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*VIA EMAIL DELIVERY*

March 28, 2012

Lamont Jackson  
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U.S. Department of Energy  
1000 Independence Avenue SW  
Washington, D.C. 20585  
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Re: Request for Information, OE Docket No. RRTT-IR-001, Rapid Response Team for Transmission

Dear Mr. Jackson:

TransWest Express LLC (TransWest) appreciates the opportunity to respond to the Department of Energy's questions related to permitting transmission lines, as outlined in the February 27, 2012, Federal Register notice. Per your request, the role of our company in the electric sector is as follows.

TransWest is an independent transmission developer that is focused on permitting and developing the TransWest Express Transmission Project (TWE Project). The TWE Project is one of the seven transmission projects identified by the Rapid Response Team for Transmission (RRTT) in October 2011, and it is the only RRTT project designed to deliver high-capacity renewable energy to the highly-populated Desert Southwest markets in Arizona, Nevada and Southern California.

The TWE Project represents a massive investment in strengthening the western U.S. power grid. With 3,000 MW of capacity and a 600 kV direct current design, this 725-mile system will provide a much-needed transmission backbone between the Intermountain and Desert Southwest regions. There is no way to connect these two regions without crossing federally owned land. In line with federal energy policies, approximately 67% of the proposed route is sited on federal land mainly administered by the Bureau of Land Management and U.S. Forest Service.

The need for systems like the TWE Project dates back to regional transmission studies performed in the early 2000s. In November 2007, previous developer National Grid filed the first preliminary right-of-way application and a plan of development with the U.S. Bureau of Land Management (BLM) for the TWE Project. TransWest Express LLC acquired the TWE Project in July 2008, taking over the project's development, and filed with BLM an amended preliminary right-of-way application in December 2008 and amended plan of development in January 2009.

BLM and Western Area Power Administration (Western) are preparing an Environmental Impact Statement (EIS) for the TWE Project in compliance with the National Environmental Policy Act (NEPA). To date, a Notice of Intent has been published and public scoping completed in the first quarter of 2011. A Draft EIS is anticipated to be released in summer 2012.

## **Comments**

**1a.** *Describe the challenges created both by the timeline for obtaining regulatory permits for transmission and by the Incongruent Development Times.*

### **The Basic Dynamic**

The greatest challenges created by the timeline for obtaining regulatory permits for transmission are (1) the uncertainty of the outcome of the federal permitting process, (2) the uncertainty of the timeframe to reach the outcome and (3) the typically long length of the process generally. These challenges create great uncertainty in planning, executing and financing transmission projects. This uncertainty is a strong deterrent to developing transmission.

The uncertain and difficult timeline for permitting transmission shapes and sustains the Catch-22 problem identified by the Department – where generators will not commit to build generation without assurance of transmission, and transmission developers will not commit to build transmission without assurance of generation. The way around this Catch-22 is to develop and build both the generation and transmission at the same time, so that both come on line together. But this is a formidable challenge because long transmission lines can take a decade or more to permit and build while new generation facilities can often be permitted and built in less than three years. Timing is therefore crucial. But the lengthy and uncertain federal permitting process for transmission makes timing extremely difficult to predict and manage. The result is that everything bogs down in transmission permitting (including generation development). Thus, the difficulties of permitting transmission is a primary reason why major new transmission projects have not been built and why high-quality, remote renewable energy resources have not been developed on the scale now required in the United States.

TransWest's responses below elaborate on these challenges created by the federal permitting process and how they impede developing transmission and generation that should be built today.

### **Transmission Permitting Creates High Development Risk and Difficulty**

The transmission developer must make large capital expenditures in order to obtain the necessary regulatory permits for the project. Extensive and costly operational plans, engineering and design work, and environmental studies must be performed. Working with the federal agencies and stakeholders is also time and cost intensive. Plus, the permits are so critical to the project that it is very difficult to attract capital investment until they are obtained. So the developer usually bears these major up-front costs while also bearing the extreme risk of not ultimately obtaining the permits. This is a central challenge created by the uncertainty and length of the transmission permitting process.

