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Electricity Transmission Permitting Reform Proposals

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SUMMARY

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Electricity Transmission Permitting Reform Proposals

Permitting reform has been a topic of debate in the 118th Congress. One aspect of this debate addresses the processes for planning, siting, approving, and paying for electricity transmission lines (broadly referred to as transmission permitting in this report). Proponents of transmission permitting reform generally identify two main desired outcomes: (1) increased use of wind and solar energy and (2) improved electric reliability and resilience. Debate has focused on perceived hurdles to the development of large, interstate electricity transmission lines which are broadly viewed as being supportive of these two desired outcomes.

One perceived hurdle is the process for siting electricity transmission lines (i.e., approving their route and authorizing construction). Currently, most electricity transmission siting authority resides in the states. A transmission line crossing state lines may require approvals from multiple state and local governments along the line's path. Critics argue the current framework adds time to the transmission development process and can allow a single state or local government to block a transmission project that is supported by neighboring jurisdictions. In 2005, Congress gave the Federal Energy Regulatory Commission (FERC) in conjunction with the U.S. Department of Energy (DOE) limited authority to site some transmission lines under certain circumstances, but this authority was never used. Congress amended FERC's siting authority in 2021. DOE and FERC are currently developing regulations to implement this revised authority. Some transmission permitting reform legislative proposals would further amend this authority, for example, by granting siting authority for all large interstate transmission lines to FERC. A key point of debate around these proposals is the appropriate role of the federal and state governments over electricity transmission line siting. Some would have the federal government take a larger role, while others would preserve the status quo whereby states have siting authority in most cases.

A second perceived hurdle is the allocation of electricity transmission line costs to customers. A central tenet for electricity regulators is that the beneficiary of new electricity infrastructure should pay for that infrastructure (sometimes referred to as the *cost causation* principle). Under current practice, transmission beneficiaries are typically identified using easily quantified factors such as delivery of lower-cost electricity to a particular utility service territory. Costs for transmission development are allocated exclusively to these identified beneficiaries. Some transmission permitting reform proposals would allocate costs to a broader set of customers (based on a broader view of transmission benefits) and would additionally consider benefits that may be difficult to quantify. A key point of debate around these proposals is the appropriate balance of costs and benefits for consumers. Some believe that identifying a broader set of benefits and beneficiaries would encourage development of beneficial transmission lines that may not be identified using current cost allocation practices. Others believe that changing cost allocation practices could increase costs for consumers without providing direct benefits.

A third perceived hurdle is the planning process for multistate electricity transmission lines. Currently, FERC requires some amount of planning within defined transmission planning regions. Some stakeholders believe current FERC requirements have been ineffective at encouraging large interstate electricity transmission lines. Some proposals would strengthen requirements for regional transmission planning and add requirements for interregional transmission planning. Some proposals would additionally require minimum levels of electricity sharing (*transfer capacity*) between regions. Key points of debate around these proposals are costs and benefits for consumers as well as the appropriate role of federal and state governments in determining electricity transmission needs. Some believe a stronger federal policy supporting interregional electricity transmission could potentially lower costs for consumers and improve reliability and resilience. Others believe the current process sufficiently identifies benefits for consumers and allows state regulators greater say in transmission development.

This report compares provisions addressing these and other selected electricity transmission topics in 12 permitting reform proposals in the 118th Congress, including the Fiscal Responsibility Act of 2023 (P.L. 118-5) which requires a study of interregional transfer capacity. Separate from legislative proposals, FERC has initiated rulemakings that would address some of the topics identified in this report. FERC could change some national transmission policies using its existing authority, without enactment of new legislation specifically addressing electricity transmission permitting. Some Members of Congress have publicly encouraged FERC to do so. Other Members of Congress have publicly encouraged FERC to preserve the status quo.

