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Sent via e-mail: IEED@bia.edu

Abraham E. Haspel
Assistant Deputy Secretary
Section 1813 ROW Study
Office of Indian Energy and Economic Development
Room 20—South Interior Building
1951 Constitution Avenue N.W.
Washington, DC 20245

Re: Section 1813 Comments—Williams Four Corners, LLC

Dear Mr. Haspel:

These comments are submitted in response to the Notice of Publication of Draft Report to Congress at 71 Fed. Reg. 77060 (Dec. 22, 2006). The comments are submitted on behalf of Williams Four Corners, LLC (“Williams”). Williams appreciates this opportunity to comment on the Draft Report to Congress dated December 21, 2006.

In order to place our comments in context, the Departments should have some understanding of the Williams Companies, Inc. and its subsidiaries or operating units that are most directly affected by the Departments’ draft report. For purposes of simplification, however, all subsidiaries and operating units will be referred to as “Williams” in the balance of the comments after the following descriptions thereof.

- The Williams Companies, Inc.

The Williams Companies, Inc. (“Williams”) is a fully integrated energy company with a portfolio of natural gas business in key growth areas. Williams’ core businesses include midstream, exploration and production, and interstate gas pipelines. Williams is in the process of completing expansions of its interstate gas pipelines and adding production from newly drilled natural gas wells. The Company continues to make major investments in gathering and processing infrastructure directly and through Williams Partners, LP, a master limited partnership for whom Williams serves as general partner. Williams’ major exploration and production basins are in the Powder River Basin in Wyoming, the Piceance Basin in Colorado, the San Juan Basin in New Mexico and Colorado, the Barnett Shale in Texas, and the Arkoma Basin in Oklahoma. Williams’ domestic onshore gathering and processing operations are located in south-central and western Wyoming, the San Juan Basin in New Mexico and Colorado, and along the Gulf of Mexico in the states of Texas, Alabama, and Louisiana. Williams has additional and increasing offshore gas and oil gathering assets in the Gulf of Mexico, including the deepwater Gulf of Mexico. Williams’ midstream business also includes gathering and processing facilities in Venezuela, natural gas liquids storage and fractionation facilities in Kansas and olefins operations in the Gulf Coast region of the United States and in Canada.

- Williams Four Corners, LLC

Williams Four Corners, LLC is the owner of a large gathering, processing and treating system in the San Juan Basin of New Mexico and Colorado. Williams Four Corners is the largest volumetric gatherer of natural gas in the San Juan Basin through more than 3,500 miles of gathering lines with a capacity of approximately 2 billion cubic feet of gas per day. Williams Four Corners' five San Juan Basin plants process and treat approximately 1.5 billion cubic feet of natural gas per day and produce approximately 34,000 barrels per day of natural gas liquids. The gathering system incorporates more than 6,400 receipt points. Approximately 360 miles of Williams Four Corners' gathering lines are on the Jicarilla Apache Nation ("JAN") lands. These gathering lines feed the company's Lybrook processing plant in New Mexico and its Ignacio processing plant in Colorado.

Williams has been operating on the JAN lands pursuant to a series of rights-of-way issued by the Bureau of Indian Affairs. The most recent rights-of-way expired on December 31, 2006. Williams began negotiating with the JAN prior to the expiration of the rights-of-way but was unable to successfully conclude those negotiations. In October of 2006 the JAN informed Williams that it would not continue the rights-of-way negotiations and instead would seek to purchase Williams' assets located on its lands to the exclusion of any other alternatives.

Williams believes that the JAN's continued access to existing midstream facilities throughout the eastern and southeastern portions of the San Juan Basin, providing the ability to connect new supplies on the JAN's lands to alternative gathering systems, would provide the greatest long-term value to both the JAN and the

producers who are developing leases on the JAN's lands. That ability would also provide producers on the JAN's lands more competitive alternatives than what may otherwise be the case. Still, the JAN chose to discontinue a long history of cooperation and mutually beneficial business dealings by discontinuing discussions on continued rights-of-way. Thus, pursuant to the JAN's unilateral demand, Williams and the JAN began to negotiate the sale of the assets. This process is ongoing, pursuant to a Special Business License providing a short-term extension of the right of Williams to operate its assets on the JAN's lands. It is not clear at this date whether Williams and the JAN will be able to reach agreement on terms for the sale of the assets. Williams will resist any seizure or "fire sale" of assets that does not properly value the assets in an amount at which Williams would be willing to sell. Any disruption in service from currently unforeseen events or the JAN's attempts to "take" the assets in anything other than a negotiated transaction providing a fair valuation to Williams would result in gas volumes being shut-in and disruptions of supply to the ultimate consumers of the gas.

