

Resolution Regarding Possible Federal Legislation Amending the Federal Power Act Addressing Expansion of Transmission Facilities

WHEREAS, the siting of electric transmission facilities has historically been subject to the exclusive jurisdiction of the States; and

WHEREAS, it is in the States' interests to ensure that adequate electric transmission facilities are constructed to meet the needs for economic and reliable utility service; and

WHEREAS, it continues to be the long-standing position of the National Association of Regulatory Utility Commissioners (NARUC) that Congress should not expand Federal authority over transmission siting either through amendments to the Federal Power Act or through other Federal legislation; and

WHEREAS, Section 216 to the Federal Power Act, enacted as part of the Energy Policy Act of 2005, provided the Federal Energy Regulatory Commission (FERC) with limited "backstop" transmission siting authority; and

WHEREAS, it is anticipated that within the next few months, Congress will be considering possible amendments to the Federal Power Act that will provide FERC with expanded authority over the siting and construction of new interstate transmission lines; be it therefore

RESOLVED, that in connection with any proposed legislation introduced in the current session of Congress that would expand FERC's current authority over the siting and construction of new interstate transmission lines, the Association and its Washington staff recommend that Congress incorporate the following principles into such legislation:

- That any such additional authority granted to FERC by the legislation allow for primary siting jurisdiction by the States, and provide that FERC's "backstop" siting authority be as limited in scope as possible;
- That, in no event should FERC be granted any additional authority over the siting or construction of new intrastate transmission lines;
- That, in no event should FERC be granted any additional authority to approve or to issue a certificate for a new interstate transmission line that is not consistent with a regional transmission plan developed, in coordination with affected State commissions or other designated State siting authorities, and other regional planning groups, that covers the entire route of the proposed project;
- That, in no event should FERC be granted any additional authority to approve or to issue a certificate for a new interstate transmission line unless there is already in place either (1) a cost-allocation agreement among all the states through which the proposed project will pass that governs how the project will be financed and paid for; or (2) a FERC-approved cost-allocation rule or methodology that covers the entire route of the proposed project;
- That, in no event should any such legislation allow FERC to preempt State authority over retail ratemaking, the mitigation of local environmental impacts under State authority, the interconnection to distribution facilities, the siting of generation, or the participation by affected stakeholders in state and/or regional planning processes; and

- That, in no event should any such legislation preempt existing State authority to regulate bundled retail transmission services.

Sponsored by the Committee on Electricity
Adopted by the NARUC Executive Committee
March 10, 2009