Contents

Tables

Contacts

Multiple proposals for permitting reform have been put forward in the 118th Congress, and some were adopted in the Fiscal Responsibility Act of 2023 (P.L. 118-5).[1] In the current policy context, the term *permit* is commonly used in a broad sense to refer to a number of federal permits, approvals, authorizations, or other forms of consent around infrastructure development. Likewise, this report uses the term permit in a broad sense. Permitting reform proposals address electricity transmission in various ways. This report discusses current issues in the debate around transmission permitting and summarizes the key transmission provisions in major permitting reform bills introduced to date in the 118th Congress. Much congressional interest in electricity transmission lies in issues other than permits. Nonetheless, this report uses the term *transmission permitting reform* to refer to proposals to change any aspect of transmission planning, siting, approval, cost allocation, and other transmission-related issues and processes. This approach is consistent with the common use of terms in the current policy discussion. This report focuses on topics in the jurisdiction of the Federal Energy Regulatory Commission (FERC) and does not cover topics related to the National Environmental Policy Act (NEPA) or other environmental protection statutes.

Background information on electricity transmission is available in the following CRS resources:

- CRS In Focus IF12253, *Introduction to Electricity Transmission*
- CRS Report R47862, *Electricity Transmission: What Is the Role of the Federal Government?*, by Ashley J. Lawson and Adam Vann
- CRS Report R47521, *Electricity: Overview and Issues for Congress*
- CRS In Focus IF11257, *Variable Renewable Energy: An Introduction*
- CRS Report R45764, *Maintaining Electric Reliability with Wind and Solar Sources: Background and Issues for Congress*

Current Electricity Transmission Policy Issues

Proponents of transmission permitting reform generally identify two main desired outcomes: (1) increased use of wind and solar energy and (2) improved electric reliability and resilience. To achieve these outcomes, a key goal of transmission permitting reform proponents is to support increased development of large transmission lines crossing two or more states. These types of transmission lines are widely viewed to be more beneficial than smaller, intrastate transmission lines with respect to the desired outcomes noted above.

Some industry participants and observers have identified a number of perceived barriers to the development of large interstate transmission lines, as discussed below.

Siting Authority

Currently, most electricity transmission siting authority resides in the states. A transmission line crossing state lines may require approvals from multiple state and local governments along the line's path. Critics argue the current framework adds time to the transmission development process and can allow a single state or local government to block a transmission project that is supported by neighboring jurisdictions. Others argue that the current framework protects the ability of states and local governments to approve (or disapprove) infrastructure that is in the best interest of their citizens.

[1] For an overview of permitting reform provisions adopted in the Fiscal Responsibility Act of 2023 (P.L. 118-5) see CRS In Focus IF12417, *Environmental Reviews and the 118th Congress*, by Kristen Hite.

The Energy Policy Act of 2005 added Section 216 of the Federal Power Act (FPA, 16 U.S.C. §824p), which carves out a limited role for FERC and other federal agencies in siting interstate electric transmission facilities. This section authorizes the Secretary of Energy, in consultation with the affected states, to designate areas experiencing electricity transmission constraints or congestion as National Interest Electric Transmission Corridors (NIETCs). The section grants FERC authority to issue permits for constructing interstate electricity transmission facilities in designated NIETCs (commonly referred to as FERC's *backstop siting authority*). As originally enacted, this authority could be exercised only if the state that has authority to approve the facilities had "withheld approval for more than one year."

Two judicial decisions hamstrung the exercise of the Section 216 authority granted in 2005 to the agencies. In *Piedmont Environmental Council v. FERC* (558 F.3d 304 (4th Cir. 2009)), the U.S. Court of Appeals for the Fourth Circuit held that FERC may not permit transmission facilities if a state has denied the applicant's request to site transmission facilities; FERC may permit the transmission facilities only in the event the state has not acted on the applicant's request. And in *California Wilderness Coalition v. U.S. Dep't of Energy* (631 F.3d 1072 (9th Cir. 2011)), the U.S. Court of Appeals for the Ninth Circuit vacated the Department of Energy's first two NIETC designations, finding that the agency had failed to consult adequately with the states as required by the FPA. Since the Ninth Circuit's 2011 decision, the Secretary of Energy has made no further NIETC designations.

