



**EDISON ELECTRIC
INSTITUTE**

DAVID K. OWENS
Executive Vice President
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November 28, 2005

Ms. Julia Souder
Western Regional Coordinator
Office of Electricity Delivery and Energy Reliability
U.S. Department of Energy
1000 Independence Avenue, SW
Washington, D.C. 20585

Sent via e-mail to:

Re: Notice of Intent to Prepare a Draft PEIS Related to Energy Corridor
Designation, 70 Fed. Reg. 56447 (September 28, 2005)

Dear Ms. Souder:

The Edison Electric Institute (EEI) appreciates the opportunity to comment on the above-referenced Notice of Intent to prepare a draft programmatic environmental impact statement (PEIS) implementing section 368 of the Energy Policy Act of 2005 (P.L. 109-58). When the draft PEIS is issued, EEI would like to receive a copy.

EEI Has a Direct Interest in This Proceeding

EEI is the association of United States shareholder-owned electric companies, international affiliates, and industry associates worldwide. Our U.S. members serve 90 percent of the ultimate customers in the shareholder-owned segment of the industry in the western United States, and 63 percent of all electric utility ultimate customers in that region. Our U.S. members also generate 38 percent of all electricity produced in the western United States.

EEI's western member companies anticipate a significant need to build new transmission facilities and to upgrade existing facilities in the Western United States in order to meet growing demand for electricity and to assure access to diversified fuel resources. For this reason, EEI strongly supported enactment of section 368 and is directly interested in the section being implemented as effectively as possible.

EEI Supports Effective Implementation of EPAct Section 368

In enacting section 368, Congress intended that the Departments of Agriculture, Commerce, Defense, Energy, and Interior in consultation with the Federal Energy Regulatory Commission (the Agencies) help meet the nation's energy infrastructure needs by planning for and facilitating the siting of necessary infrastructure across federal lands. Congress specifically sought to achieve several benefits: (1) consideration of infrastructure needs by the Agencies on a west-wide and regional "source to market basis"; (2) better and more careful planning to conserve and protect natural resource values on federal lands while meeting energy infrastructure needs; and (3) assurance that significant environmental review and analysis is completed early allowing for expedited procedures when the time comes to site within a designated corridor. EEI and its member companies strongly supported those objectives and continue to do so.

EEI believes that the alternative presented in the Notice of Intent that best accommodates the statutory objectives is Alternative 4, the Optimization Criteria Alternative. In general, this alternative integrates the elements necessary to make sound planning decisions with respect to using federal lands to meet the West's infrastructure needs, while addressing related environmental concerns and incorporating cost considerations. In the consideration of supply and demand needs and network efficiencies, however, EEI strongly recommends that the Agencies rely on state and regional planning work already completed or being done. The Agencies should not seek to supplement or second-guess the priorities and decisions established through these planning processes. When Congress directed that the Agencies consider the need for grid expansion, improved reliability, and congestion relief, it did not contemplate that the Agencies would define what those needs are but would respond to the needs defined by the industry and federal and state authorities directly involved in construction and operation of the nation's electricity grid.

To respond to those needs effectively, the PEIS should be specific in proposing designated energy corridors, whether the designation involves conversion of existing rights-of-way into corridors that can accommodate new facilities and/or future upgrades of existing facilities, or whether it involves entirely new energy corridors. In addition to EEI western member companies, other resources for identifying specific needed corridors include the entities mentioned under the New Corridor Alternative.

EEI strongly encourages that when factoring in cost considerations, the Agencies consider the costs associated with constructing and managing miles of transmission line. Where means other than extensive bypass routing are readily available to minimize or mitigate adverse environmental impacts, the Agencies should use those other means, relying on bypass routing only where no acceptable alternative is available.

The PEIS must result in the designation of energy corridors in the federal agencies' land

use plans before additional incompatible uses arise in the fast growing western states. Six of the fastest growing states are located in the West. EEI strongly encourages the Agencies to identify in the PEIS expedited procedures that will be available to an entity for siting within a corridor once designated. The availability of expedited procedures, as required by section 368, if meaningful, will provide a powerful incentive for companies to site facilities within designated corridors if at all possible. The predicate for providing meaningful expedited procedures, however, is assuring that significant environmental analyses related to corridors proposed for designation is completed during the PEIS and not left to a later date. To do otherwise, would be directly contrary to the statutory provision and Congressional intent. Furthermore, the Agencies should allocate sufficient budgetary resources to allow for completion of a comprehensive and thorough PEIS that will assure an effective basis for the decisions required under the law.

