

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

18 CFR Parts 50 and 380

Docket No. RM06-12-000

Regulations for Filing Applications for Permits to Site  
Interstate Electric Transmission Corridors

(Issued June 16, 2006)

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is proposing regulations in accordance with section 1221 of the Energy Policy Act of 2005 to implement filings requirements and procedures for entities seeking to construct electric transmission facilities.

DATES: Comments are due on or before **[Insert\_Date 60 days after publication in the FEDERAL REGISTER]**.

ADDRESSES: You may submit comments, identified by Docket No. RM06-12-000, by one of the following methods:

- Agency Web Site: <http://ferc.gov>. Follow the instructions for submitting comments via the eFiling link found in the Comment Procedures Section of the preamble.

- Mail: Commenters unable to file comments electronically must mail or hand deliver an original and 14 copies of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street, N.E., Washington, D.C. 20426. Please refer to the Comment Procedures Section of the preamble for additional information on how to file paper comments.

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SUPPLEMENTARY INFORMATION:

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Regulations for Filing Applications for Permits to Site      Docket No. RM06-12-000  
Interstate Electric Transmission Facilities

NOTICE OF PROPOSED RULEMAKING

(Issued June 16, 2006)

**I.     Introduction**

1.     On August 8, 2005, the Energy Policy Act of 2005 (EPAAct 2005) became law.<sup>1</sup> Section 1221 of EPAAct 2005 adds a new section 216 to the Federal Power Act (FPA), providing for federal siting of electric transmission facilities under certain circumstances. The Nation's electric system is an extensive, interconnected network of power lines that transport electricity from generator to consumer. The system was originally built by electric utilities over a period of 100 years, primarily to serve local customers and maintain system reliability. However, due to a doubling of electricity demand and generation over the past three decades and the advent of competitive wholesale electricity markets, the need to transfer large amounts of electricity across the grid has increased significantly in recent years.<sup>2</sup> Investment in new transmission facilities has not kept pace

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<sup>1</sup> Pub. L. No. 109-58, 119 Stat. 594 (2005).

<sup>2</sup> See Considerations for Transmission Congestion Study and Designation of National Interest Electric Transmission Corridors (Department of Energy), 71 FR 5560 (February 2, 2006).

with the need to increase transmission system capacity and maintain system reliability. The blackout of August 2003 highlighted the need to bolster the nation's electric transmission system.

2. New section 216 of the FPA requires that the Secretary of Energy (Secretary) identify transmission constraints. It mandates that the Secretary conduct a study of electric transmission congestion within one year of enactment and every three years thereafter, and that the Secretary then issue a report, based on the study, which may designate any geographic area experiencing electric energy transmission capacity constraints or congestion that adversely affects consumers as a national interest electric transmission corridor.

3. Once a national interest transmission corridor is designated by the Secretary, the Commission has the authority under FPA section 216(b) to issue permits to construct or modify electric transmission facilities in such a corridor under certain circumstances. The Commission has the authority to issue permits to construct or modify electric transmission facilities if it finds that: (1) a State in which such facilities are located does not have the authority to approve the siting of the facilities or to consider the interstate benefits expected to be achieved by the construction or modification of the facilities; (2) the applicant is a transmitting utility but does not qualify to apply for siting approval in the State because the applicant does not serve end-use customers in the State; (3) the State commission or entity with siting authority withholds approval of the facilities for

more than one year after an application is filed or one year after the designation of the relevant national interest electric transmission corridor, whichever is later, or the State conditions the construction or modification of the facilities in such a manner that the proposal will not significantly reduce transmission congestion in interstate commerce or is not economically feasible.<sup>3</sup>

4. Additionally, under FPA sections 216 (b)(2) through (6), the Commission must find that the proposed facility: (1) will be used for the transmission of electric energy in interstate commerce; (2) is consistent with the public interest;<sup>4</sup> (3) will significantly reduce transmission congestion in interstate commerce and protect or benefit consumers; (4) is consistent with sound national energy policy and will enhance energy independence; and (5) will maximize, to the extent reasonable and economical, the transmission capabilities of existing towers or structures.

5. New FPA section 216(h)(2) designates the Department of Energy (DOE) as lead agency to coordinate all Federal authorizations needed to construct proposed electric transmission facilities in national interest electric transmission corridors. Under FPA

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<sup>3</sup> Under FPA section 216(i)(4), the Commission may not issue a permit for facilities within a State that is a party to an interstate compact establishing a regional transmission siting agency unless the members of the compact are in disagreement and the Secretary makes certain findings.

<sup>4</sup> The Commission will make a public interest determination based on the entire record of the proceeding, and after due consideration of the issues raised.

section 216(h)(4)(A), to ensure timely efficient reviews and permit decisions, DOE is required to establish prompt and binding intermediate milestones and ultimate deadlines for all Federal reviews and authorizations required for a proposed electric transmission facility.<sup>5</sup> Section 216(h)(5)(A) of the FPA requires that DOE as lead agency, in consultation with the other affected agencies, prepare a single environmental review document that would be used as the basis for all decisions for the proposed projects under Federal law.

6. The Secretary determined that it would be beneficial to use the Commission's existing expertise and experience in siting energy facilities to coordinate and process Federal authorizations and related environmental reviews for proposed facilities in national interest transmission corridors. Thus, effective May 16, 2006, the Secretary delegated paragraphs (2), (3), (4)(A)–(B), and (5) of FPA section 216(h) to the Commission as they apply to proposed facilities in designated national interest electric transmission corridors.<sup>6</sup> Specifically, the Secretary delegated to the Commission DOE's lead agency responsibilities for the purpose of coordinating all applicable Federal authorizations and related environmental review and preparing a single environmental

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<sup>5</sup> Under FPA section 216(h)(6)(A), if any agency has denied a Federal authorization required for a transmission facility, or has failed to act by the deadline established by the Secretary, the applicant or any State in which the facility would be located may file an appeal with the President.

<sup>6</sup> Department of Energy Delegation Order No. 00-004.00A.

review document for facilities in a designated national interest electric transmission corridor. In developing the environmental document, the Commission will establish prompt and binding intermediate milestones and ultimate deadlines for the review, and ensure that all Federal permits are issued, and reviews for proposed facilities in a designated national interest electric transmission corridor are completed, within a year or as soon as practicable thereafter.

7. Under FPA section 216(h)(4)(C), DOE is required to provide an expeditious pre-application mechanism for an applicant to confer with the agencies responsible for any separate permitting and environmental reviews required by Federal law. During that process, the agencies are required to communicate to applicants the likelihood for approval for a potential facility and key issues of concern. While DOE will conduct a pre-application process under for Federal authorizations under FPA section 216(h)(4)(C), the Commission will also conduct a pre-filing process to facilitate maximum participation from all interested entities and individuals and to assist an applicant in compiling the information needed to file a complete application. Based on its experience in processing applications for natural gas facilities and hydroelectric projects, the Commission has found that an extensive pre-filing process allows the Commission to process the ultimate application expeditiously. The Commission intend that its pre-filing process be consistent with DOE's pre-application process to ensure a prompt and coordinated approach to siting facilities within national interest transmission corridors.

## **II. Discussion**

8. Section 216(c)(2) of the FPA requires that the Commission issue rules specifying the form of, and the information to be contained in, an application for proposed construction or modification of electric transmission facilities in a designated national interest electric transmission corridor, and the manner of service of notice of the permit application on interested persons. The Commission proposes to implement regulations in a new Part 50 of existing subchapter B of the Commission's regulations. The new procedures will also require certain modifications to other existing regulations, including the Commission's regulations implementing the National Environmental Policy Act of 1969 (NEPA) in Part 380. The proposed regulations provide for a Project Participation Plan (Participation Plan) that will be filed at the beginning of the pre-filing process and will be used during the pre-filing and application processes to facilitate maximum participation from all interested entities and individuals.

### **A. Project Participation**

9. Section 216(d) of the FPA requires that the Commission afford each State in which the transmission facility covered by the permit application is or will be located, each affected Federal agency and Indian tribe, private property owners, and other interested persons, a reasonable opportunity to present their views and recommendations with respect to the need for and impact of a facility covered by the permit application. Additionally, under FPA section 216(h)(3) and its delegated authority, the Commission



needs to coordinate the Federal authorization and review process with any Federal agencies, Indian tribes, multistate entities, and State agencies that are responsible for conducting separate permitting and environmental reviews of the facilities.

10. The Commission is proposing a Participation Plan to facilitate maximum participation from all stakeholders. Proposed § 50.1(f) defines a stakeholder as a Federal, State, or multistate, Tribal or local agency, any affected non-governmental organization, or other interested person. In other words, a stakeholder includes agencies and individuals contemplated under FPA section 216(d) and the permitting agencies contemplated under FPA section 216(h)(3).<sup>7</sup> Proposed § 50.4 details the requirements for the Participation Plan, including document availability and project notification. Under proposed § 50.5(c)(7), the Participation Plan needs to be filed at the beginning of the pre-filing process.

#### **1. Stakeholder Participation**

11. Under proposed § 50.4, the Commission proposes to require a potential applicant to prepare a Participation Plan to use during the pre-filing and application processes. The Participation Plan will be used to provide accurate and timely information concerning all aspects of the proposed project, including environmental impacts as well as the national

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<sup>7</sup> Proposed § 50.1(e) defines a permitting entity as any entity, including Federal, State, Tribal, or multistate, or local agency that is responsible for conducting reviews for any Federal authorization that will be required to construct an electric transmission facility in a national interest electric transmission corridor.

and local benefits of the proposed project, to all stakeholders. The Participation Plan will detail how the applicant will facilitate stakeholder communications and dissemination of information about the proposed project for both the pre-filing and application proceedings, discussed below. It will also detail the applicant's plan for seeking and acquiring all necessary Federal, State, Tribal, and local authorizations under Federal, State, and local laws.

12. Proposed § 50.4(a)(1), requires, among other things, that the applicant identify how it intends to facilitate stakeholder communications. It also requires that the applicant create and maintain a website specifically devoted to the project and have a single point of contact within the company to address communications from stakeholders.

13. Proposed § 50.4(a)(2) requires that the applicant list the central locations throughout the project area where copies of the all filings related to the proposed project will be located. Proposed § 50.4(a)(3) requires that the applicant detail how it intends to respond to requests for information from the public as well as Federal, State, and Tribal permitting entities.

## **2. Document Availability**

14. Under proposed § 50.4(b), the applicant must make copies of all of its filings readily available for all stakeholders to review. Within three business days of the date a pre-filing request is filed and when the application is issued a docket number, copies of the pre-filing and application materials must be placed in accessible central locations in

each county throughout the project area listed under proposed § 50.4(b)(1) in paper or electronic format and on the company's website developed in compliance with proposed § 50.4(a)(1).

### **3. Project Notification**

15. Proposed § 50.4(c) lists the project notification requirements. The applicant is required to notify all stakeholders, including affected landowners. Proposed § 50.1(a) defines an affected landowner as an owner of property interests, as noted in the most recent tax notice, whose property is: (1) directly affected, crossed or used, by the proposed project; or (2) abuts either side of an existing right-of-way or proposed facility site or right-of-way.

16. Under proposed § 50.4(c)(1)(i)(A), the applicant is required to send notification of the proposed new facilities or modification of existing facilities to all stakeholders within 14 days after the Director of Office of Energy Projects (OEP) or his designee notifies the applicant of the commencement of the pre-filing process. Under proposed § 50.4(c)(1)(i)(B), when an application is subsequently filed, the applicant must notify all stakeholders within three business days after the Commission issues a notice of the application as proposed in § 50.9. Additionally, under proposed § 50.4(c)(1)(ii), the applicant must publish the notice of the pre-filing request and application filing twice in a daily or weekly newspaper of general circulation in each county in which the facilities will be located.

