



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

**RE: Comments on Proposed 216(h) Regulations, Notice of Proposed Rulemaking**

Dear Mr. Mills:

Clean Line Energy Partners LLC (Clean Line) respectfully submits the following comments to the Department of Energy (DOE) in response to proposed amendments to Section 216(h) of the Federal Power Act (FPA), as published in the Fed. Reg. 77432 (December 13, 2011). The proposed rule would require permitting entities to inform DOE of requests for authorizations required under Federal law for Qualifying Projects, as well as establish a process whereby applicants for Federal authorizations for interstate electric transmission facilities that are not Qualifying Projects can request DOE assistance in the Federal authorization process. The proposed rule provides for the selection of a Federal Lead Agency, a consolidated administrative record, the establishment of intermediate and final deadlines, and a date certain after which all permit decisions and related environmental reviews shall be completed, as practicable in compliance with Federal law.

Clean Line is actively developing high-voltage interstate electric transmission facilities for the purpose of connecting the best renewable energy resources in North America to major markets and demand centers. To successfully develop these multi-jurisdiction transmission facilities, Clean Line engages a substantial and widespread array of stakeholders, including Federal, state, and local entities. Clean Line has also submitted a proposal to the DOE and the Southwestern Power Administration (Southwestern) in response to the *Request for Proposals for New or Upgraded Transmission Line Projects Under Section 1222 of the Energy Policy Act of 2005* (EPAAct05), 75 Fed. Reg. 32940 (June 10, 2010).

Clean Line generally supports the proposed rule's goal of providing a timely coordination process for Federal authorization of transmission infrastructure, to the extent that process is uniform, consistent, transparent, and compliant with Federal law. The value of coordination is underscored by the participation of nine Federal agencies in the 2009 MOU. Clean Line supports codification of the coordination process in this rule; however, the applicability of this proposed rule is limited to projects under Section 1221 of the EPAAct05. The rule limits applicability [Sec. 900.2(c)] by excluding facilities constructed by Federal Power Marketing Administrations (PMAs). Congress authorized a second program under Section 1222 of the EPAAct05, allowing the Southwestern Power Administration and the Western Area Power Administration to partner with the private sector for to develop new and modify existing transmission infrastructure.. The DOE should expand the applicability of this proposed rule to



the Section 1222 program and further clarify that projects under Section 1221 and 222 could involve participation by a PMA. In addition, the American Recovery and Reinvestment Act provided bonding authority to the Western Area Power Administration. Clean Line encourages the DOE to ensure that partnerships entered into pursuant to this authority be included as a Qualified Project under this rule. This level of coordination would give private investment the regulatory certainty needed to make significant investments in the aging transmission infrastructure of this country.

Clean Line supports DOE serving as a Lead Agency in circumstances where they or PMAs are in a permitting role. The DOE should consider delegation of the environmental impact statement (EIS) to the Federal Energy Regulatory Commission (FERC), specifically in cases where linear infrastructure is involved. The FERC already has a pre-filing process in place for transmission lines and a staff with experience in siting and permitting interstate linear energy infrastructure projects. Better utilization of FERC processes to permit infrastructure would be very helpful to industry. Delegation of the EIS preparation would not alter DOE's final decision making authority with respect to the Record of Decision or other formal decisions on project participation.

The proposed rule [Sec. 900.2(a)] grants the Director of Permitting and Siting sole discretion over the applicability of Section 900 to Other Projects (those projects that are not Qualifying Projects). Clean Line believes that that this authority would be more appropriately assigned to the Assistant Secretary, Office of Electricity Delivery and Energy Reliability, or other such person that is subject to Senate confirmation.

Finally, the proposed rule establishes several timelines for various procedures, including permit decisions. Clean Line strongly supports establishing timeframes and the reasonable enforcement of the same, given compliance with appropriate regulations. These timeframes help provide investment certainty and forward progress during project development.

Sincerely,

/s/ Jimmy Glotfelty

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