Transmission Siting and Implementation of FERC Order 1000

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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

• **Regional Planning Driven (Order 1000):**
  - Institutional/Process Framework Untouched
  - Need: Regional (Compatible with State Laws?)
Common Denominators of Current and Past Siting Regimes

- Parochial Definition of Need
- Minimal Federal Role
- Transmission in Native Load Rate Base
- Socialized (Partial or Total) Transmission Costs
- Vertically Integrated Monopolies
- Only Utilities Possess Eminent Domain Powers
- Order 1000 Changes Nothing
Factors Causing Growing Obsolescence of Existing Siting Rules

- Growth of Bulk Power Market
- Promotion and Optimization of competition (including 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
Factors Causing Growing Obsolescence of Existing Siting Rules

- Rising Concerns About Broad Environmental Effects (e.g. Climate Change)
- Specter of Federal Preemption
- Resource Portfolio Standards
- Order 1000
  - Right of First Refusal
Growth of Federal Authority

- Section 216 “Backstop” Authority in National Interest Energy Transmission Corridors (NIETCs) added in 2005
- Limited Corridor Geography of NIETCs
- 4th Circuit Piedmont Decision and the Limited Scope of FERC’s Authority to where State has Made No Decision
Former FERC Chairman Jon Wellinghoff’s Senate Testimony

• “We need a National Policy commitment to develop the extra-high voltage transmission infrastructure to bring renewable energy from remote areas where it is produced most efficiently into our large metropolitan areas where most of the Nation’s power is consumed.”
Post Order 1000 Possible New Siting Paradigm, Option A

- Eliminate Requirement to Demonstrate Need
  - Need Is an 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
Post Order 1000 Proposed New Siting Paradigm, Option B

- Broadened Definition of Need
  - Continuing to Assess In-State and In-System Needs and Regional Need
  - Broad Economic Objectives of the State and Region (e.g. Development) Capture Order 1000 Values
  - 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 (e.g. Wyoming)
  • 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
  - Preemption of Cost Allocation (i.e. States Cannot Reopen Regional Planning Decisions)
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