17. During the pre-filing process, discussed below, under proposed § 50.4(c)(2)(i), the notification distributed by the applicant must include: (1) the docket number of the pre-filing proceeding; (2) a copy of the most recent edition of the Commission's pamphlet Electric Transmission Permitting Process; (3) a description of the project, its location, purpose, and the applicant's anticipated timing of its construction or modification process; (4) a general description of what the landowner will need to do if the project is approved and a company contact knowledgeable about the project; (5) a brief summary of the eminent domain rules of the relevant State; (6) information on how the landowner can obtain a copy of the pre-filing materials and the subsequent application, including information on how the landowner can obtain copies of CEII; and (7) an explanation of the difference between the pre-filing and application process and how the affected landowner may participate in each.

18. Given the extent of the pre-filing process, the Commission believes that all stakeholders will be notified during that process. Therefore, once the application is filed, under proposed § 50.4(c)(2)(ii), the applicant is only required to notify all stakeholders that the application has been filed by supplying them with a copy of the Commission's notice of the application. If the project route is changed during the pre-filing or application process to potentially affect additional stakeholder, or it is determined that stakeholders have not previously been identified, once the stakeholder is identified, the

applicant must supply those new stakeholder with the information required in proposed § 50.4(c).

19. Finally, under proposed § 50.4(c)(5), if any stakeholder requests information that contains CEII, the applicant must request that information from the Commission under the procedures in § 388.113 of the Commission's regulations.

**B. Pre-filing Process**

20. The proposed regulations provide for, among other things, an extensive pre-filing process in proposed § 50.5 that will facilitate maximum participation from all stakeholders to provide them with an opportunity to present their views and recommendations with respect to the need for and impact of the facilities early on in the planning stages of the proposed facilities as required under FPA section 216(d). The pre-filing process also will assist the applicant in compiling the information needed to file a complete application so that all reviews under Federal law can be completed within one year after the application is filed, or as soon thereafter as is practicable. During the pre-filing process, the Commission will work with the applicant and other permitting entities to coordinate the reviews and compile the information necessary for all required Federal authorizations for the proposed facilities.<sup>8</sup>

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<sup>8</sup> Proposed § 50.1(c) defines Federal authorization to include such permits, special use authorizations, certifications, opinions, or other approvals that may be required under Federal law to site a transmission facility, as defined in FPA section 216(h)(B).

21. Because of the potential for differences between projects, the Commission does not propose to set exact timeframes for the pre-filing process. The timeframe will depend upon, among other things, the size of the project, stakeholder participation, and the applicant's preparedness. The Commission expects that the pre-filing process for large, multi-state "greenfield" projects, will take longer than the pre-filing process for minor modifications to existing facilities.<sup>9</sup> The Commission anticipates that the pre-filing process for extensive projects may take at least a year to complete. Additionally, the environmental resource reports required under proposed § 380.16, discussed below, will require comprehensive field work and study to compile the information necessary to comply with the Commission's obligations under NEPA.

22. As stated above, the pre-filing timeframe is also dependent on the preparedness of the applicant. The pre-filing process is designed to assist the applicant in compiling the information needed to prepare a complete application and to coordinate the review process for other Federal authorizations. The further along the applicant is in obtaining the necessary Federal authorizations and the information needed for a completed application when it commences the pre-filing process, the sooner the applicant will be prepared to file a complete application. Under proposed § 50.5(a), all applicants seeking

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<sup>9</sup> Greenfield facilities are facilities that primarily will be located in new rights-of-way.

a permit to site new or to modify existing electric transmission facilities must comply with the proposed pre-filing process before they submit a permit application.

### **1. Initial Consultation**

23. Under proposed § 50.5(b), an applicant must meet with the Director of OEP before filing its pre-filing materials. During that meeting, Commission staff will review the applicant's proposed project description, including the status of the applicant's progress towards collecting the data needed to commence the pre-filing process, any preliminary contacts the applicant has had with stakeholders, including its progress in DOE's pre-application process, and preliminary details about the project.

24. Commission staff will also review the applicant's eligibility for Commission approval of a proposed facility, outline the pre-filing process, and provide guidance as to what further work is necessary to prepare the pre-filing request. Commission staff will also review the proposed project to determine if the applicant will be required to hire a third-party contractor to assist in preparing a NEPA document, under the direction of the Commission staff. The use of a third-party contractor can ensure that the environmental review of a proposed project proceeds expeditiously.

### **2. Initial Filing Requirements**

25. Proposed § 50.5(c) lists the contents of a pre-filing request. Proposed § 50.5(c)(1) requires that the applicant file a proposed schedule, including when it anticipates filing its completed application and when it proposes to energize its project

and commence service on the facilities. Proposed § 50.5(c)(2) requires that a pre-filing request include a description of the project, including maps and plot plans showing all major components, zoning requirements, and site availability. Any additional case-specific information that may be needed under this section will be discussed at the initial consultation. Proposed § 50.5(c)(3) requires that the applicant file a list of the permitting entities responsible for conducting separate Federal permitting and environmental reviews for the proposed project.

26. Proposed § 50.5(c)(4) requires a list of other stakeholders that have been contacted, or have contacted the applicant, about the project. Proposed § 50.5(c)(5) requires the applicant to file information concerning the status of work already conducted, including contacting agencies and individuals listed in proposed §§ 50.5(c)(3) and (4) its progress in DOE's pre-application process. Additionally, the applicant must file all information concerning engineering and environmental studies and route planning work conducted by contractors. The filing also must include information concerning any public meetings the proposed applicant has conducted regarding the proposed project.

27. Proposed § 50.5(c)(6) requires that the applicant propose at least three third-party NEPA contractors for the Commission to consider for the proposed project. Under proposed § 50.5(d)(1), the Director of OEP's notice commencing the pre-filing process will designate the chosen third-party contractor.



28. Finally, proposed § 50.5(c)(7) requires that the applicant file the Participation Plan required in proposed § 50.4(a). The Participation Plan must include a listing and schedule of all pre-filing and application activities, including, among other things, consultations, information gathering and studies, and proposed location(s) and date(s) for the meetings and site visits, if applicable. The Director of OEP may require that the applicant modify the Participation Plan as necessary.

### **3. Commencement of Pre-filing Process**

29. The Director of OEP will review the information filed by the applicant and determine if there is sufficient information to commence the pre-filing process. If the Director of OEP determines the information filed is insufficient, the applicant will be notified in writing of any deficiencies or the need for additional information, and be given a reasonable time to correct the deficiencies or file the additional information. If the applicant fails to cure the deficiencies within the time specified, the Director of OEP may terminate the pre-filing process. If the Director of OEP determines the filing is sufficient, the applicant will be notified under proposed § 50.5(d) and the pre-filing process will begin.

### **4. Subsequent Filing Requirements**

30. The proposed regulations include a schedule for subsequent filings, once the pre-filing process has begun. Proposed § 50.5(e)(1) requires that the applicant finalize its Participation Plan within seven days after the notice is issued. Proposed

§ 50.5(e)(2) requires that the applicant finalize the contract with the third-party contractor, if required, in 14 days. Proposed § 50.5(e)(3)(i) requires that the applicant provide all stakeholders with the notice commencing the pre-filing process. Proposed § 50.5(e)(3)(ii) specifically refers to the additional notification requirement for affected landowners in proposed § 50.4(c).

31. Proposed § 50.5(e)(3)(iii) provides that the applicant must notify permitting entities with Federal authorization processes within 14 days of commencing the pre-filing process. As discussed below, the Commission intends to compile the information necessary for its NEPA analysis primarily during the pre-filing process. Thus, the Commission proposes that the applicant request in its notice, and that the permitting agencies identify in their responses, any specific information, not required by the Commission in its resource reports required under proposed § 380.16, that they may need to reach a decision concerning the proposed project. The Commission envisions that this information will be compiled during the pre-filing process to facilitate the development of a preliminary NEPA document by the conclusion of the pre-filing process. Once all stakeholders have been notified under proposed § 50.5(e)(3), proposed § 50.5(e)(4) requires that the applicant must submit a mailing list of all stakeholders contacted within 30 days.

32. Under proposed § 50.5(e)(5), the applicant must file a summary of all alternatives considered within 30 days of the Director of OEP's notification. Proposed § 50.5(e)(6)

requires that the applicant file an updated list of all Federal, State, Tribal, and local agencies permits and authorizations that are necessary to construct or modify the proposed facilities. The list must include a schedule detailing when the applications for the permits and authorizations will be submitted (or were submitted). As stated, the Secretary will establish a pre-application mechanism under FPA section 216(h)(4)(C). The mechanism will facilitate consultation among prospective applicants and permitting agencies regarding key issues of concern and the likelihood of approval of the proposed facility. The permitting entities have 60 days to respond to the applicant's request for information. The applicant's filing under proposed § 50.5(e)(6)(iii) must specifically detail the information gathered during DOE's pre-application process

33. One purpose of the Commission's pre-filing process is to assist the applicant in compiling the necessary environmental resource reports. Proposed § 50.5(e)(7) requires that the applicant file the first drafts of the resource reports required in proposed § 380.16 in a format that will allow for efficient interpretation and incorporation of the information into the draft NEPA document. Specific formatting requirements will be discussed at the initial consultation meeting proposed under proposed § 50.5(b) and will be based on best available technology.

34. Under proposed § 50.5(e)(8), the applicant is required to file monthly status reports updating its progress in compiling the application information. If the applicant fails to file a status report or a response to a request for additional information, or is

failing to make sufficient progress toward obtaining the requisite permits or authorizations or towards the goal of compiling the information needed for a complete application, under proposed § 50.5(e)(8), the Director of OEP may terminate the pre-filing proceeding without prejudice to the applicant's re-applying.

### **5. Pre-filing Activities**

35. The Commission envisions that, during the pre-filing process, Commission staff will assist the applicant to compile a complete application while informing the public of the proposed project and promoting participation to provide an opportunity for all stakeholders to present their views and recommendations for the proposed project. Potential staff activities during the pre-filing process may include, but will not be limited to: (1) assisting the applicant in identifying stakeholders, including landowners, interested organizations, and other individuals; (2) conducting site visits, examining potential alternatives, and holding open meetings; (3) facilitating the identification of issues and resolution of those issues; (4) assisting the applicant in coordinating other necessary Federal authorizations; (5) preparing and issuing the environmental scoping documents; (6) facilitating cooperating agency environmental review and the preparation of a preliminary Environmental Assessment or Environmental Impact Statement under NEPA; and (7) providing technical assistance to other permitting entities, upon request.

## **6. Concluding the Pre-filing Process**

36. The Director of OEP will determine when the applicant has compiled sufficient information such that a complete application can be filed. Under proposed § 50.5(f), the applicant is required to include all the information specified by the Commission staff during the pre-filing process, including all required exhibits and environmental information, in the electric transmission facility application. As discussed below, because of statutory time limits, the Commission will require that a preliminary NEPA document be prepared before an application is filed. Once the pre-filing process is completed, the Commission anticipates expeditiously processing the resultant application.

### **C. Applications**

#### **1. General Content**

37. As stated, once the pre-filing process is completed a permit application may be filed. Section 216(h)(4)(B) of the FPA requires that once an application is submitted, all reviews under Federal law for the proposed facilities must be completed within one year, or, if a requirement of another provision of Federal law does not permit compliance within one year, as soon thereafter as practicable. Therefore, it is imperative that a filed application contain all information necessary for the Commission to proceed with an expedited review of the proposal.

