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Testimony

Before the Subcommittees on Water and Power and Forests and Forest Health

United States House of Representatives

Oversight Hearing on “The Need for Proper Forest Management on Federal Rights of Way to  
Ensure Reliable Electricity Service”

Wednesday, May 3, 2006

Introduction:

Steve Eldrige has been the General Manager and CEO of Umatilla Electric Cooperative (UEC) since December of 1990 and has over 34 years of electric utility experience. Steve is currently Chairman of the Governor's Oregon Rural Policy Advisory Committee, Eastern Oregon Telecom, LLC, and the Oregon Rural Electric Cooperative Association Government Affairs Committee. He serves on the Boards of Pacific Northwest Generating Cooperative and the Good Shepherd Hospital Board of Trustees. Steve also represents UEC on the Bonneville Power Administration Power Function Review Committee and the Tri-Cities/Hermiston Group.

Testimony:

Umatilla Electric Cooperative's (UEC) service area is in North Eastern Oregon, approximately 200 miles east of Portland, Oregon along the Columbia River. Our service area continues East, around the towns of Hermiston and Pendleton into the Blue Mountains towards La Grande and Union. UEC serves about 2,500 square miles, has 9,500 members along 2,100 miles of power lines – mostly overhead lines, but also 540 miles of buried power lines.

The portion of our service area we wish to address today resides in the Blue Mountains. This area epitomizes areas in which electric cooperatives were created to serve -- very difficult terrain, extreme weather conditions, scattered electric customers, and Federal land lines both U.S. Forest Service and Tribal. In UEC's case, there are approximately four year-round customers per mile of line who provide \$4,200 per mile in annual revenue, with an investment of \$8,000,000 in today's dollars.

UEC has 141 miles of primary line on the Confederated Tribe of the Umatilla Indian Reservation near Pendleton, Oregon. We have a very good relationship with the Confederated Tribes. We pay annual fees to serve on their lands and have been able to work through land use issues satisfactorily. Many of the Tribal members are also long time members of UEC. It just seems when a problem arises between local people and local people have the authority to resolve the issue, we usually quickly resolve the matter.

On the other hand, we have the U.S. Forest Service for Umatilla National Forests. In our experience, when the District Ranger is given sufficient authority to resolve issues, we usually are able to within a reasonable amount of time. We have growing concern over existing and planned regulations and great concern over the Strict Liability clause in U.S. Forest Service rights of way permits.

Let's begin with current regulations. Any “ground disturbing” activity is subject to an environmental review – ground disturbance is a shovel full of dirt or more. The required environmental review determines if the action is allowed or if there is “adverse effect to the environment or habitat”. If the latter is found, then provisions of the Endangered Species Act and Historical Preservation Act among other federal statutes must be met. Compliance with the Endangered Species Act requires approval by a botanist, and both a fish biologist and a wildlife biologist from both the NOAA Fisheries and U.S. Fish & Wildlife. Compliance with the Historical Preservation Act requires approval by an archeologist which can include Tribal representation. Additionally, if the activity is in a “visually sensitive” area, accommodation as determined by the U.S. Forest Service will be required.

Each quarter the U.S. Forest Service publishes all proposed activities scheduled to take place in the U.S. Forest Service. This list of proposed activities is also sent to a substantial list of interested parties. Anyone can comment on scheduled activities; request public hearings; or recommend specific actions. As we speak, a transmission line in Central Oregon is being upgraded with a requested move ¼ mile from its current location. The current location has a valid U.S. Forest Service easement. The proposed move has been two years in process. The U.S. Forest Service and Bureau of Land Management require three to five years advance notice for proposed activities. In Western Oregon a timber sales project was arranged with local U.S. Forest Service to clear rights of way along a power line, but just before the sale took place, out of region U.S. Forest Service officials unilaterally cancelled the sale. This action places the power line in jeopardy and reduces public safety.

In our own service area, UEC had to move a single power pole to remove a potential hazard to skiers on Weston Mountain – the process took over a year to complete. The explanation we were given is that digging a hole in the ground for a power pole may have an adverse affect on the environment and habitat. We asked how removal of less than four cubic feet of dirt could be significant. The response was that Looking Glass Creek was down hill from this proposed power pole; Looking Glass Creek drains into the Grande Ronde River; and the Grande Ronde has endangered salmon. Although the District Ranger finally allowed the pole to be moved, it took over a year to get the approval simply because there was a remote possibility that the dirt from a hole six feet deep and 18" wide might travel one mile down hill into Looking Glass Creek then eleven miles down stream into the Grande Ronde River which does contain listed salmon.

UEC has a Special U.S.E. Permit with the U.S. Department of Agriculture Forest Service which expires December 31, 2006. This permit specifies that UEC is strictly liable for up to \$1M and liable under the general laws of negligence for amounts greater than \$1M. Our permit specifies what we are authorized to maintain, a right of way ten feet for buried lines and a right way of thirty feet wide for overhead lines. Any activities beyond this must be pre-approved in writing from the U.S. Forest Service unless an emergency exists, which can be dealt with, then, within 48 hours we are required to notify the U.S. Forest Service and hope for forgiveness.

Recently, we identified a dead danger tree more than 30 feet from our overhead power line with a request for permission to fall the tree because if it falls on its own with the prevailing winds it can, and probably will, contact our power line. We've been waiting since last July, 2005, for permission to remove this danger tree. (When a tree contacts a power line, sparks can result). So, we are subject to strict liability, but cannot limit sufficiently our exposure because we cannot act unless such action is pre-approved, in writing, by the U.S. Forest Service.

What is to be done? First of all, the Forest Service Special USE Permit must be re-written in consultation with the affected utility companies. If the U.S. Forest Service will be transparent about its goal and accommodating with utility owners, the public we both were created to serve will benefit.

Why is strict liability contained in our Special SE Permit? Unless there is a certainty that UEC will refuse to cover acts or omissions for which it is liable, the strict liability clause must be removed.

Thank you, Mr. Chairman for giving me the opportunity to testify on an issue of such importance to the member-owners of Umatilla Electric Cooperative. I'd be happy to answer any questions you might have.