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SUMMARY

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Electricity Transmission Permitting Reform: Issues and Legislative Proposals

Permitting reform for energy infrastructure continues to be a topic of interest in Congress. Some Members of Congress are particularly interested in the processes for planning, siting, approving, and paying for electricity transmission lines (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 governments along the line's path. Critics argue that the current framework adds time to the transmission development process and can allow a single state 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 have taken steps to implement this revised authority, but the process remains unfinalized. Some transmission permitting reform proponents would further amend this authority, for example, by granting siting authority for all large interstate transmission lines to FERC. Debate centers around the appropriate roles of 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.

A second perceived hurdle is the allocation of electricity transmission line costs to consumers. A central tenet for electricity regulators is that the beneficiaries 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 proponents would additionally consider benefits that may be difficult to quantify, such as resilience. A key point of debate 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 might 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. Since 2011, FERC has required some planning within transmission planning regions as well as coordination between regions. Some stakeholders believe FERC requirements have been ineffective at encouraging large interstate electricity transmission lines. Some transmission permitting reform proponents would strengthen requirements for interregional transmission planning and infrastructure development. Some proposals would additionally require minimum levels of *interregional transfer capacity* to allow larger electricity transfers between regions. Key points of debate are costs and benefits for consumers and the appropriate roles of federal versus state and local 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 lists and summarizes bills in the 119th Congress addressing these and other aspects of electricity transmission development and regulation. An appendix compares selected proposals from the 118th Congress.

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Permitting reform for energy infrastructure is a topic of interest in the 119th Congress, as it has been for a number of years prior. Multiple proposals were put forward in the 118th Congress, some of which 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 terms *permit* and *permitting* in a broad sense. Permitting reform proposals address electricity transmission in various ways. This report discusses current issues in the debate around transmission permitting with a focus on legislative proposals and regulatory actions by the Federal Energy Regulatory Commission (FERC).

Much congressional interest in electricity transmission permitting lies in issues other than permits per se. 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 report focuses on topics in FERC's jurisdiction and does not cover topics related to the National Environmental Policy Act (NEPA), federal environmental protection statutes, or state policies.

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 Legal Sidebar LSB11296, *Federalism and the Electricity Markets: Balancing National and Local Interests*, by Adam Vann
- 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 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 (i.e., authority to approve the route and authorize construction) resides in the states. A transmission line crossing state lines may require approvals from multiple state governments along the line's path. Transmission line developers may need additional approvals from local or tribal governments, depending on the path of the

[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.

line.[2] Critics of the current framework argue that these multiple approvals add time and uncertainty to the transmission development process and can allow a single state or other government to block a transmission project that is supported by neighboring jurisdictions. Others argue that the current framework protects the ability of states and other governments to approve (or disapprove) infrastructure based on the best interests of their citizens.

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. Section 216 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. Department 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, no Secretary of Energy has made 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.[3] Under its amended authority, DOE released a guidance document for applicants in December 2023 and a preliminary list of 10 potential NIETCs in May 2024.[4] In December 2024, DOE narrowed the list of potential NIETCs to three: the Tribal Energy Access Corridor in North Dakota, South Dakota, and Nebraska; the Southwestern Grid Connector Corridor in Colorado, New Mexico, and Oklahoma; and the Lake Erie-Canada Corridor in Pennsylvania.[5]

Also in May 2024, FERC revised its regulations implementing its backstop siting authority in response to IIJA.[6] The extent to which FERC's revised backstop siting authority could affect

[2] Siting approval is one of multiple permits that a transmission line may require. Some federal agencies may have authority to issue some of these permits, depending on the path of the line. Additional information about the role of federal agencies is in CRS Report R47862, *Electricity Transmission: What Is the Role of the Federal Government?*, by Ashley J. Lawson and Adam Vann.

[3] 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.

[4] 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.

[5] DOE, "Notice of Early Public and Governmental Engagement for Potential Designation of Tribal Energy Access, Southwestern Grid Connector, and Lake Erie-Canada National Interest Electric Transmission Corridors," 89 *Federal Register* 101597-101600, December 16, 2024. A map of the proposed National Interest Electric Transmission Corridors is available at DOE, "National Interest Electric Transmission Corridor Designation Process," https://www.energy.gov/gdo/national-interest-electric-transmission-corridor-designation-process.

[6] FERC, "Applications for Permits to Site Interstate Electric Transmission Facilities," https://ferc.gov/media/e-2-rm22-7-000.

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 applicable state governments. 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 designs that are likely to be approved by FERC, regardless of state regulators' preferences. As of this report's publication date, DOE has not designated any NIETCs, so FERC's backstop siting authority is not in effect.

Some transmission reform proponents want FERC to have primary siting authority for large interstate transmission lines (similar to FERC's siting authority for interstate natural gas pipelines under the Natural Gas Act), while preserving state siting authority for small transmission lines and lines that do not cross state borders.[7] 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 and to consider the interests of affected landowners.

