Distributed Generation: Jurisdiction and Integration

Remarks by Frank R. Lindh
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State Jurisdiction Over Distributed Generators, by Frank R. Lindh and Thomas W. Bone, Jr.
34 Energy L.J. 499 (2013)
3 segments:
• Generation
• Transmission
• Distribution

No generators on distribution network

Source: Wikipedia, Electric Power Distribution,
http://en.wikipedia.org/wiki/Electric_power_distribution
(Visited February 17, 2014)
EPRI: Depicting an “integrated grid with [Distributed Energy Resources] in residences, campuses, and commercial buildings networked as a distributed energy network.”

Source: Electric Power Research Institute, “The Integrated Grid: Realizing the Full Value of Central and Distributed Energy Resources” (February 2014), Figure 12, p. 31.  
http://www.epri.com/search/Pages/results.aspx?k=system+of+the+future&v1=-mpacd  
(Visited February 17, 2014)
What is the Scope of Regulation Over Distributed Energy Resources?

- Interconnection rules and cost allocation (including distribution system upgrades)
- Pricing and terms and conditions of output sales arrangements
- “Must take” purchase obligation for the utility
FERC’s Rulings

Distributed generators must have authorization to interconnect and sell their output, either:

1. As “Qualifying Facilities” under PURPA, with terms set by a State Commission, or


See, e.g., Calif. Pub. Utilities Comm’n, Declaratory Order, 132 FERC ¶61,047 at Para. 72 (2010);
Sun Edison Co., 129 FERC ¶61,146 at Para. 18 (2019).
We Challenge FERC’s Legal Theory

We argue the States have jurisdiction to regulate distributed generators.

• States not preempted by Federal Power Act.

• Federal Power Act carves out “facilities used in local distribution.”

• Sales confined to local distribution circuits are not “in interstate commerce.”
Integration Must Be The Focus for Distributed Energy Resources

- EPRI: Distributed energy resources should operate synergistically with the grid.
- Distribution “islands,” isolated from the grid, would be inefficient.
- California leads the way with innovations in distributed energy resources of all types.
- Rate “decoupling” mitigates the risk of revenue erosion.