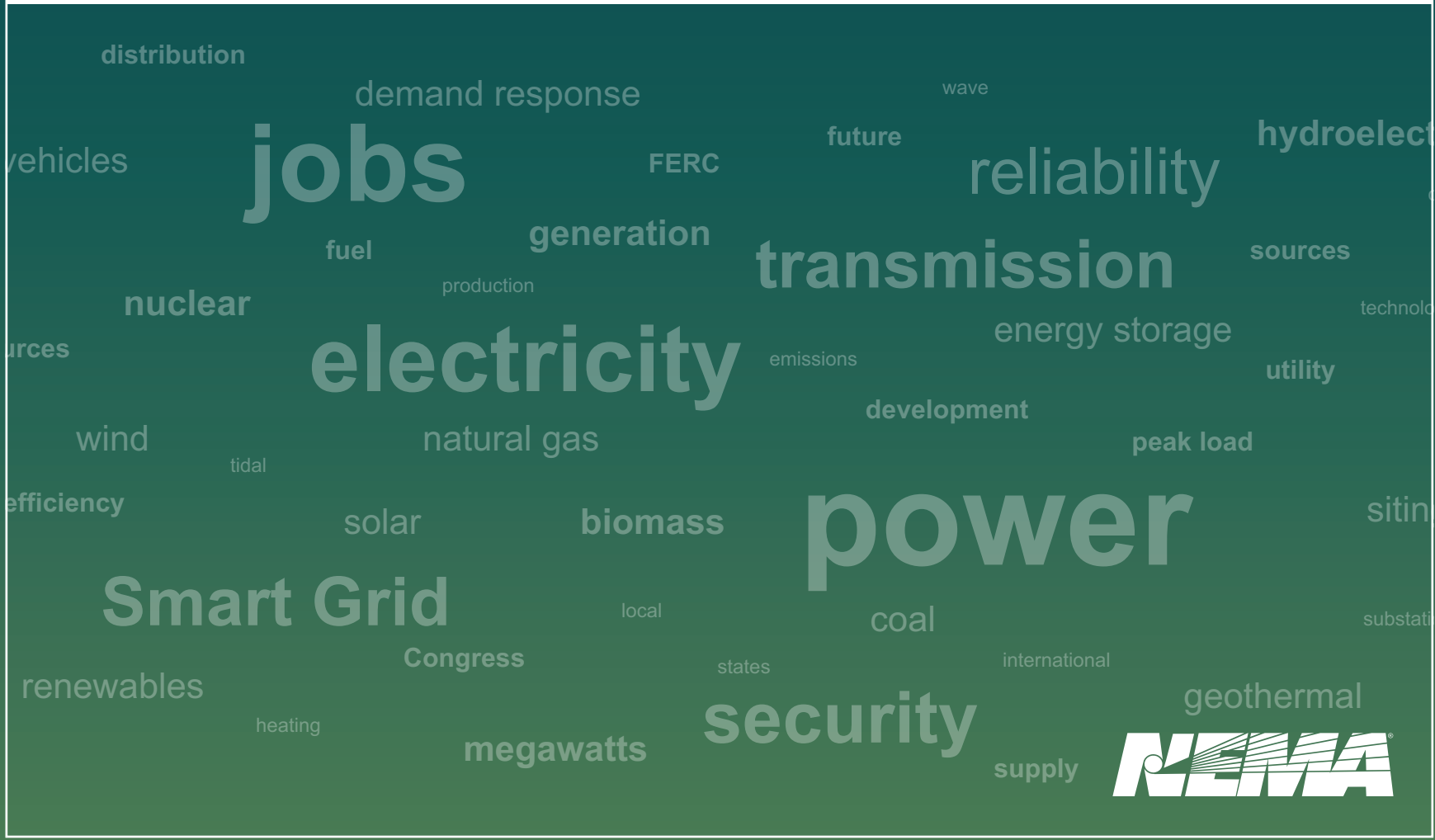
