Recommendation: TERA

Tribal Energy Subcommittee
Royalty Policy Committee
TERAs: Tribal Energy Resource Agreements

- Authorized through the Indian Tribal Energy Development and Self-Determination Act, Title V of the 2005 Energy Policy Act
- Authorizes Secretary of the Interior and a tribe to enter into a TERA
- Authorizes tribe to develop and approve its own leases, business agreements, or rights-of-way for a broad range of activities related to development of energy resources without requiring secretarial approval for each lease, agreement, or right-of-way
No Tribe Has Yet to Enter into a TERA: some of the hurdles

- Undefined limitation on the scope of TERA: a tribe cannot assume “inherently federal functions”
- Tribal Environmental Review Process, similar to the federal National Environmental Policy Act process
- Unknown funding for tribes to engage in NEPA like compliance
- Demonstration of tribal capacity
- Opportunity for Review and Comment of TERA

As of 2015, at least six (6) tribes had requested preapplication meetings to discuss establishing a TERA
Recommendation: 2015 GAO Report
Indian Energy Development

- For the Department of the Interior to provide additional energy development-specific guidance on provisions of TERA regulations that tribes have identified as unclear.

Specifically:

- TERA regulations authorize tribes to assume responsibility for energy development activities that are not “inherently federal functions.”
- DOI has not provided guidance on what are non inherently federal functions
- Lack of guidance prevents tribes from knowing what it can and cannot perform and where to build capacity
Recommendation

- Entire Recommendation is represented in the two page document
- Recommendation redrafted after the Houston RPC meeting
  - DOI staff very helpful in suggesting a recommendation that will be actionable
  - Incorporates lessons learned from preapplication discussions from ___ tribes in 2006 - 2008
Recommendation is Provided because:

- Development of energy resources on tribal lands is critical to develop energy independence of the United States.
- Clarifying TERA is wholly within the authority of DOI to do.
- TERA is an existing tool that in theory can be refined relatively quickly so that it can fully utilized and tested as a tool for enhancing tribal flexibility in energy development and advance the United States’ overall energy development portfolio.
TERA Work Group

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