

HARVARD ELECTRICITY POLICY GROUP

SIXTY-FOURTH PLENARY SESSION

FERC's Planning and Cost Allocation Guidelines: Will They Alter the Dynamics of Siting Multi-State Transmission Lines?

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Kim M. Wissman

*Director, Department of Energy and Environment
Public Utilities Commission of Ohio*

Executive Director, Ohio Power Siting Board

The Recognitions

by William Gaddis - 1955

“It’s inordinately long (956 pages), at times exhibitionistic in its erudition, turgid, obscure and in general its reach exceeds its grasp. But the reach is there – an ambition to create something like a total vision of what is false, forged, faked, in our 20th-century condition. The dimensions are large, the landscape far from pleasing....”

Clifton Fadiman

From the Editorial Board of the Book of the Month Club

The Well-Stocked Bookcase



Chapter 3 - The First Turn of the Screw

aka FERC Order 1000

and

Final Chapter - The Last Turn of the Screw

aka the DOE delegation of authority to FERC

Ohio Power Siting Board

Mission

To support sound energy policies that provide for the installation of energy capacity and transmission infrastructure for the benefit of the Ohio citizens, promoting the state's economic interests, and protecting the environment and land use.

Member Agencies

- Public Utilities Commission
- Environmental Protection Agency
- Department of Development
- Department of Health
- Department of Natural Resources
- Department of Agriculture
- Public Member
- Four Legislative Members
 - 2 from Ohio House of Representatives
 - 2 from the Ohio Senate

Planning Requirements

- Transmission provider **must** participate in regional transmission planning process, resulting in a single plan
- Transmission planning processes at the local and regional level must consider transmission needs driven by federal or state laws and regulations
- Public utility transmission provider in neighboring regions must coordinate for more cost-effective and efficient results
- Need for the facility
- Consistent with regional plans for expansion of the electric power grid of the electric systems serving Ohio and interconnected systems, and that the facility will serve the interests of electric system economy and reliability
- Service to public interest, convenience and necessity
- Resource Planning requirements
- Long Term Forecasts
- Standard Service Offer proceedings

Cost Allocation

- Cost must *roughly* align with *benefits*
- No involuntary allocation to non-beneficiaries
- Benefit to cost threshold ratio
- Allocation solely within a planning region
- Transparent method for determining benefit and identifying beneficiaries
- Allows for different methods to different facilities
- Whether the facility represents the minimum adverse environmental impact considering the technology that is available and the nature and economics of the various alternatives
- The facility will serve the public interest, convenience and necessity
- Cost recovery and allocation mechanisms in state proceedings

Limitations of Federal Rights of First Refusal

- Does not apply to transmission facility not selected in a regional plan for purposes of cost allocation
- Does not apply to upgrades of transmission facilities
- Allows competitive bidding to solicit projects
- ***Nothing affects or limits state or local laws or regulation regarding the construction of transmission facilities including siting or permitting of transmission facilities***
- Jurisdictional trigger is definition of “Major Utility Facility”, not “public utility”

FERC Commissioner Comments

- *Wellinghoff*: Need for reliable transmission service at just and reasonable rates
- *LaFleur*: There is underinvestment in transmission

Inference of the FERC Order

Planning Process (only) allows cost allocation resulting in construction.

- *Moeller [had it right]*: Rule does not address that it is in some instances Federal agencies that are causing delays

The DOE Proposal

- To create a federal transmission “backstop” authority and to transfer transmission corridor designation authority from DOE to FERC all in the name of regulatory efficiency
- The corridor designation would allow for a “project specific” designation
- EPACT granted DOE the authority. Had Congress meant to assign it to FERC, it would have done so in the first instance.
- FERC has no statutory authority create a siting authority.
- ***Congestion studies and corridor designation*** do not constitute “project specific” outcomes.

The DOE Proposal

- Applicant could request a corridor designation and begin a “pre-filing process” with FERC concurrently with filing a state siting application
- Proposal creates a federal process *in parallel* with the state proceeding for transmission line application review.
- Conflicts with the sequential process actually prescribed. Congress authorized a limited back-stop process, AFTER providing the States at least one year to act on any applications.
- States would be precluded from participating in the FERC pre-application process. One cannot be both judge and litigant.
- The result is the federal decision could supersede a state decision.

The DOE Proposal

- A preliminary ***corridor suitability*** determination would be issued by FERC
- Facility serves the public interest, convenience and necessity
- Impact on agricultural lands
- Incorporates maximum feasible water conservation practices, complies with air and water pollution control and solid waste disposal laws and regulations
- The probable environmental impact of the proposed facility


The DOE Proposal

- A specific project application has to show that it was considered in a regional transmission plan
- Need for the facility
- That the facility is consistent with regional plans for expansion of the electric power grid of the electric systems serving Ohio and interconnected systems, and that the facility will serve the interests of electric system economy and reliability

What “ORDER” We Found

So the proposed new world:

- Allow an applicant to pick a specific route, pick a forum, and in fact, game an outcome that may be reached regarding a non-transmission resolution
- Dictate to States generation resource technologies and sites and well as specific transmission routes
- Without any contractual/negotiated arrangements, FERC allocate costs as they wish
- FERC punts to NERC on Reliability, even though it is the reliability enforcer
- FERC punts on how to measure “beneficiaries”, so we still don’t know how this will be measured.

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- What is necessary in these efforts for a new build-out of transmission that do not already exist?
 - OPSB certificated \$376 Million in transmission investment in the last decade
 - We should ask: WHERE IS THE PROBLEM?
 - This is a “solution” in search of a problem

What Can We Expect?

- What is clear is that the delegation and implementation of this proposal is counter to the congressional intent as well as to the referenced goals of the proposal to get transmission lines built.
- Wall Street has a very skeptical eye for these efforts to be the foundation for a financial commitment
- Implementation will cause further delay of needed transmission by diverting money and human resources
- FERC is not empowered to implement resource planning, including resource decisions that evaluate alternatives to transmission.



It is difficult to ascertain how a pre-acceptance of a transmission proposal on the federal level does not influence or negate state siting decision or authority.

➤ Will Order 1000 by itself or in conjunction with the proposed corridor designation jumpstart construction of transmission?

➤ The answer is **NO**

As in *The Recognitions*, let's start with a new beginning to find some "Order"

Against the tail of the Great Dog [Sirius] is dragged
Sternward the Argo, with no usual course
But motion contrary, [...]
So sternward labours the Jasonian Argo
Obscure in parts and starless, as from prow
To mast, but other portions blaze with light.

- description of the constellation Argo in Frothingham's translation (see 597.10) of the poetic *Phenomena* (or "Appearances of the Stars") of Greek scholar and poet Aratos (ca. 315-240 B.C.), as quoted by Olcott ([SL](#) 431)



“Whatever is, is right.”

Charles Dickens
A Tale of Two Cities