

State Soft Power in a Federal Energy System

Hart Rapaport, hart.rapaport@yale.edu

Connecticut Policy Lab, May 2026

Executive Summary

Connecticut policymakers and residents have an interest in energy policy created by federal regulators and federally regulated actors. The state and its officials can influence this policy through the use of various “soft power” mechanisms that do not rely on direct statutory authority. To exercise this influence more effectively, Connecticut energy regulators and policymakers should pursue three state-level reforms.

First, the state and others in the region should consider engaging with ISO New England to obtain a new agreement between the New England states and ISO that would provide Connecticut with more formal influence in the determination of policy within federal jurisdiction.

Second, to ensure that the many Connecticut state energy agencies can easily collaborate without the fear of running afoul of ex parte communication rules necessary for state regulation, the state should consider establishing a formal “Federal Energy Committee” composed of all relevant state agencies to identify and engage on key issues of federal jurisdiction.

Third, compensation for Connecticut state employees is currently governed by a system of pay bands, meaning that engineers or attorneys with comparable levels of experience are paid similarly across the government. Compensation that allows for proper hiring and retention at other agencies may not work for energy agencies because of the specialized nature of the positions and the high pay available in the private sector. Regulators should consider increasing the pay of certain employees in energy agencies by developing energy-specific bands.

Table of Contents

<i>Introduction.....</i>	<i>3</i>
<i>I. The Energy Regulatory Landscape.....</i>	<i>4</i>
A. Changes in the Balance of Power	4
B. Enduring State Interests in Federal-Jurisdiction Areas	7
<i>II. State Soft Power</i>	<i>8</i>
A. Hard and Soft Power	8
B. The Taxonomy of Soft Power	10
1. Procedural Soft Power	10
2. Adversarial Soft Power.....	12
3. Political Soft Power	13
<i>III. What Makes State Soft Power Successful</i>	<i>15</i>
A. Granted Rights.....	15
B. Information	15
C. Capacity	17
D. Agenda Setting and the Bully Pulpit.....	18
<i>IV. Suggestions to Improve Connecticut Participation in Federal Processes.....</i>	<i>19</i>
A. Improve NESCOE’s Rights within ISO-NE	19
B. Create a Joint State Advocacy Committee.....	22
C. Increase Salaries for Energy Roles	26
<i>Conclusion.....</i>	<i>28</i>

Introduction

Beginning in the latter half of the 20th century, the balance of power in energy law has gradually shifted from state to federal control. There are a variety of causes for this. Some are technological: advances in transmission and renewable energy technology have made it easier to transmit energy across state lines from distant generators.¹ Others are regulatory: efforts by the Federal Energy Regulatory Commission (FERC) and some states to promote competition in the generation of electricity mean that many utilities now purchase energy in wholesale markets that FERC controls rather than generating it themselves under state oversight.² Though the text of the Federal Power Act (FPA)—the key federal law governing the grid—has largely not changed, the practical division of authority between states and the federal government that it creates has.

But even though states cannot control policy and regulation that is constructed by federal actors, they still maintain interests in areas of federal jurisdiction. The cost of energy purchased by utilities in the wholesale market, for instance, is borne by state ratepayers.³ Similarly, the success of state clean energy goals depends in part on market policies and transmission lines under federal control.⁴

Without the direct statutory control over these areas that they once had (what I call “hard power”), states have turned to several “soft power” tools—non-statutory mechanisms that exist outside of the division of power created by the FPA—to affect the results of federal-jurisdictional processes.⁵ This paper is the first to describe their use and to separate them into three distinct types. Procedural soft power consists of mechanisms like notice-and-comment

¹ See *infra* Section I.A.

² *Id.*

³ *Nantahala Power & Light Co. v. Thornburg*, 476 U.S. 953, 953 (1986).

⁴ See Catherine Hausman, *Power Flows: Transmission Lines, Allocative Efficiency, and Corporate Profits* 1 (Nat’l Bureau of Econ. Rsch., Working Paper No. 32091, 2025) (describing how sufficient transmission capacity allows for the usage of cheap renewable generation).

⁵ See *infra* Section II.B.

federal rulemaking that allow states to shape the initial construction of federal policy.

Adversarial soft power mechanisms like litigation allow states to challenge previously settled federal issues. Political soft power allows states to influence federal processes even without a specific legal or contractual entitlement.

There are a variety of reasons behind the success (or lack thereof) of state soft power. States may be able to draw on capacity ordinarily used to regulate matters within state jurisdiction, and information generated from this work can be used for advocacy at the federal level. Popular state politicians can also employ the bully pulpit to pressure federal regulators and entities into changing their policies.

As described in the Executive Summary, this paper makes three suggestions for reform informed by off-the-record interviews with current and former Connecticut energy leaders. While each suggestion might be difficult to pursue for different legal, logistical, or financial reasons, even modest steps in those directions would pay significant dividends for Connecticut ratepayers.

This paper proceeds in four parts. Part I describes the historical and current regulatory landscape of the grid. Part II introduces state soft power and provides a taxonomy for it. Part III describes the factors that make state soft power successful. Part IV describes reforms that Connecticut policymakers should consider to more effectively use soft power.

I. The Energy Regulatory Landscape

A. Changes in the Balance of Power

In the traditional energy regulatory model established in the first decades of the 20th century, states served as the key authority.⁶ Under this framework, public utility commissions

⁶ David P. Tuttle et al., *The History and Evolution of the U.S. Electricity Industry*, U. TEX. ENERGY INST. 2–3 (July 2016), https://energy.utexas.edu/sites/default/files/UTAustin_FCe_History_2016.pdf.

(PUCs) in each state regulated vertically integrated utilities that owned power plants along with the poles and wires that carried electricity to customers.⁷ PUCs had broad power: they determined everything from the type of generation (e.g., gas, as opposed to coal) that utilities constructed to the prices that customers paid.⁸ This structure flowed from the allocation of authority outlined by the FPA. This statute gave states jurisdiction over generation facilities, retail rates (i.e., the prices borne by end users), and the siting and permitting of all types of energy infrastructure.⁹

The federal role in this system was structurally limited. While FERC (and its predecessor, the Federal Power Commission) had statutory power over interstate wholesale sales (transactions leading to eventual resale to consumers) and transmission,¹⁰ grid activity broadly happened outside of these areas. Wholesale power sales played only a limited role in an era when a vertically integrated utility largely produced and distributed electricity within its exclusive service area, rather than relying on purchases from external suppliers.¹¹ Similarly, transmission lines were primarily used to carry energy across a given utility's territory, rather than serving as essential links between independent buyers and sellers requiring close regulation to ensure nondiscrimination.¹² The structure of the energy market therefore privileged the state-regulated parts of the grid over their federal counterparts.

⁷ *Id.* at 10.

⁸ Alexandra Klass, Joshua Macey, Shelley Welton & Hannah Wiseman, *Grid Reliability Through Clean Energy*, 74 STAN. L. REV. 969, 991 (2022).

⁹ *Id.*

¹⁰ 16 U.S.C. § 824(b)(1).

