Getting Right-of-Way Right:
Landowner Compensation for Electric Power Transmission Rights-of-Way

Alison Berry

Lincoln Institute of Land Policy
Working Paper

Lincoln Institute Product Code: WP13AB1

Abstract

In January 2013, the Lincoln Institute of Land Policy, Sonoran Institute, Headwaters Economics and the Western Governors' Association convened a workshop focusing on landowner compensation for electric power transmission (transmission) rights-of-way. In particular, participants focused on viable alternatives to the standard one-time, up-front payment for an easement, which is problematic from both landowner and developer perspectives. For landowners, there are many situations in which a one-time payment does not seem to be adequate compensation for the ongoing impacts of the transmission line on their property. Developers have a vested interest in meeting landowners' needs in order to keep within project timelines and budgets, all while meeting extensive state and federal permitting requirements.

Workshop participants identified several alternative approaches for further study. For example, alternative compensation schemes including annual payments or royalty payments merited much discussion. There was also interest in new approaches to landowner negotiations, including working with landowner alliances, engaging landowners early, and incorporating landowner input into the siting process. The Western Governors' Association transmission siting task force will pursue additional research into these alternatives.

About the Author

Alison Berry is the Energy and Economics Specialist at the Sonoran Institute, where her work focuses on land use issues in a changing West. Prior to joining Sonoran, she was a Research Fellow at the Property and Environment Research Center, with a concentration on natural resource economics, forestry, and public land management. She holds a bachelor's degree in biology from the University of Vermont and a master's degree in forestry from the University of Montana. Her work has been published in the *Wall Street Journal*, the *Journal of Forestry*, and the *Western Journal of Applied Forestry*, among others.

Acknowledgements: The Rights-of-Way Workshop was convened by the Western Governors' Association, Headwaters Economics, the Sonoran Institute, and the Lincoln Institute of Land Policy. Julia Haggerty, Research Analyst at Headwaters Economics, assisted with compiling and editing portions of this workshop summary

Alison Berry
Energy and Economics Specialist
Sonoran Institute—Northern Rockies Office
201 South Wallace, Suite B3C
Bozeman, MT 59715
(406) 581-7331 x 3007
aberry@sonoraninstitute.org

Table of Contents

Getting Right-of-Way Right:
Landowner Compensation for Electric Power Transmission Rights-of-Way

Introduction

As the U.S. population grows, we need new ways to meet growing demands for energy. While energy conservation, efficiency and on-site energy generation can address some of the issues associated with U.S. energy needs, there is also a need for large-scale energy generation. These large-scale facilities require power lines to move energy to population centers. In particular, some of the best locations for renewable energy generation—tapping into wind, solar and geothermal power sources—are far away from the areas with the greatest demand for energy. The existing electric transmission system requires updates and expansion in order to efficiently deliver electricity to meet growing needs.

In the western United States, many proposed new transmission lines extend over hundreds of miles, cross multiple states, and affect a diverse set of communities and individuals. Among the planning and siting challenges associated with effective engagement of these diverse stakeholders are those involving compensation to landowners and communities. Skepticism on the part of "pass-through" communities and property owners that local economic benefits outweigh the costs can frustrate effective project planning. Some stakeholders are actively seeking new models of revenue generation for landowners and communities, which may or may not be realistic for project developers and existing business models.

In response to this issue, the Western Governors' Association, the Sonoran Institute, Headwaters Economics, and the Lincoln Institute of Land Policy convened a workshop with landowners, utilities, merchant developers, elected officials and agency representatives. Panel presentations focused on right-of-way negotiations and landowner and community impact mitigation, based on past experiences, prior research, and approaches used in other transmission and linear infrastructure projects. Through group discussions including both panelists and workshop attendees, participants identified the most promising approaches and explored what, if any, policy actions are needed to facilitate such approaches.

Discussions of alternative approaches to landowner compensation centered primarily on two options: annual payments as either a lease or as a lump sum amortized over a period of time; and royalty payments based either on revenues generated or energy transmitted. Workshop participants identified a need for more information about the constraints and concerns associated with the implementation of these approaches.

