

ENERGY POLICY ACT of 2005

Section 1221(a): Congestion Study & Designation of National Interest Electric Transmission Corridors

Section 1221(a) of the Energy Policy Act of 2005 updates Section 216 of the Federal Power Act and requires the Department of Energy to issue a national transmission congestion study for comment by August 2006 and every three years thereafter. Based on the study and public comments, DOE may designate selected geographic areas as National Corridors. Applicants for projects proposed within designated corridors that are not acted upon by state siting authorities within one year may request FERC to exercise federal "backstop" siting authority.

Subtitle B—Transmission Infrastructure Modernization

SEC. 1221. SITING OF INTERSTATE ELECTRIC TRANSMISSION FACILITIES.

(a) IN GENERAL.—Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

“SEC. 216. SITING OF INTERSTATE ELECTRIC TRANSMISSION FACILITIES.

“(a) DESIGNATION OF NATIONAL INTEREST ELECTRIC TRANSMISSION

CORRIDORS.—(1) Not later than 1 year after the date of enactment of this section and every 3 years thereafter, the Secretary of Energy (referred to in this section as the ‘Secretary’), in consultation with affected States, shall conduct a study of electric transmission congestion.

“(2) After considering alternatives and recommendations from interested parties (including an opportunity for comment from affected States), the Secretary shall issue a report, based on the study, which may designate any geographic area experiencing electric energy transmission capacity constraints or congestion that adversely affects consumers as a national interest electric transmission corridor.

“(3) The Secretary shall conduct the study and issue the report in consultation with any appropriate regional entity referred to in section 215.

“(4) In determining whether to designate a national interest electric transmission corridor under paragraph (2), the Secretary may consider whether—

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“(A) the economic vitality and development of the corridor,

or the end markets served by the corridor, may be constrained by lack of adequate or reasonably priced electricity;

“(B)(i) economic growth in the corridor, or the end markets served by the corridor, may be jeopardized by reliance on limited sources of energy; and

“(ii) a diversification of supply is warranted;

“(C) the energy independence of the United States would be served by the designation;

“(D) the designation would be in the interest of national energy policy; and

“(E) the designation would enhance national defense and homeland security.

“(b) CONSTRUCTION PERMIT.—Except as provided in subsection (i), the Commission may, after notice and an opportunity for hearing, issue one or more permits for the construction or modification of electric transmission facilities in a national interest electric transmission corridor designated by the Secretary under subsection (a) if the Commission finds that—

“(1)(A) a State in which the transmission facilities are to be constructed or modified does not have authority to—

“(i) approve the siting of the facilities; or

“(ii) consider the interstate benefits expected to be achieved by the proposed construction or modification of transmission facilities in the State;

“(B) the applicant for a permit is a transmitting utility under this Act but does not qualify to apply for a permit or siting approval for the proposed project in a State because the applicant does not serve end-use customers in the State; or

“(C) a State commission or other entity that has authority to approve the siting of the facilities has—

“(i) withheld approval for more than 1 year after the filing of an application seeking approval pursuant to applicable law or 1 year after the designation of the relevant national interest electric transmission corridor, whichever is later; or

“(ii) conditioned its approval in such a manner that the proposed construction or modification will not significantly reduce transmission congestion in interstate commerce or is not economically feasible;

“(2) the facilities to be authorized by the permit will be used for the transmission of electric energy in interstate commerce;

“(3) the proposed construction or modification is consistent

with the public interest;

“(4) the proposed construction or modification will significantly reduce transmission congestion in interstate commerce and protects or benefits consumers;

“(5) the proposed construction or modification is consistent with sound national energy policy and will enhance energy independence; and

“(6) the proposed modification will maximize, to the extent reasonable and economical, the transmission capabilities of existing towers or structures.

“(c) PERMIT APPLICATIONS.—(1) Permit applications under subsection (b) shall be made in writing to the Commission.

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“(2) The Commission shall issue rules specifying—

“(A) the form of the application;

“(B) the information to be contained in the application;

and

“(C) the manner of service of notice of the permit application on interested persons.

“(d) COMMENTS.—In any proceeding before the Commission under subsection (b), the Commission shall afford each State in which a transmission facility covered by the permit is or will be located, each affected Federal agency and Indian tribe, private property owners, and other interested persons, a reasonable opportunity to present their views and recommendations with respect to the need for and impact of a facility covered by the permit.

“(e) RIGHTS-OF-WAY.—(1) In the case of a permit under subsection (b) for electric transmission facilities to be located on property other than property owned by the United States or a State, if the permit holder cannot acquire by contract, or is unable to agree with the owner of the property to the compensation to be paid for, the necessary right-of-way to construct or modify the transmission facilities, the permit holder may acquire the right-of-way by the exercise of the right of eminent domain in the district court of the United States for the district in which the property concerned is located, or in the appropriate court of the State in which the property is located.

“(2) Any right-of-way acquired under paragraph (1) shall be used exclusively for the construction or modification of electric transmission facilities within a reasonable period of time after the acquisition.

“(3) The practice and procedure in any action or proceeding under this subsection in the district court of the United States

shall conform as nearly as practicable to the practice and procedure in a similar action or proceeding in the courts of the State in which the property is located.

“(4) Nothing in this subsection shall be construed to authorize the use of eminent domain to acquire a right-of-way for any purpose other than the construction, modification, operation, or maintenance of electric transmission facilities and related facilities. The right-of-way cannot be used for any other purpose, and the right-of-way shall terminate upon the termination of the use for which the right-of-way was acquired.

“(f) COMPENSATION.—(1) Any right-of-way acquired pursuant to subsection (e) shall be considered a taking of private property for which just compensation is due.

“(2) Just compensation shall be an amount equal to the fair market value (including applicable severance damages) of the property taken on the date of the exercise of eminent domain authority.

“(g) STATE LAW.—Nothing in this section precludes any person from constructing or modifying any transmission facility in accordance with State law.

“(h) COORDINATION OF FEDERAL AUTHORIZATIONS FOR TRANSMISSION

FACILITIES.—(1) In this subsection:

“(A) The term ‘Federal authorization’ means any authorization required under Federal law in order to site a transmission facility.

“(B) The term ‘Federal authorization’ includes such permits, special use authorizations, certifications, opinions, or other H. R. 6—356

approvals as may be required under Federal law in order to site a transmission facility.

“(2) The Department of Energy shall act as the lead agency for purposes of coordinating all applicable Federal authorizations and related environmental reviews of the facility.

“(3) To the maximum extent practicable under applicable Federal law, the Secretary shall coordinate the Federal authorization and review process under this subsection with any Indian tribes, multistate entities, and State agencies that are responsible for conducting any separate permitting and environmental reviews of the facility, to ensure timely and efficient review and permit decisions.

“(4)(A) As head of the lead agency, the Secretary, in consultation with agencies responsible for Federal authorizations and, as appropriate, with Indian tribes, multistate entities, and State agencies

that are willing to coordinate their own separate permitting and environmental reviews with the Federal authorization and environmental reviews, shall establish prompt and binding intermediate milestones and ultimate deadlines for the review of, and Federal authorization decisions relating to, the proposed facility.

“(B) The Secretary shall ensure that, once an application has been submitted with such data as the Secretary considers necessary, all permit decisions and related environmental reviews under all applicable Federal laws shall be completed—

“(i) within 1 year; or

“(ii) if a requirement of another provision of Federal law does not permit compliance with clause (i), as soon thereafter as is practicable.

“(C) The Secretary shall provide an expeditious pre-application mechanism for prospective applicants to confer with the agencies involved to have each such agency determine and communicate to the prospective applicant not later than 60 days after the prospective applicant submits a request for such information concerning—

“(i) the likelihood of approval for a potential facility; and

“(ii) key issues of concern to the agencies and public.

“(5)(A) As lead agency head, the Secretary, in consultation with the affected agencies, shall prepare a single environmental review document, which shall be used as the basis for all decisions on the proposed project under Federal law.

“(B) The Secretary and the heads of other agencies shall streamline the review and permitting of transmission within corridors designated under section 503 of the Federal Land Policy and Management Act (43 U.S.C. 1763) by fully taking into account prior analyses and decisions relating to the corridors.

“(C) The document shall include consideration by the relevant agencies of any applicable criteria or other matters as required under applicable law.

“(6)(A) If any agency has denied a Federal authorization required for a transmission facility, or has failed to act by the deadline established by the Secretary pursuant to this section for deciding whether to issue the authorization, the applicant or any State in which the facility would be located may file an appeal with the President, who shall, in consultation with the affected agency, review the denial or failure to take action on the pending application.

“(B) Based on the overall record and in consultation with the affected agency, the President may—

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“(i) issue the necessary authorization with any appropriate conditions; or

“(ii) deny the application.

“(C) The President shall issue a decision not later than 90 days after the date of the filing of the appeal.

“(D) In making a decision under this paragraph, the President shall comply with applicable requirements of Federal law, including any requirements of—

“(i) the National Forest Management Act of 1976 (16 U.S.C. 472a et seq.);

“(ii) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

“(iii) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

“(iv) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

“(v) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

“(7)(A) Not later than 18 months after the date of enactment of this section, the Secretary shall issue any regulations necessary to implement this subsection.

“(B)(i) Not later than 1 year after the date of enactment of this section, the Secretary and the heads of all Federal agencies with authority to issue Federal authorizations shall enter into a memorandum of understanding to ensure the timely and coordinated review and permitting of electricity transmission facilities.

“(ii) Interested Indian tribes, multistate entities, and State agencies may enter the memorandum of understanding.

“(C) The head of each Federal agency with authority to issue a Federal authorization shall designate a senior official responsible for, and dedicate sufficient other staff and resources to ensure, full implementation of the regulations and memorandum required under this paragraph.

“(8)(A) Each Federal land use authorization for an electricity transmission facility shall be issued—

“(i) for a duration, as determined by the Secretary, commensurate with the anticipated use of the facility; and

“(ii) with appropriate authority to manage the right-of-way for reliability and environmental protection.

