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Energy's Articles of Confederation

An attendee at a recent industry conference made the cynical observation that the dysfunctionality of our national and state energy policies can be attributed to the fact that implementation of any program is subject to institutional limitations akin to those imposed by the "Articles of Confederation." Readers may recall that the Articles preceded the Constitution as the governing compact for the 13 original states.

The distinguishing feature of the Articles was its emphasis on state "sovereignty": "Each state retains its sovereignty, freedom, and independence, and every power, jurisdiction, and right, which is not by this Confederation expressly delegated." The Articles granted each state, regardless of size or population, one vote on legislative matters. The Articles empowered the central government to make war, but each state issued its own currency. Conversely, the central government had no taxing authority but was funded by voluntary contributions by the states. The net effect was a governmental structure that severely frustrated coordinated national policy and within a few years led to adoption of the Constitution and its greater focus on the nation.

State "sovereignty" impedes path to energy independence

This analogy to the Articles of Confederation suggests that fundamental changes in our governmental structures are needed to achieve a workable energy policy. The overriding national energy imperative since the oil embargos has been "energy independence"—a mission indisputably unaccomplished. Government has consistently failed to successfully implement any coherent energy policy. Presidential candidates debate "drill, baby, drill" versus a "green agenda"; the real focus, however, should be on developing governmental structures with the capability and authority to successfully implement any energy program, once the critical policy decisions have been made.

For instance, even if a new president determined that building 45 nuclear power plants is the best path to energy independence, there is zero chance that states and localities would approve the siting or disposal procedures for even the smallest fraction of those facilities. Conversely, achieving energy independence with green resources remains frustrated by our inability to construct necessary transmission facilities and the absence of any institutional means to comprehensively address this glaring deficiency.

Current state and local "sovereignty" on energy infrastructure development enables communities to "control their destiny" and balance overreaching by distant officials; however, it also impedes achieving broader-based energy priorities.

Our regulatory bodies responsible for creating and developing energy policy are not designed for efficiency or fairness. Rather, they reflect a century of empowering an ad hoc hodgepodge of agencies at different times, for diverse purposes. Any governmental system must recognize that, at times, the unique needs of a minority be allowed to supersede the interests of the majority. Energy policy must, accordingly, continue to recognize the

community consequences of increased power costs, power plant emissions, or transmission line aesthetics.

However, energy independence will remain unachievable if we allow the sovereignty of constituencies with limited focus to effectively veto necessary infrastructure developments. Officials responsible for energy policy must have the tools and authority to balance the local costs of needed energy infrastructure against the benefits to the greater community and nation.

States need to adopt broader perspective

We must transition energy decision-making and implementation from states toward multi-state and regional bodies. Neither electrons nor emissions recognize state boundaries, and energy policy must be aligned with these realities.

For example, setting renewable portfolio standard (RPS) requirements on a state-by-state basis is wasteful, inefficient, and distracting, because a wind farm in Montana contributes toward energy independence and reduces carbon emissions as much as a wind project in California. States may find it uncomfortable to relinquish their sovereignty by joining California on common RPS targets and protocols, but the reality is that California's appetite for RPS resources is already affecting the energy economies of all Western states. Moreover, it is simply embarrassing to have "green" power sources not qualify as RPS-eligible in their state of generation but become RPS-qualified once their electrons are transmitted to an adjacent state.

Similarly, state sovereignty over interstate transmission projects has proven incompatible with achieving energy independence. Our energy exigencies no longer allow us the luxury of deferring a transmission project on the grounds that its costs and benefits are disproportionately allocated. The governmental paradigm necessary to achieve energy independence must authorize the timely construction of transmission projects and empower policymakers to fairly allocate their costs and benefits. Such a paradigm would also recognize that the danger of global warming is reduced for all states by a transmission line that enables a solar power project to be constructed in Arizona even if the power is consumed in California.

Another rebalancing of power needed

The transition from the Articles of Confederation to the Constitution was a risky, indeed radical, but absolutely necessary reform more than 200 years ago. State sovereignty had to yield to broader priorities. Today, states and municipalities must yield their control over energy policy to multi-state, regional, and perhaps national bodies. Today's energy challenges demand 21st-century responses; the sovereignty vestiges of the 18th-century Articles of Confederation are increasingly anachronistic. ■

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