WEST ASSOCIATES

March 28, 2012

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

Submitted electronically via docket (Document ID DOE_FRDOC_0001-1840) and email to: Lamont.Jackson@hq.doe.gov

Re: Department of Energy - Rapid Response Team for Transmission Request for Information, RRTT-IR-01, 77 Fed. Reg. 11517 (Feb. 27, 2012)[1]

Dear Mr. Jackson:

I. INTRODUCTION

The Western Energy Supply and Transmission Associates ("WEST")[2] respectfully submits these responses to the specific questions raised in the Department of Energy's (DOE) above-referenced Request for Information (RFI) regarding Federal efforts to resolve the issue of incongruent development timelines for the siting and permitting of generation and its attendant transmission.

II. WEST ASSOCIATES' INTEREST IN THIS REQUEST FOR INFORMATION

WEST Associates is a coalition of 10 public- and investor-owned, vertically-integrated electric utilities generating electric energy in eleven western states. WEST typically comments on rulemakings in which high-level policy issues bear broad applicability across a significant portion of its membership.

Transmission facilities are used to convey electricity from generating resources to population centers and other customer sites. Transmission facilities can be quite lengthy because most generation facilities (including ones that depend on renewable energy, coal, and other natural resources) are often located some distance from customers. Furthermore, the transmission facilities form an integrated grid that is highly interdependent and must be carefully designed, built,

[1] See, https://www.federalregister.gov/articles/2012/02/27/2012-4464/rapid-response-team-for-transmission

[2] These comments provided on behalf of WEST Associates Members, including Arizona Electric Cooperative, Basin Electric Cooperative, NV Energy, PacifiCorp, Portland General Electric, Public Service Company of New Mexico, Salt River Project, Tri-State Generation and Transmission Association, Inc., Tucson Electric Power Co. and Colorado Springs Utilities.

maintained and managed at a utility, state and regional level to ensure a reliable, affordable supply of electricity.

Western electric utilities need to maintain their existing transmission facilities and in many cases will need to upgrade existing and build new transmission facilities in coming years. Western states also have a greater share of Federal Lands and Indian Reservations compared to other regions of the United States (see Figure 1.)

