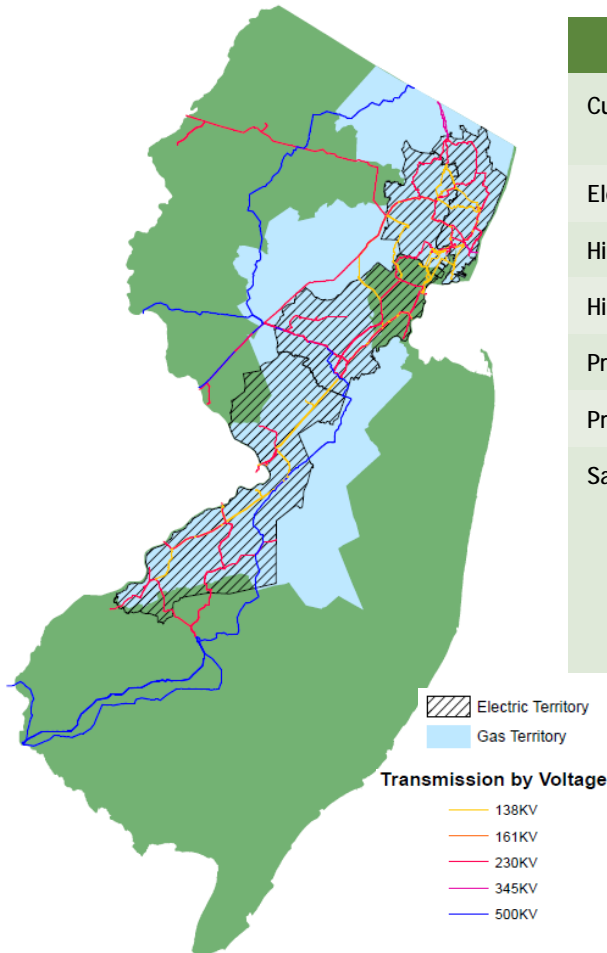

Gone With The Wind? The Fate Of The Right Of First Refusal

Tamara Linde
Vice President Regulatory
PSEG
Harvard Electricity Policy Group
March 8, 2012



PSE&G is the Largest Utility in New Jersey Providing Electric, Gas and Transmission Services...



	Electric	Gas
Customers Growth (2005 – 2010)	2.2 Million 4.0%	1.8 Million 4.0%
Electric Sales and Gas Sold and Transported	43,645 GWh	3,465 M Therms
Historical Annual Load Growth Distribution (2006 - 2010)	(0.5%)*	(1.0%)*
Historical Annual Peak Load Growth Transmission (2006 – 2010)	(0.1%)	
Projected Annual Load Growth (2011 – 2013)	1.3%**	0.8%**
Projected Annual Load Growth Transmission (2011 – 2013)	1.4%	
Sales Mix		
Residential	33%	61%
Commercial	57%	36%
Industrial	10%	3%






... ten consecutive ReliabilityOne™ Awards for the Mid-Atlantic

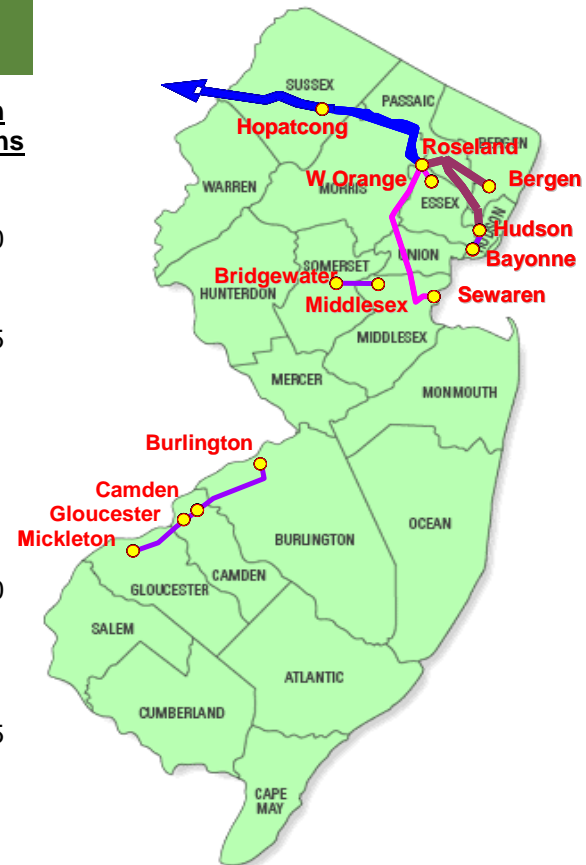
* Actual

** Weather normalized = estimated annual growth per year over forecast period

PSE&G is in the Process of Implementing a Significant Transmission Investment Plan