“(B) On the expiration of the authorization (including an authorization issued before the date of enactment of this section), the authorization shall be reviewed for renewal taking fully into account reliance on such electricity infrastructure, recognizing the

importance of the authorization for public health, safety, and economic welfare and as a legitimate use of Federal land.

“(9) In exercising the responsibilities under this section, the Secretary shall consult regularly with—

“(A) the Federal Energy Regulatory Commission;

“(B) electric reliability organizations (including related regional entities) approved by the Commission; and

“(C) Transmission Organizations approved by the Commission.

“(i) INTERSTATE COMPACTS.—(1) The consent of Congress is given for three or more contiguous States to enter into an interstate compact, subject to approval by Congress, establishing regional transmission siting agencies to—

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“(A) facilitate siting of future electric energy transmission facilities within those States; and

“(B) carry out the electric energy transmission siting responsibilities of those States.

“(2) The Secretary may provide technical assistance to regional transmission siting agencies established under this subsection.

“(3) The regional transmission siting agencies shall have the authority to review, certify, and permit siting of transmission facilities, including facilities in national interest electric transmission corridors (other than facilities on property owned by the United States).

“(4) The Commission shall have no authority to issue a permit for the construction or modification of an electric transmission facility within a State that is a party to a compact, unless the members of the compact are in disagreement and the Secretary makes, after notice and an opportunity for a hearing, the finding described in subsection (b)(1)(C).

“(j) RELATIONSHIP TO OTHER LAWS.—(1) Except as specifically provided, nothing in this section affects any requirement of an environmental law of the United States, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

“(2) Subsection (h)(6) shall not apply to any unit of the National Park System, the National Wildlife Refuge System, the National Wild and Scenic Rivers System, the National Trails System, the National Wilderness Preservation System, or a National Monument.

“(k) ERCOT.—This section shall not apply within the area referred to in section 212(k)(2)(A).”.

(b) REPORTS TO CONGRESS ON CORRIDORS AND RIGHTS-OF-WAY ON FEDERAL LANDS.—Not later than 90 days after the date of enactment of this Act, the Secretary of the Interior, the Secretary,

the Secretary of Agriculture, and the Chairman of the Council on Environmental Quality shall submit to Congress a joint report identifying—

(1)(A) all existing designated transmission and distribution corridors on Federal land and the status of work related to proposed transmission and distribution corridor designations under title V of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1761 et seq.);

(B) the schedule for completing the work;

(C) any impediments to completing the work; and

(D) steps that Congress could take to expedite the process;

(2)(A) the number of pending applications to locate transmission facilities on Federal land;

(B) key information relating to each such facility;

(C) how long each application has been pending;

(D) the schedule for issuing a timely decision as to each facility; and

(E) progress in incorporating existing and new such rights-of-way into relevant land use and resource management plans or the equivalent of those plans; and

(3)(A) the number of existing transmission and distribution rights-of-way on Federal land that will come up for renewal within the following 5-, 10-, and 15-year periods; and

(B) a description of how the Secretaries plan to manage the renewals.

U.S. CODE

[TITLE 16](#) > [CHAPTER 12](#) > [SUBCHAPTER II](#) > § 824p

§ 824p. Siting of interstate electric transmission facilities

(a) Designation of national interest electric transmission corridors

(1) Not later than 1 year after August 8, 2005, and every 3 years thereafter, the Secretary of Energy (referred to in this section as the “Secretary”), in consultation with affected States, shall conduct a study of electric transmission congestion.

(2) After considering alternatives and recommendations from interested parties (including an opportunity for comment from affected States), the Secretary shall issue a report, based on the study, which may designate any geographic area experiencing electric energy transmission capacity constraints or congestion that adversely affects consumers as a national interest electric transmission corridor.

(3) The Secretary shall conduct the study and issue the report in consultation with any appropriate regional entity referred to in section [824o](#) of this title.

(4) In determining whether to designate a national interest electric transmission corridor under paragraph (2), the Secretary may consider whether—

(A) the economic vitality and development of the corridor, or the end markets served by the corridor, may be constrained by lack of adequate or reasonably priced electricity;

(B)

(i) economic growth in the corridor, or the end markets served by the corridor, may be jeopardized by reliance on limited sources of energy; and

(ii) a diversification of supply is warranted;

(C) the energy independence of the United States would be served by the designation;

(D) the designation would be in the interest of national energy policy; and

(E) the designation would enhance national defense and homeland security.

(b) Construction permit

Except as provided in subsection (i) of this section, the Commission may, after notice and an opportunity for hearing, issue one or more permits for the construction or modification of electric transmission facilities in a national interest electric transmission corridor designated by the Secretary under subsection (a) of this section if the Commission finds that—

(1)

(A) a State in which the transmission facilities are to be constructed or modified does not have authority to—

(i) approve the siting of the facilities; or

(ii) consider the interstate benefits expected to be achieved by the proposed construction or modification of transmission facilities in the State;

(B) the applicant for a permit is a transmitting utility under this chapter but does not qualify to apply for a permit or siting approval for the proposed project in a State because the applicant does not serve end-use customers in the State; or

(C) a State commission or other entity that has authority to approve the siting of the facilities has—

(i) withheld approval for more than 1 year after the filing of an application seeking approval pursuant to applicable law or 1 year after the designation of the relevant national interest electric transmission corridor, whichever is later; or

(ii) conditioned its approval in such a manner that the proposed construction or modification will not significantly reduce transmission congestion in interstate commerce or is not economically feasible;

(2) the facilities to be authorized by the permit will be used for the transmission of electric energy in interstate commerce;

- (3) the proposed construction or modification is consistent with the public interest;
- (4) the proposed construction or modification will significantly reduce transmission congestion in interstate commerce and protects or benefits consumers;
- (5) the proposed construction or modification is consistent with sound national energy policy and will enhance energy independence; and
- (6) the proposed modification will maximize, to the extent reasonable and economical, the transmission capabilities of existing towers or structures.

(c) Permit applications

(1) Permit applications under subsection (b) of this section shall be made in writing to the Commission.

(2) The Commission shall issue rules specifying—

- (A) the form of the application;
- (B) the information to be contained in the application; and
- (C) the manner of service of notice of the permit application on interested persons.

(d) Comments

In any proceeding before the Commission under subsection (b) of this section, the Commission shall afford each State in which a transmission facility covered by the permit is or will be located, each affected Federal agency and Indian tribe, private property owners, and other interested persons, a reasonable opportunity to present their views and recommendations with respect to the need for and impact of a facility covered by the permit.

(e) Rights-of-way

(1) In the case of a permit under subsection (b) of this section for electric transmission facilities to be located on property other than property owned by the United States or a State, if the permit holder cannot acquire by contract, or is unable to agree with the owner of the property to the compensation to be paid for, the necessary right-of-way to construct or modify the transmission facilities, the permit holder may acquire the right-of-way by the exercise of the right of eminent domain in the district court of the United States for the district in which the property concerned is located, or in the appropriate court of the State in which the property is located.

(2) Any right-of-way acquired under paragraph (1) shall be used exclusively for the construction or modification of electric transmission facilities within a reasonable period of time after the acquisition.

(3) The practice and procedure in any action or proceeding under this subsection in the district court of the United States shall conform as nearly as practicable to the practice and procedure in a similar action or proceeding in the courts of the State in which the property is located.

(4) Nothing in this subsection shall be construed to authorize the use of eminent domain to acquire a right-of-way for any purpose other than the construction, modification, operation, or maintenance of electric transmission facilities and related facilities. The right-of-way cannot be used for any other purpose, and the right-of-way shall terminate upon the termination of the use for which the right-of-way was acquired.

(f) Compensation

(1) Any right-of-way acquired pursuant to subsection (e) of this section shall be considered a taking of private property for which just compensation is due.

(2) Just compensation shall be an amount equal to the fair market value (including applicable severance damages) of the property taken on the date of the exercise of eminent domain authority.

(g) State law

Nothing in this section precludes any person from constructing or modifying any transmission facility in accordance with State law.

(h) Coordination of Federal authorizations for transmission facilities

(1) In this subsection:

- (A)** The term “Federal authorization” means any authorization required under Federal law in order to site a transmission facility.
- (B)** The term “Federal authorization” includes such permits, special use authorizations, certifications, opinions, or other approvals as may be required under Federal law in order to site a transmission facility.
- (2)** The Department of Energy shall act as the lead agency for purposes of coordinating all applicable Federal authorizations and related environmental reviews of the facility.
- (3)** To the maximum extent practicable under applicable Federal law, the Secretary shall coordinate the Federal authorization and review process under this subsection with any Indian tribes, multistate entities, and State agencies that are responsible for conducting any separate permitting and environmental reviews of the facility, to ensure timely and efficient review and permit decisions.
- (4)**
- (A)** As head of the lead agency, the Secretary, in consultation with agencies responsible for Federal authorizations and, as appropriate, with Indian tribes, multistate entities, and State agencies that are willing to coordinate their own separate permitting and environmental reviews with the Federal authorization and environmental reviews, shall establish prompt and binding intermediate milestones and ultimate deadlines for the review of, and Federal authorization decisions relating to, the proposed facility.
- (B)** The Secretary shall ensure that, once an application has been submitted with such data as the Secretary considers necessary, all permit decisions and related environmental reviews under all applicable Federal laws shall be completed—
- (i)** within 1 year; or
- (ii)** if a requirement of another provision of Federal law does not permit compliance with clause (i), as soon thereafter as is practicable.
- (C)** The Secretary shall provide an expeditious pre-application mechanism for prospective applicants to confer with the agencies involved to have each such agency determine and communicate to the prospective applicant not later than 60 days after the prospective applicant submits a request for such information concerning—
- (i)** the likelihood of approval for a potential facility; and
- (ii)** key issues of concern to the agencies and public.
- (5)**
- (A)** As lead agency head, the Secretary, in consultation with the affected agencies, shall prepare a single environmental review document, which shall be used as the basis for all decisions on the proposed project under Federal law.
- (B)** The Secretary and the heads of other agencies shall streamline the review and permitting of transmission within corridors designated under section 503 of the Federal Land Policy and Management Act ^(43 U.S.C. 1763) by fully taking into account prior analyses and decisions relating to the corridors.
- (C)** The document shall include consideration by the relevant agencies of any applicable criteria or other matters as required under applicable law.
- (6)**
- (A)** If any agency has denied a Federal authorization required for a transmission facility, or has failed to act by the deadline established by the Secretary pursuant to this section for deciding whether to issue the authorization, the applicant or any State in which the facility would be located may file an appeal with the President, who shall, in consultation with the affected agency, review the denial or failure to take action on the pending application.
- (B)** Based on the overall record and in consultation with the affected agency, the President may—
- (i)** issue the necessary authorization with any appropriate conditions; or
- (ii)** deny the application.

