



**Energy Bar Association
State Commission Practice and Regulation Committee
presents**

Current Issues and Challenges in Electric Transmission Siting

Date: September 25, 2012

Time: 12:00 - 1:00 p.m. (Eastern Time)

Teleconference Meeting

CLE Credits will not be available for this event.

The first panelist, **Richard Sedano**, Principal and US Programs Director, The Regulatory Assistance Project, will discuss some of the major problems associated with siting and permitting multi-state electric transmission lines and possible solutions to those problems. The next panelist, **Laurie Woodall**, Senior Power Lead – Transmission and Distribution, URS Corporation (and former chair of the Arizona Power Plant Transmission Line Siting Committee), will focus on resources and initiatives designed to streamline and facilitate a more efficient siting process as well as opportunities to develop interregional collaboration in the electric transmission planning and regulatory arenas. Finally, **Tom Dougherty**, chair of the Energy and Infrastructure Practice at Rothgerber Johnson & Lyons LLP in Denver, Colorado, will provide an overview of the evolving tactics of electric transmission project opponents.



Energy solutions
for a changing world

Transmission Siting

Looking Forward to A Decarbonizing Grid

Presented by Richard Sedano

September 25, 2012

The Regulatory Assistance Project

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Outline

Current circumstances

more proposals about renewable energy integration, fewer about load growth

Proposals shouldn't come out of nowhere
planning

public engagement

Proposals should be sensitive

the problem with the term “NIMBY” and its relatives

Proposals should appear to make sense, even if regulation doesn't

problems with regulation (fragmented, politicization, inconsistent at a given time and over time)

Situations that seem to be working

Transmission Renewed

- For most of Power System history, transmission has been driven by electrification and then load growth
- For transition to support existing public policy objectives for renewable power, and prospective objectives to decarbonize the grid, transmission will be driven by public policy and least cost ways to achieve it

Changes to the Case for Transmission

- Past
 - Electrification
 - Load growth
- Future
 - Interconnect renewable power
 - Flexibility in larger balancing areas

Fact of Life of Electric Transmission

- Shared jurisdiction
- Shared (network) benefits
- Shared costs are less fact and remains aspirational to some
- Regional state committees are new on the scene
 - While immature, they could help siting

Principles for Good Siting Unchanged

- Planning
 - Public policy requirements
 - System needs, economies, regional issues
- Alternatives
- Routes
- Permitting
- Financing and Construction

No Surprises: Good Expectations for the Public

- Proposals should come from a planning process
 - Proposals should not appear to come from nowhere
- Public Engagement
 - What are the directions of the power sector?
 - Should all transmission proposal come from some larger context?
 - Can opinion leaders appreciate this context?

Proposal Quality Matters as Much as Ever

- Have all the proposal that have had problems been good proposals?
 - No
 - Quality Matters

Proposal Quality

- Technical soundness
- Sensitivity to interested people
 - Not rolling over, but not insensitive or overly paternalistic either
 - Use of terms like NIMBY incite resentment through lack of respect – why do it?
- Timeliness, properly scaled
 - Addressing an articulated need, generally recognized

Transmission is an easy battleground for other fights

- While some directly affected interests will be concerned about any project
- Others may only be concerned because they support or object to the underlying motivation for the line
 - Imported power, wind, nuclear, coal, regional or commercial conflicts
- Perspective from planning and public engagement can help to build credibility

Emergent Issue: Build It, They Will Come

- Renewable Energy Zones
 - Transmission project gestation longer than renewable project gestation
 - Yet renewable project needs transmission to get financed
 - Regulators will need to push the envelope of standard practice to approve transmission, based on comfort that the resource is there and will be needed, and RE competitors will fight out later who actually builds

Resources

- National Transmission Grid Study on Siting Issues
 - <http://www.raonline.org/document/download/id/496>
- Electricity Transmission: A Primer
 - <http://www.raonline.org/document/download/id/812>
- Renewable Resources and Transmission in the West
 - <http://www.raonline.org/document/download/id/4859>

About RAP

The Regulatory Assistance Project (RAP) is a global, non-profit team of experts that focuses on the long-term economic and environmental sustainability of the power and natural gas sectors. RAP has deep expertise in regulatory and market policies that:

