resources as well as other new transmission (namely, the Gateway West line); such portfolios were not able to achieve an adequate balance of reliability and cost solely by relying on renewable resources and demand management within Idaho Power's existing footprint.<sup>97</sup> We also rely on evidence of transmission's non-quantifiable value relative to the addition of electricity generating resources, including the optionality to respond to changing market circumstances, lower forced outages, and increased regional grid reliability due to path redundancy.<sup>98</sup>

Although the record supporting the B2H project is robust, we do wish to acknowledge the challenge that opponents of the B2H project faced in attempting to demonstrate the superiority of other resource alternatives. IRPs are technically complex and require a significant commitment of time and resources over many years. In addition, because new IRPs must be developed and filed approximately every two years to respond to changes in the electricity industry and markets, the relative costs and benefits of a long-term proposal like the B2H project are likely to vary from one IRP to the next. As frustrating as it may be for intervenors to track these changes, we do not see them as an inappropriately changing story for why the line is justified; rather, we see continued testing and refreshing of the analysis in updated conditions as a discipline necessary to reaching good decisions, one that supports our ultimate determinations in cost recovery and CPCN proceedings. We note, however, that we do not rely solely on IRP analysis. If updated evidence in the record of this proceeding had demonstrated a material change from the conclusions in the last IRPs, we would be required to consider that in reaching our CPCN decision.

Here, we are satisfied that the rationale for selection of the B2H project over feasible alternatives was robust and well justified over many IRP cycles and not diminished by updated evidence provided for the CPCN proceeding. This consideration weighs in favor of a finding that the line is justified in the public interest.

*b. Costs and Benefits*

If approved, the B2H project will realize a variety of benefits while incurring a number of different costs. We must weigh these costs and benefits through a variety of lenses in assessing the justification for the B2H project.

Multiple parties raise several costs, both monetary, and non-monetary, that would result from the B2H project. The parties note that the monetary project costs are estimated to be \$1.15 billion. Additionally, several costs, some of which are difficult to quantify, will be experienced.

We note that a CPCN allows a utility to seek condemnation of private property for a public

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<sup>96</sup> See *In the Matter of Idaho Power Company, 2021 Integrate Resource Plan*, Docket No. LC 81, Initial Application (Dec. 30, 2021); *In the Matter of PacifiCorp, 2021 Integrated Resource Plan*, Docket No. LC 77, Initial Application (Sept. 1, 2021).

<sup>97</sup> Idaho Power/500, Ellsworth/40; Idaho Power/1700, Ellsworth/13.

<sup>98</sup> Idaho Power/100, Ellsworth/37-39.

purpose. We do not take this lightly and realize the grave impact condemnation can have on families and businesses, including through impacting the use of that land, the existing operations occurring on that land, and the ability of landowners to make decisions about the highest and best purposes of their land. For example, some landowners may not be able to rely on aerial pesticide application or existing airstrips as a result of tower and transmission line placement, and other landowners may have their careful, decades-in-the-making plans to conserve their land in a natural state altered by an outside party. We note that some parties requested that we address the amount of compensation for landowners, however that is outside the scope of our role and is not a matter for us to decide. Instead, courts will determine the appropriate amounts of compensation due for the land rights taken and interferences that are necessitated by the line.

We recognize that the B2H transmission line will cause auditory and visual impacts along its route. Some areas will experience some level of corona effect noise. Vistas, such as those at the NHOTIC, Morgan Lake, and Owyhee River crossing, will be altered by the presence of transmission towers, transmission lines, and access roads. While we concluded above that we do not believe the B2H project causes safety issues that expose the public to danger, we recognize that the line will impact individuals living, working, and recreating near the proposed route. Those impacts do not change our conclusion that the line meets the statutory and rule requirements that we apply here.

The nearly 300-mile-long transmission line has the potential to impact cultural, historic, and archaeological resources. While Idaho Power is working through a process to identify and mitigate damage to such sites, including through choosing routes that appear to reduce impacts to such properties, we understand that such sites are likely to be impacted by the construction of the B2H project. While we do not agree that all surveys, investigations, and mitigation plans need to be finalized for us to grant a CPCN, we are cognizant that such efforts are underway and that such resources may be impacted because of the B2H project.

