

Siting Transmission Lines in a Changed Milieu: Evolving Notions of “Public Interest” in Balancing State and Regional Considerations

HARVARD ELECTRICITY POLICY GROUP
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Ashley C. Brown
Executive Director, Harvard Electricity Policy Group
Harvard Kennedy School
Harvard University
Of Counsel, Dewey & LeBoeuf

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Evolution of the Siting Paradigm

- Utility Driven/Local Review
 - Utility Determines Need on System by System Basis
 - Local Governments Review Non-Economic Issues

- Utility Initiated/State Review
 - “One Stop Forum” (Local Government Preempted)
 - Siting Authority Determines Need and Reviews Non-Economic Issues
 - Need Determined on System Specific or State Specific Basis

Common Denominators of Current and Past Siting Regimes

- Parochial Definition of Need (Geographic and Corporate)
- Minimal Federal Role
- Transmission in Native Load Rate Base
- Vertically Integrated Monopolies
- Only Utilities Possess Eminent Domain Powers

Factors Causing Growing Obsolescence of Existing Siting Rules

- Growth of Bulk Power Market
- Promotion and Optimization of Competition (incl. Restructuring)
- Development of Resources Distant from Load (e.g. Renewables)
- States' Desire to Harness Energy Resources for Economic Development
- De-Monopolization, De-Verticalization and Growing Diversity of Players
- Rising Concerns About Broad Environmental Effects (e.g. Climate Change)
- Specter of Federal Preemption
- Resource Portfolio Standards

Proposed New Siting Paradigm

Need Determination: Two Options

- Option A: Eliminate Requirement to Demonstrate Need
 - Need is Economic Concept (Value of Lost Load)
 - Reliability Already Internalized by NERC Rules
 - Investors Would Only Propose Line if Economically Justifiable
 - Fears About “Excess Capacity” Not Relevant in Competitive Market
 - Transmission Should be Excluded from Retail Rate Base

Need Determination (cont'd.)

- Option B: Broadened Definition of Need
 - Continuing to Assess In-State and In-System Needs
 - Broad Economic Objectives of the State and Region (e.g. Development)
 - Impact on Competition and Alleviation of Market Power in Region
 - Resource Choices and Mix in Region (RPS)
 - Regional Environmental Considerations

Improving State Siting Processes

- State Preemption of Local Governments
- Single, Uniform Siting Process
 - Eliminate Different Process for Different Entities
 - Eliminate Separate Applications for Need, Location, Right of Way
 - Fold Environmental Approvals into Single Siting Process

Improving State Siting Processes

- All Qualified Entities to Seek Siting Approval (i.e. Not Limited to Utilities – Colorado)
 - Greater Opportunity to Attract Capital for Transmission
 - Limits Market Power of and Perverse Incentives to Incumbents
- Eminent Domain Powers Should be Derived From Siting (CPCN) Approval not Utility Status
 - Subject to Common Carrier Obligations, Right of Way Conditions, etc.

Improving State Siting Processes

- Transmission Excluded from Retail Rate Base
 - Reduces Economic Incentive for Parochialism
 - Eliminates Socialization of Risks on Subset of Possible Beneficiaries
 - Improves Economic Signals to Investors and Users
 - Reduces Bias in Favor of Utilities in Transmission Investment

Improving State Siting Processes

- Formation of Single Geographic Footprint for Entire Market
 - Facilitate Planning and Cost Allocation
 - Avoid Pancaking
 - Formation of RTO will Facilitate Dispatch of Intermittent Resources
 - Simplify Need Determination Where Required