

Electricity Advisory Committee

MEMORANDUM

TO: Honorable Patricia Hoffman, Assistant Secretary for Electricity Delivery and Energy Reliability, U.S. Department of Energy

**FROM: Electricity Advisory Committee (EAC)
Richard Cowart, Chair**

DATE: June 6, 2013

RE: Recommendations on the CSG Interstate Transmission Siting Compact.

Dear Secretary Hoffman:

The siting of interstate electric transmission lines is challenging for both states and the federal government. The expected growth in electricity demand, state requirements to bring renewable energy to market, and the necessity to enhance and secure the nation's energy infrastructure, necessitate the need for added transmission capacity. DOE has been a leader in supporting the analysis of what that need may be under a range of scenarios through funding provided under ARRA.

Too often differences between state siting practices and permitting requirements under state law, coupled with limitations on the ability of siting organizations to consider regional and national interests, have made it difficult, time consuming, and expensive to secure authorization to site and build interstate transmission lines. Likewise, with the need for new transmission driven primarily by state policy rules, it is often difficult for new transmission proponents to understand how differing state rules on determining the need



for and cost allocation of transmission can be reconciled, if at all. Congress recognized these issues by directing the DOE to identify transmission corridors and providing backstop siting authority to the FERC. Within the Energy Policy Act of 2005, Congress also addressed state interests by granting an advanced congressional consent to create interstate compacts on transmission routing.

Although the DOE has the statutory duty to study and identify national interest electric transmission corridors and FERC has backstop siting authority under EPACT 2005, Congress recognized a critical role for states by giving them the opportunity to act first to relieve the congestion identified in the DOE Corridor Studies. The EAC recognizes that both states and the federal government have critical roles and are seeking to enhance better coordination in state planning and permitting processes. To that end, The Council of State Governments (CSG) created a Task Force comprised of state legislators, state regulators, RTO/ISO representatives, transmission utility staff, and other interested parties to develop an electric transmission line siting compact. DOE and FERC representatives attended some of the Task Force meetings as observers and information resources.

Compacts provide states tools that ensure long lasting and wide ranging interstate cooperation. More than 200 compacts exist addressing interstate child support, prisoner transfers, and other substantive issues of importance. The Interstate Electric Transmission Siting Compact (IETSC) was developed over a two year period and to come into effect must be passed by interested state legislatures in essentially the same form. To date one state legislature has passed the IETSC through one chamber and three state legislatures are considering the IETSC in committees. The IETSC will be a topic of discussion among Western state policy-makers and Governors at a conference in Las Vegas on August first. Critical state organizations, like the Council of State Governments and the National Governors Association have endorsed the use of compacts as a means of simplifying and expediting the interstate transmission siting process.

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The EAC recognizes that not all states or regions may utilize a compact for coordinating interstate transmission siting decisions. It is appropriate for the DOE to support compacts as one way to address transmission siting issues because compacts were specifically recognized by Congress in the Energy Policy Act of 2005 and support by DOE of the IETSC or any other compact, does not require the Department to support any particular transmission line or state siting requirements. Instead, compacts allow for a collaborative effort by states in transmission siting.

A compact is intended to improve efficiencies and create standardization during the siting process by establishing common applications, joint hearings, non-wires planning analysis, predetermined decision-making timelines, uniform public comment periods, a common record for judicial review, while retaining the critical elements that state laws incorporate in transmission permitting. We recognize that some states have different public transmission siting hearing processes than outlined in the IETSC and those state legislatures may decide the IETSC process is not appropriate. However, for other states, the IETSC may be a good regional solution. The terms of the IETSC would be triggered with the filing of an application by a transmission utility and apply only to those states that are both members of the IETSC and impacted by the proposed line. From the EAC's perspective, an important component of the IETSC is its recognition that states are not compelled to join the IETSC and transmission utilities may file siting applications under the terms of the IETSC or under other state siting authorizations.

