“Regional State Advisory Committees and Grid Governance”

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CONSTITUTIONAL CONTEXT

Only Two Places for Ultimate Authority

States

Federal Government
CONSTITUTIONAL CONTEXT

- There is no such thing as a regional government

  (Exception: Interstate Compact – takes both Congress & states)
CONSTITUTIONAL CONTEXT

- Once ultimate authority is determined, all other process is consensual and/or advisory

- Ultimate authority cannot be delegated
CONSTITUTIONAL CONTEXT

Interstate Commerce Clause

Congress may pre-empt and prescribe interstate commerce matters
ELECTRICITY: A MIX OF STATE/INTERSTATE/FEDERAL

Physically, electricity is interstate in nature

- Transmission grids
- Siting
- Reliability
ELECTRICITY: A MIX OF STATE/INTERSTATE/FEDERAL

- Major intrastate concerns
  - Retail service policies and rates
  - Payment of G&T (&D) costs
  - Siting: land-use and environmental
ELECTRICITY: A MIX OF STATE/INTERSTATE/FEDERAL

State-Federal mix inevitable
- Too complex & political to be all federal
- Too interstate to be all local (state)

MSEs necessarily advisory
- To states and/or
- To feds
MSEs: THE NEW PANACEA?

- RTOs
- RSCs
- Siting
MSEs: THE NEW PANACEA?

Practical questions

**Why** is MSE Being Proposed?

**What** Problem does it Address?
MSEs: THE NEW PANACEA?

Where Does/Should Ultimate Authority Lie?

State, Federal, Split, or Joint?

This is the most important question
MSEs: THE NEW PANACEA?

What Functions Will entity Serve?

Who Are First-Level Decision-Makers?

Accountable to Whom?
MSEs/TENSION: Better Input vs. More Red Tape

- **Upside:** more input to inform ultimate authority

- **Downside:** more process
MSEs/TENSION: Better Input vs. More Red Tape

- Alternative: advocacy before ultimate decision-maker

- States may join together ad hoc
MSEs
DEGREES OF INFLUENCE

- Provide Forum
- Create Record
- Make a Recommendation (e.g. FCC joint boards)
- Make Presumptive Decision
MSEs

DEGREES OF INFLUENCE

Alternative: contractual arrangements

- Among governments
- Among utilities
- Can be legally binding
MSEs

MEMBERSHIP/VOTING

- One state, one member?
- Federal member?
- Who names members?
- Majority vote? Consensus?
- Who pays costs?
RSCs

- Still advisory, even without the “A”
- Necessarily advisory
- Ultimate authority matters most
CHALLENGE:

- Where is value added?
- What about existing “MSEs”
Why: BPA oversight
How: Interstate compact
Who: 4 NW Governors each pick 2 members
What: Advisory to States; minor powers over BPA
WIEB  Western Interstate Energy Board

Why  Western issue coordination
How  Interstate compact
Who  12 states and 3 provinces
What  Forum; Advisory to states
WECC Western Electricity Coordinating Council

Why  ❘ Western grid standards
How  ❘ Contracts (utilities)
Who  ❘ Western utilities, PMAs, state reps, others
What  ❘ Contractually enforceable standards
What  ❘ Under Energy Bill: could get delegated authority from FERC
NWPP  Northwest Power Pool

Why  Coordinate hydro
How  Contracts (utilities)
Who  Utilities & BPA
What  Monitors & coordinates regional load balance
## A FEW MULTI-STATE ENERGY ENTITIES IN THE WEST

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<th>WHERE IS ULTIMATE AUTHORITY?</th>
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| NW Regional Power & Conservation Council  
Statutory; Advisory | Oversight of Bonneville Power Administration | Interstate compact | DOE (for BPA) | Plans for regional power needs, and BPA’s fish programs | Eight members, appointed (two each) by four Northwest governors. |
| Western Inter-State Energy Board (WIEB)  
Statutory; Advisory | Originally, to coordinate Western nuclear issues | Interstate compact | States (their authority over energy issues including generation, siting, and emergency response) | Helps Coordinate state functions (advisory) | One member from 12 states and 3 Canadian provinces |
| Committee on Regional Electric Power Cooperation (CREPC)  
Informal; Forum | Need for understanding and coordination of Western electricity and grid issues | Standing committee of WEIB (see above) | States (see above) | Provides a forum for Western electricity issues: facilitates information exchanges, consensus positions, and coordinates actions | Informed representatives from, state energy offices, PUCs, and other relevant state agencies. Staffed by WEIB (above). |
| Western Electricity Coordinating Council (WECC)  
Utility Group* | To establish and manage Western grid reliability standards | By US and Canadian utilities, by contract | BPA and utilities (as subject to their regulators)** | Sets and oversees grid reliability standards | Utilities and Western stakeholders, including states. |
| Northwest Power Pool (NWPP)  
Utility Group* | To coordinate Northwest hydro system operation, as called for by certain agreements; serves as NW subgroup of WECC | By US and Canadian NW utilities, by contract | BPA and utilities (as subject to their regulators) | Coordinates NW hydro system operation consistent with WECC | Utility, BPA, and stakeholder representatives |
CHALLENGE

Where is value added?