In 2021, Congress amended FERC's backstop siting authority in the Infrastructure Investment and Jobs Act (IIJA; P.L. 117-58) to address, among other things, the issues identified by the lawsuits.[2] DOE is revising its determination of NIETCs and released guidance for applicants in December 2023.[3] DOE anticipates releasing a preliminary list of NIETCs in Spring 2024. Final designation of NIETCs would occur after additional public engagement and completion of any necessary environmental reviews.[4] FERC is likewise revising its regulations related to the backstop siting authority, as discussed in the section "FERC Activities."

Some transmission reform proposals would give FERC siting authority for large interstate transmission lines (in contrast to the status quo whereby states generally site such lines), while preserving state siting authority for small transmission lines and lines that do not cross state borders. Proponents of this approach say that having a single federal approval process would speed the development of large interstate transmission lines compared to the status quo. Opponents say that states are better positioned to identify the best path for all transmission line development. Another proposal would remove DOE's role in determining NIETCs and leave FERC as the sole federal agency involved in federal backstop siting authority.

Cost Allocation

A central tenet for electricity regulators is that the beneficiary of new electricity infrastructure should pay for that infrastructure (sometimes referred to as the *cost causation* principle). FERC enforces this principle in its transmission cost allocation policies laid out in its 2011 Order No.

[2] For a summary of changes made to the Federal Energy Regulatory Commission's (FERC's) backstop siting authority, see CRS Report R47034, *Energy and Minerals Provisions in the Infrastructure Investment and Jobs Act (P.L. 117-58)*, coordinated by Brent D. Yacobucci.

[3] U.S. Department of Energy (DOE), "National Interest Electric Transmission Corridor Designation Process," https://www.energy.gov/gdo/national-interest-electric-transmission-corridor-designation-process.

[4] DOE Guidance on Implementing Section 216(a) of the Federal Power Act to Designate National Interest Electric Transmission Corridors, December 19, 2023, pp. 35-43, https://www.energy.gov/sites/default/files/2023-12/2023-12-15%20GDO%20NIETC%20Final%20Guidance%20Document.pdf.

1000. The order specifies that costs must be allocated "in a manner that is at least roughly commensurate with estimated benefits."[5] A related principle (stated explicitly in Order No. 1000) is that customers that do not benefit from transmission investments should not be required to cover those costs. Under current practice, transmission beneficiaries are typically identified using easily quantified factors such as delivery of lower-cost electricity to a particular utility service territory. Costs for transmission development are allocated exclusively to these identified beneficiaries.

Some transmission reform proposals would shift some transmission cost allocation to less direct beneficiaries, either by considering a broader geographic spread of benefits or including benefits that are more difficult to quantify (e.g., resilience). Proponents of this approach say it would incentivize transmission projects with multiple values that might be overlooked in the current framework. Opponents say this could increase costs for some consumers without providing direct benefits.

Interregional Transmission Planning

Transmission planning—identifying needed upgrades or expansions to the transmission system—happens at the state level (for *local projects*) and at a multistate level (for *regional projects*). Transmission planning affects the kinds of transmission projects that are built in the future. Order No.1000 also addresses transmission planning, and aims in part to encourage increased development of regional projects. In Order No. 1000, FERC required utilities to participate in regional transmission planning in multistate regions.[6] Order No. 1000 also addresses interregional transmission by requiring transmission providers in neighboring regions to coordinate their planning processes. Some stakeholders argue Order No. 1000 has been ineffective at encouraging a large build-out of regional and interregional transmission.

Transmission permitting reform proposals reviewed by CRS do not address regional transmission planning, but some do address *interregional* transmission planning. Some transmission permitting reform proposals would direct FERC to establish new interregional transmission planning requirements. Some would require FERC to enforce minimum levels of interregional transfer capacity. Proponents of these approaches say this would encourage more long-distance transmission development that could potentially lower costs for consumers and improve reliability and resilience. Opponents say the current process is sufficient and allows state regulators greater say in transmission development.

Other Issues

Various other topics have been included in some transmission permitting reform proposals. These include

- FERC's organizational structure for regulating transmission;

[5] FERC, *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, https://www.ferc.gov/electric-transmission/order-no-1000-transmission-planning-and-cost-allocation. FERC issued Order No. 1000 in 2011 to revise its policies for transmission planning and cost allocation. Order No. 1000, and two related clarifying orders, are currently in force.