¹¹ David Spence, *A Shift in the Energy Regulatory Regime*, THE REG. REV. (July 18, 2016), <https://www.theregreview.org/2016/07/18/spence-a-shift-in-the-energy-regulatory-regime/>.

¹² See Daniel A. Lyons, *Protecting States in the New World of Energy Federalism*, 67 EMORY L. J. 921, 937 (2018). (describing open access transmission service as a development along with restructured markets)

This model persisted for decades, but energy crises in the 1970s brought calls for reform and a larger role for the open market.¹³ After a series of legislative changes steadily introduced pockets of competition to the vertically integrated model,¹⁴ FERC used a series of rulemakings in the 1990s and early 2000s to begin the process of “restructuring” the energy system by promoting competitive wholesale markets.¹⁵ Two were most important. First, Order 888,¹⁶ issued in 1996, required vertically integrated utilities to provide open access transmission service to any party.¹⁷ This meant that a third-party power producer could serve end users on the same terms that vertically integrated utilities used their own lines.¹⁸ Under Order 888, utilities were required to file open access tariffs containing these policies at FERC, which meant federal oversight of their contents to ensure that transmission service was provided to all on a non-discriminatory basis.¹⁹

Another key change came with a second FERC rulemaking, Order 2000,²⁰ which encouraged utilities to join nonprofit organizations that would oversee grid operations in different regions across the country.²¹ FERC tasked these Regional Transmission Organizations (RTOs) (along with Independent System Operators (ISOs), which perform similar functions in some regions) with administering open-access transmission service under Order 888 on a regional scale, operating centralized wholesale electricity markets, and overseeing the actual

¹³ *The Public Utility Regulatory Policies Act of 1978*, AM. PUB. POWER ASS’N, <https://www.publicpower.org/policy/public-utility-regulatory-policies-act-1978> (last accessed Mar. 23, 2026).

¹⁴ Lyons, *supra* note 12, at 931-935.

¹⁵ Severin Borenstein & James Bushnell, *The U.S. Electricity Industry After 20 Years of Restructuring* 1 (Nat’l Bureau of Econ. Rsch., Working Paper No. 21113, 2015).

¹⁶ *Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Servs. by Pub. Utils.; Recovery of Stranded Costs by Pub. Utils. & Transmitting Utils.*, Order No. 888, 75 FERC ¶ 61,080 (1996).

¹⁷ John S. Moot, *Whither Order No. 888?*, 26 ENERGY L. J. 327, 327 (2005).

¹⁸ Paul L. Joskow, *Transmission policy in the United States*, 13 UTILITIES POL’Y 95, 103 (2005).

¹⁹ *Id.*

²⁰ *Regional Transmission Organizations*, Order No. 2000, 89 FERC ¶ 61,285 (1999).

²¹ Joskow, *supra* note 18, at 106.

real-time dispatch of electricity.²² Some states—such as those in New England—went even further by banning utilities from owning power plants and requiring them to meet demand through purchases in wholesale markets run by RTOs and ISOs.²³ However, even in the areas where utilities may legally own and sell electricity from their own generation, many still participate in federally regulated wholesale markets and purchase energy to supplement their fleets of power plants.²⁴

Together, these technological and legal changes have meaningfully diminished the role of state regulators. The formal scope of their jurisdiction has not changed, but it has practically shrunk because so much more grid activity now occurs in the context of wholesale transactions and the transmission needed to effectuate those sales, both of which are administered by FERC and various grid operators.²⁵ Nor does it help that some wholesale sales and transmission may theoretically occur within the bounds of a single state: even though the FPA only provides FERC with the power to oversee interstate activities,²⁶ Supreme Court rulings have expanded the scope of interstate sales and transmission to effectively cover any electricity that is conveyed within a system not intentionally isolated from the larger interstate grid.²⁷

B. Enduring State Interests in Federal-Jurisdiction Areas

States still maintain interests in policy made within federally regulated areas of the grid even if they do not possess formal power over them. Most clearly, operations in federally

²² *Id.*

²³ William Boyd & Ann E. Carlson, *Accidents of Federalism: Ratemaking and Policy Innovation in Public Utility Law*, 63 UCLA L. REV. 810, 837 (2016).

²⁴ Alexander MacKay & Ignancia Mercadal, Do Markets Reduce Prices? Evidence from the U.S. Electricity Sector, Harv. Bus. Sch 8 (Mar. 30, 2024), https://www.hbs.edu/ris/Publication%2520Files/21-095_ba6594bd-2648-4069-94bb-52dfd9495fb1.pdf.

²⁵ *Energy Markets*, FED. ENERGY REGUL. COMM’N, <https://www.ferc.gov/opp/energy-markets> (last visited Mar. 23, 2026).

²⁶ 16 U.S.C. § 824(b)(1).

²⁷ Fed. Power Comm’n v. Fla. Power & Light Co., 404 U.S. 453, 469 (1972); New York v. FERC, 535 U.S. 1, 16 (2002); Boyd & Carlson, *supra* note 23, at 835.

regulated areas like wholesale markets and transmission planning cause utilities to incur costs that are passed on to customers even if states disagree with the expenditures.²⁸ States must therefore work at the federal level if they wish to lower rates for their residents.

Beyond this, state policy goals also depend in part on facilities and practices under federal jurisdiction. For instance, state efforts to have residents increase their consumption of electricity from cleaner sources are greatly aided if federal transmission planning results in facilities that can convey renewable energy at prices that are competitive with traditional generation sources.²⁹ To be sure, there are ways around this that do not rely on optimal outcomes in federally regulated areas: states have offered subsidies to renewables or simply mandated that utilities procure at least a set percentage of their energy from cleaner sources.³⁰ However, without suitable transmission infrastructure, these programs may end up raising ratepayer costs because so much renewable generation is located in areas far from sources of demand.³¹

II. State Soft Power

A. Hard and Soft Power

Even with the technological and regulatory changes described previously, states still have powerful mechanisms to shape the planning and operation of the grid. They retain the power reserved for them under the FPA to regulate specific areas like the distribution system, retail sales, and the physical siting of grid facilities.³² I call this “hard power” because it reflects the formal legal authority that states have to control particular parts of energy policy. States can use

²⁸ *Nantahala Power & Light Co. v. Thornburg*, 476 U.S. 953, 953 (1986).

²⁹ See Hausman, *supra* note 4, at 1 (describing how sufficient transmission capacity allows for the usage of cheap renewable generation).

³⁰ *Renewable Energy Explained: Incentives*, U.S. ENERGY INFO. ADMIN., <https://www.eia.gov/energyexplained/renewable-sources/incentives.php> (last updated Dec. 30, 2022).

³¹ See generally Josh T. Smith & Vidalia Cornwall, *What Is the Relationship between Renewable Portfolio Standards and Electricity Prices?*, CTR. FOR GROWTH & OPPORTUNITY (Feb. 2019), <https://www.thecgo.org/wp-content/uploads/2020/10/rif-2019.001.pdf>; Hausman, *supra* note 4, at 1.

