TRANSMISSION IN WASHINGTON: WHERE WE(TA) GO FROM HERE

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Earlier this year, Governor Bob Ferguson signed Senate Bill 6355, creating the Washington Electric Transmission Authority (WETA).[1] Modeled after similar state-level transmission authorities in Colorado and New Mexico, the law aims to jump-start transmission infrastructure development to help the state reach its zero-carbon and nonemitting goals. As an independent state agency, WETA can, among other things, partner with public and private entities to develop, finance, and, in some cases, own transmission projects.

With upcoming implementation milestones at the end of this year and the beginning of next, this alert discusses several aspects of WETA that will influence how successful it will be at accelerating the expansion of the transmission system in Washington state, including (1) the WETA Board of Directors (Board), (2) WETA's statutory powers, (3) where WETA might build transmission infrastructure, (4) the role of federally recognized tribes in the WETA process, and (5) the paths Colorado and New Mexico have taken in implementing their electric transmission authority laws.

WETA'S GOVERNANCE STRUCTURE: EXPERIENCE AND GEOGRAPHY BASED

A 10-member Board will oversee and operate WETA. The governor must appoint Board members by 1 January 2027, and most of them must also be confirmed by the Washington State Senate.[2] The governor, however, does not have full discretion over the appointments. Rather, the Legislature established specific criteria for the members. The director of the Washington State Department of Commerce (Commerce) or the director's designee will serve as one member of the Board. The remaining members are appointed by the governor subject to Senate confirmation. They must be made up of individuals with the following backgrounds:

- Experience working at a consumer-owned utility (preferably with transmission expertise);
- Experience working at an investor-owned utility (preferably with transmission expertise);
- Expertise in rural county land use planning and law and local permitting processes;
- Expertise in clean energy development;
- Expertise in ratepayer protection;
- Experience representing electrical workers with expertise in building electric transmission;
- Expertise in financing large infrastructure projects;
- Expertise in wildlife conservation and land use policies; and

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- A member from a federally recognized Indian tribe.[3]

In addition to the above criteria:

- At least one Board member must have expertise with Bonneville Power Administration's transmission service;[4]
- At least half of the members must reside east of the Cascade Mountains;[5] and
- No member of the Board may represent a person that owns or operates electric generating or transmission facilities.[6]

Each member other than the Commerce director (or the director's designee) must serve a four-year term. Six of the initial members, however, must have staggered terms of one, two, and three years, presumably to ensure, among other things, carryover of institutional knowledge.[7] The Board must meet at least quarterly and decisions require a simple majority vote of the members.[8]

The Board must hire a WETA executive director by 30 June 2027,[9] who in turn will hire WETA's staff.[10] Until then, Commerce must provide administrative and staff support to the Board.[11]

After the Board is appointed, it will be critical to see how Board votes align—or not—with each member's experience, interests, and geographic location, as those are likely to influence WETA's direction and effectiveness at building transmission in the state.

WETA'S AUTHORITIES AND POWERS: UNIQUE APPLICATION TO TRANSMISSION

WETA has the potential to advance transmission development in Washington by leveraging tools that are not available to all entities. As an instrumentality of the state, WETA possesses statutory powers similar to other public agencies that are generally not held by private entities. When used in the context of transmission buildout, however, these powers are somewhat unique, even for public entities.

- First, in addition to the ability to lease, purchase, accept donations of, and own property, the Legislature has granted WETA the power to acquire property by eminent domain for land or rights-of-way necessary for new transmission corridors for public use.[12] This gives WETA a powerful tool to acquire interests in land for transmission projects.
- Second, WETA can partner with public or private entities to build transmission projects.[13] As a result, a project developed through a public-private partnership can benefit from WETA's eminent domain authority, which is typically available only to public entities. Indeed, WETA can select a “qualified” transmission builder or operator to build, finance, plan, acquire, maintain, or operate a transmission project.[14] WETA also can assist a project proponent in completing the Washington State Environmental Policy Act (SEPA) process and support consultation with tribes on a government-to-government basis.[15]
- Third, as a last resort, WETA may build a transmission project without selecting a qualified transmission builder if it (1) identifies a pressing need for the project, (2) there is no qualified transmission builder available to do that project, and (3) WETA has first adopted rules for such development. Any such project

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may not interfere with or duplicate a project actively under development by a qualified transmission builder.[16]

- Fourth, WETA can own transmission facilities.[17] It can also sell a state-owned transmission project (at any stage of development) to an electric utility, a joint operating agency, BPA, an independent transmission developer, or an independent system operator.[18] WETA, however, can only own a transmission facility to the extent and for the duration necessary or useful to promote the public interest.[19] Prior to becoming an owner of a transmission facility, WETA must develop a plan that justifies its ownership, including a cost-benefit analysis and exit strategy.[20]
- Fifth, WETA can coordinate with the Washington Economic Development Finance Authority (WEDFA) to provide financing for transmission projects.[21] WEDFA can, among other things, issue nonrecourse revenue bonds and participate in economic-development programs to access capital.[22] Unlike its New Mexico and Colorado counterparts,[23] however, WETA is not expressly authorized to issue its own bonds for transmission projects.