38. Proposed § 50.6 requires that the application generally summarize and provide background and non-technical information concerning the proposed project. Proposed

§§ 50.6(a) and (b) require information concerning the applicant's contact information and a description of the applicant's existing business.

39. Under proposed § 50.6(c), the applicant must file a concise, general description of the proposed project sufficient to explain its scope and purpose, including the proposed geographic location of the principal project features and the planned routing of the transmission line. The summary also must contain the general characteristics of the transmission line including voltage, types of towers, origin and termination point of the transmission line, and the geographic character of the area traversed by the line. The written description must be accompanied by an overview map of sufficient scale to show the entire transmission route.

40. Proposed §§ 50.6(d) requires that the applicant demonstrate that the filing complies with FPA sections 216(a). Specifically, the applicant must demonstrate that the proposed facilities are located in a national interest electric transmission corridor, as determined by DOE. Under proposed § 50.6(e), the applicant must demonstrate that the proposed project complies with the requirements of FPA sections 216 (b)(2) through (6). Specifically, it must demonstrate that the proposed construction or modification of facilities: (1) will be used for the transmission of electric energy in interstate commerce; (2) is consistent with the public interest; (3) will significantly reduce transmission congestion in interstate commerce and protect or benefit consumers; (4) is consistent with sound national energy policy and will enhance energy independence; and (5) will

maximize, to the extent reasonable and economical, the transmission capabilities of existing towers or structures.

41. Proposed §§ 50.6(f) and (g) require that the applicant describe the anticipated timeframe for constructing or modifying the facilities and commencing operations and a general description of how the applicant proposes to finance the project. Proposed § 50.6(h) requires the applicant to list all necessary approvals that it will need to construct the proposed facilities and provide information concerning how it intends to acquire, or the status of, those approvals.

42. Proposed § 50.6(i) states that the application must contain a table of contents listing all exhibits and supporting evidence that is filed with the application. Finally, under proposed § 50.6(j), the applicant is required to file a draft notice for the Commission to have published in the Federal Register.

## **2. Exhibits**

43. Proposed § 50.7 contains the requirements for the exhibits that must be filed with the application. The exhibits will contain the technical data needed for the Commission's analysis of the application. Proposed §§ 50.7(a) through (c), Exhibits A through C, require information concerning the applicant's company, including articles of incorporation, bylaws, State authorizations, company officials, and subsidiaries and affiliations. Proposed § 50.7(d), Exhibit D, requires a list of other filings the applicant currently has pending before the Commission which could impact the proposed project.

44. As discussed above, a general location map must be filed under proposed § 50.7(e), as Exhibit E. All the environmental data required in Part 380 of the Commission's regulations, discussed below, will be filed as proposed Exhibit F under proposed § 50.7(f). Engineering data and system analysis data must be filed in Exhibits G and H, respectively, under proposed §§ 50.7(g) and (h). Finally, project cost and financial data and construction, operation, and management data must be filed in Exhibits I and J, respectively.

**D. Acceptance/Rejection of Applications**

45. As stated, FPA section 216(h)(4)(B) requires that all Federal permit decisions and environmental review be completed within one year after the application is filed, or as soon thereafter as practicable. Under proposed § 50.8(a) applications will be docketed when received. Under proposed § 50.8(b), the Director of OEP will reject any application that does not comply with the FPA and the Commission's regulations. Under proposed § 50.8(c), if an application has been rejected and refiled, it will be docketed as a new application.

**E. Notice of Application**

46. Under proposed § 50.9(a), the Commission will issue, and publish in the Federal Register, a notice of the application when it determines the application contains all the necessary information for an expedited review. Under proposed § 50.9(b), the notice will establish prompt and binding intermediate milestones and ultimate deadlines for the



coordination and review of all applicable Federal authorizations, as determined in consultation with the permitting agencies during the Commission's pre-filing and DOE's pre-application processes, as required under FPA section 216(h)(4)(A).

**F. Intervention**

47. Proposed § 50.10 pertains to the intervention procedures for the application process.<sup>10</sup> As stated, once it is determined that the application is complete, the Commission will issue a notice that it intends to process the application. The notice will fix a time within which anyone desiring to participate in the proceeding may file a motion to intervene in accordance with § 385.214 of the Commission's regulations.

**G. General Conditions Applicable to Permits**

48. The Commission will condition permits to construct or modify transmission facilities in order to conclude that the proposed facilities are in the public interest. Proposed §§ 50.11(a) and (b) list general conditions that will be applicable to all permits. Other case-specific conditions will be discussed in the permit order.

49. Under proposed § 50.11(c), all applicants must follow the American National Standards Institute's National Electrical Safety Code while constructing the permitted facilities. Proposed § 50.11(d) requires that the permittee obtain approval from the Director of OEP prior to constructing the facilities or commencing operations. Proposed

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<sup>10</sup> The notice and intervention regulations are not applicable to the pre-filing process.

§ 50.11(e) requires that the permittee construct the facilities within the time frame specified by the Commission. If the applicant cannot meet this deadline, it must notify the Commission and request an extension of time. If circumstances have changed since the permit was issued, the Commission may require additional analysis of the proposed project to ensure the proposed request is in the public interest. Proposed

§ 50.11(f) requires that the permittee notify the Commission when it has commenced construction and when it places the new or modified facilities in service.

50. A permit cannot be transferred without prior Commission's approval. Under proposed § 50.11(g), an applicant proposing to transfer a permit to construct or modify transmission facilities, must file a petition requesting authorization to do so. The petition must: (1) state the reasons for the transfer; (2) show that the transferee is qualified to carry out the provision of the permit; (3) be verified by all parties to the proposed transfer; (4) be accompanied by a copy of the transfer agreement; (5) be accompanied by an affidavit of service of a copy on all parties to the permit proceeding; and (6) be accompanied by a affidavit that all affected landowners have been notified of the proposed transfer.

## **H. Regulations Implementing the National Environmental Policy Act**

51. Part 380 of the Commission's regulations implements its responsibilities under NEPA.<sup>11</sup> The Commission proposes to revise those regulations by adding sections dealing with its new responsibilities with respect to the siting of electric transmission facilities. Proposed § 380.3(c)(3) adds electric transmission projects to the list of activities for which environmental information must be supplied. Proposed §§ 380.5(b)(14) and 380.6(a)(5) add electric transmission facilities to the lists of projects for which the Commission will do an environmental assessment or environmental impact statement.

52. Based on some confusion encountered by the Commission in natural gas pre-filing proceedings, proposed § 380.10 (a)(2)(iii) clarifies that interventions should not be filed in natural gas pre-filing proceedings and in the proposed electric transmission pre-filing proceedings. Interventions and party status, and the rights and obligations established thereunder, are granted under § 385.214 of the Commission regulations after an application is filed. The pre-filing natural gas and electric transmission processes are informal proceedings for which intervention status is not appropriate.

53. Under proposed § 380.15(c), approved electric transmission facilities are subject to the National Electric Safety Code. Additionally, under proposed §§ 380.15(d) and (e),

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<sup>11</sup> 18 CFR part 380 (2005).

the transmission facilities rights-of way will be subject to the same construction and maintenance requirements as natural gas pipelines.

54. The Commission proposes a new § 380.16 to delineate specific environmental filing requirements for electric transmission facilities. While these generally mirror the natural gas pipeline requirements, to avoid confusion the Commission proposes a separate section specifically tailored to electric transmission facilities.

55. Proposed § 380.16 requires 11 Resource Reports, as follows. Resource Report 1 would include, among other things, a description of the project by milepost and construction spreads, topographic maps, aerial images and/or photographs, descriptions of other permits and mitigation measure, and names and addresses of affected landowners.

56. Proposed Resource Report 2 requires information necessary for the Commission to determine the impact of the proposed project on water use and water quality.

57. Proposed Resource Report 3 describes aquatic life, wildlife, and vegetation in the vicinity or the proposed project.

58. Proposed Resource Report 4 lists the information the applicant will need to supply the Commission for a cultural resource review to implement the Commission's obligations under the National Historic Preservation Act.

59. Proposed Resource Report 5 requires that the applicant identify and quantify the impact of the construction and operation of the proposed project on towns and counties in the project vicinity.

60. Proposed Resource Report 6 requires that the applicant describe geological resources and hazards in the project area that might be directly or indirectly affected by the proposed facility or may place the proposed facility at risk.

61. Proposed Resource Report 7 requires information concerning soils and measures proposed to minimize or avoid impacts to them.

62. Proposed Resource Report 8 requires information concerning the uses of land around the proposed transmission facility, including measures the applicant proposes to protect and enhance the existing land use.

63. Resource Report 9 requires that the applicant describe alternatives to the project and compare the environmental impacts of such alternatives. This report also requires the applicant explain the environmental benefits and document the costs of each alternative.

64. Proposed Resource Report 10 addresses, among other things, the potential hazard to the public of the proposed facilities that would result from accidents or natural catastrophes and how these events would affect reliability.

65. Finally, proposed Resource Report 11 requires additional design and engineering data.

### **III. Information Collection Statement**

66. The Commission is submitting the following collection of information contained in this proposed rulemaking to the Office of Management and Budget (OMB) for review under section 3507(d) of the Paperwork Reduction Act of 1995.<sup>12</sup> The Commission will identify the information provided for under the proposed Part 50 as FERC-729.

67. The number of applicants for electric transmission permits in national interest electric transmission corridors is unknown. Proposed transmission projects would have to, among other things, significantly reduce electric transmission congestion in a national interest electric transmission corridor. These corridors are yet to be defined by the Secretary. Also, Federal permitting of electric transmission facilities used in interstate commerce will occur only if, or when, States do not or cannot act on an application, or have conditioned a project in such a manner that the proposed construction or modification will not significantly reduce congestion in interstate commerce or is not economically feasible. Any estimates of the number of anticipated electric transmission construction permit applications are extremely variable, ranging from two to 20 per year.

68. The Commission solicits comments on the Commission's need for the information required by the proposed regulations, whether the information will have practical utility, the accuracy of the provided burden estimates, ways to enhance the quality and clarity of

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<sup>12</sup> 44 U.S.C. 3507(d) (2000).

the information that the Commission will collect, and any suggested methods for minimizing the respondent’s burden, including the use of information techniques. The burden estimates for complying with this proposed rule are as follows:

Data Collection	Number of Respondents	Number of Responses	Hours Per Response	Total Annual Hours
FERC-729	10	1	9,600	96,000

**Information Collection Costs:** Because of the regional differences and the various staffing levels that will be involved in preparing the documentation (legal, technical and support) the Commission is using an hourly rate of \$150 to estimate the costs for filing and other administrative processes (reviewing instructions, searching data sources, completing and transmitting the collection of information). The estimated annual cost is anticipated to be \$14.4 million.

Title: FERC-729 Electric Transmission Facilities

Action: Proposed Data Collections

OMB Control No. To be determined.

Upon approval of a collection of information, OMB will assign an OMB control number and an expiration date. Respondents subject to the filing requirements of this rule will not be penalized for failing to respond to these collections of information unless the

collections of information display a valid OMB control number or the Commission has provided justification as to why the control number should not be displayed.

Respondents: Businesses or other for profit, State, local, or tribal government.

Necessity of the Information: The information collected from applicants will be used by the Commission to review the suitability of the proposal for a permit to construct the proposed electric transmission facilities. The Commission has assured itself, by means of internal review, that there is specific, objective support for the burden estimates associated with the information requirements.