- Promote economic efficiency
- Protect the environment
- Ensure system reliability
- Allocate system benefits fairly among all consumers

Learn more about RAP at www.raonline.org

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Current Issues and Challenges in Transmission Siting

Resources, Initiatives to Streamline and to Develop Interregional Collaborations

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Overview

- “Successful Siting” means obtaining all necessary authorizations which enable the construction of transmission facilities in locations which are economically, politically and environmentally acceptable to stakeholders, and feasibly meet the project purpose and needs.
- Drivers for transmission development:
 - Aging Infrastructure reaching end of economic life
 - Load growth
 - Increased reliability requirements from NERC (adopted by FERC)
 - Renewable Energy Portfolio Standards
 - Need to use other less carbon intensive generation (coal to natural gas...)
 - Open Access rules creating opportunities for merchant projects
 - FERC authorizing incentivized rates for transmission investment Order 679
- Burrs under the saddle
 - Increased federal involvement but not enough resources
 - Environmental concerns are more sophisticated and detailed
 - State and local governments wary unless “something in it for us”
 - Sheer scale of interstate projects is complexity squared



“Challenges” AKA Near Death Experiences...

- Federal agency coordination-NEPA
- Overlapping State and Federal processes
- Inconsistency/timing issues with state processes
- State’s resistance: what is in it for us?
- Stakeholder concerns:
 - Environmental, rate payers, property owners, resource management agencies
- Competition with Projects with similar purposes
- Time 7-10 years 10-15 in states with more intensive processes
- Scheduling dependencies and uncertainties
- Costs are at least \$1.5 - \$4 million a mile
- *These are NOT new issues*



Federal/Initiatives

- Federal
 - Nine Agency MOU (redux)
 - For Qualifying projects (high voltage or otherwise regionally nationally significant) DOE:
 - Is single point of contact to coordinate preparation of all environmental reviews,
 - Will coordinate all federal agency reviews
 - Will maintain a consolidated administrative record
 - Implementing regulations at 10 CFR section 900 et. seq.
 - Proponent makes a request
 - Identifies all federal agencies
 - Identifies all state and local permits
 - Serves them with notice of request.
 - Non federal agencies may elect to participate
 - Rapid Response Transmission Team
 - Currently only for 7 pilot projects
 - RRTT Request for Information/ Responses:
 - Describe Challenges because of different development time lines for generation vs. transmission and how this hampers development.
 - What are risks associated with conflict in T vs. G timelines?
 - How is financing influenced by lengthy time lines and T vs. G timelines?
 - How do these issues affect Integrated Resource Plans?
 - How do these issues affect open seasons or PPAs?
 - Etc.



Regional Resources/Initiatives

- Planning forums provide a venue for a project to be evaluated in the context of other projects. Do not underestimate the value of participating. The utility representatives are some of the most knowledgeable people in the industry, and can spot problems with a project and know what is stalled and why.
- ISOs/RTOs CAISO, MISO, SPP, NY ISO, PJM interconnection etc. all have planning groups.
- Western planning groups; NTTG, Columbia Grid, WestConnect
- WestConnect has sub-regional planning groups; SWAT, CCPG which maintain lists/maps of pending projects.
 - SWAT also has a transmission corridor working group which is working to provide practical data on transmission to federal agencies, and to provide input for updates of agencies' resource management plans



Regional Resources/Initiatives

- Western Electric Coordinating Council and Western Governors' Association received \$14.5 Million in ARRA funds for Transmission planning studies
 - Western Governors Association
 - Looking closely at Renewable Energy Transmission issues
 - Draft Report to WGA: State Transmission Siting Processes
 - Siting and Permitting Transmission Reforms- Recommendations and Action Items
 - WECC Transmission Expansion Planning Policy Committee/Regional Transmission Expansion Planning
 - The Environmental Data Task Force is looking at available environmental data for use in Transmission Planning, and provided some Environmental Recommendations for Transmission Planning