In addition, the uncertainty and length of transmission permitting makes the other transmission development work very difficult to plan and execute. The other critical tasks for transmission – such as engineering, design, business model development, procurement and related work – all have definitive timelines that can be accurately predicted and planned for by developers. But it is difficult to execute these tasks and to coordinate them with

permitting when developers have no concrete knowledge about when or if federal agencies will ultimately grant the rights-of-way over federal lands.

Consequently, acquiring rights-of-way over federal lands becomes the primary task upon which the entire development schedule turns. For example, rights-of-way over state and private lands cannot be acquired until the federal agencies involved decide on the rights-of-way over federal lands. Engineering and design must consider the topography of the line route and any special requirements or considerations that must be addressed that may impact the type of structure used, span length, or how the line will be constructed. And, of course, the business model ultimately depends on when the transmission line is scheduled to be energized. In this way, the federal permitting process dictates all other development work.

Granting the federal rights-of-way for transmission is thus the watershed moment in developing the transmission project. Yet prior to this moment, significant capital must be spent to advance critical development tasks that cannot ultimately be completed until the federal rights-of-way are obtained. Those tasks are costly and difficult to perform, and the risk to the developer is very high and difficult to share. Then, if the rights-of-way are finally granted, the many project elements must suddenly fall into place quickly and at once, as the developer is finally able to complete development activities that have awaited federal agency approval for the project.

### **Transmission Permitting Deters Development of Remote Resources**

Multiple strong economic and environmental cases have been made for remote renewable resources delivered by new transmission lines to densely-populated markets, as recognized by the Department of the Interior, Department of Energy, and others. The higher quality and higher volumes of renewable energy available in some remote areas greatly offsets the increased amount of capital required to build the transmission capacity. For example, the DOE-sponsored 10-Year Regional Transmission Plan, produced by the Western Electricity Coordinating Council in 2011, found that cost-effective remote resources could potentially provide hundreds of millions of dollars of savings for ratepayers per year as compared to local renewable resources.

Unfortunately, the lengthy and uncertain federal process for permitting transmission projects deters the development of such high quality and cost effective remote energy sources. This is because such generation projects require new transmission lines while local generation projects can easily interconnect to existing transmission infrastructure. Thus, local projects are viewed as more certain and faster to develop. The WECC 10-Year Regional Transmission Plan identified “Environmental siting and permitting” of transmission as a high impact driver when considering remote resources. Several stakeholders within the Regional Transmission Expansion Planning process cited the risk of permitting and siting long distance transmission as a reason to discontinue pursuit of these projects, notwithstanding the highly beneficial economic advantages.

The typical model for transmission and generation development strongly favors natural gas plants and renewable resources that can be located close to load centers and transmission facilities. For example, many developers would rather incur the costs to locate a natural gas plant near base loads and existing transmission (*e.g.*, costs to pipe gas from remote areas, install different cooling systems and upgrade existing transmission facilities) rather than

incur the costs and bear the risks of permitting a new transmission line to deliver power to the base load from the remote gas field. This occurs even though higher quality and higher volumes of renewable energy available in some remote areas would offset the increased amount of capital required to build the transmission capacity. As a result, ratepayers pay more for lower-quality local renewable power because developers are so afraid of the federal government's typically long and uncertain transmission permitting times.

**1b. *To what extent do the Incongruent Development Times hamper transmission and/or generation infrastructure development.***

Very little large-scale transmission infrastructure has been built on a merchant basis in the United States in the last 50 years. This is largely a result of the lengthy and uncertain timeframe to obtain federal permits for such transmission projects. The causal connection is clearly perceived and understood. The problem requires regulatory solutions to simplify and streamline federal permitting processes and create more certainty for developers.

**1c. *What are the primary risks associated with developing transmission vis-a-vis the timeline for obtaining Regulatory Permits as well as the Incongruent Development Times?***

The primary risks include:

**Loss of Capital.** As stated above, transmission developers are required to make major capital expenditures up-front in the project just to be able to acquire the necessary permits from federal agencies. There is a risk of losing this capital if the project is not ultimately permitted. The length and uncertainty of the federal permitting process greatly amplifies this risk. Typically, developers cannot share this risk with investors.