Discussion groups also emphasized the value in exploring creative ways of engaging with landowners beyond the right-of-way payment per se—for example, negotiating with groups of landowners, involving landowners in the siting process, and engaging landowners early.

This working paper follows the format of the discussions at the workshop, beginning with background on landowner compensation for transmission rights-of-way, including information on property appraisal, followed by a description of landowner and developer perspectives. Examples of alternative approaches to the issue of landowner compensation for transmission rights-of-way will be outlined and discussed. Finally, there is a summary of group discussions which identified the most promising approaches as well as additional research and analysis needs.

Landowner Negotiations for Electric Power Transmission Rights-of-Way

There is no standard system for landowner negotiations for electric power transmission (transmission) rights-of-way; each case is handled on an individual basis and is subject to a range of different factors. For example, projects fall under various state and local regulations, and each transmission developer has different policies as to how they handle landowner negotiations.

Projects involving federal agencies must conform to the federal property acquisition guidelines of the Uniform Relocation Assistance and Real Property Acquisition Act of 1970. Among other things, this Act requires a written offer, an appraisal in conformance with certain federal standards, and negotiations conducted in a non-coercive manner. In addition, Department of Justice title standards require a permanent land right for transmission projects involving federal agencies. Because federal funding comes from appropriations, federal agencies are only able to offer a one-time payment—they cannot promise annual payments over an indefinite period of time.[1]

Although each negotiation is slightly different, the process more or less conforms to a set pattern, beginning after the project developer has received a certificate of need or similar approval from a state-level regulator. In some cases, developers must also secure route permits before landowner negotiations can begin. After the necessary certificates and permits are in place, the process generally follows these steps (Idaho Power 2009, Public Service Commission of Wisconsin 2011, and CapX2020 2012):

1. Title Research—The project developer researches public records to determine who holds title on all lands involved in the project.

2. Initial Landowner Contact—The developer contacts each property owner to inform them of the project and to describe the need for the line. The landowner can provide input regarding the project and their property.

3. Surveying and Staking—The project developer seeks permission to access properties along the proposed route for preliminary surveys, and possibly for soil boring. After the design of the line is completed, survey crews will identify the line's centerline and the location for each pole, using surveying stakes. This allows landowners to review the

[1] Personal communication with Steve Webber, Lands Team Lead, Natural Resources Office, Western Area Power Administration. December 12, 2012.

location of the line and structures prior to entering into easement negotiations. The project developer will discuss any issues or concerns with landowners.

4. Document Preparation—the developer prepares all documents needed to complete transactions, such as easements, option agreements, or purchase agreements, and clearing and construction access notices.

5. Appraisal—the developer works with a qualified appraiser to develop a compensation payment for each easement. The landowner may be present at the appraisal to identify important property features and uses that affect the fair market value of the easement.

6. Negotiated Easement—the developer meets with each landowner to present and discuss maps showing the location of the easement and the line route across the landowner's parcel. The developer makes an offer of compensation for the easement. The landowner would retain title to the land and may continue to use the property in ways that are compatible with the transmission line. The developer works with the landowner to answer questions and resolve concerns. The landowner is allowed a reasonable amount of time in which to consider the transaction.

7. Acquisition by Eminent Domain—if a negotiated settlement cannot be reached, some developers may pursue acquisition by eminent domain (condemnation). This process begins when the developer files a petition to the district court. The landowner is served a copy of the petition and notice of the court hearing. The developer and the landowner may present their cases to the court, including independent appraisals. The court will decide whether the easement will be granted, and what amount constitutes just compensation. If the easement is granted, the developer pays the decided amount for the easement, and construction may begin after a designated amount of time.

8. Construction—The developer discusses the construction schedule with the landowner, and arranges access to the easement for construction of the transmission line.

9. Restoration, Operation and Maintenance—After construction the developer is generally responsible for restoration and cleanup of the transmission right-of-way, as well as ongoing maintenance throughout the life of the transmission line.

The Appraisal Process

Appraisal is an essential component of the negotiation process. Generally, appraisers determine the current value of the property, and the value of the property with the transmission line on it—the difference between the two is the value of the easement. A fundamental principle is that the compensation is based on what the owner has lost, rather than the value to the utility or the value of the new use.

