

Overview of Federal Transmission Policy: as reflected in pending legislation

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EPAAct 2005 is not settled law

- 4th Circuit decision – FERC override authority
- Cumbersome gateway to FERC and perception of political toxicity
- New Congress and Administration

House and Senate Revisit

- Senate Energy Committee players
 - Members (Bingaman, Dorgan, Wyden, Reid, W Rep.)
 - Broad Issues: planning, cost allocation, siting
- House Energy & Commerce players
 - Members (Waxman, Markey, Inslee, Arcuri)
 - Primary focus on climate, late to game on transmission
 - Broad Issues: planning, siting

Fault Lines

- Planning
 - Interconnection wide vs regional planning
 - FERC role (optimization, NEPA implications) , who plans
 - Planning prescriptions
- Siting
 - How broad the gateway (renewables/low carbon resources)
 - Scope of FERC authority vis a vis the states
- Who should have lead agency authority
- Cost allocation
 - Measurable economic benefits (Corker amendment)

Senate: H.R. 1462

- Completely replaces EPCRA 05/FPA Sec. 216
- Applies in both western and eastern interconnect
- High Priority National Transmission Projects
 - 345 kV or above, renewable feeder line, in a regional plan
- Planning:
 - FERC principles (180 days), plans in 2 years
 - Coordinate to ensure integration interconnection-wide
 - Alternatives, stakeholder participation
 - FERC may require modification of plans if necessary to reconcile inconsistencies

Senate: H.R. 1462 (cont.)

- FERC backstop authority for HPNTPs.
 - State fails to act within 1 year on filed application
 - Rejects the application
 - Imposes conditions that unreasonably interfere
- Due weight to environmental record and results of state process
- Mitigation conditions:
 - Habitat protection, environmental, cultural site protections
 - Inconsistent with purposes, infeasible, not cost effective – basis for FERC rejection, after consultation w/ state/tribes to resolve.

Senate: H.R. 1462 (cont. 2)

- Lead Agency – Interior when federal lands are involved
- Follows EPL Act model, but with slightly weaker authority.
- Site within Sec. 368 corridors to “maximum extent practicable.” – if need more, designate them.
- Broader land exclusions from appeals process.
- Cost allocation:
 - Establish methodology (270 days)
 - Permits allocation within all or part of a region, except that costs shall not be allocated “unless costs are reasonable proportionate to measurable economic and reliability benefits.”

Unresolved issues

- Planning: Burr and Dorgan amendments
- Cantwell low carbon interconnection standard
- Eminent domain amendments
- FERC state override authority
- Federal land exclusions

House: H.R. 2454

- Differential treatment of Western and Eastern Interconnects.
- Eastern Interconnect:
 - Keeps EPact05/FPA 216 in place (NIETCs based on DOE congestion study)
 - Narrows application to interstate facilities or those that are interstate in nature
 - Does not overturn 4th Circuit decision

House: H.R. 2454 (cont.)

- Western Interconnection
 - Replaces FPA 216
 - No voltage limitation, but facility must be contained in a regional or interconnection-wide plan and be identified as needed “in significant measure to meet demand for renewable energy – and be an multi-state facility
 - Be consistent with FERC principles and conflicts among plan regarding need are resolved.

House: H.R. 2454 (cont. 2)

- Planning:
 - FERC principles (1 year) – facilitate deployment of renewable and zero-carbon and low-carbon energy sources; nod to reliability and other needs
 - Bottoms up and rolled into interconnection wide plan
 - FERC reviews plans for consistency with principles; may return a plan with recommendations for changes, may assist in resolving conflicts.
 - Appears that anyone can plan

House: H.R. 2454 (cont. 3)

- Lead Agency:
 - FERC, but to extent federal lands are involved, Interior may assume responsibilities as agreed between FERC and DoI.
 - Language is essentially the same as EPL Act 05.

What's Next

- House has completed action, waiting for Senate to finish so the House and Senate can conference: reconcile the differences between their respective bills
- Senate energy bill – waiting for completed committee action on a climate bill.
- If climate bill stalls, Senate energy bill could move independently.