We also acknowledge that the B2H transmission line will cause a variety of environmental costs. These include impacts to a variety of ecosystems, including forested habitat, sage-grouse habitat, riparian habitat, meadows, and other areas supporting rare and imperiled plant and animal species. For example, we recognize that constructing the B2H project will require significant logging of forest lands, stream crossings related to access roads and tower siting, potential hydrological changes, potential damage to soil in the event of a fire, impacts to public parks, impacts to lands with conservation easements, the potential spread of noxious weeds, impacts to food sources for plants and animals, and impacts on elk habitat, amongst others. Importantly, we clarify that while these are potential impacts, some are more likely to be realized than others.

Regarding the Glass Hill State Natural Area, we agree with Idaho Power that its status does not preclude the construction of the B2H project. We recognize the existing conservation easement and the unique natural resources present at the privately-owned Glass Hill State Natural Area that will be affected by the project's construction and weigh that as we consider the project's costs and benefits.

Regarding noxious weeds, we recognize the potential for impacts related to noxious weeds related to the construction and operation of the B2H project but reiterate our earlier conclusion



that Idaho Power need not have all permits and approvals in place, or have all of its mitigation plans approved, prior to our granting a CPCN. The adequacy of the noxious weeds mitigation plan will be addressed by EFSC.

We also look to the benefits from the B2H project. The transmission line is expected to provide net benefits of \$228 million to Idaho Power customers in the first 20 years, net benefits of \$720 million for BPA and its customers in the first 30 years, and \$1.7 billion in net benefits for PacifiCorp customers in the first 20 years after the transmission line is energized.<sup>99</sup> The B2H project will also result in job creation and increased property taxes for the five Oregon counties along the transmission line route. The B2H project also provides important benefits in that it allows Oregon utilities to address forecasted resource shortfalls in the future, it will provide wheeling revenue, and it will optimize transmission rights between the Mid-C and Mona trading hubs. It will relieve congestion in certain areas, it enables the interconnection of 600 MW of additional resources, and it doubles the amount of load service into Central Oregon for PacifiCorp. We also agree that the increased resiliency that will result from the B2H project, which provides important redundancy to the path between the Pacific Northwest and Idaho Power, will provide benefits to all Oregonians as well as to electricity consumers in other states in the region. We are also persuaded that the B2H project's bi-directional capacity will facilitate the transfer of diverse energy resources between the Pacific Northwest and Idaho and also better connect Oregon to clean energy production elsewhere, such as wind generation in Wyoming.

In considering our regulatory criteria and the record before us, we conclude that the B2H project is justified in the public interest. We recognize the significant costs that will be borne disproportionately by certain individuals and businesses, but the benefits to the B2H project are such that it remains justified. We are persuaded that Idaho Power has made efforts to minimize costs and reduce the frequency and degree of negative non-monetary costs, and that these costs will be further reduced by Idaho Power's mitigation activities and its pending draft mitigation plans that are being reviewed by EFSC. While it would be impossible to completely eliminate the impacts of a nearly 300-mile-long transmission line, the monetary and non-monetary costs are reasonable and offset by the significant benefits to be gained by this project.

*c. Environmental Justice*

As an Oregon natural resource agency for purposes of ORS 182.545(1), we must also consider the effect of our decisions on environmental justice issues. Although our rules do not address this requirement, we considered it in our rulemaking process and we consider it here, as part of determining whether the CPCN has been justified as being in the public interest.

We agree with Staff's explanation and analysis of environmental justice issues related to our review and ultimate decision on Idaho Power's CPCN petition. We agree that there are positive and negative impacts to environmental justice communities, but that many of those costs and benefits are the same as the costs and benefits that will be experienced more broadly.

We appreciate that the B2H project will almost entirely be constructed in rural areas with potential impacts on the agricultural industry in eastern Oregon. We also appreciate that Oregon

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<sup>99</sup> Staff/400, Pal/11, 15-17; Idaho Power/500, Ellsworth/26; Idaho Power/502, Ellsworth/13, PAC/200, Link/3-4.

tribal communities may have lands with which they have a connection impacted by the B2H project, and we observe that Idaho Power placed great weight on comments provided by such communities, like the Confederated Tribes, early in the B2H planning process. We also recognize that Idaho Power made efforts to avoid or reduce impacts to historic and cultural resources, but that eliminating such impacts is not possible.

