Supplemental Comments of the Committee on Regional Electric Power Cooperation (CREPC)

April 14, 2006

DOE's Notice of Inquiry on "Consideration for Transmission Congestion Study and Designation of National Interest Electric Transmission Corridors"

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1. CREPC Supports the Two-Step Process Proposed by DOE Staff at the March 29, 2006 Technical Conference

At the beginning of the March 29 Technical Conference, DOE Staff proposed a possible new two-step approach to the national corridor designation process. Under this suggested approach, DOE would initially identify "Constraint Areas," i.e., areas where a "problem in the transmission infrastructure" has been identified. In designating such Constraint Areas, DOE would remain "agnostic" regarding the appropriateness of a wires or a non-wires solution to the constraint, but the identification of a Constraint Area would lead to further assessments and proposals on the part of the stakeholders in the state or region in question regarding the best and most cost-effective means of resolving the constraint. If this assessment showed that a transmission wires solution was the most appropriate solution to addressing the constraint, DOE would give further consideration to a NIETC designation.

It is worth noting that this proposed two-step process is entirely consistent with the initial comments of WIEB/CREPC submitted to DOE in early March, and with those, as well as of other Western stakeholders, calling for identification of "potential" corridors before any formal designation takes place. CREPC acknowledges DOE's responsiveness and voices strong support for the "Constraint Area" approach.

2. CREPC Urges DOE to Integrate Its National Interest Electric Transmission Corridor (NIETC) Designation Process Under EPAct Section 1221 With the Process for Designation of Energy Corridors on Federal Lands Under EPAct Section 368

It is essential that DOE closely coordinate its process for designating any NIETCs in the Western states with its multi-use corridor designation process already underway pursuant to Section 368 of EPAct. If DOE and other federal land management agencies do not approve a potential transmission route crossing federal lands in the West under the Section 368 process, DOE should certainly not include the route in a NIETC. DOE should also recognize that in the West, most transmission corridors are generally much longer than in the East, which increases the likelihood that many potential NIETCs will run through public lands. Therefore, it is important that the Section 368 corridors match up with the congestion areas identified in the Section 1221 congestion report, due August 2006.

Developers who propose transmission projects in NIETCs should certainly try and line up their projects with Section 368 corridors in federal lands. These corridors will have been through a Programmatic EIS process, which could make the states' job of reviewing applications for siting new transmission in the West more efficient and could accelerate the development of needed projects.

In this regard, at the March 29, 2006 conference, one speaker from the West, Mr. Rob Kondziolka from the Salt River Project, suggested that the congestion and other assessments underlying Constraint Area identification should actively inform the development of Section 368 corridors. This is consistent with the language of Section 368, which states that DOE shall consider the need for new transmission in designating energy corridors on federal land. The congestion study performed under Section 1221 will be one input to the need analysis for both Sections 1221 and 368. This suggestion complements DOE's proposed two-step process. The western congestion review now being completed by the Western Congestion Assessment Task Force (WCATF) for submission to DOE can be a key resource for informing the joint agency process that is working to identify appropriate multi-use energy corridors through federal land. This Section 368 process is scheduled to complete its work by August, 2007.

In the interim, the results of the WCATF Congestion Study should serve as the basis for concentrated state and sub-regional exploration of whether the best and most cost-effective solutions to the congestion identified by the WCATF study are new transmission lines or reasonably available non-wires alternatives. To accomplish this, however, will require DOE to focus on what it expects of itself and sub-regional institutions in the interval between constraint designation and NIETC consideration. It is unclear that existing sub-regional institutions are tasked with this challenge or are staffed appropriately to undertake it successfully.

On a West-wide basis, this state and sub-regional effort could be supported and informed by analyses of the new Transmission Expansion Planning Policy Committee (TEPPC) of WECC, which will have three main functions: (1) overseeing database management, (2) providing policy and management of the planning process, and (3) guiding the analyses and modeling for Western Interconnection economic transmission expansion planning. Gaining an understanding of the DOE initiatives under EPAct (both sections 1221 and 368) will be one important early TEPPC task.

