

**Testimony of Acting Chairman Jon Wellinghoff
Federal Energy Regulatory Commission
Before the Committee on Energy and Natural Resources
United States Senate
Hearing on Legislation Regarding Electric Transmission Lines
March 12, 2009**

Mr. Chairman, and members of the Committee:

My name is Jon Wellinghoff, and I am Acting Chairman of the Federal Energy Regulatory Commission (Commission). Thank you for the opportunity to appear before you today to discuss the critical topic of the siting of electric transmission facilities. The timely siting of electric transmission facilities will be essential to meeting our Nation's goal of reducing reliance on carbon-emitting sources of electric energy and bringing new sources of renewable energy to market. To meet the challenges of building needed new transmission facilities we must address not only the role of Federal siting authority but also the closely related issues of transmission planning, cost allocation and reliability. The time has come to develop a regulatory framework that will allow us to successfully meet these challenges. I commend you, Mr. Chairman, and the Committee for your decision to hold a hearing on these important issues. I also commend you and Senator Reid for the legislation that each of you has circulated or introduced in this area.

Introduction

President Obama has stated that the country that harnesses the power of clean, renewable energy will lead the 21st century. As the President noted in his

February 24 speech to Congress, the recovery plan developed by the White House and Congress calls for doubling our supply of renewable energy in the next three years, with historic investments in basic research funding that will spur new discoveries in energy. The President also stated that we will soon lay down thousands of miles of power lines that can carry new clean energy to cities and towns across this country.

I believe that, to implement these goals, there must be a mechanism to invoke federal authority to site the transmission facilities necessary to interconnect renewable power to the electric transmission grid and move that power to customer load. We need a National policy commitment to develop the extra-high voltage (EHV) transmission infrastructure to bring renewable energy from remote areas where it is produced most efficiently into our large metropolitan areas where most of this Nation's power is consumed. Certainly, developing local renewable energy and distributed resources is also important as we expand our capacity to generate clean power, but that is a separate issue from, and is not a substitute for, developing the EHV transmission infrastructure that I describe above and the related feeder lines that will interconnect renewable energy resources to the transmission grid.

Without this National commitment, we will not be able to take full advantage of our capacity to develop clean power. Clean power is essential to meeting our National energy goals, such as reducing greenhouse gas emissions, strengthening our National security, and revitalizing our economy.

At a conference held by the Commission on March 2, a diverse group of commenters shared the view that broader federal transmission siting authority is necessary to promote the growth of renewable energy. Development of a structured regulatory framework will enable the United States to build the EHV transmission infrastructure necessary to deliver our Nation's high quality, location-constrained renewable resources to load centers. That framework must adequately address transmission siting and the related issues of transmission planning and cost allocation.

The Commission's Experience in Siting Energy Infrastructure

The Commission has the institutional structure, capacity, and experience to make important contributions to this National transmission grid building effort. The Commission is well-versed in reviewing and authorizing critical energy infrastructure projects, and in establishing a regulatory regime that encourages the development of appropriate energy projects, while at the same time protecting the interests of consumers and safeguarding the environment.

Since 1920, the Commission has been charged with licensing and overseeing the operation of the Nation's non-federal hydropower projects. Today, the Commission regulates over 1,600 projects with the capacity to produce over 54 gigawatts of clean, renewable electric energy. Further, under existing authority in the Federal Power Act, the Commission has sited thousands of miles of electric transmission lines related to these projects that have delivered this power to the Nation's consumers.

Under the Natural Gas Act, the Commission has authorized the construction of natural gas pipelines for over 65 years. Under the Commission's oversight, the country has developed a robust, comprehensive pipeline grid that moves natural gas supplies from producing areas to consuming regions. Since 2000, the Commission has approved over 13,000 miles of new pipeline, with a capacity of nearly 95 billion cubic feet per day of natural gas. In total, there are nearly 215,000 miles of interstate natural gas pipeline in service that cross multiple states.

Based on its decades of experience in siting natural gas pipelines and in siting hydropower projects and associated transmission lines, the Commission has developed comprehensive, efficient processes that provide for public notice and extensive public participation, including participation by affected states. These processes ensure the early identification of issues (and where possible, consensual resolution of them), development of a thorough environmental analysis, and decisions based on a complete record and consideration of the public interest. We have also learned that a single federal agency having the responsibility and the authority to make siting decisions with regard to projects that affect the National interest is clearly the most efficient way to site major energy projects. In a typical infrastructure proceeding, the Commission involves, from the pre-filing process forward, federal and state resource agencies (as well as other relevant federal agencies, such as the Department of Homeland Security and the Department of Transportation), Indian tribes, local government, and private citizens, to assist in

the early identification of issues and the development of the record. After gathering input from these sources, the Commission crafts a decision that comports with all aspects of the public interest.

