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Via email to: Lamont.Jackson@hq.doe.gov

Re: Comments on Questions Related to Permitting of Transmission Lines, 77 Fed. Reg. 11517 (Feb. 27, 2012)

Dear Mr. Jackson:

Thank you for the opportunity to submit comments on questions related to the permitting of transmission lines. We, the undersigned conservation organizations, are working to address the threat of climate change by advocating for significant increases in renewable energy and energy conservation measures.

Our nation's addiction to fossil fuels, coupled with the unprecedented threats brought about by climate change, threatens the environment and the ecosystems that sustain life as never before. To sustain our environment and communities, the nation must transition away from fossil fuels as quickly as possible. To do this, we must eliminate energy waste; moderate demand through energy efficiency, conservation, and demand-side management practices; and rapidly develop clean, renewable energy technologies that are appropriately sited and designed.

Renewable energy is being developed at an unprecedented scale. For example, cumulative installed wind capacity at the end of 2005 was 9,147 MW and by the end of 2011 was 46,919 MW—a 513% increase over six years.¹ In some cases, new transmission lines will be needed to carry remote renewable energy resources to population centers. Not all lands are appropriate for energy infrastructure, however, and the full range of environmental impacts from both transmission and generation need to be carefully considered when planning for an electric grid with increasing reliance on renewable sources.

We believe it is possible to converge on greater parity between generation and transmission development permitting time horizons by ensuring that transmission planning identifies prospective alternatives that avoid environmental and cultural resource conflicts. Gains can be made in this regard through better coordination of federal agencies, improved coordination of the various permitting authorities, and prudent selection of low-impact transmission alternatives.

¹ See American Wind Energy Association (“AWEA”) Industry Statistics, available at: http://www.awea.org/learnabout/industry_stats/index.cfm); see also U.S. Department of Energy, Energy Efficiency and Renewable Energy, Wind Powering America, available at: http://www.windpoweringamerica.gov/wind_installed_capacity.asp

In the Department of Energy's (DOE) Request for Information (RFI), the agency outlined three overarching issues that arise in developing new inter-state transmission lines necessary to facilitate the transition to a clean energy future. Those issues include: (1) Non-synchronous evaluations by all governmental entities with jurisdiction; (2) uncertainty about whether all necessary permits and approvals will be received; and (3) significantly different development times for generation and transmission.

Our recommendations below aim to address the issues presented and we believe can help accelerate the environmental review, permitting, and approval times for appropriately sited new transmission line development.

Transmission Planning Principles

In general, we believe the following principles should guide all federal decision-making on transmission policy and practices.

- **Full consideration of non-wires alternatives to ensure the grid is planned efficiently.** Fully consider non-wires alternatives to generation and transmission during transmission planning. The Western Electricity Coordinating Council (WECC) is studying transmission cases where all economic energy efficiency, distributed generation and demand side management (DSM), and expansion of existing DSM programs (high DSM case), are considered in estimating loads and the need for future transmission.² Forecasts of congestion and grid optimization need to incorporate these assumptions. By prioritizing non-wires solutions, and focusing on the development of transmission projects that are truly needed, we can avoid delays and wasted resources expended unnecessarily.
- **Robust early planning for new transmission needed to unlock renewable energy.** Shipping power from renewable energy generation sites to load centers is only part of a comprehensive approach. Nevertheless, new transmission will be needed to serve remotely constrained renewable energy resources, and these proposals should be prioritized over transmission serving remotely located carbon fueled generation. In addition, to avoid delays, planners should prioritize alternatives with fewest environmental and cultural conflicts in their effort to resolve congestion, ensure reliability, and simplify permitting. Utilizing the comparative methodology from WECC's environmental data task force (EDTF) for transmission alternatives is a good first step towards early identification of potential impacts to environmental and cultural resources, although it will not supplant environmental review under the National Environmental Policy Act (NEPA) and other similar statutes but rather make such reviews more efficient. The EDTF methodology is intended to use geospatial and stakeholder identified data and evaluation to score transmission alternatives regarding their relative environmental and cultural risk.

² Ideally "economic" energy efficiency criteria should include avoided environmental costs of supply-side solutions.

