

**Protocol Among the Members of the Western Governors Association,
The U.S. Department of the Interior,
The U.S. Department of Agriculture,
The U.S. Department of Energy, and
The Council on Environmental Quality
Governing the Siting and Permitting of
Interstate Electric Transmission Lines in the Western United States**

A. BACKGROUND

1. Open transmission access has accelerated the regionalization of electric power markets in the West. Existing electric transmission systems that were generally designed to move power within local utility systems, bring power from generation sites to regulated utility customers, and interconnect neighboring utilities to improve reliability with some coordination transactions are now increasingly being used to enable power sales across large geographic areas.
2. The transmission system in the continental United States is organized into three separate electric interconnections. The Western Interconnection, which covers all or parts of 14 Western states, two Canadian provinces and northwest Mexico, has a different transmission topology than the other interconnections because of highly variable seasonal demand within the interconnection and the long distances between where the power is generated and where it is consumed. In the West, power sales have taken place across large geographic areas and between regions for decades.
3. Generally, authority to site transmission lines and grant the power of eminent domain for the construction of new transmission facilities has been exercised by the states.
4. Although Western states have a sterling record in permitting interstate transmission lines, expanding regional wholesale electricity markets and the preponderance of federally-administered lands in the West necessitate closer cooperation among states, local governments, federal agencies and tribal governments to ensure an efficient permitting and siting of new interstate transmission facilities.
5. This Protocol is a step in implementing the *Memorandum of Understanding Among the U.S. Department of Energy, U.S. Department of the Interior, U.S. Department of Agriculture, U.S. Environmental Protection Agency, Council on Environmental Quality, and the Members of the Western Governors' Association Regarding Energy Development and Conservation in the Western United States*, signed in 2001.

B. POLICY POSITION

1. The purpose of this Protocol is to establish a framework that will enable affected states, local governments, federal agencies and tribal governments to participate in a systematic, coordinated, joint review process for siting and permitting of interstate transmission lines in the Western Interconnection.
2. The Protocol is intended to increase the efficiency of the siting process by including all affected governmental entities with authority for siting and permitting interstate transmission facilities. It is the intent of Western Governors to work with the appropriate local governments, federal land management agencies, and tribal governments and solicit their participation on Project Teams established under this Protocol.
3. The Western Governors believe that a coordinated joint review process involving states, local governments, federal agencies, and tribes can expedite the siting and construction of needed transmission facilities to better ensure adequate, affordable and reliable electricity supply to Western consumers.
4. When linked with a pro-active regional transmission planning and implementation process that considers transmission and non-transmission alternatives and appropriate systems for financing new transmission and alternatives, a coordinated, interstate joint review of proposed interstate transmission facilities will enable identification and consideration of interstate needs, facilitate the construction of needed transmission, and ensure that the public interest is protected.

C. OBJECTIVES IN DEVELOPING A COORDINATED JOINT REVIEW PROCESS

1. Create an efficient environmental review process that results in documents that can be shared and used by all entities with jurisdiction in the siting and permitting process.
2. Establish and periodically review joint time lines for the conduct and timely completion of review and regulatory decision-making.
3. Establish a common understanding of the informational needs, regulatory requirements, and public interest issues prior to the environmental review proceeding.
4. Eliminate duplication of agency pre-application, scoping, and permit review meetings among affected state, local, federal and tribal authorities.
5. Create a transparent streamlined review process that is structured, user friendly and predictable.

6. Facilitate early notification and sharing of information among affected states, local governments, federal agencies, tribal governments and the project sponsors.
7. Preserve and protect authority of each affected state, local government, tribal government, and federal agency.

D. IMPLEMENTATION

1. To implement this process, the parties to this agreement will adopt the following elements as part of the coordinated joint review of specific proposed interstate transmission projects:
 - a. Designation of a Project Team – The governors of states affected by a proposed transmission line shall convene a team of appropriate representatives from each state to coordinate the review of a proposed project and to ensure the timely notification, consultation, and joint sharing of information and solicitation of recommendations among states, local jurisdictions, and other affected parties. Representatives of federal agencies (and federal agency teams) and tribal governments with permitting or land management responsibilities shall be invited to join the Project Team. Participation on the Project Team shall in no way diminish the responsibilities or authority of any member.
 - b. Determination of Need – The Project Team shall evaluate assessments of the need for the project developed through regional transmission planning processes and other processes and shall provide the assessments and their evaluation, as necessary, to any agency. The Project Team's evaluation shall in no way bind determinations and decisions made by the appropriate state, federal, tribal, and local authorities.
 - c. Federal Agencies' Responsibilities – The appropriate federal land management agency(ies) will participate on the Project Team, as necessary, to expedite the siting review process and improve efficiencies of the application process consistent with Executive Order 13212. The Fish and Wildlife Service will commit to consult and cooperate by participating early and, as appropriate and as resources are available, throughout the review process to assist the Project Team members in meeting their Endangered Species Act and Migratory Bird Treaty Act compliance requirements. The Bureau of Land Management, Forest Service and Fish and Wildlife Service will follow the process described in the August 30, 2000, *Memorandum of Agreement – Endangered Species Act Section 7 Programmatic Consultations and Coordination among the Bureau of Land Management, Forest Service, National Marine Fisheries Service and Fish and Wildlife Service*.