The Commission's Transmission Siting Authority

In 2005, Congress gave the Commission authority to site and permit interstate electric transmission facilities, under limited circumstances and only within geographic areas designated by the Secretary of Energy as National interest electric transmission corridors. The Commission issued regulations establishing procedures that involve extensive information-sharing and consultation with state and federal agencies, members of the public, and other stakeholders. The Commission staff is currently working with one potential applicant under these regulations, using the prefilings process to provide information regarding necessary data and analyses. As discussed later in this testimony, the prefilings process is the first step the Commission takes to involve all stakeholders in the siting of energy infrastructure.

However, the United States Court of Appeals for the Fourth Circuit has recently held that the limited authority granted by Congress to the Commission to review and site facilities needed to transmit electric energy in interstate commerce is not available in situations where a state agency has timely denied an application for a proposed project, regardless of how important the project may be in relieving congestion on the interstate grid. The court's ruling is a significant constraint on

the Commission's already-limited ability to approve appropriate projects to transmit energy in interstate commerce.

Congress should consider the question of how best to exercise its authority over interstate commerce to ensure that necessary transmission is built in a timely manner to deliver location-constrained renewable power to customers. Without broader Federal siting authority to accommodate high levels of renewable electric energy – authority similar to that which exists for interstate natural gas pipelines and most non-Federal hydropower projects – it is unlikely that the Nation will be able to achieve energy security and economic stability. Similarly, the development of new EHV interstate transmission facilities, bolstered by broader federal siting authority, would assist states in meeting their renewable portfolio standards.

Principles for Siting Transmission Facilities

Should Congress decide to give the Commission some form of enhanced transmission siting authority, I recommend that Congress consider basing it on the following principles of energy infrastructure development, which have worked well in the other licensing areas under the Commission's jurisdiction: 1) a pre-filing process that allows and encourages all affected stakeholders to identify issues early; requires working on environmental review and a project application simultaneously; and involves common efforts to resolve conflicts and to identify an acceptable environmental alternative; 2) designating a single agency to make the overall public interest determination, while respecting the roles of other federal

and state agencies; 3) allowing that agency to establish a schedule for all actions related to a proposed project, thus ensuring that agencies act in parallel and that the public can rely on predictable milestones; 4) building one federal record, including one environmental document, on which decisions are made; 5) providing for expeditious judicial review in a single United States court of appeals (either in the circuit where the proposed facility is to be sited or in the District of Columbia Circuit), based on the record developed by the lead agency; and 6) once a federal decision has been made, authorizing the permittee to use federal eminent domain to acquire the property needed for a project that has been determined to be in the public interest.

Related Matters

In addition to siting issues, the following are also crucial aspects of developing an effective National EHV electric transmission grid that can spur the production and movement to market of renewable energy.

Planning

Effective regional transmission planning will improve reliability, reduce congestion, increase the deliverability of existing power supplies, and identify investments necessary to integrate significant potential sources of renewable energy that are constrained by a lack of adequate transmission capacity or facilities. Increasingly, such planning must look beyond the needs of a single utility or even a single state to examine the transmission requirements of the entire region.

The Commission has recognized the need for improvements in transmission planning. To improve the coordination of transmission planning among utilities, it required all public utility transmission providers to establish and participate in open and transparent regional transmission planning processes (Order No. 890, February 2007). The Order No. 890 regional planning process is in its first year, and the Commission is reviewing how well those are working, is monitoring implementation, and will be looking for ways to improve the regional planning process.

Meeting our National energy goals will require building on such regional planning initiatives and expanding their scope. For example, we would achieve greater benefits and efficiencies by developing interconnection-wide transmission plans focused on facilities that are needed to transport electric energy from areas rich in renewable energy resources to load centers. I recommend that any new transmission planning requirements be harmonized with, rather than supplant, planning efforts already taking place at the state and local levels.

Cost Allocation

Renewable energy resources such as wind, solar, and geothermal are usually found in economically developable quantities at dispersed locations remote from load centers. For this reason, there are often high costs associated with developing transmission facilities needed to deliver power from such resources.

Under FPA sections 205 and 206, the Commission ensures that public utilities' (investor-owned utilities) rates, terms and conditions of transmission service in interstate commerce are just, reasonable, and not unduly discriminatory or preferential. This responsibility includes allocating the costs of new transmission facilities built by public utilities. At present, the Commission has greater ability to assign such costs over broad geographic areas where there is a regional transmission organization (RTO) or independent system operator (ISO).

