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MAJORITY LEADER



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HOUSE OF REPRESENTATIVES
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG

February 25, 2008

The Honorable Jeff Bingaman
Chairman
Committee on Energy and
Natural Resources
304 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Pete V. Domenici
Ranking Member
Committee on Energy and
Natural Resources
304 Dirksen Senate Office Building
Washington, DC 20510

Dear Senators Bingaman and Domenici,

As Majority Leader of the Pennsylvania House of Representatives, I, in alliance with the signatories, respectfully submit this letter in support of the effort spearheaded by Senator Bob Casey, and joined by Senator Arlen Specter and several other United States Senators, to have the Committee on Energy and Natural Resources investigate implementation of § 1221 of the Energy Policy Act of 2005 (EPact 2005). Specifically, in a letter dated February 12, 2008, the Senators expressed their concerns about the National Interest Electric Transmission Corridor (NIETC) program as implemented by the United States Department of Energy (DOE); and made an appeal for action by the Committee on Energy and Natural Resources to investigate implementation of §1221. The signatories are duly elected members of the Pennsylvania House of Representatives and represent the interest of Pennsylvanians whose homesteads, farmsteads, children's schools, and businesses are located within or near the DOE's designated Mid-Atlantic Area National Corridor.

Section 1221 of the Energy Policy Act of 2005 provides the authorization for the DOE to (1) conduct a nationwide study of electric transmission congestion by August 8, 2006 and triennial thereafter, and (2) designate "any geographic area" in the nation as a NIETC if it, after review and consultation with affected States, determines that transmission congestion and constraint adversely affect consumers. Under § 1221, a person applying to construct a transmission line project proposed within a NIETC could request federal "backstop" siting authority if the application is not acted upon by a NIETC State within one year. It is this federal "backstop" authority, coupled with the accompanying power of federal eminent domain, which nationalizes what has been a traditional role of State government; the approval and siting of transmission facilities, and has the potential to disrupt the fundamental balance of power between local, state, and federal governments in land use issues.

Consequently, we, not unlike the Senators, are concerned about the implementation of § 1221 of the Energy Policy Act. The decision of the DOE to define “any geographic area” to include such a massive swath of land in eight states and the District of Columbia in its designation of the Mid-Atlantic Area National Corridor as a NIE TC, juxtaposed with the Federal Energy Regulatory Commission’s “backstop” authority that accompanies that designation, is unprecedented and, we conclude (1) favors the economic interests of energy companies over that of landowners, (2) ignores the will of people and communities who may favor environmentally friendly and cheaper energy alternatives and renewable energy over intrusive and perhaps unhealthy transmission lines, (3) threatens the environment, historical and cultural heritage; (4) preempts local and state governments’ fundamental and traditional power to decide land use policies; and (5) usurps the authority of states to review, approve, and locate transmission lines within their geographic borders. As designated by the Department of Energy, the Mid-Atlantic Area National Corridor includes all or parts of the states of Delaware, Maryland, New Jersey, New York, Ohio, Pennsylvania, and West Virginia, and the District of Columbia. Fifty-two of Pennsylvania’s 67 counties are located within the Mid-Atlantic Area National Corridor.

A review of the documents submitted to the DOE reveals the degree and nature of the concerns expressed by some State officials nationwide. For instance, in comments received in response to the DOE’s initial 2006 Notice of Inquiry for comments on its Transmission Congestion Study and subsequent documents seeking comment on its draft NIE TC designations, some congestion study commentators questioned the methodology used by the DOE to determine transmission grid congestion and constraint; alleged that the DOE violated Congressional intent by failing to make detailed factual findings required under the EPact 2005 before designating a NIE TC; and, in the case of the New Jersey Board of Public Utilities, concluded that the data “presented by the DOE in its congestion study was not sufficient to support the designation of a NIE TC or to determine whether such a designation would be in the public interest.” California’s Public Utility Commission accentuated the outdated and irrelevant data used by the DOE to support NIE TC designations and discussed in length the DOE’s failure to recognize approved and planned transmission projects in its determination of the extent of electric congestion and constraint. A persistent theme of many commentators is the allegation that the DOE rejected viable alternatives in favor of costly long distance transmission lines and exceeded its authority by drawing massive undefined corridors that are inconsistent with the notion of enhancing national defense and homeland security.

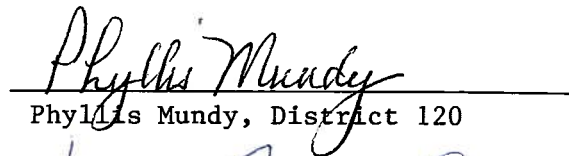
It is important for you to know, however, that we understand and acknowledge the importance of reliable, clean, and efficient energy sources to power our national and regional economies, and to enhance homeland security. In fact our General Assembly has convened a Special Legislative Session on Energy for the prime purpose of enacting an energy independence strategy. Nevertheless, we maintain that any plan promoting reliability of the transmission grid and homeland security that would require stringing high voltage transmission lines hundreds and hundreds of miles from generation capacity to fuel urban centers is contrary to the clean energy, renewable energy, energy efficiency, and homeland security goals espoused in the EPact 2005 and, arguably, antithetical to the concept of global warming.

