

DEPARTMENT OF ENERGY PUBLIC MEETING
MAY 23, 2007: NEW YORK CITY

Comments from Congressman Maurice D. Hinchey (NY-22)
RE: Draft National Interest Electric Transmission Corridor Designations

Last week in Arlington, Virginia, I personally delivered comments to the Dept of Energy regarding the Draft National Interest Electric Transmission Corridor Designations. I'd like to briefly summarize the concerns and issues that I raised at that first meeting.

I traveled to VA to participate in the public meeting schedule because today's hearing in NY was scheduled while Congress is in session. The Dept's hearing schedule and chosen locations have also made it inconvenient, if not impossible, for many residents of New York State to travel several hours each way to attend this hearing during the day when most people work or are in school.

As you are aware, no public comment meetings have been scheduled by the Dept for the areas of New York State that would be most heavily impacted by National Corridor designations, and by proposed projects that will be facilitated through this designation. This fact belies the Dept's responsibility to allow for meaningful public participation.

In response to the limited public meeting schedule, I have scheduled a public meeting for June 9 in Sullivan County. I've invited the Secretary of Energy and Dept officials to join me for this, and I hope you will take advantage of this important opportunity to listen to the citizens who, due to their work, family or school commitments, are unable to travel to NYC or Rochester for a hearing, but who will nonetheless be impacted by any decisions in this matter.

I would like to reiterate my request that the Dept of Energy suspend action on the designation of National Corridors until Congress can reconsider and clarify the designation and implementation process and do so in a manner that is consistent with existing federal laws and respectful of the rights of states and private citizens. Section 1221 of the Energy Policy Act of 2005 did not require designation of National Corridors; rather it directed that the Secretary "**may**" designate National Corridors.

The Act does require the Dept to consult with states and stakeholders. However, some state officials have raised concerns that such consultations did not take place

during the development of the National Congestion Study or proposed Corridor designations.

The Energy Policy Act furthermore did **not** exempt the Dept from existing federal laws, including the National Environmental Policy Act. The designation of National Corridors will have significant impacts on the environment, local communities, private property, state and federal parks, cultural and historical resources, and wildlife habitats that host endangered and threatened species.

Such federal actions require the preparation of an Environmental Impact Statement under NEPA so that these impacts can be scrutinized and alternatives or mitigation measures considered. A Corridor should not be designated unless a NEPA review concludes that a transmission-based solution to our electricity needs best promotes the public interest and is the most suitable alternative.

The Dept has also proposed to include in the Mid-Atlantic Corridor the Upper Delaware Scenic and Recreational River, which is protected under the Wild and Scenic Rivers Act-- a law that specifically prohibits the construction of major power lines that adversely impact designated rivers. Congress' existing designation of the Delaware River recognizes this River's nationally significant resources and including this River in a National Corridor directly contradicts the Congressional designation and federal protections.

While these concerns about the National Corridor designation process need to be addressed, I also remain committed to amending the deeply flawed law that led to this process, the Energy Policy Act of 2005, which I strongly opposed and voted against.

A growing number of those who supported this law are just now becoming aware of the serious consequences of this huge, complex law that was forced through Congress without adequate consideration, analysis, debate or public input. The provisions of this law were developed through a highly secretive process that involved meetings between senior members of the Bush Administration, the Republican Congress and private energy corporations.

This law erodes state jurisdiction over proposed electric transmission projects. Designating National Corridors gives advantage to private corporations proposing new transmission lines while limiting the ability of states implement comprehensive electricity reliability solutions that are more effective, environmentally sound and less intrusive.

New transmission lines are not the only solution to electricity reliability. Alternative solutions, including demand response measures, energy efficiency and conservation, development of new clean electricity generation near high demand areas, and efficiency and capacity upgrades to existing transmission lines, are often more cost-effective and greatly reduce adverse impacts that would be caused by new massive transmission lines crisscrossing our state.

This law was another step in the ongoing drive towards deregulation and so-called "market" control of our electricity system, which thus far has led to a **less** reliable system that fails to address critical public needs, including consumer protection for residents and businesses, environmental conservation, protection of local community interests and investments in existing infrastructure.

The Corridor designations will serve to limit the much-needed development of new generation close to high demand areas, particularly through more decentralized and renewable sources. In fact, a New York State agency that commented on the National Congestion study indicated that such a designation in New York could very well serve to discourage the completion of new generation projects already in the planning process near to the areas of high electricity demand.

I'm concerned that this policy will all but guarantee the continued generation of electricity from older, inefficient power plants by expanding their ability to export power across vast geographic corridors from dirty, centralized plants. This process will effectively undermine states' policies to encourage alternatives, including implementing demand side solutions for electricity reliability such as mandating improvements to energy efficiency of appliances, heating and cooling systems, and lighting.

This process encourages the construction of new transmission infrastructure that will likely be obsolete before its time-- infrastructure that is of dubious necessity that imposes an outdated, 20th century, temporary fix on a problem that is begging for a 21st century, long-term solution. These designations threaten to crowd out more innovative and sustainable solutions to our electricity needs.

As I mentioned, a growing number of my colleagues in Congress are now beginning to understand how these Corridors will impact their districts and have joined me in calling for legislative changes to the EPAct. They are coming to realize that in areas designated as National Corridors, applicants seeking to construct major transmission lines will be able to apply directly to FERC for

permits if a state doesn't approve their application within one year or if a state mandates alternatives or mitigation measures that the applicant deems economically infeasible.

This unrealistic and artificial time line will not improve electricity reliability and undermines the efforts of states to determine solutions to reliability in a manner that protects other vital public interests. This heavy-handed intrusion into the traditional authority of states to regulate new transmission lines will undermine states' ability to implement comprehensive energy policies and consider thoughtfully how specific projects will impact other important public interests.

This federal preemption of authority for siting and permitting transmission facilities contradicts and undermines the longstanding balance of powers between the federal government and states so wisely crafted in our Constitution and embodied in our federalist system. This law gives private corporations the opportunity to run roughshod over states' permitting processes and also infringes upon the rights of private property owners, who will be threatened by federal eminent domain proceedings.

Through these Corridor designations, the FERC would be allowed to use the right of eminent domain to seize private properties from unwilling sellers when those properties are needed for proposed projects that FERC has permitted-- even in cases where applications may have already been denied by individual states because of questionable need or severely negative impacts. Such a process is completely unacceptable and is something that I am committed to fighting to change in Congress.

Thank you for considering these comments. I also hope that you will join me for the upcoming public meeting on June 9th so that additional voices can be heard in this very important matter.