**Loss of Reputation.** Similarly, transmission developers also risk a loss of reputation in failing to successfully navigate the federal permitting process. For this reason many developers will not undertake the formidable challenge of permitting a transmission project across federal lands.

**Higher Rates for Consumers.** As stated above, the uncertain and lengthy timeframe to permit a transmission project across federal lands deters the development of remote generation projects that can deliver higher quality and more cost effective renewable power to consumers than locally generated renewable power.

**Loss of Renewable Energy.** Many of the most high-quality and cost effective renewable energy generation projects require new transmission across federal lands to deliver power to the base load. The deterrent created by the federal permitting process for transmission threatens to significantly reduce the amount of renewable energy in the market.

**Loss of Grid Reliability.** New large-scale transmission infrastructure is now required to improve grid reliability and performance. Permitting the construction of such infrastructure will require federal approval because federal lands will be involved. The length and uncertainty of obtaining the federal permits will deter construction of this critical new infrastructure.

**1d.** *How is the financing for developing the attendant transmission influenced by its lengthy development time and by the Dissonant Development Times?*

In general, infrastructure projects have four main phases: conceptual development, development, construction and operation. The first three phases involve putting money at risk, and each successive phase typically involves costs that are an order of magnitude or two above the previous phase. The longer and more uncertain the development timeline the more difficult it is to raise development capital, regardless of a project's strong fundamentals. This is particularly true where the timeframe almost always tends to lengthen, as is the case with federal permitting processes. A predictable and reliable timeframe for reaching permitting decisions is critical to attract investment in the transmission project prior to obtaining the critical federal permits. Absent this predictability, the result will be the status quo: almost no outside investment in transmission projects prior to successfully completing the permitting process.<sup>1</sup>

Independent transmission developers often try to secure development capital from generation developers, who are their future shippers. Given the amount of dollars at risk (in the transmission and generation projects), the developers want to shorten the development time as much as possible. Therefore the lengthy and uncertain timeframe to permit the transmission line across federal lands becomes a central factor in the risk profile of the investment. It is often easier for developers to find generation projects, even sometimes less economic ones, that are relatively close to transmission to avoid the transmission project's permitting risks. The result is the Catch-22, where neither the remote generation project nor the transmission project is built.

Federal agencies obviously cannot guarantee the outcome of the permitting process, but they can greatly decrease the uncertainty involved for a financier by assuring a shorter and predictable timeframe to reach the outcome. This will greatly alleviate the risk to transmission developers by allowing risk sharing with capital investors, which will spur more transmission development and therefore more development of associated remote generation.

**1e.** *How if at all, do development timelines and the Incongruent Development Times affect the decisions made in utilities' integrated resource planning, if applicable?*

TransWest is not a utility. It is our understanding, however, that integrated resource planning is typically a scenario-based forecast planning process that uses sophisticated risk management techniques. Therefore, if the ITD introduces significant risks as to the timing of and the likelihood of particular generation or transmission projects being built, utilities may decide to purchase or develop energy from 'more certain' sources, instead of the 'most economic' or 'environmentally friendly' resources.

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<sup>1</sup> Notably, utilities may typically request and receive "abandoned plant" protections, funded by their ratepayers, for money prudently spent during development that did not result in a project. However, this type of guarantee is typically not available to independent transmission developers.

**1f. *How do development timelines and the Incongruent Development Times affect the ability of parties to enter into open seasons or power-purchase agreements?***

Incongruent Development Timeframes adversely impact the ability of transmission developers to hold “open seasons” that are successful in allocating the capacity of a transmission line. Generators are keenly aware that transmission projects are expensive, complex and risky. In an uncertain economic climate where raising capital is difficult, generators are unwilling to make a firm, long-term financial commitment many years before either the transmission project or their generation project is built. For example, one project, Chinook, was temporarily “shelved” due to lack of interest during its open season.<sup>2</sup>

The same problem arises for generation developers in securing a power purchase agreement for their generation project. A power purchase agreement is indispensable to building new generation. But utilities faced with power purchase proposals from generation developers that include transmission under development will view this as a significant risk as compared to other proposals from generation developers that already have access to transmission.<sup>3</sup> Utilities are also keenly aware that transmission projects are expensive, complex and risky. They are particularly cognizant of the risk to their PPA posed by a lengthy and uncertain timeframe for permitting the transmission line. A shortened and more predictable timeframe will greatly encourage the execution of PPAs for generation projects that depend on building new long-distance transmission for delivery of the power.