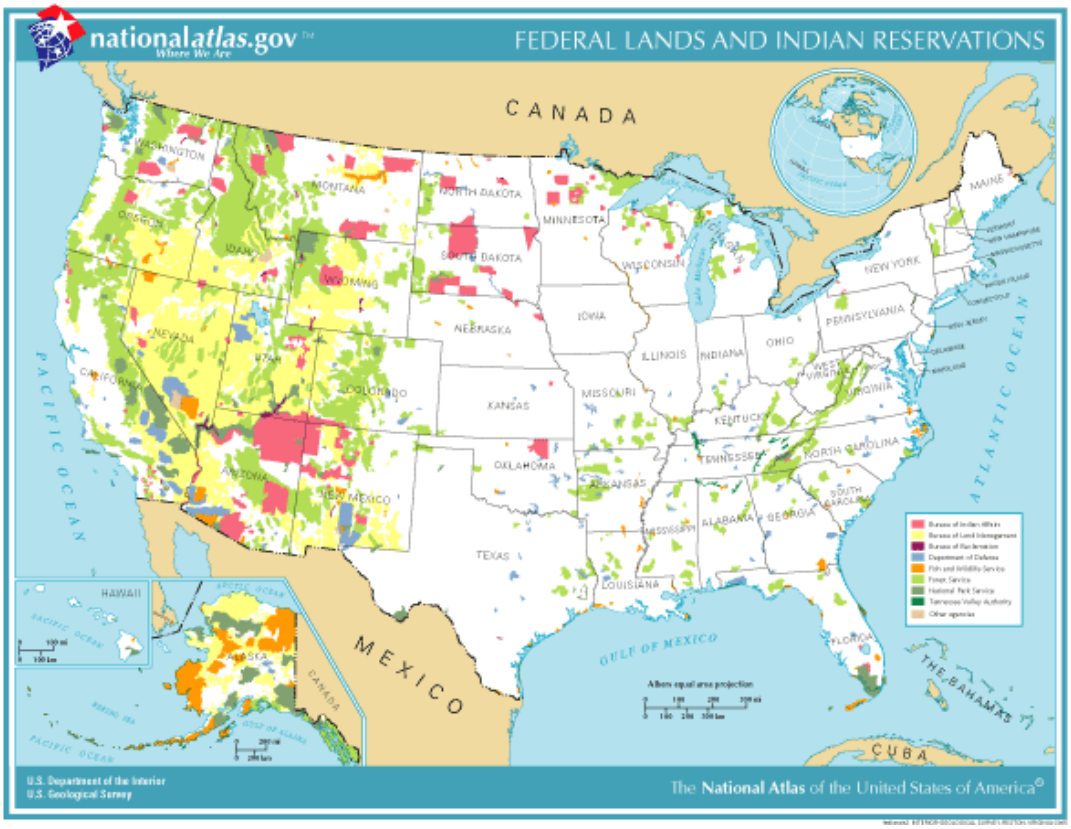

Figure 1 - Public and Indian Lands

Electricity demand is expected to increase 30 percent by 2030, requiring additional generation and transmission facilities. Increased constraints on electricity generating plants, such as new federal air, water, and solid waste regulations, are likely to shut down or require retrofits to some traditional power production and to require new power generation and transmission facilities. Interconnecting new generation resources, including renewable resources, also will require upgrades and new transmission. To site transmission facilities, western utilities often must acquire many federal permits, including land use authorizations for rights-of-way across federal lands and various environmental permits under federal law, such as wetland dredge-and-fill permits under section 404 of the Clean Water Act As the need for new and upgraded transmission facilities has accelerated, obtaining federal permits has become more difficult and time consuming. Frequently, federal permit decisions for transmission projects lag behind siting and

permitting decisions at the state level, complicating the siting process and significantly delaying construction of important facilities.

Thus, WEST Associates and its members have a strong interest in seeing Federal agencies act to substantially improve the existing Federal transmission siting and permitting process throughout the country, but particularly in western states. We believe substantial process improvements, once realized, will deliver significant benefits to the nation's utility customers, who depend upon adequate, reliable and reasonably priced electricity to carry on their daily business and to facilitate vital economic growth.

III. The DOE Should Not Limit Its Focus with Regard to Generation Sources and Load Serving Entities and Attendant Transmission

WEST agrees with the general framework of the RFI and supports efforts to shorten the timeline for transmission development. As noted in the RFI, timelines for generation and transmission projects often do not run concurrently. WEST notes, however, that there is a significant level of coordination of generation and transmission development through the transmission planning requirements established by the Federal Energy Regulatory Commission (FERC) as well as state Integrated Resource Planning (IRP) proceedings.

WEST disagrees with the suggestion in the RFI that where a load-serving entity is developing both generation and transmission, there is no "Catch-22."[3] This may not uniformly be the case, as WEST member PacifiCorp's experience with Energy Gateway has shown. For example, each filing of an IRP or annual update since 2010 incorporated deferral of planned on-line dates for its Gateway West project due to permitting delays, pushing out further development of wind resources in Wyoming. Also a utility is required to follow strict FERC Standards of Conduct rules and maintains an appropriate "firewall" for prohibited communications between its Market Functions and Transmission Functions.

The difference in generation project development and transmission line development is thoroughly known to load serving entities and in many cases, drives the abandonment of preferred projects because the in-service date is driven by the longest lead item. Additionally, the longer the lead time for a project the greater the risk that conditions will substantially change prior to in-service. This risk reduces Load Serving Entity willingness to commit to large scale, long lead time projects.

[3] See Footnote #1. "Since the Catch-22 is avoided when a load-serving entity is developing the generation and transmission for its own customers, for purposes of answering the questions, please assume that non-LSE's are developing the generation and its attendant transmission."

