

1 **BEFORE THE PUBLIC UTILITY COMMISSION**
2 **OF OREGON**

3 PCN 5

4 In the Matter of

5 IDAHO POWER COMPANY,

6 Petition for Certificate of Public Convenience
7 and Necessity.

STAFF’S OPENING BRIEF

8 **I. INTRODUCTION**

9 On September 30, 2022, Idaho Power Company (“Idaho Power” or “Company”) filed a
10 Petition for Certificate of Public Convenience and Necessity (“Petition”) to allow construction of
11 the Boardman to Hemmingway (“B2H”) overhead transmission line that will require
12 condemnation of land or interests therein. The proposed 500 kV transmission line would run
13 approximately 290 miles from the Company’s existing Hemmingway substation in Owyhee
14 County, Idaho to a planned substation four miles east of Boardman, Oregon.¹

15 The proposed transmission line route crosses five Oregon counties: Morrow, Umatilla,
16 Union, Baker and Malheur.² Idaho Power provided updated landowner lists with its
17 supplemental and reply testimony that identified 422 parcels of land for which condemnation
18 may be necessary.³ With its surrebuttal testimony, Idaho Power reports that it has secured
19 easements from private landowners for 66 parcels of land, and it has identified 38 parcels for
20 which no easement is necessary, leaving 324 parcels of land for which condemnation may be
21 necessary.⁴ Idaho Power provided maps of parcels requiring an easement in Attachment 10 to its
22 testimony.⁵

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25 ¹ Staff/100, Pal/7-8.

26 ² Staff/100, Pal/66.

³ Staff/100, Pal/8; IPC/400, Baretto/25; IPC/405.

⁴ IPC/1600, Baretto/32.

⁵ PCN 5, Petition for Certificate of Public Convenience and Necessity, Attachment 10, pp. 8-69
(November 9, 2022).

1 When a petition for a CPCN is filed, the Commission must give notice and hold a public
2 hearing on the petition, then investigate to determine the necessity, safety, practicability and
3 justification in the public interest of the proposed transmission line.⁶ The Commission must also
4 find, based on the record, that the proposed transmission line complies with the Statewide
5 Planning Goals and is compatible with the relevant acknowledged comprehensive plans and land
6 use regulations of each local government where the line is to be located.⁷ An order granting a
7 petition for a CPCN is conclusive evidence in any condemnation proceeding that the
8 transmission line is a public use and necessary for public convenience.⁸

9 In this docket, the Commission held two public hearings on the Petition by audio-
10 conference on November 16, 2022, and December 5, 2022, and later held an evidentiary hearing
11 on April 19 and 20, 2023. STOP B2H Coalition, Margie Marie Lyon, Tim Proesch and Miranda
12 Aston-Proesch, Whitetail Forest LLC and Glass Hill State Natural Area, Sam Myers, PacifiCorp,
13 Greg Larkin, James L. Foss and Kaye Bishop Foss, Carl A. Morton and Julie A. Morton, Wendy
14 King, and John Williams successfully filed petitions to intervene.

15 Staff investigated the Petition and has filed Opening Testimony and Rebuttal Testimony
16 supporting issuance of a Certificate of Public Convenience and Necessity. Staff finds Idaho
17 Power’s Petition was sufficient to permit review. Staff recommends the Commission find
18 issuing a CPCN is supported by the necessity, safety, practicability and justification in the public
19 interest. Staff further recommends that the Commission adopt the land use compatibility
20 findings of the Energy Facility Siting Council (EFSC).

21 **II. DISCUSSION**

22 *1. Idaho Power’s CPCN Petition is Adequate to meet Filing Requirements.*

23 Requirements for filing a CPCN petition are provided in ORS 758.015 and OAR 860-
24 025-0030. On review of Idaho Power’s September 30, 2022 Petition, it was apparent to Staff

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⁶ ORS 758.015(2).

⁷ OAR 860-025-0040.

⁸ ORS 758.015(2).

1 that the Petition, as filed, did not meet the requirements of OAR 860-025-0030(2)(d), because
2 the filing did not include a complete response to the requirement to file an estimate of costs
3 already incurred and forecasted costs for developing the transmission line.⁹ The Company
4 subsequently provided this information in response to Staff data requests and in its reply
5 testimony.¹⁰

6 The filing requirements in OAR 860-025-0030 were amended just four days before Idaho
7 Power filed this pending Petition.¹¹ With this understanding, and the fact that Staff was able to
8 adequately review updated cost data provided by the Company, Idaho Power's Petition may be
9 considered adequate to meet the filing requirements under ORS 758.015 and OAR 860-025-
10 0030.

11 2. *Staff recommends the Commission find that issuance of a CPCN for the proposed B2H*
12 *transmission line is supported by its necessity, safety, practicability and justification in*
the public interest.

13 To issue a Certificate of Public Convenience and Necessity under ORS 758.015, the
14 Commission must find a Certificate is supported by the necessity, safety, practicability and
15 justification in the public interest of the proposed project. In making its finding, the Commission
16 considers the criteria set forth in OAR 860-025-0035(1). The Commission's criteria and Staff's
17 recommendation as to each element as applied to this proceeding is discussed below.

18 A. *Necessity.*

19 There are three criteria particularly relevant to a finding of necessity in the public
20 interest:

21 (a) Whether the transmission line will meet a demonstrated need for transmission
22 of additional capacity or improved system reliability that enables the petitioner to
provide or continue to provide adequate and reliable electricity service;

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25 ⁹ Staff/400, Pal/7.

26 ¹⁰ Staff/400, Pal/7.

¹¹ *In the Matter of Rulemaking Regarding Certificate of Public Convenience and Necessity*, Docket AR 626, Order No. 22-351 (September 26, 2022).