EEI recognizes that private land holding and Native American lands are mixed in with the federal lands. As a result, EEI firmly believes that state, local, and tribal representatives must be involved in the Western Corridors PEIS. The Optimization Criteria Alternative will enable these representatives and the public to better appreciate and evaluate the basis for the energy infrastructure decisions, while the PEIS process will enable the Agencies better to understand the need for critical energy infrastructure. If properly prepared, the PEIS will enable all participants to better understand the context for energy infrastructure and siting decisions.

To Implement Section 368 Effectively, EEI Recommends Several Specific Measures

The Agencies should give significant weight to corridor recommendations by individual EEI member companies, all of whom are deeply involved in state and regional infrastructure planning activities and well understand the needs of the western grid. These companies are also the entities that will be in the forefront of constructing new or upgraded transmission facilities. They have worked for more than two decades through the Western Utility Group to achieve designation of corridors, resulting in the "Western Regional Corridor Study" reports in 1980, 1986, and 1993. The 1993 information was updated in the 2003 Western Regional Corridor Planning Priority Corridors map. Each of these documents was prepared in cooperation with the federal land management agencies. At this time, EEI refrains from recommending the designation of any specific corridor or route, deferring to EEI member companies for such recommendations.

In addition, in preparing the PEIS, the Agencies should consider the congestion study that the Department of Energy (DOE) is preparing under section 1221(a) of the Energy Policy Act. At a minimum, corridors across federal lands should be designated where important to address congestion and capacity constraints identified in the study. While the designation of National Interest Electric Transmission Corridors (NIETCs) under section 1221(a) may not be completed before the completion of the PEIS, the Agencies should

assure that priorities recognized through the NIETC process are addressed or that a process is established for doing so.

Reconciling the longer federal land use planning time horizons with utility planning horizons presents a difficult challenge for the Agencies. There are approaches that can assist, however. One is recognizing and addressing near and mid-term priorities identified by EEI member companies and western state and regional planning activities. Another is to consider converting certain existing rights-of-way into corridors where there is significant potential capacity for future upgrades of existing facilities. This will offer important flexibility to optimize the use of facilities on land already dedicated to energy infrastructure and where new transmission lines may not be required along side the existing facilities. The Agencies should review all existing rights-of-way containing 69 kV and above transmission lines, large oil and gas pipelines, highways, and other such infrastructure, and the Agencies should consider the feasibility of converting the rights-of-way to corridors of expanded widths and purposes. EEI recognizes that in some areas, geographic, land use, or environmental constraints will not allow for additional facilities to be added within a designated corridor. However, a corridor designation with such constraints still would be appropriate so that existing transmission lines could be upgraded to higher voltages.

EEI strongly recommends the Agencies identify now a process for accomplishing additional corridor designations in the future that can effectively cross-cut multiple jurisdictions. Energy planning to address emerging needs can be quite fluid. How fluid depends on the energy sector involved. It is conceivable that there may be a need for additional corridors within 5 years of the completion of the PEIS and the related record of decision amending the relevant land use plans. It is critical for the Agencies to allow for an integrated, multi-jurisdictional evaluation and decision regarding future corridor designations after the PEIS and record of decision are finalized.

EEI strongly urges the Agencies to develop sound and effective streamlined permitting procedures for siting facilities within the corridors designated in the PEIS. The procedures should recognize that significant environmental analysis and review will have already taken place in the PEIS and so long as the facilities are consistent with the parameters set for a corridor, that work should not have to be repeated. EEI encourages the Agencies to establish a rebuttable presumption that there will be a categorical exclusion from NEPA for electric power transmission lines sited within corridors. Such a presumption would be consistent with section 390 of EPAct, which establishes a similar presumption for pipelines. Transmission should not be treated differently than pipelines.

Beyond consideration of a categorical exclusion, the Agencies should adopt a tiered approach to environmental analysis that builds on work previously completed and that focuses on direct project impacts and their mitigation. At a minimum, no more than an Environmental Assessment should be necessary to satisfy NEPA requirements for transmission lines to be located within a designated corridor. In addition, EEI

recommends that the Agencies work with the U.S. Fish and Wildlife Service to consider the development of streamlined or tiered approach to Endangered Species Act section 7 consultations and section 10 incidental permitting where threatened or endangered species may be involved within the corridors.

The approach taken by the Agencies in setting corridors widths can add to the flexibility of the overall corridor. The agencies should ensure that the corridors are adequately wide to accommodate the installation, reliable operation, and growth of electric transmission and distribution lines, recognizing such factors as technical, engineering requirements and vegetation management needs. The flexibility recommended by EEI should allow the expansion of facilities within the corridor and the upgrading of facilities to improve reliability and expand grid capacity. The width of the corridor should also accommodate the need for access roads and temporary construction activities.