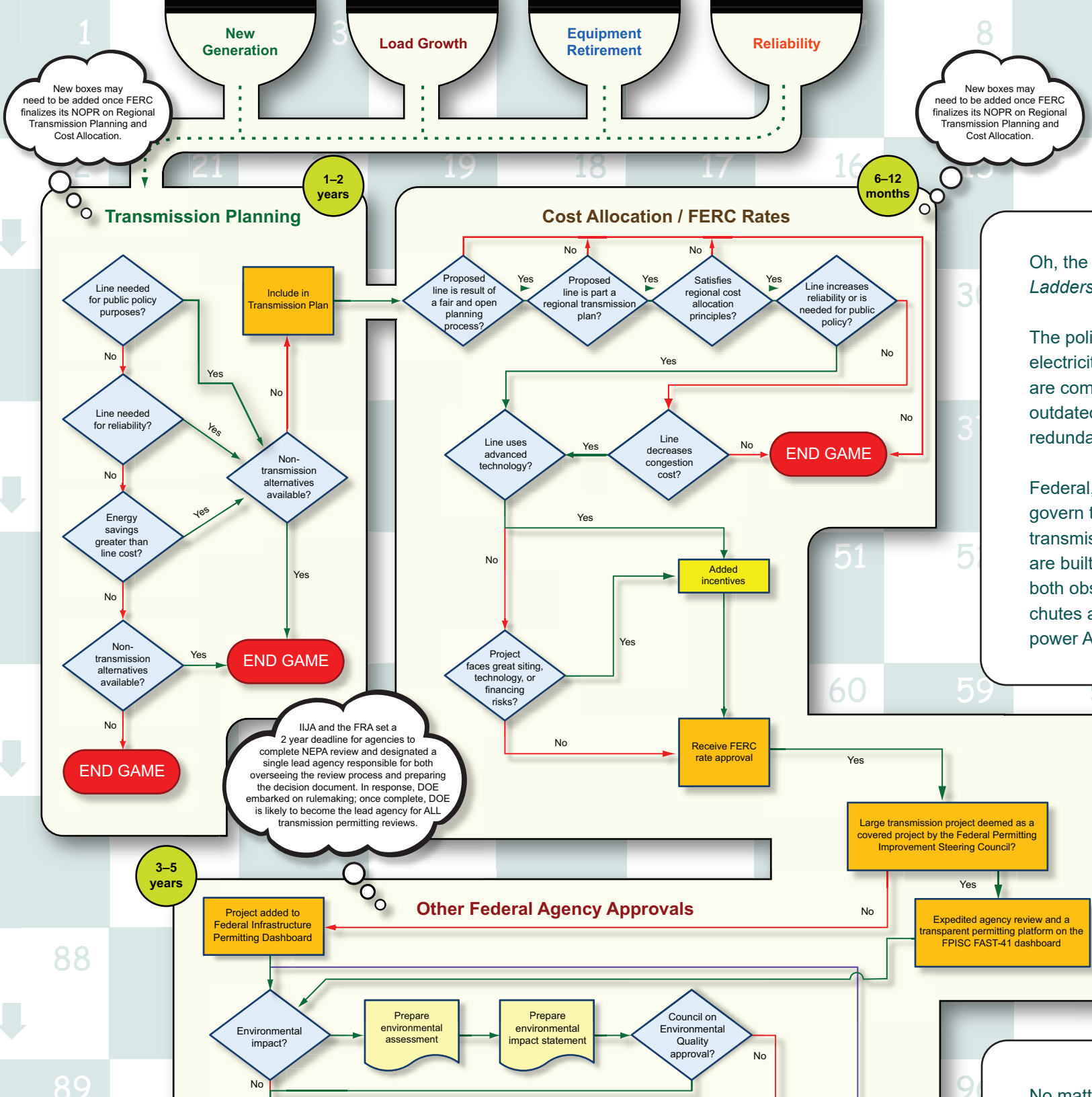
Siting Transmission Corridors—