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(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 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;

(e) The Commission may also consider other factors it deems relevant to the statutory criteria.

Staff recommends a finding of necessity based on its review of these criteria below.

a. Necessity under OAR 860-025-0035(1)(a).

On consideration of OAR 860-025-0035(1)(a), there are two distinct ways to demonstrate need for the proposed transmission line, given its use of the disjunctive “or”.¹² Either 1) there is a need for additional capacity or 2) there is a need for “improved system reliability that enables the petitioner to provide or continue to provide adequate and reliable electricity service.” Idaho Power has demonstrated a capacity need for the proposed transmission line, as detailed below. The Company has not provided sufficient data to establish a need for improved system reliability. However, a need for additional capacity alone is sufficient. In any event, the reliability considerations more generally may be relevant under criteria (d) and (e).

i. Idaho Power has a demonstrated need for additional capacity.

Idaho Power has demonstrated a need for additional capacity because its system load has increased since 1990 for residential, commercial, industrial and irrigation customer classes, with recent growth attributable in particular to major industrial customers siting in the Company’s service area.¹³ This need for additional capacity is supported by Idaho Power’s acknowledged

¹² See *Brand Energy Services, LLC v. OR-OSHA*, 261 Or App 210, 214, 323 P3d 356 (2014); *Lommasson v. School Dist. No. 1*, 201Or 71, 79, 261 P2d 860, 267 P2d 1105 (1954); *Recovery House VI v. City of Eugene*, 156 Or App 509, 512-15, 965 P2d 488 (1998).

¹³ Idaho Power/1700, Ellsworth/18.

1 2021 Integrated Resource Plan (IRP) as well as prior-acknowledged IRPs.¹⁴ The preferred
2 portfolio in the Company's 2021 IRP, and prior IRPs, included the B2H transmission line,
3 indicates Idaho Power has growing energy and capacity needs for which transmission is
4 required.¹⁵ The Company's Sales and Load Forecast in its 2021 IRP forecasts a system load
5 increase at an average rate of 1.4 percent through 2040. Idaho Power's summer peak is
6 forecasted to have an average growth rate of 1.4 percent and its winter peak is forecasted to
7 average 1.5 percent over 2021-2040.¹⁶ Idaho Power's 2022-2023 draft Local Transmission Plan
8 shows a need for west-to-east transmission capacity of 500 MW in summer 2026, and 200 MW
9 in winter 2026, with a continuing need thereafter.¹⁷

10 In addition to the forecasted increase in system load, Idaho Power's 2021 IRP discusses a
11 plan for the Company to exit from the Valmy Unit 2 coal plant and to exit the Jim Bridger Unit 3
12 plant, which would require additional capacity of 350 to 550 MW.¹⁸ Though a conversion to
13 natural gas may be a feasible alternative, Intervenor PacifiCorp provides testimony that its
14 optimization modeling for coal unit retirement for its 2021 IRP consistently selected the B2H
15 transmission line, and regulatory trends will likely continue to increase costs for continued
16 operation of these coal plants.¹⁹

17 The B2H transmission line has a transfer capacity rating of approximately 1,050 MW
18 west-east.²⁰ Construction of the B2H transmission line will allow Idaho Power to avoid
19 developing 500 MW of capacity equivalent resources indefinitely.²¹ Under the term sheet
20 between Bonneville Power Administration (BPA), PacifiCorp and Idaho Power, for which

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22 ¹⁴ Staff/100, Pal/21.

23 ¹⁵ Staff/100, Pal/21.

24 ¹⁶ Staff/100, Pal/23.

25 ¹⁷ Staff/100, Pal/25.

26 ¹⁸ Staff/100, Pal/24.

¹⁹ PacifiCorp/200, Link/5, 14.

²⁰ Staff/100, Pal/9. See also Staff/400, Pal/18; Staff/200, Rashid/3, 11-12.

²¹ Staff/108, Pal/2.

1 negotiations concluded in 2023, Idaho Power will construct the line and own 45.45 percent of the
2 project, with PacifiCorp owning 54.55 percent.²² The term sheet provides Idaho Power a
3 capacity share of west-to-east transmission of 500 MW in summer and 200 MW in winter. BPA
4 is provided with 250 MW west to east in summer and 550 MW in winter.²³ Upon construction,
5 the B2H transmission line will provide Idaho Power with the combined 750 MW of west-to-east
6 capacity and it will immediately use the new capacity to serve its customers in the summer
7 months.²⁴ It will use east-to-west capacity in the fall and winter depending on hydro and load
8 conditions.²⁵

9 *ii. Idaho Power does not demonstrate a need for improved system reliability.*

10 Another pathway to establish a need for the line under Criteria OAR 860-025-0035(1)(a)
11 is a need for “improved system reliability that enables the petitioner to provide or continue to
12 provide adequate and reliable electricity service.” Although Staff finds that Idaho Power has
13 demonstrated a need for additional capacity, the Company has not demonstrated the B2H
14 transmission line is a necessary improvement for system reliability purposes.

15 Simply put, if B2H is not constructed, Idaho Power’s transmission system will not be
16 compromised or otherwise render it incapable of providing safe and adequate service to all
17 customers. Idaho Power appears to concede this point in its response to Staff Data Request
18 Numbers 6 and 25.²⁶ To demonstrate a need for improved reliability, the Company must provide
19 supporting engineering studies with a demonstration of the reliability standards that are impacted
20 with the line’s existence.²⁷ Idaho Power offers a Loss of Load Expectation (LOLE) analysis.
21 LOLE does not demonstrate that Idaho Power’s service reliability will be impacted if B2H is not

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23 ²² Staff/100, Pal/9-10, 19; Idaho Power/203, Baretto; Idaho Power/500, Ellsworth/2.

