

Washington, DC -- U.S. Rep. Michael A. Arcuri (D-Utica) sent a letter today to U.S. Rep. Henry A. Waxman (D-CA), new chairman of the House Committee on Energy and Commerce, outlining the potential devastating impact of New York Regional Interconnection's (NYRI) proposed power line and asking for the Chairman's assistance in defeating the proposed project.

"Chairman Waxman will be a great ally in our community's fight against NYRI's destructive plan," **said Arcuri, who met with Waxman last week to personally brief him on the NYRI proposal**. "Waxman's committee has jurisdiction over energy matters and I have asked for his assistance in seeing that this ill-conceived and poorly planned project does not go forward."

Last week, the United States Court of Appeals for the Fourth Circuit ruled that the Federal Energy Regulatory Commission (FERC) exceeded its statutory authority in issuing regulations for reviewing electric transmission line permit applications, such as the one put forth by NYRI. In its final administrative rules for reviewing applications, FERC had said that the Energy Policy Act of 2005 gave it authority to review applications for projects within National Interest Electric Transmission Corridors that had either been pending for more than one year or rejected by state regulators. The federal appeals court ruled that if states deny transmission project applications on reasonable grounds they cannot be overruled by FERC.

"I respectfully request that you examine this issue and ensure an unwarranted project is not built," **Arcuri wrote to Chairman Waxman**.

Earlier this month, Arcuri sent a letter to newly confirmed U.S. Department of Energy (DOE) Secretary Dr. Steven Chu requesting a meeting to brief him and other DOE officials in the new Obama Administration about NYRI's proposed power line.

The text of Arcuri's letter to Chairman Waxman is included below.

February 23, 2009

The Honorable Henry A. Waxman, Chairman
Committee on Energy and Commerce
U.S. House of Representatives
2125 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Waxman:

Congratulations on your recent selection as Chairman of the Committee on Energy and Commerce. I would like to take this opportunity to bring an issue to your attention, and ask for your thoughtful attention and assistance in the coming months.

I want to make you aware of a controversial proposal potentially affecting my district that I do not believe is warranted. New York Regional Interconnection (NYRI), a foreign owned, private utility company is seeking to build a 1200 mega watt, 190 mile bi-directional, high voltage direct current (HVDC) transmission system extending from the Town of Marcy in Oneida County, NY to the Town of New Windsor in Orange County, NY. The project poses significant risk to private landowners along the proposed route, threatens environmentally sensitive areas in the region, has potential negative implications for future economic development projects, and most importantly, will increase utility rates for families and business owners throughout Upstate New York. In addition, there is no evidence the proposed transmission line will rectify the existing congestion problem in New York City. The NYRI proposal is without question the most high-profile issue in my district, and the entire community is unified in opposition.

Despite these significant concerns related to the proposal and widespread opposition to it throughout my district and the rest of New York, I am concerned it still may be approved. Section 1221 of the Energy Policy Act of 2005 (P.L. 109-58), provides the Department of Energy the authority to designate National Interest Electric Transmission Corridors (NIETCs) to alleviate congestion, within which the Federal Energy Regulatory Commission (FERC) has authority to review and issue permits for electric transmission projects. Federal backstop siting authority may be justified in situations that are truly interstate in nature, with benefits beyond a state's borders. However, NYRI makes no claims that the project will provide benefits to interests outside New York State. NYRI's primary proposed route begins and ends in New York State, runs entirely within New York State and has the stated purpose of serving consumers within New York State. For these reasons, the New York State Public Service Commission, the state's utility regulator, is properly situated to adequately assess the benefits and costs of NYRI's proposal and pass final judgment as to whether it should be permitted.

Furthermore, the U.S. Court of Appeals for the Fourth Circuit ruled last week that FERC exceeded its statutory authority when issuing regulations to implement Section 1221. The Court held that FERC does not have the authority to overrule a state commission that has denied a permit application for the construction or modification of electric transmission facilities in a NIETC. This decision is particularly important to the New York State Public Service Commission's consideration of NYRI's application. Under the Fourth Circuit's holding, Congress did not intend for the 2005 law to grant FERC jurisdiction to review applications that a state commission had rejected on reasonable grounds. But even if the Fourth Circuit's interpretation is not correct, the fact that NYRI's proposed project is entirely within one state leaves serious questions as to whether Congress gave FERC authority to review such an intrastate project.

Given that a decision by the New York State Public Service Commission may be imminent, I respectfully request that you examine this issue and ensure an unwarranted project is not built. Thank you for your prompt attention and consideration of this matter. I look forward to working together with you on this and other issues in the coming years.

Sincerely,

MICHAEL A. ARCURI
Member of Congress

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