

**United States of America
Department of Energy
Office of Electricity Delivery and Energy Reliability**

In Re:

**Interim Final Rule Comments,
Coordination of Federal Authorizations
for Electric Transmission Facilities**

RIN 1901—AB18

Attention:

Mr. John Schnagel
Office of Electricity Delivery
and Energy Reliability (OE-22)
United States Department of Energy
1000 Independence Avenue, SW
Washington, DC 54981

In accordance with the notice published in the September 19, 2008 Federal Register (Vol. 73 No. 183 P54456), in connection with the Interim Final Rules (Rules) adopted by the Department of Energy pursuant to §216(h) of the Federal Power Act,¹ the Department of Energy (DOE) solicits comments from interested parties on several additional provisions that the DOE is considering in connection with the Rules. The Rules establish the initial procedures to be followed by DOE “act[ing] as the lead agency for purposes of *coordinating* all applicable Federal authorizations and related environmental reviews” under the Federal Power Act.² American Transmission Company LLC, by its corporate manager, ATC Management Inc. (collectively “ATCLLC”) is pleased to have the opportunity to provide the

¹ *Energy Policy Act of 2005* (Pub. L. 109–58) 16 U.S.C. 824p(h)(2008)

² *Ibid.*

following comments on the additional matters to be considered by DOE in connection with the Rules.

Communications:

Any communication or inquiry related to the Comments of ATCLLC may be directed to:

Dale Landgren,
Vice President and Chief Strategic Officer
ATC Management Inc.
Corporate manager for
American Transmission Company LLC
N19 W23993 Ridgeview Parkway W
Waukesha, WI 53188
(262) 506-6820 (voice)
(262)-832-8670 (facsimile)
dlandgren@atcllc.com (electronic)

Dan L. Sanford
Managing Attorney
ATC Management Inc.
Corporate manager for
American Transmission Company LLC
N19W23993 Ridgeview Parkway W
Waukesha, Wisconsin 53188
(262) 506-6957 (voice)
(262) 506-6710 (facsimile)
dsanford@atcllc.com (electronic)

Introduction

ATCLLC is a Wisconsin limited liability company created in accordance with Wisconsin State Law as a single-purpose, for-profit transmission-only company.

ATCLLC, as a stand-alone, transmission-only company owns controls and operates more than 9,350 miles of transmission lines in the states of Wisconsin, Illinois, Minnesota and Michigan. ATCLLC is a public utility under the Federal Power Act subject to the jurisdiction of the Federal Energy Regulatory Commission (FERC) and

its rates and charges for transmission service in interstate commerce are subject to review and approval by the FERC.

ATCLLC is also a public utility under the laws of the state of Wisconsin and is subject to the siting and review statutes of Wisconsin in connection with the construction of transmission facilities that are used by ATCLLC to provide interstate transmission service of electric energy produced and owned by its transmission customers. ATCLLC has, since it began operations as of January 1, 2001, sought and received approval for the construction of more than \$1.7 Billion of new transmission facilities. The facilities constructed by ATCLLC have involved receiving numerous authorizations from various federal agencies including the Army Corps of Engineers, the National Forest Service, the National Parks Service and the Department of Fish and Wildlife. As a result, ATCLLC, as both a state and federally regulated public utility, has considerable experience in working closely with various federal agencies in obtaining authorization to construct electric transmission facilities that are used to provide service to a variety of transmission customers.

Comments

ATCLLC provides the following Comments in connection with the additional matters on which the DOE has solicited comments. ATCLLC understands that additional rules will be promulgated by DOE. ATCLLC will comment on those additional proposed rules at the appropriate time. In these Comments, ATCLLC addresses the additional matters related to the interim rules.

ATCLLC appreciates the DOE “applicant-driven” approach in the rules whereby an applicant may request DOE coordination of its application with other federal agencies. If the review and authorization process can be completed by the various federal agencies that are required to authorize a particular transmission line construction project without triggering a request for DOE coordination, the applicant is free to seek the necessary authorizations directly from the involved federal agencies. ATCLLC’s experience has been that the federal agencies from which ATCLLC has sought authorization in connection with the construction of its transmission projects have been generally efficient, timely and appropriate. ATCLLC has been able to develop strong, effective working relationships with the involved federal agencies and ATCLLC appreciates that the Rules do not mandate a further process coordinated by DOE when existing arrangements are functioning appropriately. However, ATCLLC believes that DOE’s responsibilities in connection with §216(h) are somewhat greater than what is embodied in the Rules.

Section 900.6 of the interim final rule sets forth DOE’s principal responsibilities as merely the “coordination” of permitting and related environmental reviews. The tone of the rule and the specific DOE responsibilities are less assertive than what ATCLLC believes are required. In ATCLLC’s view, the clear intent of the Congress in enacting §216(h) of the Energy Policy Act of 2005) was to establish DOE as the lead federal agency for coordinating the activities of *all applicable federal authorizations* for the siting and construction of interstate electric transmission facilities and the related environmental reviews. However, the provisions in §900.6 center principally on (a) creating and maintaining a central

repository or clearinghouse for information related to NEPA compliance; and (b) coordinating the preparation of a single environmental review document that would be the foundation for all relevant federal agencies. ATCLLC expects—and, in our view, the Congress clearly intended—that DOE is to take a more extensive and central coordinative role in the overall federal review and permitting required for interstate electric transmission facilities advanced by the nation’s electric utilities. Merely creating a repository for information is insufficient in ATCLLC’s view in light of the Congressional directive that DOE was to “coordinate[e] all federal authorizations.” While information is exceptionally valuable, and having access to the same information may expedite and make more efficient the various federal authorizations, merely maintaining and coordinating a database of information appears to ATCLLC to fall short of the Congressional directive.

To that end, ATCLLC’s review of the proposed rules suggests that DOE intends to expand on the interim final rule and the final rules will embody more specific responsibilities for DOE. ATCLLC intends to comment on the proposed rules and understands that comments on the proposed rules are due by the November 3, 2008.

Conclusion

ATCLLC believes that the Rules provide an initial step in the process in order to fulfill the Congressional directive to fully “coordinate” all federal authorizations for electric transmission facilities. ATCLLC believes DOE’s initial efforts are appropriate, but encourages DOE to more fully express in the final rules the Congressional directive of “coordinating” all federal authorizations.

Respectfully submitted this 20th day of October, 2008.

ATC Management Inc. corporate manager for
American Transmission Company LLC

/s/ Dale A. Landgren

Dale Landgren, Vice President and Chief Strategic Officer