RTEP Transmission Projects

		<u>Phase</u>	<u>In-Service</u>	<u>\$\$ in Millions</u>
Susquehanna-Roseland		Engineering / Licensing	2015	\$750
North East Grid		Preliminary Design	2015	\$895
Burlington – Camden 230kV Conversion		Engineering / Licensing/ Construction	2014	\$381
North Central Reliability		Engineering / Licensing	2014	\$390
Mickleton – Gloucester – Camden		Preliminary Design/ Engineering	2015	\$435



Status of the Federal ROFR

- **FERC Order 1000 – Issued July 21, 2011**
 - Directed all public utility transmission providers, subject to framework set forth in Order 1000, to eliminate provisions of Commission-jurisdictional tariffs and agreements that establish a federal right of first refusal (“ROFR”) for an incumbent transmission provider with respect to transmission facilities selected in a regional transmission plan for purposes of cost allocation P 313
 - FERC found that the ROFR
 - Restricts the universe of transmission developers offering potential solutions for consideration in the regional transmission planning process
 - Unjust and unreasonable because it may result in the failure to consider more efficient or cost-effective solutions to regional needs and, in turn, the inclusion of higher-cost solutions in the regional transmission plan
 - Creates opportunities for undue discrimination and preferential treatment against non-incumbent transmission developers within existing regional transmission planning processes

- **Order pending rehearing**

- **Appeals of FERC Rehearing Order are likely**

The ROFR Framework Under Order 1000

- **Federal ROFR eliminated for transmission facilities selected in a regional transmission plan for purposes of cost allocation**
- **Exceptions**
 - Local projects – i.e. projects that are not subject to regional planning or cost allocation
 - Upgrades of existing transmission facilities
 - Currently planned transmission projects
- **No Change to**
 - ROFRs in other jurisdictions
 - Retention, modification, or transfer of rights-of-way
- **Implementation**
 - Transmission Providers to develop
 - Appropriate qualification criteria to determine an entity's eligibility to propose, build and own a transmission project. Such criteria “must not be unduly discriminatory or preferential”
 - “back stop” mechanism to reevaluate the regional plan to ensure reliability needs or service obligations can still be met

What Problem was the Commission Trying to Solve?

- **It is unclear whether there was any problem that FERC's action was attempting to address**
 - Was it to drive down cost?
 - Encourage more innovation?
 - Build more transmission?
 - Were there concerns about specific regions?
 - Problems with cross-regional projects?
- **Regional transmission planning, at least in PJM, is effective today**
- **There is no evidence to suggest that incumbent transmission owners are using the ROFR to delay needed transmission investment**
- **Mechanisms already exist to encourage innovation**

Challenges with Eliminating the Federal ROFR

- **The elimination of the federal ROFR may cause unintended consequences**
 - Preferred status to incumbent fully integrated utilities with state ROFRs
 - Disincentive to join or stay in an RTO/ISO and participate in regional planning and cost allocation
 - Disincentive for formula transmission rates and regional cost allocation mechanisms

