

GUIDANCE DOCUMENT NO. 3*

APPROVAL FOR TRANSMISSION LINE PROJECTS INVOLVING MULTIPLE POWER SUPPLIERS

I. Purpose

This policy establishes the Nebraska Power Review Board's (the Board) policy regarding whether electric transmission lines constructed jointly by more than one power supplier constitute projects that require the Board's review and approval prior to the commencement of construction as set out in Neb. Rev. Stat. § 70-1012 (1996). The Board believes that Neb. Rev. Stat. § 70-1012 is ambiguous regarding whether certain joint transmission facility projects require Board approval. This policy is intended to clarify the Board's interpretation of the statute's applicability in certain situations.

II. Policy Applicability and Definitions

A. This policy applies to those joint transmission facility projects where two or more power suppliers construct transmission facilities for which each entity involved will own that portion of the facility or transmission line that will be located entirely inside its own service area.

B. The Board recognizes there are numerous methods through which power suppliers could structure a joint transmission facility project. This policy is intended to apply to situations described in II.A (above), and not to others that are structured differently (such as, for example, situations where a power supplier would jointly own a transmission facility locate inside another power supplier's service area, or a power supplier making installment payments to another power supplier responsible for constructing and initial financing for a project, where the power supplier responsible for constructing the project retains ownership of the transmission facilities until full payment for the facilities has been achieved; etc.).

* This guidance document is advisory in nature but is binding on an agency until amended by such agency. A guidance document does not include internal procedural documents that only affect the internal operations of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules and regulations made in accordance with the Administrative Procedure Act. If you believe that this guidance document imposes additional requirements or penalties on regulated parties, you may request a review of the document.

C. This policy applies only to situations where the power supplier(s) holding the service area rights where the transmission facilities will be located either: 1) is the applicant or co-applicant, or 2) has filed a Consent and Waiver form indicating its consent to the construction in its service area and waives a hearing thereon.

III. Board Findings.

A. An application must be filed with the Board Prior to commencement of construction in all joint transmission facility projects where any power supplier involved will at any time be involved in the construction or ownership, jointly or individually, of transmission facilities located outside the supplier's service area.

1. An application filed with the Board for a project described in III.A.(above) will be reviewed by the Board's staff. The executive director will make a determination whether an application meets the criteria for this policy and falls under the exemption from Board approval provided in Neb. Rev. Stat. § 70-1012(1). If the application does not qualify, then the application will be processed in accordance with the Board's normal procedures for applications. If it does qualify, Board staff will process it according to the guidelines in III.A.2(below).

2. If there are deficiencies in the application, the Board's staff will contact the power suppliers in an attempt to correct the deficiencies. If the application is found to be complete and in compliance with the Board's rules, the executive director will provide a letter to the power suppliers involved informing them that the application is complete and complies with the Board's rules, and the construction may proceed.

B. No formal approval by vote of the Board is required prior to the commencement of construction in situations covered by this policy.



Timothy J. Texel

Executive Director and General Counsel

Approved at NPRB meeting September 19, 2003.