A Real Life Game of *Chutes and Ladders**

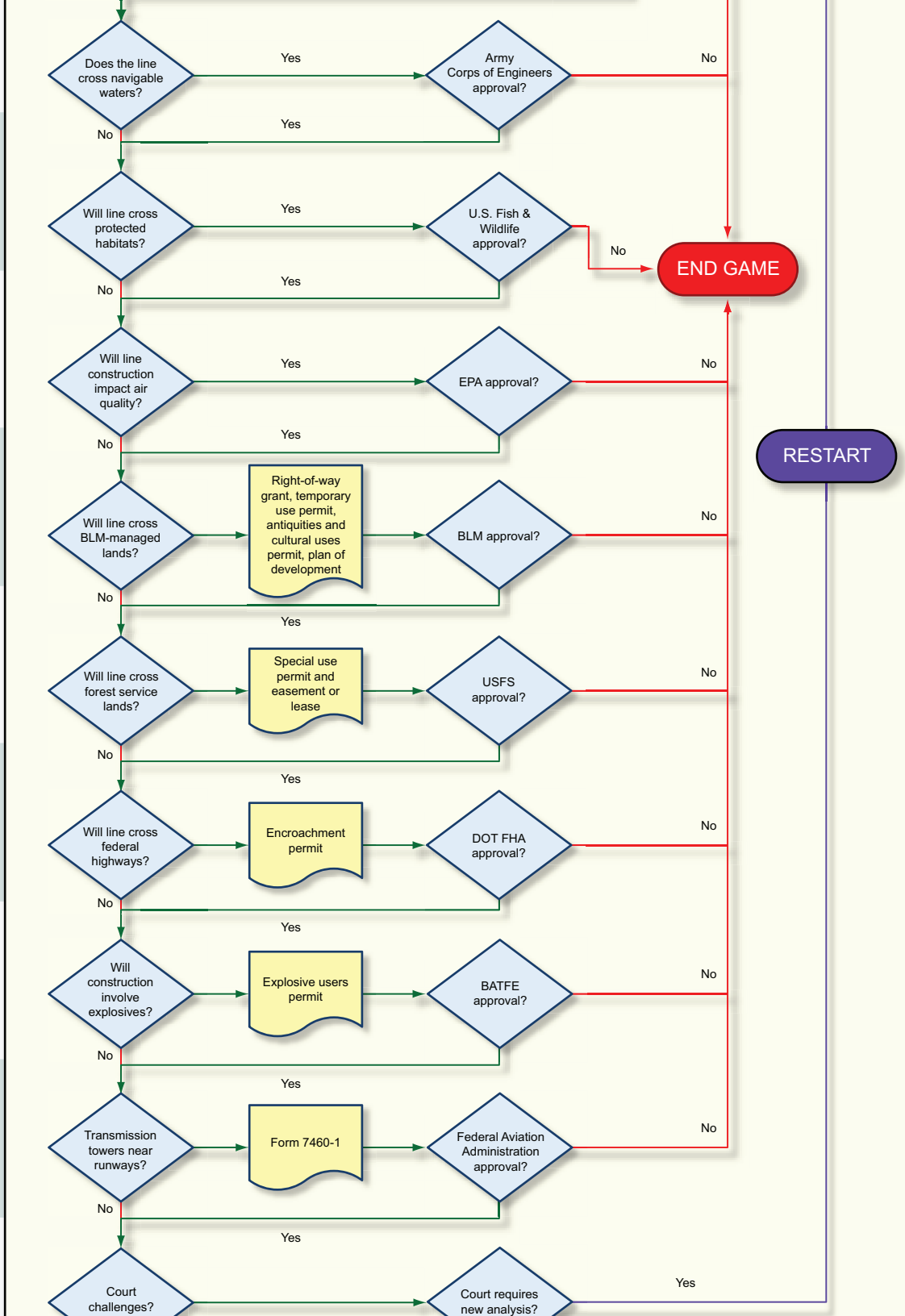




Oh, the simplicity of *Chutes and Ladders*!

The policies affecting the movement of electricity from generation to end-use are complex, disjointed, burdensome, outdated, and at various times redundant or conflicting.