Although this is a simple concept, in reality, the appraisal process can become complicated. To begin with, property values both before and after the construction of a transmission line may be

disputed—landowners often value their property in ways that may not be accounted for in standard appraisal practices.

In addition, while it is logical that transmission lines would have negative impacts on property values, many studies have been unable to quantify this phenomenon. Some studies have found that transmission lines do not always impact property values (Furby et al. 1988). Other studies have found that transmission lines decrease property values in some cases, but only by a very small amount (Chalmers and Voorvaart 2009, Chalmers 2012). Similar results have been found for other linear infrastructure, like pipelines (Lang and Smith 1998).

Nevertheless, appraisers generally use standard methods to arrive at a positive value for the easement. Developers typically offer a percentage—for example 80 or 90 percent—of the value of the easement. Because the landowner retains ownership of the easement, and can still carry out certain land uses—like grazing or farming—many landowners are willing to accept less than the full value of the easement property.

In other cases landowners require additional compensation. For example, landowners often have emotional attachments to their property that are not recognized in the appraisal process. Landowners may feel the impacts to views are not adequately compensated. Transmission lines can interfere with agricultural practices such as precision agriculture, aerial spraying, or irrigation, among others. In some cases, state siting regulations require the mitigation of impacts to particular land uses, but landowners may feel compensation is not adequate.

In some of these cases, developers may be willing to offer full market value—or even more. Because right-of-way costs are a relatively minor component of total project costs for new transmission lines, developers sometimes have the flexibility to offer additional compensation to landowners in order to keep projects moving forward and on schedule (Rocky Mountain Farmers Union 2013, Mason and Curry 2012).

Developers can also offer additional non-monetary adjustments that may help arrive at a negotiated settlement. For example, it might be possible to slightly adjust the location of structures in order to lessen impacts to viewsheds, agriculture or other land uses. Or, developers can help landowners by building, modifying, or removing fences, gates, ditches, or other features on the property.

Most developers try to be creative and flexible in order to achieve successful negotiations rather than having to pursue condemnation. For example, the Western Area Power Administration has condemnation rates as low as three percent, and the Bonneville Power Administration as low as 1.5 percent. [2] Not all of these cases represent an inability to reach a negotiated easement; some are due to a lack of clear title to the land.

[2] Personal communication with Steve Webber, Lands Team Lead, Natural Resources Office, Western Area Power Administration. December 12, 2012, and presentation by Marian Wolcott, Bonneville Power Administration, at "Getting Rights-of-way Right," Scottsdale, Arizona, January 15, 2013.

Landowner Perspectives

This overview was followed by panel presentations representing stakeholder perspectives on rights-of-way. Landowner interests were discussed by representatives from the Montana Cattlemens' Association, Northern Plains Resource Council, Rocky Mountain Farmers Union, and Cornerstone Energy Solutions.

The process of negotiating a right-of-way can be frustrating and intimidating for landowners. Since initial contact between developers and landowners generally does not occur until after a certificate of need (or similar permit) is granted, landowners can feel left out of the early stages of the decision-making process. The impression that the route has already been decided often gives landowners a sense of powerlessness. Moreover, landowners can feel overwhelmed as individuals entering into negotiations with large development companies, particularly when there is the potential for condemnation (Rocky Mountain Farmers Union 2013).

Confusion about the specific impacts to property values resulting from property lines contributes to landowner frustration. Property owners tend to fear a larger degree of impact on property values from a powerline than what has been documented in appraisal studies (Chalmers and Voorvaart 2009, Chalmers 2012, Furby et al. 1988). Furthermore, neighboring property owners often feel that they should be compensated for viewshed impacts to their property as well, but there is little precedence for this practice (Furby et al. 1988).

To many landowners, a one-time, upfront payment does not seem like just compensation for an easement (Keyes and Fox and Aspen Environmental Group 2012, and Rocky Mountain Farmers Union 2013). For example, farmers who must take land out of production as a result of a transmission tower on their property will likely face a loss of income every year that the tower remains in place. In many cases, this will affect not only the current landowners, but potentially future generations if property is passed on to heirs.