Further, like other comparable state instrumentalities, WETA must exercise its powers without creating state debt or lending the credit of the state. While these restrictions are in place to protect taxpayers, they could limit WETA's ability to achieve the law's transmission buildout goals if funds and revenue are insufficient to do so.[24] It remains to be seen, for example, whether funds appropriated to and generated by WETA will be enough to get WETA through condemnation processes, property purchases, inevitable construction delays, or other unforeseen expenses.

Finally, unforeseen circumstances could arise because of WETA's exercise of its statutory powers. WETA, for instance, is only authorized to own projects to "the extent and duration necessary or useful to promote the public interest."[25] But it is not clear what transmission projects will satisfy this standard or what WETA must do if a project becomes uneconomic, unmarketable, or a stranded asset.

WETA may need to address these and other issues by rule or in guidance. Indeed, as one of its first orders of business, we anticipate WETA will adopt rules to further define the scope of its powers and how it intends to exercise them. Until then, however, transmission developers and projects are left with what is in the statute.

TRANSMISSION BUILDOUT UNDER WETA: WHERE WILL TRANSMISSION PROJECTS BE BUILT

While it remains to be seen where new transmission will be built under WETA, the law requires Commerce to at least give us some indication by identifying high-priority transmission corridors by 30 October 2027.[26] In doing so, Commerce must rely on the Western Transmission Expansion Coalition's (WestTEC) 10-Year Horizon Report and the upcoming 20-Year Horizon Report.[27]

Released in February 2026, the 10-Year Horizon Report focused on identifying near-term (by 2035), actionable transmission upgrades needed across the Western states. It contains several key takeaways:

- First, there is a growing need for transmission projects in the Western region due to unprecedented load growth (i.e., roughly a 30% increase in Western peak electric demand in the next decade), an anticipated

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76% increase in nameplate generation in the next decade, and expected increasing demand for geographic diversity of load and generation to maintain system reliability.

- Second, the report identified approximately 12,600 miles of high-voltage transmission projects (both planned and new) across the West to meet the need for transmission projects.
- Third, the 10-Year Horizon Report recommends prioritizing planned transmission projects over the next decade, advancing mission-critical upgrades to ensure those are in-service by 2035, and properly framing costs in comparison to other major infrastructure projects and benefits. It also recommends deploying all tools to address hurdles to development—including early procurement of long lead items, regulatory incentives, streamlined and coordinated permitting, proactive outreach to communities, and innovative business models.

WestTEC is expected to issue its 20-Year Horizon Report later this year. That report will explore long-term planning scenarios and transmission roadmaps for the Western region through 2045, and Commerce must review and consider it before finalizing its identification of high-priority corridors.[28]

Commerce's process for identifying transmission corridors must be open and transparent[29] and must "consider the costs and benefits to Washington ratepayers." Commerce is authorized to "contract with independent expert analysts" to identify the corridors.[30] Indeed, this summer, Commerce sought proposals for a transmission capacity study for the state's "overall transmission capacity needs and [to] identify high-priority transmission corridors through an open and transparent process."[31]

Finally, Commerce must update its identification of high-priority transmission corridors by 30 October 2032, and at least every five years thereafter.[32]

THE ROLE OF TRIBES UNDER WETA

The WETA statute contemplates active participation by tribes. First, the law directs WETA to collaborate with federally recognized tribes—along with other entities, including utilities and transmission developers—"to develop intrastate, interstate, and regional transmission resources[.]"[33]

Second, the law directs Commerce to contract with the Governor's Office of Indian Affairs, which—in coordination with Commerce and the Washington State Department of Ecology—must work with federally recognized tribes whose traditional lands and territories include portions of Washington to develop a statewide tribal consultation framework for transmission planning, siting, and permitting.[34] The Governor's Office of Indian Affairs must provide a report to the governor and Legislature by 1 December 2026.[35] The report must summarize the recommended tribal consultation framework for ensuring early, meaningful, and ongoing government-to-government consultation for WETA activities.[36] It must also identify any proposed statutory or administrative changes needed to implement it.[37]

While it is not yet clear what the tribal consultation framework will look like, the statute requires the framework to "establish standards for early, meaningful, and ongoing government-to-government consultation with federally recognized Indian tribes consistent with the 1989 centennial accord and applicable state and federal law[.]"[38] There are also several other tribal consultation requirements under state and federal law that could be relied on in the development process.[39]

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Tribes will also have other opportunities to influence WETA projects via SEPA and other cultural resource laws. For example, consultation with tribes is required for SEPA analyses and decision documents, including threshold determinations[40] and environmental impact statements.[41] Indeed, SEPA's checklist specifically identifies consultation with tribes as part of assessing the potential impacts on cultural and historic resources on or near the site of a proposed project.[42]

LOOKING AROUND AND LOOKING AHEAD

There is plenty to do before transmission projects will be sited, permitted, financed, constructed, or operated by or with the assistance of WETA. As peers in Colorado and New Mexico have learned, the process can take longer than initially hoped or anticipated.