69. Interested persons may obtain information on the reporting requirements by contacting the following: Federal Energy Regulatory Commission, 888 First Street, NE, Washington, D.C. 20426 [Attention: Michael Miller, Office of the Executive Director, Phone: (202)502-8415, fax: (202)273-0873, e-mail: [michael.miller@ferc.gov](mailto:michael.miller@ferc.gov)]

70. For submitting comments concerning the collection(s) of information and the associated burden estimate(s), please send your comments to the contact listed above and to the Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, D.C. 20503, [Attention: Desk Officer for the Federal Energy Regulatory Commission, phone: (202)395-4650, fax: (202)395-7285, e-mail: [oir\\_submission@omb.eop.gov](mailto:oir_submission@omb.eop.gov)].



**IV. Environmental Analysis**

71. The Commission is required to prepare an EA or EIS for any action that may have a significant adverse effect on the human environment. No environmental consideration is raised by the promulgation of a rule that is procedural in nature or does not substantially change the effect of legislation or regulations being amended. The proposed regulations implement the procedural filing requirements for applications to construct electric transmission facilities. Accordingly, neither an environmental impact statement nor environmental assessment is required.

**V. Regulatory Flexibility Act Analysis Certification**

72. The Regulatory Flexibility Act (RFA)<sup>13</sup> generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small entities.<sup>14</sup> The Commission is not required to make such analyses if a rule would not have such an effect.

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<sup>13</sup> 5 U.S.C. 601-612 (2000).

<sup>14</sup> The RFA definition of "small entity" refers to the definition provided in the Small Business Act, which defines a "small business concern" as a business which is independently owned and operated and which is not dominant in its field of operation. 15 U.S.C. 632 (2000). The Small Business Size Standards component of the North American Industry Classification System defines a small electric utility as one that, including its affiliates, is primarily engaged in the generation, transmission, and/or distribution of electric energy for sale and whose total electric output for the preceding fiscal years did not exceed 4 million MWh. 13 CFR 121.201 (section 22, Utilities, North American Industry Classification System, NAICS) (2004).

73. The Commission expects entities seeking approval for interstate transmission siting will be major transmission utilities capable of financing complex and costly transmission projects. The Commission anticipates that the high cost of construction of transmission facilities will bar the entry into this field by small entities as defined by the RFA. Therefore, the Commission concludes that this proposed rule would not have a significant economic impact on a substantial number of small entities.

#### **VI. Public Comments**

74. The Commission invites interested persons to submit comments on the matters and issues proposed in this notice to be adopted, including any related matters or alternative proposals that commenters may wish to discuss. Comments are due by [insert date 60 days from publication in the Federal Register]. Comments must refer to Docket No. RM06-12-000, and must include the commenter's name, the organization they represent, if applicable, and their address in their comments. Comments may be filed either in electronic or paper format.

75. Comments may be filed electronically via the eFiling link on the Commission's web site at <http://www.ferc.gov>. The Commission accepts most standard word processing formats and requests commenters to submit comments in a text-searchable format rather than a scanned image format. Commenters filing electronically do not need to make a paper filing. Commenters that are not able to file comments electronically

must send an original and 14 copies of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street N.E., Washington, DC, 20426.

76. All comments will be placed in the Commission's public files and may be viewed, printed, or downloaded remotely as described in the Document Availability section below. Commenters on this proposal are not required to serve copies of their comments on other commenters.

## **VII. Document Availability**

77. In addition to publishing the full text of this document in the Federal Register, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through FERC's Home Page (<http://www.ferc.gov>) and in FERC's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street, N.E., Room 2A, Washington D.C. 20426.

### List of subjects

#### 18 CFR Part 50

Administrative practice and procedure, Electric power, Reporting and recordkeeping requirements.

18 CFR Part 380

Environmental impact statements, Reporting and recordkeeping requirements.

By direction of the Commission.

Magalie R. Salas,  
Secretary.

In consideration of the foregoing, the Commission proposes to add Part 50 and amend Part 380, Chapter I, Title 18, Code of Federal Regulations, as follows.

1. Part 50 is added to read as follows:

**PART 50 - APPLICATIONS FOR PERMITS TO SITE INTERSTATE ELECTRIC  
TRANSMISSION FACILITIES**

Sec.

50.1 Definitions.

50.2 Purpose and intent of rules.

50.3 Applications/preliminary applications; rules and format.

50.4 Shareholder Participation.

50.5 Pre-filing procedures.

50.6 Applications: general content.

50.7 Applications: exhibits.

50.8 Acceptance/rejection of applications.

50.9 Notice of application.

50.10 Interventions.

50.11 General conditions applicable to permits.

Authority: 16 U.S.C. 824p, DOE Delegation Order No. 00-004.00A.

**§ 50.1 Definitions.**

(a) Affected landowners include owners of property interests, as noted in the most recent county/city tax records as receiving the tax notice, whose property:

(1) Is directly affected (i.e., crossed or used) by the proposed activity, including all facility sites, rights-of-way, access roads, pipe and contractor yards, and temporary workspace; and

(2) Abuts either side of an existing right-of-way or facility site owned in fee by any utility company, or abuts the edge of a proposed facility site or right-of-way which runs along a property line in the area in which the facilities would be constructed, or contains a residence within 50 feet of a proposed construction work area.

(b) Director of the Office of Energy Projects included the Director or his designees.

(c) Federal authorization includes permits, special use authorization, certifications, opinions, or other approvals that may be required under Federal law in order to site a transmission facility

(d) National interest electric transmission corridor is any geographic area experiencing electric energy transmission capacity constraints or congestion that adversely affects consumers, as designated by the Secretary of Energy.

(e) Permitting entity is any Federal or State agency, Indian tribe, multistate, or local agency that is responsible for conducting separate authorizations pursuant to Federal law

that are required to construct electric transmission facilities in a national interest electric transmission corridor.

(f) Stakeholder is any Federal, State, interstate, Tribal, or local agency, any affected non-governmental organization, affected landowner, or interested person.

(g) Transmitting utility is an entity that owns, operates, or controls facilities used for the transmission of electric energy in interstate commerce for the sale of electric energy at wholesale.

**§ 50.2 Purpose and intent of rules.**

(a) The purpose of the regulations in this part is to provide for efficient and timely review of requests for permits for the siting of electric transmission facilities under section 216 of the Federal Power Act. The regulations ensure that each stakeholder is afforded an opportunity to present views and recommendations with respect to the need for and impact of a facility covered by the permit. They also coordinate, to the maximum extent practicable, the Federal authorization and review process of other Federal and State agencies, Indian tribes, multistate, and local entities that are responsible for conducting any separate permitting and environmental reviews of the proposed facilities.

(b) Every applicant shall file all pertinent data and information necessary for a full and complete understanding of the proposed project.

(c) Every requirement of this part will be considered as an obligation of the applicant which can only be avoided by a definite and positive showing that the information or data

called for by the applicable rules is not necessary for the consideration and ultimate determination of the application.

(d) This part will be strictly applied to all applications and information as submitted and the burden of adequate presentation in intelligible form as well as justification for omitted data or information rests with the applicant.

**§ 50.3 Applications/pre-filing; rules and format.**

(a) Filings are subject to the formal paper and electronic filing requirements for proceedings before the Commission located in Part 385 of this chapter.

(b) Applications, amendments, and all exhibits and other submissions required to be furnished by an applicant to the Commission under this part must be submitted in an original and 7 conformed copies.

(c) When an application considered alone is incomplete and depends vitally upon information in another application, it will not be accepted for filing until the supporting application has been filed. When applications are interdependent, they shall be filed concurrently.

(d) All filings must be signed in compliance with § 385.2005 of this chapter.

(e) The Commission will conduct a paper hearing on applications for permits for electric transmission facilities.



(f) Permitting entities will be subject to the filing requirements of this section and the prompt and binding intermediate milestones and ultimate deadlines established in the notice issued under § 50.9.

(g) Any person submitting documents containing critical energy infrastructure information must follow the procedures specified in § 388.113 of this chapter.

**§ 50.4 Stakeholder participation.** A Project Participation Plan is required to ensure stakeholders access to accurate and timely information on the proposed project and permit application process.

(a) Project Participation Plan. An applicant must develop a Project Participation Plan to be filed with the pre-filing materials under § 50.5(c)(7) of this part that:

(1) Identifies specific tools and actions to facilitate stakeholder communications and public information, including an up-to-date project website, and a readily accessible, single point of contact within the company;

(2) Lists all central locations in each county throughout the project area where the applicant will provide copies of all their filings related to the proposed project; and

(3) Includes a description and schedule explaining how the applicant intends to respond to requests for information from the public as well as Federal, State, and Tribal permitting agencies, and other legal entities with local authorization requirements..

(b) Document Availability. Within three business days of the date the pre-filing materials are filed or application is issued a docket number:

(1) Complete copies of the pre-filing and application materials must be available in accessible central locations in each county throughout the project area, either in paper or electronic format, and

(2) Complete copies of all filed materials must be available on the project website.

(c) Project notification.

(1) For all pre-filing and application information filed under this part, the applicant must make a good faith effort to notify: all affected landowners; landowners with a residence within a quarter mile from the edge of the construction right-of-way of the proposed project; towns and communities; permitting agencies; and other local, State, Tribal, and Federal governments and agencies involved in the project:

(i) By certified or first class mail, sent:

(A) Within 14 days after the Director of the Office of Energy Projects notifies the applicant of the commencement of the pre-filing process under § 50.5(d) of this part.

(B) Within 3 business days after the Commission notices the application under § 50.9.

(ii) By twice publishing a notice of the pre-filing request and application filings, no later than 14 days after the date that a docket number is assigned for the pre-filing process or to the application, in a daily or weekly newspaper of general circulation in each county in which the project is located.

(2) Contents of participation notice:

(i) The pre-filing request notification must, at a minimum, include:

(A) The docket number assigned to the proceeding;

(B) The most recent edition of the Commission's pamphlet Electric Transmission Facilities Permit Process. The newspaper notice need only refer to the pamphlet and indicate that it is available on the Commission's website;(C) A description of the applicant and the proposed project, its location (including a general location map), its purpose, and the timing of the project;

(D) A general description of the property the applicant will need from an affected landowner if the project is approved, how to contact the applicant, including a local or toll-free phone number, the name of a specific person to contact who is knowledgeable about the project, and a reference to the project website. The newspaper notice need not include a description of the property, but should indicate that a separate notice is being mailed to affected landowners and governmental entities;

(E) A brief summary of what rights the affected landowner has at the Commission and in proceedings under the eminent domain rules of the relevant State. The newspaper notice does not need to include this summary;

(F) Information on how to get a copy of the pre-filing information or application from the company or the location(s) where a copy of the application may be found as specified in paragraph (b) of this section;

(G) A copy of the Director of the Office of Energy Projects' notification of commencement of the pre-filing process, the Commission's Internet address, and the telephone number for the Commission's Office of External Affairs; and

(H) Information explaining the pre-filing and application process and when and how to intervene in the application proceedings.

(ii) The application notification must include the Commission's notice issued under § 50.9.

(3) If, for any reason, a stakeholder is not identified when the notices under this paragraph are sent or published, the applicant must supply the information required under paragraphs (c)(2)(i) and (ii) of this section when the stakeholder is identified.

(4) If the notification is returned as undeliverable, the applicant will make a reasonable attempt to find the correct address and notify the stakeholder.

(5) Access to critical energy infrastructure information is subject to the requirements of § 388.113 of this chapter.

**§ 50.5 Pre-filing procedures.**

(a) Introduction. Any applicant seeking a permit to site new electric transmission facilities or modify existing facilities must comply with this section's pre-filing procedures prior to filing an application for Commission review.

(b) Initial consultation. An applicant must meet and consult with the Director of the Office of Energy Projects concerning the proposed project.