Resource Links

- **Transmission Roadmap/Appendices:**
<http://www.westgov.org/reports?start=12>
- **EI Generation and Siting Directory:**
http://www.eei.org/ourissues/electricitytransmission/documents/state_generation_transmission_siting_directory.pdf
- **Transmission Siting in the Western United States Holland and Hart 2009:**
http://www.hollandhart.com/articles/Transmission_Siting_White_Paper_Final.pdf
- **Opportunities to enable coordination and cooperation in support of transmission infrastructure in Midwest Sep 2011 Great Plains Institute:**
http://gpsid.net/vertical/Sites/%7B1510F0B9-E3E3-419B-AE3B-582B8097D492%7D/uploads/InterstateTransmissionCoordination_GPI_2011.pdf
- **Avoiding Minefields While Developing Interstate Transmission Tom Wray:**
http://www.sunzia.net/presentation_pdfs/euci_conference_wray_3_28_2012_v3.pdf
- **National Governors' Association: State Strategies for Accelerating Transmission Development for Renewable Energy (references good examples of initiatives):**
<http://www.nga.org/files/live/sites/NGA/files/pdf/1201ENERGYTRANSMISSIONWP.PDF>
- **Environmental Recommendations for Transmission Planning EDTF:**
http://www.wecc.biz/committees/BOD/TEPPC/SPSG/EDTF/Shared%20Documents/Environmental_Recommendations_for_Transmission_Planning/Final_Recommendations_Report/Environmental%20Recommendations%20for%20Transmission%20Planning%20-%20Revised%2005-27-2011.pdf



Resource Links (2)

- WGA: <http://www.westgov.org/>
- Western Interstate Energy Board: <http://www.westgov.org/wieb/>
- WestConnect (regional transmission planning): <http://westconnect.com/planning.php>
- Western Electric Coordinating Council Regional Transmission Expansion Planning: <http://www.wecc.biz/Planning/TransmissionExpansion/RTEP/Pages/default.aspx>
- WECC project portal (Project descriptions, maps and status): <http://www.wecc.biz/Planning/TransmissionExpansion/Transmission/Pages/default.aspx>
- Eastern Interconnection Planning Collaborative: <http://www.eipconline.com/>
- Eastern Interconnection States Planning Council: <http://www.nrriknowledgecommunities.org/web/eispc>
- **Nine Agency MOU 2009:** <http://www.achp.gov/docs/TransmissionMOU.pdf>
- Coordination of Federal Transmission Permitting on Federal Lands: <http://energy.gov/oe/services/electricity-policy-coordination-and-implementation/transmission-planning/coordination>
- Coordination of Federal Authorizations for Electric Transmission Facilities
10 C.F.R. 900.1 - 900.6
- Section 1221 Energy Policy Act 2005 Interstate Compacts 16 USC 824p (119 Stat 950): <http://www.gpo.gov/fdsys/pkg/PLAW-109publ58/pdf/PLAW-109publ58.pdf>



Resource Links (3)

- Rapid Response Transmission Team:
<http://www.whitehouse.gov/administration/eop/ceq/initiatives/interagency-rapid-response-team-for-transmission>
- Rapid Response Transmission Team:
<http://energy.gov/articles/obama-administration-announces-job-creating-grid-modernization-pilot-projects>
http://www.whitehouse.gov/administration/eop/ceq/Press_Releases/October_5_2011
- Rapid Response Transmission Team RFI:
<http://www.gpo.gov/fdsys/pkg/FR-2012-02-27/pdf/2012-4464.pdf>
- Responses to RRTT RFI:
<http://energy.gov/oe/downloads/public-comments-request-information-rapid-response-teams-transmission-april-2012>
- E-Trans Federal Electronic Transmission system (pilot projects):
<http://trackingsystem.nisc-llc.com/etrans/utility/Search.seam>
- **Council for State Governments- Model Interstate Transmission Compacts:**
<http://www.csg.org/NCIC/TransmissionLineSitingCompact.aspx>
<http://knowledgecenter.csg.org/drupal/content/interstate-compacts-policy-option-enhance-electric-transmission-line-siting-process>

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Current Issues and Challenges in Transmission Siting

Opposition Tactics

Energy Bar Association
State Commission Practice
and Regulation Committee

September 25, 2012

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Rothgerber Johnson & Lyons LLP