(C) The President shall issue a decision not later than 90 days after the date of the filing of the appeal.

(D) In making a decision under this paragraph, the President shall comply with applicable requirements of Federal law, including any requirements of—

- (i)** the National Forest Management Act of 1976 ([16 U.S.C. 472a](#) et seq.);
- (ii)** the Endangered Species Act of 1973 ([16 U.S.C. 1531](#) et seq.);
- (iii)** the Federal Water Pollution Control Act ([33 U.S.C. 1251](#) et seq.);
- (iv)** the National Environmental Policy Act of 1969 ([42 U.S.C. 4321](#) et seq.); and
- (v)** the Federal Land Policy and Management Act of 1976 ([43 U.S.C. 1701](#) et seq.).

(7)

(A) Not later than 18 months after August 8, 2005, the Secretary shall issue any regulations necessary to implement this subsection.

(B)

(i) Not later than 1 year after August 8, 2005, the Secretary and the heads of all Federal agencies with authority to issue Federal authorizations shall enter into a memorandum of understanding to ensure the timely and coordinated review and permitting of electricity transmission facilities.

(ii) Interested Indian tribes, multistate entities, and State agencies may enter the memorandum of understanding.

(C) The head of each Federal agency with authority to issue a Federal authorization shall designate a senior official responsible for, and dedicate sufficient other staff and resources to ensure, full implementation of the regulations and memorandum required under this paragraph.

(8)

(A) Each Federal land use authorization for an electricity transmission facility shall be issued—

(i) for a duration, as determined by the Secretary, commensurate with the anticipated use of the facility; and

(ii) with appropriate authority to manage the right-of-way for reliability and environmental protection.

(B) On the expiration of the authorization (including an authorization issued before August 8, 2005), the authorization shall be reviewed for renewal taking fully into account reliance on such electricity infrastructure, recognizing the importance of the authorization for public health, safety, and economic welfare and as a legitimate use of Federal land.

(9) In exercising the responsibilities under this section, the Secretary shall consult regularly with—

(A) the Federal Energy Regulatory Commission;

(B) electric reliability organizations (including related regional entities) approved by the Commission; and

(C) Transmission Organizations approved by the Commission.

(i) Interstate compacts

(1) The consent of Congress is given for three or more contiguous States to enter into an interstate compact, subject to approval by Congress, establishing regional transmission siting agencies to—

(A) facilitate siting of future electric energy transmission facilities within those States; and

(B) carry out the electric energy transmission siting responsibilities of those States.

(2) The Secretary may provide technical assistance to regional transmission siting agencies established under this subsection.

(3) The regional transmission siting agencies shall have the authority to review, certify, and permit siting of transmission facilities, including facilities in national interest electric transmission corridors (other than facilities on property owned by the United States).

(4) The Commission shall have no authority to issue a permit for the construction or modification of an electric transmission facility within a State that is a party to a compact, unless the members of the compact are in disagreement and the Secretary makes, after notice and an opportunity for a hearing, the finding described in subsection (b)(1)(C) of this section.

(j) Relationship to other laws

(1) Except as specifically provided, nothing in this section affects any requirement of an environmental law of the United States, including the National Environmental Policy Act of 1969 ([42 U.S.C. 4321](#) et seq.).

(2) Subsection (h)(6) of this section shall not apply to any unit of the National Park System, the National Wildlife Refuge System, the National Wild and Scenic Rivers System, the National Trails System, the National Wilderness Preservation System, or a National Monument.

(k) ERCOT

This section shall not apply within the area referred to in section [824k \(k\)\(2\)\(A\)](#) of this title.

[\[1\]](#) So in original. Probably should be followed by “of 1976”.

Title 18 Code of Federal Regulations: Conservation of Power and Water Resources

Part 380: Regulations Implementing the National Environmental Policy Act

§ 380.3 Environmental information to be supplied by an applicant.

(a) An applicant must submit information as follows:

(1) For any proposed action identified in §§380.5 and 380.6, and environmental report with the proposal as prescribed in paragraph (c) of this section.

(2) For any proposal not identified in paragraph (a)(1) of this section, any environmental information that the Commission may determine is necessary for compliance with these regulations, the regulations of the Council, NEPA and other Federal laws such as the Endangered Species Act, the National Historic Preservation Act or the Coastal Zone Management Act.

(b) An applicant must also:

(1) Provide all necessary or relevant information to the Commission;

(2) Conduct any studies that the Commission staff considers necessary or relevant to determine the impact of the proposal on the human environment and natural resources;

(3) Consult with appropriate Federal, regional, State, and local agencies during the planning stages of the proposed action to ensure that all potential environmental impacts are identified. (The specific requirements for consultation on hydropower projects are contained in §4.38 and §16.8 of this chapter and in section 4(a) of the Electric Consumers Protection Act, Pub. L. No. 99-495, 100 Stat. 1243, 1246 (1986));

(4) Submit applications for all Federal and State approvals as early as possible in the planning process; and

(5) Notify the Commission staff of all other Federal actions required for completion of the proposed action so that the staff may coordinate with other interested Federal agencies.

(c) *Content of an applicant's environmental report for specific proposals* —(1) *Hydropower projects*. The information required for specific project applications under part 4 or 16 of this chapter.

(2) *Natural gas projects*. (i) For any application filed under the Natural Gas Act for any proposed action identified in §§380.5 or 380.6, except for prior notice filings under §157.208, as described in §380.5(b), the information identified in §380.12 and Appendix A of this part.

(ii) For prior notice filings under §157.208, the report described by §157.208(c)(11) of this chapter.

(3) *Electric transmission project*. For pre-filing requests and applications filed under section 216 of the Federal Power Act identified in §§380.5(b)(14) and 380.6(a)(5).

[Order 486, 52 FR 47910, Dec. 17, 1987, as amended by Order 533, 56 FR 23155, May 20, 1991; Order 603, 64 FR 26611, May 14, 1999; Order 689, 71 FR 69470, Dec. 1, 2006]

§ 380.5 Actions that require an environmental assessment.

(a) An environmental assessment will normally be prepared first for the actions identified in this section. Depending on the outcome of the environmental assessment, the Commission may or may not prepare an environmental impact statement. However, depending on the location or scope of the proposed action, or the resources affected, the Commission may in specific circumstances proceed directly to prepare an environmental impact statement.

(b) The projects subject to an environmental assessment are as follows:

(1) Except as identified in §§380.4, 380.6 and 2.55 of this chapter, authorization for the site of new gas import/export facilities under DOE Delegation No. 0204–112 and authorization under section 7 of the Natural Gas Act for the construction, replacement, or abandonment of compression, processing, or interconnecting facilities, onshore and offshore pipelines, metering facilities, LNG peak-shaving facilities, or other facilities necessary for the sale, exchange, storage, or transportation of natural gas;

(2) Prior notice filings under §157.208 of this chapter for the rearrangement of any facility specified in §§157.202 (b)(3) and (6) of this chapter or the acquisition, construction, or operation of any eligible facility as specified in §§157.202 (b)(2) and (3) of this chapter;

(3) Abandonment or reduction of natural gas service under section 7 of the Natural Gas Act unless excluded under §380.4 (a)(21), (28) or (29);

(4) Except as identified in §380.6, conversion of existing depleted oil or natural gas fields to underground storage fields under section 7 of the Natural Gas Act.

(5) New natural gas curtailment plans, or any amendment to an existing curtailment plan under section 4 of the Natural Gas Act and sections 401 through 404 of the Natural Gas Policy Act of 1978 that has a major effect on an entire pipeline system;

(6) Licenses under Part I of the Federal Power Act and part 4 of this chapter for construction of any water power project—existing dam;

(7) Exemptions under section 405 of the Public Utility Regulatory Policies Act of 1978, as amended, and §§4.30(b)(27) and 4.101–4.106 of this chapter for small hydroelectric power projects of 5 MW or less;

(8) Licenses for additional project works at licensed projects under Part I of the Federal Power Act whether or not these are styled license amendments or original licenses;

(9) Licenses under Part I of the Federal Power Act and part 4 of this chapter for transmission lines only;

(10) Applications for new licenses under section 15 of the Federal Power Act;

(11) Approval of electric interconnections and wheeling under section 202(b), 210, 211, and 212 of the Federal Power Act, unless excluded under §380.4(a)(17);

(12) Regulations or proposals for legislation not included under §380.4(a)(2);

(13) Surrender of water power licenses and exemptions where project works exist or ground disturbing activity has occurred and amendments to water power licenses and exemptions that require ground disturbing activity or changes to project works or operations; and

(14) Except as identified in §380.6, authorization to site new electric transmission facilities under section 216 of the Federal Power Act and DOE Delegation Order No. 00–004.00A.

[Order 486, 52 FR 47910, Dec. 17, 1987; Order 486, 53 FR 4817, Feb. 17, 1988, as amended by 53 FR 8177, Mar. 14, 1988; Order 486-B, 53 FR 26437, July 13, 1988; Order 689, 71 FR 69470, Dec. 1, 2006]

§ 380.16 Environmental reports for section 216 Federal Power Act Permits.

(a) *Introduction.* (1) The applicant must submit an environmental report with any application that proposes the construction or modification of any facility identified in §380.3(c)(3). The environmental report must include the 11 resource reports and related material described in this section.