24 ²³ Idaho Power/100, Ellsworth/3-4.

25 ²⁴ Staff/100, Pal/23; Staff/108, Pal/1.

26 ²⁵ Staff/100, Pal/23, Staff/108, Pal/1.

27 ²⁶ Staff/200, Rashid/10-11.

²⁷ Staff/500, Rashid/3-4.

1 constructed, and, even if LOLE analysis was relevant for this purpose, Idaho Power used a
2 smaller value in its LOLE than the industry standard of 0.1 days per year, exaggerating the
3 result.²⁸

4 Idaho Power asserts that it has provided engineering analysis, with N-1 and N-2
5 contingency studies included in the Western Electricity Coordinating Council (WECC) report
6 that is Attachment 15 to the Company's Petition.²⁹ These contingency studies assume the
7 addition of B2H to Idaho Power's system.³⁰ They do not study N-1 or N-2 conditions on the
8 current system without B2H, and therefore cannot support a finding that there is an existing need
9 for improved reliability.

10 Importantly, Staff does not dispute Idaho Power's assertion that the line will enhance
11 reliability, which may be relevant to a necessity finding under the decision criteria. Staff simply
12 seeks to clarify that the Company did not establish an existing need for reliability for purposes of
13 OAR 860-025-0035(1)(a).

14 *b. Necessity under OAR 860-0025-0035(1)(d) or (e).*

15 Additional criteria may be relevant in evaluating the necessity of the transmission line,
16 specifically OAR 860-025-0035(1)(d) and (e), including enhanced reliability and transfer
17 capacity. B2H will enhance the reliability of Idaho Power's system and allow for
18 interconnection of new resources.³¹

19 The B2H transmission line is recognized as one of the transmission projects that can
20 significantly increase the transmission capacity of the national electric grid and improve its
21 flexibility as more and more renewable resources are added in light of emissions-reduction
22 requirements.³²

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²⁸ Staff/500, Rashid/4-5.

24 ²⁹ Idaho Power/1700, Ellsworth/9-10.

25 ³⁰ Staff/200, Rashid/12; Docket PCN 5, Idaho Power's Petition for CPCN, Attachment 15 (September 30,
2022), (page 1 is page 424 of 1204 in pdf document).

26 ³¹ Staff/200, Rashid/15.

³² Staff/100, Pal/27.

1 More locally, B2H may serve load growth and transmission service requests, along with
2 increasing transmission from the Northwest to Idaho by up to 800 MW.³³ In Intervenor
3 PacifiCorp’s 2021 IRP modeling, the B2H transmission line enables 600 MW of
4 interconnection.³⁴ PacifiCorp will receive incremental firm transmission rights from BPA that
5 will allow it to serve load in central Oregon.³⁵ PacifiCorp included B2H as a resource in its
6 acknowledged 2021 IRP, and provides testimony in this docket that the Company’s need for
7 B2H’s load-serving capability has only increased since that time.³⁶ And, BPA will secure
8 transmission service under the term sheet for B2H that will allow it to deliver power to its public
9 power customers in southeast Idaho.³⁷

10 In light of the foregoing, further supported by the analysis of the project’s justification
11 below, Staff recommends the Commission find the proposed line is necessary.

12 *B. Safety.*

13 Given the criteria in OAR 860-0025-0035(1), there is one particularly relevant to a
14 finding of safety in the public interest:

15 (b) Whether the petitioner has demonstrated that it will ensure the transmission
16 line is constructed, operated, and maintained in a manner that protects the public
17 from danger and conforms with applicable Commission rules, and other
applicable safety standards and best industry practices.

18 Staff recommends the Commission find the proposed transmission line, as set forth in the
19 Petition, is safe. The project will be constructed, operated and maintained consistent with
20 relevant safety standards. Idaho Power is an investor-owned utility that provides electricity
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24 ³³ Staff/100, Pal/28.

25 ³⁴ Staff/100, Pal/26.

26 ³⁵ Staff/400, Pal/10-11.

³⁶ Staff/400, Pal/10.

³⁷ Staff/100, Pal/26; Staff/400, Pal/11.

1 service to over 600,000 customers in western Idaho and eastern Oregon. Idaho Power currently
2 operates a system that includes transmission lines ranging from 115 kV to 500 kV.³⁸

3 Under the PUC's rules, Idaho Power is required to comply with all applicable National
4 Electric Safety Code (NESC) standards for construction, operation and maintenance of a
5 transmission line.³⁹ Under Section 25 of the NESC, the B2H line will be constructed in the
6 NESC Medium Loading District, which implicates loading for wind only and for wind and ice
7 combined.⁴⁰ Staff finds that the lattice tower design that Idaho Power will use is appropriate for
8 higher voltage lines and can support larger wires and insulators, and the higher wind and ice
9 loading that comes along with them.⁴¹

10 In its design of the B2H transmission line, Idaho Power has followed a number of
11 industry standards in addition to the NESC that include American Concrete Institute 318 –
12 Building Code Requirements for Structural Concrete, American National Standards Institute
13 (ANSI) standards for material specifications, American Society of Civil Engineers manual No.
14 74 - Guidelines for Electrical Transmission Line Structural Loading, Occupational Safety and
15 Health Administration regulation 29 CFR 1910.269 (worker safety), and National Fire Protection
16 Association 780 – Guide for Improving the Lightning Performance of Transmission Lines.⁴² The
17 Company will use shield wire and grounding to dissipate lightning current in the event of
18 strikes.⁴³ In addition, EFSC's Final Order on Application for Site Certificate (Final Order)
19 imposes conditions that include requiring the Company to design, engineer and construct the line
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23 ³⁸ Staff/200, Rashid/4, 9-10.