Transmission Opponents

- “The Usual Suspects”
 - NIMBY: Not In My BackYard
 - BANANA: Build Absolutely Nothing Anywhere Near Anyone
 - NOPE: Not On Planet Earth
- Advocacy Organizations
 - Environmental interests
 - Land rights and property values
- Competitive Interests
 - Independent transmission developers
 - Independent power producers
 - Renewable energy project developers

Traditional Opposition Tactics

- Challenges to certification of need (state regulatory commission)
- Challenges to land use approvals (local governments)
- Challenges to land rights acquisition (state courts)
- State legislative and policy initiatives

State Regulatory Commission – Additional Opportunities to Challenge

- Utility and statewide transmission planning dockets
- Utility resource planning dockets
- CPCN dockets for other transmission and/or generation projects
- Investigatory and miscellaneous dockets related to regulatory policies and issues

Coordinated Transmission Planning Forums

- Regional Transmission Planning
- WestConnect
 - Colorado Coordinated Planning Group (CCPG)
 - Southwest Area Transmission Planning (SWAT)
 - Sierra Subregional Planning Group (SSPG)
- Western Electricity Coordinating Council
 - Transmission Expansion Planning Policy Committee (TEPPC) stakeholder protocols
 - Planning Coordination Committee
 - Studies Work Group
 - Environmental Data Task Force

FERC Order No. 1000

- Regional Transmission Plans
 - Stakeholder process
 - Planning issues
 - Cost allocation issues

- Interregional transmission plans (April 11, 2013)

Western Governors' Association

- WGA – Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming, plus three Canadian provinces
- Regional Transmission Expansion Planning
 - *Meeting Renewable Energy Targets in The West* (June 2012)
 - *Siting and Permitting Transmission Reforms* (May 2012)

Western Governors' Association (cont'd)

- Western Interstate Energy Board
 - Committee on Regional Electric Power Cooperation
 - Electric Resource Adequacy Assessment
 - Western Wind Evaluation Project
 - Western Renewable Energy Zones Project

National Environmental Policy Act (NEPA)

- NEPA compliance required if project involves federal lands, federal funds, or federal permit
- Federal government owns 28% of land in the nation but owns nearly half of the land in the 11 coterminous Western states as compared to 4% of the land in the remaining states
(Congressional Research Service, *Federal Land Ownership: Overview and Data*, February 8, 2012)

National Environmental Policy Act (cont'd)

- Difficult to build a Western transmission project of any appreciable distance without crossing federal lands and requiring a permit from U.S. Forest Service, U.S. Bureau of Land Management, or other federal land agency
- Rural electric cooperatives have access to federal financial assistance for certain transmission projects through the U.S. Department of Agriculture's Rural Utilities Service

National Environmental Policy Act (cont'd)

- NEPA Compliance
- Categorical Exclusion
- Environmental Assessment
- Environmental Impact Statement (draft, preliminary, final)
- Record of Decision

National Environmental Policy Act (cont'd)

- Opposition involvement throughout agency process
 - Public scoping
 - Written comments
 - Agency lobbying
- Opportunity for subsequent litigation
- “Connected actions,” “cumulative actions,” and “similar actions”
(Council on Environmental Quality, Regulation 1508.25)

Organized Opposition and Resources

- National organizations
 - Energy Justice Network (www.energyjustice.net)
 - Alliance for Responsible Energy Policy (www.allianceforresponsibleenergypolicy.com)
 - Responsible Electricity Transmission for Albertans (Canada) (www.retasite.wordpress.com)
- Project-specific opposition
 - SunZia Transmission Project: Cascabel Working Group
 - Southern Colorado Transmission Project: Smart Valley Energy
 - Capx2020: Nocapx2020, Citizens Energy Task Force, Energy Planning Information Committee (EPIC)
- Opposition networking and sharing of "lessons learned"

Internet, Social Media, and Other Creative Tactics

- Opposition websites
 - Organize
 - Inform
 - Raise funds
 - Facilitate submission of comments
- Facebook, Twitter, etc.
- Blogs
 - Legalelectric
- “How-to” manuals, form resolutions
- Yard signs, buttons, bumper stickers, bake sales

Thank you. Questions?

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