The proposed B2H route will not divide communities of color and the overall number of people it impacts is relatively small, given that the project primarily passes through remote parts of Oregon. With that said, we recognize that rural communities are named in various definitions of environmental justice communities,<sup>100</sup> and analyzing environmental justice includes considering whether impacts have been concentrated within a particular underserved community when alternatives existed to more fairly distribute the benefits and burdens or whether better-resourced communities were offered greater opportunities to avoid impacts. We do not see how the B2H project, nor for that matter any needed and well-justified transmission connecting distant market hubs in the West, could avoid impacting rural communities more than densely populated communities. In addition, we do not see evidence that Idaho Power improperly concentrated impacts; the record reflects route changes were made, where feasible, in response to public and tribal comments, micro-siting adjustments have minimized landowner impacts but not preferentially shifted impacts from large landowners to smaller landowners, and that the company struck a reasonable, if difficult, balance in siting the line. We conclude that, despite the inevitable impacts of large-scale transmission on rural landscapes, which should be considered in planning for the regional electricity grid going forward, no environmental justice communities were improperly burdened by the siting of the B2H project. We remain persuaded that the B2H transmission line is justified and in the public interest.

## H. Statewide Land Use Goals

Before granting a CPCN petition, the Commission must find the proposed project complies with the 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.<sup>101</sup> When the project is subject to EFSC's jurisdiction, the Commission will adopt findings made in EFSC's site certificate.<sup>102</sup> The Commission will not take final action on a CPCN petition for a project subject to EFSC's jurisdiction until EFSC issues a site certificate for the project.<sup>103</sup>

Here, the B2H transmission line project is subject to EFSC's jurisdiction under ORS 469.320 because it is an energy facility as defined by ORS 469.300(11)(a)(C). EFSC issued a site certificate for the B2H transmission line project on September 27, 2022. The EFSC order analyzes applicable land use requirements for the B2H transmission line and adopts specific land use conditions for Morrow, Umatilla, Union, Baker, and Malheur Counties and the City of North Powder.<sup>104</sup> The EFSC order also analyzes requirements for areas designated as exclusive farm use, high value farmland, and forest zone and adopted land use conditions for each. The EFSC

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<sup>100</sup> ORS 469A.400(5).

<sup>101</sup> OAR 860-025-0040(1).

<sup>102</sup> OAR 860-025-0040(7).

<sup>103</sup> *Id.*

<sup>104</sup> The final order concluded no land use requirements are required to be met for the City of Huntington.

final order also reviewed federal land management plans and Oregon statewide planning goals and adopted a land use condition and a goal related to them. EFSC concluded that, subject to the final order’s conditions, the proposed route and alternate proposed routes as described in Idaho Power’s EFSC application were compatible with land use requirements and statewide planning goals. As outlined by our rules, we adopt EFSC’s land use findings related to the B2H transmission line and find the proposed project complies with Statewide Planning Goals and is compatible with the acknowledged comprehensive plans and land use regulations of each local government where the project is located.

**I. ORDER**

IT IS ORDERED that:

1. Idaho Power is granted a Certificate of Public Convenience and Necessity to construct the Boardman to Hemingway 500-kV transmission line as described in its petition;
2. Idaho Power’s Certificate of Public Convenience and Necessity will expire in accordance with OAR 860-025-0035(3);
3. The Commission takes official notice of PacifiCorp’s June 15, 2023 filing in UM 2292 titled “Application for Authorization to Defer Costs Related to Wildfire Liability;” and
4. The Commission adopts EFSC’s land use findings related to the B2H transmission line and find the proposed project complies with Statewide Planning Goals and is compatible with the acknowledged comprehensive plans and land use regulations of each local government where the project is located.

Made, entered, and effective Jun 29, 2023.

*Megan W. Decker*

**Megan W. Decker**  
Chair

*Letha Tawney*

**Letha Tawney**  
Commissioner

*Mark R. Thompson*

**Mark R. Thompson**  
Commissioner



Jurisdiction for judicial review of the Commission’s approval or rejection of an application for a certificate of public convenience and necessity under subsection (1) of ORS 758.017 is conferred upon the Supreme Court. Proceedings for review shall be instituted by filing a petition in the Supreme Court. The petition shall be filed within 60 days after the date of service of the commission’s final order. Date of service shall be the date on which the commission delivered or mailed the final order in accordance with ORS 183.470. For more information on the appeal process associated with a grant or denial of certificate of public convenience and necessity for transmission lines please see ORS 758.017.