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Re: DOE RFI "Improving Performance of Federal Permitting and Review of Infrastructure Projects"

The American people support increased production and consumption of renewable energy according to credible public opinion polls. Too often the most appropriate sites for wind, solar, hydro, and other renewable generators are in rural areas that necessitate the construction of new high voltage transmission lines to deliver the energy to customer load centers. Siting such lines is a costly multi-year process as each federal agency, tribe, and state has different criteria, processes, and timelines for evaluating applications.

Presidential directives for federal agencies to identify lead agencies, pre-identify acceptable transmission corridors, and simplify the application and review processes are appropriate. Because proposed high voltage transmission line routes do not include only federally controlled lands, it also is appropriate for federal agencies to collaborate with similar processes being developed by states. To the extent feasible, such collaboration can simplify and expedite the siting application process for all parties, while protecting environmental and cultural sites and public opportunities to participate.

The Council of State Governments, a non-partisan organization comprised of members of the executive, legislative, and judicial branches of state government, has developed a membership-driven Interstate Electric Transmission Siting Compact that provides opportunities for federal agencies, tribal governments, and states to collaboratively evaluate siting applications (Attachment A). Interstate Compacts are nearly identical-language laws passed by multiple states and signed by their Governors. More than 200 Compacts have been developed to address issues as diverse as collecting child support and recognizing drivers' licenses. A summary of the Interstate Electric Transmission Line Siting Compact (Compact) is provided in Appendix B.

This Compact is filed as comment in response to the DOE's RFI because it provides an opportunity for federal agencies to partner with tribes and states to identify the most appropriate routes for new electric transmission lines. It also offers federal agencies cost-savings opportunities, while continuing to meet federal environmental protection study requirements and facilitates public comments.

Additionally, the Compact supplements and supports the ongoing Federal Permitting and Review of Infrastructure Projects work that is occurring. The Compact streamlines the multi-state, multi-agency regulatory siting process. In order to trigger the timelines established by the Compact, the applicant must have completed the work necessary to ensure the application is complete, including appropriate environmental and economic studies. The Compact's common decision-making process and timeline for the multiple state and federal agencies is thus triggered by filing a complete application that meets the requirements of all applicable agencies.

The Compact ensures that applicants will talk with all applicable state, federal, and tribal organizations prior to filing their siting application; will include all relevant environmental, cultural, historic, and other studies required by state and federal law and tribal requirements; and will pay for all such studies, expert witnesses required by the permitting agencies, and such other costs as may be incurred by the permitting agencies.

Energy Policy Act of 2005: The Energy Policy Act of 2005 specifically recognizes that Interstate Compacts are a means by which states, acting together, can avoid the Federal Energy Regulatory Commission's (FERC) transmission backstop siting authority. It also is a means by which the DOE's transmission corridor planning process can be less contentious. Because Congress specifically recognized the value of Compacts and because federal agencies already belong to many Compacts (Appendix C), it is appropriate for federal agencies to participate in the Interstate Electric Transmission Siting Compact.

As written, the Compact provides the lead federal agency for each specific transmission siting application with an equal voice in determining the completeness of the application, approval or disapproval of the application, and placement of special requirements on the approval of the application.

The Compact establishes a single application process for the multi-jurisdictional filing, firm dates for holding hearings, holding public hearings, and making decisions, but also presumes that the applicant will have researched and included in its application all environmental and other reviews.

The Compact specifically states that the applicant shall pay all costs associated with the application, including necessary environmental studies, state/federal/tribal staff and consultant reviews of the application, public meeting costs, and state/federal/tribal joint meeting costs. It is our understanding that some federal agencies have authority to be reimbursed for costs associated with reviewing applications, while others may not. While the Compact identifies the lead federal agency as being the one with the largest part of the proposed transmission line project going through its lands, alternative means of designating the lead agency can be adopted. An alternative may be the agency, working on behalf of all federal agencies impacted by a proposed transmission line, that can participate in recovering costs from a third party.

The Compact and the Compact process meet Presidential and Congressional directives to collaborate with non-federal governments, simplify and expedite review of infrastructure proposals, minimize costs to taxpayers, and continue to responsibly protect federal lands. The Compact also specifically states that regional and national energy policies shall be considered in approving or disapproving or modifying an application. This permits federal land management agencies to consider the environmental goals of other agencies (e.g., Environmental Protection Agency), economic benefits (e.g., Presidential desire to move lower cost electricity to higher cost customer regions), energy security and reliability, and other factors.

We recommend that federal agencies collectively negotiate and sign a Memorandum of Agreement with the Council of State Governments to participate as equal partners with state and tribal governments in the Interstate Electric Transmission Siting Compact.

The DOE's Electricity Advisory Committee noted that Compacts and specifically the Interstate Electric Transmission Siting Compact can benefit federal agency objectives and electric consumers (Appendix

D). The Compact's drafting occurred at the FERC with FERC staff providing technical assistance. The FERC has not endorsed the Compact, but individual Commissioners have recognized the value of the Compact. At the time of drafting these comments, one state's House of Representatives has passed the Compact language with the Senate to consider it when the Legislature reconvenes in January; two other states have introduced the Compact with hearings to be held in January; and the Western states Governors and Legislators have expressed interest in pursuing the Compact if federal agencies will participate.

Thank you for considering a partnership with state and tribal governments in addressing the nation's electric infrastructure planning process. While states are considering and moving the Compact forward, there remains time to make changes that will better enable federal agencies to partner with the states. Please do not hesitate to contact the undersigned if additional information is desired or any comments contained in this filing. Crady deGolian, CSG staff person, can provide additional information about compacts in general, their administration, and federal participation in existing compacts. Mr. deGolian can be reached at cdegolian@csg.org and 859-244-8068.

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