(1) At the initial consultation meeting, the applicant shall be prepared to discuss the nature of the project, the contents of the pre-filing request, and the status of the applicant's progress toward obtaining the information required for the pre-filing request described in paragraph (c) of this section.

(2) The initial consultation meeting will also include a discussion of whether a third-party contractor is likely to be needed for the project and the specifications for the applicant's solicitation for prospective third-party contractors to prepare the environmental documentation for the project.

(c) Contents of the initial filing. An applicant's initial pre-filing request will be filed after the initial consultation and must include the following information:

(1) A description of the schedule desired for the project, including the expected application filing date, desired date for Commission approval, and proposed project operation date.

(2) A detailed description of the project, including location maps and plot plans to scale showing all major components, including a description of zoning and site availability for any permanent facilities.

(3) A list of the permitting entities responsible for conducting separate Federal permitting and environmental reviews and authorizations for the project, including contact names and telephone numbers, and a list of local entities with local authorization requirements. The filing shall include information concerning:

(i) How the applicant intends to account for each of the permitting and local entity's permitting and environmental review schedules, including its progress in DOE's pre-application process; and

(ii) When the applicant proposes to file with these permitting and local entities for the respective permits or other authorizations.

(4) A list of other stakeholders that have been contacted, or have contacted the applicant, about the project (include contact names and telephone numbers), including a list specifying all affected landowners.

(5) A description of what other work has already been done, including, contacting stakeholders, agency and Indian tribe consultations, project engineering, route planning, environmental and engineering contractor engagement, environmental surveys/studies, and open houses. This description also must include the identification of the environmental and engineering firms and sub-contractors under contract to develop the project.

(6) Proposals for at least three prospective third-party contractors from which Commission staff may make a selection to assist in the preparation of the requisite NEPA document, if the Director of the Office of Energy Projects determined a third-party contractor would be necessary in the Initial Consultation meeting.

(7) A proposed Project Participation Plan, required in § 50.4(a).

(d) Director's notice.

(1) When the Director of the Office of Energy Projects finds that an applicant for authority to site and construct an electric transmission facility has adequately addressed the requirements of paragraphs (a), (b), and (c) of this section, and any other requirements determined at the Initial Consultation meeting, the Director of the Office of Energy Projects will so notify the applicant.

(i) The notification will designate the third-party contractor, and

(ii) The pre-filing process will be deemed to have commenced on the date of the Director of the Office of Energy Projects' notification.

(2) If the Director of the Office of Energy Projects determines that the contents of the initial filing requirements are insufficient, the applicant will be notified and given a reasonable time to correct the deficiencies.

(e) Subsequent filing requirements. Upon the Director of the Office of Energy Projects' issuance of a notice commencing an applicant's pre-filing process, the applicant must:

(1) Within 7 days, finalize and file the Project Participation Plan, as defined in § 50.4(a), and establish the dates and locations at which the applicant will conduct meetings with stakeholders and Commission staff.

(2) Within 14 days, finalize the contract with the selected third-party contractor, if applicable.

(3) Within 14 days:

(i) Provide all stakeholders with a copy of the Director of the Office of Energy Project's notification commencing the pre-filing process;

(ii) Notify affected landowners in compliance with the requirements of § 50.4(c); and

(iii) Notify permitting entities and request information detailing the permitting entities need for any specific information not required by the Commission in the resource reports required under § 380.16 of this chapter that they may require to reach a decision concerning the proposed project. The responses must be filed with the Commission as well as the applicant.

(4) Within 30 days, submit a mailing list of all stakeholders contacted in paragraph (3) of this section, including the names of the Federal, State, Tribal, and local jurisdictions' representatives, if available, for the proposed project and alternatives. The list must include information concerning affected landowner notifications that were returned as undeliverable.

(5) Within 30 days, file a summary of the project alternatives considered or under consideration.

(6) Within 30 days, file an updated list of all Federal, State, Tribal, and local agencies permits and authorizations that are necessary to construct the proposed facilities. The list must include:



(i) A schedule detailing when the applications for the permits and authorizations will be submitted (or were submitted);

(ii) Copies of all filed applications; and

(iii) The status of the required permit or authorization and of the Secretary of Energy's pre-application process being conducted under section 216(h)(4)(C) of the Federal Power Act.

(7) Within 60 days, file the draft resource reports required in § 380.16 of this chapter.

(8) On a monthly basis, file status reports detailing the applicant's project activities including surveys, stakeholder communications, and agency and tribe meetings, including updates on the status of other required permits or authorizations. If the applicant fails to respond to any request for additional information, fails to provide sufficient information, or is not making sufficient progress towards completing the pre-filing process, the Director of the Office of Energy Projects may issue a notice terminating the process.

(f) Concluding the pre-filing process. The Director of the Office of Energy Projects will determine when the information gathered during the pre-filing process is complete, after which the applicant may file an application. An application must contain all the information specified by the Commission staff after reviewing the draft materials filed by the applicant during the pre-filing process, including the environmental material required in part 380 of this chapter and exhibits required in § 50.7.

**§ 50.6 Applications: general content.**

Each application filed under this part must provide the following information:

(a) The exact legal name of applicant; its principal place of business; whether the applicant is an individual, partnership, corporation, or otherwise; the State laws under which the applicant is organized or authorized; and the name, title, and mailing address of the person or persons to whom communications concerning the application are to be addressed.

(b) A concise description of applicant's existing operations.

(c) A concise general description of the proposed project sufficient to explain its scope and purpose. The description must, at a minimum: describe the proposed geographic location of the principal project features and the planned routing of the transmission line; contain the general characteristics of the transmission line including voltage, types of towers, origin and termination point of the transmission line, and the geographic character of area traversed by the line; and be accompanied by an overview map of sufficient scale to show the entire transmission route on one or a few 8.5 by 11-inch sheets.

(d) Verification that the proposed route lies within a national interest electric transmission corridor designated by the Secretary of the Department of Energy under section 216 of the Federal Power Act.

(e) A demonstration that the facilities to be authorized by the permit will be used for the transmission of electric energy in interstate commerce, and that the proposed construction or modification:

(1) Is consistent with the public interest;

(2) Will significantly reduce transmission congestion in interstate commerce and protects or benefits consumers;

(3) Is consistent with sound national energy policy and will enhance energy interdependence; and

(4) Will maximize, to the extent reasonable and economical, the transmission capabilities of existing towers or structures.

(f) A description of the proposed construction and operation of the facilities, including the proposed dates for the beginning and completion of construction and the commencement of service.

(g) A general description of project financing.

(h) A full statement as to whether any other application to supplement or effectuate the applicant's proposals must be or is to be filed by the applicant, any of the applicant's customers, or any other person, with any other Federal, State, Tribal, or other regulatory body; and if so, the nature and status of each such application.

(i) A table of contents that must list all exhibits and documents filed in compliance with this part, as well as all other documents and exhibits otherwise filed, identifying

them by their appropriate titles and alphabetical letter designations. The alphabetical letter designations specified in the sections (section for the exhibits) must be strictly adhered to and extra exhibits submitted at the volition of applicant must be designated in sequence under the letter Z (Z1, Z2, Z3, etc.).

(j) A form of notice suitable for publication in the Federal Register, as contemplated by § 50.9(a), which will briefly summarize the facts contained in the application in such a way as to acquaint the public with its scope and purpose. The form of notice must also include the name, address, and telephone number of an authorized contact person.

**§50.7 Applications: exhibits.**

Each exhibit must contain a title page showing the applicant's name, title of the exhibit, the proper letter designation of the exhibit, and, if 10 or more pages, a table of contents, citing by page, section number or subdivision, the component elements or matters contained in the exhibit.

(a) Exhibit A - Articles of incorporation and bylaws. If the applicant is not an individual, a conformed copy of its articles of incorporation and bylaws, or other similar documents.

(b) Exhibit B - State authorization. For each State where the applicant is authorized to do business, a statement showing the date of authorization, the scope of the business the applicant is authorized to carry on and all limitations, if any, including expiration

dates and renewal obligations. A conformed copy of applicant's authorization to do business in each State affected must be supplied upon request.

(c) Exhibit C - Company officials. A list of the names and business addresses of the applicant's officers and directors, or similar officials if the applicant is not a corporation.

(d) Exhibit D - Other pending applications and filings. A list of other applications and filings submitted by the applicant that are pending before the Commission at the time of the filing of an application and that directly and significantly affect the proposed project, including an explanation of any material effect the grant or denial of those other applications and filings will have on the application and of any material effect the grant or denial of the application will have on those other applications and filings.

(e) Exhibit E - Maps of general location of facilities. The general location map required under § 50.5(c) must be provided as Exhibit E. Detailed maps required by other exhibits must be filed in those exhibits, in a format determined during the initial consultation required under § 50.5(b).

(f) Exhibit F - Environmental report. An environmental report as specified in §§ 380.3 and 380.16 of this chapter. The applicant must submit all appropriate revisions to Exhibit F whenever route or site changes are filed. These revisions must identify the locations by mile post and describe all other specific differences resulting from the route or site changes, and should not simply provide revised totals for the resources affected.

The format of the environmental report filing will be determined as part of the initial consultation meeting required under § 50.5(b).

(g) Exhibit G – Engineering data.

(1) A detailed project description including:

(i) Name and destination of the project;

(ii) Design voltage rating (kV);

(iii) Operating voltage rating (kV);

(iv) Normal peak operating current rating;

(v) Line design features for minimizing television and/or radio interference cause by operation of the proposed facilities;

(vi) Line design features that minimize audible noise during fog/rain caused by operation of the proposed facilities, including comparing expected audible noise levels to the applicable Federal, State, and local requirements.

(2) A conductor, structures, and substations description including:

(i) Conductor size and type;

(ii) Type of structures;

(iii) Height of typical structures;

(iv) An explanation why these structures were selected;

(v) Dimensional drawings of the typical structures to be used in the project; and

(vi) A list of the names of all new (and existing if applicable) substations or switching stations that will be associated with the proposed new transmission line.

(3) The location of the site and right-of-way including:

(i) Miles of right-of-way;

(ii) Miles of circuit;

(iii) Width of the right-of-way;

(iv) A brief description of the area traversed by the proposed transmission line, including a description of the general land uses in the area and the type of terrain crossed by the proposed line;

(v) Assumptions, bases, formulae, and methods used in the development and preparation of the diagrams and accompanying data; and

(vi) A technical description providing the following information:

(A) Number of circuits, with identification as to whether the circuit is overhead or underground;

(B) The operating voltage and frequency; and

(C) Conductor size, type and number of conductors per phase.

(4) If the proposed interconnection is an overhead line, the following additional information also must be provided:

- (i) The wind and ice loading design parameters;
- (ii) A full description and drawing of a typical supporting structure including strength specifications;
- (iii) Structure spacing with typical ruling and maximum spans;
- (iv) Conductor (phase) spacing; and
- (v) The designed line-to-ground and conductor-side clearances.

(5) If an underground or underwater interconnection is proposed, the following additional information also must be provided:

- (i) Burial depth;
- (ii) Type of cable and a description of any required supporting equipment, such as insulation medium pressurizing or forced cooling;
- (iii) Cathodic protection scheme; and
- (iv) Type of dielectric fluid and safeguards used to limit potential spills in waterways.

(6) Technical diagrams that provide clarification of any of the above items should be included.

(7) Any other data or information not previously identified that has been identified as a minimum requirement for the siting of a transmission line in the State the facility will be located.

(h) Exhibit H - System analysis data. An analysis evaluating the impact the proposed facilities will have on the existing electric transmission system performance, including:



(1) An analysis of the existing and expected congestion on the electric transmission system.