(2) The detail of each resource report must be commensurate with the complexity of the proposal and its potential for environmental impact. Each topic in each resource report must be addressed or its omission justified, unless the data is not required for that type of proposal. If material required for one resource report is provided in another resource report or in another exhibit, it may be cross referenced. If any resource report topic is required for a particular project but is not provided at the time the application is filed, the environmental report must explain why it is missing and when the applicant anticipates it will be filed.

(b) *General requirements.* As appropriate, each resource report must:

(1) Address conditions or resources that are likely to be directly or indirectly affected by the project;

(2) Identify significant environmental effects expected to occur as a result of the project;

(3) Identify the effects of construction, operation (including maintenance and malfunctions), as well as cumulative effects resulting from existing or reasonably foreseeable projects;

(4) Identify measures proposed to enhance the environment or to avoid, mitigate, or compensate for adverse effects of the project; and

(5) Provide a list of publications, reports, and other literature or communications, including agency contacts, that were cited or relied upon to prepare each report. This list must include the names and titles of the persons contacted, their affiliations, and telephone numbers.

(6) Whenever this section refers to “mileposts” the applicant may substitute “survey centerline stationing” if so preferred. However, whatever method is chosen must be used consistently throughout the resource reports.

(c) *Resource Report 1—General project description.* This report must describe facilities associated with the project, special construction and operation procedures, construction timetables, future plans for related construction, compliance with regulations and codes, and permits that must be obtained. Resource Report 1 must:

(1) Describe and provide location maps of all project facilities, include all facilities associated with the project (such as transmission line towers, substations, and any appurtenant facilities), to be constructed, modified, replaced, or removed, including related construction and operational support activities and areas such as maintenance bases, staging areas, communications towers, power lines, and new access roads (roads to be built or modified). As relevant, the report must describe the length and size of the proposed transmission line conductor cables, the types of appurtenant facilities that would be constructed, and associated land requirements.

(2) Provide the following maps and photos:

(i) Current, original United States Geological Survey (USGS) 7.5-minute series topographic maps or maps of equivalent detail, covering at least a 0.5-mile-wide corridor centered on the electric transmission facility centerline, with integer mileposts identified, showing the location of rights-of-way, new access roads, other linear construction areas, substations, and construction materials storage areas. Nonlinear construction areas must be shown on maps at a scale of 1:3,600 or larger keyed graphically and by milepost to the right-of-way maps. In areas where the facilities described in paragraph (j)(6) of this section are located, topographic map coverage must be expanded to depict those facilities.

(ii) Original aerial images or photographs or photo-based alignment sheets based on these sources, not more than one year old (unless older ones accurately depict current land use and development) and with a scale of 1:6,000, or larger, showing the proposed transmission line route and location of transmission line towers, substations and appurtenant facilities, covering at least a 0.5 mile-wide corridor, and including mileposts. The aerial images or photographs or photo-based alignment sheets must show all existing transmission facilities located in the area of the proposed facilities and the location of habitable structures, radio transmitters and other electronic installations, and airstrips. Older images/photographs/alignment sheets must be modified to show any residences not depicted in the original. In areas where the facilities described in paragraph (j)(6) of this section are located, aerial photographic coverage must be expanded to depict those facilities. Alternative formats (e.g. , blue-line prints of acceptable resolution) need prior approval by the environmental staff of the Office of Energy Projects.

(iii) In addition to the copies required under §50.3(b) of this chapter, the applicant must send three additional copies of topographic maps and aerial images/photographs directly to the environmental staff of the Commission's Office of Energy Projects.

(3) Describe and identify by milepost, proposed construction and restoration methods to be used in areas of rugged topography, residential areas, active croplands and sites where explosives are likely to be used.

(4) Identify the number of construction spreads, average workforce requirements for each construction spread and estimated duration of construction from initial clearing to final restoration, and any identified constraints to the timing of construction.

(5) Describe reasonably foreseeable plans for future expansion of facilities, including additional land requirements and the compatibility of those plans with the current proposal.

(6) Describe all authorizations required to complete the proposed action and the status of applications for such authorizations. Identify environmental mitigation requirements specified in any permit or proposed in any permit application to the extent not specified elsewhere in this section.

(7) Provide the names and mailing addresses of all affected landowners identified in §50.5(c)(4) of this chapter and certify that all affected landowners will be notified as required in §50.4(c) of this chapter.

(d) *Resource Report 2—Water use and quality.* This report must describe water quality and provide data sufficient to determine the expected impact of the project and the effectiveness of mitigative, enhancement, or protective measures. Resource Report 2 must:

(1) Identify and describe by milepost waterbodies and municipal water supply or watershed areas, specially designated surface water protection areas and sensitive waterbodies, and wetlands that would be crossed. For each waterbody crossing, identify the approximate width, State water quality classifications, any known potential pollutants present in the water or sediments, and any potable water intake sources within three miles downstream.

(2) Provide a description of site-specific construction techniques that will be used at each major waterbody crossing.

(3) Describe typical staging area requirements at waterbody and wetland crossings. Also, identify and describe waterbodies and wetlands where staging areas are likely to be more extensive.

(4) Include National Wetland Inventory (NWI) maps. If NWI maps are not available, provide the appropriate State wetland maps. Identify for each crossing, the milepost, the wetland classification specified by the U.S. Fish and Wildlife Service, and the length of the crossing. Include two copies of the NWI maps (or the substitutes, if NWI maps are not available) clearly showing the proposed route and mileposts. Describe by milepost, wetland crossings as determined by field delineations using the current Federal methodology.

(5) Identify aquifers within excavation depth in the project area, including the depth of the aquifer, current and projected use, water quality, and known or suspected contamination problems.

(6) Discuss proposed mitigation measures to reduce the potential for adverse impacts to surface water, wetlands, or groundwater quality. Discuss the potential for blasting to affect water wells, springs, and wetlands, and measures to be taken to detect and remedy such effects.

(7) Identify the location of known public and private groundwater supply wells or springs within 150 feet of proposed construction areas. Identify locations of EPA or State-designated, sole-source aquifers and wellhead protection areas crossed by the proposed transmission line facilities.

(e) *Resource Report 3—Fish, wildlife, and vegetation.* This report must describe aquatic life, wildlife, and vegetation in the vicinity of the proposed project; expected impacts on these resources including potential effects on biodiversity; and proposed mitigation, enhancement, or protection measures. Resource Report 3 must:

(1) Describe commercial and recreational warmwater, coldwater, and saltwater fisheries in the affected area and associated significant habitats such as spawning or rearing areas and estuaries.

(2) Describe terrestrial habitats, including wetlands, typical wildlife habitats, and rare, unique, or otherwise significant habitats that might be affected by the proposed action. Describe typical species that have commercial, recreational, or aesthetic value.

(3) Describe and provide the affected acreage of vegetation cover types that would be affected, including unique ecosystems or communities such as remnant prairie or old-growth forest, or significant individual plants, such as old-growth specimen trees.

(4) Describe the impact of construction and operation on aquatic and terrestrial species and their habitats, including the possibility of a major alteration to ecosystems or biodiversity, and any potential impact on State-listed endangered or threatened species. Describe the impact of maintenance, clearing and treatment of the project area on fish, wildlife, and vegetation. Surveys may be required to determine specific areas of significant habitats or communities of species of special concern to State, Tribal, or local agencies.

(5) Identify all Federally-listed or proposed threatened or endangered species and critical habitat that potentially occur in the vicinity of the project. Discuss the results of the consultation requirements listed in §380.13(b) through §380.13(b)(5)(i) and include any written correspondence that resulted from the consultation. The initial application must include the results of any required surveys unless seasonal considerations make this impractical. If species surveys are impractical, there must be field surveys to determine the presence of suitable habitat unless the entire project area is suitable habitat.

(6) Identify all Federally-listed essential fish habitat (EFH) that potentially occurs in the vicinity of the project. Provide information on all EFH, as identified by the pertinent Federal fishery management plans,

that may be adversely affected by the project and the results of abbreviated consultations with NMFS, and any resulting EFH assessments.

(7) Describe site-specific mitigation measures to minimize impacts on fisheries, wildlife, and vegetation.

(8) Include copies of correspondence not provided under paragraph (e)(5) of this section, containing recommendations from appropriate Federal and State fish and wildlife agencies to avoid or limit impact on wildlife, fisheries, and vegetation, and the applicant's response to the recommendations.

(f) *Resource Report 4—Cultural resources.* In order to prepare this report, the applicant must follow the principles in §380.14.

(1) Resource Report 4 must contain:

(i) Documentation of the applicant's initial cultural resources consultations, including consultations with Native Americans and other interested persons (if appropriate);

(ii) Overview and Survey Reports, as appropriate;

(iii) Evaluation Report, as appropriate;

(iv) Treatment Plan, as appropriate; and

(v) Written comments from State Historic Preservation Officer(s) (SHPO), Tribal Historic Preservation Officers (THPO), as appropriate, and applicable land-managing agencies on the reports in paragraphs (f)(1) (i) through (iv) of this section.

(2) The initial application or pre-filing documents, as applicable, must include the documentation of initial cultural resource consultation(s), the Overview and Survey Reports, if required, and written comments from SHPOs, THPOs, and land-managing agencies, if available. The initial cultural resources consultations should establish the need for surveys. If surveys are deemed necessary by the consultation with the SHPO/THPO, the survey reports must be filed with the initial application or pre-filing documents.

(i) If the comments of the SHPOs, THPOs, or land-management agencies are not available at the time the application is filed, they may be filed separately, but they must be filed before a permit is issued.

(ii) If landowners deny access to private property and certain areas are not surveyed, the unsurveyed area must be identified by mileposts, and supplemental surveys or evaluations must be conducted after access is granted. In those circumstances, reports, and treatment plans, if necessary, for those inaccessible lands may be filed after a permit is issued.

(3) The Evaluation Report and Treatment Plan, if required, for the entire project must be filed before a permit is issued.

(i) In preparing the Treatment Plan, the applicant must consult with the Commission staff, the SHPO, and any applicable THPO and land-management agencies.

(ii) Authorization to implement the Treatment Plan will occur only after the permit is issued.

