

Impact of FERC Order 1000 on State Siting Processes

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A. Need/Economic Determination

1. Is Regional Planning Outcome Preemptive of State Need Determination?
 - a. Seems a Reasonable Policy Argument
 - b. Not Clear As A Matter of Law
 - c. Most State Siting Statutes Explicitly Require Domestic Need Be Shown
 - i. Few State Laws Even Reference Regional Needs

A. Need/Economic Determination cont'd

2. Economic Determination

- a. May Play Out Differently in Organized Markets than Elsewhere
 - i. Nature of Regional Planning Process
 - ii. Role of States in Regional Planning Process (e.g. Advisory Only?)
 - iii. State Rate Base Considerations

A. Need/Economic Determination cont'd

2. Economic Determination

- b. Internalized Costs Are Only Part of State Economic Calculations
 - i. Impact on Overall Electric Prices Within State
 - ii. Impact on Ability of State to Import and Export Energy
 - iii. Effect on Economic Competition Among States
 - iv. Interventions by Affected Parties
 - v. How Will Impact on Competition be Considered?
 - vi. How Will Differing RPS Requirements (or Lack Thereof) be Considered?
 - i. Effects of Intermittency
 - vii. Impact on State IRP

B. Environmental Review

1. Asymmetry Between Benefits and Environmental Insult Continues
2. Will Planning Have EIS Component?
3. Will Regional Planning Preempt State Environmental Requirements?
4. Will Compensation to Localities for Environmental Insult Be Part of Planning?
5. How Will “Environmental” Compensation Be Treated for Prudence Purposes?
 - a. Potential for “Extracting” Local Benefits?
6. Will Focus in Environmental Reviews Change from Local Efforts to Broad Regional Effects?
7. How Will Carbon Emissions and Resource Utilization Be Considered? (e.g. Leakage in RGGI)

C. Institutional Arrangements in States

- a. Role of PUC?
- b. Is There Siting Agency (28 states only)?
- c. Local Jurisdictional Powers (Preemption)?
- d. Economic Development Aspect (e.g. local energy import/export issues)
- e. Eminent Domain
 - i. Available for Out of State Entities? Non-Utilities?
 - ii. Available for Out of State Benefits?

D. Behavior of Parties

- a. Competitor Interests
- b. Environmental Focus (e.g. Air or Land/Water? Demand Response Options)
- c. Second Bite at Apple (e.g. Siting Intervention After Losing in Planning Process)
 - i. Effective Single State Veto of Regional Plans?