



Department of Energy

Bonneville Power Administration
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GENERAL COUNSEL

September 9, 2011

In reply refer to: LT-7

Via Email

Mr. David H. Meyer
Office of Electricity Delivery and Energy Reliability
U.S. Department of Energy
1000 Independence Avenue
Washington, D.C. 20585-1000
congestion09@anl.gov

Dear Mr. Meyer:

Bonneville Power Administration ("BPA") submits these comments in response to the Department of Energy's ("DOE") notice and request for comments by September 9, 2011, regarding an additional delegation of authority to the Federal Energy Regulatory Commission ("Commission") for National Interest Electric Transmission Corridors ("NIETC"). DOE seeks comments on the Commission's proposal that DOE delegate congestion study and corridor designation authority that is assigned to DOE under Federal Power Act section 216, 16 U.S.C. § 824p ("section 216"). The Commission proposes to develop regulations for a project-specific corridor and permit application process if DOE delegates the requested authority.

As discussed below, BPA supports the Commission's proposed delegation, with the addition of a sunset provision at the end of five years. The sunset provision would result in a review of progress in developing new transmission under the Commission's procedures and a decision whether to continue or modify the delegation.

Section 216 provides a permit holder with federal eminent domain authority to build a transmission project in a NIETC corridor. Because BPA has federal eminent domain authority, section 216 does not provide significant benefits to BPA. BPA continues to expand its system as appropriate and needed.

BPA has observed contentious state siting proceedings that contributed to project delays. Such proceedings appear to be the biggest obstacle to construction of non-federal transmission. Limited federal eminent domain authority under section 216 could help getting more transmission built.

BPA provided technical comments and support to DOE's section 216 congestion studies and corridor designation, which BPA believes was a good faith effort to implement the statute.

Unfortunately, to this point the efforts have resulted in a modest increase in costs seeking to implement this legislation but no realized benefits.

The Commission's proposal to establish regulations for project-specific corridor designations appears to have some promise of increasing the efficiency and effectiveness of the process. However, the factors and processes described in the Commission staff paper linked on the DOE website regarding the proposed delegation are, understandably, not fully fleshed out and could present significant issues. If DOE makes this delegation, BPA supports the staff paper proposal to conduct a rulemaking, during which the Commission may carefully consider the views of all stakeholders and ultimately provide needed clarification.

Because it is not clear how this proposal will work and whether it will prove effective, BPA recommends a five-year sunset provision. Five years should be a sufficient period of experience for DOE and other parties to evaluate this approach and for DOE to determine whether changes would be appropriate, or whether the delegation should be terminated.

Respectfully submitted,



Charles H. Combs, Attorney
Bonneville Power Administration