

**TESTIMONY OF THE HONORABLE H. WILLIAM DeWEESE**

**MAJORITY LEADER, PENNSYLVANIA HOUSE OF REPRESENTATIVES**

Before the United States House of Representatives Committee on Oversight and Government Reform Subcommittee on Domestic Policy on Federal Electric Transmission Corridors:

Consequences For Public And Private Property.

April 25, 2007

Good afternoon Mr. Chairman and members of the Committee on Oversight and Government Reform's Subcommittee on Domestic Policy.

Mr. Chairman, I am H. William DeWeese. I appreciate the opportunity to appear before you and Members of the Sub-Committee on Domestic Policy to provide comment on the implementation of Section 1221 of the Energy Policy Act of 2005. I respectfully offer these comments in my capacity as the Majority Leader of the Pennsylvania House of Representatives and as the duly elected State Legislator for the 50th Legislative District, which encompasses all of Greene County and parts of Washington and Fayette Counties.

My testimony, in large part, will consider the impact section 1221 will have on the Commonwealth of Pennsylvania, its people and political subdivisions. Accordingly, it is my belief that section 1221 as public policy will, if implemented, advance an element of the Energy Policy Act of 2005 which is void of public benefit, which ignores environmentally clean, renewable, energy-efficient and cost-effective alternatives, and which forsakes the rights of states and their political subdivisions to adopt, administer, and manage land use policies and decisions that conflict with the ambitions of profit seeking corporations seeking to locate and construct high voltage transmission lines.

Section 1221 gives the Secretary of Energy the authority, based on congestion studies, to designate national interest electric transmission corridors in any geographic area of the United States that is experiencing electric transmission capacity constraints or congestion. Furthermore, section 1221 gives the Federal Energy Regulatory Commission (the FERC) "backstop" authority to issue one or more permits to construct a transmission line in a Department of Energy designated national interest energy transmission corridor, if specific conditions exist. For instance, if the Pennsylvania Public Utility Commission (PA PUC) would fail to approve a transmission line siting application for more than one year following the filing of the application seeking approval to locate or construct a high voltage transmission line or one year after the designation of the relevant national interest electric transmission corridor, whichever is later; OR if the PA PUC would condition its approval in such a manner that the proposed transmission line would not significantly reduce transmission congestion; OR would not be economically

feasible, the FERC could use its Federal eminent domain power to locate and construct the transmission line in Pennsylvania, regardless of the findings of the PA PUC or any other state administrative agency that is statutorily charged with assuring that the high voltage transmission line is in the public interest and will provide a public benefit.

The PA PUC is the administrative agency of the Commonwealth statutorily empowered with jurisdictional authority over the rates, terms, and conditions of retail electric utilities. Moreover, it is the duty of the PA PUC pursuant to statute to, among other things, assure that the rates of public utility service, including electric service, are just and reasonable; that there is no discrimination in rates; and that public utility service is safe and reliable. The PA PUC also has regulatory authority over the review and approval of applications to locate and construct transmission lines. Additionally, the Office of Consumer Advocate was established in 1976 and the Office of Small Business Advocate in 1988 for the explicit purposes of representing the interest of consumers and small businesses, respectfully, in any matter or proceeding properly before the PA PUC, including matters relating to the location and construction of high voltage transmission lines. I submit that if the Department of Energy designates a national interest energy transmission corridor in Pennsylvania with little or no consultation and coordination with all administrative agencies charged with representing the rights and interest of ratepayers and assuring a public benefit, it would be difficult if not impossible to conclude that the project would be in the public interest.

The accompanying backstop authority conveyed to the FERC could diminish or even eliminate the roles of the PA PUC, the Offices of Consumer and Small Business Advocates, and other administrative agencies that were established for the express purpose of protecting Pennsylvania's natural, historical, cultural, and recreational resources and, in some cases, reviewing and commenting on transmission line siting applications. These agencies include the Pennsylvania Department of Environmental Protection, the Department of Conservation and Natural Resources, the Department of Transportation, the Game Commission, and the Historical and Museum Commission.

If the FERC is permitted to use its congressionally conveyed authority to commandeer and usurp the traditional role of states and their administrative agencies to review and approve the location and construction of high voltage transmission lines, Pennsylvania, not unlike every other state, would have no control, no say, and no recourse other than expensive litigation; over transmission planning, location, and construction within its geographic borders. However, there is a remedy; the repeal of section 1221 of the Energy Policy Act of 2005. I submit that without repeal, implementation of section 1221 could be viewed as one of several acts in a national drama choreographed to alter fundamentally our form of Government in the name of "national security."