[6] Not all entities that own transmission lines are covered by Order No. 1000. For example, federal power marketing administrations (e.g., the Bonneville Power Administration) are outside of FERC's jurisdiction for transmission planning. Such entities are not required by FERC to participate in regional transmission planning, though they may choose to do so in a manner consistent with their statutory obligations. For a discussion of federal power marketing administrations, see CRS Report R45548, *The Power Marketing Administrations: Background and Current Issues*, by Richard J. Campbell. For additional information, congressional offices may contact Ashley J. Lawson.

- Consumer protection, for example, an Independent Transmission Monitor to ensure transmission development is efficient and cost-effective;
- Presidential authority for approving international transmission lines (i.e., those connecting the United States with Canada or Mexico);[7]
- Reliability and resilience; and
- Incentives for new technology deployment, such as Grid Enhancing Technologies (GETs) and Non-Transmission Alternatives.

FERC Activities

In the last several years, FERC has initiated (but not finalized) rulemakings addressing many of the issues discussed above. In many cases, FERC has proposed reforms that generally align with the goals of legislative proposals. For example, FERC has proposed reforms to take a broader view for determining transmission cost allocation.[8] FERC has existing authority to finalize these rulemakings and implement some degree of transmission reform without additional congressional directives. Alternatively, Congress could provide statutory guidance for FERC's transmission policies, as some transmission reform proposals would do.

FERC is also revising its regulations implementing its backstop siting authority in response to IIJA (backstop siting authority is discussed in the section "Siting Authority"). The extent to which FERC's revised backstop siting authority could affect transmission development remains unclear. IIJA does not *require* FERC to approve projects that states have denied. Instead, the backstop siting authority provides a "second chance" for projects that meet specified criteria if the projects do not receive approval from the states. Potentially, transmission project developers and states will be encouraged to come to agreements about siting, in order to avoid the federal process. Alternatively, transmission project developers may focus on project design that is likely to be approved by FERC, regardless of state regulators' preferences.

Legislative Proposals

CRS analyzed the transmission permitting reform provisions in selected bills introduced in the 118th Congress, draft legislative proposals, and legislation enacted in the 118th Congress.

Table 1 provides a summary of the provisions in each bill addressing the issues identified above. The table is not a full analysis of each bill, and does not necessarily identify all transmission-related provisions in each bill. For example, H.R. 1 addresses NEPA review for vegetation management (a maintenance procedure for transmission lines) on public lands, but this provision is not included in the table because NEPA is not a topic discussed in this report. The table also does not identify all electricity-related provisions. For example, the Promoting Efficient and Engaged Reviews Act of 2023 addresses the process for interconnecting new power plants with the transmission system, but this provision is not included in the table.

[7] Currently, international transmission lines require a presidential permit for construction.

[8] See FERC, Building for the Future Through Electric Regional Transmission Planning and Cost Allocation and Generator Interconnection, https://www.ferc.gov/media/rm21-17-000. In July 2023, FERC issued Order No. 2023 modifying its regulations for interconnecting new power plants to the transmission system. These modifications could potentially support some goals of transmission permitting reform proposals, namely increased use of wind and solar energy and improved reliability.

