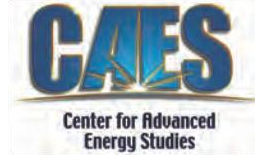


The Energy Policy Institute

IDAHO INVESTOR-OWNED UTILITY TRANSMISSION SITING PROCESS
April 2012



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Introduction

Population growth, increased energy demand, and the expansion of renewably generated electricity require the modernization of the electric grid to ensure its reliability and meet future needs. Upgrades and new electric transmission lines are necessary, but the siting of lines is complex. Multiple levels of regulation, environmental concerns, citizen opposition, permitting procedures, and public lands are just a few of the variables that further complicate the process for investor-owned utilities (IOUs), government officials, and stakeholders.

The regulatory structure is different in each state, so the following has been written as a general description of the process an IOU needs to follow to site a transmission line in Idaho. It provides a description of the process flow which is illustrated in Figure 1. The numbered headings correspond to the process steps outlined in the diagram.

This document is intended to provide a broad overview so that different actors understand the whole process, rather than solely the parts that directly impact their authority or interests.

1.0 Utility

1.1 Every two years, public utilities are required to file an Integrated Resource Plan (IRP) with the Idaho Public Utilities Commission (IPUC) (1). This is a document that reflects the utility's long-term plan for meeting retail electricity demand within its service area. A transmission line that has been included in a public utility's IRP typically identifies two geographic points the utility wishes to connect with additional transmission line capacity.

1.2 Once a utility decides to proceed with siting and constructing a transmission line, the utility will identify one or more potential corridors or routes where the actual transmission line may be constructed. Utilities try to identify the least-cost paths that also take into account a variety of social, technical, environmental, and physical constraints, some of which can be identified by engaging the public and public officials.

1.3 Utilities will submit a plan that includes one or more preferred alternatives. The plan is typically submitted as part of an application that each government agency, which has jurisdictional authority, requires to gain approval. Depending on the alternative corridors under consideration, approvals may be needed from federal, state, and local agencies. The utility also needs to obtain a "path rating" approval from the Western Electricity Coordinating Council (WECC) that ensures that the transmission line can be integrated into the overall transmission system prior to the transmission line being put into service.

1.4 After the permits and requirements from all levels of government and WECC have been met, the utility can proceed with the construction of the transmission line, which the utility can then put into service.

2.0 Federal Process

The agency must follow the requirements contained in the National Environmental Policy Act (NEPA) (2) which is outlined in detail by the Council for Environmental Quality (3). The following section provides a broad description of the steps involved.

2.1-2.4 First, if any of the alternative corridors cross federal land, the utility must initiate the NEPA process by submitting a Federal Application for Utility Systems and Facilities (SF-299) (4) along with a Plan of Development to the lead federal agency. A lead federal agency is always designated for each transmission line development project and is usually the federal land agency most affected by the project. The agency then develops a proposal for a *Need to Take Action* to initiate the process. This proposal is used to determine if the anticipated action has significant environmental impacts.

2.5-2.7 If the action has no significant environmental impacts because it qualifies for one of several categorical exclusions or there are no extraordinary circumstances that could cause a significant effect (e.g., impacts to endangered species, historical sites, etc.), then the lead agency can issue a *Finding of No Significant Impact (FONSI)*. To ensure that the public is notified, this finding is usually published as a *Notice of Availability* in the Federal Register.

2.8-2.9 If the effects of the action are uncertain, the lead agency will conduct an *Environmental Assessment (EA)*. This allows the agency to evaluate the significance of potential impacts and provide documentation and evidence whether or not an *Environmental Impact Statement (EIS)* is required. If an *EIS* is not necessary, the lead agency will issue a *FONSI* and publish a *Notice of Availability* in the Federal Register.

2.10 If the lead agency finds that there are significant environmental impacts either through an *EA* or as a result of its initial determination, the lead federal agency must prepare an *EIS*. The lead agency first notifies the public that it is preparing an *EIS* by publishing a *Notice of Intent* in the Federal Register. The *Notice of Intent* helps the public to understand how they can be involved in the overall scoping process to prepare the *Draft Environmental Impact Statement (DEIS)*.

