Some electric utilities and environmental groups have become the strangest of bedfellows in opposition to a key element of President Bush's energy plan: eminent domain for federal regulators to site power lines.

Those who support eminent domain, including Bush, Vice President Cheney and Senate Energy Committee Chairman Frank Murkowski (R-Alaska), argue the national transmission picture is so grim that granting the Federal Energy Regulatory Commission authority to condemn private and public property for construction is the only way out. They cite the grid's inability to handle regional crises (see California) and the need to adapt to a growing interstate wholesale power market.

For supporters, California has become a case study on behalf of Federal rights-of-way authority for power transmission. The North American Electric Reliability Council (NERC) expects over 260 hours of firm curtailments and blackouts this summer, with almost nothing to be done because the transmission grid -- both into and within the state -- is overloaded and inadequate. California's link between north and south, Path 15, is often so overloaded that excess generation cannot be shipped north, NERC general counsel David Cook recently told the Senate Energy Committee, and interconnections with other regions -- such as Texas -- were not designed to facilitate long-distance power swaps.

The primary reason the grid as designed doesn't work, Cook explained, is because marketers have begun wheeling power in large blocks from one part of the country to the other, and the current infrastructure was not designed to support this dynamic.

"The volume and complexity of transactions on the grid have grown enormously since the advent of open access transmission," Cook said.

Bush therefore envisions doing away with widespread bottlenecks and improving interstate grid investment by creating what amounts to a national grid much like the national highway system. Specific proposals within his energy plan would grant FERC eminent domain authority, guarantee a set rate of return for transmission investment and expedite power line construction by doing away with some local and state oversight.

But critics say granting regulators sweeping powers over the grid is both impractical and politically impossible, and simply not the best option for achieving the desired result.

First, some utility officials think increasing federal oversight will undermine the market's drift toward regionalized grid management in the form of regional transmission organizations (RTOs).
An official from Ohio-based FirstEnergy Corp., for instance, recently pleaded with Congress to not give FERC more power to intervene and leave RTO formation to industry.

"Congress should avoid giving FERC new authority to restructure the industry," said FirstEnergy's Stanley Szwed, vice president of transmission, before the Senate Energy Committee May 15. "RTOs are forming ... now is certainly not the time to add market structuring authority, with 98 percent of investor-owned transmission assets being committed to RTOs. The industry is demonstrating that many proposals in the last Congress for additional RTO authority were unnecessary."

Like other transmission owners, FirstEnergy already has a financial stake in RTO formation and doesn't want to see that investment quashed by new attempts by government to control grid management. The company has voluntarily joined a Midwestern organization called the Alliance RTO, a non-profit body that would manage daily operations and expansion for utilities.

Environmentalists, meantime, find themselves in agreement with utility officials, saying eminent domain will inject more uncertainty into the market and jeopardize the immediate future of transmission investment. Further, green groups think taking siting rights away from local and state officials is plain wrong because communities have a right to oppose construction seen as undermining the local interest.

Because the national grid is already divided into three separate and distinct regions -- the West, East and Texas -- Patricio Silvo, of the Natural Resources Defense Council, says the national grid envisioned by Bush is impractical and physically impossible to pull off. All three grids are managed autonomously and even further balkanized by regional demand and generation capability, meaning a new transmission line is not necessarily the solution to every local supply problem, Silvo explained.

"This is a one-size-fits-all approach," he said. "You take the expertise of regional organizations and utilities and throw it out. Who is going to manage and operate a national grid? Would FERC get into the business of building power lines? How would you allocate these costs?"

Constraints between certain areas, Silvo added, such as between the Midwest and Southeast, might be better served by adding new generation in local markets where supply is needed most: "There are ways to address local supply problems without eminent domain, such as generation capacity or energy efficiency or by using new superconducting cables or updating switching capacity."

"There needs to be regional coordination," said Anna Aurilio, of the U.S. Public Interest Research Group. "And they also need to look at transmission materials that are far more efficient, but local authorities should not have their right to review new facilities taken away. It needs to be a democratic process."

And many say simple physics prevents the formation of a national grid. Said Silvo, "If you move an electron across several
hundred miles, you lose a significant amount of energy in the form of heat generated off those lines."

"As much as we all would like to be able to move electrons from wherever they are produced to wherever they are needed, like we can with natural gas molecules, the electric transmission system is not able to accommodate those types of transactions," William Nugent, commissioner of the Maine Public Utilities Commission, testified before the Senate committee.

Besides, politically speaking Bush's proposal faces near-blanket opposition from influential Western Republicans (many of whom sit on the committee). Eminent domain has next to no chance of surviving the legislative process because the issue so inflates the Western conservative GOP base, said Marshall Wittman, of the Hudson Institute.

"Most of all, politicians hope this just goes away," Wittman said.

Silvo agrees, calling eminent domain a "nonstarter" in Congress since Sens. Pete Domenici (R-N.M.), Larry Craig (R-Idaho) and Jeff Bingaman (D-N.M.), among others, oppose the proposal so strongly.

"It doesn't look like this was thoughtfully considered or debated," Silvo said. "The proposal looks like somebody ripped up a 45-page document and taped it together in five or six lines. It doesn't make a whole lot of sense."

Still, powerful industry lobbyists have united behind the Bush proposals. Both the Edison Electric Institute and the American Public Power Association -- groups traditionally on opposing sides of various electricity issues -- support the idea and maintain environmentalists are distorting the proposal.

"There is a lot of misunderstanding about this," said EEI spokesman Jim Owen.

"Siting authority for FERC is really a last resort type of thing. It would be designed to help resolve disputes when there is no other resolution in sight."

On interstate issues, Owen explained, local and state regulations often overlap and hinder the development of interstate power lines, even on a regional basis. "The real reason we need to do this is the transmission system is being used in ways never envisioned," he said.

FERC should receive the kind of authority it currently retains to resolve natural gas pipeline disputes, Owen continued, which, he admitted, still comes with plenty of problems: "This is not a panacea. There will be a lot of wrangling and lawsuits no matter what you do."

APPA's support for eminent domain would seem something of a departure from its traditional position since so many of its members are local public power officials and council members. Not so, said
APPAs Madalyn Cafruny, who argued this is the best way to deal with the new realities of an interstate wholesale market.

"Our members still believe very strongly in local control, but the situation is so bad they decided to support the concept with some reluctance because they feel eminent domain is necessary," said Cafruny.

Connections between utilities and states, Cafruny explained, are often the weakest part of an electric transmission system; in the previous closed-market system, dominated by local and regional monopolies, interstate and interutility connections were used only during emergencies. Since that market is changing so rapidly, APPA has decided federal oversight for the grid is the only answer.