

Alexander, Lynn

From: Myers, Karl <kmyers@tristategt.org>
Sent: Friday, April 01, 2016 5:03 PM
To: OERegs
Subject: RE: RIN 1901-AB36
Attachments: Corrected Tri-State Generation and Transmission Association Comments RIN 1901-AB36 Proposed IIP Rule.pdf

Tri-State Generation and Transmission Assoc., Inc. is re-submitting our comments to correct a minor error in our original submittal. Please disregard the previous letter and use instead the attached letter titled, "Corrected Tri-State Generation and Transmission Association Comments RIN 1901-AB36 Proposed IIP Rule." Thank you. Karl Myers/Tri-State

From: Myers, Karl
Sent: Thursday, March 31, 2016 5:00 PM
To: 'oeregs@hq.doe.gov'
Subject: RIN 1901-AB36

Tri-State Generation and Transmission Assoc., Inc. appreciates the opportunity to provide the attached comments on the Department of Energy (DOE) Notice of Proposed Rulemaking to amend its regulations governing coordination of Federal authorizations for electric transmission facilities pursuant to section 216(h) of the Federal Power Act (FPA).

Karl W. Myers

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TRI-STATE GENERATION AND TRANSMISSION ASSOCIATION, INC.

HEADQUARTERS: P.O. BOX 33695 DENVER, COLORADO 80233-0695 303-452-6111

April 4, 2016

Julie A. Smith
Office of Electricity Delivery and Energy Reliability (OE-20)
U.S. Department of Energy
1000 Independence Avenue, SW
Washington, DC 20585

Submitted electronically via email to: oeregs@hq.doe.gov

Re: RIN 1901-AB36
Coordination of Federal Authorizations for Electric Transmission Facilities,
Notice of Proposed Rulemaking, 81 Fed. Reg. 5383 (Feb. 2, 2016)

Dear Ms. Smith:

Tri-State Generation and Transmission Assoc., Inc. (Tri-State) appreciates the opportunity to provide comments regarding the Department of Energy (DOE) Notice of Proposed Rulemaking to amend its regulations governing coordination of Federal authorizations for electric transmission facilities pursuant to section 216(h) of the Federal Power Act (FPA).


Tri-State is a not-for-profit wholesale electric power producer/supplier that serves 44 rural electric cooperatives and public power districts in Colorado, Nebraska, New Mexico and Wyoming. Tri-State's member distribution systems serve nearly 578,000 metered customers (translating to a population of more than 1.4 million people). Tri-State's 200,000-square-mile member service territory includes all or parts of 56 of Colorado's 64 counties, all or parts of 27 counties throughout New Mexico, all or parts of 20 counties in western Nebraska and all or parts of 14 counties in central and northern Wyoming. Tri-State's transmission system includes approximately 5,306 miles of high voltage transmission line and 217 substations and switching stations. Over 35 percent of the land in Tri-State's service territory is managed by the Bureau of Land Management (BLM) and the Forest Service (Forest Service). Tri-State routinely engages with these federal agencies in applying for new or amending and renewing existing permits and grants for transmission projects.

Tri-State has previously provided responses to DOE Requests for Information (RFI) on improving the efficiency of transmission line permitting on federal lands including:

- March 28, 2012 letter sent to Mr. Lamont Jackson in response to Rapid Response Team for Transmission (RRTT) questions about incongruent time lines associated with permitting generation and transmission facilities
- October 31, 2013 letter to Julie Smith and Christopher Lawrence on Improving Performance of Federal Permitting and Review of Infrastructure Projects

DOE has made a worthy effort to improve and simplify the Interagency Integrated Planning (IIP) process with the proposed rule. It is a very challenging task to improve a process that is inherently complex given the wide variety of federal, state and local entities involved in siting and permitting major electric transmission line projects. The proposed rule offers Proponents a roadmap for meeting pre-application requirements across multiple jurisdictions and includes positive features such as:

AN EQUAL OPPORTUNITY / AFFIRMATIVE ACTION EMPLOYER

A Touchstone Energy Cooperative 

CRAIG STATION
P.O. BOX 1307
CRAIG, CO 81626-1307
970-824-4411

ESCALANTE STATION
P.O. BOX 577
PREWITT, NM 87045
505-876-2271

NUCLA STATION
P.O. BOX 698
NUCLA, CO 81424-0698
970-864-7316



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- **Optional for Project Proponents:** The IIP process is voluntary so Proponents can decide if they want to avail themselves of the process if they have a Qualifying Project and see a defined benefit and improved likelihood of regulatory certainty.
- **Single agency point of contact:** The process is coordinated by a single agency point of contact responsible for coordinating with other Federal and non-Federal agencies (tribal, state, or local governments).
- **Coordination Opportunity for all:** The IIP process provides an opportunity for non-Federal agencies to coordinate separate non-Federal permitting and environmental reviews with that of the Federal permitting agencies. This is particularly important since private land is usually interspersed with public land for large projects. Non-federal agencies (like local states and counties) have their own process for siting and permitting transmission lines which may conflict with federal plans.
- **Information technology:** The required use of information technology will reduce costs while increasing participation and provide opportunities to participate remotely if travel budgets are limited.

Less desirable, unclear and potentially problematic aspects of the proposed IIP process include:

- **Participation:** Participation is optional so Federal and non-federal entities vital to a successful pre-application process may be missing from the process. Without the full spectrum of affected Federal and non-Federal Entities participating in the process, there will be information gaps that reduce the ability of the process to inform the application and subsequent NEPA process.
- **Schedule:** A timeline summary of the IIP process including milestones would be helpful in the final rule. The time it would take to complete the IIP process was of primary concern to Tri-State and many commenters when the process concept was originally released in 2013. By most accounts, the originally proposed IIP process would take a total of 615 days or about 20 months to complete. Tri-State commends the DOE for realizing this was too long and that the IIP was not so much informing the NEPA process but actually delaying it.

