

Written Testimony of Justin Jahnz
Chief Executive Officer
East Central Energy Cooperative
House Natural Resources Committee
Subcommittee on Water, Wildlife, and Fisheries

July 18, 2023

Chairman Bentz, Ranking Member Huffman, and members of the Subcommittee, my name is Justin Jahnz, and I am Chief Executive Officer for the East Central Energy Cooperative which headquartered in Braham, Minnesota. ECE is a not-for-profit rural electric cooperative that serves nearly 63,000 member-consumers. ECE manages over 8,000 miles of distribution power lines, which include rights-of-way and acreage around substations.

I appreciate the opportunity to testify today and offer a perspective on how the Endangered Species Act (ESA) affects the ability of electric cooperatives to provide affordable and reliable power. I am here today on behalf of ECE and the National Rural Electric Cooperative Association (NRECA).

ECE is one of about 900 electric cooperatives (co-ops) serving electricity to approximately 42 million people in 48 states covering 56% of America's landmass. We are governed by elected boards of directors made up of the people we serve. Co-ops provide service to some of the poorest, most rural parts of our country with an average of just 10 customers per mile of line. That's far fewer than other types of electric utilities. Despite these challenges, co-ops strive to be forward-thinking and evolutionary to address a multitude of energy industry challenges and meet member expectations. It is this commitment to community that pushes ECE to expand its commitment to environmental stewardship.

Electric cooperatives, environmental stewardship, and the Endangered Species Act

Electric co-ops are guided by seven principles, including "concern for community." We live in the communities we serve, and we care about the environment. We support the underlying goals of the Endangered Species Act (ESA); however, we think it is important to highlight how even a well-intentioned law can create real world challenges.

The 50th anniversary of its passage provides a good opportunity to discuss ways to improve the ESA so it works better for both species and communities, a goal I think we can all agree on. A majority of my testimony will focus on ECE's on the ground experiences working to conserve the monarch butterfly, I will also provide a perspective from some of my fellow electric cooperatives that are working to conserve other species such as the northern long-eared bat.

In the early 2000s, ECE began developing a utility vegetation management plan that had a heavy emphasis on ecosystem ecology and sound arboricultural practices. We knew intuitively that creating an ecosystem of compatible plants would provide many benefits including maintenance cost (present and future), as well as ecological diversity, and quality wildlife habitat. After several years of implementation, we began to realize the benefits of the program in all areas.

ECE continues to use an Integrated Vegetation Management (IVM) program, which is generally defined as the practice of promoting desirable, stable, low-growing plant communities that will resist invasion by tall growing tree species through the use of appropriate, environmentally sound, and cost-effective control methods. These methods can include a combination of chemical, biological, cultural, mechanical, and/or manual treatments. When a compatible ecosystem is established, the non-target plants become assets that prevent invasion by undesirable species. This ecological diversity is also extremely beneficial to many wildlife species.

ECE and the monarch butterfly

In 2018, Alicia Kroll, an employee from ECE's billing department with a background in zoology, came to the environmental committee and proposed the idea of a "monarch waystation" project on ECE property. The committee members discussed the idea and decided to explore some options and expand the scope. Eventually the decision was made by the executive team and board of directors to set aside two 2-acre plots for pollinator habitat creation. Around this time, an innovative, multi-state, multi-industry Candidate Conservation Agreement with Assurances (CCAA) for the Monarch butterfly was being promoted within the Rights-of-Way as Habitat Working Group at the University of Illinois Chicago.

As we explored more, we learned that the CCAA was a roadmap for energy and transportation land managers to reduce or potentially remove key threats to the Monarch butterfly that occur on rights-of-way. By implementing conservation measures, such as targeted herbicide applications, brush removal, planting and seeding native vegetation, and providing idle land set-asides, it is projected that total enrolled acres could contribute over 300 million stems of milkweed over the coming decades.

ECE was involved with our national trade association, NRECA, in advising the CCAA program authors to write the agreement in a way that the terms could be achievable and affordable for co-ops, granting them greater regulatory certainty in the event that the monarch is listed under the ESA in the coming years. Even though the decision to list the Monarch butterfly under the Endangered Species Act has not yet been made, ECE applied and enrolled as a participant anyway in the spring of 2020. Habitat set-aside areas were one of the final pieces that would qualify ECE for the terms of the agreement. The hope was that we could help show the benefit of voluntary participation in the program and encourage our fellow cooperatives to join the effort.

After hearing about this program, ECE's substation manager mentioned the recent reconstruction of one of our substations. The topsoil had just been spread but not seeded for turf grass. He asked if we'd like to do a pilot project for installing pollinator habitat there instead of manicured lawn. We jumped at the chance and today the project is flourishing. Moving forward, we hope to use this as a template for projects at our some of our other 35 distribution substations.

All our hard work paid off. ECE was the first rural electric cooperative in the nation to receive a Certificate of Inclusion into the Monarch CCAA. Today the habitat at our headquarters is in its fourth full growing season and is now well established. We have some walking trails around the

perimeter and the area is enjoyed by employees on their breaks. This year, the remaining portion of land immediately adjacent to the current habitat will be converted back to native plants as well. This area was primarily invasive species surrounding a small pond. This conversion will provide a cohesive natural habitat for local wildlife while helping to filter runoff to the pond. ECE also hosts an annual Pollinator Week Event both online and in-person for members and the general public. This showcases the work ECE does to protect monarchs and pollinators and encourages members to do the same with native seed packets available and habitat experts on hand.

