National Rural Electric Cooperative Association
A Touchstone Energy® Cooperative

Glenn English
Chief Executive Officer

September 8, 2011

The Honorable Steven Chu
Secretary of Energy
U.S. Department of Energy
1000 Independence Ave., SW
Washington, DC 20585

Dear Mr. Secretary:

Thank you for requesting comments on the proposal to delegate certain Federal Power Act Section 216 authorities from the Department of Energy to the Federal Energy Regulatory Commission.

NRECA believes that the Nation needs to enhance the transmission grid to meet the needs of America's electric consumers reliably and economically and that federal transmission siting authority could promote that goal. For that reason, NRECA supported Section 1221 of the Energy Policy Act of 2005, filed an amicus brief in support of FERC in Piedmont Environmental Council v. FERC, 558 F. 3d 304 (4th Cir. 2009), filed an intervenor brief in support of DOE in The Wilderness Society v. DOE, 631 F.3d 1072 (9th Cir. 2011), and filed an intervenor brief in support of DOI in The Wilderness Society v. DOI, No. 3:09-cv-03048-JW (currently pending in the U.S. District Court for the Northern District of California).

While NRECA believes that the Department of Energy has properly utilized its Section 216 authority and that the Office of Electric Reliability and Energy Delivery did an excellent job on its earlier congestion studies, we also believe that the Section 216 process was severely undercut by the referenced Piedmont and Wilderness court decisions. The Federal government's ability to support the development of interstate transmission needs to be restored.

NRECA also believes both that DOE can delegate its Section 216 authority to FERC and that FERC has the capacity to perform those functions effectively. FERC has been fully engaged in the permitting and siting of energy projects for many decades. FERC already has in place staff of several hundred professionals in the Office of Energy Projects devoted to reviewing, coordinating and processing energy project applications. It is particularly relevant that the time for getting projects processed through FERC has trended downward over the years. These often huge infrastructure projects have involved hydropower dams and natural gas pipelines. Both have involved close coordination with multiple federal and state agencies and NEPA compliance.

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NRECA does, however, have two concerns with the proposal beyond the delegation of authority.

First, there does not appear to be clear language in Section 216 anticipating or authorizing the FERC to designate National Interest Electric Transmission Corridors on a case-by-case basis in response to specific requests separately from the triennial congestion studies. NRECA believes it would be unfortunate for the industry and the Administration to invest several years in a rule-making process and several more years in litigation only to have a court overturn a NIETC designation for that reason. It would likewise be unfortunate if the Administration were distracted by the proposal from pursuing other potential regulatory and legislative options that might more effectively and permanently enhance federal transmission siting authority. NRECA would hope that any statement adopting the proposal would firmly support the Administration's assertion of legal authority for adopting the proposal and would also assert the Administration's continued commitment to cement that authority through new legislation.

Second, the proposal does not clearly explain how the new FERC siting processes would relate to the existing Order No. 890 and future Order No. 1000 transmission planning processes. NRECA strongly supported Order No. 890 and sees much it agrees with in Order No. 1000. In fact, NRECA believes that transmission projects should only receive federal siting assistance if they arise from one of these planning processes. Care must be taken, however, to ensure that political concerns about federal siting, NEPA considerations, and other Sec. 216 considerations do not undermine the efficient operation of these regional and interregional transmission planning processes. Those planning processes should largely be technical engineering exercises driven by the future anticipated needs of load serving entities, consistent with Federal Power Act Sec. 217(b)(4), which directs FERC to "exercise the Commission's authority under the Act in a manner that facilitates the planning and expansion of transmission facilities to meet the reasonable needs of load serving entities".

NRECA does not here oppose a simple delegation of 1221 authority to FERC. However, NRECA cannot support the proposal as presented unless NRECA's concerns set forth above are addressed.

Thank you again for the opportunity to comment on this important proposal. I look forward to continuing to work with you on your efforts to strengthen the Nation's electrical infrastructure for the benefit of consumers.

Sincerely,

Glenn English