Cost Allocation

A central tenet for electricity regulators is that the beneficiaries of new electricity infrastructure should pay for that infrastructure (this is sometimes referred to as the *cost causation* principle). FERC enforces this principle in its transmission cost allocation policies laid out in its Order No. 1000, issued in 2011. The order specifies that costs must be allocated "in a manner that is at least roughly commensurate with estimated benefits."[8] A related principle (stated explicitly in Order No. 1000) is that customers who 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 proponents want FERC policies to recognize broader categories of benefits, including some that are more difficult to quantify (e.g., resilience). Proponents of this approach say it would incentivize development of 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

FERC Order No. 1000 also required utilities to participate in regional transmission planning in multistate regions.[9] Additionally, the order required transmission providers in neighboring regions

[7] For more details about FERC's pipeline siting authority, see CRS Report R48347, *Federal Energy Regulatory Commission (FERC) Natural Gas Permitting and Litigation*, by Paul W. Parfomak and Adam Vann.

[8] FERC, "Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities," 76 *Federal Register* 49842, August 11, 2011, https://www.federalregister.gov/documents/2011/08/11/2011-19084/transmission-planning-and-cost-allocation-by-transmission-owning-and-operating-public-utilities. 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.

[9] 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 (continued...)

to coordinate their planning processes, including planning for interregional transmission projects (i.e., transmission projects spanning more than one transmission planning region). Despite this requirement, few interregional transmission projects have been constructed since 2011. Numerous studies have found that increased interregional transmission could achieve the goals of transmission permitting reform, namely increased use of wind and solar energy and improved reliability and resilience.[10]

The Fiscal Responsibility Act of 2023 (P.L. 118-5) directed the North American Electric Reliability Corporation (NERC) to (1) identify current interregional transfer capability; (2) recommend "prudent additions to total transfer capability" that would "demonstrably strengthen reliability"; and (3) recommend ways to meet and maintain the identified additional levels of interregional transfer capability.[11]

NERC finalized the required study in November 2024.[12] NERC found that existing interregional transfer capability varies geographically and throughout the year and "cannot be represented by a single number."[13] The analysis found that an additional 35 gigawatts (GW) of interregional transfer capacity would improve reliability under the studied conditions, but this capacity is not evenly distributed across the country.[14] The largest need (14 GW total) was found between ERCOT (the region serving most of Texas) and its neighboring regions. Thirteen of the 23 studied U.S. regions required no additional interregional transfer capacity. NERC noted that the prudent additions it identified "represent directional guidance for strengthening reliability under extreme conditions and should not be misconstrued as mandatory construction directives but rather as directional insights for supporting system resilience."[15]

One key point is that NERC's analysis was based solely on reliability needs, as required by Congress. The analysis did not evaluate the costs of building new interregional transmission infrastructure. NERC identified non-transmission options that could also address reliability needs, such as building more power plants or increasing the use of demand response (a type of energy conservation). To achieve the recommended levels of interregional transfer capability, NERC recommended that "policymakers consider implementing mechanisms to address current

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.

[10] See, for example, the list of studies in Brattle Group, "The Value of Interregional Transmission: Grid Planning for the 21st Century," PowerPoint presentation, Midwestern Governors Association MID-GRID 2023 Meeting, Little Rock, AR, September 27-28, 2023, p. 17, https://www.brattle.com/wp-content/uploads/2023/09/The-Value-of-Interregional-Transmission-Grid-Planning-for-the-21st-Century.pdf.

[11] The North American Electric Reliability Corporation (NERC) is the certified Electric Reliability Organization for the United States, pursuant to 16 U.S.C. §824o. For background information on NERC's and FERC's roles in regulating electric reliability, see CRS Report R45764, *Maintaining Electric Reliability with Wind and Solar Sources: Background and Issues for Congress*, by Ashley J. Lawson, and CRS Report R48127, *Natural Gas Reliability: Issues for Congress*, by Paul W. Parfomak, Ashley J. Lawson, and Michael Ratner.

[12] NERC, *Interregional Transfer Capability Study (ITCS): Strengthening Reliability Through the Energy Transformation*, November 2024, https://www.nerc.com/pa/RAPA/Documents/ITCS_Final_Report.pdf (hereinafter NERC, *ITCS*).

[13] NERC, *ITCS*, p. x.

[14] NERC assessed prudent additions as the amount of interregional transfer capability that would prevent energy shortfalls in a projection of the contiguous U.S. electricity system in 2033. The analysis was based on electricity demand and supply projections from NERC's 2023 Long-Term Reliability Assessment (LTRA), published in December 2023. The supply projections include planned retirements and additions from new capacity under development as of the time of data collection for the 2023 LTRA. The analysis used historic weather data for the years 2007-2023.

