
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE RESOLUTION

No. 129 Session of
2007

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REFERRED TO ENVIRONMENTAL RESOURCES AND ENERGY, JUNE 11, 2007

A RESOLUTION

1 Opposing the designation of national interest electric
2 transmission corridors and memorializing the Congress of the
3 United States to repeal or modify certain provisions of the
4 Energy Policy Act of 2005.

5 WHEREAS, The Energy Policy Act of 2005 (EPact) was passed by
6 the Congress on July 29, 2005, and signed into law on August 8,
7 2005; and

8 WHEREAS, The EPact was promoted as a comprehensive approach
9 to growing energy needs and designed to guarantee development of
10 domestic fuel production and energy supply, thereby ending
11 United States dependence on foreign oil; and

12 WHEREAS, Provisions of the omnibus legislation touch on
13 nearly every segment of energy production and use, including
14 nuclear power, electricity, natural gas, fossil fuels, renewable
15 energy and competitive generation; and

16 WHEREAS, A provision of Title XII of the EPact, Electricity,
17 however, preempts what have long been fundamental powers of
18 state and local governments; and

19 WHEREAS, Section 1221, for example, transfers the authority

1 to approve the siting of certain transmission lines from state
2 governments and their political subdivisions to agencies of the
3 Federal Government; and

4 WHEREAS, Section 1221(a) of EPact directs the United States
5 Secretary of Energy to, in consultation with states, conduct
6 periodic nationwide studies of electric transmission congestion;
7 and

8 WHEREAS, The Secretary of Energy released its initial
9 National Electric Transmission Congestion study in August 2006;
10 and

11 WHEREAS, Based upon the findings of any congestion study, the
12 Secretary of Energy may designate "any geographical area
13 experiencing electric energy transmission capacity constraints
14 or congestion that adversely affects customers" as a "national
15 interest electric transmission corridor" or national corridor;
16 and

17 WHEREAS, Section 1221(b) further conveys to the Federal
18 Energy Regulatory Commission (FERC) the authority to issue
19 permits for construction or modification of electric
20 transmission facilities situated or proposed to be situated in
21 any Department of Energy designated national interest electric
22 transmission corridor; and

23 WHEREAS, The FERC would be able to override the authority of
24 the Pennsylvania Public Utility Commission to issue a
25 certificate of public convenience to approve and locate a
26 transmission line in a Department of Energy designated national
27 interest electric transmission corridor if:

28 (1) the Pennsylvania Public Utility Commission had no
29 authority to approve a specified transmission line proposal
30 or would fail to consider interstate benefits of the proposed

1 transmission line;

2 (2) the applicant would not qualify for a certificate of
3 public convenience issued by the Pennsylvania Public Utility
4 Commission because it does not serve end-use customers in the
5 Commonwealth of Pennsylvania;

6 (3) the Pennsylvania Public Utility Commission would fail
7 to act on an application for approval to locate and construct
8 the new transmission line within one year of the filing of an
9 application or one year after designation as a national
10 interest electric transmission corridor, whichever is later;
11 or

12 (4) the Pennsylvania Public Utility Commission would
13 condition its approval in such a manner that the proposed
14 construction or modification would not significantly reduce
15 transmission congestion or would not be economically
16 feasible;

17 and

18 WHEREAS, The Pennsylvania Public Utility Commission and its
19 predecessor, the Public Service Commission, have had
20 jurisdictional and regulatory authority over public utilities
21 and public utility service, including the review and approval of
22 applications for the location and construction of transmission
23 lines in the Commonwealth of Pennsylvania since 1913, or for 94
24 years; and

25 WHEREAS, The designation of national interest electric
26 transmission corridors in the Commonwealth of Pennsylvania,
27 coupled with FERC "backstop" authority to issue permits to site
28 a transmission line and thereby override the recommendations of
29 the Pennsylvania Public Utility Commission, would give electric
30 utilities access to Federal eminent domain authority; and

1 WHEREAS, If FERC would institute its "backstop" authority,
2 the holder of a FERC-issued permit would be empowered to
3 exercise the right of eminent domain to condemn and acquire
4 private property to locate and construct the transmission line;
5 and

6 WHEREAS, On March 6, 2006, Allegheny Power and the PJM
7 Interconnection, the Regional Transmission Organization that
8 coordinates the movement of wholesale electricity in all or
9 parts of 13 states and the District of Columbia, including the
10 Commonwealth of Pennsylvania, filed for early designation as a
11 national interest electric transmission corridor a 240-mile, 500
12 kV transmission line which would extend from southwestern
13 Pennsylvania, traverse West Virginia and terminate in northern
14 Virginia; and

15 WHEREAS, On October 10, 2006, the PJM Interconnection
16 submitted another request to the Department of Energy for early
17 designation of three additional national interest electric
18 transmission corridors that will encompass nearly all of the
19 Mid-Atlantic region; and

20 WHEREAS, The early request filed with the United States
21 Department of Energy by Allegheny Power and the PJM
22 Interconnection, if granted, will include significant acreage of
23 land in the Commonwealth of Pennsylvania; and

24 WHEREAS, On April 26, 2007, the United States Department of
25 Energy released drafts of two national interest electric
26 transmission corridor designations, including the Mid-Atlantic
27 Area National Corridor; and

