

Energy Facility Siting: The White House Plays It Tough

Up and down the Atlantic and Pacific coasts, and in the Rocky Mountain region as well, the prospect of possibly disruptive and environmentally degrading energy projects is creating a strong political stir. State governors are speaking out against federal plans—as with those for accelerated leasing of outer continental shelf oil—to expedite energy development. But, even in the face of this rapidly emerging political reality, the Ford Administration apparently has not yet concluded that it must proceed in this field on a basis of conciliation and consensus.

In fact, whether consciously or not, the White House has just thrown down the gauntlet again. It has sent to Congress a bill that would require each state to prepare a program for siting power plants, oil refineries, and other energy facilities—a program which, moreover, would have to be acceptable to the head of the Federal Energy Administration (FEA). If the FEA administrator found any program or part of a program to be inconsistent with federal guidelines, he could override the state's wishes and require revisions.

This federal "override" or "preemption" provision is such strong stuff that the measure in question—the Energy Facilities Planning and Development bill—has been protested even within administration councils. Agencies where some key officials have taken issue with the bill include the departments of Interior and Commerce, the Environmental Protection Agency (EPA), and the Council on Environmental Quality (CEQ). Another aspect of the bill that agency officials have opposed is that energy facility siting would not be a clearly subordinate part of land use and coastal zone management. Instead, the bill says, with perhaps deliberate vagueness and ambiguity, that such facility siting programs shall be compatible with land use and coastal zone programs "to the extent possible."

On 28 January, before the bill actually had gone to Congress, Russell W. Peterson, chairman of the CEQ, expressed disagreement with the measure in a strongly worded letter to Frank Zarb, administrator of the FEA and perhaps the bill's most determined proponent. A former governor of Delaware (where energy facility siting has been a hot issue), Peterson said in part:

... I am concerned about the effect such legislation, if enacted, might have on the existing Coastal Zone Management program, and on possible legislation on land use. In addition, serious questions are raised by provisions in the bill that would allow federal administrative decisions in certain circumstances to override long-standing state and local laws governing the siting of energy facilities and the regulation of land use.

... Opposition to the measure as proposed can be expected to be strong in the Congress, and to be backed by state, local, and citizen opposition related to both the need for legislation and the unnecessary federal involvement included in the act. The result cannot fail to be prolonged discussion on legislation that should be simpler, more palatable, and more in the spirit of intergovernmental cooperation. The answer to our energy siting problems cannot be to try to override other laws and practices with single-purpose wisdom.

Peterson had hoped that Zarb would reconsider and

reopen the bill to further interagency examination. But no such thing happened, and the measure was introduced in Congress a few days later. The fact is that the basic policy decision in regard to the bill appears to have been reached before Christmas while President Ford was on a working vacation at Vail, the Colorado ski resort.

The proposed energy facility siting legislation was discussed there as just one part of the total energy package then being prepared with some urgency for presentation to Congress as a follow-up to the President's State of the Union message. According to Eric Zausner, deputy administrator of FEA and one of the officials present at Vail, the question of whether the bill should provide for a federal override was specifically discussed and was in fact regarded as the major policy issue to be decided.

Zausner recalls that some questions were raised about the bill, but he remembers no sharp dissent. In particular, he says that Secretary of the Interior Rogers Morton supports the bill now, whatever reservations he may have had about it then. The bulk of the opposition to the bill appears to have been expressed at interagency meetings held in January by the Office of Management and Budget—meetings which, however, were not held to weigh the bill's basic provisions but merely to allow staff-level technicians to tidy it up.

The President's decision to go with the bill as proposed by FEA reveals again the apparent weakness of Morton's influence and the potency of Zarb's. For it is known that Morton definitely did have strong reservations about the measure. It is understood that he would have much preferred to have energy facility siting handled within the larger context of land use management legislation—legislation which his department has prepared in hopes that the White House will clear it for submission to Congress later this year.

Zarb also got his way last December when the President, contrary to Morton's recommendation, vetoed the strip mining bill.

But, on the energy facility siting issue, Zarb's success in the bureaucratic interplay does not appear likely to be followed by success on Capitol Hill. As far back as 1971, power plant siting bills were sent there by the White House, only to disappear almost without trace.

According to a spokesman for Senator Ernest Hollings (D-S.C.), an influential member of the Senate Commerce Committee and sponsor of the Coastal Zone Management Act of 1972, the Senate Democratic Policy Committee and the Democratic Caucus will be asked to take a position in favor of having energy facility siting handled through coastal zone and land use management programs. Moreover, it appears that a close alliance on this issue is shaping up between Hollings and Senator Henry Jackson (D-Wash.), chairman of the Senate Interior Committee and sponsor of land use legislation soon to be introduced.

A federal override may ultimately be necessary in energy facility siting, as in some other areas of land use management. But the way the White House is trying to achieve this will raise political hackles from Maine to California.—LUTHER J. CARTER