Therefore, we support the efforts of Senator Casey and conclude that a Congressional investigation and oversight of the DOE's implementation of § 1221 is warranted. The citizens of Pennsylvania and of other NIETC States should be assured that the broad authority assumed by the DOE from its interpretation of § 1221 complies with the intent of the Congress and is in the national interest. We submit that the intent of the Congress would be better served by NIETC designations that target specific congestion and recognize the physical laws governing electric transmission rather than massive corridors without lines of demarcation.

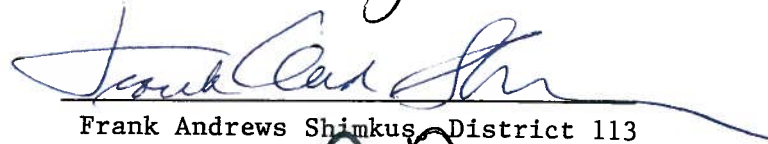
We thank you in advance for considering the Senators' request and for working to ensure that the actions of the DOE are as congressionally intended.

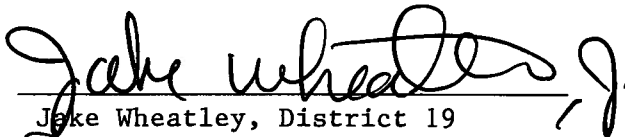
Respectfully,

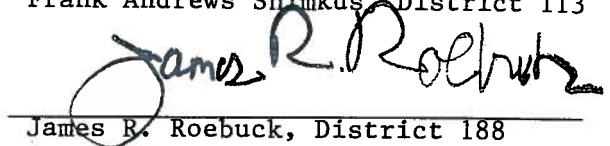

H. William DeWeese, District 50

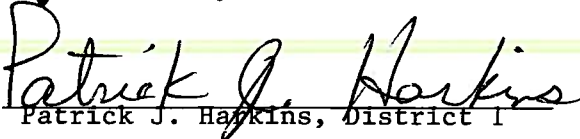

Phyllis Mundy, District 120

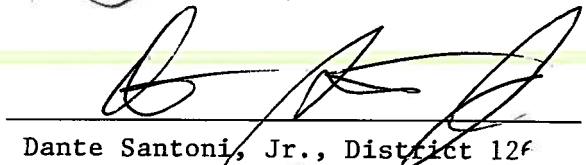

Dan A. Surra, District 75


Frank Andrews Shimkus, District 113



Jake Wheatley, District 19

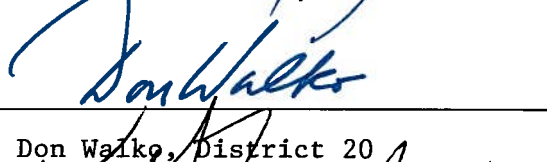

James R. Roebuck, District 188


Patrick J. Hopkins, District 1

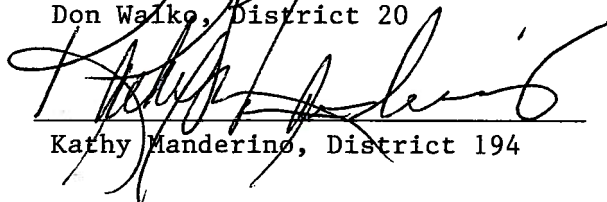

Dante Santoni, Jr., District 126

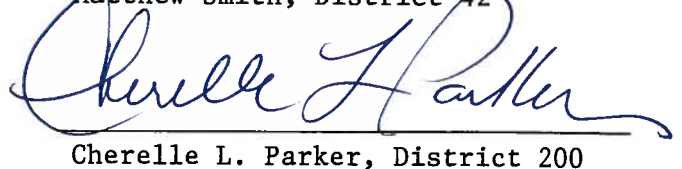

Thaddeus Kirkland, District 159


John J. Siproth, District 189


Don Walko, District 20



Matthew Smith, District 42


Kathy Manderino, District 194


Cherelle L. Parker, District 200


Sean M. Ramaley, District 16


Neal Goodman, District 123


John P. Sabatina, District 174



Tim Mahoney, District 51


Scott Conklin, District 77


John Myers, District 201

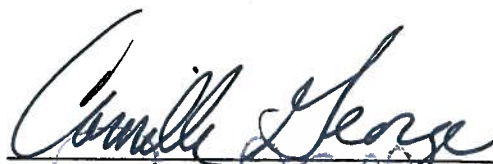

Eddie Day Pashinski, District 121


Chelsea Wagner, District 22



Eugene DePasquale, District 95


Rosita C. Youngblood, District 198



Edward Staback, District 115


Camilla George, District 14

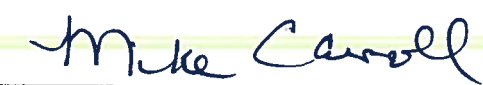

Timothy J. Solobay, District 48


John T. Yudichak, District 119



Deberah Kula, District 52


William F. Keller, District 184



Keith R. McCall, District 122


Mike Carroll, District 118


David K. Levdansky, District 39


Michael H. O'Brien, District 175


Mark Longietti, District 7

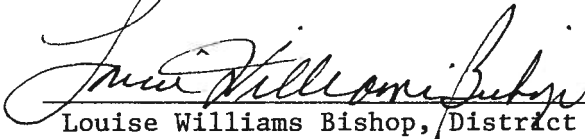

Ken Smith, District 112



Michael K. Hanna, District 76



Florindo J. Fabrizio, District 2



Louise Williams Bishop, District 192