If Congress determines that there are broad public interest benefits in developing the EHV transmission system necessary to accommodate the Nation's renewable energy potential, and therefore that the costs of transmission facilities needed to meet our renewable energy potential should be fairly spread to a broad group of energy users (for example across a region or an entire interconnection), then Congress should consider giving the Commission clear authority to allocate such transmission costs to all load-serving entities within an interconnection or part of an interconnection.

Reliability, Demand response, and Smart Grid

Renewable energy resources, even delivered via an EHV transmission backbone system, must be integrated into the transmission system in a manner consistent with reliable operation of the grid. EPAAct 2005 added a new section 215 to the FPA, pursuant to which the Commission has certified an Electric Reliability Organization, approved the first sets of mandatory reliability standards for the Bulk-Power System, and is enforcing compliance with approved standards.

The Commission will continue to approve reliability standards, including cybersecurity standards, to ensure transmission grid reliability. Two additional factors are noteworthy with regard to the transmission grid. First, building on the Commission's existing authority with respect to demand response, section 529 of the Energy Independence and Security Act of 2007 directs the Commission to complete a National Assessment of Demand Response and a National Action Plan on Demand Response. In addition to improving market and transmission efficiency, demand resources (including demand response) are the "glue" necessary to reliably integrate large amounts of energy from renewable energy resources into the transmission system. Second, section 1305 of the EISA requires the Commission to promulgate rules for "smart grid" standards to govern interoperability. These standards will modernize the transmission grid, making it more efficient and more able to accommodate both additional renewable resources and demand side resources.

Commission Actions Facilitating Transmission for Renewables

The Commission has undertaken a number of initiatives, within the scope of its current FPA authority, to encourage the transmission of renewable power.

These include:

- In June 2005, the Commission, in Order No. 661, required standardized interconnection procedures that recognized the operational characteristics of wind generation.

- In November 2006, the Commission issued a final rule establishing procedures for implementing the limited transmission siting authority provided by the Energy Policy Act of 2005.
- In February 2007, the Commission issued Order No. 890, implementing open-access transmission reforms, which, among other things, required that public utilities offer conditional firm service, which is of particular importance to wind resources; required transmission providers to conduct studies to evaluate transmission upgrades needed to connect major new areas of wind generation; required, where appropriate, comparable treatment in the transmission planning process of advanced technologies and demand-side resources; exempted wind and other intermittent resources from the highest tier of energy and generator imbalance provisions; and found that sales of ancillary services to support transmission systems by demand response and other load resources shall be permitted, where appropriate, on a basis comparable to service provided by generation resources.
- In April 2007, the Commission approved an innovative California Independent System Operator (CAISO) proposal to allocate costs of facilities needed to interconnect location-constrained resources (such as wind and solar) to the electric transmission grid.

- In March 2008, the Commission provided guidance to RTOs and ISOs on processing interconnection queues, responding in part to backlogs in regions that have attracted significant new renewable energy resources.
- In October 2008, the Commission granted transmission rate incentives for PacifiCorp's Energy Gateway lines to deliver renewable energy in six Western States.
- In December 2008, the Commission granted transmission rate incentives for the Prairie Wind and Tallgrass lines to access wind power in Oklahoma and Kansas.
- In February 2009, the Commission approved rates for the Chinook and Zephyr lines to move wind power from Montana and Wyoming to the Southwest, adopting a more flexible approach to securing financing for merchant transmission projects.

Despite all of these actions, existing and future transmission will not be adequate to fully realize our potential for renewable energy development unless Congress provides additional tools. Foremost among these tools must be a way to facilitate the siting of new EHV transmission capacity.

Conclusion

In summary, to achieve the Nation's renewable energy goals, Congress and Federal and state regulators, including the Commission, must address in a timely manner the issues of transmission planning, transmission siting and transmission

cost allocation. Congressional action to address all three of these related areas, particularly additional siting authority to build EHV transmission lines to accommodate high quality, location-constrained renewable energy, would provide greater ability to achieve these important goals. For example, both the bill that you, Mr. Chairman, have circulated and the bill introduced by Senator Reid last week address all three of these areas. I would be happy to work with the Congress as you consider legislation to provide a regulatory framework for tackling the challenging energy issues that we face, and to provide Commission staff technical assistance respecting any legislation the Committee may consider.

Thank you again for giving me the opportunity to appear before you today. I stand ready to work with Congress, state and federal regulators, industry, and other stakeholders on these important issues. I would be happy to answer any questions you may have.