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Certainty in Litigation for Electric Asset Reliability (CLEAR) Act of 2026

Rep. Scott Peters (CA-50) and Rep. Gabe Evans (CO-8)

What does Section 216(h) of the Federal Power Act do?

Section 216(h) of the Federal Power Act gives DOE the authority to act as a coordinating entity between federal agencies and relevant state and local actors responsible for siting and permitting transmission lines. It does not supplant or in any way affect the authority of states or localities to site and permit transmission lines.

Most recently, in October 2026, the Trump administration exercised its authority under Section 216(h) to act as the joint lead agency – along with the state of Montana – to jointly prepare the environmental review for the North Plains Connector Project, a proposed 525-kV transmission line that would provide 3,000 megawatts of bi-directional transfer capability and connect the western and eastern electric grids.

The Problem

Litigation is a major source of delay for infrastructure projects, and is particularly disruptive for linear infrastructure projects, which need certainty to coordinate efficiently with component suppliers, the generation projects it connects to, and offtakers.

Generally, challenges to federal environmental reviews are subject to a 6-year statute of limitations, with very few standards for petitioners, such as requiring litigants to participate in the environmental review process before filing lawsuits. Additionally, challenges often must make their way through several different district, and then appeals courts, before reaching a final decision.

Under current law, due to legislative ambiguity, Section 216(h) projects are subject to these traditional judicial review standards, instead of Federal Power Act judicial review standards, which the vast majority of hydropower and natural gas pipeline projects (which are also subject to the Federal Power Act) already benefit from.

The Solution

Section 216(h) should be amended to clarify that all challenges to all federal authorizations for Department of Energy transmission projects (specifically projects coordinated under Section 216(h)) be brought under Federal Power Act judicial review standards, which entails, among other provisions:

- A 120-day statute of limitations for filing lawsuits;
- A requirement for petitioners to participate in the review process before filing a lawsuit; and
- Elevation to the U.S. Court of Appeals.

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