24 ³⁹ See OAR 860-024-0010.

25 ⁴⁰ Staff/500, Rashid/9.

26 ⁴¹ Staff/500/Rashid/9.

⁴² Staff/200, Rashid/16.

⁴³ Staff/200, Rashid/19.

1 to address seismic hazards.⁴⁴ Idaho Power has indicated it will either meet or exceed applicable
2 standards, which Staff finds will provide a reliable project design.⁴⁵

3 On review of this Petition, Staff considered the potential risk to humans from the
4 proposed transmission line, including from the corona effect and electromagnetic field (EMF).
5 Staff concludes that there is no conclusive medical evidence that correctly constructed high
6 voltage lines pose a health risk to humans living in proximity to those lines, outside of the
7 horizontal clearance zone.⁴⁶

8 To address the potential risks related to wildfire, Idaho Power is required to develop a
9 Wildfire Mitigation Plan (WMP) each year. The Company's 2022 WMP was approved by the
10 PUC and the Company's 2023 WMP is pending before the Commission.⁴⁷ In addition, EFSC's
11 Final Order requires development of a Fire Prevention and Suppression Plan for the B2H
12 project.⁴⁸ Staff has reviewed the Company's WMP and the Fire Prevention and Suppression
13 Plan drafted by the Company, and concludes that together, these plans present a reasonable
14 approach to mitigating this potential hazard.⁴⁹

15 Therefore, Staff recommends that the PUC find the project will be executed in a manner
16 that protects the public from danger and is therefore safe. Idaho Power is an experienced utility
17 with an existing transmission system, and the proposed construction plan and processes and the
18 standards under which the line would be constructed, maintained and operated are consistent
19 with applicable laws and standards.

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22 ⁴⁴ Idaho Power/1900, Stippel/8, citing *In the Matter of Idaho Power Company's Petition for Certificate of*
23 *Public Convenience and Necessity*, Docket PCN 5, Supplement to Petition to for CPCN, Attachment 1,
page 118-120 of 10603, Final Order on Application for Site Certificate, November 9, 2022.

24 ⁴⁵ Staff/200, Rashid/17.

25 ⁴⁶ Staff/200, Rashid/21.

26 ⁴⁷ Staff/200, Rashid/17; Docket UM 2209; Order No. 22-133 (April 28, 2022).

⁴⁸ Docket PCN 5, Supplement to Petition to for CPCN, Attachment 1 at 10523, Filing 16 of 16, Final
Order on Application for Site Certificate, November 9, 2022.

⁴⁹ Staff/200/Rashid/17-18; Staff/500, Rashid/7-8.

1 C. *Practicability.*

2 To find the B2H transmission line project is practicable, OAR 860-0025-0035(1)(c)
3 requires consideration of:

4 (c) Whether the transmission line using petitioner's proposed route is practicable
5 and feasible, whether it will be effectively and efficiently constructed in a
commercially reasonable manner.

6 Staff recommends the Commission find that the B2H project is practicable and in the public
7 interest, primarily based on the Company's substantial design and planning work to date, and the
8 process employed to develop the proposed route.

9 Idaho Power retained HDR, Inc., a professional engineering firm with extensive
10 experience to provide the preliminary design and cost estimate.⁵⁰ The Company previously
11 obtained 30 percent and 60 percent detailed design packages, and recently received a 90 percent
12 detailed design package from Leidos Engineering, LLC. This package is undergoing a
13 constructability review.⁵¹

14 The Company began its development process for this transmission line in 2008. Since
15 that time, the Bureau of Land Management (BLM) has conducted an environmental impact
16 review under the National Environmental Policy Act and EFSC has issued a Final Order on the
17 Company's application for a site certificate.⁵² The BLM's Final Environmental Impact
18 Statement (FEIS) and the Department of Interior's (DOI) Record of Decision support
19 construction of the B2H transmission line and as a result, both BLM and DOI have granted
20 Rights of Way for the one-third of the proposed route that crosses federally-managed land.⁵³
21 Issuance of this EFSC Final Order was affirmed on appeal to the Supreme Court.⁵⁴ Idaho Power
22 reports it has obtained easement options for 17 percent of the private land along the route.⁵⁵

23 ⁵⁰ Staff/200, Rashid/26.

24 ⁵¹ Idaho Power/1600, Baretto/1, 3.

25 ⁵² Staff/200, Rashid/22.

26 ⁵³ *Stop B2H Coalition v. Bureau of Land Management*, 552 F Supp 3rd 1101, 1113, 1117 (D Or 2021).

⁵⁴ *See Stop B2H Coalition v. Dept. of Energy*, 370 Or 792, 525 P3d 864 (2023).

⁵⁵ Idaho Power/1600, Baretto/32.

1 Additional permitting and authorizations remain outstanding. Both Idaho Power and
2 PacifiCorp have CPCN petitions pending before the Idaho Public Utilities Commission.⁵⁶
3 Before construction is complete and the line energized, Idaho Power will need to finalize its
4 design, acquire necessary easements and obtain all final permits and authorizations.⁵⁷ A list of
5 permits and approvals is provided in Idaho Power's Exhibit 1601. The EFSC Final Order
6 contains a number of conditions of approval and requires Idaho Power to finalize a number of
7 mitigation plans, which are listed in Idaho Power's Exhibit 1602.