Ongoing operational costs resulting from transmission infrastructure could include impediments to aerial spraying, precision agriculture, or irrigation equipment. Many landowners feel that an annual payment would better compensate the added costs and lost revenue associated with infrastructure on their property. Alternatively, they may ask for per-pole payments for the actual area taken out of production by transmission towers (Rocky Mountain Farmers Union 2013).

The Rocky Mountain Farmers Union (2013) has found that many landowners feel that energy generation infrastructure is much better compensated than transmission infrastructure. Landowners that allow wind turbines or solar arrays on their land generally receive annual payments, either based on the amount of energy generated or the amount of revenue earned by the energy developer. In comparison, compensation for transmission can seem inadequate, especially since those energy generation facilities rely on the transmission in order to be operational.

The landowner panel suggested several alternative approaches to landowner compensation for transmission rights-of-way. These included alternative compensation schemes such as royalty

payments and fee purchase—particularly for smaller parcels. In some cases, landowners felt that developers should pay for impacts across the entire parcel, not just on the easement property.

Landowners were also interested in changes to the negotiation process, noting that it is critical to establish a good relationship in the initial contact between developers and landowners. Under current practices, landowners often are contacted by several different individuals throughout the negotiation process, including right-of-way agents, surveyors, appraisers, as well as the project developer. There is a strong preference for establishing a relationship between landowners and one individual in order to foster trust and facilitate the entire negotiation process. Another alternative approach to negotiation included landowner alliances, where landowners negotiate as a group. These alternative strategies will be discussed in greater detail in subsequent sections of this paper.

Developer Perspectives

Next, representatives from public and investor-owned utilities including Northwestern Energy, Idaho Power Company, Southern California Edison, and the Bonneville Power Administration shared their views on landowner compensation for transmission rights-of-way at the workshop. This panel was complemented by perspectives from merchant developers (i.e., non-utility developers) and a public service commissioner.

Many of the panelists observed the constraints imposed on them by federal and state law, as well as issues with budgets and timelines. Developers also asked for better coordination between federal and state agencies, particularly in streamlining the permitting process. Some panelists also noted the need for better coordination amongst developers working within the region. Finally, developers cited a lack of up-to-date information about the impacts of transmission lines on property values, particularly for western markets.

The developers' panel discussed alternative approaches to landowner negotiations that have helped move projects forward. For example, engaging landowners early in the planning and pre-planning phases can be critical in garnering landowner support. Negotiating with landowners as a group has also been a successful approach in avoiding condemnation and streamlining the negotiation process. Some developers have worked with a group of stakeholders, such as landowners, environmental groups, and agency representatives, outside of development of any particular project. Although it might take a bit more time in the beginning, cultivating relationships with landowners early on can save time and money for developers in the long-run.

Although all transmission developers have many of the same constraints and concerns, there are some differences between merchant developers and utilities. Financing can be a difficult issue for merchant developers, who take on considerable risk in developing new transmission lines, since project costs must be covered by future revenues. In contrast, utilities' transmission projects, after approval by public service commissions, are guaranteed cost recovery. Utility projects are not entirely risk-free; utilities must carry project costs while rate cases are being decided, but the risks are not the same as those faced by merchant developers.

Table 1 summarizes the concerns, constraints, and possible solutions noted by various panelists on the landowner and developer panels.

Table 1: Summary of Concerns, Constraints and Solutions

	Concerns and Constraints	Solutions
Landowners	• Compensation not commensurate with perceived impacts • Concerns about the numerous property use impacts • Cost of legal challenges • Impact to future value, especially to heirs • Interrupted relationships, lack of continuity in negotiations post-construction • Lack of trust • Limited influence in route selection • Threat of eminent domain • Varied priorities amongst landowners	• Amortized payments • Compensation for time invested in right-of-way negotiations • Co-ownership of transmission lines • Damage payments • Negotiate in detail on construction and operation and maintenance issues • Opportunities to negotiate as a group • Royalties
Utilities	• Capitalized vs. annual expenses • Cost recovery stipulations for rate-based projects • Internal utility processes regarding capital expenditure and time of licensing • Effects of other transmission projects and the political environment • Lengthy permitting time frame vs. short acquisition period • Long-term certainty of access roads • Standard procedures limit payment to a percent of fair market value • State eminent domain status • Tightening regulations from FERC and others • Uniform Relocation Assistance and Real Property Acquisitions Act (1970)	• Create choices for landowners • Cultivate relationships with landowners prior to mapping a corridor • Early right-of-way title research • Fee purchase for small properties • In kind services • More empirical information on the value of impacts • Remove legal cost burdens for property owners in tort situations • Rethink and revise timeframes
Merchant Developers	• Finance options preclude royalties • Have to offer competitive project price	• Initiate positive conversations with groups outside of specific projects • Long period of relationship building prior to project announcement • Research and document finance institutional barriers • Voluntary submission to regulatory processes