It is important for you to know that my colleagues and I in the Pennsylvania General Assembly may face the reality of and be forced to address the issues radiating from Congressional enactment of section 1221 sooner than most. The fact is that on

March 6, 2006, both Allegheny Power and the PJM Interconnection submitted an interstate high voltage transmission line project to the Department of Energy for early designation as a national interest electric transmission corridor. This project, known as the Trans-Allegheny Interstate Line or TrAIL project, proposes to locate and construct a 240-mile, 500 kilovolt interstate transmission line; 40 miles of which will extend from Washington County and traverse parts of my 50th Legislative District in Greene County. From Greene County, the remaining miles of the proposed line would snake through parts of West Virginia and terminate in Northern Virginia.

On Friday, April 13, 2007, Allegheny Power, the jurisdictional electric distribution company that serves most of Southwestern Pennsylvania, filed the TrAIL project application with the PA PUC. At this point, review and approval of the TrAIL project is subject to PA PUC regulations. However, and although the Department of Energy has delayed action on requests for early designations of national interest electric transmission corridors, Allegheny Power and the PJM, singular or in combination, could deal their corridor designation requests into play, if the PA PUC would fail to approve the TrAIL project.

The PJM has also requested national interest electric transmission corridor designation of another high voltage interstate transmission line project promoted by American Electric Power (AEP), Allegheny Power, and Pepco. This project involves the location and construction of an approximately 550-mile, 765 kilovolt transmission line that would extend from the panhandle region of West Virginia, traverse Pennsylvania and Maryland and end in New Jersey.

If national interest energy transmission corridor designations would be granted to both projects, a Piedmont Environmental Council review of early designation requests revealed that land in approximately 50 of Pennsylvania's 67 counties has the potential of becoming subject to federal eminent domain authority.

There is no doubt that the granting of national interest electric transmission corridors in Pennsylvania and the siting and construction of high voltage transmission lines of the magnitude proposed by Allegheny Power, AEP, and the PJM would have significant negative outcomes for the Commonwealth of Pennsylvania, its people and political subdivisions. The following is a mere snapshot of Pennsylvania's economic, cultural, historical, natural, and scenic resources whose sustainability could be jeopardized by corridor designations:

- (1) As of April 13, 2006, 323,366 acres of farmland had been preserved in 53 counties under the Commonwealth's agricultural land preservation programs.
- (2) Pennsylvania has 120 state parks on 283,000 acres, 20 state forests on 2.1 million acres of forestland in 48 of 67 counties, and 300 state game lands on 1.4 million acres. Pennsylvania's state forestland is one of the largest

expanses of public forestland in the eastern United States.

(3) Allegheny National Forest (500,000 acres), Delaware Water Gap National Recreational Area (70,000 acres), Gettysburg National Military Park (6,000 acres), Valley Forge National Park (4,000 acres) and Fort Necessity National Battlefield (900 acres).

(4) Forty-two places in Pennsylvania are listed on the National Register of Historic Places.

Implementation of section 1221 would have a devastating impact not only on my constituents in Southwestern Pennsylvania, but also on people across the Commonwealth who may soon discover that their homes, children's schools, businesses, and workplaces could be situated in or near a proposed corridor. The likelihood of this inevitability juxtaposed with the possibility that my constituents and other Pennsylvanians may face increased electric rates but receive no economic or quality-of-life benefit from interstate transmission line projects, could face the possibility of losing their homes through condemnation and living in fear of chronic or terminal health outcomes, makes the rationale for enacting a profit driven public policy in the name of national security difficult to understand.

As I relayed previously, section 1221 is void of public benefit, ignores environmentally clean, renewable, energy-efficient and cost-effective alternatives, and sacrifices the traditional power of states to adopt, administer, and manage land use policies and decisions, especially if a decision would conflict with the ambitions of profit motivated corporations seeking to locate and construct high voltage transmission lines. There are alternatives to high voltage transmission lines. However, our failure to require consistent investment in alternative energy has us here today discussing what may become another failed national energy policy. Gasoline prices continue to rise at alarming rates; we remain dependent on foreign oil; and whether or not there will be adequate investment in conservation, renewable and alternative energy remains elusive. It is clear that we can not continue on this road of energy uncertainty. However, and as I have stated before, the lives of my constituents and the people of the Commonwealth of Pennsylvania should not be disrupted because of an energy policy that ignores their quality of life for the benefit of profit driven corporations. There is no doubt in my mind that section 1221 of the Energy Policy Act should be repealed posthaste. With that I will continue to oppose efforts to designate national interest electric transmission corridors and any projects seeking to locate and construct interstate high voltage transmission lines in the Commonwealth of Pennsylvania.

I thank you for your consideration of my comments and your willingness to consider the consequences section 1221, if implemented, would have on state sovereignty and the lives of people nationwide.