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IDAHO PUBLIC
UTILITIES COMMISSION

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BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IDAHO POWER COMPANY,)	CASE NO. IPC-E-04- <u>04</u>
)	
Complainant,)	COMPLAINT TO OBTAIN COMMISSION
)	ORDER DIRECTING IDAHO POWER TO
v.)	CONSTRUCT IMPROVEMENTS TO
)	SECURE ADEQUATE SERVICE TO ITS
CITY OF EAGLE, IDAHO,)	CUSTOMERS
)	
Respondent.)	
_____)	

COMES NOW, Idaho Power Company ("Idaho Power" or the "Company") and, in accordance with the provisions of Idaho Code §§ 61-501, 61-503 and 61-508 and RP 054, hereby requests that the Commission issue its Order directing Idaho Power to construct improvements to its electric transmission system to secure adequate service to its customers. More specifically, the Company requests that the Commission issue an Order directing Idaho Power to construct additional 138-kV transmission facilities on one of two transmission corridors through the City of Eagle, Idaho ("City" or "Eagle") or, in the

alternative, if the City insists that the needed 138-kV transmission facility be located underground or on routes other than on the existing transmission corridor routes, that the Commission order Idaho Power to file tariffs to establish a surcharge to be added to the rates charged to the Company's customers within the boundaries of the City to recover the incremental additional costs associated with underground construction or with construction on the alternative route chosen by the City. This Complaint is based on the following:

1. Electric loads in western Ada County have increased significantly in the last few years. Idaho Power has identified the area surrounding the city of Star, Idaho, as particularly vulnerable to service degradation because the facilities serving that area are severely strained. While the situation in the Star area has been specifically identified as critical, electric load growth in the entire Eagle-Star-Meridian area has been substantial. Serving existing and future electrical loads in this area will require the construction of several new 138,000 volt (138-kV) sub-transmission facilities into and within this area. The specific facility at issue in this proceeding is a single pole, single circuit 138-kV sub-transmission line originating from the existing Eagle Substation and running to a new substation to be constructed east of the City of Star, Idaho, between Plummer Lane and Highway 16. The Star Substation site is located approximately 625 feet north of Highway 44. A map showing the alternative routes proposed for the above-described 138-kV line is attached as Exhibit 1.

2. Idaho Power's long-range planning process identified the need for additional transmission facilities several years ago. In 1999, Idaho Power met with the City on several occasions to discuss the need to upgrade the existing 69-kV structures

that run through the City to a 138-kV configuration. To comply with the requirements of the National Electric Safety Code, a 138-kV line with distribution line under-build requires structures that will exceed the City's 35-foot building height restriction.

3. In December of 2000, after numerous discussions with City planning staff, Idaho Power applied to the City for a conditional use permit (CUP) for the 138-kV line and for an exception to the City's 35-foot height restriction. In an attempt to reduce the overall height of the structures and to eliminate the number of visible conductors in the downtown business district, the Company proposed to replace the existing 69-kV structures with the 138-kV line within the existing corridor containing the 69-kV structures. The Company also offered to reconstruct a number of distribution lines along the 69-kV route to an underground configuration from the Eagle Substation to the present location of Jackson Square at no additional cost to the City. Additionally, the Company proposed to bury the overhead distribution lines along the alley located south of State Street between Eagle Substation and Eagle Road and eliminate the overhead distribution lines crossing State Street at Second Street and at Eagle Road. By burying the distribution lines, the total height of the 138-kV structures could be reduced by several feet. The Company met with City planning staff on several occasions in 2000 to explain its proposal.

4. On February 20, 2001, the Eagle Planning and Zoning Commission conducted a public hearing on the Company's CUP application. A number of residents testified in opposition of the proposed 138-kV routing along the existing 69-kV route. Their opposition was primarily based on the adverse aesthetics of the line within the City's

downtown business district. The Planning and Zoning Commission formally recommended that the City Council deny the Company's application.

5. Prior to a vote on the CUP by the City Council, at the suggestion of the City, the Company withdrew the pending application for a CUP and agreed to undertake a program to obtain additional public input on what should be the preferred route for the 138-kV line through the City.