³² 16 U.S.C. § 824(b)(1).

hard power to achieve policy goals by regulating issues within their jurisdiction, such as by setting out a particular retail rate design or regulating the buildout of the distribution system by local utilities.³³

Crucially, even while directly regulating items in state jurisdiction, the exercise of hard power may have indirect effects on areas reserved to the federal government under the FPA. For instance, states may validly provide extra compensation to renewable power plants even if doing so might indirectly affect their participation in federally regulated wholesale market transactions.³⁴ However, there is a limitation on state regulators even when their actions solely directly affect areas that fall into the state sphere: states may not “aim at” federal areas and seek to control them.³⁵ Compensating power plants regardless of their participation in wholesale markets is fine, but mandating that compensated generators participate in a certain way in those markets is not, even when states use the same hard power regulatory tools for both.³⁶ The key difference is that the latter program effectively attempts to set a federal-jurisdictional rate by controlling wholesale market behavior, while the former’s effects on the federal rate—if there are any at all—are indirect results of state action.³⁷

But if states cannot directly control federal outcomes by regulating their own jurisdictional sphere, another set of tools may prove more helpful. In addition to hard power, which is derived from the FPA itself, states also have “soft power,” which accrues to them by virtue of their unique placement as powerful political entities. Through this soft power, states can

³³ Boyd & Carlson, *supra* note 23, at 841.

³⁴ Elec. Power Supply Ass’n v. Star, 904 F.3d 518, 523 (7th Cir. 2018); Coal. for Competitive Elec., Dynergy Inc. v. Zibelman, 906 F.3d 41, 54 (2d Cir. 2018).

³⁵ Matthew R. Christiansen & Joshua C. Macey, *Long Live the Federal Power Act’s Bright Line*, 134 HARV. L. REV. 1360, 1410 (2021).

³⁶ Compare Elec. Power Supply Ass’n v. Star, 904 F.3d 518, 523 (7th Cir. 2018); Coal. for Competitive Elec., Dynergy Inc. v. Zibelman, 906 F.3d 41, 54 (2d Cir. 2018) with Hughes v. Talen Energy Mktg., LLC, 578 U.S. 150, 166 (2016).

³⁷ See Christiansen & Macey, *supra* note 35, at 1410 (describing the “aiming at” test).

seek to influence the decisions made by the federal government itself as well as federally regulated actors. This, in theory, allows a measure of control over decisions within federal jurisdiction that affect state-jurisdiction areas or policy objectives. However, the use of this power comes with an uncertain chance of success. Where hard power derives from statutory rights that states can directly invoke, soft power gives states only the ability to influence federal processes. No law requires federal actors to heed soft power—states must deploy it carefully to ensure its effectiveness.

B. The Taxonomy of Soft Power

States have multiple mechanisms to use soft power. This Section divides those mechanisms into three categories: procedural soft power, adversarial soft power, and political soft power.

1. Procedural Soft Power

Procedural soft power encompasses the legal mechanisms that allow states to shape the initial determination of a policy made by the federal government or federally regulated actors like FERC or RTOs. Some of these are shared by many other administrative processes across government. For instance, as set out by the Administrative Procedure Act (APA), the notice-and-comment process provides states with a chance to air their concerns and seek to influence the direction of policy when federal agencies propose rules.³⁸ By law, federal agencies must consider and respond to these comments, and may alter the rule to reflect them.³⁹ Similarly, states may intervene in agency proceedings to provide legal and factual information with the aim of influencing federal determinations.⁴⁰

³⁸ Erin Ryan, *Negotiating Federalism*, 52 B.C. L. REV. 1, 51 (2011).

³⁹ *Perez v. Mortg. Bankers Ass'n*, 575 U.S. 92, 96 (2015).

⁴⁰ *E.g.*, 18 C.F.R. § 385.214 (allowing states to intervene in FERC proceedings).

There are also energy-specific mechanisms that allow states to provide input on proposed policies or filings at the national and regional levels. One key example is the power held by groups of states that provide input into the governance processes of RTOs. These committees are present in grid operators across the nation. However, because no statute commands their establishment, each has evolved to take on different roles within each RTO, with varying types of responsibilities. For example, Southwest Power Pool (SPP) operates transmission infrastructure and markets across parts of fourteen states in the Midwest and West.⁴¹ Its Regional State Committee (RSC), which includes leaders from each state, maintains significant power over a variety of RTO-wide issues.⁴² It has, for instance, the ability to overrule the utilities, transmission owners, and other entities that make up SPP's membership to establish how the region will approach key issues like resource adequacy and elements of the planning of new transmission lines.⁴³ This is done by granting the RSC the power to determine the market designs and practices that are included in SPP's tariff filings at FERC.⁴⁴ Crucially, the RSC was given the ability to do this by SPP's bylaws after negotiations between SPP and the RSC's states at the time of SPP's formation, rather than a generalized FERC dictate that applied across the nation.⁴⁵

As a result, in RTOs where states did not achieve similar results in negotiations, state committees have much less power. For instance, the Organization of PJM States (OPSI), which coordinates state involvement within Pennsylvania-New Jersey-Maryland (PJM), the RTO that operates the mid-Atlantic grid, has no such formal authority. It and its constituent state members

⁴¹ <https://www.ferc.gov/introductory-guide-participation-southwest-power-pool-processes>

⁴² Ann McCabe, David A. Svanda & Betty Ann Kane, *Making Markets Work for PJM States: State Engagement Possibilities with PJM*, ORG. OF PJM STATES 4 (Oct. 2019), <https://opsi.us/wp-content/uploads/2019/10/Making-Markets-Work-for-PJM-States-10-14-19-1.pdf>.

⁴³ *Governing Documents Tariff*, SW. POWER POOL 67 (Apr. 15, 2025) <https://www.spp.org/documents/73649/bylaws%20and%20membership%20agreement%2020250415.pdf>.

⁴⁴ *Id.*

⁴⁵ *Id.*

do not possess the ability to shape PJM’s treatment of key federal-jurisdiction issues.⁴⁶ As a result, in large part, it possesses the same powers as any other stakeholder in PJM—it can interact with members of the RTO and its board and comment on proposals, but has no direct mechanism to get its preferred policy positions adopted.⁴⁷

2. Adversarial Soft Power

When procedural soft power fails and decisions on federal-jurisdiction issues are made that are contrary to state goals, states can use adversarial soft power to challenge them. As before, there are both generic and energy-specific mechanisms to pursue this. The former category includes arbitrary-and-capricious challenges brought under the APA and similar forms of litigation challenging administrative processes.⁴⁸ The latter includes such mechanisms as Section 206 of the FPA, which allows any party to challenge a previously filed rate or practice within federal jurisdiction at FERC.⁴⁹

Either type of adversarial soft power allows for states to contest and potentially reshape the status quo created by federal-jurisdiction decisions. However, just like procedural soft power, there are limits to its effectiveness. Once policy is set, courts defer to maintaining it absent significant evidence to the contrary. For arbitrary-and-capricious challenges in “technical” areas such as the determination of rates, courts afford “great deference” to FERC decisions.⁵⁰ To bring a challenge under Section 206, states must affirmatively prove that existing rates or practices are unjust or unreasonable, meaning not just that they are suboptimal but that they are set “entirely

⁴⁶ McCabe, Svanda & Kane, *supra* note 42, at 3.