[15] NERC, *ITCS*, p. xiv.

challenges with siting and permit approval processes, cost allocation methods, and multi-party operating and maintenance agreements."[16]

Some proponents of transmission permitting reform want FERC to establish new interregional transmission planning requirements. Some proposals would require FERC to enforce minimum levels of interregional transfer capability. Proponents of these approaches assert this would encourage more long-distance transmission development that could potentially lower costs for consumers and improve reliability and resilience. Opponents counter that the current process is sufficient and provides state regulators the appropriate role in transmission development.

Other Issues

Various other topics have been part of the transmission permitting reform debate in recent years, though with less emphasis than the topics identified above. These include

- FERC's organizational structure for regulating transmission;
- consumer protection, such as 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);[17]
- reliability and resilience; and
- incentives for new technology deployment, such as grid-enhancing technologies (GETs) and non-transmission alternatives.

Legislative Proposals in the 119th Congress

The following list identifies bills introduced in the 119th Congress that would address one or more of the topics discussed in this report.[18] Relevant bills are listed below in chronological order of introduction, along with a brief summary of the relevant provision(s). Selected actions beyond introduction are included where relevant. This list does not provide a full analysis of each bill, nor does it necessarily identify all electricity-related provisions within the bill.

- The Reinforcing the Grid Against Extreme Weather Act of 2025 (H.R. 603), introduced by Representative Casten on January 22, 2025, would direct FERC to determine a minimum transfer capability between neighboring transmission planning regions and would require transmission planning entities to develop plans to achieve minimum interregional transfer capability.
- The Advancing GETs Act of 2025 (H.R. 2703 / S. 1327), introduced by Representative Castor and Senator Welch on April 8, 2025, would direct FERC and DOE to implement policies aimed at increasing the use of GETs.

[16] NERC, *ITCS*, p. 136.

[17] Currently, international transmission lines require a presidential permit for construction. This authority has been delegated to DOE. Additional information is available at DOE, "Presidential Permits," https://www.energy.gov/gdo/presidential-permits.

[18] To identify transmission permitting reform bills introduced in the 119th Congress, CRS searched Congress.gov for bills that included the term "Federal Energy Regulatory Commission." Bills were then reviewed to determine whether they addressed the policy issues covered by this report.

- The North American Energy Act (S. 1485), introduced by Senator Hoeven on April 10, 2025, would modify the process for approving international electricity transmission lines.
- The Promoting Cross-Border Energy Infrastructure Act (H.R. 3062), introduced by Representative Fedorchak on April 29, 2025, would modify the process for approving international electricity transmission lines. This bill was passed by the House on September 18, 2025.
- The SPEED and Reliability Act of 2025 (H.R. 5600), introduced by Representative Peters on September 26, 2025, would repeal DOE's authority to designate NIETCs and would grant FERC siting authority over certain interstate transmission lines.

Appendix. Selected Legislative Proposals in the 118th Congress

This appendix contains a table (**Table A-1**) summarizing selected transmission permitting reform bills introduced in the 118th Congress. This appendix does not provide a comprehensive list of such bills. The table provides a summary of the provisions in each bill addressing the issues identified in this report. The table is not a full analysis of each bill, nor does it necessarily identify all transmission-related provisions in each bill. For example, some bills in the 118th Congress would have addressed 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 outside the scope of this report. The table also does not identify all electricity-related provisions in each bill.

Table A-1. Electricity Transmission Provisions in Selected Legislative Proposals in the 118th Congress

	Federal Siting Authority	Cost Allocation	Interregional Transmission Planning	Other Topics
SITE Act (S. 946)	Would give FERC authority to issue certificates of public convenience and necessity for certain large interstate transmission lines. Would grant eminent domain authority to holders of such certificates.	Not addressed.	Not addressed.	Not addressed.
Lower Energy Costs Act (H.R. 1)	Not addressed.	Not addressed.	Not addressed.	Would modify the 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 the approval process for international transmission facilities.
Interregional Transmission Planning Improvement Act of 2023 (S. 1748)	Not addressed.	Would establish cost allocation principles for inter-regional transmission projects based on broader set of benefits than status quo.	Would direct FERC to promulgate a rule addressing inter-regional 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 NIETCs. Would encourage transmission developers	Not addressed.	Not addressed.	Not addressed.

	Federal Siting Authority	Cost Allocation	Interregional Transmission Planning	Other Topics
	to enter into community benefit agreements with affected parties.			
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 inter-regional transfer capacity between regions.	Not addressed.
CETA Act (H.R. 6747)	Would give FERC authority to issue certificates of public convenience and necessity for certain large interstate transmission lines. Would grant eminent domain authority to holders of such certificates. Would amend backstop siting authority to avoid duplicate environmental reviews for the designation of NIETCs and FERC siting decisions.	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 selected 118th Congress legislation in Congress.gov.

Notes: FERC = Federal Energy Regulatory Commission; NERC = North American Electric Reliability Corporation; 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 the selected legislative proposals.

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