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Testimony on “*Logs in the Road: Eliminating Federal Red Tape and Excessive Litigation to Create Healthy Forests, Jobs and Abundant Water and Power Supplies*”

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Mr. Chairman and Members of the Committee

Good Morning, My name is James S. Downie. I am the director of vegetation management and ancillary programs for Public Service of Colorado, which is an Xcel Energy company. Today I am representing Xcel Energy.

Thank you for the opportunity to share our perspective.

Company Overview

Xcel Energy is an investor-owned electricity and natural gas company with regulated operations in eight Midwestern and Western states. Based in Minneapolis, Minn., we provide a comprehensive portfolio of energy-related products and services to approximately 3.4 million electricity customers and 1.9 million natural gas customers through our four wholly owned utility subsidiaries (Public Service of Colorado, Northern States Power –Minnesota; Northern States Power-Wisconsin; Southwestern Public Service).

In Colorado, we are the largest investor owned utility with approximately 1.7M residential, commercial and industrial customers.

In Colorado we have approximately 4000 miles of high voltage overhead electric transmission lines that serve large load centers, of which 760 are on US Forest Service Lands. Statewide we have approximately 10,000 miles of distribution lines that serve primarily residential customers, of which 134 are on US Forest Service lands.

My remarks will focus on the ongoing efforts by Xcel Energy to maintain its electric transmission rights-of-way as required by the Colorado Public Utilities Commission and in compliance with federal regulators to better ensure the safe, reliable delivery of electricity while taking into consideration the Forest Service’s efforts to ensure forest health - and the very real challenges both Xcel Energy and the Forest Service face every day in advancing these efforts. To put the utility issue in perspective it is important to understand that, although utility corridors make up less than one percent of acreage involved with the current mountain pine beetle epidemic in Colorado, the impact of one tree coming into contact with an electric line starting a fire, or a wildfire damaging or

destroying high voltage transmission lines could have far reaching consequences for many residents of Colorado and perhaps other states.

Vegetation Management on Public Lands: Opportunities, Challenges And Barriers

We have long worked in partnership with the Forest Service to perform vegetation management around electric transmission and distribution facilities located on federal lands and more recently with collaborative groups like the Colorado Bark Beetle Cooperative (CBBC).

Despite this, challenges remain on the relatively small footprint utility corridors make within the total acreage of the Forest. There are three main operational challenges, all with ties to overall forest health:

1. The North American Electric Reliability Corporation (NERC) implemented the Vegetation Management Standard (FAC-003-1) in 2007 as a response to issues highlighted by the 2003 Northeast Blackout, which was initiated by transmission lines sagging into the tops of trees. This Standard generally sets a “zero-tolerance” for any tree related outages from trees located within the existing right-of-way on lines >200kV. The most practical and cost-effective way to meet both the letter and spirit of this Standard is to remove all incompatible vegetation from these rights-of-way and implement a long-term integrated vegetation management approach to this work that is environmentally responsible and sustainable. Xcel Energy has a program designed to accomplish this task and hundreds of thousands of incompatible trees have been removed from our rights-of-way in all eight states in the past five years, on both private and public lands. However, due to competing federal mandates and inconsistent policies impacting national lands, our progress on federal lands has been inconsistent, ranging from complete removal of incompatible vegetation to limited removal.
2. Beginning in 2008 the impact of unprecedented levels of bark beetle activity left thousands of dead trees within striking distance of our facilities. Xcel Energy has successfully used emerging technologies such as LiDAR and near infrared imagery to better manage this threat, both on and off the right-of-way, removing approximately two-hundred thousand hazard trees on both electric distribution and transmission facilities in the past several years. We greatly appreciate the assistance the Forest has been able to provide regarding this issue to date. However, we are all frustrated by legal and regulatory constraints that prevent us from performing this work more efficiently, effectively and safely.
3. Bark beetle infestations have brought about an awareness of the potential for radiant heat that can damage and destroy transmission structures in the event of a wildfire and thus highlights two needs from our perspective:

- a. Reducing ground fuel load within 50-60 feet of wood and aluminum structures and maintaining it below an acceptable threshold.
- b. Reducing the potential for damage to structures from crowning fires by reducing crown closure on portions of the forest adjacent to these structures.