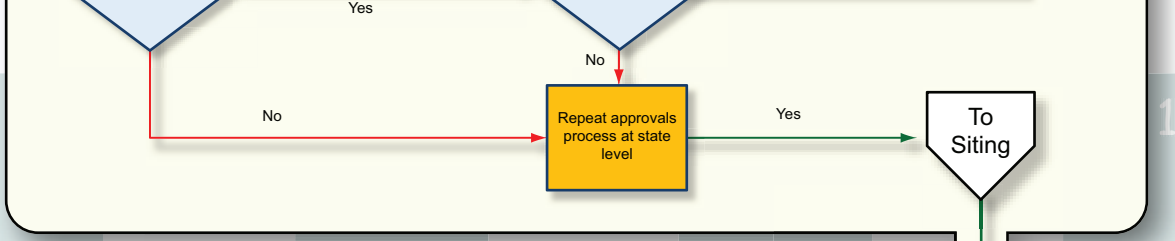
Federal, state, and local policies govern the development of transmission and distribution lines that are built within them. They present both obstacles and opportunities—chutes and ladders— in our efforts to power American.



No matter how we generate electricity, it must be efficiently delivered to the consumer. Energy entrepreneurs, transmission developers, public utilities, and federal and state regulators are all engaged in getting power from generation to end use. They all play a role in siting transmission, and have to consider numerous concerns before a line can be built, including load growth, construction permits, wildlife protection, property rights, and others.

Winning the childhood game of *Chutes and Ladders* relies on both skill and luck. A ladder enables a player to advance quickly through the maze; a chute sends them backward. Players move their game pieces through a series of consecutively numbered spaces, with the goal of being the first to finish. The real life challenge of siting transmission lines take years of skillful navigation, ample financial resources, and thousands of manufacturing and construction jobs.

In our version of the game, ***Siting Transmission Corridors***, the goal is to overcome financial and regulatory challenges to gain final approval for construction of a transmission line. **Ladders** include minimal environmental impacts, use of advanced technology, and demonstrable reliability gains. However, **chutes** could be rejections by federal, state, or local agencies, financing risks, rate denials, and litigation.

