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To:
Department of Energy, plainsandeastern@hq.doe.gov

Concerning:
Plains and Eastern Transmission Line Non-nepa factors: comments,

I believe that Clean Line Energy Partners, LLC ("CLEP") has failed to meet the criteria required for the Department of Energy ("DOE") to participate, in any way, in the Plains & Eastern transmission project ("Project") under Section 1222 of the 2005 Energy Policy Act ("EPAct"). The Project fails to meet DOE's 2010 Request for Proposals. Parts of the project are technically unfeasible. The Project fails to completely address the financial feasibility. The Project is NOT in the public's interest. I feel that DOE should NOT grant eminent domain status to this Project.

STATUTORY CRITERIA IN SECTION 1222 OF THE ENERGY POLICY ACT OF 2005

"The Secretary, acting through the Administrator of the Western Area Power Administration (hereinafter in this section referred to as "WAPA"), or through the Administrator of the Southwestern Power Administration (hereinafter in this section referred to as "SWPA"),..." Nowhere in section 1222 does it mention the Tennessee Valley Authority "TVA". Accordingly, DOE does not have statutory authority to enter into an agreement involving TVA jurisdiction. The project is flawed and needs redone keeping the project and all grid connections within WAPA or SWPA.

"(B) is necessary to accommodate an actual or projected increase in demand for electric transmission capacity;" CLEP does not have enough signed agreements to provide electricity to cover transmission capacity, especially within WAPA/SWPA. Without these signed agreements it is impossible to gauge if there is an increase in electricity demand. Necessity has not been proven and this Project violates this portion of sec 1222.

"(5) will not duplicate the functions of existing transmission facilities or proposed facilities which are the subject of ongoing or approved siting and related permitting proceedings." In Arkansas this Project would duplicate the existing Entergy transmission facilities. Arkansas is already an exporter of electricity. This Project violates this portion of sec 1222.

"(d) RELATIONSHIP TO OTHER LAWS.—Nothing in this section affects any requirement of— (1) any Federal environmental law, including the National Environmental Policy Act of 1969..." (NEPA) This Project does have many conflicts with NEPA, as addressed by me and many others in the NEPA public comment period. Including, not sticking to public notification periods for public meetings dates in the National Register and especially not notifying impacted landowners of the project. I am still meeting landowners within the 1000' corridor that have never gotten a direct mailing about the project. It is imperative that DOE address all NEPA issues, BEFORE deciding on eminent domain authority.

“(g) MAXIMUM FUNDING AMOUNT.—The Secretary shall not accept and use more than \$100,000,000 under subsection (c)(1) for the period encompassing fiscal years 2006 through 2015.” How much has CLEP sent to DOE and how much has been used? Also, what happens in 2016. Does the project have to be completed by then? There remain several questions about the funding cap, that I can’t find adequately addressed. Surely the total dollar amount is not proprietary information and should be disclosed to the public. DOE needs to state this to the public before ruling on eminent domain. Is the project in violation of this cap?

DOE’s 2010 REQUEST FOR PROPOSALS

DOE’s request for proposals specifically mention WAPA and SWPA but not TVA. This Project does not meet the requirements and should never have been accepted. It needs redone with connections to the grid within SWPA.

“Southwestern is an agency within DOE authorized under Section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s) to market and transmit wholesale electrical power from 24 multipurpose reservoir projects operated by the U.S. Army Corps of Engineers to cooperatives, government agencies, and municipalities in several states.” This wording is specific on where SWPA gets its electricity. It appears that SWPA can’t get its electricity from wind sources. If this is the case, then this Project does not meet the 2010 Request for Proposals.

TECHNICAL FEASIBILITY

The Project and repair are technically feasible but is the Project repair feasible in a short time frame? This Project involves DC electricity so it can’t be easily diverted to the grid in the event of an accident. AR & OK average 101 tornadoes per year, of which 4.63% are f3 and higher. So 4-5 tornadoes per year have the capability to disable the flow of electricity. Getting replacement towers and cable in a short time frame may be technically unfeasible. Does CLEP have plans to stockpile repair materials for tornado events. If such plans aren’t in place then DOE needs to not participate in the Project.

FINANCIAL FEASIBILITY

The cost of the likely line repair from 1-5 tornadoes/yr needs to be figured into the cost/ benefit analysis. If it hasn’t been, then the Project needs to be canceled.