New Mexico's Renewable Energy Transmission Authority (RETA), for example, was established in 2007 under then-Governor Bill Richardson, who championed clean energy development for New Mexico.[43] Under Governor Richardson's successor, Governor Susana Martinez, however, state funding—and thus on-the-ground progress—for RETA decreased substantially.[44]

But under New Mexico's current Governor Michelle Lujan Grisham, RETA has been revived and participated in the development of several regional transmission projects. These include the Western Spirit Project (a 150-mile line that unlocked 800 MW of wind capacity),[45] the Crossroads-Hobbs-Roadrunner line (a 137-mile line developed in partnership with NextEra Energy Transmission Southwest),[46] and Line 1 of the SunZia project, an approximately 550-mile, 3,000-MW high-voltage direct-current line designed to deliver New Mexico wind generation to Western markets.[47]

Colorado established a similar authority—the Colorado Electric Transmission Authority—in 2021. Colorado's authority experienced some early momentum. It delivered a statewide transmission study showing Colorado needs US$4.5 billion in new and upgraded grid infrastructure to meet clean energy and demand targets.[48] It also narrowed an initial list of over 40 statewide infrastructure options down to six transmission projects for prioritized development.[49] Approximately five years after its creation, however, Colorado's authority has yet to construct a single transmission line.

Part of WETA's success could also rely on its neighbor Oregon. A similar authority was introduced in Oregon's 2025 legislative session, but did not pass out of committee.[50] No similar bill emerged from the shortened 2026 legislative session, but legislators may renew the effort in the 2027 legislative session, as Oregon policymakers have noted the “importance of engaging in multi-state, regional efforts to align and coordinate on transmission.”[51] Oregon Governor Tina Kotek also reaffirmed the state's commitment to transmission infrastructure in a November 2025 executive order, calling for “a coordinated, statewide approach to planning and designating transmission.”[52] Such regional cooperation could enhance WETA's ability to carry out its statutory duties, particularly for interstate and regional transmission projects.

We will follow WETA's progress over the coming year as the Board is appointed and confirmed, the tribal consultation policy is issued, and WETA begins to identify high-priority transmission corridors. Stay tuned.

FOOTNOTES

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[1] SSB 6355, chapter 249, Laws of 2026, Wash. St. Legislature, https://app.leg.wa.gov/billsummary?BillNumber=6355&Initiative=False&Year=2025.

[2] RCW 43.52B.020(1)–(2).

[3] RCW 43.52B.020(2).

[4] RCW 43.52B.020(3).

[5] RCW 43.52B.020(4).

[6] RCW 43.52B.020(5).

[7] RCW 43.52B.020(6).

[8] RCW 43.52B.020(7), (9).

[9] RCW 43.52B.020(1).

[10] RCW 43.52B.030(4).

[11] RCW 43.52B.020(10); *see also* RCW 43.21F.800(4).

[12] RCW 43.52B.040(3).

[13] RCW 43.52B.040(7)(a). Any partnership that WETA enters into with public or private entities must include a fee schedule for services provided under that partnership. *Id*.

[14] RCW 43.52B.040(11)(a). What constitutes a "qualified" transmission builder will be defined by rules to be adopted by WETA. *Id*.

[15] RCW 43.52B.040(7)(b)(ii).

[16] RCW 43.52B.040(11)(b); RCW 43.52B.030(10).

[17] RCW 43.52B.040(10)(a).

[18] RCW 43.52B.040(12)(a)–(b). Before selling a project that is not part of a partnership agreement, WETA must adopt criteria via rule for developing a transparent process, including issuing a competitive request for proposals, evaluating proposals, and selecting a project buyer. RCW 43.52B.040(12)(c).

[19] RCW 43.52B.040(10)(b).

[20] *Id*.

[21] RCW 43.52B.040(15).

[22] RCW 43.163.005; see also RCW 43.163.130(1).

[23] N.M. Stat. § 62-16A-5 ("The authority is authorized to issue and sell revenue bonds . . . for the purpose of entering into a project when the authority determines that the project is needed."); C.R.S. § 40-42-104(1)(r) (providing the authority with the power to "[i]ssue bonds as necessary to undertake a project").