⁴⁷ *Id.* at 7.

⁴⁸ *See, e.g.*, FERC v. Elec. Power Supply Ass’n, 577 U.S. 260, 275 (2016), as revised (Jan. 28, 2016) (describing an arbitrary-and-capricious challenge to a FERC rule).

⁴⁹ 16 U.S.C. § 824e(a).

⁵⁰ FERC v. Elec. Power Supply Ass’n, 577 U.S. 260, 292 (2016), as revised (Jan. 28, 2016) (quoting Morgan Stanley Cap. Grp. Inc. v. Pub. Util. Dist. No. 1 of Snohomish Cnty., Wash., 554 U.S. 527, 532 (2008)).

outside [a] zone of reasonableness,”⁵¹ which can be quite large in practice.⁵² As a result, adversarial soft power allows states to push back against the most egregious federal-jurisdiction decisions, but leaves them unable to control policy more broadly.⁵³

3. Political Soft Power

If the procedural or adversarial legal mechanisms set out by statute, regulation, or contract fail, states may turn to a final form of soft power to advocate for their proposed policies. Of the three types of soft power, political soft power is the most amorphous. Described generally, it is any form of influence on federal actors that occurs without a specific state entitlement. To elucidate this, consider an example that illustrates the differences among the three types of soft power. Recall OPSI, the PJM state committee with little formal ability to actually shape the governance or markets of the RTO. In 2024, prices in PJM’s capacity market, which provides payments to generators in return for their availability in future years, increased tenfold from the prior year.⁵⁴ With procedural soft power unavailable, states turned to adversarial soft power. Later that year, Pennsylvania filed a Section 206 complaint asking FERC to institute a price cap for future capacity auctions, which resulted in a settlement with PJM to do just that.⁵⁵

However, when prices in subsequent auctions easily hit the cap without any sign of future decreases,⁵⁶ the PJM states turned to political soft power to make more durable changes. All

⁵¹ *NRG Power Mktg., LLC v. FERC*, 862 F.3d 108, 114 n.2 (D.C. Cir. 2017) (quoting *City of Winnfield v. FERC*, 744 F.2d 871, 875 (D.C. Cir. 1984)).

⁵² *See S. California Edison Co. v. FERC*, 717 F.3d 177, 180 (D.C. Cir. 2013) (describing a FERC finding that the appropriate zone of reasonableness for a utility’s return on equity is between 7.80% and 16.19%).

⁵³ *See Shelley Welton, Rethinking Grid Governance for the Climate Change Era*, 109 CALIF. L. REV. 209, 221-22 (2021) (describing entities that control the initial filing rights as having significant control over grid policy because of barriers to the use of Section 206).

⁵⁴ *PJM’s Electric Capacity Market: Background and Current Issues*, CONG. RSCH. SERV. 1 (June 2, 2025), https://www.congress.gov/crs_external_products/R/HTML/R48553.web.html.

⁵⁵ *Governor Shapiro’s Legal Action Against PJM Saves Consumers Billions and Prevents Massive Price Hike Across 13 States*, COMMONWEALTH OF PA. (July 22, 2025), <https://www.pa.gov/governor/newsroom/2025-press-releases/gov-shapiro-legal-action-against-pjm-saves-consumers-billions-ac>.

⁵⁶ Ethan Howland, *PJM capacity prices hit record high as grid operator falls short of reliability target*, UTILITY DIVE (Dec. 18, 2025), <https://www.utilitydive.com/news/pjm-interconnection-capacity-auction-data-center/808264/>.

thirteen PJM states gathered for a summit to coordinate amongst themselves,⁵⁷ and eleven joined a formal Governors' Collaborative to supplement OPSI's work with utility regulators in each state.⁵⁸ Then, realizing the futility of work with PJM because of their lack of power in its governance, the states instead chose to collaborate with the White House to achieve changes to the capacity market process. In January 2026, governors of each PJM state and the Trump Administration signed a novel agreement to hold a secondary capacity auction with the goal of bringing future prices down.⁵⁹

The agreement does not involve the states using any procedural or adversarial mechanism to influence the federal government or RTO—it instead asks PJM to make the changes itself.⁶⁰ Crucially, this means that the deal is predicated on political soft power in two ways. On one level, states created pressure on the federal government to engage on an issue in federal jurisdiction even without a formal mechanism allowing them to do so. On another, the agreement itself is given force through coordinated political pressure on PJM, rather than, for instance, pressure brought through litigation.

This type of soft power does not need to be used on such a large scale. OPSI—just like other state committees⁶¹—regularly submits letters that seek to influence PJM's positions on a number of less prominent topics.⁶²

⁵⁷ *PJM Summit Convenes All 13 States and Key Stakeholders to Address Key Supply and Demand Issues*, THE SENTINEL, https://www.pachamber.org/media/23222/pjm_summit_convenes_all_13_states_and_key_stakeholders_to_address_key_supply_and_demand_issues/ (last accessed Mar. 23, 2026).

⁵⁸ *Joint Statement of Intent*, PJM GOVERNORS' COLLABORATIVE 1 (Sep. 25, 2025), <https://www.pjm.com/-/media/DotCom/about-pjm/who-we-are/public-disclosures/2025/20250925-pjm-governors-collaborative-joint-statement-of-intent.pdf>.

⁵⁹ *Statement of Principles Regarding PJM*, U.S. DEP'T OF ENERGY 1 (Jan. 15, 2026), <https://www.energy.gov/documents/statement-principles-regarding-pjm>.

⁶⁰ *Id.* at 1.

⁶¹ See e.g., *Board Comments to MISO*, ORG. OF MISO STATES, <https://www.misostates.org/index.php/work-products/board-comments-to-miso> (last visited Mar. 23, 2026) (providing a list of midwestern states' comments to MISO).

⁶² *Resolutions and Filings*, ORG. OF PJM STATES, <https://opsi.us/resolutions-and-filings/> (last visited Mar. 23, 2026).

III. What Makes State Soft Power Successful

Crucially, many (though, as described below, not all) of these mechanisms are not reserved for states. Any group—indeed, any person—can participate in notice-and-comment rulemaking or bring a complaint under Section 206 in an attempt to shape federal action.⁶³ However, states are uniquely likely to achieve success through soft power means for a variety of reasons. This Section describes these levers, and also attempts to provide some insight into why certain states might be more successful than others at utilizing them.

A. Granted Rights

Some mechanisms are actually reserved for states. As described, state committees in certain RTOs are granted particular rights that are not given to other groups or individuals.⁶⁴ FERC has even recently acted to give states unique rights in the transmission planning process by forcing transmission-owning utilities to include information on cost allocation agreements between states in the filings made to show compliance with a recent rulemaking.⁶⁵

Of course, even if there are formal mechanisms by which state input is explicitly incorporated within a federal process, the precise amount of granted rights can vastly differ. State input can be determinative, as in the case of SPP’s RSC,⁶⁶ or it can be merely persuasive, such as with transmission planning.⁶⁷

B. Information

⁶³ 5 U.S.C. §553(c); 16 U.S.C. 824e(a).