The revised and improved IIP in the proposed rule takes about 322 days or 10 months. This "savings" of 10 months appears to be the result of DOE taking two key components of the original IIP process, the Study Corridor and Route Meetings, and moving them to the Initiation Request. All this corridor/route development still needs to be completed, but it no longer counts against the IIP process time since the Proponent is doing it all prior to the initiation of IIP.

So the proposed IIP process was simplified by moving the bulk of the preparation work to the "Pre-IIP" process. If you factor in the time needed to prepare the Initiation Request (6 to 12 months), then go through the proposed IIP process (10 months), then you are closer to the original length of the original RFI proposed IIP process timeline of 20 months. The NEPA process, where real streamlining and efficiency improvements are needed, will be delayed by as long as 20 months with the implementation of the proposed IIP Process.





- **No mechanism for early participation of Federal Entities:** It appears Federal entities are not formally engaged in the IIP process until requested by the DOE following an acceptable Initiation Request, which leaves the Proponent to prepare the Initiation Request without the input of the Federal entities. The problem with this sequence is that Proponents must engage stakeholders in a comprehensive outreach and formulate a project plan with corridors, routes, impacts, etc. without Federal input, guidance, or agency resource data, etc. The Proponent runs a high risk that the Initiation Request will be deficient if it fails to take into consideration agency goals, objectives, plans, land and resource management plans, resource constraints, and related data that can be best acquired through meeting with the Federal entities.
- **Initiation Request:** Preparing the information needed to satisfy the Initiation Request represents a substantial level of effort akin to preparing a NEPA document like an Environmental Assessment. This similarity is shown with the following list that pairs NEPA-required documentation with the corresponding Initiation Request equivalent shown in parentheses: Scoping (Stakeholder Outreach, Early Identification of Project Issues); Project Description (Summary of Qualifying Project), Purpose and Need (Project Proponent's Interests and Objectives); Affected Environment (Affected Environmental Resources); Environmental Consequences (Impacts Summary). Including all the attendant maps and graphics in the Initiation Request will be a substantial body of work that may take 6 to 9 months to prepare and will all be largely repeated, revised and redone when the NEPA process is initiated.
- **Stakeholder Outreach:** Early Proponent outreach meetings in the Initiation Request stage engage the public and stakeholders and help identify issues. However, the proposed rule states that none of the IIP Process-related public outreach can replace the Federal entity's public scoping requirements under NEPA. So after the Proponent implements the Public Outreach Plan as part of the IIP, the lead federal agency will reengage the public at the start of the NEPA process. This redundancy will likely confuse and frustrate the public who will have assumed that their input has already been heard and considered. Also, anyone providing input is likely unaware they have to repeat their input to receive standing in the subsequent NEPA process.
- **Cost Recovery:** DOE states that "each Federal agency will make its own determination regarding its participation and use of resources." The fact remains that Federal entities like the BLM and Forest Service are unable to work on a Proponent project unless there is a mechanism in place to recover their costs. Gaining their voluntary participation is possible to generally discuss a project, but engaging them in meaningful and productive participation (such as would be required to participate in the Initiation Meeting and Review the Initiation Request) requires a commitment of time and resources that is highly unlikely without a cost recovery agreement.
- **Initial Meeting:** The amount of guidance that Federal entities will be able to provide at the Initial Meeting, relative to potential resource concerns, will be minimal given they will only have 30 days to review the Initiation Request. The larger the project, the more broad this guidance will be. It would be more useful to focus on regulatory process requirements and schedule, with an emphasis on the format and content of information needed from the Proponent.
- **IIP Process and NEPA:** The RFI notes that the IIP Process is not part of NEPA or other environmental and review processes but can inform these processes. Additionally, input and feedback provided by the Federal agencies is "preliminary" and "would not constitute a



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commitment to grant a Federal Authorization". No agency can determine preferred Study Corridors or Proposed Routes, or even a reasonable range of alternatives for NEPA purposes prior to the formal NEPA process. Given these regulations, it may be counter-productive for Project Proponents to engage in a 12 to 18-month long IIP process (6-12 months to prepare Initiation Request plus 8 months to participate in Initiation and Close-out Meetings) to merely "inform" the NEPA process. Time would be better spent initiating NEPA sooner in the IIP Process so that important milestones like cost recovery agreements, outreach, agency consultation, and corridor and route identification can "count" for something, and won't need to be duplicated in the NEPA process at a later date.

Recommendations

What is needed to make the IIP truly beneficial for project applicants? Further benefits would be realized if DOE looked beyond IIP and analyzed the current system of permitting transmission lines as it occurs through the NEPA process. We contend the solution must focus on the programs and procedures federal agencies currently have in place to process applications. FLPMA and NEPA provide the structure, but it requires agencies and their top-level leaders to commit to a project and dedicate the resources needed properly implement the process.

The presence of multiple agencies in the decision process invariably leads to mission clash; the objectives and priorities of each agency are different and reconciling those incongruities is time-consuming and difficult. DOE could serve an important role in facilitating resolution of these conflicts if they were more integrated into the NEPA process for the duration of the project. Additionally, the continued involvement of the DOE would provide more regulatory certainty, which could create more accountability for agency adherence to timelines.

Tri-State is willing to participate in further discussions as you review this and other commenters' responses and formulate next steps. If you have any questions, please contact Karl Myers, Transmission Siting, Permitting and Environmental Planning Manager (303-254-3448, kmyers@tristategt.org).

Sincerely,

Joel K. Bladow
Senior Vice President, Transmission