Alternative Approaches

The standard procedure for landowner compensation for transmission rights-of-way is a one-time, lump sum payment for the easement. Developers and landowners have discussed many alternative approaches, including annual payments (lump sum amortized over a period of years), annual payment for the term of an easement (similar to a lease arrangement), or royalties based on revenue generated or energy transmitted. In practice, however, only few projects have incorporated these alternative approaches. A few examples of these alternative payment methodologies are highlighted below.

Damage Payments and Pole Payments—Montana Alberta Tie Line

The Montana-Alberta Tie Line (MATL) is a 214-mile, 300 megawatt transmission project running from Lethbridge, Alberta to Great Falls, Montana. MATL transmits wind energy generated in both the U.S. and Canada. Construction of the Montana portion of the line was completed in 2012, and the Alberta portion is currently in the development phase. The project developers offered landowners affected by the MATL project compensation beyond upfront payments for easements, agreeing to pay for three years of any lost crop production and to make annual pole payments of about $200 per pole. These payments were more than the industry average, but helped to get resistant landowners on board with the project (Taylor 2011).

Annual Per-pole Payments—Rock Island Clean Line

The Rock Island Clean Line is one of several high-voltage, direct current lines in development by Texas-based Clean Line Energy Partners. The Rock Island line is proposed to run approximately 500 miles from northwest Iowa to communities in Illinois and other states to the east. Right-of-way acquisition for this project is slated to begin in 2014 (Clean Line Energy Partners 2010–2013b).

In an effort to meet landowner needs, Clean Line Energy Partners will offer both easement payments and per-pole payments for its Rock Island project in Illinois. For the per-pole payments, landowners have a choice of a one-time payment ($6,000/monopole, or $18,000/lattice), or an annual payment ($500/monopole/year, or $1,500/lattice/year). If selected, annual payments will be made as long as structures are on the easement property (Clean Line Energy Partners 2010–2013a).

Landowner Associations—Rocky Mountain Farmers Union

The Rocky Mountain Farmers Union (RMFU) represents family farmers and ranchers in Wyoming, Colorado, and New Mexico. Their Cooperative and Economic Development center works to inform and support energy projects in this region, including work on: wind, solar, and geothermal energy; transmission; and more (Rocky Mountain Farmers Union 2013).

After working for several years to develop a cooperative model for marketing wind resources through landowner associations, RMFU has drafted a proposal to apply the landowner association model to transmission projects. Through a landowner association, many individuals can pool resources and use collective bargaining to negotiate with developers on a level playing

field. This simplifies the negotiation process for developers, who can simply work with the association rather than with each individual landowner. At the same time, it empowers landowners negotiating as a group rather than as individuals (Rocky Mountain Farmers Union 2013).

The proposal for landowner associations for transmission corridors also suggests an alternative compensation method incorporating annual payments rather than a one-time, upfront payment for an easement. According to RMFU, these payments would still be a relatively small portion of total project costs to developers, but would better compensate landowners for the effects of the transmission line on their properties (Rocky Mountain Farmers Union 2013).

Federal Coordination—Rapid Response Team for Transmission

Recognizing the need for better coordination among federal agencies to help facilitate the development of needed transmission infrastructure, President Obama created the Rapid Response Team for Transmission (RRTT) in 2009. This team includes representatives from the Environmental Protection Agency, the Federal Energy Regulatory Commission, the Advisory Council on Historic Preservation, the White House Council on Environmental Quality, and US Departments of Agriculture, Commerce, Defense, Energy, and Interior.