(2) Power flow cases used to analyze the proposed and future transmission system under anticipated load growth, operating conditions, variations in power import and export levels, and additional transmission facilities required for system reliability. The cases must:

(i) Provide all files to model normal, single contingency, multiple contingency, and special protective systems, including the special protective systems' automatic switching or load shedding system; and

(ii) State the assumptions, criteria, and guidelines upon which it is based and must take into consideration transmission facility loading; first contingency incremental transfer capability (FCITIC); normal incremental transfer capability (NIYC); system protection; and system stability.

(3) A stability analysis including study assumptions, criteria, and guidelines used in the analysis, including load shedding allowables;

(4) A short circuit analysis for all power flow cases;

(5) A concise analysis to include:

(i) An explanation of how the proposed project will improve system reliability over the long and short term;

(ii) An analysis of how the proposed project will impact the long term regional transmission expansion plans;

(iii) An analysis of how the proposed project will impact congestion on the applicant's entire system; and

(iv) A description of proposed high technology design features.

(6) Detailed single-line diagrams, including existing system facilities identified by name and circuit number, that show system transmission elements, in relation to the project and other principal interconnected system elements as well as power flow and loss data that represent system operating conditions.

(i) Exhibit I - Project Cost and Financing.

(1) A statement of estimated costs of any new construction or modification.

(2) The estimated capital cost and estimated annual operations and maintenance expense of each proposed environmental measures; and

(3) A statement and evaluation of the consequences of denial of the transmission line permit application.

(j) Exhibit J -Construction, operation, and management. A concise statement providing arrangements for supervision, management, engineering, accounting, legal, or other similar service to be rendered in connection with the construction or operation of the project, if not to be performed by employees of applicant, including reference to any

existing or contemplated agreements, together with a statement showing affiliation between applicant and any parties to the agreements or arrangements.

**§ 50.8 Acceptance/rejection of applications.**

(a) Applications will be docketed when received and the applicant so advised.

(b) If an application patently fails to comply with applicable statutory requirements or with applicable Commission rules, regulations, and orders for which a waiver has not been granted, the Director of the Office of Energy Projects may reject the application as provided by § 385.2001(b) of this chapter. This rejection is without prejudice to an applicant's refiling a complete application. However, an application will not be rejected solely on the basis that the environmental reports are incomplete because the company has not been granted access by affected landowners to perform required surveys.

(c) An application that relates to a construction or modification for which a prior application has been filed and rejected, will be docketed as a new application. The new application must state the docket number of the prior rejected application.

**§ 50.9 Notice of application.**

(a) Notice of each application filed, except when rejected in accordance with § 50.8, will be issued and subsequently published in the Federal Register.

(b) The notice will establish prompt and binding intermediate milestones and ultimate deadlines for the coordination and review of, and Federal authorization decisions relating to, the proposed facilities.

**§ 50.10 Interventions.** Notices of applications, as provided by § 50.9, will fix the time within which any person desiring to participate in the proceeding may file a petition to intervene, and within which any interested regulatory agency, as provided by § 385.214 of this chapter, desiring to intervene may file its notice of intervention.

**§ 50.11 General conditions applicable to permits.**

(a) The following terms and conditions, among others, as the Commission will find is required by the public interest, will attach to the issuance of each permit and to the exercise of the rights granted thereunder.

(b) The permit will be void and without force or effect unless accepted in writing by the permittee within 30 days from the issue date of the order issuing such permit.

(c) Standards of construction and operation. In determining standard practice, the Commission will be guided by the provisions of the American National Standards Institute, Incorporated, the National Electrical Safety Code, and any other codes and standards that are generally accepted by the industry, except as modified by this Commission or by municipal regulators within their jurisdiction. Each electric utility will construct, install, operate, and maintain its plant, structures, equipment, and lines in accordance with these standards, and in such manner to best accommodate the public, and to prevent interference with service furnished by other public utilities insofar as practical.

(d) Written authorization must be obtained from the Director of the Office of Energy Projects prior to commencing construction of the facilities or initiating operations. Requests for such authorizations must demonstrate compliance with all terms and conditions of the construction permit.

(e) Any authorized construction or modification must be completed and made available for service by the permittee within a period of time to be specified by the Commission in each order issuing the transmission line construction permit. If facilities are not completed within the specified timeframe, the permittee must file for an extension of time under § 385.2008 of this chapter.

(f) A permittee must file with the Commission, in writing and under oath, an original and four conformed copies, as provided in § 385.2011 of this chapter, of the following:

(1) Within ten days after the bona fide beginning of construction, notice of the date of the beginning; and

(2) Within ten days after authorized facilities have been constructed and placed in service, notice of the date of the completion of construction and commencement of service.

(g) The permit issued to the applicant may be transferred, subject to the approval of the Commission, to a person who agrees to comply with the terms, limitations or conditions contained in the filing and in every subsequent Order issued thereunder. A

permit holder seeking to transfer a permit must file with the Secretary a petition for approval of the transfer. The petition must:

- (1) State the reasons supporting the transfer;
- (2) Show that the transferee is qualified to carry out the provisions of the permit and any Orders issued under the permit;
- (3) Be verified by all parties to the proposed transfer;
- (4) Be accompanied by a copy of the proposed transfer agreement;
- (5) Be accompanied by an affidavit of service of a copy on the parties to the certification proceeding; and
- (6) Be accompanied by an affidavit of publication of a notice concerning the petition and service of such notice on all affected landowners that have executed agreements to convey property rights to the transferee and all other persons, municipalities or agencies entitled by law to be given notice of, or be served with a copy of, any application to construct a major electric generation facility.

(h) The Commission will not issue a permit before the criteria established in Federal Power Act section 216(b)(1)(C) have been met.

## **PART 380 – REGULATIONS IMPLEMENTING THE NATIONAL ENVIRONMENTAL POLICY ACT**

2. The authority citation for part 380 continues to read as follows:

Authority: 42 U.S.C. 4321-4370a, 7101-7352; E.O. 12009, 3 CFR 1978

Comp., p. 142.

3. Section 380.3 is amended by revising the section heading, revising paragraphs (a) introductory text and (b) introductory text, and by adding a new paragraph (c)(3) to read as follows:

**§ 380.3 Environmental information to be supplied by an applicant.**

(a) An applicant must submit information as follows:

\* \* \* \* \*

(b) An applicant must also:

\* \* \* \* \*

(c) \* \* \*

(3) Electric transmission project. For pre-filing requests and applications filed under section 216 of the Federal Power Act identified in §§ 380.5(b)(14) and 380.6(a)(5).

4. Amend § 380.5 by revising paragraphs (b) (11), (b)(12), and (b)(13), and by adding a new paragraph (14) to read as follows:

**§ 380.5 Actions that require an environmental assessment.**

(b) \* \* \*

(11) Approval of electric interconnections and wheeling under § 202(b), 210, 211, and 212 of the Federal Power Act, unless excluded under § 380.4(a)(17);

(12) Regulations or proposals for legislation not included under § 380.4(a)(2);

(13) Surrender of water power licenses and exemptions where project works exist or ground disturbing activity has occurred and amendments to water power licenses and exemptions that require ground disturbing activity or changes to project works or operations; and

(14) Except as identified in § 380.6, authorization to site new electric transmission facilities under section 216 of the Federal Power Act and DOE Delegation Order No. 00-004.00A.

5. Amend § 380.6 by revising (a)(3) and (a)(4) and by adding a new (a)(5) to read as follows:

**§ 380.6 Actions that require an environmental impact statement.**

(a) \* \* \*

(3) Major pipeline construction projects under section 7 of the Natural Gas Act using right-of-way in which there is no existing natural gas pipeline;

(4) Licenses under Part I of the Federal Power Act and Part 4 of this chapter for construction of any unconstructed water power projects; and

(5) Major electric transmission facilities under section 216 of the Federal Power Act and DOE Delegation Order No. 00-004.00A using right-of-way in which there is no existing facility.

\* \* \* \* \*

6. Section 380.8 is revised to read as follows:



**§ 380.8 Preparation of environmental documents.**

The preparation of environmental documents, as defined in §1508.10 of the regulations of the Council, on hydroelectric projects, natural gas facilities, and electric transmission facilities in national interest electric transmission corridors is the responsibility of the Commission’s Office of Energy Projects, 888 First Street NE, Washington, DC 20426, (202) 219-8700. Persons interested in status reports or information on environmental impact statements or other elements of the NEPA process, including the studies or other information the Commission may require on these projects, can contact this office.

7. Section 380.10 is amended by adding paragraph (a)(2)(iii) to read as follows:

**§ 380.10 Participation in Commission proceeding.**

(a) \* \* \*

(2) \* \* \*

(iii) Commission pre-filing activities commenced under §§157.21 and 50.5 of this chapter, respectively, are not considered proceedings under part 385 of this chapter and are not open to motions to intervene. Once an application is filed under part 157 Subpart A or part 50 of this chapter, any person may file a motion to intervene in accordance with § 157.10 or § 50.10 of this chapter or in accordance with this section.

\* \* \* \* \*

8. Amend § 380.15 by revising paragraph (c), the heading in paragraph (d), and paragraph (f)(5) to read as follows:

**§ 380.15 Siting and maintenance requirements.**

\* \* \* \* \*

(c) Safety regulations. The requirements of this paragraph do not affect a project sponsor’s obligations to comply with safety regulations of the U.S. Department of Transportation and recognized safe engineering practices for Natural Gas Act projects and the National Electric Safety Code for section 216 Federal Power Act projects.

(d) Pipeline and electric transmission facilities construction.

\* \* \* \* \*

(f) \* \* \*

(5) For Natural Gas Act projects, the site of above-ground facilities which are visible from nearby residences or public areas, should be planted in trees and shrubs, or other appropriate landscaping and should be installed to enhance the appearance of the facilities, consistent with operating needs.

9. A new § 380.16 is added to read as follows:

§ 380.16 Environmental reports for section 216 Federal Power Act Permits.

(a) Introduction.

(1) The applicant must submit an environmental report with any application that proposes the construction or modification of any facility identified in § 380.3(c)(3) . The

environmental report must include the eleven resource reports and related material described in this section.

(2) The detail of each resource report must be commensurate with the complexity of the proposal and its potential for environmental impact. Each topic in each resource report must be addressed or its omission justified, unless the data is not required for that type of proposal. If material required for one resource report is provided in another resource report or in another exhibit, it may be cross referenced. If any resource report topic is required for a particular project but is not provided at the time the application is filed, the environmental report must explain why it is missing and when the applicant anticipates it will be filed.

(b) General requirements. As appropriate, each resource report shall:

(1) Address conditions or resources that are likely to be directly or indirectly affected by the project;

(2) Identify significant environmental effects expected to occur as a result of the project;

(3) Identify the effects of construction, operation (including maintenance and malfunctions), as well as cumulative effects resulting from existing or reasonably foreseeable projects;

(4) Identify measures proposed to enhance the environment or to avoid, mitigate, or compensate for adverse effects of the project; and

(5) Provide a list of publications, reports, and other literature or communications, including agency contacts that were cited or relied upon to prepare each report. This list must include the names and titles of the persons contacted, their affiliations, and telephone numbers.

(6) Whenever this section refers to “mileposts” the applicant may substitute “survey centerline stationing” if so preferred. However, whatever method is chosen must be used consistently throughout the resource reports.