EEI strongly encourages the Agencies to address vegetation management and avian powerline interaction in the PEIS and resulting record of decision. Specifically, EEI, the Bureau of Land Management, Fish & Wildlife Service, National Park Service, Forest Service, and Environmental Protection Agency are close to finalizing a memorandum of understanding (MOU) for establishing a framework for developing cooperative rights-of-way integrated vegetation management (IVM) practices (BMPs) for electric transmission line rights-of-way located on lands managed by the federal agencies. Electric facility owners should be able fully to rely on and to implement BMPs and IVM practices contemplated in the MOU in managing facilities located within designated corridors.

In a similar vein, the Avian Power Line Interaction Committee (APLIC, managed by EEI) and the U.S. Fish & Wildlife Service announced in April 2005, agreement on voluntary avian protection planning principles (APP) for protecting bird species from power line collisions and electrocutions. The APP guidelines agreed to by APLIC and the Service are intended to be used in conjunction with APLIC's "Suggested Practices for Raptor Protection on Power Lines: The State of the Art in 1996" and "Mitigating Bird Collisions with Power Lines: The State of the Art in 1994." "Suggested Practices" is in the process of a major update and will be available in early 2006. Both documents contain detail on construction design standards and line siting recommendations. The APLIC documents are recognized throughout the world as being the state of the art resource for mitigating adverse avian interactions with power lines. EEI recommends the Agencies refer to the APLIC/USFWS APP guidelines and the APLIC manuals in the PEIS.

EEI urges the Agencies to protect designated corridors against the entry of incompatible uses or the location of incompatible uses near the facilities. In deciding what may or may not be a compatible use, the Agencies should consider how a transmission facility must be managed and operated to meet public safety and reliability requirements and concerns, and what will be needed to reduce the fire hazards. If the management requirements for

another use conflict with the requirements for the transmission facility, that other use should clearly be regarded as incompatible. These decisions will necessarily be site specific, including as to whether electric transmission lines and pipelines can be compatibly co-located.

EEI recommends that land disposals or land swaps that would transfer to private ownership land subject to a corridor designation generally be considered as an incompatible use. If such a transfer is allowed, the transfer should be made subject to the designation and with stipulations that protect the use of the land as a corridor, assure adequate management authority to meet reliability with respect to any facilities that are and might be located in a corridor, and do not allow existing and future facility owners and operators to be charged rental fees different than those that would have been charged if the land had remained in federal possession. Furthermore, if such swaps or land disposals are allowed, they should be subject to prior notice and comment where the corridor designation is prominently noted. Given, the rapid growth of metropolitan areas in the western states, this will be a critical issue for consideration in the development of the PEIS.

EEI strongly encourages the Agencies to clarify they will not require existing facilities outside of designated corridors to relocate and will not constrain location of new facilities to such corridors. Neither section 368 nor the underlying Federal Land Policy and Management Act corridor designation provisions contemplates that the corridor designation process can or will be used to force the relocation of existing energy infrastructure facilities. In light of a few comments that were made during the public scoping sessions, EEI believes it is important to express a view on this matter. Similarly, while EEI believes that the identification of new energy corridors will assist in preventing the undue proliferation of rights-of-way across federal lands, EEI has always held the view that once corridors are designated, siting outside of a corridor should not be precluded nor should the process for doing so be more difficult than under current regulations. Providing meaningful, expedited procedures for siting within a designated corridor will be the best incentive for siting within such corridors.

EEI was encouraged by the Agencies' statements in the PEIS scoping meetings held October 25 through November 3, 2005, that state, local, and tribal governments will be consulted during the preparation of the PEIS. While the end result of the PEIS will be amended federal land management agency land use plans incorporating the designated corridors, long distance "source to market" corridors are likely to involve private, state, and tribal lands. We recommend consultation with the Western Governors Association, individual states, and individual tribes. Without such consultation, the utility of designated corridors will be seriously diminished.

EEI and its member companies look forward to working with the Agencies and their staff throughout the energy corridor designation process in the 11 Western states and

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subsequently throughout the rest of the country. The PEIS and related record of decision can be an important means for assuring that the nation's energy infrastructure needs are met while conserving and protecting its natural resource values.

Sincerely,

A handwritten signature in black ink that reads "David K. Owens". The signature is written in a cursive style with a large, looping initial "D".

David K. Owens