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January 28, 2002

The Honorable Thomas A. Daschle
Senate Majority Leader
Senator of South Dakota
United States Senate
SH-509 HSOB
Washington, DC 20510-4103

The Honorable Jeff Bingaman
Chairman
Senate Committee on Energy
and Natural Resources
SD-312 DSOB
Washington, DC 20510-6150

The Honorable Frank H. Murkowski
Ranking Minority Member
Senate Committee on Energy
and Natural Resources
SD-312 DSOB
Washington, DC 20510-6150

Dear Senators Daschle, Bingaman and Murkowski:

For well over a year, Western governors have led the way on energy policy development as it affects our region and our country. We specifically identified policies that are needed to assure adequate electricity supplies throughout the West. Our message to you is that any federal electricity legislation should neither delete nor diminish the primary role of our states with regard to development of energy, electric reliability, siting of plants and transmission lines and price regulation.

We have always taken energy reliability seriously and worked in region-wide efforts to improve it. Our first hand experience with the social and economic harm that inadequate supplies actually cause underscores the seriousness of the problem and our dedication to workable solutions. Thus, the development of a specific Western energy policy roadmap began June 13, 2000, when we adopted a policy describing the role of our states in electricity reliability. In our subsequent meetings of December 2000 and February 2001, we further defined our overall energy policy by involving more than 1,000 stakeholders within and outside the West. Many of our recommendations were presented to you and your staff.

Our Western energy policy roadmap was adopted with strong bipartisan support at our Western Governors' Association meeting in August 2001. It contains principles that are not only consistent with the various communications, but also included in the Western Governors' Association testimony before the Senate Energy Committee. We have also conveyed this information to the Administration on numerous occasions with the Vice President, Cabinet Secretaries and many other senior staff.

The first rule governing decisions on federal electricity legislation should be to do no harm, especially to the deeply ingrained principle that the states are the primary authority to oversee electric power development and reliability. To that end, we recommend that the Senate:

1. Support the attached provisions governing the establishment and enforcement of regional electric reliability standards. These provisions build on a 30-year track record of developing regional reliability standards in the Western Interconnection. These provisions have the support of Western states and the Western electric power industry, as well as the North American Electric Reliability Council.
2. Oppose any amendment to S 1766 that would grant FERC the power of eminent domain for transmission lines. Federal preemption of state siting processes will jeopardize the construction of needed transmission facilities by: (1) centralizing land use decisions in Washington, D.C., far from those impacted; (2) imposing new requirements on transmission line permitting (e.g., NEPA requirements in areas where EISs are not currently required); and (3) requiring FERC, an agency already overburdened with its current workload and frequently unable to make timely decisions, to take on massive and complex new responsibilities.

Preempting states on the permitting of transmission facilities could jeopardize the ability of the West to construct transmission in a timely manner. The federal government's first priority should be increased efficiency in processing reviews of rights-of-way applications to construct transmission lines across federal lands. President Bush's Executive Order 13212 is an important first step in achieving this goal. See attached fact sheet.

3. Modify those provisions in S 1766 which direct or enable federal government intrusion into state retail electricity decisions.
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Our fundamental principle of successful American governance is that governmental decisions should be made at the lowest level possible. For electricity, this means that decisions should be made at the state or within the interconnection level, but certainly not at the federal level. This is especially true in the Western Interconnection that spans the Western United States, Western Canada and Northwestern Mexico.