With this background, Williams would like to specifically comment on the Draft Report as follows:

Section 1.3 Scope of Section 1813 Report

The Departments have "refined" the scope of Section 1813 to study electric transmission lines and the natural gas and oil pipelines associated only with interstate transit and local distribution. This refinement does not capture significant problems with the valuation of rights-of-way on tribal lands that are clearly within the scope of Congress' directive to the agencies nor does it capture the unique ability of tribes to

assert sovereignty to create veritable monopolies that become the sole outlet for existing or new wells drilled on tribal lands. The Departments' limitation on the scope of the report excludes the experience of Williams and its 360 miles of rights-of-way and gathering assets on the JAN lands. Yet, those same gathering assets and their continued, consistent operation provide gas volumes which ultimately feed the interstate pipeline and local distribution companies with the very supplies necessary to insure adequate supplies for consumers. And, those same gathering assets also provide producers competitive alternatives for existing and new wells that could be absolutely unavailable in the future. Because Congress seeks recommendations for appropriate standards and procedures and an analysis of the relevant national energy transportation policies relating to energy rights-of-way on tribal lands, Williams requests that its experiences and comments be evaluated and included in the final Report to Congress.

Section 3.3 Departmental Analysis of Tribal Sovereignty

The Draft Report overstates tribal sovereignty by failing to balance that discussion with Congress' plenary power over tribes. As noted in Section 8.1(5), the Constitution of the United States empowers Congress to strike a balance between tribal sovereignty and the greater national interest. It would be appropriate for the agencies to remind the Congress that, as it strikes this balance, the monopolistic power of tribes has the effect of destroying all competition within tribal lands and for other areas that are essentially "land-locked" by those same lands. While this monopoly power may present a short-term economic benefit to a tribe, over the long term the result is negative and removes competitive alternatives. Long-term monopolistic control results in companies having to pay higher prices for development and access, thereby

ultimately limiting those companies from future development or inappropriately reducing their economic benefit presuming future development occurs. The end result over the long term, therefore, is a negative economic impact that results in less energy supplies being made available. This end result is clearly detrimental to our national interests. Beyond the negative economic impacts to companies like Williams and the loss of energy supplies to the nation, there are additional negative impacts to the tribes themselves. The uncertainty caused by companies' inability to fairly negotiate with tribes results in delayed planning, delayed implementation of existing plans, delayed investments, restrictions on gas supplies and well drilling, and ultimately the shifting of capital off of tribal lands to the detriment of the tribes themselves as companies realize that they can no longer expect fair dealing on a level playing field where clear standards and procedures apply. The agencies should consider these real-world impacts on tribes as they attempt to fulfill their trust obligations to Native Americans. Williams has seen delays on both affected gathering systems and drilling opportunities.

Section 5.2 Departmental Analysis of Standards and Procedures

The Departments analyze the standards and procedures for determining compensation for energy rights-of-way on tribal lands in Section 5. In Section 5.2 the Departments provide their analysis that "whatever method is used to determine market value for land, it should represent the baseline value. A process for adjusting the value up or down could be specified." This may hold true where the parties agree to some fair market value as the appropriate standard. The difficulty, for Williams and other companies, is that there is no existing market value standard upon which to base negotiations. Williams' experience is that fair market value for rights-of-way is

meaningless if a tribe raises an absolute prohibition to entry into the market for rights-of-way. Indian nations are not controlled by any real market forces in the valuation of the rights-of-way which they grant. The only limit on what they demand for rights-of-way is driven by their collective conscience. While the rest of the “market,” including the market immediately surrounding the tribal lands, is controlled by a general market approach, there is no such control on tribal land. And, even in those cases where a monopoly power exists in the general market, similar to market monopoly power on tribal lands, those instances are governed by regulation or law which tends to set a cap on what can be demanded. Further, in those cases where a monopoly exists, the barriers to entry are typically economically based, not access based.

In other words, it may be impractical for another entity to economically compete with a monopoly, but competitors are free to contemplate doing so. On tribal lands, however, access is controlled completely by tribes under the current consent regime. This control of access creates an absolute barrier to entry which is very different than an economic barrier. It is, rather, an absolute prohibition against entry into the market, whether or not the economics would otherwise warrant entry. The Departments’ recommendation to Congress should recognize the absolute prohibition that tribes can erect to entry to energy markets. The Departments should recommend standards and procedures for determining appropriate compensation for tribal grants, expansions, and renewals of energy rights-of-way as directed by Section 1813(b) of the Energy Policy Act in the event that even-handed negotiations between tribes and non-tribal entities do not reach mutually acceptable ends. The expectation of even-handed negotiations should be acceptable to industry, but given tribes’ unique bargaining positions, there

needs to be an avenue to provide for fair valuations should negotiations fail. That avenue should approach valuation assuming neither party is compelled to buy or sell. And, that avenue needs to be outside of the tribes' venues – for instance, appealing to tribal court provides no relief to non-tribal entities.

