

Cheat Sheet - 2005 Energy Policy Act, Title V- Indian Energy

For discussion purposes only – appropriations are outdated (9/21/17)

Prepared by Jody TallBear

DEPARTMENT OF ENERGY

Sec. 217 – Establish OIEPP – Director appointed by Sec’y

Duties of Director: “provide, direct, foster, coordinate, implement energy planning, education, management, conservation, & delivery programs of the dept. that:

- 1) Promote Indian tribal energy development, efficiency, and use;
- 2) Reduce or stabilize energy costs;
- 3) Enhance or strengthen Indian tribal energy and economic infrastructure relating to natural resource development and electrification; and
- 4) Bring electrical power and service to Indian land and the homes of tribal members located on Indian lands or acquired, constructed, or improved (whole/part) with federal funds.

Sec. 2602(b) – DOE Indian Energy Education Planning & Management Asst

Program. Director shall establish programs to assist tribes in meeting energy education, research and development, planning & management needs. Director may provide grants on a competitive basis. Could be used for improvement of transmission & distribution facilities; interconnection to non-tribal transmission; carbon sequestration research. **\$20M authorized.** Provision also said Tribes consulted to develop grantmaking formula.

Sec. 2602(c) DOE Loan Guarantee Program

Provide loans for not more than 90 percent of the unpaid principal and interest due on loans made to Indian tribe for energy development. Amount of guaranteed loans not to exceed \$2B; **Appropriations authorized “such sums as are necessary”.**

Sec. 2605 Federal Power Marketing Administrations

Applies to WAPA & BPA; each administrator shall encourage tribal energy development by taking such actions as administrators deem appropriate; WAPA power allocations to Indian tribes may be used for firming & reserve needs of Indian-owned energy projects on Indian land; WAPA may purchase tribally-generated power to meet firming & reserve needs but may not pay more than “prevailing market price” or obtain “less than prevailing market terms”.

Assistance for transmission system use – the administrator may provide technical assistance to tribes seeking to use high-voltage transmission system for delivery of electric power; costs of the technical assistance **“shall be funded by the secretary of energy using nonreimbursable funds appropriated for that purpose; or by any appropriate tribe.”**

Sec. 2606 Wind & Hydropower Feasibility Study

The Secretaries of Energy, Army, & Interior shall conduct a study of the cost and feasibility of developing a demonstration project using tribally-generated wind & Army Corps of Engineers-generated hydropower to supply firming power to WAPA. Also incorporate results of Dakotas Wind Transmission Study. **\$1M authorized to be appropriated.**

Sec. 505 Four Corners Transmission Line Project and Electrification

Extended Navajo electrification project which provides funds for transmission activities under Sec. 217 of the DOE Organization Act for an additional 5 years through 2011.

DEPARTMENT OF INTERIOR

Sec. 2602(a) DOI Indian Energy Resource Development

Prg. – mandated that DOI provide funding & technical assistance to a national, intertribal, enviro org that would establish a “national resource center to develop tribal capacity to establish & carry out environmental programs.” Energy related activities that w/b funded under this provision:

- 1) Training programs for tribal enviro officials, etc.;
- 2) Development of model enviro policies & tribal laws, codes & a clearinghouse of best enviro practices;
- 3) Recommended standards for reviewing the implementation of tribal enviro laws/policies w/in tribal jurisdiction

Appropriations authorized “such sums as are necessary”

Sec. 2603 Indian Tribal Energy Resource Regulation

Secretary may award grants to tribes for the development of a tribal energy resource inventory, feasibility study, development of tribal regs relating to energy development; development of technical infrastructure to protect the environment; and workforce training in energy resource development and enviro protection. No separate appropriations authorized- Sec’y carries out thru 1) directly, the use of federal officials; or 2) indirectly, by providing financial assistance to a tribe.

Sec. 2604 Leases, business agreements, and rights-of-way involving energy development & transmission (TERA's)

Indian tribes can enter into business agreements for purpose of energy development without Secretarial approval if they have successfully applied for a Tribal Energy Resource Agreement (TERA) prior.

Term of lease can’t exceed 30 years or 10years in case of lease for oil or gas production.

Term of ROW for pipeline or electric transmission can’t exceed 30 years.

TERA application, approval, declination, and revocation procedures outlined in detail – also see 25 CFR Part 224 for TERA rulemaking.

Appropriations authorized “such sums as are necessary” for FY 2006-2016 to provide grants & assistance to tribes in developing and implementing TERAs.

HOUSING & URBAN DEVELOPMENT

Sec. 506 – The Secretary shall promote energy conservation in housing that is located on Indian land & assisted through federal resources through energy efficient technologies and innovations; promotion of shared savings contracts; and use of such other similar technologies & innovations as Secretary deems appropriate.

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