Energy Exactions

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Exactions and Impact Fees
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• Development often produces fiscal benefits
  • Property taxes
  • Economic activity

• Development often also produces burdens on local infrastructure
  • Roads
  • Schools
  • Water systems
  • Wastewater

• Exactions and impact fees force developers to internalize some of those costs of development
Exaction and Impact Fee Examples

• Impact fees
  • Single-family residence, impact fees include $1,500 in road and transit fees
  • Commercial office space
    • $.97 per square foot towards affordable housing
    • $1,519 per 1,000 square feet towards transportation mitigation program

• Nonmonetary exactions
  • Onside dedications of land
    • Streets
    • Open space
  • Construction of on-site improvements
    • Sidewalks
    • Streetlights
  • Construction of off-site improvements
    • Abutting streets
    • Water and sewer upgrades
Problem -

• Most local communities (and especially land use regulators) “outsource” their energy needs.

• Traditional utility planning doesn’t always encourage local communities to seriously address their energy needs.

  - Energy engineers in this process often say “energy follows load” – demand is an input but utilities have little incentive to reduce or manage it.

  - Many economists believe that traditional regulation aided-and-abetted a form of rent seeking by the monopolist – enabling a few (the utility’s investors) to benefit at the expense of the many.
Our Solution - Energy Exactions

• Local fees on development that will impose new burdens on the energy system or limits on the timing of development to avoid strains on the energy grid -> give local governments a legitimate point of entry in energy planning.

• An energy exaction could place a price on marginal changes in a community’s energy use.

  -E.g., $1 per kWh (or ~ $10k average) fee on new homes, etc.
Benefits for energy regulation

1) Generates better information about customer demand and alternatives to building new power plants;

2) Diversifies/decentralizes risk taking; and

3) Promotes a form of interjurisdictional competition – between the utility (or its state regulator) and local communities.
Legal Barriers?

1) Intrastate preemption
   a) state utility franchise laws?
   b) rate regulation?

2) Legislative authorization for energy exactions?

3) Unconstitutional conditions?
Concerns

• Is this so different in kind from other land use exactions that it should be approached as a different form of regulation?

• What if prices are not accurate or are set too high? Possibility of “double taxation”??

• Who in the community will ultimately bear burden?

• “Jurisdictional reach” questions – possibility for mismatch between burdens and benefits?
  -But on net would this help correct for mismatch that would continue occur without community imposing any burden on growth related to energy?

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