⁶⁴ See *supra* Section II.B.1.

⁶⁵ *Building for the Future Through Electric Regional Transmission Planning and Cost Allocation*, Order No. 1920-A, 189 FERC ¶ 61,126, at P 651 (2024).

⁶⁶ See *supra* Section II.B.1.

⁶⁷ See *Building for the Future Through Electric Regional Transmission Planning and Cost Allocation*, *supra* note 65, at 658 (describing how FERC, when acting under Section 206 as in the transmission planning rule, may define its own cost allocation methodology rather than using a submitted proposal).

Scholars elsewhere have noted that states are well-suited to participate in federal administrative processes because they possess information on local conditions that federal regulators and other stakeholders do not.⁶⁸ This is particularly true in energy regulation, where states may generate insight not only from the operation of federal-jurisdictional areas within their borders, but also through the interaction of those entities and facilities with the ones that they directly regulate.⁶⁹

This knowledge can be used to shape the outcome of federal regulation. For instance, in its Order 2222, FERC proposed to allow distributed energy resources (DERs) like solar panels and batteries that are connected to the state-administered distribution grid to participate in federally regulated wholesale markets.⁷⁰ Initially, the rule did not include a role for state regulatory authorities in this process,⁷¹ even as the operation of DERs, by virtue of their physical location, impacts the reliability of the distribution grid and retail electrical usage.⁷² State regulators responded in force, describing their ongoing regulation of DERs and the necessity of their continued oversight in the effort to preserve reliability.⁷³ After consideration of the comments, FERC agreed, changing the rule to require that grid operators consult with relevant state authorities to define mechanisms allowing for state participation in the oversight of DERs in each market.⁷⁴

⁶⁸ Miriam Seifter, *States as Interest Groups in the Administrative Process*, 100 VIRGINIA L. REV. 953, 993-94 (2014).

⁶⁹ See Jim Rossi & Jon Wellinghoff, *FERC v. EPSA and Adjacent State Regulation of Customer Energy Resources*, 40 HARV. ENVTL. L. REV. F. 23, 27 (2016) (describing how state regulation may sit alongside and interact with federal programs).

⁷⁰ *FERC Order No. 2222: Fact Sheet*, FED. ENERGY REGUL. COMM’N (Sep. 28, 2020), <https://www.ferc.gov/media/ferc-order-no-2222-fact-sheet>.

⁷¹ *Participation of Distributed Energy Resource Aggregations in Markets Operated by Regional Transmission Organizations and Independent System Operators*, Order No. 2222, 172 FERC ¶ 61,247, P 314 (2020).

⁷² See *id.* at P 35 (urging FERC to construct a rule that preserves the reliability of the distribution grid).

⁷³ *Id.* at P 315, 320-21.

⁷⁴ *Id.* at P 324.

This shows a key component of state soft power: their ability to persuasively supply information that federal regulators would otherwise lack or, at the very least, might not fully consider. Of course, it is theoretically possible for non-state actors to make the same point, but it stands to reason that FERC is likely to give special weight to feedback from state leaders with direct experience on the matter at issue.

C. Capacity

In general, states, by virtue of the organizational structure built up to conduct their own regulation and policymaking, have sufficient staffing and expertise to diagnose key areas in federal jurisdiction where their participation would be impactful and engage accordingly. This is particularly valuable for actions that fall within the scope of adversarial soft power like litigation, where involvement in federal processes may take years. In these cases, state energy regulators may even access the additional capacity of state attorney general offices to supplement their in-house legal expertise.⁷⁵

Of course, there is significant variability in capacity among regulators in different states, both in the number of staff and in their expertise.⁷⁶ PUC budgets, for instance, can vary by a factor of 100, from \$4M in Montana to nearly \$400M in California.⁷⁷ Moreover, there is also variation in the degree to which such regulators are focused on federal affairs. Some states, for instance, maintain a separate program or office that is specifically tasked with monitoring and engaging in FERC proceedings.⁷⁸

⁷⁵ See, e.g., *Connecticut Dep't of Pub. Util. Control v. FERC*, 569 F.3d 477, 478 (D.C. Cir. 2009) (noting that the state energy regulator was represented by the state attorney general's office).

⁷⁶ Jessie Ciulla et al., *The People Element: Positioning PUCs for 21st-Century Success*, ROCKY MOUNTAIN INST. 24-26 (Jan. 2022).

⁷⁷ *Id.* at 25.

⁷⁸ See, e.g., *Energy Division*, CAL. PUB. UTILS. COMM'N, <https://www.cpuc.ca.gov/about-cpuc/divisions/energy-division> (last visited Mar. 23, 2026) (describing California's Federal Policy and Ratemaking Section); *ICC Comments to FERC*, ILL. COM. COMM'N, <https://www.icc.illinois.gov/home/FERC> (last visited Mar. 23, 2026) (describing Illinois' Federal Energy Program).

D. Agenda Setting and the Bully Pulpit

State regulators, policymakers, and elected officials are visible actors. Because of this, they possess a bully pulpit with which they can bring media and public attention to key issues in federal jurisdiction and effectively persuade federal actors.⁷⁹ However, the attention generated by the bully pulpit (and, presumably, its corresponding success) depends on two factors. First, the baseline visibility of the underlying issue matters: the media and public naturally care more about the use of the bully pulpit on issues for which they are already paying attention.⁸⁰ In the context of energy policy, some issues are likely to be far more visible than others. Rising rates, for instance, have received wide media attention in recent months.⁸¹ Renewable energy is similarly salient.⁸² However, few federal proceedings cover topics that are directly related to these prominent issues. Instead, they are often only indirectly connected. For instance, as described above, a key barrier to the reduction of energy costs and increased usage of clean energy is a lack of long-distance transmission lines.⁸³ Even if the topic of transmission itself is sufficiently prominent (unlikely), key federal proceedings on this matter concern the highly technical subject of transmission planning,⁸⁴ a matter one step removed from the actual construction of the lines, which, of course, is itself one step removed from the prominent issues of cost or the environmental impacts of energy. All of this makes the bully pulpit less effective, because it is difficult to draw public or media attention to an issue that few regard as significant.

⁷⁹ Jessica Bulman-Pozen & Heather K. Gerken, *Uncooperative Federalism*, 118 YALE L. J. 1256, 1280 (2009).

⁸⁰ Stefan Geiß, *The Media's Conditional Agenda-Setting Power: How Baselines and Spikes of Issue Salience Affect Likelihood and Strength of Agenda-Setting*, 49 COMM'C'N RSCH. 296, 296 (2022).

⁸¹ E.g., Brad Plumer, Harry Stevens & Rebecca Elliott, *Why the Price of Electricity Is Spiking Around the Country*, N.Y. TIMES (Oct. 30, 2025), <https://www.nytimes.com/2025/10/30/climate/electricity-prices.html>.

⁸² E.g., Brad Plumer, *How Clean Energy Firms Are Trying to Survive the Trump Era*, N.Y. TIMES (Mar. 28, 2026), <https://www.nytimes.com/2026/03/28/climate/clean-energy-trump-renewable.html>.