**2. *Besides improving the efficiency of permitting and approving transmission, are there any other steps the federal government could take to eliminate the barriers created by the Dissonant Development Times?***

The current transmission/generation development model prioritizes generation development that is close to existing transmission and upgrading existing transmission to accommodate the increased load. We now need to promote a model of building high quality, cost-effective, remote generation and the transmission to get it to market with a transmission-first development model.

Federal agencies should adopt policies and regulations that promote a transmission-first model because it can solve the Catch-22 problem. The model recognizes that a transmission line project requires an economy of scale to be profitable (i.e., a large, up-front capital outlay), while generation projects can be profitable when developed one by one along the line in response to specific needs of the base load over time. Thus, it makes sense to develop the large transmission capacity before developing the series of generation projects that will use the line.

This type of transmission-first approach has been used successfully in Texas and California. Generally this approach is referred to as least-cost integrated resource planning/development. This approach requires funding the up-front development of transmission before the commercial

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<sup>2</sup> See Report on the Open Season for Chinook Power Transmission LLC in Docket No. ER09-432-000 (Jan. 14, 2011).

<sup>3</sup> If a power purchaser is willing to endure the permitting risk on the transmission line, then this will come at a great cost to the generation developer, expressed either in a reduced rate for the power, some form of liquidated damages or more expensive financial security during the development phase.

transactions are in place for the generation resources that would utilize the transmission. The up-front costs are typically paid by the ratepayers that will benefit from the resource development.

In California, the Tehachapi and Sunrise transmission projects are examples of transmission developed using the transmission-first model. These transmission projects were approved for development ahead of specific Power Purchase Agreements with generators or Transmission Services Agreements being in place. Now that these transmission projects are being built, generation enabled by the transmission is being developed and PPAs and TSAs are being executed. In Texas, proposals were developed and solicited for various transmission solutions and awarded transmission projects ahead of specific Power Purchase Agreements with generators or Transmission Services Agreements being in place.

This approach, however, has not yet been used successfully on a regional basis. Moreover, federal agencies have yet to reduce the risks in developing long-distance transmission lines, which means that the agencies must streamline, shorten and make more predictable the federal permitting process.

See also, the second part of the response to Question 3 regarding the policies of the Federal Energy Regulatory Commission.

*3. What strategies can the Federal government take to decrease the time that Federal agencies require for evaluating Regulatory Permits for transmission? What other steps can the Federal government take to address the challenges created by Incongruent Development Times?*

**Strategies that the Federal government can take to decrease the time that Federal agencies require for evaluating Regulatory Permits for transmission include:**

1. As an initial matter, the creation of the Rapid Response Team for Transmission is a meaningful step towards the goal of decreasing the time required by federal agencies to evaluate regulatory permits. The commitment to implement the goals outlined in the 2009 MOU of (a) coordinating statutory permitting, review and consultation schedules and processes; (b) applying a uniform and consistent approach to consultations with Tribal governments; and (c) expeditiously resolving interagency conflicts and ensuring all parties are fully engaged and meeting schedules, recognizes the major steps that need to be taken to streamline the federal permitting process while meeting the obligations under NEPA and other applicable statutes. The following additional comments reflect specific strategies that TransWest believes would assist in implementing these goals.
2. Provide a national project manager with supervisory line authority from the lead federal agency/agencies responsible for NEPA compliance who will oversee, supervise and closely coordinate activities to maintain an agreed-upon schedule for the required environmental analysis, such as an Environmental Impact Statement (EIS). The project manager would be responsible for:
  - Working with the proponent transmission developer and the participating federal agencies involved to create an integrated schedule to complete the EIS on a timely basis.
  - Monitoring the schedule for completing the EIS to insure that the schedule is adhered to and that plans are developed and implemented to address schedule delays.
  - Monitoring consultation schedules such as those required under Section 7 of the Endangered Species Act and Section 106 under the National Historic Preservation Act.