2.12 The scoping process is used to identify and define the different issues that will need to be addressed in the *EIS* or help identify other alternatives that can be evaluated. *NEPA* accomplishes this by requiring the agency to invite participation of persons who are interested or have concerns to provide comments and attend public meetings. This must be conducted over a minimum of a 60 day period. At the end of the scoping process the lead agency compiles the comments and includes them in a scoping report which is made available to the public. An analysis of the comments and other data collected by the agency are used to prepare a *DEIS*. Upon completion, the lead federal agency is required to publish a *Notice of Availability* in the Federal Register.

2.13-2.14 After the *DEIS* has been released, the agency is required to allow the public to comment on the *DEIS* for at least 45 days. This may include several public meetings or hearings as a formal way to collect comments. The agency may also collect comments from other federal, state and local agencies, as well tribal groups that have an interest or jurisdiction related to the project. After all the information required by the *EIS* has been collected, the lead federal agency will analyze the data and prepare the final *EIS*. The final *EIS* identifies the agencies preferred alternative based on the analysis and provides explanation and justification for its decision over other alternatives. When it is complete, the lead federal agency will publish the final *EIS* and the Environmental Protection Agency publishes a *Notice of Availability* in the Federal Register.

2.15-2.16 Once the *Notice of Availability* is published, the lead federal agency must wait at least 30 days so that it can weigh the different alternatives and make a final decision. If warranted, this provides time to conduct an internal appeals process. At the end of this period, a *Record of Decision (ROD)* can be published in the Federal Register.

2.17 After a *ROD* or a *FONSI* has been issued, federal agencies can issue Right-of-Way grants and Special Use Permits to the utility. These are legal documents that authorize land use across federal land that corresponds with the decided upon route for the proposed transmission line.

2.18 Before the utility can begin construction, the utility must ensure mitigation of all issues and conditions stipulated in the *ROD* or the *FONSI*. This is usually accomplished by supplying construction, operations, and maintenance plans to the requisite federal agencies. Once satisfied, the lead federal agency will issue a *Notice to Proceed* for the utility to begin construction.

3.0 State Process

3.1-3.2 Utilities have the option of filing for priority status (5) with the IPUC. This does not change any of the procedural requirements, but it does serve notice to any state agency involved in siting a transmission line to expedite the steps an agency would normally perform.

Utilities require up to three types of authorizations or agreements from state agencies to site a transmission line in the state of Idaho. This includes: 1.) permits, easements, land purchases, or leases necessary to establish legal right-of-way on state jurisdiction land; 2.) permits required by state law that are necessary to perform construction; and 3.) a Certificate of Convenience and Necessity from the Idaho Public Utilities Commission.

Establishment of Right-of-Way through State Jurisdiction Land

3.3-3.6 If the proposed route crosses land within the State of Idaho's jurisdiction, the utility will likely need to secure right-of-way to encroach upon the property. Generally, the utility needs to submit an application and gain approval from the agency's director or overseeing board or commission before a lease, permit, or easement is issued.

For example, the utility needs to submit an application to the Idaho Department of Lands to obtain a lease on State Endowment Lands or a permit to cross navigable waters which is considered Public Trust Land (6) (7) (8). After negotiating an agreement with the agency, the State Board of Land Commissioners would need to authorize the agreement to get final approval. Other agencies that require permits include the Idaho Department of Water Resources to cross stream channels, the Idaho Transportation Department to occupy public road right-of-ways, the Idaho Department of Fish and Game to encroach upon Wildlife Management Areas, and the Department of Parks and Recreation to cross state-owned park land.