⁸³ Joshua Macey & Elias van Emmerick, *Towards a National Transmission Planning Authority*, 80 HARV. ENV'T. L. REV. 81, 85 (2025).

⁸⁴ *Explainer on the Transmission Planning and Cost Allocation Final Rule*, FED. ENERGY REGUL. COMM'N, <https://www.ferc.gov/explainer-transmission-planning-and-cost-allocation-final-rule> (last updated May 7, 2025).

Second, the success of the bully pulpit also turns on the visibility of the actor employing it.⁸⁵ For instance, the media strategy behind Pennsylvania’s successful imposition of a price cap in PJM primarily highlighted Governor Josh Shapiro, a prominent figure, as opposed to lower-profile Pennsylvania energy regulators.⁸⁶ This dynamic may be particularly important in the context of energy policy, as it enables a popular figure to bring attention to a technical subject that would otherwise receive little attention. In particular, such use of the bully pulpit could be particularly helpful in making the connections between obscure federal rulemakings and issues that residents care about.

IV. Suggestions to Improve Connecticut Participation in Federal Processes

The previous Parts laid out a general theory of how state soft power works and some of the reasons behind its effectiveness. This Part makes suggestions on how Connecticut regulators and policymakers can more effectively use soft power to shape federal processes.

A. Improve NESCOE’s Rights within ISO-NE

ISO New England’s (ISO-NE) state committee is the New England States Committee on Electricity (NESCOE), which includes representatives from each of the six states within the territory of the RTO. For Connecticut, that is the Commissioner of the Department of Energy and Environmental Protection (DEEP). NESCOE is granted several rights through a memorandum of

⁸⁵ See Thomas M. Meyer, Martin Haselmayr & Markus Wagner, *Who Gets into the Papers? Party Campaign Messages and the Media*, 50 BRIT. J. POL. SCI. 281, 293 (2020) (describing the results of a study revealing that politicians with higher positions are more likely to be covered by the media).

⁸⁶ *Governor Josh Shapiro Reaches Agreement with PJM to Prevent Unnecessary Price Hikes and Save Consumers Over \$21 Billion on Utility Bills*, COMMONWEALTH OF PA. (Jan. 28, 2025), <https://www.pa.gov/governor/newsroom/2025-press-releases/gov-shapiro-agreement-pjm-prevent-price-hikes-save-consumers-ove>; *FERC Approves Governor Shapiro’s Settlement with PJM to Prevent Unnecessary Price Hikes and Save Consumers Over \$21 Billion on Utility Bills*, COMMONWEALTH OF PA. (Apr. 22, 2025), <https://www.pa.gov/governor/newsroom/2025-press-releases/ferc-approves-gov-shapiro-settlement-pjm-prevent-unnecessary-pri>.

understanding among ISO-NE, its members, and the NESCOE states⁸⁷ as well as through the broader agreement among ISO-NE participants.⁸⁸ First, NESCOE may attend and express its views at ISO-NE meetings and is specifically invited to provide feedback on resource adequacy issues.⁸⁹

Second, NESCOE may present proposals to ISO-NE stakeholders—a group of utilities, independent power producers, and others—and, with a 60% majority of their votes, have its proposals filed at FERC alongside ISO-NE’s, allowing FERC to choose between them rather than deferring to the ISO-NE proposal.⁹⁰ While NESCOE has accomplished this in the past,⁹¹ in practice, securing sufficient stakeholder support may be difficult on many issues given how hard it is to win approval for reforms that would impose financial costs on some of the voting entities.⁹²

Third, NESCOE may propose cost allocation provisions for transmission lines that are similarly included with the relevant transmission owner’s filing at FERC.⁹³ However, this provision has not been used to date.⁹⁴

⁸⁷ *Memorandum of Understanding Among ISO New England Inc., the New England Power Pool, and New England States Committee on Electricity*, ISO-NEW ENG. 1 (Nov. 21, 2007), https://www.iso-ne.com/static-assets/documents/regulatory/part_agree/mou_final.pdf.

⁸⁸ *Participants Agreement Among ISO New England Inc., the New England Power Pool, and the Individual Participants*, ISO-NEW ENG. (Aug. 1, 2024), https://www.iso-ne.com/static-assets/documents/2015/10/parts_agree.pdf.

⁸⁹ *Memorandum of Understanding Among ISO New England Inc., the New England Power Pool, and New England States Committee on Electricity*, *supra* note 87, at 3, 5.

⁹⁰ *Participants Agreement Among ISO New England Inc., the New England Power Pool, and the Individual Participants*, *supra* note 88, at § 11.1.5.

⁹¹ *Winter Reliability Program 2015–2018-Jump Ball Filing*, NEW ENG. STATES COMM. ON ELEC. (July 15, 2015), <https://nescoe.com/resource-center/winterprg-2015-2018-jump-ball-filing-jul2015/>.

⁹² Joshua C. Macey, *Utility Filing Rights and the Grid’s Governance Problem*, ISO-NEW ENG. 12 (June 4, 2025), https://www.iso-ne.com/static-assets/documents/100024/clg_meeting_macey_panel_06_04_2025.pdf.

⁹³ *Transmission Operating Agreement*, ISO-NEW ENG § 3.04(h)(vi)(C) (June 23, 2025), https://www.iso-ne.com/static-assets/documents/regulatory/toa/v1_er07_1289_000_toa_composite.pdf.

⁹⁴ Macey, *supra* note 92, at 15.

Even when considered together, these rights amount to very little formal power. Most aspects of the ISO-NE regional framework are instead shaped by the ISO's board, its stakeholders, and the transmission owners that hold filing rights themselves.⁹⁵ Scholars have criticized this arrangement for privileging incumbent utilities and other financially interested firms over states and ratepayers.⁹⁶ This has led to years of conflict between the New England states and ISO-NE over issues like transmission planning. In this context, states argue that transmission owners can pursue costly rebuilds of aging transmission facilities and piecemeal local upgrades without meaningful scrutiny because ISO-NE has not historically maintained an independent process for evaluating whether those projects are necessary or more cost-effective than alternative transmission solutions.⁹⁷

The New England states could take several steps to increase their influence over ISO-NE policy. For instance, they could try to carve out—as SPP's states have—particular areas where deference is afforded to them and where their power is more likely to be used than in the relatively narrow area of transmission cost allocation. NESCOE, for instance, has called for shared filing rights for issues touching on state policy goals.⁹⁸ Another viable area for these rights might be proposals around the topic of resource adequacy, where the SPP states have power and NESCOE already consults.

Alternatively, while NESCOE has disclaimed an interest in participating in stakeholder votes in the past because it views the state role in ISO-NE affairs as different and weightier than

⁹⁵ *Id.* at 15-17.

⁹⁶ *Id.* at 2; Ari Peskoe, *Replacing the Utility Transmission Syndicate's Control*, 44 ENERGY L.J. 547, 549 (2023).

⁹⁷ *Comments on Transmission Planning and Cost Management*, NEW ENGLAND STATES COMMITTEE ON ELECTRICITY (Mar. 29, 2023), <https://nescoe.com/resource-center/comments-on-transmission-planning-and-cost-management>.