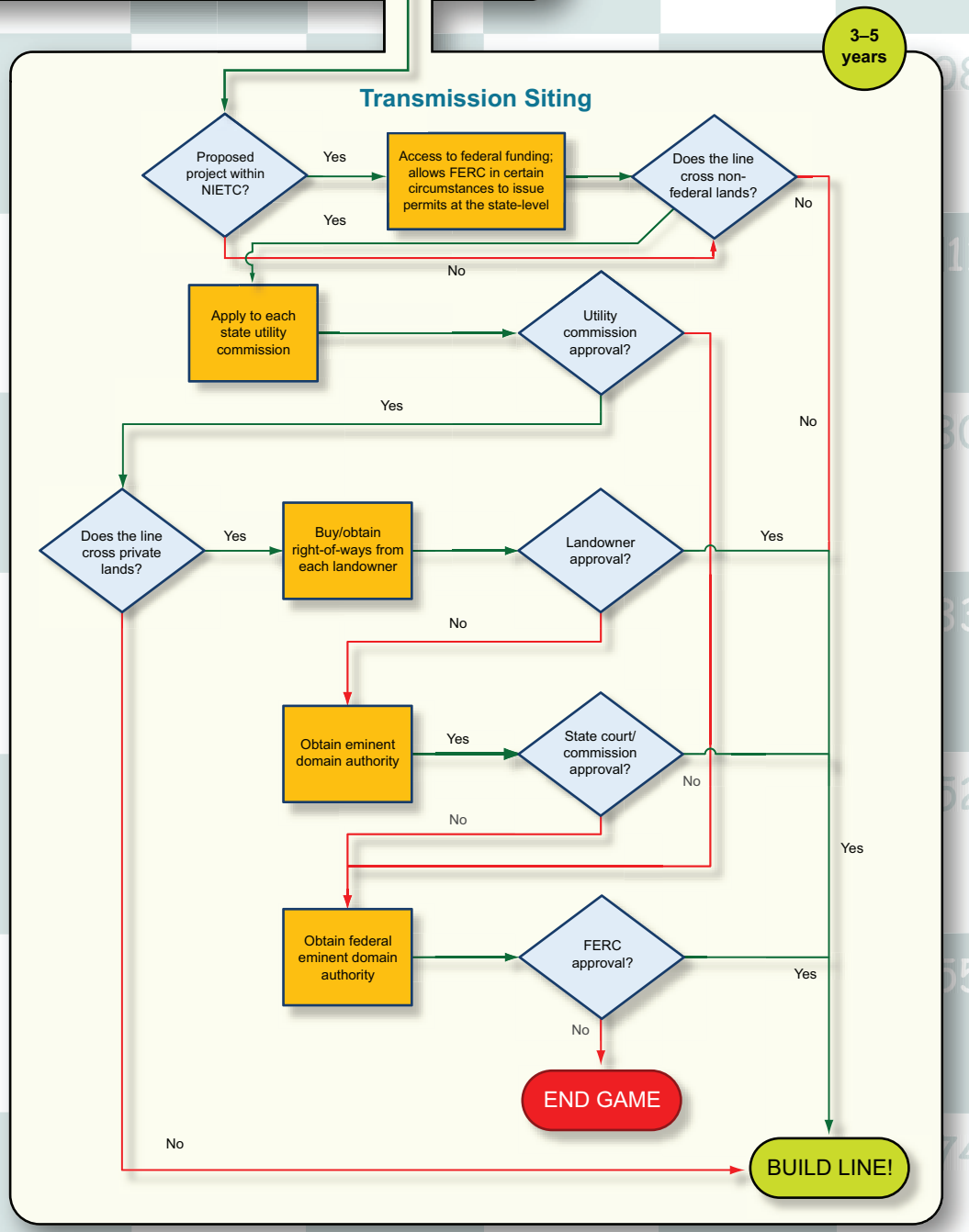


Transmission Planning

Transmission corridors move electricity from generation to the distribution grid. While electric demand grows and new generation sources are attempting to meet that demand, the grid relies on a transmission network that is overburdened and outdated. One ideal solution would be to transmit new and more power through existing corridors; however, current infrastructure generally cannot accommodate a large increase. Further, renewable energy generation often occurs in remote areas, far from existing transmission lines.

The first ladder to climb in our game is **Transmission Planning**, and each rung is defined by a permit. Permits are awarded when certain questions are answered: Are new lines needed? Are potential savings greater than costs? Which utilities are involved? Does this require authorization or cooperation by regional or interstate authorities? Does the project face siting, technology, or financing risks? Are non-transmission alternatives available? Can energy storage or demand response strategies be implemented?

Delays in these responses are akin to waiting your turn in *Chutes and Ladders*. Considering that each permit may take one to six months, the wait between turns can add up to years.



Cost Allocation and FERC Rates

On April 21, 2022, FERC issued a Notice of Proposed Rulemaking (NOPR) on Regional Transmission Planning and Cost Allocation (RM21-17-000), which builds on its landmark Order No. 1000. Cost allocation, or the burden of paying for transmission via increased rates, is generally done via a "roughly commensurate, beneficiary pays" approach. But issues arise over defining the "benefits" that are attributable to the project and how broadly to allocate the associated costs.

For cost allocation, the reforms in RM21-17-000 would require that providers in each transmission planning region obtain a state agreement regarding how costs will be allocated for facilities selected in the regional transmission plan. The NOPR does not require a defined set of "benefits" or "beneficiaries." To date, the NOPR has not been finalized, but it is expected in Q1 2024.

Federal Agency Approvals

Here's where the game gets interesting! What is the potential environmental impact? Do transmission lines cross navigable waters or protected habitats? Is approval needed by the Army Corps of Engineers or Bureau of Land Management? Will construction require explosives? Environmental impact statements (EIS) alone can mire a project for years.

