

the **TRANSMISSION** line

» SITING



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As our nation tackles the growing energy challenges of the 21st century, legislators and regulators are exploring how best to modernize our national electric grid as a key imperative to meeting them.

There are three primary challenges to building new, strategically planned electric transmission in this country. The first challenge is planning new transmission that satisfies both local and broader national energy needs and policy goals. The second is how to fairly determine who pays for new transmission. The third impediment is the selection of where to actually build the transmission towers and lines – also known as siting.

Siting battles have been going on for decades, long before there were discussions of smart grids or renewable energy, and even in industries other than the electricity sector. Siting challenges began with the railroad expansion and continued with the electrification of the U.S. and the proliferation of the telephone. Many of the rules established back then are still in place today. The pressing demands of achieving national energy security, dramatically growing and integrating renewable energy resources and tackling environmental policy goals makes the need to solve this age-old problem all the more urgent.

Much of the nation's electricity infrastructure is decades old. At the same time, consumer demand for electricity continues to evolve. As more electricity is generated from cleaner sources of energy, we will need an infrastructure capable of reliably delivering this power to the cities and towns that need it. Even as state and local governments cite the need for new investment in transmission, developers building new lines face resistance from decision makers at every level of government, and new projects are not being built at the pace necessary to meet America's energy goals.

Transmission development lags far behind other forms of energy infrastructure in this country. In the past 10 years the U.S. has built roughly 11,000 miles of natural gas pipeline. During the same period, the electricity industry has added fewer than 700 miles of new high voltage interstate transmission. This troubling fact is amplified by the reality that historic underinvestment in the nation's grid has left it less reliable, inefficient and unable to keep up with demand. In addition, renewable energy goals and the desire to reduce America's dependency on foreign energy have added a new sense of urgency for modernizing the grid. »

Regulatory Maze

Electric transmission, unlike other forms of energy delivery systems, is overseen by federal, state and often local regulators. At the federal level, the Federal Energy Regulatory Commission (FERC) is responsible for regulating wholesale electric markets. However, unlike interstate oil and natural gas pipelines, FERC lacks the authority to site electric transmission lines, except in very limited circumstances. That responsibility falls to local and state regulators, who understandably focus on local issues rather than regional or national matters. In addition, municipal ordinances and environmental requirements can impact the siting of transmission lines and keep projects in limbo indefinitely. Developers operating within this regulatory framework encounter inconsistent siting policies across the country with widely varying requirements, timelines and proceedings.

Today, approximately 30 states have “siting statutes” that are roughly equivalent to state siting laws. The rest of the states rely entirely on local land use laws and the eminent domain powers of utilities to site transmission lines.

These statutes or laws determine the need for new transmission based on local market interests served by vertically integrated utilities. Local and state regulators, who must answer to property owners and residents who may voice

concerns about proposed transmission projects, often find it challenging to consider the regional and national needs for transmission lines that would cross multiple states. In fact, some state regulators are bound by laws demanding they only consider local interests. This creates challenges for developing an integrated, robust grid.

When developers are considering transmission projects designed to span multiple states, they must factor in the various state laws and local ordinances. Even if these lines are deemed necessary by a regional authority, states have the right to deny approval depending on their own economic, environmental or often parochial concerns.

This is not to say all states are a source of delay. Some states have established logical siting guidelines in an effort to encourage development of renewable energy sources and meet renewable portfolio standards. In Michigan, for example, the state’s public service commission, as directed by the state legislature, established wind zones in different parts of the state that would be subject to expedited planning, siting and construction of transmission lines. This designation is particularly important in Michigan, where ratepayers pay disproportionately high electricity prices. Linking consumers and businesses to cheaper power generation such as wind can help bring down costs.

The Relationship Between Planning and Siting

Transmission planning (identifying what new infrastructure is necessary) requires a multistep process and buy-in from a variety of stakeholders. Over the past decade, planning transmission has become far more rigorous and sophisticated as regional entities strike a delicate balance between national, state, and local interests. The need for regional transmission planning was driven in large part by the advent of regional wholesale markets and the increase in energy transactions across local utility borders.

Local siting processes have been mostly effective for smaller, reliability-related projects, but for interstate and regional transmission development, they have proven to be cumbersome. Under the current system, states maintain primary siting authority while in many regions across the country, planning is more regionally focused. This disconnect between the two functions has stymied investments that would have significantly improved the grid.

Many stakeholders believe an independent planning authority should be established to ensure regional projects that would bring benefits to ratepayers in multiple states do not get caught up in regulatory red tape when siting those projects. A broader planning process would ask states to look beyond their parochial interests and boundaries to site multi-state transmission lines that benefit consumers and businesses. Pairing the dual functions of planning and siting would allow for a more strategic and efficient build out of the grid.

