



OCETI SAKOWIN POWER AUTHORITY

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United States Department of Energy
Grid Deployment Office

Re: Letter Comments of the Oceti Sakowin Power Authority
in DOE–HQ–2023–0050: Coordination of Federal Authorizations for
Electric Transmission Facilities

To Grid Deployment Office Staff and Management:

On behalf of the Oceti Sakowin Power Authority (OSPA) we submit these brief letter comments in the above-referenced Notice of Proposed Rulemaking (NOPR) proceeding. OSPA thanks the Grid Deployment Office (GDO) for its latest outreach to Tribes and other stakeholders, and its NOPR on the Coordination of Federal Authorizations for Electric Transmission Facilities. Pursuant to the Request for Comment published in the Federal Register¹ on August 16, 2023, OSPA submits its following Comments.

1. The Oceti Sakowin Power Authority

The Oceti Sakowin (pronounced O-CHET-ee Sha-KO-wee) Power Authority is a federally-chartered “Section 17” corporation established under 25 U.S.C. § 5124, certified by the U.S. Department of the Interior (DOI) on June 24, 2015. OSPA was formed, and is 100% owned by, seven Sioux Tribes that share territory with the states of South and North Dakota – the Cheyenne River, Crow Creek, Flandreau Santee, Oglala, Rosebud, Standing Rock and Yankton Sioux Tribes – to jointly develop their renewable energy resources, both utility-scale and community-scale, on the reservations of the member Tribes.

Over the last five years, OSPA has completed early-stage development of its first two projects: the 450 MW Ta’teh Topah (Four Winds) wind farm on the Cheyenne River Reservation, and the 120 MW Pass Creek wind farm on the Oglala Pine Ridge Reservation. Both wind farms could be substantially larger, but the original design of the projects was constrained by available transmission capacity. OSPA is now actively exploring whether it can increase the size of both wind farms.

¹ 88 Fed. Reg. 55826 (August 16, 2023).

2. OSPA Supports GDO's Efforts to Speed the NEPA Permitting Process through Increased Transparency, Inter-agency Coordination and Standardization

OSPA fully supports GDO's proposed rules changes for the Environmental Impact Statement (EIS) process for transmission, and the establishment of the Coordinated Interagency Transmission Authorizations and Permits (CITAP) Program. The need for inter-agency coordination, standardization of forms and processes, and the creation of standardized schedules is self-evident, and the GDO proposed rules make great strides in simplifying and expediting the EIS permitting process.

OSPA is concerned, however, that the EIS process is inherently overly time-consuming and costly. The expedited two-year process proposed in the new rules is a great improvement over current practices, but still takes way too long. In contrast to a proponent-driven and project-specific EIS process, since 2014 wind farms in the Upper Great Plains – even those including significant transmission build-outs – have been permitted using Environmental Assessments (EAs) that tier off a Programmatic Environmental Impact Statement (PEIS). The full EA process has mostly been completed within one year, and the time from Draft EA to a Finding of No Significant Impact (FONSI) is often as little as four months.

OSPA sees one of the greatest benefits of GDO's proposed CITAP Program is that it will generate a lot of data in a standardized form, and so could provide the source data for Transmission PEISs in various areas of the country. Below, OSPA discusses what a CITAP-based PEIS could look like, and makes some recommendations regarding rules clarifications or changes that may facilitate the development of such a PEIS.

3. The Final Rules Adopted to Implement CITAP Should Facilitate the Federal Development of a Programmatic Environmental Impact Statement for Transmission

The OSPA Tribes occupy a transmission desert that covers all of South Dakota west of the Missouri River, and contiguous areas in Nebraska, Wyoming and Colorado. OSPA has detailed this chronically underserved area in comments submitted in multiple proceedings conducted by the Department of Energy and the national laboratories – the National Transmission Need Study, the Interregional Renewable Energy Zone (IREZ) Hub study, the development of the application and approval process for designation of National Interest Electric Transmission Corridors (NIETCs), and the Interconnection Innovation e-Xchange workshops, as well as proceedings conducted by the Federal Energy Regulatory Commission and the Western Area Power Administration. OSPA will not repeat them here.