The team has selected seven proposed transmission projects as pilot projects, including five in the Western United States: Gateway West, Boardman-Hemingway, Cascade Crossing, Sunzia, and TransWest Express. The goals are for federal agencies to coordinate permitting processes, apply a uniform and consistent approach, and resolve interagency conflicts on these projects, with an expected outcome of more timely and efficient completion of new transmission lines.

To date, most of the pilot projects are in the process of scoping and drafting environmental impact statements required by the National Environmental Policy Act. Most projects have not received permits from federal or state agencies,[3] and it is unclear if RRTT will, in fact, expedite the process of transmission planning, permitting, and construction. However, the RRTT represents the potential for greater collaboration and streamlining of federal processes, which could be an important improvement to the current approach to transmission planning and development.

Buy the Farm Statute—Xcel Energy

Minnesota is the only state in the union with a "buy the farm" statute, which allows eligible landowners to select to have the utility purchase the entire property over which a high voltage transmission line will pass.[4] At the workshop, representatives from Xcel Energy presented their experiences in working under this statute.

[3] Federal Permitting Transmission Tracking System, Online: http://trackingsystem.nisc-llc.com/etrans/utility/Search.seam.
[4] 1977 Minnesota Statute Section 216E.12 Subdivision 4. Available online: https://www.revisor.mn.gov/statutes/?id=216E.12.

The law was originally passed in 1977 after a controversial transmission project from North Dakota to Minneapolis aroused significant opposition. Since the law was passed, there have been very few new transmission projects proposed in Minnesota, so the "buy the farm" provision has not been widely used. But new power lines under development as a part of the CapX2020 project have brought new light to the statute. For example, of 150 landowners in Minnesota affected by the Brookings to Hampton transmission line, seven chose the "buy the farm" option.

The courts decide whether the property qualifies for the "buy the farm" option. Eligible properties must be agricultural or residential; commercial or industrial properties do not qualify. Landowners must make a case that the impacts of the powerline are substantial—for example, if the line interferes with agricultural operations or is in the immediate proximity of a residential structure.

In some cases, the "buy the farm" statute can help move transmission projects forward, offering landowners an additional option when faced with the prospect of a power line on their property. On the other hand, the "buy the farm" statute has been difficult to implement, and Xcel Energy has identified issues with accounting and budgeting, equity concerns in rural versus suburban areas, and general interpretation of the intention of the law.

Community Engagement and Undergrounding—Sunrise Powerlink

Representatives from San Diego Gas and Electric and consultants with Aspen Environmental Group, shared the experience of developing the Sunrise Powerlink project in Southern California. The line, which faced numerous permitting challenges, has received considerable interest because the developers built six miles of it underground.

The panelists shared lessons learned, particularly with respect to public engagement, noting the importance of engaging stakeholders early in the pre-planning process in order to gain project support. For example, they raised the possibility of using the NEPA process—which requires public input on the analysis of environmental impacts—to provide better opportunities for landowner outreach.

Royalty Approach—Conerstone

Cornerstone TransCo, LLC uses a royalty approach for landowners on the path of radial transmission lines for wind generation facilities. These are collector systems that connect wind turbines to higher-voltage transmission systems. Cornerstone has had success with the royalty approach in these projects, and has avoided the use of eminent domain entirely.

According to calculations presented at the workshop, even if developers pay royalties, compensation for rights-of-way is a very small portion of total project costs—around one percent. If these costs are passed on to the consumer, it amounts to only 0.00099 cents per kilowatt. This is a low-cost approach that can minimize time, legal fees, and generate landowner support.

Discussion

Working groups were organized to follow up on the issues and possible solutions identified during presentations. Organized to include a variety of perspectives, the groups were charged with prioritizing issues and ideas that the Western Governors Association and the state siting task force might consider exploring in more detail. These were not policy recommendations per se, but ideas that struck a common chord, either because there were obvious gaps in the understanding and interest of different stakeholder groups, or because an idea had merit. Issues prioritized by the groups included areas where better stakeholder education would be helpful and areas where technical research may be in order.