We note that the above measures are estimates and they cannot guarantee that facilities will not be damaged by radiant heat in the event of a fire.

Of particular concern to us is that approximately 76 percent of the structures located within the current mountain pine beetle epidemic area are constructed of wood and aluminum. In addition, we recognize that the threat of radiant heat damage from wildfires may exist outside the epidemic area.

Some transmission lines are more critical than others, with many providing electricity to hundreds of thousands of residential, commercial and industrial customers.

In the event of a fire, transmission lines can be short-circuited by smoke. This is usually short-term problem. However, if a wildfire completely destroys structures, the loss of the lines ability to serve electricity can be long-term (i.e. out of service until the line is repaired or rebuilt). For example, during the 2002 Hayman fire Public Service Company lost one structure on a 230kV line near Cheeseman Reservoir. Because of the remote location, terrain and access restrictions it took about a week to replace this structure and get the line back in service. Losing multiple structures or more than one transmission line at the same time from fires could create even greater challenges to serve our customers.

We are keenly aware that the challenges facing our company are occurring in the context of a much larger one the Forest Service faces with regard to forest health and fuels treatment work. We are most appreciative of the leadership shown by the Forest Service to address the situation and we also are very appreciative of the leadership shown in the Congress, both by the two committees represented here as well as Senator Udall and his tireless efforts on the matter of bark beetle infestation across Colorado.

Indeed, but for the collective leadership of the Congress and the agency, the situation would no doubt be considerably more dire than it is today.

In seeking to address the situation in the long term, it has become clear to us that existing federal laws are a significant barrier to enabling the Forest Service and utilities like us to work together in a comprehensive way to address two main challenges. First is the reduction of the ever present potential for hazard tree contact and wildfire damage risk to electric facilities throughout the state of Colorado.

Second is the ability for utilities to efficiently and effectively ensure compliance with federal regulations.

Here is why: we are issued permits to access the rights-of-way, for the purposes of maintaining our lines, including the sometimes limited removal of incompatible vegetation. In short, with the permits, we have the authority to manage those portions of Forest Service lands to some degree.

However, the moment we step onto lands outside the rights-of-way, we face a significant legal challenge – the property is owned and managed by the Forest Service and the utilities are not the stewards of these lands. The challenge is that such lands are now impacting our infrastructure, which is critical to the health, safety and welfare of modern society. Although we do not have the legal control for these areas outside our permits, some have argued that utilities like ours should somehow be responsible for the conditions that were created by events wholly outside of our control.

The challenge we face, however, as alluded to earlier, is that such a situation creates potentially significant liabilities for us and our customers – while at the same time limiting our ability to efficiently and effectively address potential threats. The result: we are not in complete control of our own destiny in terms of providing electricity service, yet we and our customers could well be punished for it through higher costs and lost electricity supply should a fire on public lands destroy or damage our lines.

To be clear, we recognize that the Forest Service, too, is often limited to where, and how often, they can get to these areas due to a number of factors, not the least of which is limited resources.

In sum, the laws and regulations governing forest management do not provide flexibility for the Forest Service and companies like ours – and our contractors – to effectively, efficiently and safely address forest health/fuels treatments in the areas immediately adjacent to our rights of ways and sometimes on the right-of-way (e.g. use of mechanized equipment which in some areas is welcomed and other areas shunned). The potential impacts of this are clear.

For utilities, the Forest Service and collaborative groups like the CBBC there is a real intersection of protecting the public interest here.

Because of that common interest, addressing this matter in such a way where we can access these areas in a swift but limited manner, without shouldering extensive liability, we believe should be a priority.

Thank you Mr. Chairman for the chance to share our views. I would be happy to answer any questions.