The need for transmission in the region occupied by the OSPA Tribes is overwhelming, and has proven to be a significant impediment to the timely development of the Tribes' utility-scale wind and solar resources. While OSPA lauds GDO's EIS initiative, OSPA is convinced that a

Programmatic Environmental Impact Statement for Transmission in the most underserved areas of the Upper Great Plains is necessary to avoid unacceptable delays and costs in the development of Tribal renewable energy resources.

A. A PEIS for Transmission Would Dramatically Speed the Deployment of Transmission in Chronically Underserved Areas of the Upper Great Plains

In July 2015, the Western Area Power Administration (WAPA) and the U.S. Fish and Wildlife Service prepared the Upper Great Plains (UGP) Wind Energy Programmatic Environmental Impact Statement.² The UGP Region encompasses all or parts of the States of Iowa, Minnesota, Montana, Nebraska, North Dakota, and South Dakota, and includes all the OSPA member Tribes. Since that time, WAPA has completed Environmental Assessments and issued Findings of No Substantial Impact for eight wind farms in the UGP region – all but one expressly tiered off the UGP PEIS.³

A similarly large-scale PEIS was adopted by the Department of Agriculture to implement and expand its Conservation Reserve Program in 2002. The Farm Service Agency prepared a final Programmatic Environmental Impact Statement for the land conservation program that covered millions of acres.⁴ It was followed in June 2010 by a Final Supplemental EIS that tiered off the 2002 PEIS.⁵ Both conducted extensive NEPA analyses of millions of acres across multiple states, and they were done to facilitate a quick response to the need for urgent permitting action caused by severe drought.

Both these PEIS examples demonstrate that federal agencies have used PEISs successfully to facilitate permitting across massive expanses of the country. In the case of the UGP wind farms, the PEIS obviated the need for Environmental Impact Statements, and allowed the wind farms to pursue Environmental Assessments that tiered off the UGP PEIS, with significant savings of cost and time – the average time from Draft EA to FONSI for those wind farms was seven months, and in several cases it was four months.

Based on this experience, OSPA believes that the establishment of a Transmission PEIS for the Upper Great Plains region would be one of the most impactful actions the federal government could take to bring transmission capacity in the quickest and most cost-effective way possible to an area of the country that has been chronically underserved for generations.

² DOE/EIS-0408. <https://www.wapa.gov/regions/UGP/Environment/Pages/ProgrammaticWindEIS.aspx>

³ <https://www.wapa.gov/regions/UGP/Environment/Pages/environment.aspx>

⁴ Record of Decision for the Programmatic Environmental Impact Statement on the Conservation Reserve Program, 68 Fed. Reg. 24848 (May 8, 2003).

⁵ https://www.fsa.usda.gov/Internet/FSA_File/crpfinaiseismaster61010.pdf

B. Specific Recommendations for Facilitating PEIS Development for Transmission

Expressly make EIS underlying data available to federal and non-federal permitting entities for purposes of developing a PEIS. Consistent with other proposed rules changes, this should expressly name Tribal Historic Preservation Offices (THPOs) as entities with access to such data. Moreover, because THPOs are often thinly staffed, they routinely hire outside consultants, and access to EIS data should be made available to them as well.

Allow for Study Corridors wider than 1 mile to encompass more alternative transmission paths. The NOPR defines “Project Area” broadly, to allow the study of multiple transmission paths:

Project area means the geographic area considered when the project proponent develops study corridors and then potential routes for environmental review and potential project siting The size of the project area should be sufficient to allow for the evaluation of various potential alternative routes and route segments with differing environmental, engineering, and regulatory constraints.⁶

But the definition of “Study Corridor” is defined as “a contiguous area (not to exceed one mile in width)”⁷ It appears to OSPA that the one-mile width restriction is inconsistent with the expansive definition of the project area, and may serve to unnecessarily restrict the evaluation of potential transmission sites – and the data that may be used in preparing a PEIS. OSPA urges GDO to allow for broader study corridors, either by changing the definition or by allowing project proponents to request exemptions from the one-mile restriction if good cause is shown.

4. Conclusion

OSPA thanks GDO for taking these steps to standardize and streamline the transmission permitting process. OSPA is at your disposal if we can provide additional information or materials.

Respectfully submitted,

/s/ 
Jon Canis, General Counsel

⁶ NOPR at 55843.

⁷ *Id.* at 55844.