IV. Suggested Policy Recommendations

WEST recommends the following policy recommendations:

The federal process should provide the applicant with schedule certainty, specifically timely decision-making within and across federal agencies and including tribal consultations early and often in the process. The DOE should better understand the current BLM and Agency Review Process and look for ways to streamline and reduce review durations. For example, the BLM currently involves all Cooperating Agencies in every decision making process regardless of whether or not the decision is within a particular Cooperating Agency's area of expertise. There is minimal screening/filtering of Cooperating Agency comments by the Agencies or the BLM, because there appears to be an expectation that the applicant will identify conflicting statements and work to resolve them. DOE should review the FERC interstate natural gas pipeline permitting process for possible best practices. A dedicated permitting team would also resolve many issues. In the end, the BLM and Cooperating Agencies must be held accountable to a schedule. Schedule certainty is paramount.

A preferred route issued at the draft EIS stage is critical. Project applicants anticipate having to address local permitting issues. Having a preferred route identified in the draft EIS stage, rather than continuing stakeholder conflict resolution, limits the ability of the project applicant to move forward with other state and local permits. A preferred route within the DEIS also provides the applicant and stakeholders specificity to work from which will better focus the dialogue.

When there is a Federal - State permitting conflict, the federal government should give greater deference to the state if it has an existing comprehensive siting process.

We have seen some land managers expand the scope of NEPA evaluations when projects involve both federal and private lands to include impacts well beyond the impacted federal lands while others and have limited their analysis. It is not clear that this is statutory requirement. It seems that the land managers have some discretion and they each exercise it differently. There should be a limited exercise of this authority by land managers.

There should be a single Right of Way grant with notices to proceed by segment. Finally, mitigation measures should be proportional to impacts and should include a research and reasonable compensatory mitigation plan.

V. RESPONSE TO QUESTIONS

(1). The development timelines for generation and attendant transmission are often not coordinated or run concurrently. Because of the lengthy time to obtain regulatory reviews, permits and approvals (collectively "Regulatory Permits"), major new transmission lines can take significantly longer to develop than some types of generation to which the transmission would connect. This Request for Information will refer to the difference in development times between generation and transmission as "Incongruent Development Times." Please answer the following[1]:

a. *Describe the challenges created both by the timeline for obtaining Regulatory Permits for transmission and by the Incongruent Development Times.*

Response: New transmission can be a challenge to build for a number of reasons. As the grid becomes more regional in nature and transmission lines are expected to do more and carry more power than they have in the past, the challenges of developing needed transmission are exacerbated. These challenges include committing to a multi-year project, raising capital to finance the project, addressing regulatory issues at the state and Federal level and addressing stakeholder concerns associated with siting. Several of these challenges fall outside of the RRTT efforts, however, all of them create risks and barriers to developing adequate transmission capacity.

Undue delays in obtaining Regulatory Permits can serves to postpone the construction of needed transmission and the benefits such projects provide. Prior to seeking Regulatory Permits, transmission projects are evaluated through planning processes that identify the most efficient and cost-effective solution to local and regional needs.[4] The likely development time, which includes the time it takes to receive all Regulatory Permits, is considered when analyzing the need for a transmission project. Actual construction times vary, depending on the size and scale of the project, but the construction schedule is typically only a fraction – two to three years -- of the overall development time of a transmission project. Larger transmission projects are planned to be constructed in multiple phases, which may allow each phase to be constructed simultaneously, or staggered to better manage market resources. A much larger percentage of the total project development time is spent securing all required Regulatory Permits. To ensure reliable operation of the transmission network, transmission plans must anticipate long development times and identify local and regional needs years ahead of time. As with any projection, the probability of correctly identifying all system needs decreases the further out the needs must be

[4] It is important to note that these processes protect consumers by ensuring that transmission projects are only carried-out if they serve a demonstrable need in the electricity system.

identified. Moreover, once the system needs have been identified, undue delays in receiving Regulatory Permits impede transmission project development, which may cause local or regional reliability issues.

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

Response: The Incongruent Development Times cause project proponents to question the ability to actually obtain the Regulatory Permits for transmission projects. This has a domino effect that puts on hold, defers or cancels plans to develop additional renewable generation in certain regions. This then inhibits certain states' ability to develop and deliver their stated energy policies and objectives. Subsequently, the achievement of national energy policy and objectives are delayed or thwarted.

c. *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?*

Response: The primary risk associated with developing transmission is the financial risk created by permitting delays. Permitting delays create financial risks for transmission developers. These delays also create risk for investors which can make it difficult to finance the project. It is essential to balance customer and investor interests in the construction of sufficient transmission capacity to maintain reliability, minimize congestion and enable the integration of generation sources, including renewable resources. Transmission is a very long lead-time investment when compared to other types of utility plant. A typical transmission line requires five years or more to site, permit and construct. Large-scale transmission projects anticipate even longer lead-times. In contrast, a generation resource can often be sited, permitted and built in two years or less, and distribution plant generally takes less than a year to place into service.