8 While these approvals and permits are outstanding, the record does not contain any
9 indication the Company will not be able to obtain any such remaining permits or authorizations.
10 Though Idaho Power has filed a Request for Amendment with EFSC, the Company represents
11 that the amendment, if approved, will not require condemnation of additional parcels, and if it is
12 not approved, the Company intends to proceed with construction based on the existing EFSC
13 approval.⁵⁸ Staff finds that the Company's construction schedule, with a planned in service date
14 of 2026 is ambitious, and it may be unrealistic. However, delays in permitting or construction
15 will not affect the value the line can provide once it is online.⁵⁹

16 Idaho Power has selected a reasonable, practical route for the transmission line. The
17 Company used a community advisory process to provide input on route selection and identify
18 community issues and concerns.⁶⁰ The project consists of six segments, and the BLM evaluated
19 multiple alternatives for each segment in the FEIS. In Segment 2, the BLM considered the Mill
20 Creek route, and the Morgan Lake variation of that route, but chose the Glass Hill alternative as
21 the selected alternative.⁶¹ After Idaho Power chose not to pursue the Glass Hill alternative, a
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23 ⁵⁶ Idaho Power/1600, Baretto/30.

24 ⁵⁷ Staff/100, Pal/54, Staff/500, Rashid/11.

25 ⁵⁸ Staff/100, Pal/68-69; Idaho Power/1600, Baretto/29.

26 ⁵⁹ Staff/400, Pal/33; Staff/500, Rashid/11.

⁶⁰ Staff/200, Rashid/23.

⁶¹ *Stop B2H v. BLM*, 552 F Supp 3rd at 1117.

1 legal challenge to the FEIS was denied, with the federal District Court explaining that, among
2 other issues, that the Mill Creek alternative is not on federal land and adverse environmental
3 effects along that route were similar to those along the selective alternative and were discussed in
4 the BLM's environmental review.⁶² In the EFSC Final Order, both the Mill Creek and Morgan
5 Lake alternatives were approved. Idaho Power has selected the Morgan Lake alternative for this
6 portion of the route.⁶³ The Glass Hill Alternative was the subject of opposition by the public,
7 including the Glass Hill Coalition and the Confederated Tribes of the Umatilla Indian
8 Reservation.⁶⁴ The Morgan Lake alternative was selected based on feedback from local
9 governments.⁶⁵ The route selected was the result of a thorough planning process and may be
10 feasibly constructed.

11 Lastly, the fact that Idaho Power's IRP preferred portfolio with B2H remains cost-
12 effective⁶⁶ provides further support for the feasibility of the B2H transmission line. Staff
13 recommends the Commission find the project is practicable in the public interest.

14 *D. Justification.*

15 To find a proposed transmission line project is justified in the public interest, OAR 860-
16 0025-0035(1)(d) and (e) below are particularly relevant, though all of the criteria may be
17 relevant to this issue:

18 (d) Whether petitioner has justified construction of the proposed transmission line
19 as in the public interest, as compared with feasible alternatives for meeting the
20 identified need, considering the public benefits and costs of the project, as they
21 relate to the interests in land proposed to be condemned, petitioner's existing
22 facilities and equipment, petitioner's Oregon customers, and other considerations
23 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;

24 ⁶² *Stop B2H v. BLM*, 552 F Supp 3rd at 1142-43.

25 ⁶³ Staff/200, Rashid/25.

26 ⁶⁴ Staff/100, Pal/62.

⁶⁵ Staff/100, Pal/63.

⁶⁶ Staff/400, Pal/16.

1 (e) The Commission may also consider other factors it deems relevant to the
2 statutory criteria.

3 Staff recommends the Commission find that the B2H transmission line is justified
4 because it will provide monetary and non-monetary benefits to Idaho Power customers, to
5 Oregonians and the region as a whole. Compared to the estimated cost of the project and the
6 potential impacts of constructing and operating the transmission line, the benefits justify the
7 project, particularly as mitigation measures can address a number of negative impacts.

8 As a preliminary matter, Idaho Power's IRP, considering the updated costs provided in
9 this docket, demonstrates that B2H is the least cost, least risk resource when compared to
10 feasible alternatives to meeting Idaho Power's capacity need.⁶⁷ The available alternatives may
11 also fail to provide the same regional benefits or benefit PacifiCorp and BPA in the same manner
12 as B2H.⁶⁸

13 Therefore, Staff recommends the Commission find the project to be justified after
14 weighing the monetary and non-monetary benefits against the monetary and non-monetary costs.
15 It is not possible to provide a strictly monetary cost-benefit analysis with a dollar-to-dollar
16 comparison because some of the relevant factors cannot be quantified. Such analysis does,
17 however, test whether benefits are overstated or costs understated.⁶⁹

18 The B2H transmission line will provide significant monetary benefits, though any delay
19 in construction may delay the initial realization of these benefits.⁷⁰ The line will allow Idaho
20 Power to avoid adding 500 MW of capacity equivalent resources and remains cost-effective with
21 the line expected to provide net benefits of \$228 million to Idaho Power customers in the first 20
22 years. Net benefits of \$720 million are expected for BPA and its customers in the first 30 years
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25 ⁶⁷ Staff/100, Pal/28.

26 ⁶⁸ Staff/100, Pal/38-39.

⁶⁹ Staff/100, Pal/31.

⁷⁰ Staff/400, Pal/26.

1 and \$1.7 billion in net benefits are expected for PacifiCorp customers in the first 20 years after
2 the line is energized.⁷¹

3 Additional monetary benefits include the potential for wheeling revenue of \$17.6 million
4 in the first full year, job creation and increased local property tax revenue in the five counties
5 along the transmission line route totaling approximately \$5.8 million.⁷²

6 Staff further recognizes the value of this project for optimizing transmission rights
7 between the Mid-C and Mona trading hubs to give Idaho Power and PacifiCorp unimpeded
8 transmission without pancaking transmission rights.⁷³ Idaho Power has noted the project will
9 provide enhanced reliability and reduce electricity losses.⁷⁴ Idaho Power has provided power
10 flow examples that allow for transmission from Idaho to the Northwest during winter peaking
11 and storm events.⁷⁵ The project will provide benefits of substantial value for Oregonians, which
12 include [BEGIN CONFIDENTIAL] [REDACTED]

13 [REDACTED]
14 [REDACTED] [END CONFIDENTIAL].⁷⁶

15 For PacifiCorp, B2H is expected to provide congestion relief between PAC East and PAC
16 West (which includes Oregon) while allowing for the potential flow of lower cost resources from
17 one balancing authority area to another and enhancing system reliability. The transmission
18 system upgrades associated with B2H are expected to enable interconnection of 600 MW of
19 additional resources. And, B2H is expected to double the amount of load service into Central
20 Oregon for PacifiCorp.⁷⁷

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22 ⁷¹ Staff/100, Pal/ 31; Staff/400, Pal/15, 17.