6. As agreed, Idaho Power formed a Community Advisory Committee (CAC) to assist the Company in evaluating potential routes and identifying important criteria for selecting the eventual preferred route. The Company held a series of meetings with the CAC, as well as an open house, to educate the City's residents on the project scope and need for the 138-kV line. In the course of the meetings with the CAC, the Company received valuable input from the community representatives regarding the criteria that they believed were important for rating various line route alternatives. In conjunction with the CAC, the Company conducted quantitative and subjective evaluations of approximately sixteen different route configurations. The CAC first advised the Company that it preferred that the 138-kV line be constructed underground through the City of Eagle. However, when the CAC was advised that the additional cost for underground construction would be extremely high, in the range of \$5 - \$6 million, and that by necessity the additional cost would have to be borne by the residents of the City, they agreed that the underground alternative was not a viable option. The CAC strongly advised the Company to avoid locating the line adjacent to residential properties.

7. Considering the routes using overhead construction through commercial areas, the CAC's preferred route was to tap the existing 138-kV line at

Edgewood, build out to Highway 44, and proceed west within the road right-of-way of State Highway 44 (the Eagle Bypass) through the commercial areas along Highway 44 to Ballentyne Road. The line would then follow the existing power line corridor from Ballentyne Road to the Star Substation. This line route is identified as Alternative #1 on Exhibit 2 which is attached hereto. Based on the guidance received from the CAC, the Company held another general public meeting to describe the preferred route selection process and to take additional public comment. Public comments submitted at that time still favored an underground solution, but concurred that, among the overhead options, the CAC's preferred route, Alternative #1, the "Eagle Bypass" route, was the best route to pursue.

8. On September 9, 2002, the Company submitted another CUP application to the City requesting permission to site the 138-kV line on the Eagle Bypass route. The Planning and Zoning Commission held a public meeting on the proposal on October 28, 2002. The hearing was continued until November 13, 2002 to allow the Commission to gather additional information. The Planning and Zoning Commission then requested that the City Council authorize funding for a study by an independent engineering consulting firm to evaluate the costs and feasibility of constructing the 138-kV line underground. The City hired Black and Veatch to conduct the study. Black and Veatch's study was presented to the Eagle City Council on July 15, 2003. In its study, Black and Veatch advised the City that 1.6 miles of 138-kV underground construction would cost approximately \$9.5 million, or approximately \$9 million more than the overhead alternative.

9. On July 15, 2003, the City's Planning and Zoning Commission held a public hearing in which the results of the Black and Veatch study were considered in conjunction with the Company's CUP application. On September 8, 2003, the City's Planning and Zoning Commission issued its recommendation that the City Council deny the Company's application primarily on the grounds that the line would be unsightly and would have an adverse effect on the commercial development taking place at the junction of Highway 44 and Eagle Road. On October 14, 2003, the Eagle City Council took up the Company's application, including the Planning and Zoning Commission's recommended denial of the application. A public hearing was held and testimony was received. A number of citizens and commercial developers testified that the Bypass route was aesthetically unfavorable and, in their opinion, could adversely affect commercial property values in the area. The public hearing was continued until October 28, 2003. At the October 28 meeting, the City Council remanded the application back to the planning Staff for further evaluation of alternatives and information gathering. At that time, Idaho Power representatives advised the City Council that construction lead times would not allow for extensive evaluations. Because four years had elapsed since Idaho Power's initial contacts with the City on this matter, the situation had become critical.

10. On January 12, 2004, representatives of Idaho Power and the City of Eagle met informally with representatives of the IPUC Staff to discuss the situation. At the conclusion of the meeting, Idaho Power agreed to immediately meet with representatives from the City to address the feasible alternative routes one more time and to present cost estimates for these alternative routes.

11. On January 21, 2004, representatives of Idaho Power again met with the Mayor and members of the City's land use planning staff to discuss the routing alternatives and their associated costs. A copy of the information presented to the City is attached as Exhibit 3.

12. As shown on Exhibit 3, Idaho Power presented six alternative proposals to the City. In developing its proposals, Idaho Power followed the philosophy that, if the City desired to have the line located on a route that materially increased the cost to Idaho Power, then the City and its citizens should bear the incremental difference in cost between routing the line in an overhead configuration on one of the two current transmission corridors and the cost of underground construction or overhead construction on one of the more aesthetically acceptable alternative routes preferred by the City.

