

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE RESOLUTION

No. 297 **Session of**
2007

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GALLOWAY, GEORGE, FREEMAN, DALLY, JOSEPHS, YOUNGBLOOD,
PASHINSKI AND HORNAMAN, MAY 24, 2007

REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, MAY 24, 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,

1 however, preempts what have long been fundamental powers of
2 state and local governments; and

3 WHEREAS, Section 1221, for example, transfers the authority
4 to approve the siting of certain transmission lines from state
5 governments and their political subdivisions to agencies of the
6 Federal Government; and

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

11 WHEREAS, The Secretary of Energy released its initial
12 National Electric Transmission Congestion study in August 2006;
13 and

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

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

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

1 (1) the Pennsylvania Public Utility Commission had no
2 authority to approve a specified transmission line proposal
3 or would fail to consider interstate benefits of the proposed
4 transmission line;

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

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

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

20 and

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

28 WHEREAS, The designation of national interest electric
29 transmission corridors in the Commonwealth of Pennsylvania,
30 coupled with FERC "backstop" authority to issue permits to site

1 a transmission line and thereby override the recommendations of
2 the Pennsylvania Public Utility Commission, would give electric
3 utilities access to Federal eminent domain authority; and

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

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

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

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

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

1 WHEREAS, The Mid-Atlantic Area National Corridor designation
2 includes counties in Ohio, West Virginia, Pennsylvania, New
3 York, Maryland, Virginia and includes all of New Jersey,
4 Delaware and the District of Columbia; and

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

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

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

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

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

30 WHEREAS, The Pennsylvania public meeting will be convened in

1 the month of June in Pittsburgh, Pennsylvania; and

2 WHEREAS, The 60-day comment period for the Mid-Atlantic Area
3 National Corridor designations is scheduled to end on July 6,
4 2007; and

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

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

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

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

29 WHEREAS, Designation of national interest electric
30 transmission corridors and FERC's accompanying "backstop"

1 authority could diminish or even eliminate the roles of other
2 administrative agencies of the Commonwealth of Pennsylvania that
3 were established for the express purpose of protecting
4 Pennsylvania's economic, natural, historical, cultural and
5 recreational resources, including the Departments of
6 Environmental Protection, Conservation and Natural Resources,
7 Agriculture and Transportation as well as the Game Commission
8 and the Historical and Museum Commission; and

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

16 RESOLVED, That the House of Representatives of the
17 Commonwealth of Pennsylvania recognize fully the energy and
18 environmental challenges facing the Commonwealth of Pennsylvania
19 in general and the United States in particular; and be it
20 further

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

29 RESOLVED, That the House of Representatives recognize that an
30 effective energy policy must be addressed nationally but should

1 reflect traditional state and local authority over environmental
2 and energy matters; and be it further

3 RESOLVED, That the House of Representatives oppose the
4 provisions of EPact which preempt the authority of the
5 Commonwealth of Pennsylvania and its political subdivisions to
6 determine land use policies and which usurp the traditional and
7 fundamental authority of the Pennsylvania Public Utility
8 Commission to review and approve applications for the location
9 and construction of transmission lines in the Commonwealth of
10 Pennsylvania; and be it further

11 RESOLVED, That the House of Representatives urge the members
12 of the Pennsylvania Congressional Delegation to support
13 legislation to repeal section 1221 of EPact and thereby preserve
14 the fundamental rights of the Commonwealth of Pennsylvania and
15 its people to determine the future of land use policies; and be
16 it further

17 RESOLVED, That copies of this resolution be transmitted to
18 the presiding officers of each house of Congress and to each
19 member of Congress from Pennsylvania.