23 ⁷² Staff/100, Pal/32-33.

24 ⁷³ Staff/400, Pal/17-18.

25 ⁷⁴ Staff/100, Pal/35.

26 ⁷⁵ Staff/400, Pal/19.

27 ⁷⁶ Staff/400, Pal/17.

⁷⁷ Staff/400, Pal/19.

1 Staff recognizes the B2H transmission line may also impose monetary and non-monetary
2 costs. Updated cost figures from December 2022 show a total estimated project cost of
3 \$1,148,869,390, with Idaho Power’s total project cost estimated at \$651 million, not including a
4 future buyout of BPA’s \$28 million in permitting expense.⁷⁸ Idaho Power has adopted strict cost
5 control measures to control these project costs.⁷⁹

6 There are a number of areas of concern with respect to intangible costs. Idaho Power
7 conducted a number of impact studies during the EFSC site certificate proceeding, adopted
8 mitigation measures for certain impacts and will need to comply with a number of conditions to
9 mitigate impacts under the EFSC Final Order.⁸⁰ Regardless, certain negative impacts may result
10 from construction and operation of the line.

11 First, issuance of a CPCN will enable condemnation of private land for purposes of
12 constructing the B2H transmission line, which may limit use of that land for other purposes and
13 negatively impact the landowners.⁸¹ This is of particular concern with respect to agricultural
14 production, where transmission towers may interfere with irrigation equipment or aerial
15 application of materials. Idaho Power has sought to design a route that avoids irrigated areas,
16 and to site towers along field boundaries. Of the 1,461 towers, 26 will be located within a field,
17 though further siting adjustments may reduce this number.⁸²

18 Second, the occurrence of the corona effect may also have negative impacts on
19 individuals in the vicinity when it occurs along the B2H transmission line. Some stakeholders
20 had challenged EFSC’s authority to issue a variance and exception to noise standard compliance,
21 but the Supreme Court affirmed the EFSC Final Order approving the site certificate, ruling in
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⁷⁸ Idaho Power/400, Baretto/5; Idaho Power/401, Baretto/1; Staff/400, Pal/15.

⁷⁹ Staff/100, Pal/50-51.

⁸⁰ Staff/100, Pal/55.

⁸¹ Staff/400, Pal/20.

⁸² Staff/100, Pal/56-57.

1 IPC's favor on noise standard issues.⁸³ Idaho Power has conducted extensive analysis related to
2 noise impacts from the corona effect during foul weather when noise may exceed the anti-
3 degradation level by 10dBA, and will undertake several mitigation measures including window
4 installation, air sealings and tree planting.⁸⁴ Staff is not aware of any risk to human health or
5 safety, and Idaho Power provided testimony that the noise produced by the transmission line is
6 well below a level that would create a concern for hearing loss.⁸⁵

7 Third, the proposed transmission line may have a visual impact on area surrounding the
8 project area, including around the National Historic Oregon Trail Interpretive Center, Morgan
9 Lake and Owyhee River crossing.⁸⁶ Staff is satisfied that alternatives have been explored and
10 were determined to potentially have a greater negative impact.⁸⁷ Staff also finds that Idaho
11 Power has taken reasonable steps to mitigate this impact, including providing \$100,000 to the
12 City of La Grande for Morgan Lake recreational upgrades as compensation for the visual
13 impacts.⁸⁸

14 Fourth, it is possible construction of B2H will impact historical and cultural resources on
15 specific properties. Staff finds that Idaho Power's processes to identify such resources and
16 mitigation processes to be reasonable.⁸⁹ These are also discussed of this issue in the sixth area of
17 concern below. Notably, in the EFSC Final Order, the agency concluded that B2H, given
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21 ⁸³ Staff/400, Pal/16.

22 ⁸⁴ Staff/400, Pal/16, 22-23.

23 ⁸⁵ Staff/400, Pal/23.

24 ⁸⁶ Staff/400, Pal/20.

25 ⁸⁷ Staff/100, Pal/60-61; Staff/400, Pal/21; See also discussion in *Stop B2H Coal. v. Bureau of Land*
26 *Mgmt.*, 552 F Supp 3d at 1140 (burying the B2H transmission line may have greater environmental
impacts, such as an impact on Greater Sage-Grouse habitat, than construction of overhead transmission,
along with increased cost and decreased reliability).

27 ⁸⁸ Staff/400, Pal/21.

⁸⁹ Staff/400, Pal/21.