⁹⁸ *Communication to ISO-NE Board on Advancing the Vision*, NEW ENG. STATES COMM. ON ELEC. (Oct. 29, 2021), https://nescoe.com/resource-center/memo_iso_adv_vision/.

those of other participants,⁹⁹ states might consider participating in stakeholder voting if doing so would give them meaningful power to shape ISO-NE filings and rules.

Changing NESCOE's rights would likely itself require the use of soft power, since no statute requires RTOs to provide states with influence. Because there is no obvious mechanism to use procedural soft power, and courts have ruled that a challenge under the FPA (even if initially by FERC itself) provides little ability to alter the governing makeup of an RTO,¹⁰⁰ the best solution is political soft power like the kind used by Pennsylvania to reshape PJM. Of course, doing this in New England might require a crisis comparable to the one in PJM to effectively make the case for change.

B. Create a Joint State Advocacy Committee

Connecticut has several agencies that participate in energy regulation and policymaking. DEEP coordinates statewide energy policy and leads engagement at the federal level.¹⁰¹ The Public Utilities Regulatory Authority (PURA) sets retail rates for Connecticut consumers in quasi-judicial proceedings and oversees the electric distribution system.¹⁰² The Office of Consumer Counsel (OCC) participates in those proceedings and advocates for consumers.¹⁰³ The Siting Council oversees the location and construction of grid facilities like transmission lines through quasi-judicial hearings.¹⁰⁴

⁹⁹ *Comments on Modernizing Electricity Market Design in New England*, NEW ENG. STATES COMM. ON ELEC. (July 19, 2021), https://nescoe.com/resource-center/modernizing_markets_new_england/.

¹⁰⁰ *California Indep. Sys. Operator Corp. v. FERC*, 372 F.3d 395, 400 (D.C. Cir. 2004).

¹⁰¹ *About Us*, CONN. DEP'T OF ENERGY & ENV'T PROT., <https://portal.ct.gov/deep/about/about-us> (last updated Dec. 9, 2025).

¹⁰² *About PURA*, PUB. UTILS. REGUL. AUTH., <https://portal.ct.gov/pura/about/about-pura> (last visited Mar. 23, 2026).

¹⁰³ *Electricity Service in Connecticut*, OFF. OF CONSUMER COUNS., https://portal.ct.gov/occ/electricity?language=en_US (last visited Mar. 23, 2026).

¹⁰⁴ *2024 Connecticut Siting Council Report*, CONN. DEP'T OF ENERGY & ENV'T PROT. 1 (Dec. 31, 2024), <https://portal.ct.gov/-/media/deep/planning/ct-siting-council-report/final-csc-report/csc-report---final-123124.pdf>.

This separation makes sense for state-level regulation. Because PURA, for example, holds hearings in which the OCC may participate, a formal separation between them is necessary to ensure impartiality and rigorous procedures that can withstand subsequent judicial review. However, barriers designed to preserve impartiality in state-jurisdiction proceedings may, in practice, harm Connecticut’s ability to advocate for itself at the federal level by limiting the information and capacity that its agencies can use to exercise soft power.

By statute, the agencies already coordinate to some extent. For instance, DEEP and PURA each appoint one member of the Siting Council’s board, which is filled by a designee of the leaders of those agencies.¹⁰⁵ But other laws, created with an eye towards preserving the sanctity of PURA’s and the Siting Council’s quasi-judicial processes, have blocked communication between the three agencies. For instance, Connecticut’s Uniform Administrative Procedure Act—used by the Siting Council—bars *ex parte* communications by “other agenc[ies]” with any member of an agency overseeing a case or hearing.¹⁰⁶

This may effectively prevent communication between the DEEP and PURA representatives on the Siting Council and their respective agencies. Because any consultation with agency colleagues would qualify as an *ex parte* communication, they—at least according to the letter of the rule—could not seek internal expertise or policy input once a matter is before the Siting Council. PURA has its own *ex parte* rules, which similarly bar communication concerning “any issue of fact or law involved in any contested case.”¹⁰⁷ The available evidence suggests that these rules are scrupulously followed. For instance, a DEEP report on the Siting Council cites the

¹⁰⁵ *Council Membership-Energy*, CONN. SITING COUNCIL, <https://portal.ct.gov/csc/membership/membership/council-membership---energy> (last visited Mar. 23, 2026).

¹⁰⁶ CONN. GEN. STAT. § 4-181(c).

¹⁰⁷ CONN. GEN. STAT. § 4-181(c).

risk of improper ex parte communication as a primary reason to withhold government email addresses from Council members.¹⁰⁸

All of this makes advocacy at the federal level much harder, because it means that DEEP—which is formally tasked with this work—has gaps in its knowledge. Unlike PURA and the Siting Council, DEEP does not conduct formal regulation of any party.¹⁰⁹ And, because of the stringent ex parte rules governing the procedures of other agencies, DEEP may not be able to easily access their knowledge. As a result, DEEP’s policy advocacy on behalf of Connecticut at the federal level may be less effective because it cannot access the most up-to-date knowledge on state-level controversies that impact regional issues.

To be sure, there are other opportunities for non-DEEP agencies to engage at the federal level. For instance, the agencies may individually submit comments to FERC.¹¹⁰ PURA also participates in the New England Conference of Public Utilities Commissioners (NECPUC),¹¹¹ an organization that is similar to NESCOE in that it brings together regulators from each of the ISO-NE states, but dissimilar in that it lacks significant formal power within the ISO.¹¹² While there is supposed to be engagement between NESCOE and NECPUC before NESCOE develops its views on any particular issue, it is not required to defer to NECPUC in any way.¹¹³ As a result, there still may be missing information that is not used for NESCOE’s advocacy.

¹⁰⁸ 2024 *Connecticut Siting Council Report*, supra note 104, at 45.

¹⁰⁹ CONN. GEN. STAT. § 22a-2(d).

¹¹⁰ See, e.g., Allison Clements, *Commissioner Clements’ Concurrence Regarding RENEW Northeast, Inc. and the American Clean Power Association v. ISO New England Inc.*, FED. ENERGY REGUL. COMM’N (Feb. 16, 2023), <https://www.ferc.gov/news-events/news/e-15-commissioner-clements-concurrence-regarding-renew-northeast-inc-and-american> (describing a comment submitted by both DEEP and PURA).

¹¹¹ *NECPUC Leadership*, NEW ENG. CONF. OF PUB. UTILS. COMM’RS, <https://www.necpuc.org/necpuc-leadership/> (last visited Mar. 23, 2026).

¹¹² *Memorandum of Understanding Among ISO New England Inc., the New England Power Pool, and New England States Committee on Electricity*, supra note 87, at 3.

¹¹³ *Id.*

None of these problems are unique to Connecticut. Agencies in states across the country suffer from similar issues arising from the simultaneous need to engage with each other while also preserving the impartiality that is required by law.¹¹⁴ Some regulators from other states have embraced informal collaboration between agencies to ensure that information flows between them.¹¹⁵ While this would be valuable—and presumably already happens to a certain degree—a more formal option may be more impactful in ensuring meaningful information and capacity sharing between agencies.