The EAC, accordingly, recommends that the Department engage in such supportive efforts as are reasonable, including, but not limited to: 1) communicating to state governors and legislators DOE's support for state adoption of interstate compacts, including, as appropriate, the IETSC, as a means to support development of a robust interstate transmission system; 2) advocacy for adoption of compacts in regularly scheduled

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DOE/NARUC discussions; and 3) advocacy for adoption of compacts as a topic during DOE technical conferences.

Sincerely,

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The Interstate Electric Transmission Line Siting Compact: *Background and Summary*

Primary drivers behind the Electric Transmission Line Siting Compact:

- The desire to increase grid resilience, reliability, and to more easily bring renewables to market.
- The 2005 Energy Policy Act granted Congressional consent for three of more contiguous states to explore and develop regional transmission line siting compacts.
- CSG's members, spanning all three branches of state government, instituted development of the Compact in recognition of the national need for expedited interstate transmission siting decisions, reluctance to cede such authority to federal agencies, and a belief that Compacts provide the roadmap for such cooperation.

Development Process:

- An initial advisory board was convened to discuss interstate compacts and the feasibility of a transmission line siting compact.
- The advisory board consisted of federal stakeholders from FERC and DOE, state officials, stakeholder groups, and subject matter experts.
- After multiple meetings this group formally endorsed the drafting of an interstate compact and made recommendations to the drafting team about what should be included in the model agreement.
- A drafting team was formed and met multiple times over the course of the last year to finalize the Compact language.
- With language nearly finalized CSG staff has begun circulating the language more broadly for review and comment.

Compact Highlights:

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- The draft provides a framework for a national transmission line siting compact designed to improve efficiencies during the siting process by standardizing timelines across member states.
- Such an agreement, and its requirements, are triggered on a regional basis and pertain only to those states that are both members of the Compact and affected by the proposed line.
- The Compact specifically addresses the following areas:
 - a. Three levels of organization will exist: a State Project Review Panel within each state to coordinate the views of different agencies and interests within the state; a Combined Multistate Siting Authority consisting of the states affected by a particular proposed project that is authorized to make siting decisions for that project; and an Interstate Compact Commission to provide administrative support and rulemaking capability. States that approve the Compact enabling legislation have a representative on the Interstate Compact Commission.
 - b. A request for siting authorization is initiated by a utility filing an application in any one of the states in which the project would be constructed. That state will convene the Combined Multistate Siting Authority to make an early determination to accept or reject the application for completeness and to set a procedural schedule for a hearing on the merits of the project.
 - c. During the application review process by the Combined Multistate Siting Authority, all meetings will be open to the public, application and all hearing-related expenses will be paid by the filing utility, and a strict review process schedule will be established.
 - d. The initial application review for completeness shall be completed within 60 days of the filing. The first Combined Multistate Siting Authority shall occur within 90 days of the filing to assess the merits of the application, including proposed route, regional and national energy needs, and costs.
 - e. The Combined Multistate Siting Authority shall hold at least one public comment hearing in each of the involved member states (states through which the proposed transmission line will be constructed). These public comment hearings must be completed within 120 days of the initial filing. At all meetings, transcripts will be made, meetings will be open to the public (unless closed due to confidential information is to be presented by the utility).
 - f. The Combined Multistate Siting Authority shall issue conditional or final approval based on the record within 270 days of the initial filing unless the applicant and Authority agree to a different timeline. The Authority shall outline the required actions in instances where

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conditional approval is granted. All Authority decisions shall be by majority vote of the member states.

- g. All appropriate tribal and federal agency groups shall be invited to participate in the hearing process and encouraged to participate in the decision-making process. Eminent domain use by the utility for an approved transmission line is based on each state's existing authority and procedures.
- h. Persons feeling aggrieved by the Combined Multistate Siting Authority, within 90 days of the Authority's decision, may pursue administrative remedies and subsequently may file for judicial review before a three-judge panel from the U.S. District Court.