13. As shown on Exhibit 3, alternatives 1, 2 and 3 involve no additional cost to the City of Eagle. Alternatives 4, 5 and 6 involve a contribution from the City to offset the additional cost associated with the City's preferred routing. Alternatives 5 and 6 involve routing the line adjacent to residential properties. The alternative of constructing the 138-kV line underground was not discussed with the City at the January 21, 2004 meeting. If the City still desires to pursue underground construction, the additional incremental cost would not be less than \$5 - \$6 million and could be as much as \$9 million.

14. Idaho Power believes it is appropriate to require the City to contribute to the additional cost associated with a line routing or with underground facilities that would substantially increase the cost of the 138-kV facilities. If the City

does not bear that incremental additional expense, Idaho Power's other customers will ultimately pay higher rates as a result of the City's dissatisfaction with the aesthetics of overhead transmission facilities located within existing transmission corridors through the City. Such increased cost would ultimately result in the Company's other customers paying rates that are unjust, unreasonable, discriminatory and preferential. Idaho Power is requesting that the Commission exercise its statutory authority to prevent such a result.

15. The Company's service territory in western Ada County is experiencing substantial real estate development and commercial growth. With that growth and development comes rapidly-increasing electrical loads. Idaho Code § 61-302 obligates Idaho Power to serve those loads in a manner that is efficient, just and reasonable. The Commission is legally authorized to "do all things necessary to carry out the spirit and intent of the provisions of this act." (Idaho Code, § 61-501). The Commission is also charged with ensuring that the rates that Idaho Power charges its customers are just and reasonable and are not discriminatory or preferential. (Idaho Code, § 61-503).

16. For the past four years, Idaho Power has been working diligently to secure land use planning permissions from the City to construct a 138-kV sub-transmission line on one of the existing transmission corridors. While the Company believes that the City at all times has acted in good faith, nevertheless, the City has refused to grant the requested land use planning authorizations on the grounds that the proposed 138-kV line is unsightly and should either be constructed underground or located on a route that bypasses the central business district. Either of these alternatives

would substantially increase the cost of the line as compared to the cost of using the existing transmission corridors.

17. Idaho law clearly contemplates that the Commission has the authority to address the concerns raised by Idaho Power in this pleading. Idaho Code § 61-508 provides in pertinent part that:

Whenever the commission, after hearing had upon its own motion or upon complaint, shall find that additions, extensions, repairs or improvements to or changes in the existing plant, scales, equipment, apparatus, facilities or other physical property of any public utility . . . ought reasonably to be made, or that a new structure or structures should be erected to promote the security or convenience of . . . the public, or in any other way to secure adequate service or facilities, the commission shall make and serve an order directing such additions, extensions, repairs, improvements or changes be made or such structure or structures be erected in the manner and within the time specified in said order.

18. Idaho Code § 61-501 provides:

The public utilities commission is hereby vested with power and jurisdiction to supervise and regulate every public utility in the state and to do all things necessary to carry out the spirit and intent of the provisions of this act.

19. Title 67 of the Idaho Code addresses local land use planning.

Idaho Code § 67-6528 provides in pertinent part:

If a public utility has been ordered or permitted by specific order, pursuant to Title 61, Idaho Code, to do or refrain from doing an act by the public utilities commission, any action or order of a governmental agency pursuant to Titles 31, 50 or 67, Idaho Code, in conflict with said public utilities commission order, shall be insofar as it is in conflict, null and void if prior to entering said order, the public utilities commission has given the affected governmental agency an opportunity to appear before or consult with the public utilities commission with respect to such conflict.

Idaho Code §§ 61-508 and 67-6528 clearly demonstrate that the Idaho Legislature intended that the Commission have the authority to grant the relief prayed for in this complaint. The Legislature has declared that the Commission has exclusive power to regulate public utilities and has vested it with the authority to carry out its regulation. Any other scheme would place the utility and the general body of utility customers in an untenable situation. Local governmental agencies could require utilities to expend unreasonably large amounts of money to satisfy local aesthetic concerns. Those additional expenses would then be passed on to all of the utility's other customers thereby resulting in unreasonable, preferential and discriminatory rates.

20. Idaho Power has discussed with the City possible ways that the City could fund the additional costs associated with the more aesthetically pleasing routings it prefers. Idaho Code Title 50 allows mayors and city councils to create local improvement districts to fund line extensions or to fund conversion of existing overhead electric facilities to an underground configuration.