Permits for Construction

3.7 Utilities must obtain permits required by various state agencies that are necessary for the actual construction of a transmission line. This can include:

- logging and forestry related permits from the Idaho Department of Lands (9) (10) (11);
- permits that allow excavation near stream channels from the Idaho Department of Water Resources (12);
- permits that grant temporary water rights for dust abatement from the Idaho Department of Water Resources (13);

- permits dealing with air (14) and water quality (15) (16) (17), and waste abatement (18) from the Department of Environmental Quality; and
- permits to perform archeological excavation on state land through the Idaho State Historical Society required by the National Historic Preservation Act of 1966 (19).

Generally, the utility must submit an application to the agency responsible for authorizing the permit which the agency must review and approve before the permit can be issued.

Certificate of Convenience and Necessity

3.8 Although not a requirement for transmission lines constructed by a public utility in Idaho, the developer can obtain a *Certificate of Convenience and Necessity* (CPCN) from the IPUC (20). This requires the utility to file an application and attend a formal proceeding before the Commission prior to it being issued (21). The certificate can help remove uncertainty that the utility will be able to recover the cost of the transmission line. Transmission lines that are deemed to be a prudent investment as well as “used and useful” by the IPUC are allowed to recover the cost of the transmission line through rates the utilities charge to its customers.

4.0 Local Process

4.1 A utility must obtain right-of-way through any land that falls within a city or county’s jurisdiction. If the land that the transmission line crosses is not zoned to accommodate a transmission line, the utility must obtain a special (conditional) use permit. Although there is significant variation in the process to obtain a special use permit across municipalities in Idaho, there are some common steps that generally apply.

4.2-4.4 First, the utility must file an application with each municipality that the transmission line crosses. Some municipalities will conduct a pre-application meeting so that the planning and zoning staff can explain the overall process and allow the utility to adjust their proposal to meet the municipalities zoning ordinances and comprehensive planning requirements. The utility may be required to post notice of their application and hold public meetings to explain their plan and to gather public comments which are often included as part of the application. Once the final application is submitted, the planning and zoning commission will hold a series of meetings soliciting public comments and gathering testimony from interested public before ruling on the proposal to issue a special use permit. The commission will either grant a permit with or without conditions, or possibly deny it altogether.

4.5-4.7 In some municipalities, before a permit is issued, there is a mandatory wait period allowing an impacted party to file an appeal. This requires the county commission or city council to rule on the appeal which could: 1.) remand the application back to the planning and zoning commission for reconsideration; 2.) require the utility to re-submit the application; 3.) attach additional conditions to planning and zoning's ruling; or 3.) deny the application altogether.

4.8-4.10 If the planning and zoning commission approves the proposal and there are no appeals, the municipality will issue the necessary special use permits that authorize the land use for constructing and operating the transmission line. This paves the way for the utility to negotiate with landowners to buy property or easements so that construction can begin.