(4) Applicant must request privileged treatment for all material filed with the Commission containing location, character, and ownership information about cultural resources in accordance with §388.112 of this

chapter. The cover and relevant pages or portions of the report should be clearly labeled in bold lettering: “CONTAINS PRIVILEGED INFORMATION—DO NOT RELEASE.”

(5) Except as specified in a final Commission order, or by the Director of the Office of Energy Projects, construction may not begin until all cultural resource reports and plans have been approved.

(g) *Resource Report 5—Socioeconomics*. This report must identify and quantify the impacts of constructing and operating the proposed project on factors affecting towns and counties in the vicinity of the project. Resource Report 5 must:

(1) Describe the socioeconomic impact area.

(2) Evaluate the impact of any substantial immigration of people on governmental facilities and services and plans to reduce the impact on the local infrastructure.

(3) Describe on-site manpower requirements and payroll during construction and operation, including the number of construction personnel who currently reside within the impact area, will commute daily to the site from outside the impact area, or will relocate temporarily within the impact area.

(4) Determine whether existing housing within the impact area is sufficient to meet the needs of the additional population.

(5) Describe the number and types of residences and businesses that will be displaced by the project, procedures to be used to acquire these properties, and types and amounts of relocation assistance payments.

(6) Conduct a fiscal impact analysis evaluating incremental local government expenditures in relation to incremental local government revenues that will result from construction of the project. Incremental expenditures include, but are not limited to, school operating costs, road maintenance and repair, public safety, and public utility costs.

(h) *Resource Report 6—Geological resources*. This report must describe geological resources and hazards in the project area that might be directly or indirectly affected by the proposed action or that could place the proposed facilities at risk, the potential effects of those hazards on the facility, and methods proposed to reduce the effects or risks. Resource Report 6 must:

(1) Describe, by milepost, mineral resources that are currently or potentially exploitable.

(2) Describe, by milepost, existing and potential geological hazards and areas of nonroutine geotechnical concern, such as high seismicity areas, active faults, and areas susceptible to soil liquefaction; planned, active, and abandoned mines; karst terrain; and areas of potential ground failure, such as subsidence, slumping, and landsliding. Discuss the hazards posed to the facility from each one.

(3) Describe how the project will be located or designed to avoid or minimize adverse effects to the resources or risk to itself, including geotechnical investigations and monitoring that would be conducted before, during, and after construction. Discuss also the potential for blasting to affect structures, and the measures to be taken to remedy such effects.

(4) Specify methods to be used to prevent project-induced contamination from surface mines or from mine tailings along the right-of-way and whether the project would hinder mine reclamation or expansion efforts.

(i) *Resource Report 7—Soils*. This report must describe the soils that will be affected by the proposed project, the effect on those soils, and measures proposed to minimize or avoid impact. Resource Report 7 must:

(1) List, by milepost, the soil associations that would be crossed and describe the erosion potential, fertility, and drainage characteristics of each association.

(2) Identify, by milepost, potential impact from: Soil erosion due to water, wind, or loss of vegetation; soil compaction and damage to soil structure resulting from movement of construction vehicles; wet soils and soils with poor drainage that are especially prone to structural damage; damage to drainage tile systems due to movement of construction vehicles and trenching activities; and interference with the operation of agricultural equipment due to the possibility of large stones or blasted rock occurring on or near the surface as a result of construction.

(3) Identify, by milepost, cropland, and residential areas where loss of soil fertility due to construction activity can occur. Indicate which are classified as prime or unique farmland by the U.S. Department of Agriculture, Natural Resources Conservation Service.

(j) *Resource Report 8—Land use, recreation, and aesthetics*. This report must describe the existing uses of land on, and (where specified) within 0.25 mile of, the edge of the proposed transmission line right-of-way and changes to those land uses that will occur if the project is approved. The report must discuss proposed mitigation measures, including protection and enhancement of existing land use. Resource Report 8 must:

(1) Describe the width and acreage requirements of all construction and permanent rights-of-way required for project construction, operation and maintenance.

(i) List, by milepost, locations where the proposed right-of-way would be adjacent to existing rights-of-way of any kind.

(ii) Identify, preferably by diagrams, existing rights-of-way that will be used for a portion of the construction or operational right-of-way, the overlap and how much additional width will be required.

(iii) Identify the total amount of land to be purchased or leased for each project facility, the amount of land that would be disturbed for construction, operation, and maintenance of the facility, and the use of the remaining land not required for project operation and maintenance, if any.

(iv) Identify the size of typical staging areas and expanded work areas, such as those at railroad, road, and waterbody crossings, and the size and location of all construction materials storage yards and access roads.

(2) Identify, by milepost, the existing use of lands crossed by the proposed transmission facility, or on or adjacent to each proposed project facility.

(3) Describe planned development on land crossed or within 0.25 mile of proposed facilities, the time frame (if available) for such development, and proposed coordination to minimize impacts on land use. Planned development means development which is included in a master plan or is on file with the local planning board or the county.

(4) Identify, by milepost and length of crossing, the area of direct effect of each proposed facility and operational site on sugar maple stands, orchards and nurseries, landfills, operating mines, hazardous waste sites, wild and scenic rivers, designated trails, nature preserves, game management areas, remnant prairie, old-growth forest, national or State forests, parks, golf courses, designated natural, recreational or scenic areas, or registered natural landmarks, Native American religious sites and traditional cultural properties to the extent they are known to the public at large, and reservations, lands identified under the Special Area Management Plan of the Office of Coastal Zone Management, National Oceanic and Atmospheric Administration, and lands owned or controlled by Federal or State agencies or private preservation groups. Also identify if any of those areas are located within 0.25 mile of any proposed facility.

(5) *Tribal resources* . Describe Indian tribes, tribal lands, and interests that may be affected by the project.

(i) Identify Indian tribes that may attach religious and cultural significance to historic properties within the project right-of-way or in the project vicinity, as well as available information on Indian traditional cultural and religious properties, whether on or off of any Federally-recognized Indian reservation.

(ii) Information made available under this section must delete specific site or property locations, the disclosure of which will create a risk of harm, theft, or destruction of archaeological or Native American cultural resources or to the site at which the resources are located, or which would violate any Federal law, including the Archaeological Resources Protection Act of 1979, 16 U.S.C. 470w-3, and the National Historic Preservation Act of 1966, 16 U.S.C. 470hh.

(6) Identify, by milepost, all residences and buildings within 200 feet of the edge of the proposed transmission line construction right-of-way and the distance of the residence or building from the edge of the right-of-way. Provide survey drawings or alignment sheets to illustrate the location of the transmission facilities in relation to the buildings.

(i) *Buildings*: List all single-family and multi-family dwellings and related structures, mobile homes, apartment buildings, commercial structures, industrial structures, business structures, churches, hospitals, nursing homes, schools, or other structures normally inhabited by humans or intended to be inhabited by humans on a daily or regular basis within a 0.5-mile-wide corridor centered on the proposed transmission line alignment. Provide a general description of each habitable structure and its distance from the centerline of the proposed project. In cities, towns, or rural subdivisions, houses can be identified in groups. Provide the number of habitable structures in each group and list the distance from the centerline to the closest habitable structure in the group.

(ii) *Electronic installations*: List all commercial AM radio Transmitters located within 10,000 feet of the centerline of the proposed project and all FM radio transmitters, microwave relay stations, or other similar electronic installations located within 2,000 feet of the centerline of the proposed project. Provide a general description of each installation and its distance from the centerline of the projects. Locate all installations on a routing map.

(iii) *Airstrips*: List all known private airstrips within 10,000 feet of the centerline of the project. List all airports registered with the Federal Aviation Administration (FAA) with at least one runway more than 3,200 feet in length that are located within 20,000 feet of the centerline of the proposed project. Indicate whether any transmission structures will exceed a 100:1 horizontal slope (one foot in height for each 100 feet in distance) from the closest point of the closest runway. List all airports registered with the FAA having no runway more than 3,200 feet in length that are located within 10,000 feet of the centerline of the proposed project. Indicate whether any transmission structures will exceed a 50:1 horizontal slope from the closest point of the closest runway. List all heliports located within 5,000 feet of the centerline of the proposed project. Indicate whether any transmission structures will exceed a 25:1 horizontal slope from the closest point of the closest landing and takeoff area of the heliport. Provide a general description of each private airstrip, registered airport, and registered heliport, and state the distance of each from the centerline of the proposed transmission line. Locate all airstrips, airports, and heliports on a routing map.

(7) Describe any areas crossed by or within 0.25 mile of the proposed transmission project facilities which are included in, or are designated for study for inclusion in: The National Wild and Scenic Rivers System (16 U.S.C. 1271); The National Trails System (16 U.S.C. 1241); or a wilderness area designated under the Wilderness Act (16 U.S.C. 1132).

(8) For facilities within a designated coastal zone management area, provide a consistency determination or evidence that the applicant has requested a consistency determination from the State's coastal zone management program.

(9) Describe the impact the project will have on present uses of the affected areas as identified above, including commercial uses, mineral resources, recreational areas, public health and safety, and the aesthetic value of the land and its features. Describe any temporary or permanent restrictions on land use resulting from the project.

(10) Describe mitigation measures intended for all special use areas identified under this section.

(11) Describe the visual characteristics of the lands and waters affected by the project. Components of this description include a description of how the transmission line project facilities will impact the visual character of project right-of-way and surrounding vicinity, and measures proposed to lessen these impacts. Applicants are encouraged to supplement the text description with visual aids.

(12) Demonstrate that applications for rights-of-way or other proposed land use have been or soon will be filed with Federal land-management agencies with jurisdiction over land that would be affected by the project.

(k) *Resource Report 9—Alternatives*. This report must describe alternatives to the project and compare the environmental impacts of such alternatives to those of the proposal. It must discuss technological and procedural constraints, costs, and benefits of each alternative. The potential for each alternative to meet project purposes and the environmental consequences of each alternative must be discussed. Resource Report 9 must:

(1) Discuss the “no action” alternative and other alternatives given serious consideration to achieve the proposed objectives.