The bills and legislative proposals included in this analysis are

- The Streamlining Interstate Transmission of Electricity Act (SITE Act; S. 946), introduced by Senator Whitehouse on March 22, 2023.
- The Lower Energy Costs Act (H.R. 1), as passed by the House on March 30, 2023.
- The Building American Energy Security Act of 2023 (S. 1399), introduced by Senator Manchin on May 2, 2023.
- The Spur Permitting of Underdeveloped Resources Act (SPUR Act; S. 1456), introduced by Senator Barrasso on May 4, 2023.
- The Revitalizing the Economy by Simplifying Timelines and Assuring Regulatory Transparency Act (RESTART; S. 1449) Act, introduced by Senator Capito on May 4, 2023.
- The Promoting Efficient and Engaged Reviews Act of 2023 (PEER Act) discussion draft, released by Senators Carper and Schatz on May 18, 2023.[9]
- The Interregional Transmission Planning Improvement Act of 2023 (S. 1748), introduced by Senator Heinrich on May 18, 2023.
- The Facilitating America's Siting of Transmission and Electric Reliability Act of 2023 (FASTER Act of 2023; S. 1804), introduced by Senator Heinrich on June 1, 2023. Companion legislation (H.R. 4689) was introduced by Representative Peters on July 17, 2023.
- The Fiscal Responsibility Act of 2023 (P.L. 118-5), enacted on June 3, 2023.
- The Connecting Hard-to-reach Areas with Renewably Generated Energy Act of 2023 (CHARGE Act of 2023; S. 2480), introduced by Senator Markey on July 25, 2023. Companion legislation (H.R. 5154) was introduced by Representative Ocasio-Cortez on August 4, 2023.
- The Building Integrated Grids With Inter-Regional Energy Supply Act (BIG WIRES Act; S. 2827/H.R. 5551), introduced by Senator Hickenlooper and Representative Peters on September 18, 2023.
- The Clean Electricity and Transmission Acceleration Act (CETA Act; H.R. 6747), introduced by Representative Casten on December 13, 2023.[10]

[9] The Promoting Efficient and Engaged Reviews Act (PEER Act) discussion draft is available at https://www.epw.senate.gov/public/index.cfm/2023/5/carper-schatz-unveil-environmental-review-and-permitting-reform-proposal.

[10] Earlier versions of this report included a discussion draft of the Clean Electricity and Transmission Acceleration Act, which is available at https://seec.house.gov/sites/sustainableenergyandenvironmentcoalitioncaucus.house.gov/files/CETA%20Act%20Discussion%20Draft%2023.04.26.pdf.

Table 1. Selected Electricity Transmission Provisions in Selected Legislative Proposals and Enacted Legislation in the 118th Congress

	Federal Siting Authority	Cost Allocation	Interregional Transmission Planning	Other Topics
SITE Act (S. 946)	Would give FERC authority to issue certificate of public convenience and necessity for certain large, interstate transmission lines. Would provide right of eminent domain for holders of such a certificate.	Not addressed.	Not addressed.	Not addressed.
Lower Energy Costs Act (H.R. 1)	Not addressed.	Not addressed.	Not addressed.	Would modify approval process for international transmission facilities.
Building American Energy Security Act of 2023 (S. 1399)	Would amend backstop siting authority to allow FERC to determine transmission facilities in the national interest (i.e., removes DOE NIETC designations for purposes of backstop siting authority). Facilities must be interstate (including offshore) or international and meet other criteria.	Would establish cost allocation principles based on broader set of benefits than status quo, for transmission determined by FERC to be in the national interest.	Not addressed.	Not addressed.
SPUR Act (S. 1456)	Not addressed.	Not addressed.	Not addressed.	Would modify approval process for international transmission facilities.
RESTART Act (S. 1449)	Not addressed.	Not addressed.	Not addressed.	Not addressed.

	Federal Siting Authority	Cost Allocation	Interregional Transmission Planning	Other Topics
PEER Act discussion draft	Would give FERC authority to issue certificate of public convenience and necessity for certain large, interstate transmission lines. Would provide right of eminent domain for holders of such a certificate.	Would establish cost allocation principles based on broader set of benefits than status quo. Would require other changes to cost allocation methodologies, including preventing ones that discourage distributed generation, energy efficiency, demand response, or energy storage.	Would direct FERC to promulgate a rule requiring transmission providers to engage in interregional and interconnection-wide planning processes. Would direct FERC to establish minimum transfer capability between regions.	Would establish an Office of Transmission at FERC. Would require independent transmission monitors for each transmission planning region. Would promote adoption of GETs and NTAs.
Interregional Transmission Planning Improvement Act of 2023 (S. 1748)	Not addressed.	Would establish cost allocation principles for interregional transmission projects based on broader set of benefits than status quo.	Would direct FERC to promulgate a rule addressing interregional transmission planning.	Not addressed.
FASTER Act (S. 1804 / H.R. 4689)	Would amend backstop siting authority to allow transmission developers to request certain proposed routes to be designated as a NIETC. Would encourage transmission developers to enter into community benefit agreements with affected parties.	Not addressed.	Not addressed.	Not addressed.
Fiscal Responsibility Act of 2023 (P.L. 118-5)	Not addressed.	Not addressed.	Directs NERC and FERC to study existing interregional transfer capability and recommend levels that would demonstrably strengthen reliability.	Not addressed.

