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

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Cambridge, MA
October 2, 2009

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Based on a paper of the same name co-authored with Jim Rossi, Harry Walborsky Professor of Law and Associate Dean for Research, Florida State University School of Law
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