The benefit to enrolling in the CCAA is that it puts individual cooperatives in the drivers' seats of their operations. By moving toward a future that considers right-of-way management as pollinator habitat management, collectively, we can provide quality habitat to help stabilize Monarch populations. In return for using best management practices, the CCAA provides regulatory certainties and maximizes operational flexibility for ongoing management activities in the event of listing.

As part of the enrollment in the CCAA, annual monitoring occurs where conservation measures such as targeted herbicide applications are applied. The target for the Midwest region is six stems of milkweed per acre and 10% cover of nectar plants. In 2022, ECE averaged 556 stems of milkweed per acre and 21% nectar cover in its rights-of-way. The data shows milkweed and forage is available to monarch butterflies when conservation measures are applied.

ECE was one of the first to receive a Certificate of Inclusion, but we are excited that we were not the last. In Minnesota we have been joined by Kandiyohi County, Polk County, Northern Natural Gas, and the Minnesota Department of Transportation. And many other co-ops across the nation have joined the CCAA or may join in the near future. Nationwide over 30 organizations have submitted applications to join, if each of these submitted applications are approved, we would be able to protect at least 800,000 acres of monarch butterfly habitat. ECE is committed to working with its colleagues to ensure additional progress is made to preserve the monarch butterfly.

Electric cooperatives and the northern long eared bat

Many electric co-ops have long followed reasonable conservation practices for the Northern Long Eared Bat (NELB or bat) that balances their mission of providing reliable, affordable electricity with stewardship of species that live in and around our rights-of-way. Many co-ops proactively implement measures that protect a variety of bat species, including vegetation trimming in the early spring to limit impacts to the still-hibernating bats, the installation of bat boxes, and wrapping utility poles.

The Northern Long Eared Bat is found in 37 states, the District of Columbia and Canada. It was listed as Endangered by the Fish and Wildlife Service in November of 2022. The listing is unique for several reasons including the massive size of the bat's range and the fact that the NLEB decline in population numbers in recent years is due not to human activity or habitat impacts, but overwhelmingly, to the devastating impact of White-Nose Syndrome (WNS), a fatal disease-causing fungal pathogen. This disease has caused approximately 97-100% of NLEB

species declines across 79% of its range. If this disease had not emerged, it is unlikely the Northern Long Eared Bat would be experiencing a dramatic population decline.

The Endangered Species Act does not sufficiently provide for compliance mechanisms in cases, such as this, where species declines have little to do with human-species interactions or habitat impacts. In this case, increasing regulatory requirements on industries, such as electric co-ops, will do little to preserve the NLEB or aid in its recovery, but it may place unnecessary strain on providers of electricity and could hamper efforts to develop and incorporate into the grid renewable sources of energy such as wind generation.

Endangered Species Act costs

Costs associated with protecting species can vary greatly depending on the species, the habitat in question, and any restrictions of implementation that are associated with the listing. But each additional cost that co-ops incur when complying with species listings is felt directly by our members because electric cooperatives operate at cost. Keeping our rates as affordable as possible is an important consideration because co-ops serve 92 percent of the country's persistent poverty counties.

ESA compliance costs can vary greatly among species. ECE has been fortunate that to date our voluntary compliance costs have been minimal, we have been able to adapt many of our standard practices to benefit the Monarch. Aside from additional hours for annual monitoring and reporting and fees associated with enrollment in the CCAA, we have not seen a significant difference in cost. However, any changes to daily operations if the Monarch is listed, could incur significant costs to those unprotected by an agreement like the CCAA especially if their vegetation management program needs to change. A listing could create fear of incidental take which would potentially hinder efforts to remove invasive plant species. Removal of invasive vegetation has been a very effective habitat restoration tool. Additionally, there could be uncertainty if any critical habitat is assigned with the listing.

In some instances, ESA costs can be significant. Earlier this year the Committee heard from one of my co-op colleagues, Fred Flippance. In his testimony he noted that thirty cents of every dollar of the Oregon based Harney Electric Cooperative's power bill goes to fish and wildlife mitigation on the Columbia River System.

Conclusion and Endangered Species Act recommendations:

Electric co-ops support the underlying goals of the ESA, and we think it can be improved to work better for both endangered and threatened species and the communities where they are found. With that in mind we offer the following recommendations:

- A greater focus on species recovery;
- Focus critical habitat designations on specific geographic areas that are actually habitable where habitat features are present for one or more relevant species' life stages; and are sufficiently habitable for a species' long-term survival;
- Increase transparency in how the Act is implemented;

- Utilize data that is thorough, balanced, and based on scientific standards and impartial peer review;
- Prioritize proactive stakeholder collaboration, and state and local government engagement.
- Consideration of economic impacts in threatened species designations.
- Assess data and impacts within a reasonably foreseeable future timeframe.

A successful recovery of the Monarch Butterfly relies heavily on collective stewardship of lands across much of the nation. Instituting a cohesive plan for Monarch recovery through stakeholder's integrated vegetation management could accomplish more than enforcement through restrictive regulations. Unduly burdensome regulations would hinder cooperation and cause undue harm to time tested, science-based, proven protocols for promoting beneficial vegetation along utility rights-of-ways. Collaboration is key; restrictions are not.

ECE believes that through collaboration, education, and awareness, electric cooperatives can begin to focus on a future where ESA is implemented in a manner that benefits both species and communities and where pollinator habitat is synonymous with utility vegetation management. In that future, healthy ecosystems can exist under every power line, and work as nature intended while also providing affordable and reliable electricity.

Thank you for the opportunity to testify here today. I am happy to answer any of your questions.