(c) Resource Report 1- General project description. This report must describe facilities associated with the project, special construction and operation procedures, construction timetables, future plans for related construction, compliance with regulations and codes, and permits that must be obtained. Resource Report 1 must:

(1) Describe and provide location maps of all project facilities, include all facilities associated with the project (such as transmission line towers, substations, and any appurtenant facilities), to be constructed, modified, replaced, or removed, including related construction and operational support activities and areas such as maintenance bases, staging areas, communications towers, power lines, and new access roads (roads to be built or modified). As relevant, the report must describe the length and size of the proposed transmission line conductor cables, the types of appurtenant facilities that would be constructed, and associated land requirements.

(2) Provide the following maps and photos:

(i) Current, original United States Geological Survey (USGS) 7.5-minute series topographic maps or maps of equivalent detail, covering at least a 0.5-mile-wide corridor centered on the electric transmission facility centerline, with integer mileposts identified, showing the location of rights-of-way, new access roads, other linear construction areas, substations, and construction materials storage areas. Show nonlinear construction areas on maps at a scale of 1:3,600 or larger keyed graphically and by milepost to the right-of-way maps. In areas where the facilities described in paragraph (j)(6) are located, topographic map coverage must be expanded to depict those facilities.

(ii) Original aerial images or photographs or photo-based alignment sheets based on these sources, not more than one year old (unless older ones accurately depict current land use and development) and with a scale of 1:6,000, or larger, showing the proposed transmission line route and location of transmission line towers, substations and appurtenant facilities, covering at least a 0.5 mile-wide corridor, and including mileposts. The aerial images or photographs or photo-based alignment sheets must show all existing transmission facilities located in the area of the proposed facilities and the location of habitable structures, radio transmitters and other electronic installations, and airstrips. Older images/photographs/alignment sheets must be modified to show any residences not depicted in the original. In areas where the facilities described in paragraph (j)(6) are located, aerial photographic coverage must be expanded to depict those facilities.

Alternative formats (e.g., blue-line prints of acceptable resolution) need prior approval by the environmental staff of the Office of Energy Projects.

(iii) In addition to the copies required under § 50.3(b) of this chapter, the applicant must send three additional copies of topographic maps and aerial images/photographs directly to the environmental staff of the Commission's Office of Energy Projects.

(3) Describe and identify by milepost, proposed construction and restoration methods to be used in areas of rugged topography, residential areas, active croplands and sites where explosives are likely to be used.

(4) Identify the number of construction spreads, average workforce requirements for each construction spread and estimated duration of construction from initial clearing to final restoration, and any identified constraints to the timing of construction.

(5) Describe reasonably foreseeable plans for future expansion of facilities, including additional land requirements and the compatibility of those plans with the current proposal.

(6) Describe all authorizations required to complete the proposed action and the status of applications for such authorizations. Identify environmental mitigation requirements specified in any permit or proposed in any permit application to the extent not specified elsewhere in this section.

(7) Provide the names and mailing addresses of all affected landowners identified in § 50.5(c)(4) of this chapter and certify that all affected landowners will be notified as required in § 50.4(c) of this chapter.

(d) Resource Report 2—Water use and quality. This report must describe water quality and provide data sufficient to determine the expected impact of the project and the effectiveness of mitigative, enhancement, or protective measures. Resource Report 2 must:

(1) Identify and describe by milepost waterbodies and municipal water supply or watershed areas, specially designated surface water protection areas and sensitive waterbodies, and wetlands that would be crossed. For each waterbody crossing, identify the approximate width, State water quality classifications, any known potential pollutants present in the water or sediments, and any potable water intake sources within three miles downstream.

(2) Provide a description of site-specific construction techniques that will be used at each major waterbody crossing.

(3) Describe typical staging area requirements at waterbody and wetland crossings. Also, identify and describe waterbodies and wetlands where staging areas are likely to be more extensive.

(4) Include National Wetland Inventory (NWI) maps. If NWI maps are not available, provide the appropriate State wetland maps. Identify for each crossing, the milepost, the

wetland classification specified by the U.S. Fish and Wildlife Service, and the length of the crossing. Include two copies of the NWI maps (or the substitutes, if NWI maps are not available) clearly showing the proposed route and mileposts. Describe by milepost, wetland crossings as determined by field delineations using the current Federal methodology.

(5) Identify aquifers within excavation depth in the project area, including the depth of the aquifer, current and projected use, water quality and average yield, and known or suspected contamination problems.

(6) Discuss proposed mitigation measures to reduce the potential for adverse impacts to surface water, wetlands, or groundwater quality. Discuss the potential for blasting to affect water wells, springs, and wetlands, and measures to be taken to detect and remedy such effects.

(7) Identify the location of known public and private groundwater supply wells or springs within 150 feet of proposed construction areas. Identify locations of EPA or State-designated sole-source aquifers and wellhead protection areas crossed by the proposed transmission line facilities.

(e) Resource Report 3—Fish, wildlife, and vegetation. This report must describe aquatic life, wildlife, and vegetation in the vicinity of the proposed project; expected impacts on these resources including potential effects on biodiversity; and proposed mitigation, enhancement, or protection measures. Resource Report 3 must:



(1) Describe commercial and recreational warmwater, coldwater, and saltwater fisheries in the affected area and associated significant habitats such as spawning or rearing areas and estuaries.

(2) Describe terrestrial habitats, including wetlands, typical wildlife habitats, and rare, unique, or otherwise significant habitats that might be affected by the proposed action. Describe typical species that have commercial, recreational, or aesthetic value.

(3) Describe and provide the affected acreage of vegetation cover types that would be affected, including unique ecosystems or communities such as remnant prairie or old-growth forest, or significant individual plants, such as old-growth specimen trees.

(4) Describe the impact of construction and operation on aquatic and terrestrial species and their habitats, including the possibility of a major alteration to ecosystems or biodiversity, and any potential impact on State-listed endangered or threatened species. Describe the impact of maintenance, clearing and treatment of the project area on fish, wildlife, and vegetation. Surveys may be required to determine specific areas of significant habitats or communities of species of special concern to State, Tribal, or local agencies.

(5) Identify all Federally listed or proposed threatened or endangered species and critical habitat that potentially occur in the vicinity of the project. Discuss the results of the consultation requirements listed in § 380.13(b) through § 380.13(b)(5)(i) and include any written correspondence that resulted from the consultation. The initial application

must include the results of any required surveys unless seasonal considerations make this impractical. If species surveys are impractical, there must be field surveys to determine the presence of suitable habitat unless the entire project area is suitable habitat.

(6) Identify all Federally listed essential fish habitat (EFH) that potentially occurs in the vicinity of the project. Provide information on all EFH, as identified by the pertinent Federal fishery management plans, that may be adversely affected by the project and the results of abbreviated consultations with NMFS, and any resulting EFH assessments.

(7) Describe site-specific mitigation measures to minimize impacts on fisheries, wildlife, and vegetation.

(8) Include copies of correspondence not provided under paragraph (e)(5) of this section, containing recommendations from appropriate Federal and State fish and wildlife agencies to avoid or limit impact on wildlife, fisheries, and vegetation, and the applicant's response to the recommendations.

(f) Resource Report 4—Cultural resources. In order to prepare this report, the applicant must follow the principles in § 380.14.

(1) Resource Report 4 must contain:

(i) Documentation of the applicant's initial cultural resources consultation, including consultations with Native Americans and other interested persons (if appropriate);

(ii) Overview and Survey Reports, as appropriate;

(iii) Evaluation Report, as appropriate;

(iv) Treatment Plan, as appropriate; and

(v) Written comments from State Historic Preservation Officer(s) (SHPO), Tribal Historic Preservation Officers (THPO), as appropriate, and applicable land-managing agencies on the reports in paragraphs (f)(1)(i)–(iv) of this section.

(2) The initial application or pre-filing documents, as applicable, must include the documentation of initial cultural resource consultation, the Overview and Survey Reports, if required, and written comments from SHPOs, THPOs, and land-managing agencies, if available. The initial cultural resources consultations should establish the need for surveys. If surveys are deemed necessary by the consultation with the SHPO/THPO, the survey report must be filed with the initial application or pre-filing documents.

(i) If the comments of the SHPOs, THPOs, or land-management agencies are not available at the time the application is filed, they may be filed separately, but they must be filed before a permit is issued.

(ii) If landowners deny access to private property and certain areas are not surveyed, the unsurveyed area must be identified by mileposts, and supplemental surveys or evaluations must be conducted after access is granted. In those circumstances, reports, and treatment plans, if necessary, for those inaccessible lands may be filed after a permit is issued.

(3) The Evaluation Report and Treatment Plan, if required, for the entire project must be filed before a permit is issued.

(i) In preparing the Treatment Plan, the applicant must consult with the Commission staff, the SHPO, and any applicable THPO and land-management agencies.

(ii) Authorization to implement the Treatment Plan will occur only after the permit is issued.

(4) Applicant must request privileged treatment for all material filed with the Commission containing location, character, and ownership information about cultural resources in accordance with § 388.112 of this chapter. The cover and relevant pages or portions of the report should be clearly labeled in bold lettering: “CONTAINS PRIVILEGED INFORMATION—DO NOT RELEASE.”

(5) Except as specified in a final Commission order, or by the Director of the Office of Energy Projects, construction may not begin until all cultural resource reports and plans have been approved.

(g) Resource Report 5—Socioeconomics. This report must identify and quantify the impacts of constructing and operating the proposed project on factors affecting towns and counties in the vicinity of the project. Resource Report 5 must:

- (1) Describe the socioeconomic impact area;
- (2) Evaluate the impact of any substantial immigration of people on governmental facilities and services and plans to reduce the impact on the local infrastructure;
- (3) Describe on-site manpower requirements and payroll during construction and operation, including the number of construction personnel who currently reside within the

impact area, will commute daily to the site from outside the impact area, or will relocate temporarily within the impact area;

(4) Determine whether existing housing within the impact area is sufficient to meet the needs of the additional population;

(5) Describe the number and types of residences and businesses that will be displaced by the project, procedures to be used to acquire these properties, and types and amounts of relocation assistance payments;

(6) Conduct a fiscal impact analysis evaluating incremental local government expenditures in relation to incremental local government revenues that will result from construction of the project. Incremental expenditures include, but are not limited to, school operating costs, road maintenance and repair, public safety, and public utility costs; and

(7) Conduct a property value impact analysis for residential properties located adjacent or abutting to the proposed right-of-way of the proposed transmission line facilities. The analysis must include estimates of residential property values both prior to and subsequent to transmission line construction. The analysis must state the assumptions made and the methodology used to conduct the analysis.

(h) Resource Report 6—Geological resources. This report must describe geological resources and hazards in the project area that might be directly or indirectly affected by the proposed action or that could place the proposed facilities at risk, the potential effects

of those hazards on the facility, and methods proposed to reduce the effects or risks.

Resource Report 6 must:

(1) Describe, by milepost, mineral resources that are currently or potentially exploitable;

(2) Describe, by milepost, existing and potential geological hazards and areas of nonroutine geotechnical concern, such as high seismicity areas, active faults, and areas susceptible to soil liquefaction; planned, active, and abandoned mines; karst terrain; and areas of potential ground failure, such as subsidence, slumping, and landsliding. Discuss the hazards posed to the facility from each one;

(3) Describe how the project will be located or designed to avoid or minimize adverse effects to the resources or risk to itself, including geotechnical investigations and monitoring that would be conducted before, during, and after construction. Discuss also the potential for blasting to affect structures, and the measures to be taken to remedy such effects;

(4) Specify methods to be used to prevent project-induced contamination from surface mines or from mine tailings along the right-of-way and whether the project would hinder mine reclamation or expansion efforts.