(2) Provide an analysis of the relative environmental benefits and impacts of each such alternative, including but not limited to:

(i) For alternatives considered in the initial screening for the project but eliminated, describe the environmental characteristics of each alternative, and the reasons for rejecting it. Where applicable, identify the location of such alternatives on maps of sufficient scale to depict their location and relationship to the proposed action, and the relationship of the transmission facilities to existing rights-of-way; and

(ii) For alternatives that were given more in-depth consideration, describe the environmental characteristics of each alternative and the reasons for rejecting it. Provide comparative tables showing the differences in environmental characteristics for the alternative and proposed action. The location, where applicable, of any alternatives in this paragraph shall be provided on maps equivalent to those required in paragraph (c) (2) of this section.

(l) *Resource Report 10—Reliability and Safety*. This report must address the potential hazard to the public from facility components resulting from accidents or natural catastrophes, how these events will affect reliability, and what procedures and design features have been used to reduce potential hazards. Resource Report 10 must:

(1) Describe measures proposed to protect the public from failure of the proposed facilities (including coordination with local agencies).

(2) Discuss hazards, the environmental impact, and service interruptions which could reasonably ensue from failure of the proposed facilities.

(3) Discuss design and operational measures to avoid or reduce risk.

(4) Discuss contingency plans for maintaining service or reducing downtime.

(5) Describe measures used to exclude the public from hazardous areas. Discuss measures used to minimize problems arising from malfunctions and accidents (with estimates of probability of occurrence) and identify standard procedures for protecting services and public safety during maintenance and breakdowns.

(6) Provide a description of the electromagnetic fields to be generated by the proposed transmission lines, including their strength and extent. Provide a depiction of the expected field compared to distance horizontally along the right-of-way under the conductors, and perpendicular to the centerline of the right-of-way laterally.

(7) Discuss the potential for acoustic and electrical noise from electric and magnetic fields, including shadowing and reradiation, as they may affect health or communication systems along the transmission right-of-way. Indicate the noise level generated by the line in both dB and dBA scales and compare this to any known noise ordinances for the zoning districts through which the transmission line will pass.

(8) Discuss the potential for induced or conducted currents along the transmission right-of-way from electric and magnetic fields.

(m) *Resource Report 11—Design and Engineering*. This report consists of general design and engineering drawings of the principal project facilities described under Resource Report 1—General project description. If the version of this report submitted with the application is preliminary in nature, applicant must state that in the application. The drawings must conform to the specifications determined in the initial consultation meeting required by §50.5(b) of this chapter.

(1) The drawings must show all major project structures in sufficient detail to provide a full understanding of the project including:

(i) Plans (overhead view);

(ii) Elevations (front view);

(iii) Profiles (side view); and

(iv) Sections.

(2) The applicant may submit preliminary design drawings with the pre-filing documents or application. The final design drawings may be submitted during the construction permit process or after the Commission issues a permit and must show the precise plans and specifications for proposed structures. If a permit is granted on the basis of preliminary designs, the applicant must submit final design drawings for written approval by the Director of the Office of Energy Project's prior to commencement of any construction of the project.

(3) *Supporting design report*. The applicant must submit, at a minimum, the following supporting information to demonstrate that existing and proposed structures are safe and adequate to fulfill their stated functions and must submit such information in a separate report at the time the application is filed:

(i) An assessment of the suitability of the transmission line towers and appurtenant structures locations based on geological and subsurface investigations, including investigations of soils and rock borings and tests for the evaluation of all foundations and construction materials sufficient to determine the location and type of transmission line tower or appurtenant structures suitable for the site;

(ii) Copies of boring logs, geology reports, and laboratory test reports;

(iii) An identification of all borrow areas and quarry sites and an estimate of required quantities of suitable construction material;

(iv) Stability and stress analyses for all major transmission structures and conductors under all probable loading conditions, including seismic, wind, and ice loading, as appropriate, in sufficient detail to permit independent staff evaluation.

(4) The applicant must submit two copies of the supporting design report described in paragraph (m)(3) of this section at the time preliminary and final design drawings are filed. If the report contains preliminary drawings, it must be designated a “Preliminary Supporting Design Report.”

[Order 689, 71 FR 69471, Dec. 1, 2006]

e-CFR Data is current as of January 22, 2010

Title 18: Conservation of Power and Water Resources

PART 50—APPLICATIONS FOR PERMITS TO SITE INTERSTATE ELECTRIC TRANSMISSION FACILITIES

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Authority: 16 U.S.C. 824p, DOE Delegation Order No. 00–004.00A.

Source: 71 FR 69465, Dec. 1, 2006, unless otherwise noted.

§ 50.1 Definitions.

As used in this part:

Affected landowners include owners of property interests, as noted in the most recent county/city tax records as receiving the tax notice, whose property:

(1) Is directly affected (*i.e.* , crossed or used) by the proposed activity, including all facility sites, rights-of-way, access roads, staging areas, and temporary workspace; or

(2) Abuts either side of an existing right-of-way or facility site owned in fee by any utility company, or abuts the edge of a proposed facility site or right-of-way which runs along a property line in the area in which the facilities would be constructed, or contains a residence within 50 feet of a proposed construction work area.

Director means the Director of the Office of Energy Projects or his designees.

Federal authorization means permits, special use authorization, certifications, opinions, or other approvals that may be required under Federal law in order to site a transmission facility.

National interest electric transmission corridor means any geographic area experiencing electric energy transmission capacity constraints or congestion that adversely affects consumers, as designated by the Secretary of Energy.

Permitting entity means any Federal or State agency, Indian tribe, multistate, or local agency that is responsible for issuing separate authorizations pursuant to Federal law that are required to construct electric transmission facilities in a national interest electric transmission corridor.

Stakeholder means any Federal, State, interstate, Tribal, or local agency, any affected non-governmental organization, affected landowner, or interested person.

Transmitting utility means an entity that owns, operates, or controls facilities used for the transmission of electric energy in interstate commerce for the sale of electric energy at wholesale.

§ 50.2 Purpose and intent of rules.

(a) The purpose of the regulations in this part is to provide for efficient and timely review of requests for permits for the siting of electric transmission facilities under section 216 of the Federal Power Act. The regulations ensure that each stakeholder is afforded an opportunity to present views and recommendations with respect to the need for and impact of a facility covered by the permit. They also coordinate, to the maximum extent practicable, the Federal authorization and review processes of other Federal and State agencies, Indian tribes, multistate, and local entities that are responsible for conducting any separate permitting and environmental reviews of the proposed facilities.

(b) Every applicant shall file all pertinent data and information necessary for a full and complete understanding of the proposed project.

(c) Every requirement of this part will be considered as an obligation of the applicant which can only be avoided by a definite and positive showing that the information or data called for by the applicable rules is not necessary for the consideration and ultimate determination of the application.

(d) The burden of assuring that all applications and information submitted under this part is in an intelligible form and any omission of data is justified rests with the applicant.

§ 50.3 Applications/pre-filing; rules and format.

(a) Filings are subject to the formal paper and electronic filing requirements for proceedings before the Commission as provided in part 385 of this chapter.

(b) Applications, amendments, and all exhibits and other submissions required to be furnished by an applicant to the Commission under this part must be submitted in an original and 7 conformed copies.

(c) When an application considered alone is incomplete and depends vitally upon information in another application, it will not be accepted for filing until the supporting application has been filed. When applications are interdependent, they must be filed concurrently.

(d) All filings must be signed in compliance with §385.2005 of this chapter.

(e) The Commission will conduct a paper hearing on applications for permits for electric transmission facilities.

(f) Permitting entities will be subject to the filing requirements of this section and the prompt and binding intermediate milestones and ultimate deadlines established in the notice issued under §50.9.

(g) Any person submitting documents containing critical energy infrastructure information must follow the procedures specified in §388.113 of this chapter.

§ 50.4 Stakeholder participation.

A Project Participation Plan is required to ensure stakeholders have access to accurate and timely information on the proposed project and permit application process.

(a) *Project Participation Plan.* An applicant must develop a Project Participation Plan and file it with the pre-filing materials under §50.5(c)(7) that:

(1) Identifies specific tools and actions to facilitate stakeholder communications and public information, including an up-to-date project Web site and a readily accessible, single point of contact within the company;

(2) Lists all central locations in each county throughout the project area where the applicant will provide copies of all their filings related to the proposed project; and

(3) Includes a description and schedule explaining how the applicant intends to respond to requests for information from the public as well as Federal, State, and Tribal permitting agencies, and other legal entities with local authorization requirements.

(b) *Document Availability.* (1) Within three business days of the date the pre-filing materials are filed or application is issued a docket number, an applicant must ensure that:

(i) Complete copies of the pre-filing or application materials are available in accessible central locations in each county throughout the project area, either in paper or electronic format; and

(ii) Complete copies of all filed materials are available on the project Web site.

(2) An applicant is not required to serve voluminous or difficult to reproduce material, such as copies of certain environmental information, on all parties, as long as such material is publicly available in an accessible central location in each county throughout the project area and on the applicant's project website.

(c) *Project notification.* (1) The applicant must make a good faith effort to notify: all affected landowners; landowners with a residence within a quarter mile from the edge of the construction right-of-way of the proposed project; towns and communities; permitting agencies; other local, State, Tribal, and Federal governments and agencies involved in the project; electric utilities and transmission owners and operators that are or may be connected to the application's proposed transmission facilities; and any known individuals that have expressed an interest in the State permitting proceeding. Notification must be made:

(i) By certified or first class mail, sent:

(A) Within 14 days after the Director notifies the applicant of the commencement of the pre-filing process under §50.5(d);

(B) Within 3 business days after the Commission notices the application under §50.9; and

(ii) By twice publishing a notice of the pre-filing request and application filings, in a daily, weekly, and/or tribal newspaper of general circulation in each county in which the project is located, no later than 14 days after the date that a docket number is assigned for the pre-filing process or to the application.