With regard to alternative approaches to landowner compensation for transmission rights-of-way, proposals for royalties or "through-put" payments tied to shipping contracts on transmission lines prompted much discussion. Workshop participants were also interested in annual payments in the form of a lump sum amortized over a number of years, or an annual lease for the easement property. The need for more careful analysis of constraints facing either of these ideas emerged as a priority for further research and education.

In addition, working groups emphasized the value of exploring creative ways to engage landowners beyond the right-of-way payment. Both landowners and developers mentioned the value of negotiating with groups of landowners, involving landowners in the siting process, and engaging landowners early.

The groups recognized a need for specific information that will help in the process of negotiations with landowners. In particular, the group was interested in identifying best practices for running public meetings and for early engagement with landowners.

Participants also requested more empirical information on the impacts of transmission lines on property values. Specifically, there is a need for studies that quantify the value of visual impacts of powerlines, as well as information on the impacts of powerlines in a variety of areas, including agricultural, rural, suburban, and urban areas.

Conclusions

This workshop succeeded in initiating conversations and learning among different stakeholders who are actively involved and affected by transmission development. Many workshop participants, regardless of their background in transmission and utility issues, indicated that they valued the conversations and had learned something new about the right-of-way process. The participants will have an opportunity to provide feedback on key recommendations to the Western Governors Association later this year.

Siting of transmission lines will be an ongoing challenge in the West over the next several decades, as populations grow and demand for energy—particularly renewable energy—increases. Addressing the issues identified in this workshop are a few steps towards meeting future needs for clean energy.

Strategic dissemination of research and information will also be important moving forward. Key information will need to reach landowners, land management agencies, local governments, and transmission developers.

The Western Governors' Association, Headwaters Economics, the Sonoran Institute, and the Lincoln Institute of Land Policy will continue to be engaged in this issue, and can play a role in research and communication. An important first step would be to identify best practices for alternative approaches to compensation for transmission rights of way. State-level facility siting regulations and federal and state permitting processes should incorporate best practices, or at a minimum, communicate alternatives to standard one-time, up-front payments for transmission rights-of-way.

One model should be to incorporate options for alternative approaches to compensation for transmission rights-of-way into the seven pilot projects identified by the Rapid Response Team for Transmission. The Western Governors' Association Transmission Siting Task force and the Rapid Response Team for Transmission are well-suited to facilitate this model.

Meeting future energy needs is a global concern, but the siting of energy infrastructure has significant impacts at the local level. Reconciling local concerns with broader issues is not an easy task. A negotiation process for transmission rights-of-way that results in an acceptable settlement for both landowners and developers is a critical piece of the puzzle.

References

CapX2020. 2012. Right-of-way acquisition and construction process in Minnesota. http://capx2020.com/documents/ROW_acquisition_and_construction%20process_MN.pdf

Chalmers, James A. and Frank A. Voorvaart. 2009. High-voltage transmission lines: proximity, visibility, and encumbrance effects. *The Appraisal Journal*. Summer 2009: 227–245.

Chalmers, James A. 2012. High-voltage transmission lines and rural, western real estate values. *Appraisal Journal*. 2012.

Clean Line Energy Partners. 2010–2013a. Illinois Landowner Compensation Fact Sheet: Rock Island Clean Line. http://www.rockislandcleanline.com/sites/rock_island/media/docs/Landowner_Compensation_Factsheet.pdf

Clean Line Energy Partners. 2010–2013b. Rock Island Clean Line: Schedule. http://www.rockislandcleanline.com/site/page/schedule

Furby, Lisa, Robin Gregory, Paul Slovic, and Baruch Fischhoff. 1988. Electric Power Transmission Lines, Property Values, and Compensation. *Journal of Environmental Management.* 1988(27):69–83.

Idaho Power. 2009. Working with Landowners. http://www.boardmantohemingway.com/documents/Landowners_LoRes.pdf

Keyes and Fox and Aspen Environmental Group. 2012. Recommendations to Western Governors' Association: Transmission Process Siting Reforms. http://www.westgov.org/wieb/meetings/boardsprg2012/briefing/04-27-12TransRecommend.pdf

Lang, William R. and Brett A. Smith. 1998. Setting a Value on a Gas Pipeline Easement: Case Studies of Potential Damages. Presenting to the Rocky Mountain Mineral Law Foundation Special Institute on Rights of Way. Denver, Colorado, May 4 & 5.

