3. The ISO proposes that an Interconnection Customer may satisfy the “other right to use the property for the purpose of generating electric power” component of the Site Exclusivity definition, with respect to BLM land, by providing evidence to the satisfaction of the ISO of the following:

a. **Secure Temporary Use Permit.** Interconnection Customer has obtained and perfected (i.e. recorded in Official Records of appropriate county) a right-of-way (ROW) that authorizes applicant to place power generation testing facilities on property, if applicable, (permit authorization period is usually 2-3 years) [i.e, a “BLM Type II right-of-way” or equivalent] plus

b. **Undertaking of Significant Additional Activity to Prosecute the Permanent Permit, as demonstrated by a showing of all of the following:**
   
   i. Interconnection Customer has applied for a BLM ROW for right of way grant [i.e. Form (SF-299), Form 2800-14 (solar) or equivalent permit] for authorization to use project site for commercial power generation facilities.
   
   ii. The Interconnection customer has submitted the Interconnection Customer’s Plan of Development (POD) based on latest applicable guidelines, the BLM has accepted the Interconnection customer’s application and BLM has assigned a case number to the application.
   
   iii. Interconnection Customer has entered into a pro forma Cost Recovery Agreement with BLM (agreement whereby permit applicant agrees to fund the cost of environmental review process) plus advancement to BLM of the cost recovery funds per terms of the Cost Recovery Agreement.
   
   iv. Identification of lead agency for environmental permitting process

c. **Interconnection Customer is the first in time applicant to satisfy criteria (a) and (b) with respect to the project site.** BLM has informed the ISO that, in certain situations (for example, for the California Desert area), BLM has received applications for ROWs from multiple developers (for example, both a wind energy developer and a solar energy developer) for the same land.
   
   i. The Interconnection Customer who demonstrates that it is first-in-time-ROW applicant with respect to any portion of land would be considered to have the opportunity to demonstrate site exclusivity for that portion of land by submitting the requisite documents or performing the
requisite actions described in Paragraph 3(a) & (b) with respect to the specific proposed use in the POD. Other Interconnection Customers would be required to submit the site exclusivity deposit.