21. In addition, Idaho Power would be willing to accept installment payments, including interest, to recover the additional costs if the City chooses to proceed with route options 4, 5 or 6 shown on Exhibit 3. It should be noted that Idaho Power is offering to contribute the amount of \$476,000 to reduce the cost the City would experience under alternatives 3 through 6. The City could fund the installment payments by applying the proceeds of the franchise fees it collects from Idaho Power to make the installment payments. The City currently levies a franchise fee at the 1% level, but that level could be increased if such an increase is acceptable to the citizens

of the City. This is the procedure Idaho Power followed with the City of Ketchum, Idaho, when Ketchum desired to relocate Idaho Power's overhead power lines in downtown Ketchum to an underground configuration. The difference in cost was funded by the City of Ketchum using franchise fee proceeds.

22. Idaho Power has made extraordinary efforts to accommodate the City of Eagle's concerns. Unfortunately, the long period of time it has taken to reach the current point of impasse with the City has placed Idaho Power in an precarious situation. The Company's current analyses indicate that, unless the 138-kV line is constructed and available for service by May of 2005, the risk of service degradation in the Star-Eagle area in the summer of 2005 is material. Final design, materials procurement and construction of a 138-kV line, depending on the route, can require a year or more from start to finish. This is why the Company is requesting that the Commission consider this request on an expedited basis.

23. If the City is unwilling to grant the requested zoning permission or enter into a contract to voluntarily fund the differential in cost to satisfy the City's aesthetic concerns, Idaho Power respectfully requests that the Commission issue its order as follows:

1. Ordering Idaho Power to construct the 138-kV line on its choice of route options 1, 2 or 3 with no additional cost being attributable to the City of Eagle or,
2. In the alternative, if the City of Eagle requires that the line be constructed underground or on route options 4, 5 or 6, that the Company be ordered to file tariffs to be applicable within the boundaries of the city limits of the City of Eagle which would impose a surcharge on the electric rates of the citizens of the City of

Eagle. The proceeds of that surcharge would be used to amortize the incremental increase in cost for underground construction or for the route selected by the City over a reasonable period of time not to exceed ten (10) years.

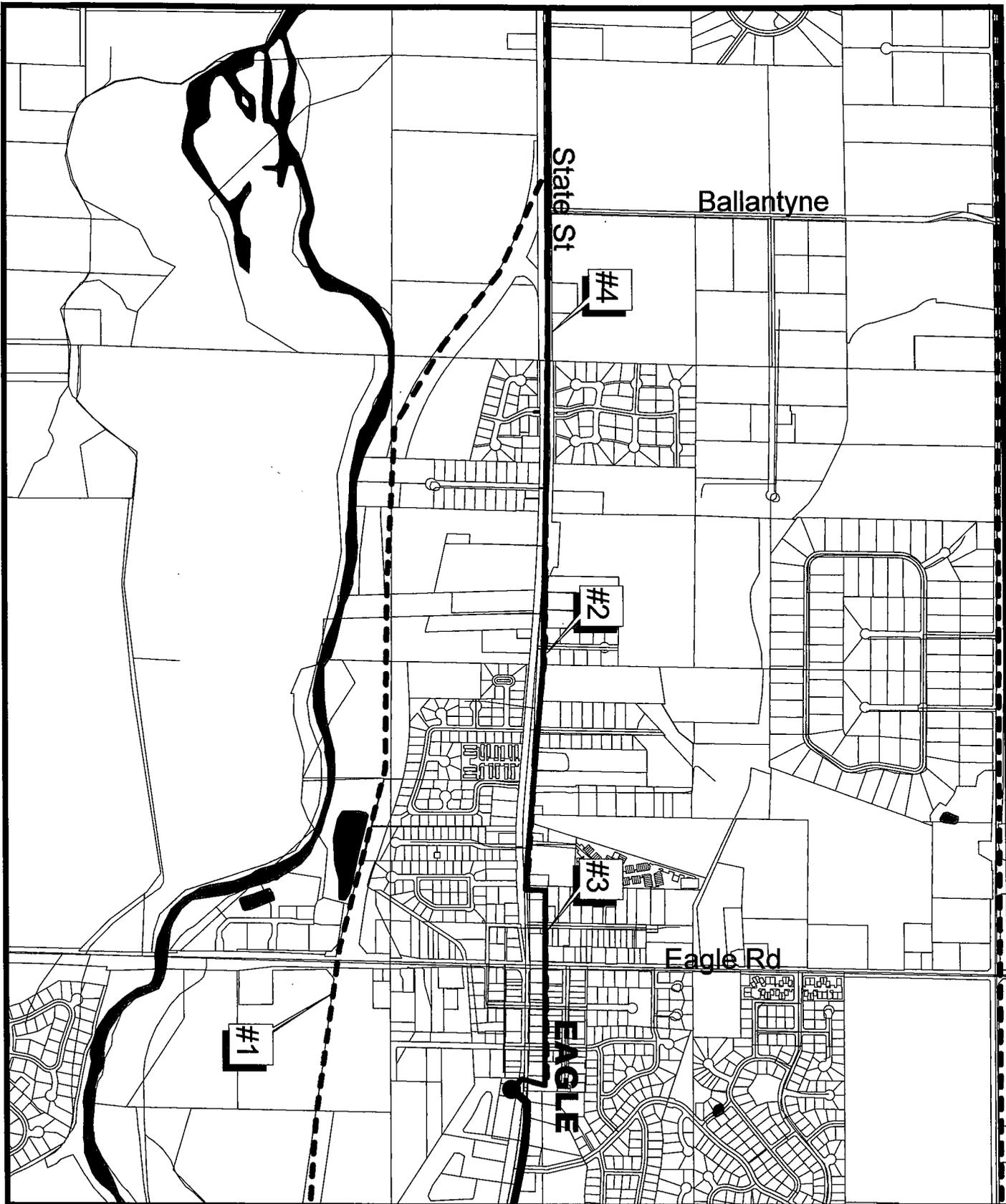
3. Idaho Power requests that the Commission convene a prehearing conference in this matter at its earliest convenience and consider this request on an expedited basis.