- d. Decisions, Activities, and Records – The Project Team shall establish procedures to encourage joint activities, records, and decisions regarding planning, evaluating, and monitoring of a proposed transmission line or facility. The specific activities which the Project Teams and other interested parties agree to perform jointly, the manner of execution, including level of detail, methodology, management and staff interaction, dollar value, and such other items as the parties deem necessary and appropriate shall be negotiated and clearly set forth in work plans and/or subsequent agreements covering individual energy projects. Any decision issued by a state, federal or local authority which is appealed or protested is not binding on the decisions that may be issued by other agencies who are members of the Project Team.
- e. Consolidated Environmental Review – The activities which the parties hereby agree to undertake jointly may include, but are not limited to: preparation of environmental assessments and environmental impact statements, as appropriate; the evaluation of baseline conditions of the natural, social, and economic environment; evaluation of potential impacts of a project and alternatives; public involvement efforts; monitoring impacts of project construction and operation; and all other activities that are required to determine compliance with federal, state, local, and tribal laws and regulations. The Project Team shall jointly develop procedures for a consolidated environmental review of a proposed project.
- f. Timelines –The Project Team shall establish and periodically review common, mutually agreeable deadlines for activities, reviews, and decisions. The Project Team will identify where joint decisions are to be made, and by whom. Timelines will include and account for the time that may be needed to address and dispose of disputes or administrative appeals of decisions made by all jurisdictional authorities, should such disputes or appeals of decisions be filed.
- g. Information Requests – The Project Team shall serve as a clearinghouse for agency requests for information from developers of the proposed project and provide information to the developer about necessary permits, licenses, approvals, processes, and information requirements.
- h. The Project Team shall provide that all non-proprietary or non-privileged information on the project and the work of the Team is available to the public, to the extent allowed by law. Among other methods, the Project Team will develop and maintain an internet-based information system that links to the permitting processes and activities of state, federal, tribal, and local agencies. Such transparent information will help to develop a common understanding of the project among permitting agencies and with the public.

- i. Project-specific agreements will be developed and may be modified or amended by written mutual agreement among the parties, and terminated by mutual agreement or after 30 days' written notice by any party.
 - j. Each Project Team shall establish procedures that can be used to address disagreements on subjects, including, but limited to, scheduling, data requirements, data adequacy and jurisdictional issues raised by the participating entities.
2. Western governors will work with grid organizations in the West, including the Western Electricity Coordinating Council, the Mid-Continent Area Power Pool, the Western Utility Group and any Regional Transmission Organizations that form in the West, and others to facilitate the exchange of information needed by appropriate federal, state, tribal, and local agencies for planning, siting, and reviewing permit applications.
3. The Federal Power Marketing Administrations (PMA) support efforts to streamline and expedite the transmission facility siting process. Each PMA shall review their siting process for federal interstate transmission lines in order to ensure the provision of timely notification and joint sharing of information, and to explore the possibility of consolidating required reviews.
4. Nothing in this Protocol shall be construed to limit, repeal, or in any manner modify the existing legal rights, privileges, and duties of the signatories to this protocol as provided by agreement, statute or any other law or applicable court decision. Nothing in this Protocol shall commit federal agencies to enter into any contract or other binding obligation.
5. Nothing in this Protocol may be construed to obligate the United States to any current or future expenditure of resources in advance of the availability of appropriations from Congress.

E. AUTHORITIES

The National Environmental Policy Act of 1969, 42 U.S.C. 4321, 4331(b) provides the authority for the Federal Government's participation in this Protocol. Additional authority is provided to the Bureau of Land Management under the Federal Land Policy and Management Act, 43 U.S.C. 1701, 1737 (b), to the Fish and Wildlife Service under the Fish and Wildlife Coordination Act, 16 U.S.C. 661, and to the Bureau of Indian Affairs under the Synder Act, 35 U.S.C. 2, 13, and 25 U.S.C. 324.

F. ADMINISTRATIVE PROVISIONS

1. The Governors intend that all states in the Western Interconnection sign the Protocol and will seek to secure the same from the appropriate federal agencies, tribal governments and Canadian provinces.

2. Each signatory to this Protocol will provide the Western Governors’ Association with the name of a point of contact within the appropriate governmental agency for the implementation of this Protocol, including the necessary notifications herein.
3. Governors will give copies of this Protocol to state agencies with responsibilities for the review of transmission proposals.
4. Any party to the Protocol can unilaterally withdraw its participation in the agreement.
6. The Protocol can be amended or modified if all parties agree.
7. Upon signature, the protocol immediately will be effective and the Governors intend that executive orders or other administrative action to implement this Protocol be completed within 120 days of the signing.
8. The Western Governors’ Association, through its affiliate, the Western Interstate Energy Board, will provide a report on the implementation of this Protocol at each annual meeting of the Association, and may provide interim reports as warranted.
9. The signatories will review the Protocol and its implementation on an annual basis.

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| Vice Chair of the Western Governors’ Association | Date |
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| Secretary of Energy | Date |
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Secretary of Agriculture

Date

Secretary of the Interior

Date

Chairman, Council on Environmental Quality

Date