	Federal Siting Authority	Cost Allocation	Interregional Transmission Planning	Other Topics
CHARGE Act (S. 2480 / H.R. 5154)	Not addressed.	Would establish cost allocation principles based on broader set of benefits than status quo. Would require other changes to cost allocation methodologies, including preventing ones that discourage distributed generation, energy efficiency, demand response, or energy storage.	Would direct FERC to promulgate a rule requiring transmission providers to engage in interregional and interconnection-wide planning processes. Would direct FERC to establish minimum transfer capacity between regions.	Would establish an Office of Transmission at FERC. Would require independent transmission monitors for each transmission planning region. Would promote adoption of GETs and NTAs.
BIG WIRES Act (S. 2827 / H.R. 5551)	Not addressed.	Not addressed.	Would direct FERC to promulgate a rule requiring specified levels of interregional transfer capacity between regions.	Not addressed.
CETA Act (H.R. 6747)	Would give FERC authority to issue certificate of public convenience and necessity for certain large, interstate transmission lines. Would provide right of eminent domain for holders of such a certificate. Would amend backstop siting authority to avoid duplicate environmental reviews for the designation of NIETCs and FERC siting decision.	Would clarify that owners of certain interstate or offshore transmission facilities can seek cost allocation through FERC. Would prohibit costs of certain network upgrades from being allocated exclusively to a single interconnection customer.	Would direct FERC to promulgate a rule requiring transmission organizations to develop plans every three years that identify and facilitate the construction of certain interregional transmission projects. Would direct FERC to establish minimum transfer capacity between regions.	Would establish an Office of Transmission at FERC. Would require independent transmission monitors for each transmission planning region. Would promote adoption of GETs and NTAs.

Source: CRS analysis of legislation in Congress.gov and PEER Act discussion draft, available at https://www.epw.senate.gov/public/index.cfm/2023/5/carper-schatz-unveil-environmental-review-and-permitting-reform-proposal.

Notes: FERC = Federal Energy Regulatory Commission; NERC = North American Electric Reliability Corporations; DOE = U.S. Department of Energy; NIETC = National Interest Electric Transmission Corridor; GETs = Grid-Enhancing Technologies; NTAs = Non-Transmission Alternatives. This table does not provide a comprehensive analysis of selected legislative proposals or enacted legislation.

Biden Administration Priorities

On May 10, 2023, the White House released a fact sheet outlining the Biden Administration's priorities for permitting reform.[11] For transmission, these priorities are

- providing for electric transmission siting and cost allocation;
- developing minimum interregional transfer requirements;
- broadening the benefits considered for cost allocation; and
- accelerating the deployment of GETs.

The Administration fact sheet does not provide legislative details for these priorities. For example, the fact sheet does not clarify the meaning of "providing for electric transmission siting and cost allocation." While announcing the Administration's priorities for permitting reform, White House Senior Advisor John Podesta said "Congress should give FERC clear authority to issue permits for interstate transmission lines."[12]

Concluding Observations

Various proposals in the 118th Congress could potentially affect new transmission development. Many of the provisions identified in **Table 1** aim to promote increased development of large, interstate transmission lines. Federal policy is not the only factor affecting development of such infrastructure. Other factors include electricity market conditions and state regulatory decisions.

Other topics included in some permitting reform debate could also potentially affect new transmission development. These include proposals to modify NEPA implementation and proposals to address energy infrastructure development on public lands. A separate, but related, issue is the process for approving offshore transmission lines which is currently overseen by the Department of the Interior's Bureau of Ocean Energy Management.[13]

Several of the issues addressed by proposed provisions (e.g., cost allocation) would provide policy direction to FERC within FERC's existing authority. FERC could adopt these policies absent congressional action. FERC has initiated rulemakings addressing some of the topics discussed in this report. In other words, some FERC transmission policies could change in the coming years even without Congress passing legislation specifically addressing these policies.

