



National Association of State Energy Officials

February 25, 2026

The Honorable Shelley Moore Capito
Chairman, Committee on Environment and Public Works
United States Senate
Washington, DC 20510

The Honorable Sheldon Whitehouse
Ranking Member, Committee on Environment and Public Works
United States Senate
Washington, DC 20510

Chairman Capito and Ranking Member Whitehouse:

Following your recent hearing to Examine the Federal Environmental Review and Permitting Process, Part II, I submit my responses to the question from Chairman Capito, as well as questions from Senators Wicker, Kelly, and Padilla (Attachment A).

Chairman Capito's Question:

- 1. The U.S. Energy Information Administration recently published forecasts showing the strongest four-year growth in electricity demand in decades. Natural gas demand is exceeding pipeline capacity, and it can take pipeline projects six to eight years, or even longer with litigious project opponents, to secure the necessary permits to expand capacity. States, along with the energy sector, are on the front lines to ultimately plan for and deliver on the energy demands of both today and tomorrow.

a. How do the current failures in our environmental review and permitting processes constrain states' ability to direct resources to meet demand and deliver lower prices for Americans today?

Response to Chairman Capito's Question:

The greatest federal permitting-related challenge is the litigation issue that your question raises. Litigation after projects have successfully navigated the federal permitting process, in the vast majority of cases, results in the project moving forward as permitted but at a substantially higher cost with no additional environmental benefits. These actions often appear to be aimed at achieving delays. Non-substantive

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litigation following permitting also creates a chilling effect on all future projects as developers, investors, and states must consider the costs and timing of project delivery. We believe the speed and certainty of permitting pipelines is one of the critical elements in meeting the nation's energy demands and achieving states' energy goals, which are often set through state energy planning led by governors and their State Energy Offices. The predominantly federal pipeline permitting process spans multiple agencies, and federal efforts aimed at streamlining must continue. In addition, elongated permitting processes for proposed energy projects on federal lands sometimes force valuable energy infrastructure of all types onto state and private lands, which can create less desirable environmental tradeoffs.

In my testimony, NASEO recommended the committee consider a "rebuttable presumption" approach which would allow fully permitted projects to move forward absent specific, clear and convincing changes in circumstances, with the burden of proof for any lawsuit falling on the federal government or the outside party bringing the litigation. This approach would not only aid in limiting non-substantive litigation, but it would also safeguard fully permitted projects from sudden federal policy changes aimed at picking winners and losers. We have seen sudden federal policy changes across multiple Administrations. In nearly every case, these changes negate investment decisions already made by the private sector consistent with policy actions taken by states. These litigation delays and policy changes are inconsistent with meeting state and national energy, economic, and environmental goals in a balanced, "all of the above" manner that maximizes natural resource benefits for consumers and businesses.

In an era characterized by increased electricity demand and costs, substantial global competitiveness around meeting large electric loads, a desire to protect our environment, and tremendous cyber and physical energy security risks, the fact that the existing federal permitting processes are similar in length to many European nations is striking. A streamlined federal permitting process such as the one being considered under your leadership would be the equivalent of a substantial "tax cut" for all American businesses and consumers, but without any negative federal budgetary impact. Enacting durable, technology-neutral federal permitting reform coincident with the celebration of our nation's 250<sup>th</sup> anniversary would be a tremendous, bipartisan achievement for all Americans.

