Statement of Mike Neal
On Behalf of Arizona Public Service
And
The Edison Electric Institute

Before
The House Natural Resources Committee

My name is Mike Neal, and I am the Manager of Forestry and Special Programs for Arizona Public Service (APS), where I administer some 6,000 miles of transmission and 11,000 miles of distribution lines throughout Arizona. APS' power lines cross five national forests, 4 BLM districts, 4 wildlife refuges, 11 units managed by the National Park Service and 3 National Monuments managed by the Bureau of Land Management (Agua Fria, Ironwood Forest and Sonoran Desert).

The management of the power lines on federal lands is an integral component of APS' program to protect the security and reliability of the grid. I appreciate the opportunity to testify before this joint subcommittee hearing on behalf of APS and the Edison Electric Institute (EEI).

APS, Arizona's largest and longest-serving electricity utility, serves more than 1 million customers in 11 of the state's 15 counties. With headquarters in Phoenix, APS is the largest subsidiary of Pinnacle West Capital Corporation (NYSE: PNW).

EEI is the premier trade association for U.S. shareholder-owned electric companies and serves international affiliates and industry associates worldwide. Our U.S. members serve 97 percent of the ultimate customers in the shareholder-owned segment of the industry and 71 percent of all electric utility ultimate customers in the nation.

It has been eight years since APS and EEI first spoke before members of the House and Senate about problems associated with managing rights-of-way (ROWs) on Federal lands.

Managing and clearing vegetation within or near ROWs has been, and continues to be very difficult, regardless of whether the ROW is located on private or Federal land. While Integrated Vegetation Management (IVM) and Utility Vegetation Management (UVM) requirements impact "less than a fraction of a percent" of overall Federal lands, the consequences of not effectively managing the ROWs and powerline corridors can be significant and catastrophic.

The failure to appropriately manage vegetation in ROW corridors can result in destructive wildfires caused by direct vegetation--powerline contact, or through indirect contact when the trees are close enough to the powerline that spark-over can occur. These fires destroy natural resources that can take decades to recover. They result in the loss of habitat critical for the recovery of endangered species. They destroy irreplaceable archaeological and historical sites. They cause extensive and expensive property damage, and can even lead to the tragic loss of human life. They also jeopardize reliable electric service and even national security.

The utility industry is not only concerned about the encroachment of vegetation within the ROW, but also "hazard trees" growing outside the permitted ROW. A hazard tree is a tree that has been assessed and found likely to fail and cause an unacceptable degree of injury, damage or disruption. These "hazard trees" can fall into the power lines potentially causing a power outage, or even a catastrophic wildfire. In many cases the utilities don't have the right to remove these trees.

In spite of this, utilities are often held liable for suppression costs and damages when these off-ROW hazard trees cause a wildfire. In recent years utilities have literally paid out millions of dollars to cover these costs.

The utilities believe that the federal agencies, as the official land managers, have the responsibility and obligation to manage these outside the ROW hazard trees. This is no different than protecting the public from hazardous trees in a campground.

The utilities recognize the challenges faced by land management agencies as they work under various multiple-use mandates. However, when federal agencies approve power line ROWs it is important that they recognize the primary use of that strip of land is for the safe and reliable delivery of power from one location to another. Some of the hazards inherent to power line facilities demand that VM be the main priority over less compatible uses.

The character of the electric grid has changed considerably since the Energy Policy Act of 1982, and EPAct 2005 will accelerate those changes. As a result, where power lines cross Federal lands, these lands should be considered first and foremost as essential components of the nation's critical infrastructure.

It is important to understand that any significant impacts or changes to the natural flora and fauna within the ROW took place often decades ago at the time of construction, when these corridors were initially cleared of vegetation. Since that time, utilities have simply maintained those cleared corridors, with no further significant environmental impacts. Yet in many cases, standard vegetation maintenance activities are subject to significant environmental review even though this critical, required maintenance has been carried out for years.

In my previous testimony eight years ago, I reported on a Memorandum of Understanding (MOU) which was signed by the U.S. Forest Service, the Bureau of Land Management, the Fish and Wildlife Service, the Environmental Protection Agency, the National Park Service, and also EEI on behalf of its member companies. The MOU recognizes the technical standards and requirements for maintaining reliability and signals to all Federal land managers that meeting them is a priority. This was a step in the right direction; however, upon implementation the MOU had little or no impact at the Regional, Forest, District, or local level. It essentially was a guideline rather than an enforceable policy. This MOU has now expired and is presently being revised by the

utility industry and the various Federal agencies. Representatives of the electric utility industry and federal agencies are working in good faith to update and improve the MOU.

In addition, the Forest Service recently published a "Desktop Guide for Utility Vegetation Management." The agency solicited input from the utility industry to provide greater clarity regarding decision-making associated with UVM activities. Once again, while the desk guide is a positive step, it is only a guideline with no requirement to follow it in the field. The jury is out as to whether the desk guide will have any meaningful impact at the Forest or District level.

EEI, the Utility Arborist Association, vegetation management managers and the Federal agencies have been in discussion, as I mentioned earlier, to revise the MOU. During these discussions we received valuable feedback from the Federal agencies about concerns they have regarding utility vegetation management (VM) programs. Agencies perceive that utilities are often not consistent in their approach to VM activities, and in many cases, give little or no notice regarding VM activities being performed on Federal lands. Inconsistences and misunderstandings between the utilities and the Federal agencies must be eliminated, and we are working towards that with the renewed MOU.

In conclusion, legislation is needed to ensure that electric utilities are able to manage power line ROWs on federal lands efficiently and in a timely manner. The issue of liability related to off ROW hazard trees also needs to be addressed in legislation. Such legislation, in conjunction with the MOU and the desk guide, will ultimately provide for the safe, reliable delivery of electricity while protecting natural and cultural resources.

Thank you for holding this hearing. APS and EEI look forward to working with you further on these important issues.