- Supporting project managers and project resource leads in resolving inter- and intra-agency conflicts and providing a mechanism to insure consistency of approach and analysis.
- Working with federal lead agencies and cooperating federal agencies to identify an Agency Preferred Alternative in the Draft EIS. Selection of an agency preferred route at this stage would help developers and stakeholders assess permitting risks and also improve the development timeline. Including an agency preferred route in the Draft EIS also would signal a good faith attempt by the agencies to limit the uncertainty and timing of obtaining a permit.

TransWest has already spent over three years and has invested millions of dollars in the process of seeking federal rights-of-way for the TWE Project. TransWest has Cost Recovery Agreements with the BLM, the U.S. Fish and Wildlife Service (through the BLM), and the U.S. Forest Service, and has paid \$1.5 million to date to ensure that funds are available for the agencies to properly and completely staff the necessary environmental analysis. In addition, TransWest is paying the cost, to date approximately \$6.2 million and with a total estimated cost of \$10.7 million, to provide the BLM and Western with a third-party EIS contractor to assist the agencies in completing the EIS.

TransWest understands that there are statutory and regulatory requirements that must be fulfilled prior to a Record of Decision being issued. These requirements, however, can and should be fulfilled in a timely manner – especially where, as here, TransWest is providing the appropriate support.

3. In addition to the national project manager with supervisory line authority, there should be experienced team leads for each resource area, such as biology and cultural, with supervisory line authority. These team resource leads would oversee, supervise and coordinate activities among the various field offices in their resource area. Team resource leads would ensure that field offices are consistent in their application of various agency policies and regulations and would invoke their supervisory line authority to resolve disagreements among field offices.
4. TransWest understands that each agency with jurisdiction by law has an independent legal obligation to comply with NEPA. The applicable regulations, however, allow cooperating agencies to adopt a lead agency's EIS if it concludes that its NEPA requirements and its comments and suggestions have been satisfied. The structure then is already in place for multiple agencies to cooperate and participate in the preparation of one EIS. This prevents duplicative applications, analysis and increased costs. When agencies refuse to be cooperators and instead require that separate right-of-way applications based on Standard Form 299 be filed and separate environmental analysis take place, costs are increased and the overall schedule is negatively impacted. If the agency does not act as a cooperator, but later wants to adopt the EIS, it must be recirculated as a final EIS, followed by the 30-day review period and issuance of a Record of Decision by the adopting agency. This too impacts the schedule; in addition, the likelihood of an agency adopting an EIS that it did not participate in or comment on as a cooperating agency is low. Therefore, agencies considering the same developer proposed action of granting rights-of-way for transmission should be required to act as cooperating agencies along with the lead agency and fully participate in the EIS process so that the EIS being prepared meets the purpose and need of the agency as well as any special legal requirements.
5. When questions are raised on issues relating to permissible uses of certain federal lands, provide mechanisms for early agency review and decision.



### **Other steps the government can take to address the challenges relating to IDT:**

The Federal Energy Regulatory Commission (FERC) should reject a recent staff proposal to scrap the anchor shipper model and return to a 100% open season model. Not only should the anchor shipper framework be retained, it should be expanded to further encourage the development of merchant transmission.

The problem facing transmission developers is finding sufficient credit-worthy shippers willing to financially commit early in the development phase in order to move a project forward. The Commission's current policy of allowing the allocation of capacity to anchor shippers provides some degree of certainty to merchant transmission developers that the cost of the facility will be recoverable in a predictable manner based on the financial commitment of long-term customers. Similarly, the anchor shipper policy provides generation developers with the assurance that they will be able to get their product to load centers on a long-term and cost-effective basis.