1 mitigation, is not likely to result in significant adverse impacts to any historic, cultural or
2 archaeological resources.⁹⁰

3 Fifth, the B2H transmission line may have environmental impacts, such as damage to
4 protected plant or animal species or their habitat. However, Idaho Power had adopted and the
5 EFSC Final Order includes a number of conditions to ensure adequate mitigation efforts in order
6 to minimize impact, including avoidance measures, seasonal work restrictions, mapping and
7 flagging of sensitive resources and compensatory mitigation.⁹¹ EFSC concludes that with
8 avoidance, minimization, and mitigation measures, the project will not have a significant adverse
9 impact.⁹²

10 Sixth, the project may have negative impacts on environmental justice issues.⁹³ The PUC
11 is a natural resource agency and, under ORS 182.545, must consider the effects of its decisions
12 on environmental justice issues. These impacts may also be relevant to evaluating the
13 justification in the public interest under the criteria in OAR 860-025-0035(1). The transmission
14 line is likely to have both positive and negative impacts on environmental justice issues. The
15 Company has identified the positive impacts as the broader benefits available to all community
16 members, such as enhanced reliability of Idaho Power’s system, an increase in local tax revenue
17 (estimated at \$5.8 million), and added flexibility to integrate clean energy in Idaho Power’s
18 system.⁹⁴ Staff finds Idaho Power has proposed reasonable mitigation for the negative impacts
19 on environmental justice issues.⁹⁵

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23 ⁹⁰ Staff/100, Pal/55-56.

24 ⁹¹ Staff/100, Pal/57-58.

25 ⁹² Staff/100, Pal/55-56; Staff/400, Pal/25.

26 ⁹³ A state environmental justice tool will likely not be available until 2025. Or Laws 2022 Ch. 58,
Sections 12 and 18 (House Bill 4077).

⁹⁴ Staff/600, Lockwood/10.

⁹⁵ Staff/400, Pal/20. See relevant definitions in ORS 182.535, ORS 756.010(4).

1 The environmental justice communities most likely to be impacted by the B2H line are
2 communities of color, and low-income, rural and tribal communities.⁹⁶ Based on the available
3 data, only a few census blocks in the vicinity of the proposed route are populated by a significant
4 population of people of color. The proposed route will not divide a community of color and
5 appears to avoid impacting these communities, indicating negative impacts may be minimal.⁹⁷
6 In the BLM’s FEIS, minority census blocks were found unlikely to experience disproportionate
7 impacts, and no further analysis was performed.⁹⁸

8 With respect to low-income communities, there are census blocks with higher
9 populations of low-income individuals in Baker, Morrow and Malheur counties, and a single
10 census block in Baker County. However, the proposed route has been designed to avoid highly
11 populated areas, which again indicates negative impacts to this community may be minimal.⁹⁹

12 A greater negative impact may be felt by the rural communities located near the
13 transmission line. “Rural community” is not specifically defined in ORS 756.010(5).
14 Considering the definitions of “rural” employed by other state agencies, any population near the
15 B2H transmission route may be a rural community.¹⁰⁰ Agriculture and ranching play a
16 significant role in the Eastern Oregon economy where this line is proposed to be located, with a
17 large portion of this economic activity stemming from self-employed properties and family
18 farms.¹⁰¹ To the extent these communities are engaged in agricultural activity, they may
19 experience losses in agricultural production as a result of construction, with estimates ranging
20 from \$10,100 to \$666,400, depending on the specific siting design for the line, and the potential
21 for continuing losses during operations.¹⁰² As a result of the EFSC proceeding, Idaho Power

22 ⁹⁶ Staff/300, Lockwood/5.

23 ⁹⁷ Staff/600, Lockwood/5.

24 ⁹⁸ Staff/300, Lockwood/7.

25 ⁹⁹ Staff/600, Lockwood/6.

26 ¹⁰⁰ Staff/300, Lockwood/12.

¹⁰¹ Staff/300, Lockwood/12.

¹⁰² Staff/300, Lockwood/13.

1 conducted an Agricultural Lands Assessment, and has taken steps to mitigate some of the impact
2 on agricultural activity, such as routing the line to avoid irrigated areas and siting transmission
3 towers along agricultural field boundaries where feasible, though, as noted above, it is unlikely
4 the impact can be entirely eliminated.¹⁰³

5 Tribal communities may be impacted by the B2H transmission line, though Idaho Power
6 and the BLM have engaged in outreach and coordination efforts with tribal governments and
7 taken steps to mitigate impacts. These efforts have involved 21 tribal governments, eight of
8 which have previously expressed a connection to the land associated with this project.¹⁰⁴ The
9 Confederated Tribes of the Umatilla Indian Reservation had expressed concern with the Glass
10 Hill route alternative, and the Company ultimately did not select that alternative.¹⁰⁵ The
11 Company has also engaged in consultation related to its efforts to detect and address adverse
12 effects on cultural and historic resources.¹⁰⁶ However, tribal communities may still be impacted
13 by construction activity near cultural or historic resources, impacts on agricultural production
14 and development of the line on or near areas historically used as tribal resources.¹⁰⁷

15 Lastly, we note that there does not appear to be a greater impact from the selection of the
16 Morgan Lake route alternative over the Glass Hill or Mill Creek alternatives. The same selection
17 criteria were applied, and the analysis of the effects of the line on the other alternatives applies to
18 Morgan Lake, with its similar geography, natural features, drainage, resources and land uses.¹⁰⁸

19 On review of the monetary and non-monetary costs and benefits, Staff recommends that
20 the Commission find the project is justified in the public interest. More generally, based on the
21 foregoing review of each element required under ORS 758.015, in light of the criteria in OAR

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23 ¹⁰³ Staff/600, Lockwood/7, 9, 12.

24 ¹⁰⁴ Staff/300, Lockwood/15; Staff/600, Lockwood/7-8.

25 ¹⁰⁵ Staff/100, Pal/62.

26 ¹⁰⁶ Staff/600, Lockwood/8-9.

27 ¹⁰⁷ Staff/300, Lockwood/15-16; Staff/600, Lockwood/9.

¹⁰⁸ Staff/100, Pal/61-62; *Stop B2H Coal. v. BLM*, 552 F Supp 3d at 1143.

