



# How would the Energy Independence and Security Act work in practice?

More transmission capacity, particularly interregional transmission, is critical to support reliability, lower emissions, and lower consumer costs. According to a recent Princeton study, the current pace of 1% transmission expansion per year would actually lead to increased emissions; expansion must more than double in pace to take advantage of new electricity incentives to reduce emissions related to power production.

The Energy Independence and Security Act (EISA) would provide more efficient environmental reviews for energy projects, more regulatory certainty for transmission projects designated by DOE as in the national interest, and establish cost allocation for projects that FERC finds to be in the national interest.

Here is one actual example of transmission line that would benefit from more efficient environmental reviews: Gateway South. Many transmission lines – whether built on federal lands or subject to other federal action – require a NEPA process to get approval for siting and permitting. This can take many years – as long as 15 years! – to go through siting and permitting. Gateway South, a project slated to be built on federal land in the West, could have been completed nearly a decade earlier, in a total of about five years, under the EISA:

## Proposed Process under the EISA

- ◆ **In the first 6 months**, FERC would review an application and decide whether to initiate a National Interest designation review.
- ◆ **By 18 months**, DOE will decide whether to designate the project as in the National Interest
- ◆ **By 3-4 years from date of application**, FERC will conduct a NEPA analysis and complete its siting review.
- ◆ **Within 6 months of FERC's siting decision**, all other federal reviews must be completed, and **within another 6 months**, all other agency coordination and routine procedural steps will be completed.

## Actual Process – Gateway South

Nov. 2007	Submitted initial application for EIS and BLM right of way
2008-2016	Environmental Impact Statement developed
Jan. 2017	Environmental review and permitting complete
2020-2021	State and local permitting conducted
Dec.2020	Bureau of Indian Affairs Record of Decision
June 2022	Construction began
2024	Estimated line in service for customers

## NATIONAL INTEREST DESIGNATION PROCESS

### FERC submits potential project to DOE

FERC implements rules to set process for project identification

FERC is the lead agency for a single, comprehensive NEPA review

### DOE Public Hearing

State commissions, affected communities and stakeholders notified

Public can comment and participate in hearings

### DOE evaluation of projects' compliance with national interest criteria

Eight criteria need to be met, ensuring project alleviates congestion, improves energy independence, enhances the grid's ability to handle increased intermittent generation, reduces electricity costs, and avoids/minimizes sensitive environmental areas and cultural heritage sites

### National Interest Designation

Designation granted upon conditions that:

All environmental reviews are completed for any FERC construction permit and any issuance of a federal lease, easement or right-of-way by Secretary of Interior (as applicable)

### Designated National Interest Lines Eligible to Seek FERC Construction Permit

FERC to update existing siting review regulations for conduct of hearing (see Permitting/Siting Process for Detail)

## FERC CONSTRUCTION PERMITTING/SITING PROCESS FOR DESIGNATED NATIONAL INTEREST LINES

### Project receives national interest designation

Project must complete all necessary technical reports to support NEPA and other federal environmental & siting reviews.

### FERC initiates public notice & hearing for construction permit/siting

FERC hearing includes:

- (i) Consideration of statutory criteria for siting;
- (ii) Review of eminent domain practices;
- (iii) Parallel evaluation of the project under NEPA, ESA, NHPA Section 106 and other laws.

\*\*FERC process will include extensive notice and opportunity for public comments.

### FERC Siting Review Criteria

The project must:

1. Transmit electric energy in interstate or foreign commerce
2. Be consistent with the public interest;
3. Reduce transmission congestion & protect/benefit customers
4. Be consistent with national energy policy and enhance energy independence
5. Maximize transmission capabilities of existing towers or structures

### FERC Decision on construction permit

FERC decision addresses

- (1) Finding that statutory criteria are met;
- (2) Completion of environmental reviews (NEPA, ESA, NHPA etc...)
- (3) Conditions for protection of environmental resources, species and cultural resources;
- (4) Authorization of any rights-of-way through voluntary acquisition, prior to exercise of eminent domain.

### Judicial Review

The national interest designation, construction permit, and compliance with all other applicable laws subject to judicial review upon completion of the FERC decision

## COST-ALLOCATION PROCESS

### Public Utility may file Cost Allocation Proposal

To qualify, a public utility\* must own, operate or control facility that is consistent with the national interest designation criteria. This includes traditional investor-owned utilities, merchant transmission, independent transmission developers and ISOs/RTOS engaged in the provision of transmission service in interstate commerce

### FERC Review Under FPA Section 205

Filing utility must show that the proposed cost allocation fairly allocates reliability, economic, and other project benefits with the proposed allocation roughly commensurate to derived benefits. (Existing standard)

FERC may accept, reject, or set the proposed cost allocation for hearing

### FERC Final Decision

If accepted by FERC, Tariff terms will implement the allocation of costs to customers within the transmission planning region or regions that have been shown within the FERC record (using substantial evidence standard) to benefit from the relevant project facilities. Decision on cost allocation is subject to rehearing and judicial review under the FPA