Up to the present time, the Commission has approved an anchor shipper model where a majority of the capacity, but not the entire amount has been allocated to an anchor shipper. The commission's policy should be expanded to permit developers to subscribe 100% of the available capacity to an anchor shipper. In addition, the Commission should allow affiliates to become anchor shippers. This would allow developers the opportunity to develop not only generation but also the transmission they need to get their energy to the markets – giving them some control in addressing the “chicken and egg” issue.

In sum, as recognized by the U.S. Department of Energy, new transmission will not be built “regardless of need or merit” unless market participants have a “very high degree of certainty that the cost of the facility will be recoverable in a predictable manner.”<sup>4</sup>

**4. *One way to make the Regulatory Permit process and development times between remote generation and attendant transmission more commensurate, is to decrease the time for permitting transmission by some amount. In determining how much time can be saved, developing a benchmark may be helpful. What benchmark should be used?***

There are three benchmarks that should be considered: (1) the applicable statutory and regulatory guidance; (2) the average NEPA compliance time for other complex energy projects; and (3) the time it takes to permit and build generation projects.

First, the Federal Power Act (FPA) provides statutory guidance as to a benchmark for completing the required compliance with NEPA. The FPA provides that “once an application has been submitted with such data as the Secretary considers necessary, all permit decisions and related environmental reviews under all applicable Federal laws shall be completed . . . within 1 year.”<sup>5</sup> The Council on Environmental Quality advises that “under the new NEPA regulations even large complex energy projects would require only about 12 months for the completion of the entire EIS process.”<sup>6</sup> The

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<sup>4</sup> 20% Wind Energy by 2030: Increasing Wind's Contribution to U.S. Electricity Supply at 93 (2008), available at <http://www.nrel.gov/docs/fy08osti/41869.pdf> (last accessed March 27, 2012).

<sup>5</sup> 16 U.S.C. § 824p(h)(4)(a).

<sup>6</sup> See CEQ, “Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations” (Mar. 16, 1981), available at <http://www.ceq.hss.doe.gov/nepa/regs/40/40p.3.htm> (Question 35 and Answer).

Council recognizes that “ some projects will entail difficult long-term planning and/or the acquisition of certain data which of necessity will require more time for the preparation of the EIS [and that] some proposals should be given more time for the thoughtful preparation of an EIS and development of a decision which fulfills NEPA's substantive goals.”<sup>7</sup> Even assuming, however, that a long-distance transmission project will require more than 12 months, extending the timeframe to 7 years, the timeframe based on the current schedule for the TWE Project, is unreasonable.

Second, the average NEPA compliance times across a range of energy development and management activities should be reviewed with consideration for whether the average permitting time for a transmission line is commensurate with its relatively low environmental impacts. While not inconsequential, the environmental risks typically associated with a transmission line are exponentially lower than what are typically associated with nuclear power plants, toxic waste disposal sites, pipelines or offshore oil drilling rigs. However, according to a DOI spokesman in May 2010,<sup>8</sup> the service grants between 250 and 400 NEPA waivers a year for drilling projects in the Gulf of Mexico, including granting a categorical exclusion for the Deepwater Horizon project.

Finally, another appropriate benchmark is the timeline for permitting and building generation. According to testimony to the Subcommittee on Energy and Power, “many of the new generators only take approximately 3 years to develop and build new generating facilities.”<sup>9</sup>

In conclusion, if the NEPA compliance timeline was reduced from 7 years or longer to even 2 years, and assuming a 3 year build-out time for long distance transmission, although not fully resolved, the IDT would be decreased substantially.

*5. In your experience, how long does it take to design, permit and build transmission?*

TransWest’s response to this question is based on our experience with the TransWest Express Transmission Project thus far.

The initial Right-of-way Application for the TWE Project was filed with the Wyoming State BLM Office by the previous developer of the TWE Project, National Grid, in November 2007. In July 2008, TransWest replaced National Grid as the TWE Project developer and filed an amended ROW application with BLM in December 2008.