[24] WETA is structured to be partially self-funded. Revenue from the US$5,000 application fee that WETA must charge and sales of transmission projects or property will be deposited into operating and capital accounts. RCW 43.52B.030(6); RCW 43.52B.040(9), (12); RCW 43.52B.050; RCW 43.52B.060. The Legislature has authorized WETA to also receive fund transfers and appropriations from the state's general fund, as well as "gifts, grants,

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and endowments from public or private sources." RCW 43.52B.065. WETA can use this money at its discretion, including for the acquisition of property for transmission projects. Id.

[25] RCW 43.52B.040(10)(b).

[26] RCW 43.21F.800(1).

[27] RCW 43.21F.800(1).

[28] RCW 43.21F.800(1).

[29] *Id.*; RCW 43.52B.030(5).

[30] RCW 43.21F.800(2)–(3).

[31] Energy transmission in Washington, WASH. DEP'T OF COMMERCE, https://www.commerce.wa.gov/energy-policy/energy-transmission-in-washington/ (section on request for proposals for a high-priority transmission corridor study due by September 28, 2026).

[32] RCW 43.52B.030(5).

[33] RCW 43.52B.030(2)(e).

[34] RCW 43.31.802(1)–(2).

[35] RCW 43.31.802(3).

[36] RCW 43.31.802(2).

[37] RCW 43.31.802(3).

[38] RCW 43.31.802(2)(b).

[39] At the state level, these include Chapter 43.376 RCW, which requires state agencies to establish and maintain government-to-government relationships with federally recognized tribes, and Chapter 27.53 RCW, which requires the protection of archaeological resources (including tribal artifacts) and consultation with affected tribes for disturbance of those resources. RCW 27.53.060(3) ("The director, in consultation with the affected tribes, shall develop guidelines for the issuance and processing of permits."). At the federal level, Section 106 of the National Historic Preservation Act requires consultation for federal undertakings, such as federally assisted, funded, or licensed projects. *See* 54 U.S.C. § 302706(b). Executive Order 21-02 in Washington also requires state agencies to consult with affected tribes on state-funded construction or acquisitions that are not subject to Section 106. Executive Order 21-02, Archaeological and Cultural Resources, https://dahp.wa.gov/sites/default/files/eo_21-02.pdf.

[40] WAC 197-11-340; WAC 197-11-360.

[41] WAC 197-11-405(2); WAC 197-11-408; WAC 197-11-455; WAC 197-11-800. See also SEPA checklist guidance, Section B: Historic & cultural preservation, WASH. DEP'T OF ECOLOGY, https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-13-Historic-cultural-p.

[42] *See* WAC 197-11-960(13)(c).

[43] *See* Maeve Allsup, "The rise of the state transmission authority," LATITUDE MEDIA (May 14, 2026),

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https://www.latitudemedia.com/news/the-rise-of-the-state-transmission-authority/.

[44] *See* RETA 2019 Annual Report, https://nmreta.com/wp-content/uploads/2020/01/2019-Annual-Report-1.pdf.

[45] Western Spirit Transmission Project, New Mexico RETA, https://nmreta.com/western-spirit-transmission-project/.

[46] Crossroads-Hobbs-Roadrunner Transmission Project, New Mexico RETA, https://nmreta.com/crossroads-hobbs-roadrunner-transmission-project/.

[47] SunZia Transmission Project, New Mexico RETA, https://nmreta.com/sunzia-transmission-project/. Challengers to the SunZia project raised claims under the National Historic Preservation Act that were originally dismissed by a federal district court, which allowed construction to go forward. The Ninth Circuit, however, reversed that dismissal and remanded the case for further proceedings. *See Tohono O'odham Nation v. U.S. Dep't of the Interior*, 138 F.4th 1189, 1204 (9th Cir. 2025).

[48] Transmission Capacity Expansion Study for Colorado, Colorado Electric Transmission Authority, https://www.cotransmissionauthority.com/transmission-study.

[49] *See* Veronica Ung-Kono, "Unlocking affordable, clean power: Colorado's big move to build transmission lines," ENVT'L DEF. FUND (Aug. 19, 2025), https://blogs.edf.org/climate411/2025/08/19/unlocking-affordable-clean-power-colorados-move-to-build-transmission-lines/.

[50] *See* Kelly Trumbull, "Washington State Did Something Big for the Power Grid—Oregon Could Be Next," SIGHTLINE INST. (Apr. 22, 2026), https://www.sightline.org/2026/04/22/washington-state-did-something-big-for-the-power-grid-oregon-could-be-next/.

[51] *See* Oregon Policy Academy Retreat on Energy Transmission, NAT'L GOVERNORS ASS'N (June 30, 2026), https://www.nga.org/meetings/oregon-policy-academy-retreat-on-energy-transmission/.

[52] *See* Exec. Order No. 25-29 (Nov. 18, 2025), https://www.oregon.gov/gov/eo/eo-25-29.pdf.

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