

United States Senate

WASHINGTON, DC 20510

December 16, 2009

The Honorable Janice K. Brewer
Governor, State of Arizona

The Honorable, Arnold Schwarzenegger
Governor, State of California

The Honorable Jim Gibbons
Governor, State of Nevada

The Honorable Ted Kulongoski
Governor, State of Oregon

The Honorable Christine Gregoire
Governor, State of Washington

Dear Governors:

We are writing in response to your November 30, 2009 letter regarding electricity transmission cost allocation. As you know, transmission is critical for our economic growth and for integrating our vast renewable energy resources into our electricity supply. The U.S. Department of Energy has identified transmission limitations as the greatest obstacle to realizing the enormous economic, environmental and energy security benefits of increasing our production and use of renewable energy. In testimony before Senate committees, renewable energy developers, utilities, consumer advocates and others repeatedly have stated that cost allocation is one of the primary barriers to developing the transmission needed for a reliable electrical system and to integrate renewable energy.

We are concerned that your letter, regarding the language in S.1462, the American Clean Energy Leadership Act, misunderstands both the intent of our proposal and current law regarding cost allocation for transmission in interstate commerce. That letter states that "region wide cost allocation proposals are untested, fraught with controversy and likely to be litigated..." However, for years, transmission tariffs with regional cost allocations have been filed at and approved by the Federal Energy Regulatory Commission (FERC), including those of the Northern Tier Transmission Group, Bonneville Power Administration, PJM Interconnection, Midwest Independent System Operator, Southwest Power Pool, and New England Independent System Operator.

Your letter also states that region wide cost allocation may “establish federal jurisdiction in an area traditionally handled by states.” Since 1935, Section 205 of the Federal Power Act has clearly stated that transmission rates are under Federal jurisdiction. FERC now has jurisdiction over cost allocation and has had since 1935.

Your letter states that S.1462 “authorizes the Federal Energy Regulatory Commission (FERC) to allocate costs of new transmission projects to utilities across a region,” and that you prefer the approach in existing law. Existing law allows FERC to allocate costs across regions. If anything our provision restricts the degree to which FERC can do so. The original language proposed in the Bingaman and Reid bills would have provided FERC with the flexibility to adopt a state-proposed cost allocation, or, if the states did not propose one, to develop a cost allocation according to principles developed through a public rulemaking process. Both of these bills would allow FERC to allocate costs to part of a region, across a region, or, if reasonably justified, across an interconnection unless such costs were disproportionate to benefits. It is also important to note that any transmission projects seeking broad cost allocation would first have been identified, pursuant to S.1462, through a cooperative, ground up planning process.

An amendment adopted during consideration of the bill in the Senate Energy and Natural Resources Committee restricts FERC cost allocation across a region, stating “that costs shall not be allocated to a region, or subregion, unless the costs are reasonably proportionate to measurable economic and reliability benefits.” This is a very specific and severely limiting condition for any cost allocation scheme – such that costs can only be allocated in proportion to measurable economic or reliability benefits, which experts say will be difficult, if not impossible to quantify, since it is not possible to measure what does not exist yet.

In fact, this language could very well interfere with existing regional cost allocations, such as the Northern Tier Transmission Group that covers parts of California, Oregon, Washington, Idaho, Montana, Wyoming and Utah. Your letter states support for “allocation of transmission costs through tariffs that are charged to transmission users and approved by the FERC.” This is the approach taken in S.1462, which requires the Commission to include provisions in transmission tariffs for the allocated costs.

The current approach to transmission cost allocation is unlikely to result in transmission being built sufficiently quickly to expand renewable energy production. Setting clear rules for transmission cost allocation would reduce uncertainty and litigation, minimizing delays in transmission projects. Clear transmission cost allocation rules would also benefit consumers; the U.S. Federal Trade Commission recently stated that “a single, standard cost allocation approach within each Interconnection is likely to benefit consumers by reducing transaction costs, regulatory risks, and project delays associated with the existing processes.”

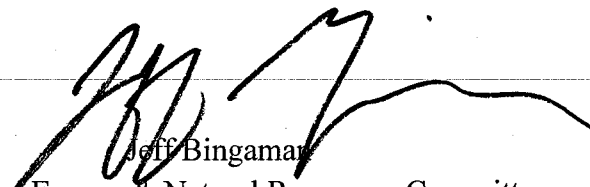
We believe that the West and the nation could benefit immensely if the enormous renewable energy potential of each of the States you govern were to be fully realized. However, that will

require a more cooperative and fact-based approach to developing renewable energy and the transmission needed to integrate it. We look forward to working constructively together with you on improving transmission planning, cost allocation and siting in order to allow the rapid growth of the clean energy economy of the West.

Sincerely,



Harry Reid
MAJORITY LEADER



Jeff Bingaman
Chairman, Energy & Natural Resources Committee