28 WHEREAS, The Mid-Atlantic Area National Corridor designation
29 includes counties in Ohio, West Virginia, Pennsylvania, New
30 York, Maryland, Virginia and includes all of New Jersey,

1 Delaware and the District of Columbia; and

2 WHEREAS, Fifty of the Commonwealth of Pennsylvania's 67
3 counties, or 75% of the land within the Commonwealth's
4 geographic borders, are included in the Mid-Atlantic Area
5 National Corridor designation; and

6 WHEREAS, In its release announcing the draft national
7 interest electric transmission corridor designations, the
8 Department of Energy revealed that it would convene three public
9 meetings during a 60-day comment period; and

10 WHEREAS, In its April 26, 2007, announcement, the Department
11 of Energy revealed that public meetings would be held in New
12 York, Virginia and California during the 60-day comment period;
13 and

14 WHEREAS, Some local governments, citizens and preservation
15 groups that would be directly impacted by the designation of
16 national interest electric transmission corridors in the
17 Commonwealth of Pennsylvania and some other affected states
18 contacted the Department of Energy to express their
19 disappointment and concern that no public meetings were planned
20 for Pennsylvania and other affected states during the 60-day
21 comment period; and

22 WHEREAS, On May 8, 2007, the Department of Energy announced
23 that it would hold four additional meetings during the 60-day
24 public comment period in some states, including the Commonwealth
25 of Pennsylvania, that would be impacted by the national interest
26 electric transmission corridor designations; and

27 WHEREAS, The Pennsylvania public meeting will be convened in
28 the month of June in Pittsburgh, Pennsylvania; and

29 WHEREAS, The 60-day comment period for the Mid-Atlantic Area
30 National Corridor designations is scheduled to end on July 6,

1 2007; and

2 WHEREAS, It is alleged that the transmission lines proposed
3 to be located and constructed in the Mid-Atlantic Area National
4 Corridor would be used to relieve energy congestion and
5 constraints and improve electric reliability in population
6 centers of the East Coast; and

7 WHEREAS, Designation of national interest electric
8 transmission corridors in the Commonwealth of Pennsylvania could
9 diminish or eliminate the role of the Pennsylvania Public
10 Utility Commission, the administrative agency of the
11 Commonwealth that has regulatory authority over the approval of
12 applications for the location and construction of transmission
13 lines; and

14 WHEREAS, Designation of national interest electric
15 transmission corridors would also adversely limit or completely
16 eliminate the roles of the Office of Consumer Advocate and the
17 Office of Small Business Advocate; and

18 WHEREAS, The Office of Consumer Advocate and the Office of
19 Small Business Advocate are administrative agencies of the
20 Commonwealth of Pennsylvania that were expressly established by
21 Pennsylvania statute to represent the interests of consumers and
22 small businesses, respectively, in proceedings before the
23 Pennsylvania Public Utility Commission, including certain
24 matters related to the location and construction of transmission
25 lines; and

26 WHEREAS, Designation of national interest electric
27 transmission corridors and FERC's accompanying "backstop"
28 authority could diminish or even eliminate the roles of other
29 administrative agencies of the Commonwealth of Pennsylvania that
30 were established for the express purpose of protecting

1 Pennsylvania's economic, natural, historical, cultural and
2 recreational resources, including the Departments of
3 Environmental Protection, Conservation and Natural Resources,
4 Agriculture and Transportation as well as the Game Commission
5 and the Historical and Museum Commission; and

6 WHEREAS, Designation of national interest electric
7 transmission corridors in the Commonwealth of Pennsylvania would
8 undermine and in some cases eliminate the Commonwealth's ability
9 to determine, manage and control land use policies, including
10 land use policies on its agricultural lands, forest reserves,
11 recreational areas, game lands and other natural and
12 environmentally sensitive areas; therefore be it

13 RESOLVED, That the Senate of Pennsylvania recognize fully the
14 energy and environmental challenges facing the Commonwealth of
15 Pennsylvania in general and the United States in particular; and
16 be it further

17 RESOLVED, That the Senate believe that demand for energy
18 continues to be a concern nationwide, especially in major
19 population centers, and that an effective national energy policy
20 must include increased emphasis on conservation, renewable
21 energy, energy-efficient alternatives, demand-side management,
22 innovations and new technologies while simultaneously providing
23 incentives to increase domestic production and supply; and be it
24 further

25 RESOLVED, That the Senate recognize that an effective energy
26 policy must be addressed nationally but should reflect
27 traditional state and local authority over environmental and
28 energy matters; and be it further

29 RESOLVED, That the Senate oppose the provisions of EPact
30 which preempt the authority of the Commonwealth of Pennsylvania

1 and its political subdivisions to determine land use policies
2 and which usurp the traditional and fundamental authority of the
3 Pennsylvania Public Utility Commission to review and approve
4 applications for the location and construction of transmission
5 lines in the Commonwealth of Pennsylvania; and be it further

6 RESOLVED, That the Senate urge the members of the
7 Pennsylvania Congressional Delegation to support legislation to
8 repeal section 1221 of EPact and thereby preserve the
9 fundamental rights of the Commonwealth of Pennsylvania and its
10 people to determine the future of land use policies; and be it
11 further

12 RESOLVED, That copies of this resolution be transmitted to
13 the presiding officers of each house of Congress and to each
14 member of Congress from Pennsylvania.