

2011 SEP -9 P 2:53

**Timothy J. Sparks, P.E.**  
Vice President Energy Supply Operations

September 9, 2011

FEDERAL ENERGY  
REGULATORY COMMISSION

The Honorable Dr. Steven Chu  
Secretary of Energy  
United States Department of Energy  
1000 Independence Ave., SW  
Washington, DC 20585

The Honorable Jon Wellinghoff  
Chairman  
Federal Energy Regulatory Commission  
888 First Street, NE  
Washington, DC 20426

Dear Secretary Chu and Chairman Wellinghoff,

Consumers Energy Company, ("Consumers"), is providing these comments in response to the informal request for comments on a proposal regarding the possible delegation of the Department of Energy's ("DOE") responsibility to conduct transmission congestion studies and designate National Interest Electric Transmission Corridors, granted to the DOE by the Energy Policy Act of 2005, to the Federal Energy Regulatory Commission ("FERC"). Consumers is a public utility serving over 1.8 million residential, commercial and industrial customers in the Lower Peninsula of the State of Michigan. By providing these informal comments at this stage, Consumers is not surrendering any legal rights it may have to challenge any delegations granted by the DOE or to provide further comments as may be sought by the DOE, FERC, or other Federal agencies.

When Congress enacted the Energy Policy Act of 2005, it could have placed responsibility to conduct the required transmission congestion studies and to designate National Interest Electric Transmission Corridors ("NIETCs") with the same agency that was given backstop transmission line siting authority- FERC. However, Congress chose not to concentrate these authorities in a single agency. There has been no record developed to date to suggest that this decision was wrong, and there has been no analysis presented to us to demonstrate that the Secretary should or could over-ride this decision by Congress. At the very least, it is appropriate and reasonable that the Secretary and Chairman consult with Congress before the proposed delegation of the Secretary's authority is granted.

Consumers is also concerned with the process through which such a major public policy decision is being evaluated. The Chairman has conducted conference calls with several groups,

but not all stakeholders (or the public generally) have been notified of this possible action, and many have heard about it only through the trade press or through other groups. There has been no formal notice of the existence of the documents that the Chairman has relied upon in conducting the conference calls, and several of the documents appear to have been authored by a regulated entity without any opportunity for comments on the document to have been provided before the document was released to some (but not all) stakeholders. Consumers only heard about this informal opportunity to provide comments by talking to industry members who were involved in the conference calls with the Chairman. The lack of open and robust discussion of this proposal undermines Consumers confidence in the prudence of the proposal and its policy consequences.

A formal process must be established to consider whether the authorities to conduct congestion studies and designate NIETCs should remain with DOE or be delegated to FERC. Such a delegation has significant implications for the state permitting, siting and construction policies – and this informal comment process for which we’ve received about a week’s notice is entirely insufficient to address critical policy and legal issues related thereto. Accordingly, Consumers recommends the Secretary issue a public notice of the proposed delegation (and the basis for that delegation) in the Federal Register that solicits comment; provides sufficient time for the public to consider and frame comments, and provides an explanation justifying any resulting delegation order.

The Commission has not identified any transmission projects that have been delayed or unable to proceed because congestion study and NIETC authority rests with DOE. Before undertaking such a significant policy change, it should be the Secretary’s and the Chairman’s responsibilities to explain why these changes are needed and whether the benefits exceed the costs. The Secretary should also fully consult with the states – beyond this informal process – to fully understand their concerns before taking further action.

Sincerely,



/s/  
Timothy J. Sparks  
Vice President Energy Supply Operations  
Consumers Energy Company  
1945 W. Parnall Rd  
P13-415A  
Jackson, Michigan 49201  
(517) 788-1053  
[tjsparks@cmsenergy.com](mailto:tjsparks@cmsenergy.com)

cc. Lauren Azar, Senior Assistant to the Secretary  
Marc Spitzer, Commissioner  
Philip Moeller, Commissioner  
John Norris, Commissioner  
Cheryl LaFleur, Commissioner