In July 2011, FERC took steps to improve the planning and siting process, with special attention to cross-regional projects when it issued its Order 1000. The process and the order focus on transmission planning and cost allocation requirements established in FERC Order 890. When

Proponents for reforming the existing transmission siting process highlight three ongoing problems with the current regulatory framework:

- First, it gives rise to the Not in My Backyard (NIMBY) issue, where local objections and concerns to development override progress that can benefit the entire region. While transmission lines are long-term investments impacting multiple energy markets, the local transmission siting process often focuses solely on issues and benefits to individual states or communities.

The NIMBY issue has proven a huge impediment for transmission developers. In some communities it has made building transmission lines virtually impossible.

- Secondly, the ability for one state's interests to halt the development of a regional transmission project that would reduce electricity prices for an entire multi-state region. Many developers report multi-year delays to transmission projects because of cumbersome state siting processes.

This is particularly troublesome in areas of the country with abundant renewable energy potential. With more than half of the states adopting Renewable Portfolio Standards (RPS), regional transmission lines are being proposed to connect that clean, inexpensive resource with population centers across the country. As currently regulated, these lines must be approved separately by each state, giving any one state veto authority over the entire project.

- Finally, in many states there is no timeline for action, thereby allowing siting proceedings to languish indefinitely.

Addressing these concerns while respecting state and local authorities is essential for transmission projects that can benefit regions and help the nation meet its national energy goals.

Calls for siting reform are not new. In 2005, Congress enacted legislation to address this issue and gave the U.S. Department of Energy authority to coordinate with multiple jurisdictions that oversee the siting of a transmission project.

More recently with the growth of organized wholesale energy markets and the desire to capture energy sources located in remote places such as solar and wind, the need for siting reforms has become even more important.

Calls for giving federal “backstop” authority to one federal agency (FERC) have grown louder. This type of authority would give FERC a larger role in siting transmission lines that benefit an entire region. In these cases, interstate transmission projects approved by a regional planning entity would continue to be subject to state review. But if the state fails to act on a project within a certain period of time, FERC would have the authority to move the project forward. Proponents argue that consolidating the transmission siting role at FERC would make the process more efficient and workable. >>

taking action on this front, FERC cited a February 2009 study conducted by the Edison Electric Institute (EEI) which revealed a trend of increased investment in the national transmission infrastructure. However, at the same time, the research showed interregional projects continue to be caught in a bottleneck due to the mountain of red tape involved in siting, planning and paying for these types of projects.

FERC Order 1000 requires:

1. Public utility transmission providers to participate in a regional transmission planning process that satisfies Order No. 890 principles and produces a regional transmission plan.
2. Local and regional planning processes to consider transmission needs driven by public policy requirements established by state or federal laws or regulations, such as a renewable portfolio standard (RPS).
3. Coordination among public utility transmission providers in neighboring regions to determine if more efficient or cost effective solutions are available. >>



Court decision interferes with *Energy Policy Act of 2005*

In recognition of the declining investment in transmission, Congress enacted the *Energy Policy Act of 2005* (EPAct) to provide incentives for transmission development by creating more regulatory certainty around the siting process. The law was intended to address the growing energy problems facing the nation, including the patchwork of regulations faced by transmission builders.

EPAct provided two important milestones in the development of America's transmission infrastructure. First, it designated federal energy transport corridors on federal lands and, second, it brought a more coordinated approach to siting transmission on federal lands.

Ultimately, the act allowed the federal government to partner with state regulatory authorities to ensure the interconnectedness of the grid was accounted for when siting decisions were made.

While preserving the states' authority to approve transmission projects, EPAct gave FERC partial backstop authority to intervene in transmission projects when a state or other regional authority was unable or unwilling to approve the project. The threshold for intervening in the siting of a transmission project was clearly defined. Prior to exercising this authority, FERC must verify that one of the following circumstances had occurred:

- ***The state regulator withheld approval of the application for more than one year.***
- ***The state regulator failed to take interstate benefits into account when considering the project.***
- ***The transmission builder did not provide retail service in the state where the line would be constructed.***
- ***The state authority had attached conditions that would prevent an actual reduction of congestion on the grid, or make the new line economically infeasible.***

Since its inception, advocates of state-regulated transmission siting have challenged this new federal backstop authority. In February 2009, the Fourth Circuit Court gave credence to these complaints and ruled FERC had overstepped its congressional mandate in asserting jurisdiction over siting of transmission lines.

Supporters of FERC backstop authority believe the ruling will prevent transmission upgrades desperately needed throughout the country. They argue a national transmission plan is needed to assure reliability and move power from the cleaner, less expensive power sources that are located far from population centers. >>



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