(i) Resource Report 7—Soils. This report must describe the soils that will be affected by the proposed project, the effect on those soils, and measures proposed to minimize or avoid impact. Resource Report 7 must:

(1) List, by milepost, the soil associations that would be crossed and describe the erosion potential, fertility, and drainage characteristics of each association.

(i) List the soil series within the transmission line right-of-way and the percentage of the property comprised of each series;

(ii) List the percentage of each series that will be permanently disturbed;

(iii) Describe the characteristics of each soil series; and

(iv) Indicate which are classified as prime or unique farmland by the U.S.

Department of Agriculture, Natural Resources Conservation Service.

(3) Identify, by milepost, potential impact from: soil erosion due to water, wind, or loss of vegetation; soil compaction and damage to soil structure resulting from movement of construction vehicles; wet soils and soils with poor drainage that are especially prone to structural damage; damage to drainage tile systems due to movement of construction vehicles and trenching activities; and interference with the operation of agricultural equipment due to the possibility of large stones or blasted rock occurring on or near the surface as a result of construction; and

(4) Identify, by milepost, cropland, and residential areas where loss of soil fertility due to construction activity can occur.

(j) Resource Report 8—Land use, recreation, and aesthetics. This report must describe the existing uses of land on, and (where specified) within 0.25 mile of the edge of the proposed transmission line right-of-way and changes to those land uses that will

occur if the project is approved. The report must discuss proposed mitigation measures, including protection and enhancement of existing land use. Resource Report 8 must:

(1) Describe the width and acreage requirements of all construction and permanent rights-of-way required for project construction, operation and maintenance;

(i) List, by milepost, locations where the proposed right-of-way would be adjacent to existing rights-of-way of any kind;

(ii) Identify, preferably by diagrams, existing rights-of-way that will be used for a portion of the construction or operational right-of-way, the overlap and how much additional width will be required;

(iii) Identify the total amount of land to be purchased or leased for each project facility, the amount of land that would be disturbed for construction, operation, and maintenance of the facility, and the use of the remaining land not required for project operation and maintenance, if any; and

(iv) Identify the size of typical staging areas and expanded work areas, such as those at railroad, road, and waterbody crossings, and the size and location of all construction materials storage yards and access roads.

(2) Identify, by milepost, the existing use of lands crossed by the proposed transmission facility, or on or adjacent to each proposed project facility;

(3) Describe planned development on land crossed or within 0.25 mile of proposed facilities, the time frame (if available) for such development, and proposed coordination



to minimize impacts on land use. Planned development means development which is included in a master plan or is on file with the local planning board or the county;

(4) Identify, by milepost and length of crossing, the area of direct effect of each proposed facility and operational site on sugar maple stands, orchards and nurseries, landfills, operating mines, hazardous waste sites, wild and scenic rivers, designated trails, nature preserves, game management areas, remnant prairie, old-growth forest, national or State forests, parks, golf courses, designated natural, recreational or scenic areas, or registered natural landmarks, Native American religious sites and traditional cultural properties to the extent they are known to the public at large, and reservations, lands identified under the Special Area Management Plan of the Office of Coastal Zone Management, National Oceanic and Atmospheric Administration, and lands owned or controlled by Federal or State agencies or private preservation groups. Also identify if any of those areas are located within 0.25 mile of any proposed facility.

(5) Tribal resources. Describe Indian tribes, tribal lands, and interests that may be affected by the project.

(i) Identify Indian tribes that may attach religious and cultural significance to historic properties within the project right-of-way or in the project vicinity, as well as available information on Indian traditional cultural and religious properties, whether on or off of any Federally-recognized Indian reservation.

(ii) Information made available under this section must delete specific site or property locations, the disclosure of which will create a risk of harm, theft, or destruction of archaeological or Native American cultural resources or to the site at which the resources are located, or which would violate any Federal law, including the Archaeological Resources Protection Act of 1979, 16 U.S.C. 470w-3, and the National Historic Preservation Act of 1966§, 16 U.S.C. 470hh).

(6) Identify, by milepost, all residences and buildings within 200 feet of the edge of the proposed transmission line construction right-of-way and the distance of the residence or building from the edge of the right-of-way. Provide survey drawings or alignment sheets to illustrate the location of the transmission facilities in relation to the buildings:

(i) Buildings: List all single-family and multi-family dwellings and related structures, mobile homes, apartment buildings, commercial structures, industrial structures, business structures, churches, hospitals, nursing homes, schools, or other structures normally inhabited by humans or intended to be inhabited by humans on a daily or regular basis within 0.5-mile-wide corridor centered on the proposed transmission line alignment. Provide a general description of each habitable structure and its distance from the centerline of the proposed project. In cities, towns, or rural subdivisions, houses can be identified in groups. Provide the number of habitable structures in each group and list the distance from the centerline to the closest habitable structure in the group;

(ii) Electronic Installations: List all commercial AM radio Transmitters located within 10,000 feet of the centerline of the proposed project and all FM radio transmitters, microwave relay stations, or other similar electronic installations located within 2,000 feet of the centerline of the proposed project. Provide a general description of each installation and its distance from the centerline of the projects. Locate all installations on a routing map; and

(iii) Airstrips: List all known private airstrips within 10,000 feet of the centerline of the project. List all airports registered with the Federal Aviation Administration (FAA) with at least one runway more than 3,200 feet in length that are located within 20,000 feet of the centerline of the proposed project. Indicate whether any transmission structures will exceed a 100:1 horizontal slope (one foot in height for each 100 feet in distance) from the closest point of the closest runway. List all airports registered with the FAA having no runway more than 3,200 feet in length that are located within 10,000 feet of the centerline of the proposed project. Indicate whether any transmission structures will exceed a 50:1 horizontal slope from the closest point of the closest runway. List all heliports located within 5,000 feet of the centerline of the proposed project. Indicate whether any transmission structures will exceed a 25:1 horizontal slope from the closest point of the closest landing and takeoff area of the heliport. Provide a general description of each private airstrip, registered airport, and registered heliport, and state the distance of

each from the centerline of the proposed transmission Line. Locate all airstrips, airports, and heliports on a routing map.

(7) Describe any areas crossed by or within 0.25 mile of the proposed transmission project facilities which are included in, or are designated for study for inclusion in: The National Wild and Scenic Rivers System (16 U.S.C. 1271); The National Trails System (16 U.S.C. 1241); or a wilderness area designated under the Wilderness Act (16 U.S.C. 1132);

(8) For facilities within a designated coastal zone management area, provide a consistency determination or evidence that the applicant has requested a consistency determination from the State's coastal zone management program;

(9) Describe the impact the project will have on present uses of the affected area as identified above, including commercial uses, mineral resources, recreational areas, public health and safety, and the aesthetic value of the land and its features. Describe any temporary or permanent restrictions on land use resulting from the project;

(10) Describe mitigation measures intended for all special use areas identified under this section;

(11) Describe the visual characteristics of the lands and waters affected by the project. Components of this description include a description of how the transmission line project facilities will impact the visual character of project right-of-way and

surrounding vicinity, and measures proposed to lessen these impacts. Applicants are encouraged to supplement the text description with visual aids; and

(12) Demonstrate that applications for rights-of-way or other proposed land use have been or soon will be filed with Federal land-management agencies with jurisdiction over land that would be affected by the project.

(k) Resource Report 9—Alternatives. This report must describe alternatives to the project and compare the environmental impacts of such alternatives to those of the proposal. It must discuss technological and procedural constraints, costs, and benefits of each alternative. The potential for each alternative to meet project purposes and the environmental consequences of each alternative shall be discussed. Resource Report 9 must:

(1) Discuss the “no action” alternative and other alternatives given serious consideration to achieve the proposed objectives.

(2) Provide an analysis of the relative environmental benefits and impacts of each such alternative.

(2) Describe alternative routes or locations considered for each facility during the initial screening for the project:

(i) For alternative routes considered in the initial screening for the project but eliminated, describe the environmental characteristics of each route or site, and the reasons for rejecting it. Identify the location of such alternatives on maps of sufficient

scale to depict their location and relationship to the proposed action, and the relationship of the transmission facilities to existing rights-of-way; and

(ii) For alternative routes or locations considered for more in-depth consideration, describe the environmental characteristics of each route or site and the reasons for rejecting it. Provide comparative tables showing the differences in environmental characteristics for the alternative and proposed action. The location of any alternatives in this paragraph shall be provided on maps equivalent to those required in paragraph (c)(2) of this section.

(l) Resource Report 10—Reliability and safety. This report must address the potential hazard to the public from facility components resulting from accidents or natural catastrophes, how these events will affect reliability, and what procedures and design features have been used to reduce potential hazards. Resource Report 10 must:

- (1) Describe measures proposed to protect the public from failure of the proposed facilities (including coordination with local agencies);
- (2) Discuss hazards, the environmental impact, and service interruptions which could reasonably ensue from failure of the proposed facilities;
- (3) Discuss design and operational measures to avoid or reduce risk;
- (4) Discuss contingency plans for maintaining service or reducing downtime;
- (5) Describe measures used to exclude the public from hazardous areas. Discuss measures used to minimize problems arising from malfunctions and accidents (with

estimates of probability of occurrence) and identify standard procedures for protecting services and public safety during maintenance and breakdowns; and

(6) Provide a description of the electromagnetic fields generated by the transmission lines, including their strength and extent. Provide a depiction of the expected field compared to distance horizontally along the right-of-way under the conductors, and perpendicular to the centerline of the right-of-way laterally.

(7) Discuss the potential for acoustic and electrical noise from electric and magnetic fields, including shadowing and reradiation, as they may affect health or communication systems along the transmission right-of-way. Indicate the noise level generated by the line in both dB and dBA scales and compare this to any known noise ordinances for the zoning districts through which the transmission line will pass; and

(8) Discuss the potential for induced or conducted currents along the transmission right-of-way from electric and magnetic fields.

(m) Resource Report 11—Design and Engineering. This report consists of general design and engineering drawings of the principal project facilities described under Resource Report 1—General project description. If this report submitted with the application is preliminary in nature, applicant must state that in the application. The drawings must conform to the specifications determined in the initial consultation meeting required by § 50.5(b) of this chapter.

(1) The drawings must show all major project structures in sufficient detail to provide a full understanding of the project including:

- (i) Plans (overhead view);
- (ii) Elevations (front view);
- (iii) Profiles (side view); and
- (iv) Sections.

(2) The applicant may submit preliminary design drawings with the pre-filing documents or application. The final design drawings may be submitted during the construction permit process or after the Commission issues a permit and must show the precise plans and specifications for proposed structures. If a permit is granted on the basis of preliminary designs, the applicant must submit final design drawings for written approval by the Director of the Office of Energy Project's prior to commencement of any construction of the project.

(3) Supporting design report. The applicant must submit, at a minimum, the following supporting information to demonstrate that existing and proposed structures are safe and adequate to fulfill their stated functions and must submit such information in a separate report at the time the application is filed:

- (i) An assessment of the suitability of the transmission line towers and appurtenant structures locations based on geological and subsurface investigations, including investigations of soils and rock borings and tests for the evaluation of all foundations and



construction materials sufficient to determine the location and type transmission line tower or appurtenant structures suitable for the site;

(ii) Copies of boring logs, geology reports, and laboratory test reports;

(iii) An identification of all borrow areas and quarry sites and an estimate of required quantities of suitable construction material;

(iv) Stability and stress analyses for all major transmission structures and conductors under all probable loading conditions, including seismic, wind, and ice loading as appropriate in sufficient detail to permit independent staff evaluation.

(4) The applicant must submit two copies of the supporting design report described in paragraph (m)(3) of this section at the time preliminary and final design drawings are filed. If the report contains preliminary drawings, it must be designated a "Preliminary Supporting Design Report."