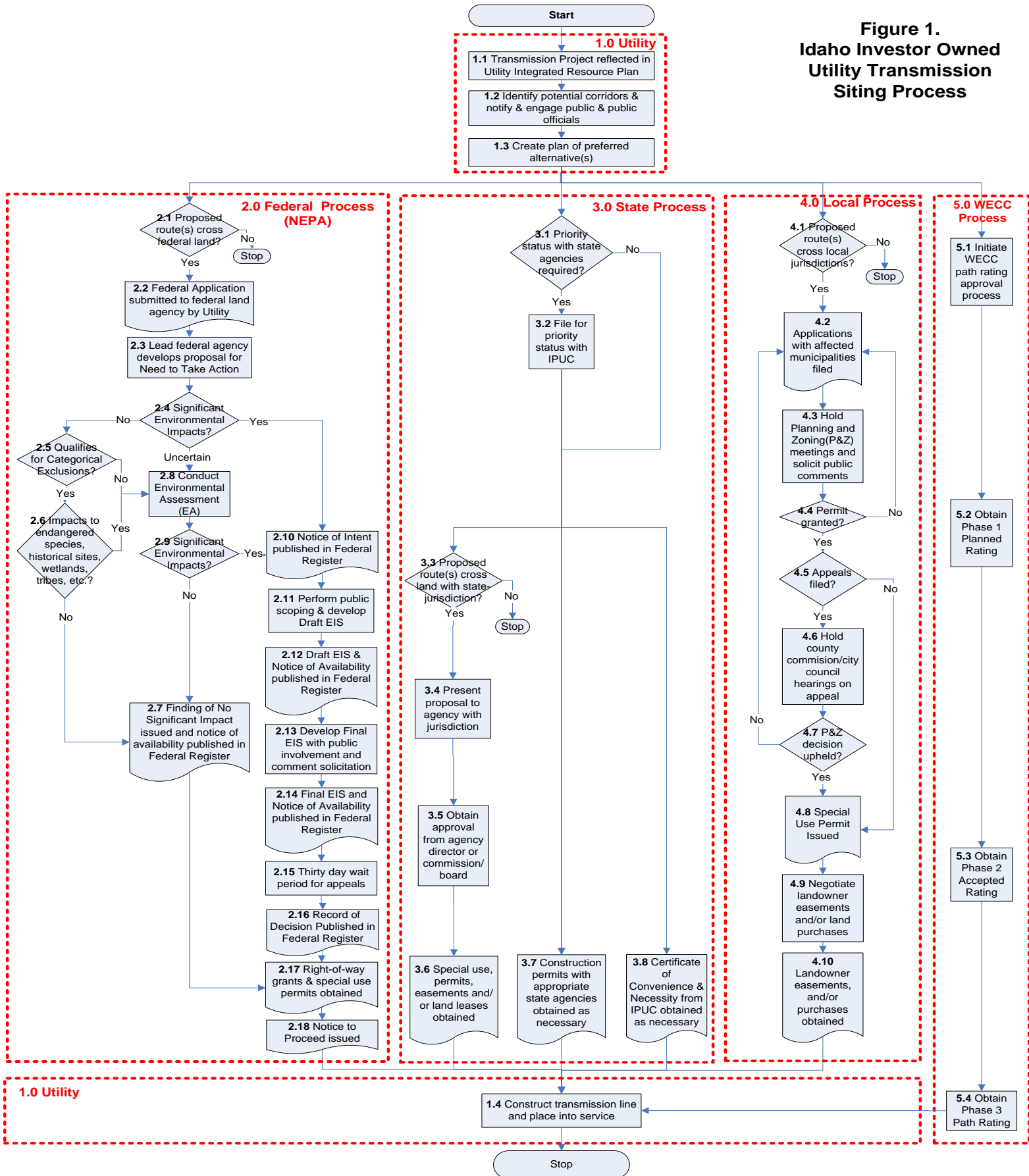
State law requires municipalities to follow the International Code Council's standards (22), which exempts transmission lines from requiring a construction permit (23). Construction standards have been stipulated by state law to follow the National Electrical Safety Code (24).

5.0 Western Electricity Coordinating Council Process

Before a utility can place a transmission line into service, it must initiate the Western Electricity Coordinating Council (WECC) path rating approval process (25). The process to obtain a rating ensures that the reliability of the electric system across the western region is maintained when a new line is integrated into the overall system.

5.1-5.4 There are three phases in the approval process. At the end of the first phase, the utility conducts some initial studies and obtains a *Planned Rating*. Additional studies are conducted in Phase 2 to incorporate the effects of planned changes or additions to the system by other utilities. At the end of this phase, the transmission line will receive an *Accepted Rating*. The final phase of the process is used to monitor the project for changes to assumptions and conditions that might affect the *Accepted Rating* given in Phase 2. If there are no significant changes in conditions, the *Accepted Rating* becomes the final *Path Rating* assigned to the transmission line which is documented in the WECC Path Rating Catalogue (26). After receiving the final *Path Rating* and the transmission line has been constructed, the utility can place the transmission line into service.

Figure 1.
Idaho Investor Owned
Utility Transmission
Siting Process



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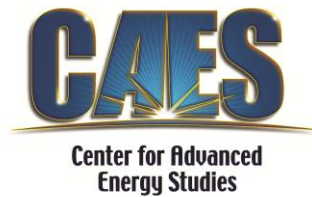
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