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WESTERN UTILITY GROUP

January 11, 2021

Gregory C. Smith
Director, Lands and Realty Management
1400 Independence Avenue SW
Washington, DC 20250-1124

Comments from Western Utility Group On United States Forest Service Handbook 2709.11, Chapter 80; Special Uses; Operation Plans and Agreements for Powerline Facilities Proposed Directive

Dear Mr. Smith:

The Western Utility Group (WUG) would like to thank the U.S. Forest Service (USFS) for the opportunity to submit comments to the USFS on the proposed directive, *Operating Plans and Agreements for Powerline Facilities* (Proposed Directive), implementing section 512 of the Federal Land Policy and Management Act, as added by the Consolidated Appropriations Act of 2018.

WUG is an ad hoc organization composed of investor-owned, consumer-owned electric utilities as well as Federal power marketing administrations operating in 12 western states. WUG provides a forum for enhancing coordination among utilities and various federal land management agencies on common environmental and land use issues associated with the management of utility facilities on public lands. The WUG supports the Proposed Directive that provide guidance to USFS staff to collaborate with electric utilities to develop comprehensive operating plans or agreements to provide for long-term, cost-effective, efficient, and timely inspection, operation and maintenance, and vegetation management of powerline facilities on NFS lands, to enhance electrical grid reliability, promote public safety, and avoid fire hazards.

WUG members have identified portions of the Proposed Directive that may warrant additional clarification or modifications that would further the USFS's stated goal of development of comprehensive operating plans or agreements in collaboration with electric utilities.

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1. Utilities would like additional direction/confirmation from the USFS identifying whether utilities with existing valid operating plans/agreements will be required to amend their plans specifically to reflect the changes in the Forest Handbook due to the inclusion of the Directive.

2. The Proposed Directive include additional reporting requirements that are either infeasible or would be unnecessarily costly. It should also be noted that although the Proposed Directive identify the USFS Authorized Officer as the responsible party for some of the annual reporting, previous utility experience would suggest that the administrative burden of tracking and compiling the information is passed onto the utility and at their cost. It is important to identify to this level of detail in the operating plans/agreements so that the utility can prepare and budget for the additional administrative costs.

3. While USFS and utilities are either evaluating existing operating plans/agreements or developing new operating plans/agreements, utilities would like to ensure that owner/operators not only be allowed to “operate” the authorized powerline facility but also to repair/maintain facilities and also conduct non-routine maintenance activities such as critically important fire hardening rebuild projects. Non-routine maintenance projects are critical to support utilities objectives for reliability and wildfire resiliency.

4. “Changed Conditions” is used throughout the Proposed Directive and is undefined. It should either be defined in the Proposed Directive or be a required definition in the Operating Plan/Agreement in collaboration with the utilities. As changes to the operating plans/agreements could significantly increase utility operating costs should be changes should be warranted.

5. Utilities would like to recommend that Class I Activities and the required “Prior Notice” be limited to an annual anticipated schedule as opposed to a phone call or email prior to every instance of activities. Due to the potential unscheduled, incident-based need for activities, such as but not limited to, inspections and non-ground disturbing repairs, it is infeasible to provide prior notice for every singular instance of a Class I Activity.

6. Utilities would strongly encourage the USFS to revise the “Prior Notice” requirement for Class III Activities which requires submittal of an SF-299 form.

“Prior Notice” should identify that an SF-299 form is not needed if it can be shown that proposed activities are in fact consistent and no change would be needed to the underlying special use permit/easement.

7. Utilities have concerns that the Class Activities definitions within the Proposed Directive are overly prescriptive and not broad enough to allow for class activities that align with individual utility operating procedures. WUG suggests that the Class Activities in the Proposed Directive be broader with guidance that allows for the individual operating plan/agreement to develop more defined Class Activities in collaboration with the utility.

8. Utilities are concerned over the requirement to conduct and/or submit environmental analysis prior to submission of the operating plan. Review and determination of each utility and its existing permit/easement should occur by USFS in collaboration with the utility and a determination of what analysis would be needed, if any, to submit the operating plan. WUG suggests the Proposed Directive allow for flexibility in completing any identified analysis in a phased approach to allow the utility to plan for, prioritize, and budget for the potentially significant costs for conducting unanticipated analysis.

9. The Proposed Directive mandates a minimum requirement of data such as a full inventory of roads that are either owned, maintained, or used by utilities for operation and maintenance be incorporated into the operating plan/agreement. This maybe infeasible for utilities with extremely large territories that span many Forests as it is labor intensive and a potentially significant cost. It is likely requirements such as this will delay the completion of operating plans. WUG suggests the Proposed Directive allow individual Forests and utilities to develop more flexible phased approaches to meeting arduous requirements.

10. The notice requirement for Class IV activities found in Section 87.4 number 4 is based on initiation of the activity. This is inconsistent with the wording in the July 2020 final rule and the Omnibus law, both of which state 24 hours of completing the activity. Revise this section to reference completion rather than initiation as the start of the 24-hour period. Make a similar change to the wording found in Section VIII.C of Exhibit 1 on page 42 which also refers to “initiating”.

Several of WUG's member companies have submitted individual letters highlighting comments over the Proposed Directive. These comments reflect the utilities underlying need for Authorized Officers to give careful consideration, with input from the utilities, while developing an operating plan/agreement.

We ask that developments of operating plans/agreements are given careful consideration to the importance of the critical infrastructure that currently exists on the landscape and the potential harm it may cause to consumers or rate payers when decisions are made in the absence of utility collaboration.

Respectfully,

Kirstie Reynolds



Chair
Western Utility Group

Karl W. Myers



First Vice Chair
Western Utility Group

cc: WUG Member List