DATED at Boise, Idaho, this 11th day of February, 2004.

A handwritten signature in black ink, appearing to read 'B L Kline', written over a horizontal line.

BARTON L. KLINE
Attorney for Idaho Power Company

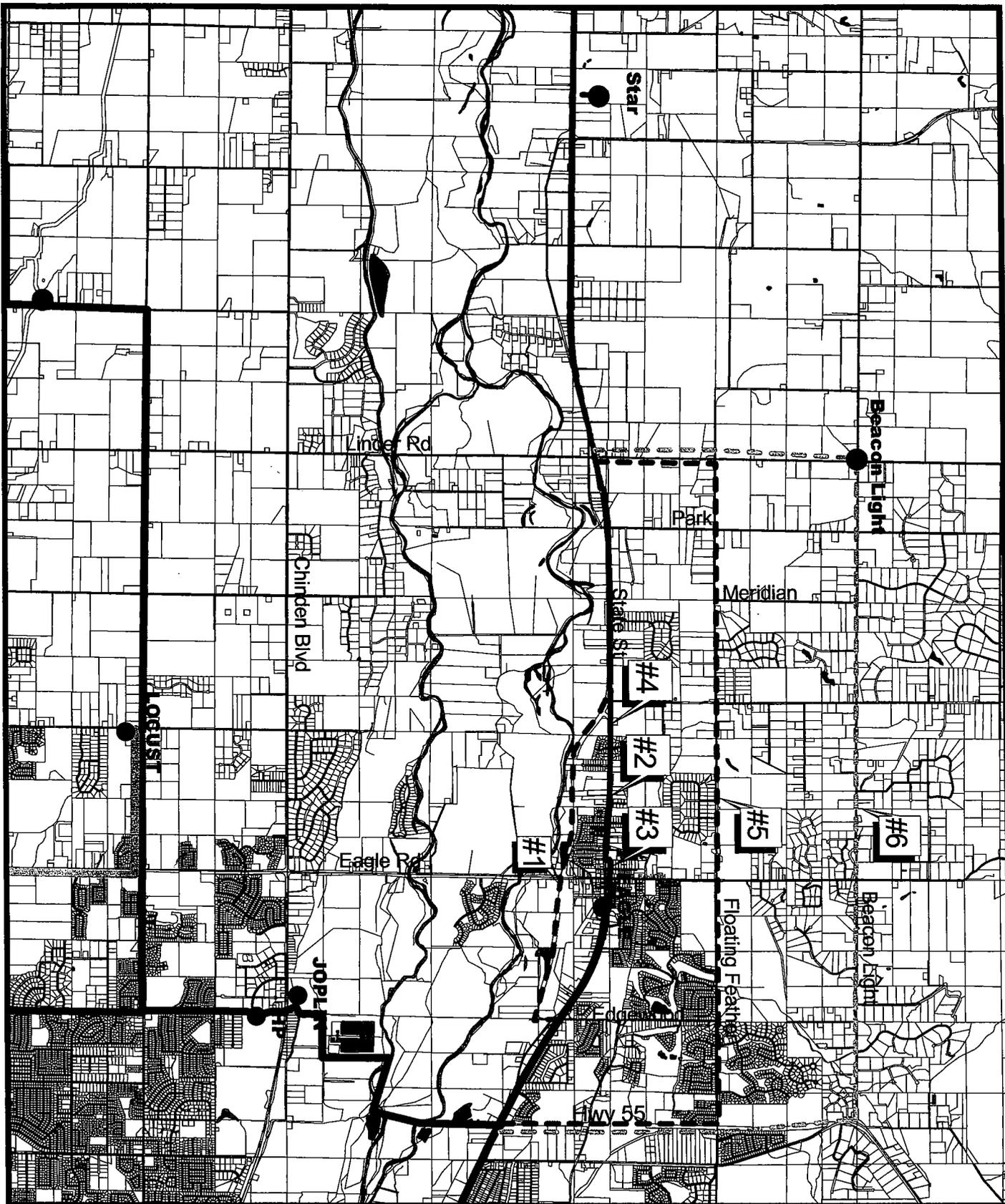
EXHIBIT 1



Eagle to Star 138 kV Line Options

- Legend**
- Future Stations.shp
 - IPC Stations.shp
 - Eagle-star line options.shp
 - ▨ 138 kV transmission.shp
 - ▨ 115 kV transmission.shp
 - ▨ 66 kV transmission.shp
 - ▨ 33 kV transmission.shp
 - ▨ 20 kV transmission.shp
 - ▨ 15 kV transmission.shp
 - ▨ 12 kV transmission.shp
 - ▨ 8 kV transmission.shp
 - ▨ 4 kV transmission.shp
 - ▨ Railroads
 - ▨ Roads
 - ▨ Waterways
 - ▨ Ada Parcels.shp

EXHIBIT 2



Eagle to Star 138 kV Line Options

- Legend**
- Future Stations: shp
 - IPC Stations: shp
 - Eagle-Star line options: shp
 - ▨ 138 kV transmission shp
 - ▨ 115 kV transmission shp
 - ▨ 66 kV transmission shp
 - ▨ 33 kV transmission shp
 - ▨ 20 kV transmission shp
 - ▨ 15 kV transmission shp