Section 6.1.2 Departmental Analysis of Costs to Consumers

The Departments analyze the cost of rights-of-way to consumers and in so doing quote testimony from Williams Pipeline in support of the notion that the cost to consumers is minimal. Williams notes for the record that the testimony given in November of 2005 was not intended to address the subject of the Section 1813 Report to Congress under EAct that had passed just a few months earlier. In light of the Departments' admission that they have not conducted a cost-benefit analysis for the congressional approaches to address the issue, the Departments' conclusion that the effect on consumers is minimal is unfounded.

Section 6.5.2 Departmental Analysis of Different Types of Rights-of-Way

The Departments analyze the differences among grants, expansions, and renewals of rights-of-way in Section 6.5. The Departments find in Section 6.5.3 that companies like Williams continue to make significant investments in energy transmission systems and in many cases have not fully depreciated those investments at the expiration of the rights-of-way. However, the agencies blame the companies for shortsightedness in failing to negotiate this possibility at the commencement of the right-of-way.

It is true that companies seeking renewal of existing rights-of-way are making or have made significant long-term capital investments in order to maintain the integrity of the system that utilizes the right-of-way. These investments are intended to create long-term value not only for the company but also to the entire affected market. But it is simply inaccurate and unfair to blame companies who entered into original rights-of-way many years or decades ago for the companies' inability to forecast a sea-change in tribal attitudes toward the rights-of-way.

The effects of this sea-change can be profound. The development of a gathering system not only creates value for the owner of that system but also for the local producer who now has a way to move its gas to market, for interstate pipelines that now have a way to get gas from the wellhead to their pipeline, for the utility that now has a way to get the gas to the end user via interstate pipelines, and for the consumer who is the ultimate beneficiary of the ability to get the gas from the wellhead to the marketplace. When a tribe has sole "veto authority" over the negotiations for the rights-of-way, these long-term investments are negatively impacted so that the overall benefits mentioned above may never materialize. The economic impact of the lack of these investments is negative, not positive.

Tribes currently have the ability to eliminate the decision producers have to connect their gas to the gathering system of their choice by not granting rights-of-way to competing systems or by forcing all competing systems off of the tribes' lands. Or, worse, tribes can impact the economic impact of decisions already made and consummated. In fact, very recently, a producer reconnected its gas to Williams from a competing system only to have that decision effectively reversed by the JAN's

unilateral decision to force Williams to sell its system. The Departments should inform Congress of this situation and its negative effect on consumers, the tribes, companies, and America's overall energy security. At a minimum, this situation amply illustrates the departmental findings at Section 6.4.3 that reasonable certainty in negotiations is necessary to assure mutual benefits and minimize risks to infrastructure investments. Under the status quo, infrastructure investment is at risk.

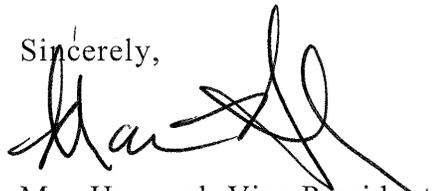
Conclusion

Williams offers these comments in the hope that they will suggest constructive improvements to the draft report. Williams recognizes that its comments come at the last opportunity for public comment. Williams withheld its comments during efforts to successfully negotiate an extension of its recently expired rights-of-way. Williams knows first-hand the difficulties caused by the lack of any known standards or procedures for determining "fair and appropriate compensation to Indian tribes" for rights-of-way on their lands. Williams is faced with the termination of its business and assets on the JAN lands by the unilateral exercise of tribal authority. The impacts of the JAN's potential actions extend well beyond the boundary of the JAN's lands. This situation has compelled Williams to come forward. America's energy reliability and security is at stake as is the basic tenet of fair trade practices and available competition to compel reasonableness on parties providing service to others, even if that competition faces economic barriers when competing against the likes of a monopoly. The agencies and Congress must recognize that Williams' experience can and will repeat itself in other energy markets in the absence of any meaningful standard or procedure for determining the value of rights-of-way on tribal lands. In light of the

President's recent call for increased energy security in his State of the Union address, Williams calls upon the agencies to provide Congress with recommendations for general policy reform. Recommending private relief legislation after the "train wreck" is no recommendation at all.

Williams' comments in this letter serve only to highlight the difficulty, frustration and inequity that it has experienced in its dealings with tribal rights-of-way after decades of mutual respect and business dealings. Williams stands ready to provide additional details so that the agencies, and the Congress, can fully appreciate Williams' experience, the commensurate need for standards and procedures to fairly compensate tribes for rights-of-way, and the impact on the nation's energy transportation that has resulted from the current, unfortunate reality.

Sincerely,

A handwritten signature in black ink, appearing to read "Mac Hummel", with a long, sweeping underline that extends to the right.

Mac Hummel, Vice President
on behalf of Williams Four Corners, LLC