TRI-STATE GENERATION AND TRANSMISSION ASSOCIATION, INC.
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October 31, 2013

Ms. Julie A. Smith and Mr. Christopher Lawrence
Office of Electricity Delivery and Energy Reliability (OE-20)
U.S. Department of Energy
1000 Independence Avenue, SW
Washington, DC 20585

Submitted electronically via email to :
juliea.smith@hq.doe.gov ***and*** ***christopher.lawrence@hq.doe.gov***

Re: Department of Energy – Improving Performance of Federal Permitting and Review of Infrastructure Projects, Request for Information, 78 Fed. Reg. 53436 (Aug. 29, 2013)

Dear Ms. Smith and Mr. Lawrence:

Tri-State Generation and Transmission Assoc., Inc. (Tri-State) appreciates the opportunity to provide comments regarding the proposed draft Integrated Interagency Pre-Application (IIP) Process for electric transmission projects. Tri-State is a not-for-profit wholesale electric power producer/supplier that serves 44 rural electric cooperatives and public power districts in Colorado, Nebraska, New Mexico and Wyoming. Tri-State's member distribution systems serve nearly 578,000 metered customers (translating to a population of more than 1.4 million people). Tri-State's 200,000-square-mile member service territory includes all or parts of 56 of Colorado's 64 counties, all or parts of 27 counties throughout New Mexico, all or parts of 20 counties in western Nebraska and all or parts of 14 counties in central and northern Wyoming. Tri-State's transmission system includes approximately 5,306 miles of high voltage transmission line and 217 substations and switching stations. Over 35 percent of the land in Tri-State's service territory is managed by the USDI Bureau of Land Management (BLM) and the USDA Forest Service (Forest Service). Tri-State is routinely engaged with these federal agencies in applying for new or amending and renewing existing permits and grants for transmission projects.

Our decades of experience shows us that federal employees that are charged with processing transmission land use applications and implementing NEPA are well-intended, hard working and dutiful. They are also over worked, distracted with changing priorities while fighting the constant battle for funding to effectively do their jobs. In order to make a real difference in streamlining the permitting process for transmission projects, Tri-State believes the DOE must analyze and trouble-shoot the current system of permitting transmission lines as occurs through the NEPA process. We contend the solution is not creating a complex preapplication process, but focusing on the programs and procedures agencies currently have to process applications and look for opportunities to improve communication, coordination, and responsibility and accountability. We outlined many suggestions in a March 28, 2012 letter sent to Mr. Lamont Jackson of the Rapid Response Team for Transmission per a DOE Request for Information.

The above being said, the proposed draft Integrated, Interagency Pre-Application (IIP) Process has some worthy goals such as offering a roadmap for meeting pre-application requirements across multiple jurisdictions and providing an avenue for discussing agency issues and requirements before submitting a proposal. These sound good in theory, but would be difficult, if not impossible to effectively execute in a beneficial way, as currently written.

As proposed, the IIP process also has some unclear or potentially problematic provisions. We discuss several below:

Cost Recovery: Federal Entities such as the BLM and Forest Service are not able to work on a Proponent project unless there is a mechanism in place to recover their costs which is only invoked when there is a federal action (i.e. submittal of a land use application). Gaining their voluntary participation is possible to generally discuss a project, but engaging the BLM and Forest Service in meaningful and productive participation (such as that outlined in the IIP Process) requires a commitment of time and resources that is not possible without a cost recovery agreement. DOE should address how to fund the involvement of agencies lacking cost recovery authority during any proposed IIP Process.

Initial Meeting: The amount of guidance that Federal Entities will be able to provide at the Initial Meeting, relative to potential resource concerns, will be minimal given they will only have 15 days to review the project. The larger the project, the more broad this guidance will be. It would be more useful to focus on regulatory process requirements and schedule, with an emphasis on the format and content of information needed from the Proponent.

Duration of the IIP Process: The total time required to go through the IIP Process from submittal of the Initiation Request to DOE to the selection of the NEPA Lead Agency appears to be about 615 days or 20 months. This duration does not include the time required by the Project Proponent to develop the Study Corridors and the Proposed Routes. That will add 6-9 months to the overall timeframe, assuming it will take 3 months to develop the Study Corridors and another 3-6 months to develop the Proposed Routes. So roughly 29 months could be expended before the NEPA process begins. The NEPA process, where real streamlining and efficiency improvements are needed, will be delayed by implementing the IIP Process.

IIP Process and NEPA: The RFI notes that the IIP Process is not part of NEPA or other environmental and review processes but will inform those processes. Additionally, input and feedback provided by the Federal agencies is "preliminary" and "would not constitute a commitment to grant a Federal Authorization." Also, no agency can determine preferred Study Corridors or Proposed Routes, or even a reasonable range of alternatives for NEPA purposes prior to the formal NEPA process. In our view, it is counter-productive for Project Proponents to implement a process that takes over two years to complete when it only "informs" the NEPA process. Time would be better spent initiating NEPA much sooner in the IIP Process so that important milestones like outreach, agency consultation, and corridor and route identification can "count" for something and won't need to be duplicated in the NEPA process at a later date.

Public Outreach Plan: The Project Proponent Public Outreach Plan is an essential component to any properly planned project and should be mandatory and not just encouraged. The public involvement plan should be extended to include coordination with local agency resource specialists. A single point of contact for an agency cannot be expected to speak comprehensively about localized potential effects to the human and natural environment across a large project area. Land managing agencies should have a single point of contact, but they should be provided the resources, time, and opportunity to coordinate meetings at the local level across the potential routing area.

Duplicating Public Involvement: The RFI states that none of the IIP Process-related public outreach replaces the Federal Entity's public scoping requirements under NEPA. So after the Proponent implements the Public Outreach Plan as part of the IIP, the lead federal agency will reengage the public at the start of the NEPA process. This redundancy will likely confuse and frustrate the public who will have assumed that their input has already been heard and considered.

Non-Federal Entities: It isn't clear what Non-Federal Entities will be invited to the IIP Process meetings. A threshold for participation, similar to established thresholds for Cooperating Agencies, should be articulated. Criterion are needed and qualifying "expertise" should be defined.

Project Proponents Consulting with Tribes: Making Project Proponents responsible for consultation with tribes has the potential to create significant confusion and mistrust. Many tribes do not have the resources or staff to meet with proponents and there is a potential for proponents to inadvertently provide confusing information to the tribes and adversely affect established relationships between the tribes and the agencies. Requiring a proponent to conduct tribal outreach and identify tribal concerns places an undue burden on the Proponent and the tribes. Since local agency tribal consultation staff (i.e. agency archaeologists) already have working relationships with the tribes, know local tribal preferences and venues for discussing permitting projects, and have a general sense of local tribal concerns; it may be more effective for proponents to work with local agency tribal consultation staff to assess the best avenue for reaching out to tribal representatives.

DOE staff is to be commended for attempting to streamline federal permitting of transmission lines. However, the process as currently proposed is complex and time consuming and duplicative of an already burdensome NEPA process. Tri-State is happy to participate in further discussions or answer any questions as you review this and other RFI responses and formulate next steps. I can be reached at (303) 254-3211.

Sincerely,

Rick L. Thompson
Senior Manager,
Transmission Land Rights and Permitting