- **Make smart investments in efficient transmission expansion.** Making full use of existing transmission infrastructure, corridors, and ROWs will enable more rapid development of transmission to serve remotely constrained renewable generation. Such options include reconductoring existing lines to increase capacity and reduce losses; upgrading substations in key locations; reconstructing (when reconductoring is an inadequate solution) lines to higher voltage ratings within existing corridors; reviewing and modifying regulatory standards to allow for greater use of existing corridors; and evaluating additional transfer capacity in the system from retiring coal plants to enable greater use by renewable generation projects. These options should be utilized in advance of any new corridor designations. This can shave years off of the transmission service dates for some new generators.
- **Ensure new infrastructure investments are “right-sized”.** In new and existing corridors, transmission resources should be made scalable and consolidated wherever possible so that fewer corridors will be needed in the future. Examples of this would be constructing a tower to which an additional circuit could later be added, or for which a higher voltage rating could be obtained through reconductoring at a later time, or seeking to co-locate multiple infrastructure projects within a single corridor. Efficiently scaling transmission reduces permitting delays in the future and will significantly reduce fragmentation impacts on wildlife habitat.

Direct Responses to Key Issues in the RFI:

1. Non-synchronous evaluations by all governmental entities with jurisdiction

One of the most important efficiency measures to expedite transmission permitting and development is to eliminate duplication in permitting and the problem of sequential reviews. In January 2011, the Western Governors Association (WGA) commissioned a study to address planning, siting, and permitting of electric transmission lines on federal lands.³ The report recognized that “overlapping jurisdictions between the federal, state, and local governments may be confusing and duplicative, particularly when public lands are involved, and there is a heavy coordination burden among government entities.”⁴

To address the inefficiency, federal agencies should cooperate and complement each other in a single process and federal, state and local jurisdictions (where necessary) coordinate their permitting and review processes. This can be done in several ways:

- Incorporating states and local jurisdictions into the planning process early will reduce permitting duplication and allow earlier and better understanding of and avoidance of impacts. In addition, regularly scheduled interagency meetings should be established that allow for information sharing between state and federal agencies.
- More should be done to fully implement existing agreements within the federal family. As provided for in the effective Memorandum of Understanding between federal

³ David Solan, *Transmission Siting and Public Lands: Options for Improvement and the Gateway West Case Study*, Center for Advanced Energy Studies’ Energy Policy Institute, Jan. 2011.

⁴ *Id.*

agencies and signed on October 23, 2009 (“Interagency MOU”) the Council on Environmental Quality (CEQ) should coordinate NEPA environmental review for major new transmission line proposals. In particular, the Department of Energy and the Federal Energy Regulatory Commission (FERC) need to improve consultation with the federal land management agencies during planning so that conflicts that could lead to costly delays can be avoided from the start.

Thoughtful consideration and implementation of the guidance in the Interagency MOU and other relevant guidance is essential to the success of RRTT’s ongoing efforts. This includes especially the NEPA process which “is intended to help public officials make decisions that are based on understanding of environmental consequences, and take actions that protect, restore, and enhance the environment.” 40 C.F.R. § 1500.1(c). Guidance to all jurisdictions and developers on the requirements of and timing of the NEPA process is essential. Recent experience on several lines has heightened concern in the conservation community that land management agency review not be left until the end of a chain of permits but, rather, be integrated into a coordinated permitting effort. The prevailing Interagency MOU on transmission roles and responsibilities can be better implemented to avoid the costly delays that come with overlooking lands and wildlife considerations until after considerable time and resources are invested by the project proponent and federal agencies.

By working to harmonize federal permitting processes for transmission, the RRTT can significantly improve permit speed and lower costs—while avoiding back-end conflict and delay. Although often not ultimately responsible for completing the analysis itself, DOE is well-suited to ensure the appropriate links are made between planning for large-scale generation and ongoing transmission planning efforts. One important near-term opportunity is ensuring the DOE-funded scenario study efforts led by WECC take up the solar energy zone study case presented by the Interior Department’s Bureau of Land Management.

2. Uncertainty about whether all necessary permits and approvals will be received

The lack of certainty associated with transmission line development, because of unknown length and unknown outcome, create significant challenges for developers looking to site projects close to proposed transmission lines and line developers themselves looking to invest in lines that will help transition us to a clean energy future. The other critical activities for transmission – such as engineering, design, business model development, procurement and related work – all have definitive timelines that can be accurately predicted and planned for by developers. However, it is difficult to coordinate these activities with permitting when developers have no concrete knowledge about when or if the rights-of-way over federal lands will be granted by federal agencies.

Although acquiring rights-of-way over federal lands is only one of the tasks a developer must successfully complete when permitting a transmission line involving federal lands, it can become the primary task that the development schedule turns on. In many cases, rights-of-way over state

and private lands are difficult or impossible to acquire until the federal agencies involved decide on the rights-of-ways over federal lands.

