



## Power Siting Board

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Todd A. Snitchler, Chairman

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*Ohio Senate*

January 27, 2011

Brian Mills  
Office of Electricity Delivery and Energy Reliability, OE-20  
U.S. Department of Energy  
1000 Independence Avenue SW.  
Washington, DC 20585  
Brian.Mills@hq.doe.gov

Re: Proposed 216(h) Regulations. Request for Comments Appearing in  
December 13, 2011, Federal Register, 76 Fed. Reg. 77432.

Dear Mr. Mills:

The Ohio Power Siting Board is submitting the attached comments on the proposed changes to DOE regulations regarding Section 216(h) of the Federal Power Act.

We greatly appreciate the opportunity granted us to comment on the proposed regulations.

Please feel free to contact me with any questions regarding this correspondence.

Respectfully submitted,

  
chairman



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## United States Department of Energy

### Proposed 216(h) Regulations

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### COMMENTS SUBMITTED ON BEHALF OF THE OHIO POWER SITING BOARD

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#### I. INTRODUCTION

Section 216(h) of the Federal Power Act (FPA), which is titled "Coordination of Federal Authorizations for Transmission Facilities," provides for the Department of Energy (DOE) to coordinate all applicable federal authorizations for the siting of interstate electric transmission facilities and related environmental reviews. The DOE has proposed amending its regulations for the timely coordination of federal authorizations for proposed interstate electric transmission facilities within the jurisdictions of federal agencies. The proposed rule would require permitting entities to inform DOE of requests for authorizations for qualifying projects, as well as establish a process whereby applicants for federal authorizations for interstate electric transmission facilities that are not qualifying projects can request DOE assistance in the federal authorization process. A qualifying project is a high voltage transmission line project (generally 230 kV or above) and the attendant facilities, or otherwise regionally



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significant transmission lines and their attendant facilities, in which all or part of a proposed transmission line crosses jurisdictions administered by more than one federal agency and is used for the transmission of electric energy in interstate commerce for sale at wholesale. The proposed rule would also establish a federal lead agency and would establish final deadlines for the review of federal authorization decisions. The DOE is accepting public comment on the proposed rule until January 27, 2012.

## II. DISCUSSION

The Ohio Power Siting Board (OPSB) appreciates the opportunity provided by the DOE to comment on the proposed changes to its regulations regarding Section 216(h) of the Federal Power Act. It is the mission of the OPSB to support sound energy policies that provide for the installation of energy capacity and transmission infrastructure for the benefit of the Ohio citizens, promoting the state's economic interests, and protecting the environment and land use.

The OPSB is an independent entity and is charged with reviewing the basis of need and environmental, ecological, and social impacts of siting and construction of major utility facilities in Ohio. Before construction can begin on any major utility facility within the state of Ohio, a certificate of environmental compatibility and public need must be obtained from the OPSB. In evaluating an application for construction of a major facility, the Board considers the regional and interstate impacts of such a project. We recognize that the DOE maintains a similar role with the coordinating of federal



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authorizations for the siting and environmental reviews of interstate electric transmission facilities. We look forward to cooperating with the DOE on this matter.

### A. The Purpose of the Proposed Rule Reform

The purpose of the rule reform, as stated in the Notice of Proposed Rulemaking, is to coordinate all applicable federal authorizations for the siting of interstate electric transmission facilities and related environmental reviews. The rule reform would coordinate the federal authorizations for qualifying projects. If a transmission line were to cross more than one federal agency jurisdictions, there would have been a duplicative review process with each federal agency conducting its own review of the project. Under the proposed revisions to the rule, the agency with the most significant land management interests related to a qualifying project and with the most relevant subject matter expertise would be appointed by the DOE as the lead agency. The appointed lead agency would then coordinate with cooperating agencies, including state siting boards and permitting agencies, to proceed through the permitting and environmental review process for the qualifying project. In essence, this rule would avoid duplicative review processes by various federal agencies by appointing one federal lead agency and adopting a more streamlined approach to siting projects that fall within federal jurisdiction. We commend the undertaking and believe the rule reform will accomplish the DOE's goals.



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## B. The Coordinating of State Permitting and Environmental Review Processes with the Federal Process

We believe that if a cooperating agency, including a state utility commission or siting board, is working with a federal lead agency, then that cooperating state agency should not be required to use the federal permitting process or the uniform environmental review document. State permitting and siting authorities should be permitted to act as cooperating agencies without having the federal permitting and environmental review process forced upon them. The OPSB believes that it has an effective and efficient process and that it would be unnecessary and burdensome to coordinate our own successful permitting and environmental review process with the federal process. Our state process is known, efficient, and effective. While a single process used by federal agencies would bring uniformity to those agencies, the process may not coordinate well with already effective state permitting and environmental review processes.

The OPSB intends to use the Ohio siting process when conducting permitting and environmental reviews within state jurisdiction or when cooperating with a federal lead agency. If asked by the lead agency to conduct an environmental review, a cooperating agency should not be precluded from using its own process, especially if that process has been established and used successfully for many years. State permitting and siting authorities should be permitted to act as cooperating agencies without having the federal permitting and environmental review process forced upon them.



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### III. CONCLUSION

In conclusion, the OPSB believes the proposed changes to the regulations regarding Section 216(h) of the Federal Power Act would quicken the process of siting for federal projects. However, these proposed regulations should apply exclusively to the coordination of federal agencies for projects that fall within federal jurisdiction. We believe that the Ohio power siting process works well for the State of Ohio and that the DOE and the participating federal agencies should respect the states' ability to site projects using state siting and environmental review processes. If a state agency, operating as a cooperating agency, has an effective and efficient siting and environmental review process, then that state should be permitted to use that process when working with a federally appointed lead agency.

Respectfully submitted,