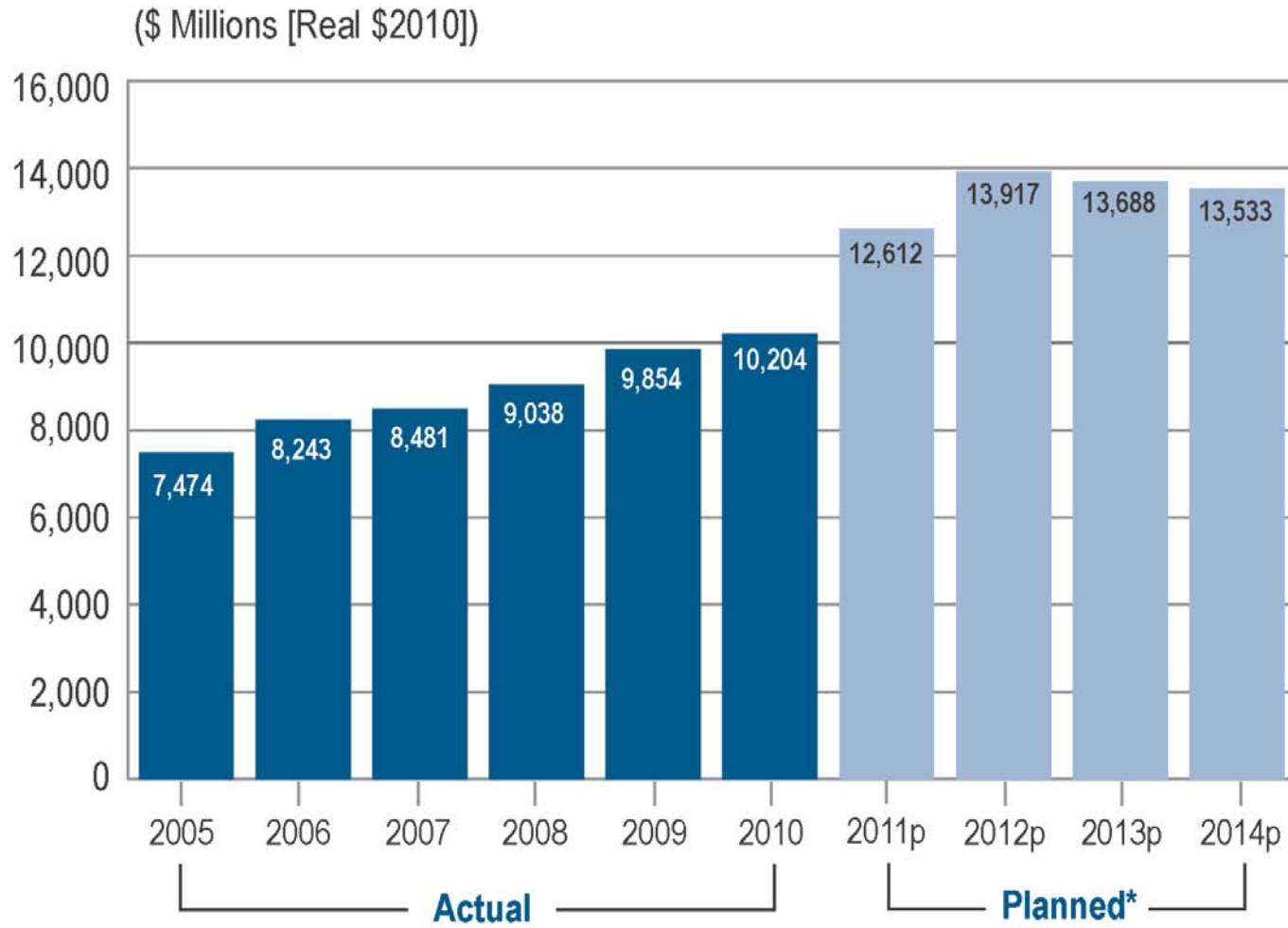
- **Reliability**
 - Need to ensure reliability standards, including the CIP Standards, are adequate to address new ownership model to ensure transmission owners are capable and prepared to maintain reliability

- **Likely to stimulate disputes and uncertainty**

- **Ultimately the courts will decide**

Appendix

Actual and Planned Transmission Investment By Shareholder-Owned Utilities (2005-2014)



Source: Edison Electric Institute, Business Information Group

Updated as of September 2011

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Quotes from FERC Order 1000

- “...granting incumbent transmission providers a federal right of first refusal with respect to transmission facilities selected in a regional transmission plan for purposes of cost allocation effectively restricts the universe of transmission developers offering potential solutions for consideration in the regional transmission planning process. This is unjust and unreasonable because it may result in the failure to consider more efficient or cost-effective solutions to regional needs and, in turn, the inclusion of higher-cost solutions in the regional transmission plan.” P 284.
- “...opportunities for undue discrimination and preferential treatment against nonincumbent transmission developers within existing regional transmission planning processes.” P 285.

PJM's Regional Transmission Expansion Planning Process

- The PJM Board has approved approximately \$22 billion of BES transmission enhancements since the inception of PJM's RTEP process in 1997, through December 31, 2011, ensuring that PJM is compliant with NERC reliability criteria. This includes over \$18 billion of baseline transmission upgrades across PJM and over \$3 billion of additional BES transmission upgrades to enable the interconnection of over 44,000 MW of new generating resources and merchant transmission projects. February 28, 2012, <http://www.pjm.com/documents/reports/~media/documents/reports/2011-rtep/2011-rtep-book-1.ashx>, see page 8
- Detailed review of transmission plans state by state, February 28, 2012 <http://www.pjm.com/documents/reports/~media/documents/reports/2011-rtep/2011-rtep-book-5.ashx>
- Given that load is a primary driver of reliability criteria violations, lower load forecasts are deferring the need for some RTEP upgrades. For example, PJM's 2011 RTEP process analysis of expected 2016 system conditions identified NERC reliability criteria violations that have shifted out in time, indicating that need for the PATH and MAPP transmission lines be deferred. February 28, 2012, <http://www.pjm.com/documents/reports/~media/documents/reports/2011-rtep/2011-rtep-book-1.ashx>, see page 13