To help accelerate the process, transmission developers who work with federal agencies to plan and build lines that are “smart from the start”—that is, developed in ways that minimize environmental impacts and avoid protected and ecologically sensitive areas—will likely have greater certainty in the process. By limiting the environmental impacts, developers will likely face reduced obstacles in obtaining project permits and approval. It will also enable priority infrastructure investments to be made more rapidly with less controversy and consumer cost.

DOE can serve a managing role in this regard to ensure best practices are collected and disseminated to transmission developers to ensure smooth progress on permit review so that synchronicity can be managed across multiple ongoing permit review timelines. Additionally, criteria or other guidance can be offered to federal agencies to ensure that federal resources are expended on lines most likely to be built. Progress has been made in this regard at the land management agencies with regard to generation. *E.g., see* BLM IM 2011-060.

One of the first and most important steps to avoid as many impacts as possible to sensitive resources is to plan potential transmission lines so that they are developed within existing and designated corridors, ROWs, brownfields and other degraded lands, and other areas with co-locating opportunities. Equally important is planning to avoid lands within the categories that are either statutorily protected from development, such as transmission, and those that should otherwise be avoided, such as greater sage-grouse core areas. As mentioned above, a geospatial analytical tool to aid this process is available from WECC in the form of an environmental and cultural risk comparison methodology developed by the EDTF as part of the Regional Transmission Expansion Project (RTEP), funded by DOE.

The categories of protected areas are well-known, the importance of their protection supported by most environmental and other stakeholders, and their locations are included in a number of available geospatial data sets, including the EDTF’s which makes it easier to plan avoidance of these important lands even prior to NEPA siting activities.

Less well documented are important wildlife movement corridors, landscape connections, and crucial wildlife habitats that are not protected from development are threatened by many types of development throughout the West, including transmission. These corridors and connections are crucial to the current and long-term viability of game and nongame wildlife, especially as they provide adaptation options in the face of a changing climate. In February 2007, the Western Governors’ Association established their policy to protect wildlife migration corridors and crucial wildlife habitat in the West. Depending on the wildlife and landscape, transmission can contribute to loss, fragmentation, and diminished resiliency of these habitats. The benefit of avoidance is not only for the particular species or habitat considered, but all will expedite the federal environmental review process and reduce cost and conflict.

DOE has the opportunity to also collect and present best practices to the permitting agencies to standardize approaches to avoid, minimizing and mitigating impacts, including making available geographic information and require its use in the planning processes. Such data should also be

made publicly available for private sector use to ensure consistent use of best available information regarding sensitive resources.

3. Significantly different development times for generation and transmission

We recognize that Incongruent Development Timelines (IDT) introduce uncertainty and risk as to the timing of and the likelihood of particular generation or transmission projects being built. Though we do recognize the need for more systematic and timely approaches to permitting of renewable energy generation and associated transmission, the direct and cumulative impacts of lines across states should not be expedited at the expense of thorough system-wide planning and impact analyses.

One recommendation we offer, however, to help reconcile the IDT, is that DOE or the lead land management agency should enter into Memorandum of Agreements (MOA) with relevant state regulators and transmission planners in an effort to prioritize consideration of transmission network upgrades, additions, and transmission corridors that will facilitate renewable energy development and integration. In addition, federal agencies should work to ensure sufficient transmission will be available at the time that generation is anticipated to be placed on line in appropriate areas by:

- Working with relevant transmission planning entities to ensure that they identify transmission upgrades, additions, new or expanded corridors, and related infrastructure in sufficient detail so as to facilitate timely permitting by local, state, and federal entities;
- Working with relevant permitting authorities to prioritize and expedite interagency permit processing for transmission network upgrades and additions in areas of low conflict;
- Near-term priority should be given to transmission network upgrades and additions that may be needed to serve geographic areas that have been identified as potential high renewable energy areas with low environmental/cultural conflict locations;
- Establishing a policy to extend federal jurisdiction for Section 7 consultation to transmission network upgrades and additions and corridors, on federal and non-federal lands, that serve low conflict areas;
- Coordinating with state and federal permitting agencies to ensure that mitigation requirements for transmission network upgrades and additions and corridors are appropriate, and not redundant; and
- Considering incentives to direct investments to high resource, low conflict, areas served by transmission.

Conclusion

The fastest solution to meeting energy demand is often the solution of reducing waste and generating electricity locally. When new transmission is genuinely needed, better coordination of federal agencies, better coordination between federal, state and local permitting authorities, and prudent selection of low-impact transmission alternatives are the premiere paths for reducing the gap between renewable project and transmission development.

These comments represent our collective concerns and recommendations, but do not necessarily represent a consensus about the details of those concerns and recommendations. We look forward to discussing our recommendations, collectively or individually, with you in the future.

Sincerely,

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