**Senator Wicker's Question:**

- 1. As we look to strengthen grid reliability and meet growing customer demand, utilities in my state are pursuing major capital investments to harden infrastructure and ensure reliable service. In some cases, these projects are seeking financing through the Department of Energy's Section 1706 Energy Dominance Financing program, which can lower financing costs and ultimately reduce costs for customers. From your perspective, how can Congress and the administration reform federal environmental review and permitting processes so that programs intended to lower costs and strengthen energy reliability do not inadvertently delay or discourage critical infrastructure investments, especially for projects that are necessary, time-sensitive, and largely on existing or previously disturbed sites?*

**Response to Senator Wicker's Question:**

Permitting reform should include a streamlined approach for constructing certain types of projects (e.g., addition to natural gas and solar generation, or storage at an existing power plant site) where

environmental conditions are known and a set of project types can be readily characterized. Such an approach should be more extensive than a categorical exclusion, but far less intensive and costly than entirely new energy development sites. However, existing federal permitting processes are, in effect, a “tax” on all projects because they create delays and costs unrelated to environmental protection. We believe federal, state, and private environment and energy experts can assist in the development of a process for these projects that would provide reasonable protections and speed delivery of high-priority energy projects. Such reforms would also enhance the important energy funding available through the Energy Dominance Financing program.

**Senator Kelly’s Questions:**

1. *Arguably, transmission permitting in this country is in an even worse state than power generation. It inherently needs to cross state lines, and so developers can’t simply avoid complex federal processes. For example, after more than ten years of review, new litigation caused the permit for SunZia — a project critical to unlocking renewable energy across the Southwest — to get remanded last year for further analysis. A decade of work, and still no certainty. This level of risk and delay makes it nearly impossible for developers to plan, invest, or deliver the infrastructure we need. What are states seeing on the ground, and how are they dealing with interconnection queues that only grow longer?*

a. *Are utilities trying to fix this problem, or finding ways to avoid it altogether?*

2. *What do you think is the single most important change so we’re not wasting years — and billions — trying to build the backbone of a modern energy system?*

**Response to Senator Kelly’s Questions:**

Constructing high-priority transmission lines – which in most cases have already been identified and analyzed by the states and private sector – is even more important, in many locations, than speeding the delivery of new generation. Most of these already identified priority transmission lines would deliver relatively rapid consumer cost savings, environmental benefits, considerable reliability and security benefits, and, when using grid enhancing technologies, would serve the nation for many decades. Unlocking these projects requires several actions, including:

1. Expediting passage of substantial federal permitting reform, including the rebuttable presumption concept described in my testimony;
2. Increasing the flexibility of the Federal Energy Regulatory Commission to act on transmission siting with the expectation that reasonable levels of state authority are maintained;
3. Providing meaningful federal incentives for a set of transmission lines that the states and the U.S. Department of Energy have repeatedly identified as critical in lowering costs and improving reliability;
4. Supporting state education actions with local governments and landowners to identify “infrastructure ready” communities and encourage site banking;
5. Increasing the U.S. Department of Energy’s funding to create state-specific economic and environmental benefit analyses for states impacted by a proposed, priority transmission line. Most often, transmission cost-benefit analyses examine primarily electricity rate

implications and do not fully consider the overall economic development benefits (and costs) of transmission lines. State policy makers – distinct from regulators – must consider broader benefits and costs, and with sound data could promote policies that support transmission. In addition, existing analyses are often at a regional level and lack sufficient state- and site-specific data that would be most relevant to the residents of a particular state and their elected leaders.

Regarding item four above, many State Energy Offices are working with local governments and communities to help answer their questions about the costs and benefits of a range of new energy infrastructure, including transmission. To accomplish this work they are using a portion of the funding provided under the U.S. Department of Energy-administered State Energy Program. Expanding resources for this program is essential to the states' work to dispel misinformation about energy infrastructure, and to offer reliable, technology-neutral information to their consumers and businesses. This state-local action is critical to avoiding unnecessary delays and outcomes that do not benefit states or the nation over the longer term.