1 860-025-0035(1), Staff recommends that the PUC find that issuing a CPCN for the B2H
2 transmission line is supported by the necessity, safety, practicability and justification in the
3 public interest.

4 3. *Issuing a CPCN is consistent with Statewide Planning Goals and compatible with the*
5 *relevant acknowledged comprehensive plans and land use regulations of the affected*
6 *local governments.*

7 In order to approve a Certificate of Public Convenience and Necessity, the Commission
8 must find the proposed project complies with the Statewide Planning Goals and is compatible
9 with the relevant local government’s acknowledged comprehensive plans and land use
10 regulations.¹⁰⁹ When a project is subject to EFSC’s jurisdiction, the Commission must adopt
11 EFSC’s findings made in an EFSC-issued site certificate.¹¹⁰

12 The B2H transmission line is an “energy facility” as that term is defined in ORS
13 469.300(11)(a)(C) and subject to EFSC jurisdiction under ORS 469.320. EFSC issued its Final
14 Order on September 27, 2022. Idaho Power filed that order in this docket with its Petition on
15 September 30, 2022 and again in a supplemental filing on November 9, 2022. The EFSC Order
16 contains a full analysis of land use requirements for B2H and provides sufficient support for land
17 use findings related to the issuance of a CPCN for the B2H transmission line.

18 On review of the applicable land use regulations for each jurisdiction, the EFSC Final
19 Order adopts specific land use conditions for all five affected counties (Morrow, Umatilla,
20 Union, Baker and Malheur) and one city (City of North Powder):

21 Morrow County: Land Use Conditions 1 and 2¹¹¹
22 Umatilla County: Land Use Conditions 3, 4, and 5¹¹²
23 Union County: Land Use Conditions 6 and 7¹¹³

24 ¹⁰⁹ OAR 860-025-0040(1).

25 ¹¹⁰ OAR 860-025-0040(7).

26 ¹¹¹ Docket PCN 5, Supplement to Petition to for CPCN, Attachment 1 at 170-172 of 10603, Final Order
on Application for Site Certificate, November 9, 2022.

¹¹² Id., Attachment 1 at 193.

¹¹³ Id., Attachment 1 at 218.

1 Baker County: Land Use Conditions 8, 9 and 10¹¹⁴
2 Malheur County: Land Use Conditions 11 and 12¹¹⁵
3 City of North Powder: Land Use Condition 13¹¹⁶

4 The EFSC order finds no provisions of the zoning ordinance apply in the City of
5 Huntington, and no permits are required.¹¹⁷ EFSC also reviewed exclusive farm use
6 requirements under ORS 215.275 and ORS 215.283, and adopts Land Use Condition 14.¹¹⁸
7 EFSC reviewed the land use requirements for high value farmland under ORS 215.276.¹¹⁹ And
8 the EFSC Order reviewed forest zone requirements under OAR 660-006-0025, with the Final
9 Order adopting Land Use Conditions 15 and 16.¹²⁰ EFSC reviewed federal land management
10 plans and Oregon’s statewide planning goals, adopting Land Use Condition 17 and approving a
11 Goal 4 exception, to the extent it is necessary.¹²¹

12 In the Final Order, EFSC concludes that subject to the conditions adopted in the Final
13 Order, the B2H facility, for the proposed route and alternate proposed routes, is compatible with
14 the land use requirements and the statewide planning goals.¹²² This route, or the alternate
15 proposed routes, are consistent with the route proposed in Idaho Power’s CPCN Petition. Thus,
16 the EFSC Final Order makes findings to support the land use findings necessary for issuance of a
17 site certificate for the B2H transmission line. On this record, the PUC may adopt the land use
18 findings in the EFSC Final Order to support a finding for purposes of this Petition that the
19 proposed line is consistent with Statewide Planning Goals and compatible with local land use
20 requirements.

21 ¹¹⁴ Id., Attachment 1 at 233-234.

22 ¹¹⁵ Id., Attachment 1 at 243.

23 ¹¹⁶ Id., Attachment 1 at 248-249.

24 ¹¹⁷ Id., Attachment 1 at 249.

25 ¹¹⁸ Id., Attachment 1 at 251-266.

26 ¹¹⁹ Id., Attachment 1 at 267-268.

¹²⁰ Id., Attachment 1 at 268-279.

¹²¹ Id., Attachment 1 at 279--294.

¹²² Id., Attachment 1 at 294.

1 **III. CONCLUSION**

2 Staff’s recommendation is that the Commission find Idaho Power’s Petition for a
3 Certificate of Public Convenience and Necessity is supported by the necessity, safety,
4 practicability and justification in the public interest of the project. Staff further recommends the
5 Commission adopt the land use findings in the EFSC Final Order and conclude that the project is
6 consistent with Statewide Planning Goals and compatible with local land use requirements.

7 For the foregoing reasons, Staff respectfully requests that the Commission issue an order
8 granting the Petition.

9 DATED this 12th of May 2023.

10 Respectfully submitted,

11 ELLEN F. ROSENBLUM
12 Attorney General

13 */s/ Johanna M. Riemenschneider*

14 _____
15 Johanna M. Riemenschneider, OSB No. 990083
16 Sr. Assistant Attorney General
17 Of Attorneys for Staff of the Public Utility
18 Commission of Oregon

DOCKET PCN 5 - CERTIFICATE OF SERVICE

I hereby certify that on May 12, 2023 the **STAFF'S OPENING BRIEF** was served by USPS First Class Mail to said person at his last known address as indicated below:

John C. Williams
P.O. Box 1384
La Grande, OR 97850

DATED this 12th day of May 2023.

/s/ Johanna Riemenschneider

Johanna Riemenschneider, OSB #990083
Sr. Assistant Attorney General
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Commission