 - ▨ 12 kV transmission shp
 - ▨ 8 kV transmission shp
 - ▨ 4 kV transmission shp
 - ▨ Railroads
 - ▨ Waterways
 - ▨ Ada Facilities: shp

EXHIBIT 3

Route Option	Total Cost	City of Eagle Cost *	Tax Gross Up**	City of Eagle After Tax Cost	IPCO Goodwill Incentive	City of Eagle Net Cost
1 - Bypass Route (CUP Application)	\$2,500,000	\$0	\$0		\$0	\$0
2 - Existing 69kV Line Route	\$2,500,000	\$0	\$0		\$0	\$0
3 - Existing 69kV Line Route plus Distribution Underground from Eagle Substation to Jackson Square	\$2,840,000	\$340,000	\$136,000	\$476,000	\$476,000	\$0
4 - Existing 69kV Line Route plus Distribution Underground from Eagle Substation to Ballentyne	\$4,230,000	\$1,730,000	\$692,000	\$2,422,000	\$476,000	\$1,946,000
5 - Highway 55 and Floating Feather Route	\$3,920,000	\$1,420,000	\$568,000	\$1,988,000	\$476,000	\$1,512,000
6 - Highway 55 and Beacon Light Route	\$4,870,000	\$2,370,000	\$948,000	\$3,318,000	\$476,000	\$2,842,000

* City of Eagle Cost = Total Cost - \$2,500,00

** Corporate Income Tax Rate 40%