

✖ The sense of urgency for building new electric transmission lines to transport large quantities of solar and wind power has spurred a national debate about the proper role for the federal government and the states in siting those lines. Although land use decisions such as these usually reside in the states, many worry that states might be too slow to approve new lines, or hesitant to allow towers and cables that benefit states other than their own. Some say that the federal government should take over the permitting process and impose new lines on states whether they like them or not. Many especially want to give the feds this authority if the new line might carry power derived from renewable energy.

The Energy Policy Act of 2005 stuck its nose into this debate by allowing the Department of Energy to designate [National Interest Electric Transmission Corridors](#) through which the Federal Energy Regulatory Commission (FERC) could site lines if the state involved failed to do so, or didn't do it right. However, a recent court decision ([Piedmont Environmental Council v. FERC](#), No. 07-1651 (4th Cir. Feb. 18, 2009)) trimmed FERC's sails by saying that the 2005 law, as written, does not empower FERC to say "yes" after a state has said "no". At least that is the law now, in the Fourth Circuit.

New draft legislation offered in the U.S. Senate by Senator Jeff Bingaman would overcome *Piedmont* by expressly stating that FERC can reverse a state decision. However, contrary to bill proposals from others including Representative Jay Inslee, Bingaman would keep primary jurisdiction over new lines with the states. FERC would step in only when the states fail to do what FERC wants. At least this approach would preserve some aspects of local control over land use decisions. This is being important, since states are likely to be more in tune with local values and environmental factors.

One concern related to this debate is that no one has demonstrated that states can't do the job on their own, or with minimal federal guidance. State autonomy shouldn't be a problem unless the power lines cross over into another state. And most of the time, involvement by the feds ought to be unnecessary when a line starts in one state and ends in the state next door. In that situation, one state is likely the host to the source of power, and those in the neighboring state want to use that power (FERC refers to this as "source and sink"). The bigger challenge might come when the power lines would cross over one or more states that are neither the "source" nor the "sink". Why should those "bystander" states want to approve a line that doesn't serve their constituents?

There should be a more constructive approach to resolving this problem, short of taking the states out of the loop. One option: first let the "source and sink" states decide whether they want the line. A favorable decision in these states could trigger a regional process including the bystander states that would get a piece of the lines, but none of the benefits. If the

states working together can't solve the problem, then it might make sense for FERC to step in.

There are scenarios that might not fit neatly into this model. It is important to remember, however, that there are potential environmental benefits to retaining some degree of local control.