

MEMORANDUM

To: Chairman Jon Wellinghoff, FERC; Steve Black, Counselor to Secretary of the Interior, DOI; Lauren Azar, DOE; Jessica Zufolo, USDA

From: Katherine Kennedy, Natural Resources Defense Council; Ellen Vancko, Union of Concerned Scientists; Chase Huntley, The Wilderness Society; Seth Kaplan, Conservation Law Foundation; Beth Sohlt, Wind on the Wires

Date: September 9, 2011

Re: Comments by Eastern Interconnection Environmental Stakeholders regarding DOE delegation of National Interest Electric Transmission Corridors (NIETC) study and designation authority and §1221 backstop siting authority

The undersigned environmental organizations appreciate the opportunity to provide comments on the proposal under consideration by the Federal Energy Regulatory Commission (FERC), Department of Energy (DOE), Department of the Interior, Department of Agriculture and Council on Environmental Quality. Our organizations support the comments submitted by several Western Interconnection environmental stakeholders (Western Environmental Groups) on August 29, 2011, and we intend this memorandum to provide a complementary Eastern Interconnection perspective.

Our organizations advocate for responsible transmission development to deploy location-constrained clean energy resources in a manner consistent with the protection of sensitive habitats and species. We support federal efforts to eliminate the duplication of federal regulatory oversight and more efficiently consider renewable energy transmission proposals through interagency coordination and cooperation with state and local authorities. We are collectively engaged in regional planning processes, Order 1000 implementation efforts and state regulatory review processes across the Eastern Interconnection.

Our organizations generally support the proposal to delegate, from DOE to FERC, the authority to consider and determine NIETCs pursuant to §1221 of the Environmental Policy Act of 2005. We also believe that FERC's backstop transmission siting authority can be reshaped in a manner that will facilitate more effectively the development of new clean, renewable energy generation while ensuring that land and wildlife values are protected.

The proposal offers several benefits over the status quo, including:

- More specific NIETC applications with corridor-specific National Environmental Policy Act (NEPA) analyses will eliminate multiple reviews for both corridors and lines within the corridors, which reduces delays and expedites needed projects while providing for adequate environmental review.
- Narrowing the focus to practical transmission corridors rather than overly broad and controversial NIETCs that have led to litigation and significant state and NGO opposition.
- The requirement that a complete NEPA analysis is necessary for all lines approved through backstop siting authority. This requirement is essential for buy-in from environmental and other stakeholders.

- Reliance on Order 1000 regional planning process to select lines eligible for corridor designation. We agree with Western Environmental Groups that an explicit connection to Order 1000 public policy and diverse stakeholder participation requirements is a key reform.
- A powerful incentive for states to participate in regional planning and to engage in their own efficient and effective environmental review, balanced with the flexibility to allow for the completion of effective state review processes.

We agree with the Western Environmental Groups that whether these benefits are realized will depend in large part on the details of the rule FERC adopts to implement corridor designation authority and the NEPA rules around backstop siting authority. To ensure that the proposal succeeds in accelerating the facilitation of a cleaner, more diverse and appropriately sited electric grid, it is critical that the rule:

- Integrate the requirements of Order 1000 by:
 - requiring inclusion for purposes of cost allocation in an Order 1000-compliant regional plan as a prerequisite to corridor consideration (or, in the case of merchant facilities, an independent showing of qualification); and
 - ensuring that sufficient consideration of non-transmission alternatives to all proposed transmission lines takes place before FERC commences any NIETC consideration.
- Maintain the one-year state approval deadline under all circumstances.
- Make efforts to decrease the burden of stakeholder participation in contemporaneous state and federal review proceedings by:
 - providing aid for stakeholder participation to ensure all interested and affected constituencies can meaningfully engage in the corridor designation process; and
 - requiring coordination between state and federal authorities to avoid stakeholders having to duplicate required studies, analyses, testimony and other efforts.
- Provide adequate safeguards for sensitive wildlife and wild lands, including lands that have been permanently conserved, by establishing minimum criteria to be used in evaluating lines seeking NIETC consideration.
- Ensure that FERC's NEPA regulations provide for sufficient environmental review and meaningful stakeholder participation.
- Clarify how the proposal would incorporate multi-stakeholder transmission planning data being developed in both the eastern and western interconnections. Excellent analysis and advice will flow from these procedures and should be incorporated in efforts to designate NIETCs in an environmentally responsible manner.
- Clarify the role of land management agencies. If they are not co-leads for NEPA environmental review, they should be given a right of first refusal to be the lead agency as provided for in the existing interagency Memorandum of Understanding. There is no appreciable difference to wildlife and wild lands between a national interest line and a line not covered by this proposal, and empowering land management agencies to lead environmental review in coordination with FERC is

- more likely to result in permitting decisions with a minimum of controversy because only those agencies can identify potential natural and culture resource conflicts early.
- Provide preference for use of designated corridors for lines crossing federal lands.

Our organizations strongly support the Administration's efforts to get renewable energy resources and related transmission improvements interconnected as quickly as possible – these efforts are critical to the country's clean energy future. We look forward to continuing our work with you as the delegation process moves forward. Thank you for providing us the opportunity to share these views in advance of any formal rulemaking process.