(2) Contents of participation notice

(i) The pre-filing request notification must, at a minimum, include:

(A) The docket number assigned to the proceeding;

(B) The most recent edition of the Commission's pamphlet *Electric Transmission Facilities Permit Process*. The newspaper notice need only refer to the pamphlet and indicate that it is available on the Commission's website;

(C) A description of the applicant and a description of the proposed project, its location (including a general location map), its purpose, and the timing of the project;

(D) A general description of the property the applicant will need from an affected landowner if the project is approved, how to contact the applicant, including a local or toll-free phone number, the name of a specific person to contact who is knowledgeable about the project, and a reference to the project website. The newspaper notice need not include a description of the property, but should indicate that a separate notice is being mailed to affected landowners and governmental entities;

(E) A brief summary of what rights the affected landowner has at the Commission and in proceedings under the eminent domain rules of the relevant State. The newspaper notice does not need to include this summary;

(F) Information on how to get a copy of the pre-filing information from the company and the location(s) where copies of the pre-filing information may be found as specified in paragraph (b) of this section;

(G) A copy of the Director's notification of commencement of the pre-filing process, the Commission's Internet address, and the telephone number for the Commission's Office of External Affairs; and

(H) Information explaining the pre-filing and application process and when and how to intervene in the application proceedings.

(ii) The application notification must include the Commission's notice issued under §50.9.

(3) If, for any reason, a stakeholder has not yet been identified when the notices under this paragraph are sent or published, the applicant must supply the information required under paragraphs (c)(2)(i) and (ii) of this section when the stakeholder is identified.

(4) If the notification is returned as undeliverable, the applicant must make a reasonable attempt to find the correct address and notify the stakeholder.

(5) Access to critical energy infrastructure information is subject to the requirements of §388.113 of this chapter.

§ 50.5 Pre-filing procedures.

(a) *Introduction.* Any applicant seeking a permit to site new electric transmission facilities or modify existing facilities must comply with the following pre-filing procedures prior to filing an application for Commission review.

(b) *Initial consultation.* An applicant must meet and consult with the Director concerning the proposed project.

(1) At the initial consultation meeting, the applicant must be prepared to discuss the nature of the project, the contents of the pre-filing request, and the status of the applicant's progress toward obtaining the information required for the pre-filing request described in paragraph (c) of this section.

(2) The initial consultation meeting will also include a discussion of whether a third-party contractor is likely to be needed to prepare the environmental documentation for the project and the specifications for the applicant's solicitation for prospective third-party contractors.

(3) The applicant also must discuss how its proposed project will be subject to the Commission's jurisdiction under section 216(b)(1) of the Federal Power Act. If the application is seeking Commission jurisdiction under section 216(b)(1)(C) of the Federal Power Act, the applicant must be prepared to discuss when it filed its application with the State and the status of that application.

(c) *Contents of the initial filing.* An applicant's pre-filing request will be filed after the initial consultation and must include the following information:

(1) A description of the schedule desired for the project, including the expected application filing date, desired date for Commission approval, and proposed project operation date, as well as the status of any State siting proceedings.

(2) A detailed description of the project, including location maps and plot plans to scale showing all major components, including a description of zoning and site availability for any permanent facilities.

(3) A list of the permitting entities responsible for conducting separate Federal permitting and environmental reviews and authorizations for the project, including contact names and telephone numbers, and a list of local entities with local authorization requirements. The filing must include information concerning:

(i) How the applicant intends to account for each of the relevant entity's permitting and environmental review schedules, including its progress in DOE's pre-application process; and

(ii) When the applicant proposes to file with these permitting and local entities for the respective permits or other authorizations.

(4) A list of all affected landowners and other stakeholders (include contact names and telephone numbers) that have been contacted, or have contacted the applicant, about the project.

(5) A description of what other work already has been done, including, contacting stakeholders, agency and Indian tribe consultations, project engineering, route planning, environmental and engineering contractor engagement, environmental surveys/studies, open houses, and any work done or actions taken in conjunction with a State proceeding. This description also must include the identification of the environmental and engineering firms and sub-contractors under contract to develop the project.

(6) Proposals for at least three prospective third-party contractors from which Commission staff may make a selection to assist in the preparation of the requisite NEPA document, if the Director determined a third-party contractor would be necessary in the Initial Consultation meeting.

(7) A proposed Project Participation Plan, as set forth in §50.4(a).

(d) *Director's notice.* (1) When the Director finds that an applicant seeking authority to site and construct an electric transmission facility has adequately addressed the requirements of paragraphs (a), (b), and (c) of this section, and any other requirements determined at the Initial Consultation meeting, the Director will so notify the applicant.

(i) The notification will designate the third-party contractor, and

(ii) The pre-filing process will be deemed to have commenced on the date of the Director's notification.

(2) If the Director determines that the contents of the initial pre-filing request are insufficient, the applicant will be notified and given a reasonable time to correct the deficiencies.

(e) *Subsequent filing requirements.* Upon the Director's issuance of a notice commencing an applicant's pre-filing process, the applicant must:

(1) Within 7 days, finalize and file the Project Participation Plan, as defined in §50.4(a), and establish the dates and locations at which the applicant will conduct meetings with stakeholders and Commission staff.

(2) Within 14 days, finalize the contract with the selected third-party contractor, if applicable.

(3) Within 14 days:

(i) Provide all identified stakeholders with a copy of the Director's notification commencing the pre-filing process;

(ii) Notify affected landowners in compliance with the requirements of §50.4(c); and

(iii) Notify permitting entities and request information detailing any specific information not required by the Commission in the resource reports required under §380.16 of this chapter that the permitting entities may require to reach a decision concerning the proposed project. The responses of the permitting entities must be filed with the Commission, as well as being provided to the applicant.

(4) Within 30 days, submit a mailing list of all stakeholders contacted under paragraph (e)(3) of this section, including the names of the Federal, State, Tribal, and local jurisdictions' representatives. The list must include information concerning affected landowner notifications that were returned as undeliverable.

(5) Within 30 days, file a summary of the project alternatives considered or under consideration.

(6) Within 30 days, file an updated list of all Federal, State, Tribal, and local agencies permits and authorizations that are necessary to construct the proposed facilities. The list must include:

(i) A schedule detailing when the applications for the permits and authorizations will be submitted (or were submitted);

(ii) Copies of all filed applications; and

(iii) The status of all pending permit or authorization requests and of the Secretary of Energy's pre-application process being conducted under section 216(h)(4)(C) of the Federal Power Act.

(7) Within 60 days, file the draft resource reports required in §380.16 of this chapter.

(8) On a monthly basis, file status reports detailing the applicant's project activities including surveys, stakeholder communications, and agency and tribe meetings, including updates on the status of other required permits or authorizations. If the applicant fails to respond to any request for additional information, fails to provide sufficient information, or is not making sufficient progress towards completing the pre-filing process, the Director may issue a notice terminating the process.

(f) *Concluding the pre-filing process.* The Director will determine when the information gathered during the pre-filing process is complete, after which the applicant may file an application. An application must contain all the information specified by the Commission staff during the pre-filing process, including the environmental material required in part 380 of this chapter and the exhibits required in §50.7.

§ 50.6 Applications: general content.

Each application filed under this part must provide the following information:

(a) The exact legal name of applicant; its principal place of business; whether the applicant is an individual, partnership, corporation, or otherwise; the State laws under which the applicant is organized or authorized;

and the name, title, and mailing address of the person or persons to whom communications concerning the application are to be addressed.

(b) A concise description of applicant's existing operations.

(c) A concise general description of the proposed project sufficient to explain its scope and purpose. The description must, at a minimum: Describe the proposed geographic location of the principal project features and the planned routing of the transmission line; contain the general characteristics of the transmission line including voltage, types of towers, origin and termination points of the transmission line, and the geographic character of area traversed by the line; and be accompanied by an overview map of sufficient scale to show the entire transmission route on one or a few 8.5 by 11-inch sheets.

(d) Verification that the proposed route lies within a national interest electric transmission corridor designated by the Secretary of the Department of Energy under section 216 of the Federal Power Act.

(e) Evidence that:

(1) A State in which the transmission facilities are to be constructed or modified does not have the authority to approve the siting of the facilities or consider the interstate benefits expected to be achieved by the proposed construction or modification of transmission facilities in the State;

(2) The applicant is a transmitting utility but does not qualify to apply for a permit or siting approval of the proposed project in a State because the applicant does not serve end-use customers in the State; or

(3) A State commission or other entity that has the authority to approve the siting of the facilities has:

(i) Withheld approval for more than one year after the filing of an application seeking approval under applicable law or one year after the designation of the relevant national interest electric transmission corridor, whichever is later; or

(ii) Conditioned its approval in such a manner that the proposed construction or modification will not significantly reduce transmission congestion in interstate commerce or is not economically feasible.

(f) A demonstration that the facilities to be authorized by the permit will be used for the transmission of electric energy in interstate commerce, and that the proposed construction or modification:

(1) Is consistent with the public interest;

(2) Will significantly reduce transmission congestion in interstate commerce and protects or benefits consumers;

(3) Is consistent with sound national energy policy and will enhance energy interdependence; and

(4) Will maximize, to the extent reasonable and economical, the transmission capabilities of existing towers or structures.

(g) A description of the proposed construction and operation of the facilities, including the proposed dates for the beginning and completion of construction and the commencement of service.

(h) A general description of project financing.

(i) A full statement as to whether any other application to supplement or effectuate the applicant's proposals must be or is to be filed by the applicant, any of the applicant's customers, or any other person, with any other Federal, State, Tribal, or other regulatory body; and if so, the nature and status of each such application.

(j) A table of contents that must list all exhibits and documents filed in compliance with this part, as well as all other documents and exhibits otherwise filed, identifying them by their appropriate titles and alphabetical letter designations. The alphabetical letter designations specified in §50.7 must be strictly adhered to and extra exhibits submitted at the volition of applicant must be designated in sequence under the letter Z (Z1, Z2, Z3, etc.).

(k) A form of notice suitable for publication in the Federal Register, as provided by §50.9(a), which will briefly summarize the facts contained in the application in such a way as to acquaint the public with its scope and purpose. The form of notice also must include the name, address, and telephone number of an authorized contact person.

§ 50.7 Applications: exhibits.

