

Hamilton and the Future of the Electricity Sector

May 23, 2016

OK...this is not about the Broadway show, and no, I can't get you tickets. A touring company production of the hit show was just announced for Washington, DC and the buzz here is that the wait will be two years for tickets to it. Not sure how that can be, but anyway...

Hamilton was of course the key advocate for Federalism at the time that our nation was founded, and he became head of the Federalist Party. He advocated for a strong central government and strong national level institutions.

I guess I have always pretty much been a federalist myself. I started my career as a lobbyist on energy and environmental issues for a local government trade association. I then worked for a state energy office. But the idea of federal consistency always seemed to make sense to me as opposed to a disaggregated system of different laws, regulations and rules. Later, when I worked for a large multi-state utility, then for a technology company seeking to do business in every state, and then finally in being an advocate for DR, DER and grid modernization over the past decade, my belief in federalism for the energy sector grew stronger as I saw the inefficiencies and in some cases unfairness in a potpourri of different state and local designs trying to address the same issue.

Exhibit A in this inconsistency might be the fact that approximately half of the 50 states have open electricity markets and the other half don't. Many more exhibits can be introduced.

But suddenly I am finding myself having to step back. I find myself wondering if we should be headed towards less energy federalism instead of more. Exhibit A in *that* proceeding is of course DER.

Distribution is on its way to going from the unsung and unheralded member of the GT&D trinity to being the area where the action is. Distribution systems look like they will be at stage front in the next evolution of the electricity system, both in terms of smaller scale utility resources (not all of which will be generation) and behind-the-meter customer resources (same qualifier).

Well, guess who has the say on how that all happens? According to the Federal Power Act, it is the states. And over the years that "sacred" statute has provided a bright line between state and federal jurisdiction over electricity. So if the action from a technology and customer choice standpoint is going to be at the distribution level, then we are looking at the ball truly being in the court of state regulators and legislators for the game that has begun.

Is this a good thing? I would argue no, for the same reasons that I always have liked federalism. But technology and the Power Act would seem to trump all of those reasons. In terms of the Act, I put quotes around the word sacred in the prior paragraph, but that is really not meant to be flip. The FPA was enacted in the early 1930's in an era of trust-busting and the New Deal, but yet is essentially unchanged in terms of its assignment of jurisdiction. And I have personally witnessed that any and all attempts to even tinker with the Act's jurisdictional provisions have crumbled in an avalanche of cries of states' rights being violated.

So I think the system is what it is and we will all have to make it work. Among other things, that means supporting state regulators, who rarely have the resources they want and seem to have an increasing workload. That is one place where federal funds can help, even with such a simple thing as helping state policymakers travel to workshops, conferences etc. DOE has done a lot of that over the years, but more will be needed going forward.

But the states also have to realize that it is time for them to retreat from the sometimes knee-jerk stance where the Power Act is a "third rail" and shed what has sometimes been reluctance to open up to regional efforts aimed at markets, trading regimes, and simple coordination of planning and operations of the electricity system. The idea one often hears of the states being "laboratories" of experimentation and creativity is valid in concept, but technology is going to push things too fast. Conducting fifty different experiments doesn't make sense; it will just lead to that many different shades of policy. States have to work together - and this goes beyond just talking with each other.

Finally, states need to not think that they are playing the Aaron Burr role in the federal-state face-off that occasionally happens; they should not think that Federalism is dead and buried. We are all in this together, with technology being the neutral, agnostic player that doesn't care what the rest of us think or believe. It just keeps coming and coming, and policy can't win a duel with technology if the former tries to slow the latter down.

Hamilton was working after the Revolution to try to build a new governmental system that would help 13 states work together to accomplish that goal. In the electricity system today, the revolution may only be just beginning but the goal is similar - states (50 of them now) working independently, but hopefully in concert to build a new electricity system to govern a borderless commodity.

At the moment, we are all founding fathers (and mothers) of a new electricity sector. Let's all get on with it.