One solution could be a standing “Federal Energy Committee” that would bring together leaders and staff from each energy agency to identify key items in federal jurisdiction and define a strategy for how to advocate for Connecticut as a unified group. The agencies could then proceed with the use of any given form of soft power depending on the strategy chosen. Doing so would ensure that all relevant information from each is present and that the agencies collectively use their scarce time and resources to prioritize issues that are most important to the state at large, rather than to a single agency. In practice, it may be possible to loosen *ex parte* rules specifically for the purposes of sharing information within the Federal Energy Committee because it would involve staff discussing only issues within federal jurisdiction, rather than state-jurisdiction controversies that are currently the subject of contested proceedings.

The Federal Energy Committee would also better facilitate the use of the bully pulpit. After designating specific items in federal jurisdiction as most important to Connecticut residents and ratepayers, the agencies could accordingly elevate them to leading Connecticut officials—such as the Governor and members of Congress—with the knowledge that such a designation

¹¹⁴ Charles Harper & Kirsten Verclas, *Engagement Between Public Utility Commissions and State Energy Offices*, NAT’L COUNCIL ON ELECTRICITY POL’Y 6, <https://pubs.naruc.org/pub/BE0CB9C4-155D-0A36-3145-B283C4207921> (last visited Mar. 23, 2026).

¹¹⁵ *Id.* at 7.

represents a whole-of-government assessment rather than the judgment of only one or two agencies that may not possess full information. As described previously, these officials might be particularly effective at using the bully pulpit for technical issues in federal jurisdiction because of their public prominence.

C. Increase Salaries for Energy Roles

Of course, beyond engaging with other agencies, it is also vital for each agency to be well-staffed and have sufficient expertise to both engage in its state-jurisdiction duties and participate at the federal level. On this count, Connecticut may be falling short. For instance, by one study's measure, PURA has slightly fewer employees per capita than the median state's PUC.¹¹⁶ However, in addition to just the number of workers, agencies may also struggle to attract skilled employees because of issues with Connecticut's pay structure.

For instance, the pay for a Staff Attorney 2 at OCC, which requires a law degree and two years of legal experience, starts at \$99,570.¹¹⁷ This pay is not agency-specific: it is constant across Connecticut's executive agencies such that, for instance, a Staff Attorney 2 at the Department of Education has the same salary.¹¹⁸ Salaries are set by bargaining, and all Staff Attorney 2 employees share a pay band.¹¹⁹ However, because energy law is a specialized field and relatively few candidates possess the necessary expertise, the pay that works for the Department of Education may not similarly attract qualified candidates to PURA and other energy agencies.

¹¹⁶ Ciulla et al., *supra* note 76, at 26.

¹¹⁷ *Staff Attorney 2*, CONN. (Mar. 4, 2026), <https://www.jobapscloud.com/CT/sup/bulpreview.asp?R1=260210&R2=0088AR&R3=001&b=>.

¹¹⁸ *Id.*

¹¹⁹ *Staff Attorney 2*, CONN., <https://www.jobapscloud.com/CT/specs/classspecdisplay.asp?ClassNumber=0088AR&LinkSpec=RecruitNum2&R1=&R3=> (last visited Mar. 23, 2026).

This same issue is seen with other job functions. The salary for a Public Utilities Engineer 1 at PURA, which requires six years of electrical engineering experience or a bachelor's degree and two years of engineering experience, starts at \$76,039,¹²⁰ which matches the pay given to engineers at other agencies with similar levels of experience.¹²¹ But engineers working on energy issues must possess a range of specialized knowledge relating to both engineering itself and the underlying mechanics of utility regulation that may, as with lawyers, make it particularly difficult to find strong candidates at compensation levels that work for other agencies.¹²² There is also considerable competition from private firms with higher pay, which has caused even FERC to struggle with hiring engineers.¹²³

In place of full-time staff, agencies like OCC have sometimes turned to outside consultants to better engage in complex proceedings like rate cases.¹²⁴ This is not in itself a bad thing—especially for short-term projects—but it may reveal an inability to maintain sufficient in-house capacity.¹²⁵

It is likely difficult to find a solution here, given that salaries are centrally determined well in advance of any agency need for a specific skill set. However, assuming it is not possible to preemptively create energy-agency-specific positions with higher pay across the board, one more limited approach, modeled on authority available to FERC, may provide a possible

¹²⁰ *Public Utilities Engineer 1*, CONN., <https://www.jobapscloud.com/CT/specs/classspecdisplay.asp?ClassNumber=6675FE&LinkSpec=RecruitNum2&R1=&R3=> (last visited Mar. 23, 2026).

¹²¹ *Civil Engineer 2*, CONN., <https://www.jobapscloud.com/CT/specs/classspecdisplay.asp?ClassNumber=1966FE&LinkSpec=RecruitNum2&R1=&R3=> (last visited Mar. 23, 2026).

¹²² *Public Utilities Engineer 1*, *supra* note 120.

¹²³ Miranda Willson, *FERC Policy Chief Frets About Agency's Staff Openings*, POLITICO (Sept. 30, 2022), <https://www.eenews.net/articles/ferc-policy-chief-frets-about-agencys-staff-openings/>.

¹²⁴ *RFP to Retain Rate Case Consultant*, CONN. OFF. OF CONSUMER COUNS., (July 12, 2023), https://portal.ct.gov/occ/rfp/rfp-seeks-rate-case-consultant?language=en_US.

¹²⁵ Zachary Liscow, *State Capacity for Building Infrastructure*, in *Strengthening America's Economic Dynamism* 110 (Melissa S. Kearney & Luke Pardue eds., ASPEN INST. 2024).

solution. By statute, FERC’s Chair may raise salaries for a category of employees performing “work of a scientific, technological, engineering, or mathematical nature” upon a finding that the agency otherwise would be unable to recruit and retain such personnel.¹²⁶ Here, this could allow the energy agencies to increase compensation for a specific group of employees (for instance, only engineers, or engineers and lawyers with specialized energy expertise) above the general government pay grade upon a finding that doing so is necessary to improve agency capacity. To be sure, this is not a panacea. As noted, FERC still struggles to hire qualified engineering talent. And, of course, giving this ability specifically to energy agencies may provoke reasonable complaints of unfairness from workers in other parts of Connecticut government. However, some program of this type would likely improve the capacity and effectiveness of state energy agencies.

Conclusion

Connecticut and other states must contend with the primacy of federal energy regulators and entities on a variety of issues that affect ratepayers and state policy goals. However, through the use of soft power, states can influence federal regulation and policymaking. This paper has outlined a variety of potential mechanisms that Connecticut policymakers should consider to improve the use of soft power.

Even beyond these specific suggestions, Connecticut officials should consider which federal-jurisdiction processes to engage in and the most effective ways to do so. More advocacy for state interests at the federal level could provide significant benefits for ratepayers and residents.

¹²⁶ 42 U.S.C. § 7171(k).

Artificial Intelligence Disclosure

I used ChatGPT to find sources (such as by asking for research on a particular topic) and to suggest alternatives for words or phrases to improve grammar and flow (such as by asking for different words that better fit a desired point).