Each exhibit must contain a title page showing the applicant's name, title of the exhibit, the proper letter designation of the exhibit, and, if 10 or more pages, a table of contents, citing by page, section number or subdivision, the component elements or matters contained in the exhibit.

(a) *Exhibit A—Articles of incorporation and bylaws.* If the applicant is not an individual, a conformed copy of its articles of incorporation and bylaws, or other similar documents.

(b) *Exhibit B—State authorization.* For each State where the applicant is authorized to do business, a statement showing the date of authorization, the scope of the business the applicant is authorized to carry on and all limitations, if any, including expiration dates and renewal obligations. A conformed copy of applicant's authorization to do business in each State affected must be supplied upon request.

(c) *Exhibit C—Company officials.* A list of the names and business addresses of the applicant's officers and directors, or similar officials if the applicant is not a corporation.

(d) *Exhibit D—Other pending applications and filings.* A list of other applications and filings submitted by the applicant that are pending before the Commission at the time of the filing of an application and that directly and significantly affect the proposed project, including an explanation of any material effect the grant or denial of those other applications and filings will have on the application and of any material effect the grant or denial of the application will have on those other applications and filings.

(e) *Exhibit E—Maps of general location of facilities.* The general location map required under §50.5(c) must be provided as Exhibit E. Detailed maps required by other exhibits must be filed in those exhibits, in a format determined during the pre-filing process in §50.5.

(f) *Exhibit F—Environmental report.* An environmental report as specified in §§380.3 and 380.16 of this chapter. The applicant must submit all appropriate revisions to Exhibit F whenever route or site changes are filed. These revisions must identify the locations by mile post and describe all other specific differences resulting from the route or site changes, and should not simply provide revised totals for the resources affected. The format of the environmental report filing will be determined during the pre-filing process required under §50.5.

(g) *Exhibit G—Engineering data.*

(1) A detailed project description including:

(i) Name and destination of the project;

(ii) Design voltage rating (kV);

(iii) Operating voltage rating (kV);

(iv) Normal peak operating current rating;

(v) Line design features for minimizing television and/or radio interference cause by operation of the proposed facilities; and

(vi) Line design features that minimize audible noise during fog/rain caused by operation of the proposed facilities, including comparing expected audible noise levels to the applicable Federal, State, and local requirements.

(2) A conductor, structures, and substations description including:

(i) Conductor size and type;

(ii) Type of structures;

(iii) Height of typical structures;

(iv) An explanation why these structures were selected;

(v) Dimensional drawings of the typical structures to be used in the project; and

(vi) A list of the names of all new (and existing if applicable) substations or switching stations that will be associated with the proposed new transmission line.

(3) The location of the site and right-of-way including:

(i) Miles of right-of-way;

(ii) Miles of circuit;

(iii) Width of the right-of-way;

(iv) A brief description of the area traversed by the proposed transmission line, including a description of the general land uses in the area and the type of terrain crossed by the proposed line;

(4) Assumptions, bases, formulae, and methods used in the development and preparation of the diagrams and accompanying data, and a technical description providing the following information:

(i) Number of circuits, with identification as to whether the circuit is overhead or underground;

(ii) The operating voltage and frequency; and

(iii) Conductor size, type and number of conductors per phase.

(5) If the proposed interconnection is an overhead line, the following additional information also must be provided:

(i) The wind and ice loading design parameters;

(ii) A full description and drawing of a typical supporting structure including strength specifications;

(iii) Structure spacing with typical ruling and maximum spans;

(iv) Conductor (phase) spacing; and

(v) The designed line-to-ground and conductor-side clearances.

(6) If an underground or underwater interconnection is proposed, the following additional information also must be provided:

(i) Burial depth;

(ii) Type of cable and a description of any required supporting equipment, such as insulation medium pressurizing or forced cooling;

(iii) Cathodic protection scheme; and

(iv) Type of dielectric fluid and safeguards used to limit potential spills in waterways.

(7) Technical diagrams that provide clarification of any of the above items should be included.

(8) Any other data or information not previously identified that has been identified as a minimum requirement for the siting of a transmission line in the State in which the facility will be located.

(h) *Exhibit H—System analysis data.* An analysis evaluating the impact the proposed facilities will have on the existing electric transmission system performance, including:

(1) An analysis of the existing and expected congestion on the electric transmission system.

(2) Power flow cases used to analyze the proposed and future transmission system under anticipated load growth, operating conditions, variations in power import and export levels, and additional transmission facilities required for system reliability. The cases must:

(i) Provide all files to model normal, single contingency, multiple contingency, and special protective systems, including the special protective systems' automatic switching or load shedding system; and

(ii) State the assumptions, criteria, and guidelines upon which they are based and take into consideration transmission facility loading; first contingency incremental transfer capability (FCITC); normal incremental transfer capability (NITC); system protection; and system stability.

(3) A stability analysis including study assumptions, criteria, and guidelines used in the analysis, including load shedding allowables.

(4) A short circuit analysis for all power flow cases.

(5) A concise analysis to include:

(i) An explanation of how the proposed project will improve system reliability over the long and short term;

(ii) An analysis of how the proposed project will impact long term regional transmission expansion plans;

(iii) An analysis of how the proposed project will impact congestion on the applicant's entire system; and

(iv) A description of proposed high technology design features.

(6) Detailed single-line diagrams, including existing system facilities identified by name and circuit number, that show system transmission elements, in relation to the project and other principal interconnected system elements, as well as power flow and loss data that represent system operating conditions.

(i) *Exhibit I—Project Cost and Financing.* (1) A statement of estimated costs of any new construction or modification.

(2) The estimated capital cost and estimated annual operations and maintenance expense of each proposed environmental measure.

(3) A statement and evaluation of the consequences of denial of the transmission line permit application.

(j) *Exhibit J—Construction, operation, and management.* A concise statement providing arrangements for supervision, management, engineering, accounting, legal, or other similar service to be rendered in connection with the construction or operation of the project, if not to be performed by employees of the applicant, including reference to any existing or contemplated agreements, together with a statement showing any affiliation between the applicant and any parties to the agreements or arrangements.

§ 50.8 Acceptance/rejection of applications.

(a) Applications will be docketed when received and the applicant so advised.

(b) If an application patently fails to comply with applicable statutory requirements or with applicable Commission rules, regulations, and orders for which a waiver has not been granted, the Director may reject the application as provided by §385.2001(b) of this chapter. This rejection is without prejudice to an applicant's refiling a complete application. However, an application will not be rejected solely on the basis that the environmental reports are incomplete because the company has not been granted access by affected landowners to perform required surveys.

(c) An application that relates to a proposed project or modification for which a prior application has been filed and rejected, will be docketed as a new application.

§ 50.9 Notice of application.

(a) Notice of each application filed, except when rejected in accordance with §50.8, will be issued and subsequently published in the Federal Register.

(b) The notice will establish prompt and binding intermediate milestones and ultimate deadlines for the coordination, and review of, and action on Federal authorization decisions relating to, the proposed facilities.

§ 50.10 Interventions.

Notices of applications, as provided by §50.9, will fix the time within which any person desiring to participate in the proceeding may file a petition to intervene, and within which any interested regulatory agency, as provided by §385.214 of this chapter, desiring to intervene may file its notice of intervention.

§ 50.11 General conditions applicable to permits.

(a) The following terms and conditions, among others as the Commission will find are required by the public interest, will attach to the issuance of each permit and to the exercise of the rights granted under the permit.

(b) The permit will be void and without force or effect unless accepted in writing by the permittee within 30 days from the date of the order issuing the permit. *Provided that* , when an applicant files for rehearing of the order in accordance with FPA section 313(a), the acceptance must be filed within 30 days from the issue date of the order of the Commission upon the application for rehearing or within 30 days from the date on which the application may be deemed to have been denied when the Commission has not acted on such application within 30 days after it has been filed. *Provided further* , that when a petition for review is filed in accordance with the provisions of FPA section 313(b), the acceptance shall be filed within 30 days after final disposition of the judicial review proceedings thus initiated.

(c) *Standards of construction and operation.* In determining standard practice, the Commission will be guided by the provisions of the American National Standards Institute, Incorporated, the National Electrical Safety Code, and any other codes and standards that are generally accepted by the industry, except as

modified by this Commission or by municipal regulators within their jurisdiction. Each electric utility will construct, install, operate, and maintain its plant, structures, equipment, and lines in accordance with these standards, and in a manner to best accommodate the public, and to prevent interference with service furnished by other public or non-public utilities insofar as practical.

(d) Written authorization must be obtained from the Director prior to commencing construction of the facilities or initiating operations. Requests for these authorizations must demonstrate compliance with all terms and conditions of the construction permit.

(e) Any authorized construction or modification must be completed and made available for service by the permittee within a period of time to be specified by the Commission in each order issuing the transmission line construction permit. If facilities are not completed within the specified timeframe, the permittee must file for an extension of time under §385.2008 of this chapter.

(f) A permittee must file with the Commission, in writing and under oath, an original and four conformed copies, as provided in §385.2011 of this chapter, of the following:

(1) Within ten days after the bona fide beginning of construction, notice of the date of the beginning; and

(2) Within ten days after authorized facilities have been constructed and placed in service, notice of the date of the completion of construction and commencement of service.

(g) The permit issued to the applicant may be transferred, subject to the approval of the Commission, to a person who agrees to comply with the terms, limitations or conditions contained in the filing and in every subsequent Order issued thereunder. A permit holder seeking to transfer a permit must file with the Secretary a petition for approval of the transfer. The petition must:

(1) State the reasons supporting the transfer;

(2) Show that the transferee is qualified to carry out the provisions of the permit and any Orders issued under the permit;

(3) Be verified by all parties to the proposed transfer;

(4) Be accompanied by a copy of the proposed transfer agreement;

(5) Be accompanied by an affidavit of service of a copy on the parties to the permit proceeding; and

(6) Be accompanied by an affidavit of publication of a notice concerning the petition and service of such notice on all affected landowners that have executed agreements to convey property rights to the transferee and all other persons, municipalities or agencies entitled by law to be given notice of, or be served with a copy of, any application to construct a major electric generation facility.