- In February 2009 the BLM’s third party environmental contractor produced a schedule that provided for completion of the EIS process in 34 months and showing the Record of Decision for the TWE Project issuing in November 2011.
- In May 2009, BLM and TransWest entered into an MOU for preparation of the EIS that contained a 38-month EIS schedule with the ROD issuing in June 2012.
- In January 2010, BLM and TWE entered into a new MOU for preparation of the EIS that contained a 39-month EIS schedule with the ROD issuing in March 2013.
- In April 2010, a new schedule was released that provided for a 41-month EIS schedule with the ROD issuing in August 2013.

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<sup>7</sup> *Id.*

<sup>8</sup> *The Washington Post*, “U.S. exempted BP’s Gulf of Mexico drilling from environmental impact study,” May 5, 2010, available at <http://www.washingtonpost.com/wp-dyn/content/article/2010/05/04/AR2010050404118.html>

<sup>9</sup> Statement of Lauren Azar, Senior Advisor to the Secretary, Subcommittee on Energy and Power, Committee on Energy and Commerce, U.S. House of Representatives, October 13, 2011 at page 3.

- In January 2011, a revised schedule was released that provided for a 44-month EIS schedule with the ROD issuing in August 2014.
- The current schedule provides for issuance of the ROD in June 2014, 42 months after publication of the Notice of Intent in January 2011 and 67 months after TWE filed its amended ROW application in December 2008.

Assuming that the EIS schedule is maintained or improved, that all other necessary permits may be obtained in a timely manner, and that the full project can be built in approximately 3 years, a decade will have passed between the time the permit process started and the time the project is in service. This decade does not even include the approximately two years of design and route work that took place prior to the filing of the ROW application.

*6. Assume that Federal, state, Tribal and local governments sought to set a goal for the length of time used for completing the Regulatory Permitting process for transmission projects so that the development times between generation and transmission were more commensurate, what goal should that be? As the length of the project and the number of governments with jurisdictions increase so will the time necessary for permitting and approvals; accordingly, consider providing a goal that could be scalable according to the length of the line.*

The goal for the length of time used for completing the Regulatory Permitting process for transmission projects should be to comply with the CEQ advice that “under the new NEPA regulations even large complex energy projects would require only about 12 months for the completion of the entire EIS process.”<sup>10</sup> This goal is consistent with the provisions of the Federal Power Act providing that “once an application has been submitted with such data as the Secretary considers necessary, all permit decisions and related environmental reviews under all applicable Federal laws shall be completed . . . within 1 year.”<sup>11</sup> Because compliance with NEPA is the threshold task that must be completed, the goal for the length of time used for completing the Regulatory Permitting process needs to be as close to one year as possible.

While a longer project naturally includes more jurisdictions, that does not in and of itself justify significantly longer permitting timeframes. Most if not all of the necessary analysis required in the NEPA compliance process can be completed by the different jurisdictions in parallel.

As recognized by the 2009 Memorandum of Understanding, entered into by nine government agencies, being implemented by the Rapid Response Transmission Team, the keys for meeting the goals set out in the CEQ advice and the Federal Power Act are interagency coordination, uniform and consistent approaches among the agencies, expediting the resolution of interagency conflicts, and committing to and adhering to project schedules.

Thus, the involvement of more jurisdictions simply underscores the need for priority transmission projects to have a strong national project manager and resource team leads for the various resources that are responsible for providing efficient coordination among all the stakeholders and closely monitoring and managing the agreed-upon EIS schedule.

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<sup>10</sup> See CEQ, “Forty Most Asked Questions Concerning CEQ’s National Environmental Policy Act Regulations” (Mar. 16, 1981), available at <http://www.ceq.hss.doe.gov/nepa/regs/40/40p.3.htm> (Question 35 and Answer).

<sup>11</sup> 16 U.S.C. § 824p(h)(4)(a).

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Thank you again for the opportunity to comment on these matters. Please contact me at [roxane.perruso@tac-denver.com](mailto:roxane.perruso@tac-denver.com) or 303.299.1342 should you have any questions about these comments or about the TransWest Express Transmission Project.

Respectfully submitted,

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