

Energy Policy Act Section 1813

Study Plan and Process

April 18-20, 2006

Denver, CO

Section 1813 directs DOE/DOI to address:

- historic rates of compensation paid for energy rights-of-way on tribal land;
- appropriate standards and procedures for determining fair and appropriate compensation to Indian tribes for grants, expansions, and renewals of energy rights-of-way on tribal land;
- the tribal self-determination and sovereignty interests implicated by applications for the grant, expansion, or renewal of energy rights-of-way on tribal land; and
- relevant national energy transportation policies relating to grants, expansions, and renewals of energy rights-of-way on tribal land.

Primary Contacts and Staff

Department of Energy

- Kevin Kolevar,
Director, Office of
Electricity Delivery
- David Meyer,
Deputy Director,
Permitting, Siting, and
Analysis Division
- Rollie Wilson, FERC Tribal
Liaison (on detail to DOE)

Primary Contractor

- Argonne National Laboratory
- Liz Hocking

Department of the Interior

- Abe Haspel,
Assistant Deputy Secretary
- Robert Middleton, Director,
Office of Indian Energy and
Economic Development
- Darryl Francois,
Program Analyst, Office of
Indian Energy and Economic
Development

Additional Assistance

- Keystone Facilitation – Jody Erickson
- FERC – Van Button
- Historical Research Associates

Logistics

To Submit Information and Comments:

Email: IEED@BIA.EDU

Mailing Address : Attention: Section 1813 ROW Study
Office of Indian Energy and Economic
Development
1849 C St., NW, Mail Stop 2749–MIB
Washington, DC, 20240

For Updates, Check:

<http://1813.anl.gov>

Logistics

Questions, Communication, and Meetings

Darryl Francois

darryl.francois@mms.gov

202-219-0740

Rollie Wilson

rollie.wilson@hq.doe.gov

202-586-3946

Existing Data Needs and Information Gaps

We need data and information on:

- Miles/rods or acres of transmission lines/pipelines on tribal land
- Relative cost of ROWs on wholesale and consumer prices
- Tribal and industry methods for determining ROW compensation
- Length of ROW lease periods

Existing Data Needs and Information Gaps

We need data and information on:

- Tribal energy development associated with ROW development
- ROW conditions to protect cultural values and/or sensitive species
- Characteristics specific to ROW grants v. expansions v. renewals

Overview of Study Plan and Process

- Pipeline and electric transmission ROWs
- Conducted pre-scoping and scoping to survey issues
- Currently collecting relevant information
- Scope and substance of study is being developed from meetings, presentations, comments, and agency analysis
- Opportunities for future feedback
 - comments and information due in May
 - 30-day review comment period on draft report in June
 - 3 regional tribal consultations on draft report
 - public meeting on draft report
- As staff time allows, we are able to meet with groups individually

Historic Compensation

- Case studies and surveys are the most reasonable options due to:
 - complexity of ROW information
 - confidentiality issues
 - study time limitations
- We will hear today from tribes, industry, and organizations gathering data on different types of ROWs
- Additional data on all aspects of ROWs needed

Standards and Procedures for Determining Fair and Appropriate Compensation

- Existing Process – 25 CFR Part 169, bi-lateral negotiations
- We will hear today and tomorrow about standards and procedures that have been used
- Need information from a variety of tribal and industry groups about existing or proposed methods
- Methods that have been submitted, include:
 - fair market value, public land valuation, sales comparison, across the fence, sharing of net benefits, % of throughput, wheeling charge, opportunity cost, joint venture opportunities

Tribal Self-Determination and Sovereignty Interests

- Wealth of information supplied in comments
- More information may be submitted in comments, meetings, and consultation
- DOE/DOI staff knowledgeable of federal-tribal relationship will develop concise foundation for study.
- DOI's Division of Indian Affairs will be consulted
- Areas of law raised to date include:
 - Treaties, U.S. Constitution, Supreme Court case law, 25 USC 311-328, Indian Reorganization Act, Indian Self-Determination and Education Assistance Act of 1975, Tribal Self Government Act, EO 13175, Consultation and Coordination with Indian Tribal Governments, Presidential Proclamations, Nixon's Special Message to Congress on Indian Affairs – 1970, Lyndon Johnson's 1968 message

National Energy Transportation Policies Regarding Energy ROWs on Tribal Land

- We have reviewed the law and conducted an analysis of various policies.
- Law and policy reviewed to date, include:
 - Title V, Indian Energy, EAct of 2005, specifically provisions regarding Tribal Energy Resource Agreements
 - DOE/DOI Tribal Energy Policies
 - EAct, Section 368, National Transmission Corridors
 - National Energy Policy (NEP)
 - 2006 State of the Union Address
 - EO 13212, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use, and EO 13302, Amending EO 13212

Current Timeline

May 1 - 15

- Existing Federal Register notice for study comments and information
- We will publish an additional notice for final submissions by May 15

May 15 - June 15

- DOE/DOI to prepare draft, conduct analysis, release draft June 15

July 10 - July 19

- Tribal consultations and public meetings

July 24

- Comments due on draft study

July 24 - August 7

- Read comments, revise study, and submit to Congress