

September 15, 2022

Via Email

Tammy Leonard, Administrative Assistant
Office of County Commissioners
Washington County
150 Ash Avenue
Akron, CO 80720

RE: Response to Washington County Staff Summary and Analysis —Application to Site and Construct a Major Facility of a Public Utility and Application for a Use by Special Review for Colorado's Power Pathway

Dear Ms. Leonard,

Xcel Energy has reviewed the Washington County Staff Summary and Analysis dated September 2, 2022, and would like to providing responses to the Recommended Conditions contained in the document as described in the following text.

1. **Prior to commencement of construction on each parcel of the Project in Washington County, Xcel shall provide proof to the satisfaction of the County Administrator that Xcel has obtained the property rights for each such parcel necessary to construction on such parcel as part of the entire portion of the Project that is located in Washington County.**

Response: Xcel Energy respectfully requests that the proposed changes to this condition of approval so that work may progress on a parcel-by-parcel basis.

2. **Prior to beginning construction on each parcel, All necessary land use, environmental, and construction permits, approvals and authorizations for that work must be obtained ~~prior to and maintained during construction~~ as required and may include, but are not limited to, land use permits, right-of-way (ROW) permits, road use agreements, access permits, oversize/overweight permits, grading permits, and stormwater permits.**

Response: Xcel Energy respectfully requests that the proposed changes to this condition of approval so that work may progress on a parcel-by-parcel basis.

3. **A site plan, drainage plan, and other County submittal requirements for a transfer station must be provided to the County Administrator for review and approval prior to construction of the transfer station. All necessary permits shall be obtained prior to approval of the transfer station. To the extent not required by other County regulations, the transfer station shall be designed and landscaped in such a manner as to blend in with the surrounding area.**

Response: Xcel Energy believes that this condition is not applicable to as no transfer stations will be constructed on that portion of the project which is located in Washington County.

4. **No poles shall exceed a height of 140-190 feet. Any poles that exceed this height require prior approval from the County, upon a showing by Xcel that such height is**

necessary. Such additional height may be approved by the County Administrator upon application and request from Xcel. The County Administrator may request any additional information necessary to determine whether approval should be granted.

Response: Xcel Energy respectfully requests the proposed change to this condition of approval. Xcel Energy's USR permit application presented the range of typical pole heights as 105 to 140 feet and noted, "poles will not exceed 190-foot maximum height". The maximum height was determined by Xcel Energy's transmission line engineering team based on conditions along the route in Washington County. The taller structures (up to 190 feet) may be necessary to allow farm equipment to pass unimpeded below the transmission lines thus facilitating safe access and allowing continued farming within the easement area.

5. Prior the commencement of construction in Washington County on a Segment, Xcel will enter into a road use agreement for the use of any public road during construction which shall include the following:
 - a. A map showing which County roads will be used during construction.
 - b. A pre-construction baseline survey inventory of County roads to be used during construction to document their pre-construction condition, obtained by and paid for by the applicant ~~and prepared by a Colorado licensed engineer~~.
 - c. A mitigation plan to address traffic congestion, control, and potential impacts to County roads to be used during construction. The mitigation plan shall also include any dust mitigation activities.
 - d. A requirement that the applicant ~~to~~ return any County roads to their pre-construction baseline condition.
 - e. A requirement to post financial security in an amount not less than one hundred fifteen percent (115%) of the estimated cost to complete all road restoration, in the form of an irrevocable letter of credit or cash escrow. Cost estimates shall be provided by a licensed Colorado engineer. Upon preliminary acceptance of the restored public road, the County shall release all but fifteen percent (15%) of total actual costs of restoration of the public roads, so long as Xcel is not in default of any provision of the public improvement's agreement. The County shall inspect the restored roads and Xcel shall pay to the County the cost incurred by the County in conducting such inspections. These costs shall be due and payable upon demand of the County. Xcel shall be responsible for correcting or properly completing the restoration.
 - f. The residual fifteen percent (15%) retained by the County shall act as security for Xcel's guarantee that the restoration remains free of defect during a two-year warranty period. Xcel may at any time during the preliminary acceptance or warranty period offer to provide a substitute or supplemental form of financial security to that security as originally posted with and/or retained by the County.

The County may accept substitute or supplemental forms of security in its sole discretion.

Response: Xcel Energy respectfully requests the proposed changes to this condition of approval. Xcel Energy will film the roads prior to construction, photograph and inspect culverts and bridges, and provide that information to Washington County in a report demonstrating the preconstruction condition of the roads. This preconstruction inventory is not performed by a Colorado-licensed engineer.

- 6. Prior the commencement of construction on a segmentany parcel, Xcel must obtain all proper necessary permissions from landowners to use private roads or develop access roads on any private property. No private access roads, new or currently in use, shall become public rights of way unless approved and accepted by the Board of County Commissioners.**

Response: Xcel Energy respectfully requests that the proposed changes to this condition of approval so that work may progress on a parcel-by-parcel basis.

- 7. Prior the commencement of construction in Washington Countyon a portion of the Project, Xcel must execute an agreement with the County agreeing to not create nuisances, to reclaim all land, public and private and to restore any ditches, canals, or waterways disturbed by its Project activities. The agreement shall require Xcel to document the condition of all land in the segment's right-of-way prior to commencement of construction, the condition immediately after completion of construction activities, and the condition upon completion of remediation. The agreement shall include a requirement to post financial security in an amount not less than one hundred fifteen percent (115%) of the estimated cost to reclaim all disturbed land plus an amount deemed reasonable by the County to remediate any nuisances and to restore damages to ditches, canals and waterways in the form of an irrevocable letter of credit or cash escrow (the "Performance Guarantee"). Cost estimates for the land reclamation, including the remediation of nuisances and damages to ditches, canals and waterways shall be provided by a qualified expert in land reclamation. The letter of credit or cash escrow shall be maintained until completion of the remediation, approval by the County, and issuance by the County of a written acknowledgement of satisfactory reclamation, at which time the security may be released. Xcel shall be responsible for correcting or properly completing all land reclamation.**

Response: Xcel Energy respectfully requests that the proposed change to this condition of approval.

- 8. Prior to use of any helicopters in connection with the initial construction of the Power Pathway pProject in Washington County, Xcel shall provide at least thirty (30) days' written notice to the County Planning Administrator of the location of the helicopter fly yard and dates and hours of helicopter use. Xcel shall comply with all FAA requirements, including but not limited to, notice of evacuation to residences.**

Response: Xcel Energy respectfully requests the proposed changes to this condition of approval.

9. Construction occurring with ¼ quarter mile of any residence shall not commence earlier than 7 a.m.

Response: Xcel Energy acknowledges this condition of approval.

10. Xcel shall comply with all applicable law and regulations related to safety and emergency management during construction and on-going operations.

Response: Xcel Energy acknowledges this condition of approval.

We look forward to working with you during the permit process. Please feel free to contact me by telephone at (806) 378-2146 or email at Tiffany.A.Pulliam@XcelEnergy.com or contact permitting consultant, Stephanie Phippen with Tetra Tech Inc., at (303) 980-3515 or Stephanie.Phippen@tetrattech.com.

Sincerely,



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Siting & Land Rights
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