



**ANALYSIS GROUP**  
ECONOMIC, FINANCIAL and STRATEGY CONSULTANTS

# Federal and State Issues – Electric Resource Adequacy



Susan Tierney –  
Presentation to  
NARUC Electricity Committee  
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# Overview of Issues

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- Context
- Recent decisions/initiatives
- Core policy issues
- Strategies for resolving tensions

Goal of presentation:

frame issues for discussion; not take positions



# Context – Realities of U.S. Electricity Policy 101

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## **How it looks depends upon where you sit:**

- Federal and state interests/goals:
  - have a jurisdictional basis for being involved in certain utility resource issues;
  - may be equally valid;
  - can be – and often are – in significant conflict with each other due to state and regional disparities in the underlying technical, economic and demographic factors affecting energy costs;
  - can create tensions among certain regulators, and for the industry as well.



# Context: Electric System Interconnectedness

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## **Few states or companies are electrical islands:**

- Electric markets almost always cross state boundaries.
- States are endowed with different features, creating constraints and opportunities for electric needs and resources.
- There are “transactions” today where they did not exist in the past, due to institutional/corporate changes in the electric industry – e.g.,
  - De-verticalization, unbundling, divestitures, mergers.
  - RTOs with organized central markets.



# Context:

## Traditional regulatory framework

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### **Factors that have traditionally shaped utilities' resource planning and acquisitions:**

- Long-term reliability standard: "1 in 10 year."
- Cost-recovery of power purchases and investments by utilities.
- "Process requirements" for utilities' obtaining incremental supplies.
- Policy directives for resource "preferences."
- Siting reviews for transmission and generation projects.



# Recent decisions/initiatives: Reliability (adequacy) standards

## **Long-term reliability (adequacy) standard: “1 in 10 year” probability of lost load.**

- Commonly held standard in industry and among regulators
  - Utility planning standard;
  - State standard for reviewing long-term plans (including capacity to meet load and reserve requirement);
  - Regional power entities’ standards (e.g., power pools, planning councils, RTOs) for use in setting “reserve requirements.”
- Recent federal/state tensions – example:
  - New, federally-regulated entities (e.g., RTOs) that establish “installed capacity requirements.”



# Recent decisions/initiatives: Cost-recovery determinations

## Traditional state role in utility cost-recovery

- Reviewing utility's investments (G&T) and proposed power purchases to supply retail customers' needs:
  - Prudence of investment decisions.
  - Used and useful plant (including “economically used and useful”).
  - Retail rates often include recovery for “surplus.”
- Recent federal/state tensions – example:
  - Who has rights to transmission capacity embedded in retail rates (e.g., FERC's open access requirements and recovery of residual transmission costs in retail rates)?
  - Who decides whether an asset should be acquired by a utility (e.g., FERC's “safety net” concerns in *Cinergy*)?



# Recent decisions/initiatives: Utility decision-making process

## Utilities' resource planning and procurements:

- Traditional state requirements for the process to be used by the utility to determine incremental supplies, with state approval of results:
  - Competitive and non-competitive procurements.
  - Integrated resource planning/portfolio requirements.
- Recent federal/state tensions – example:
  - Implications of series of FERC cases, e.g.,
    - involving affiliate transactions arising from state-supervised utility actions, in which FERC examines whether the *Edgar* standard is met (e.g., *Allegheny*)
    - requiring holders of market-based wholesale rate authority to report any changes in resource status.

# Recent decisions/initiatives: Resource policy preferences

## **Policy directives for resource “preferences:”**

- State policies/preferences affecting resource decisions and portfolios – e.g.,
  - renewable portfolio standards,
  - QF rules as part of all-resource RFPs,
  - Demand-side measures,
  - carbon “adders,”
  - Self-build approaches,
  - Moratoria on certain projects (underway T, wind),
  - Emissions requirements on local power plant.
- Recent federal/state tensions – example:
  - Pollution control equipment on reliability-must-run unit



# Recent decisions/initiatives: Generation & Transmission Planning and Siting

## Planning for and Siting of G and T projects

- Facility need determinations by state agencies –
  - in-state versus out-of-state needs,
  - electric transmission planning in interstate context (e.g., RTOs),
  - regulatory v. market incentives to build (e.g., locational prices, regional transmission plan),
  - Convergence of gas facility projects with electric market requirements and siting tensions,
- Recent federal/state tensions – example:
  - Cross-Sound Cable (NY-CT).
  - LNG siting in California.



# Core Policy Issues

## **Re: issues fall under traditional state policy but increasingly under federal as well:**

- When does FERC get involved?  
Authority over certain types of transactions:
  - Wholesale sale of power or transmission (FPA §205)
  - Disposition of jurisdictional asset (FPA §203)
- When does FERC “care”?  
“Just and reasonable” standard for rates:
  - “Competition”-related concerns over market power
  - Traditional concerns over appropriate level and type of costs in cost-based rates

# Core Policy Issues

## What are common concerns of regulators?

- What standard to use for resource adequacy?
  - Is it a question simply of jurisdiction (e.g., states v. federal)?
  - Are there also core differences of opinion regarding what resource adequacy (reserve) standard to use?
- What standards to use to approve resource additions?
  - Lowest cost to consumers?
  - Impact on competition?
  - Both? Other?
- How should a load-serving entity meet that standard?
  - Degree of reliance upon competitive wholesale markets
  - Degree of state policy direction regarding “product” or participant or process preferences



# Core Policy Issues

## What are common concerns of regulators?

- What mechanisms are being used to create incentives for or compel adherence to appropriate standards?
  - Joining an RTO with central market administration?
  - FERC conditioning of market-based rate authority?
  - 3rd party administration of RFPs?
  - Price-only evaluation criteria in RFPs?
- How to balance the role of states/federal interests in shaping the processes used by utilities to determine incremental resource additions?
  - Competitive affiliates participate in RFP: Always allow? Never allow? Allow if and only if...?



# Strategies for resolving tensions

## Options and approaches?

- Respect state/regional interconnectedness, e.g.,
  - Rebuttable presumption to plan for 1-in-10 standard?
  - Siting of facilities with interstate benefits?
  - Forum for resolving federal/state tensions?
- State and/or LSE action to avoid FERC oversight over resource planning/acquisition?
  - Prohibitions of competitive affiliate bids in RFPs?
  - State requirements for the utility to build own plant?
  - Asset dispositions without transfer of transmission facilities?
- Legislation?
  - Regional state committees – with rights?
  - “Common-market” or multi-state planning/siting agencies?
  - Federal reliability law giving FERC authority?





**Susan F. Tierney, Ph.D.**  
**Managing Principal**

**Analysis Group, Inc.**  
**111 Huntington Ave., 10<sup>th</sup> Floor**  
**Boston, MA 02199**  
**ph: 617-425-8114**  
**fax: 617-425-8001**  
**stierney@analysisgroup.com**

**[www.analysisgroup.com](http://www.analysisgroup.com)**