In deciding where to invest capital, investors compare the risk characteristics of alternative investment options. As noted above, investing in large-scale transmission projects requires a commitment to a multi-year process. These projects are capital intensive and require large amounts of cash outlays throughout development that cannot be recovered until the transmission project is placed into service. The lag between investment and cost recovery hampers cash flow, and can create scenarios where utilities face negative cash flow in order to develop these needed transmission projects. The longer the development time, the longer the lag in cost recovery and therefore the larger the financial risk of the project.

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

Response: Long or uncertain planning horizons prevent the development of firm pricing, and therefore, challenge the development of viable financing mechanisms for major transmission projects.

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

Response: Transmission infrastructure is critical to efficient resource planning. Projects with timelines that are overly long or with significant permitting risk are not considered as viable for "must provide" IRP service obligations. Delays or cancellations of major transmission projects may result in the deployment of less efficient resources with more significant environmental impacts or higher costs. If the timeline for obtaining Regulatory Permits continues to be delayed, there will come a point where a project may no longer represent a timely or least cost option to meet a utility's obligation to serve customers and other options, such as constructing natural gas combined-cycle generation closer to load, will be pursued. Delays in building transmission reduces resource acquisition flexibility and can increase customer rates to the extent that cost-effective resource options to meeting incremental load requirements or government-mandated resource acquisition targets (for example state renewable portfolio standards), are foregone because of the delays. For example, a delay in building transmission to areas of high renewables potential, simultaneously delays the construction and interconnection of new renewable generation beyond a period in time when a federal production incentive might otherwise have been available.

For projects with significant Incongruent Development Times, suppliers, shippers, and users are all unlikely to invest substantial resources with permitting unknowns. They also are unlikely to select projects that require facilities to go unused waiting for the longer lead components to be completed.

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

Response: An IRP provides a utility with a roadmap that identifies the resources over the next ten years. A utility is required to procure or acquire resources that comply with the timing, term, and size identified in the IRP Action Plan. Different procurement rules, guidelines and laws that

impact how the company may procure or acquire resources vary by state. For example, competitive bidding guidelines and laws may take approximately 18 months to complete prior to the acquisition of a generation resource. Some states may rely upon a regulatory preapproval process that must be completed prior to resource acquisition. As a result, procurement timelines can be a significant barrier to the development of long lead time transmission as a utility cannot start the engineering and construction of a transmission project until preapproval of a generation resource has been granted by the utility's economic regulator. Once the approval is completed then a thermal generation resource may take between three and four years to develop, engineer and construct. In the case of a wind generation resource the timeline to develop, engineer, and construct may be a year or less. The timelines associated with the generation resource construction do not line up with the long lead time required to develop, engineer and construct new transmission.

Parties are unlikely assume open season transmission capacity purchase risk without a level of certainty of recovery of those costs. This certainty is obtained through purchase power agreements with end users – typically Load Serving Entities. For the reasons stated above in the response to e), these Load Serving Entities will not select the open season alternatives or suppliers using future open season capacity if development times, likelihoods, and incongruences are not within their risk profile.

(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?

Response: The Federal government should ensure proper consideration is given of the impacts and consequences new policy directives have on critical infrastructure projects already underway in obtaining Regulatory Permits. Uncertainty regarding new Federal policies on federal lands can impact the viability of developing a new generation resource and as a result, transmission paths and transmission path sizing. For example, threatened (Desert Tortoise) or endangered species (Sage Grouse).

Additionally, the federal government could give indications of the numbers of circuits that a corridor is designed to accommodate. Currently, efforts to limit the number of lines by "right sizing" are attempting to cause transmission projects with Dissonant Development Times and Dissonant Development Scopes to be combined into an "ideal" project. This has the unintended consequence of delaying or eliminating the construction of transmission lines. Knowing the number of circuits that a corridor is expected to contain would give developers a better insight to what needs can be met by that corridor.