In the Infrastructure Investment and Jobs Act (IIJA), several permitting provisions were included to help reduce these obstacles and delays, including:

- The permanent authorization and enhancement of the Federal Permitting Improvement Council (FPSIC);
- The codification of the "One Federal Decision," which requires a single agency to be responsible for shepherding projects through multi-agency reviews and sets a two-year deadline for National

On July 28, 2023, CEQ released a proposed rulemaking in which they advance a series of NEPA revisions that further undo the Trump administration's 2020 permitting rules while also implementing the recent NEPA reforms contained in the FRA, including:

- *Limiting the type of public comments agencies must review and constraints on judicial review that required litigants to post monetary bonds in some circumstances, as well as limits on courts' ability to provide injunctive relief;*
- *Requiring that one lead agency is designated to develop a single environmental review document;*
- *Allowing project sponsors to prepare environmental reviews under agency supervision;*
- *Adding page limits for environmental reviews; and*
- *Streamlining the process for agencies to adopt categorical exclusions.*

On August 11, 2023, the Department of Energy (DOE) released a NOPR on establishing the Coordinated Interagency Transmission Authorization and Permits (CITAP) Program to accelerate federal environmental reviews and permitting processes for transmission projects. The NOPR would make DOE the lead agency for permitting reviews and establish a two-year deadline for such reviews.

No matter how cost-effective and equitable any federal agency's management practices may be, plotting a course through this matrix of federal agency approvals is tedious and time-consuming. Each rung of this ladder may initiate critical adjustments to planning, cost allocation, and siting processes. These changes require an applicant to re-evaluate if it is worthwhile to continue moving ahead with the project.

Environmental Policy Act (NEPA) reviews;

- Preliminary review of applications within 45 days for projects within operational rights of-way (ROWs);
- The expanded use of categorical exclusions;
- A clarification of FERC's authority;
- The expansion of the definition of national interest corridors.

FAST-41, is a ladder which seeks to speed up the lengthy and complex permitting and environmental review process. Through IIJA provisions, FPSIC was authorized to advance the usage of FAST41 for large transmission projects. This process allows for expedited agency review and a transparent permitting platform on the FPISC dashboard.

The Fiscal Responsibility Act (FRA) included several provisions to environmental reviews under NEPA, including:

- A requirement for federal agencies to complete EISs within two years and EAs within one year. Project sponsors can sue if these deadlines are missed;
- Limits EISs to 150 pages and EAs to 75 pages;
- Directs the North American Electric Reliability Corporation (NERC) to examine transfer capabilities between neighboring transmission planning regions and recommend ways to strengthen reliability and maintain capability;
- Directs the Council on Environmental Quality (CEQ) to develop an online permitting portal;
- Designates one lead agency to oversee the review process and preparing the decision document; and
- Authorizes for project applicants to prepare EIss and EAs themselves.

Transmission Siting

Three to five years later, after obtaining federal approvals, the final challenge is crossing non-federal land.

Building interstate and interregional transmission facilities can take years. State properties and private land issues can lead to purchased rights, eminent domain, and even more court challenges. As with any game, there may be bonus rounds and extra turns. In our game, these can come in the form of favorably litigated outcomes, attractive rates, or tax incentives.

The IIJA directed DOE to conduct a national needs study to identify current and projected grid capacity constraints in order to inform its National Interest Electric Transmission Corridor (NIETC) designations. Having a project within a NIETC can unlock federal funding and allows FERC additional authority.

Winning the Game

Siting Transmission Corridors is not child's play! We need a clear national policy that is up to the task of modernizing our electrical infrastructure, improving its capacity, increasing its reliability and security, and diversifying our energy portfolio. While there have been several recent efforts undertaken to streamline the process, more needs to be done.

NEMA supports greater federal authority in the siting of transmission corridors, as well as lead agency status for FERC in the federal environmental review process. A clear, nationwide transmission policy will streamline the approval processes, facilitate construction, and create domestic jobs.

**Chutes and Ladders* is a trademark of Hasbro, Inc. for its board game.

1300 North 17th Street, Suite 900, Arlington, VA 22209
703.841.3200 • www.nema.org

Designed by NEMA