At the same time that the Section 368 process and the initial regional planning work of the TEPPC are being conducted, it should be noted that the ongoing sub-regional and SSG-WI transmission expansion studies in various areas of the Western Interconnection have resulted in numerous specific proposals for new transmission that are already under development and/or review, such as Palo Verde-Devers 2, Navajo Transmission Project, Sunrise Powerlink, AMPs line phase shifters, TOT 3, Green Path, TransWest Express/Frontier/Northern Lights, Puget Sound upgrades, seven 500 Kv projects in the Phoenix/Tucson area, and the Montana-Alberta Intertie. Some of these projects are in state review processes with additional system enhancements in place in 2007.

In 2006-2007, we in the West, as well as DOE, will have a clearer understanding of whether there is any need to designate NIETC's in the Western Interconnection, assuming (1) continued progress in implementing Section 368, (2) continuing work by the sub-regional planning groups and WECC's new TEPPC in identifying regional needs for new transmission, and (3) the execution of state siting processes for proposed new transmission lines. At the March 29, 2006 Technical Conference, DOE clearly stated that the Department wants to move forward on NIETC designation in a careful and thoughtful manner and that DOE wants to coordinate its efforts with regional planning efforts. As the foregoing discussion demonstrates, there already are several transmission-related planning efforts on-going in the Western Interconnection with which DOE can and should coordinate its NIETC designation process.

As noted above, DOE's Section 1221 team will identify Constraint Areas before making formal NIETC designations. We fully support this approach. The Section 368 team should take note of these Constraint Areas as it identifies energy corridors on federal lands. And, the Section 1221 staff should take note of Section 368 corridors as it proceeds with formal NIETC designations. This type of real-time coordination is needed in order for state and federal agencies to meet the ambitious siting requirements of the EPAct.

3. CREPC Urges DOE to Work with the States to Identify Mechanisms to Ensure that Other Federal Agencies Are Meeting Their Siting Deadlines

DOE's identification of a Constraint Area – which preceeds any NIETC designations -- should trigger not only sub-regional efforts and assessments (either to site needed transmission or to identify specific, reasonably available alternatives to that transmission), but also federal efforts to ensure that the region and the Constraint Area in question were receiving necessary federal attention with regard to key issues, such as cost recovery and siting on federal lands.

Coordinated and expedited project review is not only central to DOE's Section 368 initiative regarding "energy corridors on federal lands" but is also equally important to meet permitting timelines for all transmission projects to be sited in the West, whether or not they will be located in a designated NIETC. In this regard, it is our experience in the West that the federal land use agencies are perhaps the most critical players in the permitting of new transmission infrastructure. Sub-regions and states can have effective planning processes, but unless federal land use agencies are actively involved in the planning – as well as the permitting – states cannot keep decisions on schedule. Timely approval is contingent on federal and state agencies acting expeditiously, and will require DOE and FERC to clarify the appropriate mechanisms that can ensure reasonable implementation of a 12-month review clock.

All proposed transmission projects in the West that would cross federal lands – and therefore be subject to review under NEPA – would benefit greatly from enhanced

coordination and responsiveness of federal agency review, arguably, more so than they would benefit from the formal designation of NIETCs. This is yet another reason why in the West, at least, DOE should integrate its Section 368 process with the final NIETC designations. The outcome of this Section 368 process, with DOE in the driver's seat, more than the designation of NIETCs, could effectively facilitate the siting of new facilities in the West.

4. DOE's Approach to This Corridor Designation Process in the Western Interconnection Should Be Different Than Its Approach in the East

At the Technical Conference in Chicago, several stakeholders from the East, in particular, speakers from AEP, TVA and PJM, advocated early designations of NIETCs in areas where existing studies demonstrate the need for new transmission, such as from West Virginia to the major load pockets further east. It may be that such early designations are desired, for legitimate and compelling reasons, by project developers in the East. This does not, however, appear to be the case in the West. DOE should defer to the existing western planning and project evaluation processes prior to any early designation of NIETCs in the West.

As stated previously, in the Western Interconnection, various collaborative regional and sub-regional transmission planning efforts have already resulted in the identification and designation of major transmission upgrades, and a number of specific projects resulting from these planning efforts are in the active permitting process at the state level. State action on several of these proposed projects, which can be anticipated to occur sometime next year, may well obviate the need for designation of a NIETC between major population centers in the Southwest. This is critical information that DOE would take into account as it moves forward in the NIETC evaluation.

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