#### **Senator Padilla's Questions:**

- 1. In your written statement, you raised concerns that the House approach in the SPEED Act and the PERMIT Act took a step back from an all-of-the-above, technology-neutral posture when certainty was removed from the bill. How would you ensure an all-of-the-above, technology-neutral approach so states see any final package as inclusive?*
- 2. What is one structural change in state-federal coordination that you think could keep state energy planning on track given an administration intent on blocking pathways for specific technologies?*

#### **Response to Senator Padilla's Questions:**

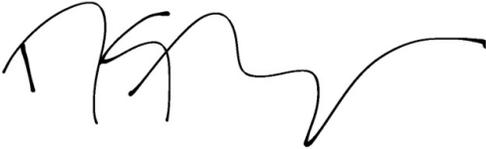
One of the amendments to the SPEED Act in the U.S. House of Representatives will reduce the benefits of an "all of the above" approach. Our proposed remedy is to support the technology-neutral approach that was expressed by many on the committee, as well as offering a specific legislative addition that would address both changing federal policies that pick winners, and non-substantive litigation for fully permitted projects. NASEO recommends including a "rebuttable presumption" approach with a 10-year look back period that would allow fully permitted projects to move forward absent specific, clear and convincing changes in circumstances. Moreover, the burden of proof in any lawsuit or federal policy change would fall on the federal government or the outside party bringing the litigation or attempting to make a federal policy change. Codifying this approach, on a bipartisan basis, would add substantial certainty to state energy policy and private sector investment, and would allow for each state to advance energy solutions that draw on their natural resources to maximize value for their citizens and businesses.

A technology-neutral legislative addition will also help promote an "all of the above" approach supporting state priorities, including fossil generation, wind, solar, hydropower, energy storage, nuclear power, geothermal energy, energy efficiency, demand response, virtual power plants, distributed energy resources, and new technologies that are being developed. In addition, state energy policy strategies often include a more holistic approach that avoids government making single

technology choices in favor of opening markets for a greater range of private sector solutions and investments. Federal permitting reform that allows this flexibility is critical to meeting our energy needs far into the future.

Thank you for the opportunity to testify and answer the committee's additional questions. I want to express my appreciation for the important, bipartisan leadership you are both demonstrating on federal permitting reform.

Best regards,

A handwritten signature in black ink, appearing to read 'David Terry', with a stylized, flowing script.

David Terry  
President, NASEO

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# United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

WASHINGTON, DC 20510-6175

February 11, 2026

David S. Terry  
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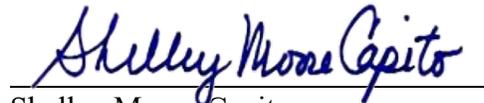
Dear Mr. Terry:

On behalf of the Senate Committee on Environment and Public Works, we would like to thank you for testifying before the Committee on Wednesday, January 28, 2026, at the hearing entitled, *“Improving the Federal Environmental Review and Permitting Processes, Part II.”* The Committee greatly appreciates your attendance and participation in this hearing.

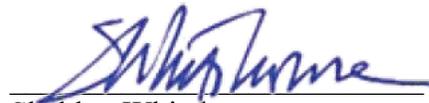
To ensure the completeness of the information in the hearing record, follow-up questions have been submitted by the members of the Committee. Please e-mail a copy of your responses to **Karly\_McQuitty@epw.senate.gov**, by 5:00 pm ET on Wednesday, February 25, 2026.

If you have any questions about the requests or the hearing, please feel free to contact Adam Tomlinson, Majority Staff Director, at (202) 224-6176 or Dan Dudis, Minority Staff Director at (202) 224-8832.

Sincerely,



Shelley Moore Capito  
Chairman



Sheldon Whitehouse  
Ranking Member

**Senate Committee on Environment and Public Works**  
**hearing entitled, “Improving the Federal Environmental Review and Permitting Processes,**  
**Part II.”**

**January 28, 2026**

**Questions for the Record for Mr. Terry**

**Chairman Capito:**

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<sup>1</sup> U.S. Energy Information Administration, *EIA forecasts strongest four-year growth in U.S. electricity demand since 2000, fueled by data centers*, (January 13, 2026), <https://www.eia.gov/pressroom/releases/press582.php>

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