(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?

Response: WEST urges the DOE to work with the other Federal RRT-T agencies to provide schedule certainty and assign accountability within the Federal land agencies to deliver NEPA milestones on schedule. In particular, WEST suggests that the DOE focus its attention on establishing specific line officer/state director performance goals to ensure project milestones are met. Toward that end, national Project Managers should set/establish reasonable timeframes for inter and intra-agency review and response throughout the NEPA process. If timeframes are not met, the Project Manager diligently should be expected to follow up and escalate the matter with the appropriate line officer or the state/regional office. This practice needs to be made a Federal priority so the benefits can be more broadly realized.

Likewise, the Bureau of Land Management should also set/establish/reiterate by Instructional Memorandum a set protest resolution period to address protests to a FEIS. This process should not take more than 60 days, as is too common today.

For corridors that have already undergone a preliminary environmental analysis, such as the DOE 368 PEIS process, create finite timelines for an expedited review and grant of easements.

Additionally, the Federal government should focus on identifying for inclusion in the DEIS only the environmentally preferred alternative and the agency preferred alternative on public lands; the Federal government should not look to resolve routing controversies on non-public lands. The Federal government should consider reliability impacts as part of a proponent's purpose and need.

Finally, the DOE can assume the lead agency role under EPACT2005 instead of their proposed role to take the lead on assigning a lead agency.

(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?

a. *Example—power purchase agreements as the benchmark: how far in the future do load serving entities (LSE's) seek to purchase energy or capacity from remote resources? Do LSE's seek PPAs that begin delivering energy/capacity 3*

years from the signing of the PPA? 7 years? 10 years? Please explain why PPA's are signed at this time.

Response: The term of the market the LSE can seek will depend on the market depth and the liquidity in that particular market. It is also unlikely that a PPA will begin delivering energy/capacity within 3 year from the signing due to state procurement guidelines and rules.

b. *Example—development times as the benchmark: How long does it take to design, permit and build different types of remote generation?*

Response: There are significant policy obstacles to the timely siting and permitting of transmission, which create a disconnect between generation and transmission planning. A utility-scale wind project can be sited, permitted and built within two-three years in many cases, whereas large transmission projects take seven-ten years to materialize. The lack of coordinated permitting—within states for local projects, between states for interstate projects, and between state and Federal permitting agencies—makes transmission project timelines highly unpredictable, and makes transmission alternatives unwieldy in the resource planning process compared to a natural gas plant or a wind plant which can be sited in far less time.

In the Western portion of the country and in some other portions as well, determinations regarding generation resource planning, prudence of investment decisions regarding timing and need for transmission and siting of generation and transmission facilities are all subject to state review and approval for rate-regulated utilities. Utilities and their investors are unable to unilaterally make additions to their transmission system, install environmental controls on generation, retire generation, or mothball generation; instead, compliance with lengthy state processes and sometimes conflicting state policies is required. It has been and continues to be a challenging evidentiary burden for utilities to demonstrate what environmental controls are required and when and whether such controls are cost-effective and what additional controls might be required. These are all legitimate questions being asked by state regulators as they satisfy their role as the economic regulator, determining the prudence, reasonableness and used and useful nature of transmission and generation investment.

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

Response: One to five years to permit and an additional two to three years to construct depending on the length of the line and the number of state/local jurisdictions and federal agencies involved.

(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.

Response: WEST agrees there are more complexities dealing with long multi-state projects that include more field offices and jurisdictions. It should be reasonable to expect the Lead Federal Agency to complete the NEPA process from right of way application to the Record of Decision and right of way Grant for long multi-state projects within three years and should not exceed four years at the latest. Single or two-state projects should be done within two years and should not exceed three years.

VI. CONCLUSION.

WEST Associates appreciates the opportunity to provide these comments in the interest of improving the siting and permitting of transmission. If you have any questions or need additional information, please do not hesitate to contact me at ebakken@tep.com or by telephone at (520) 918-8351. Thank you for your consideration.

Sincerely,

Erik Bakken, President of the Board
WEST Associates