Some Members of Congress have publicly called on FERC to do so. For example, on July 24, 2023, Majority Leader Schumer sent a letter to FERC commissioners urging them to strengthen and finalize their transmission rulemakings.[14] Regarding transmission planning, Senator Schumer

[11] White House, "Fact Sheet: Biden-Harris Administration Outlines Priorities for Building America's Energy Infrastructure Faster, Safer, and Cleaner," May 10, 2023, https://www.whitehouse.gov/briefing-room/statements-releases/2023/05/10/fact-sheet-biden-harris-administration-outlines-priorities-for-building-americas-energy-infrastructure-faster-safer-and-cleaner/.

[12] The White House, "Remarks as Prepared for Delivery by Senior Advisor John Podesta on the Biden-Harris Administration's Priorities for Energy Infrastructure Permitting Reform," May 10, 2023, https://www.whitehouse.gov/briefing-room/speeches-remarks/2023/05/10/remarks-as-prepared-for-delivery-by-senior-advisor-john-podesta-on-the-biden-harris-administrations-priorities-for-energy-infrastructure-permitting-reform/.

[13] For additional information about offshore electricity infrastructure development, see CRS Report R46970, *U.S. Offshore Wind Energy Development: Overview and Issues for the 118th Congress*, by Laura B. Comay and Corrie E. Clark.

[14] Letter from Senator Charles E. Schumer to Commissioners Willie L. Phillips, James Danly, Allison Clements, Mark (continued...)

wrote in support of FERC's proposal to include long-term scenarios in transmission planning and encouraged FERC to additionally "require that one of those scenarios includes consideration of a high penetration of variable energy resources."[15] Senator Schumer also wrote in support of FERC's proposal to include two GETs in transmission planning and encouraged FERC to additionally "include other grid enhancing technologies that serve transmission functions and can avoid the need for new transmission, such as energy storage" and "require consideration of reconductoring with advanced conductors." Regarding cost allocation, Senator Schumer wrote "I am concerned that the proposal does not require the use of a specific list of benefits" and "any final rule must include cost allocation provisions, and prescribe a set of benefits of transmission…. Moreover, transmission planners should specifically assess benefits during periods of grid stress, when the electric reliability benefits of transmission assets are the greatest." Regarding backstop siting authority, Senator Schumer wrote "it is also important that FERC expeditiously finalize its federal backstop siting authority … and this should include allowing transmission projects to use the Commission's long-standing pre-filing process to decrease the risk of further delays of project approval."

Other Members have publicly called on FERC to preserve the status quo. For example, Senator Cramer sent a letter to FERC commissioners on September 12, 2023, providing his views on FERC's transmission policies. Regarding transmission planning, Senator Cramer wrote "any attempt by FERC to undermine this state authority [to shape the electricity generation mix] … under the guise of transmission planning would be a legal farce, and the intentions behind these misguided policies would be clear." Regarding cost allocation, Senator Cramer wrote, "forcing customers in states who do not want power from intermittent, unreliable generators, or unnecessary expanded transmission capacity is the antithesis of the just and reasonable standard demanded of FERC." Regarding backstop siting authority, Senator Cramer wrote

> I am concerned the process is being subverted to serve transmission developers rather than the national interest. Although this is outside of FERC's responsibility, it appears DOE is skirting its role in this process…. By establishing NIETCs at the request of developers, rather than through a DOE-led corridor process, there is a clear risk this backstop authority will be utilized by those able to lobby political leadership in Washington rather than transmission planners capable of determining actual need.[16]

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C. Christie, July 20, 2023, https://www.democrats.senate.gov/imo/media/doc/230720_-_letter_to_ferc_on_transmission_reformspdf.pdf.

[15] Solar and wind are examples of variable energy resources.

[16] Letter from Senator Kevin Cramer to Commissioners Willie L. Phillips, James Danly, Allison Clements, Mark C. Christie, September 12, 2023, https://senatorkevincramer.box.com/s/pt9lbl6jb23xcfga4nx8kfncnxgkllyj.

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