Normally for a federal project the agency needs to consider connected actions. TVA was not part of the Draft EIS and will be doing its own NEPA. This was a mistake and the financial costs need to be figured in this Project. The cost of TVA line upgrades are interconnected with this Project and need to be considered with this financial analysis.

I feel that my constitutional rights under Article V of the U.S. Constitution are being violated. The Supreme Court has ruled that "*just compensation*" for property taken is not necessarily limited by the value of the property at the time of taking (United States v. Commodities Trading Corp., 339 U.S. 121, 123 (1950)). In the same ruling, Justice Black writes "*...when market value has been too difficult to find, or when its application would result in manifest injustice to owner...*" then a standard that deviates from normal must be applied in order to ensure just outcomes for both parties. In my situation fair market value isn’t just compensation for the land that I have worked my entire life for. In addition, in normal courts of law property values are increased when the land is managed for non-financial reasons. Like my wildlife, outdoor recreation, quiet, solitude and religious values. Many times land values are valued 3-10 times the fair market value.

Justice Scalia writes (Michigan et al. v. Environmental Protection Agency et al., 576 U.S. 14-46, 14-47, 14-49 (2015)) "...any disadvantage could be termed a cost." From what I can see the financial costs of obtaining land for the Project are FAR UNDERSTATED. Without a fair list of the financial costs, DOE should not sign on to this Project.

The devaluation of land not in the corridor is understated, especially for land managed for wildlife and spiritual values. Because landowners will not be compensated for this devaluation there will be "*manifest injustice*" borne by property owners far from the physical location of the transmission line. These property value devaluations need to be included in the financial analysis as a cost.

Justice Scalia's speaks to the challenges in the ruling against the EPA, "*Agency action is unlawful if it does not rest 'on a consideration of the relevant factors.'*". This means that DOE must recognize that, "...any disadvantage [borne by property owners, direct and adjacent] *could be termed a cost.*" For DOE to meet the challenges it must take actions that clearly consider relevant factors such as the impact of visuals (costly disadvantage) that may make homes and other property virtually impossible to sell, and consider the costly disadvantage borne by adjacent property owners who are currently ignored for compensation. For DOE to do otherwise would perpetuate "*manifest injustice*" whereby a privileged class (Plains & Eastern Clean Line) arbitrarily seizes property and gains advantage by violating the property of a disenfranchised class (property owners). These values outside the R-O-W need to be considered in the financial analysis.

Taxes. CLEP maintains that there will be an increase in taxes available to counties. I don't see how this is possible... The current landowners already pay taxes on the land and would continue to do so, if we lease the R-O-W. If the land is bought by a private business then the taxes shift from the individual to a corporation, but that doesn't mean that taxes will increase. CLEP maintains that the transmission line will transfer to SWPA. If this happens it passes to federal ownership. Federal agencies are tax exempt, so there would be a tax DECREASE. The financial analysis is seriously flawed with benefits being overstated and costs understated. DOE needs to not participate in this Project.

PUBLIC INTEREST

Many people, including myself choose to live in rural Arkansas and highly value our land. I manage my land for long term sawtimber management, for wildlife values and outdoor recreation. In addition I deeply value its quiet, solitude and religious values. A transmission line has nothing to offer me and the values I hold so dear. No amount of money will make up for the ruining of everything I have worked for. This Project is not in the public's interest.

EMINENT DOMAIN

The Arkansas utility commission has not granted public utility status and the right of eminent domain to CLEP. It seems so against the values that the nation was founded on, for DOE to override the wishes of a state. No eminent domain should be granted anywhere in Arkansas. Please consider redoing the Project to allow the grid connection in OK or TX.

Direct mail letter of CleanLinePt2-Appendix-9-B. This letter states "You are receiving this packet because, according to county records, you have an interest in property located near the transmission line right-of-way under review for this project." I have NEVER received such a letter and I have lived at this location since 1999. How is it possible that if CLEP practiced due diligence to contact landowners, that I never received a letter. In addition, 90.3% of the people that I have met that own land in the

1000' have NEVER gotten such a letter. How can DOE make a decision on eminent domain when so many landowners haven't received notification of the Project. This Project is seriously flawed.

SUMMARY

This project does not meet: the statutory requirements of section 1222 and the 2010 request for proposals. It doesn't meet the short term technical feasibility in natural disasters; The financial feasibility is flawed, not covering many of the costs. The project isn't in the public interest and eminent domain should NOT be granted.

Sincerely,

Leif Anderson