Mason, Tim and Trevor Curry. 2012. Capital Costs for Transmission and Substations. Prepared by Black and Veatch for the Western Electricity Coordinating Council. Black and Veatch project number 176322.

Public Service Commission of Wisconsin. 2011. Right-of-way and Easements for Electric Facility Construction. http://psc.wi.gov/thelibrary/publications/electric/electric02.pdf

Rocky Mountain Farmers Union. 2013. Landowner Alliances for Transmission Corridors: A New Way to Site Transmission Lines. http://www.rmfu.org/foundation/renewable-energy/

Taylor, Phil. 2011. Conservation Concerns, Landowner Opposition Stifle Mont. Transmission Project. New York Times. http://www.nytimes.com/gwire/2011/08/15/15greenwire-conservation-concerns-landowner-opposition-sti-24147.html?pagewanted=all

Appendix 1

Getting Rights of Way Right

Valley Ho, Scottsdale, AZ
January 15–16, 2013

Sponsored by:

- **Western Governors' Association**
- **Sonoran Institute**
- **Lincoln Institute of Land Policy**
- **Headwaters Economics**

Tuesday, January 15, 2013

12:00 p.m. **Registration Table and Meeting Room Open**

12:30 p.m. **Introductions and Meeting Goals, Kristi Parker Celico, Facilitator, Kearns & West**

Proposed Goals:

- Understand current ROW process, key legal changes, and new compensation models;
- Learn creative new approaches for improving the process from all perspectives; and
- Identify methods for implementing new approaches either by interest group or across groups.

12:45 p.m. **Opening Comments**

Western Governors' Association

1:00 p.m. **Establishing a Common Understanding**

- Dave Ditto, Associated Legal Group, Inc. "The Right of Way Negotiation Process: A Generic Overview"
- Mark Stermitz, Crowley Fleck, PLLP. "Eminent Domain and Impacts on ROW Compensation in the Western States"
- Van Jamison, V. P. Strategic Operations – Gaelectric North America. "Transmission Project Development Finance Models: Implications for ROW Compensation"
- Questions/Discussion

2:30 p.m. **Break**

Panel Discussions: What's working, what's not and suggested changes

2:45p.m. **Landowners Perspective:**
Introduction: Brent Orr, Cornerstone Energy

Panel:

- Northern Plains Resource Council (Invited)
- Bill Midcap, Rocky Mountain Farmers Union
- Errol Rice, Montana Stockgrowers Association
- Lynn Greene – Lucky Corridor (Northern New Mexico)

3:45 p.m. **Developer and Regulatory Perspective:**

Introduction: Pat Asay, Northwestern Energy

Panel:

- Bonneville Power Administration (Invited)
- Doug Dockter, Manager, Delivery Projects, Idaho Power Company
- Carl Borgquist, Grasslands Renewable Energy
- Kelly Kraushaar, Manager, Major Projects & Substation Acquisition Transmission & Distribution - Real Properties, Southern California Edison
- Jim Tarpey, Colorado PSC

5:15 p.m. **Major ah-ha's and topics of interest to explore tomorrow**

5:30 p.m. **Adjourn Meeting**

5:30 p.m. **No host open bar**

Wednesday, January 16th

8:15 a.m. **Continental Breakfast Available**

8:30 a.m. **Recent Transmission Projects: ROW and Compensation Strategies**

- Pete McMorris: Principal Right of Way Agent San Diego Gas and Electric Sunrise-Powerlink Project
- John Lupo: Manager, Siting & Land Rights, Xcel Energy Midwestern Projects
- Montana-Alberta Tie-Line Project (invited)

10:30 a.m. **Break**

10:45 a.m. **Small Group Discussions: Moving Forward Collaboratively**

- Identifying and promoting solutions individual sectors can take to ensure better ROW negotiations
- Developing and implementing policy solutions to improve ROW negotiations

12:00 p.m. **Working Lunch**

1:15 p.m. **Small Group Discussions Continue**

2:15 p.m. **Report Backs and Identification of Next Steps**

3:00 p.m. **Adjourn**