

**Opening Statement of Rep. Dennis Kucinich
Chairman, Subcommittee on Domestic Policy
Committee on Oversight and Government Reform
Hearing on Federal Electric Transmission Corridors
April 25, 2007**

Today, the Subcommittee will examine the Department of Energy's implementation of Section 1221 of the Energy Policy Act of 2005 and its implications for public land, private landowners, our nation's energy infrastructure, and the environment.

The Energy Policy Act of 2005 was signed into law by President Bush in August 2005. I opposed the Act because it did not provide any vision for a sustainable energy future. Rather, it was a grab bag of government giveaways to the energy industry. It weakened our environmental laws and the laws that provide for public input, while doing almost nothing to help wean this nation off of our dangerous dependence on oil or addressing the major challenge of global climate change.

Section 1221 amounted to only a few pages in a 1700 page energy bill, but it was intensely debated within Congress. A host of organizations opposed the provision -- including state governors, utility commissioners, and environmental groups. And now that Section 1221 is being implemented, the American people are on the verge of discovering why its enactment was so controversial.

Section 1221 was designed to make it easier for energy companies to construct high-voltage electricity transmission lines over the objections of

private property holder state and local communities. As the law is written, a state may have little or no ability to determine whether a transmission line goes through one of its state parks, a historic battlefield, land protected by conservation easements, or private land. Energy companies may be able to apply for permits directly with the federal government, which can grant them eminent domain authority to construct transmission lines through private property.

This new federal authority for siting electric transmission lines is exercised through a three-step process. First, the Department of Energy completes a “transmission congestion study.” This study is used to determine whether parts of the country are suffering from electric transmission congestion.

I should point out that the term “congestion,” which is used by the Department and the Act, does not necessarily mean that an area is facing reliability concerns or that demand will exceed supply within the area. It merely means that additional transmission lines would be used if they were available. Basically, if an energy company says it has plans for new transmission lines, that pretty nearly satisfies the definition of “congestion,” and no recourse to alternatives need be made.

Second, once the Department of Energy conducts its congestion study, Section 1221 authorizes the Department to designate regions of the country that experience congestion as National Interest Electric Transmission Corridors. Remarkably, there is no statutory limitation on the size of these

corridors. And as we'll hear today, a corridor could contain nearly an entire state.

Finally, once the Department of Energy designates a corridor, any proponent of a transmission line can propose a project within one of these corridors. Within these corridors, energy companies have special rights to bypass a state and seek permits for the project directly from the Federal Energy Regulatory Commission, or FERC, here in Washington, DC. Once approved by FERC, the energy company can go to federal court and force a private landowner to sell a right-of-way through their property for the project.

To date, the Department of Energy has completed the first step in this process. In August 2006, the Energy Department released a congestion study that found that a number of regions of the country faced electric transmission congestion. These regions included Southern California, the Atlantic coastal area from metropolitan New York through Northern Virginia, New England, the Phoenix-Tucson area, the Seattle-Portland Area, and the San Francisco Bay area.

As part of the implementation process, the Department of Energy also asked organizations whether any region of the country should be given "early corridor designation." A number of proposals were submitted from energy companies and their organizations. The proposals included requests for corridor designations in California, Delaware, Maryland, Ohio, New Jersey, New York, Virginia, and West Virginia. These requests could lead to the designation of corridors covering large portions of states like Pennsylvania, Maryland, and New Jersey.

The Department of Energy has refused, at this point, to discuss the particular corridor designations that it may be making. However, it has stated that Southern California and the Atlantic Coastal area are the regions most likely to receive them.

Now, with the release of the congestion study and the Department's pending designations, a large number of groups have, once again, raised a host of concerns. They include:

- whether the Department of Energy is taking into account the protection of national parks, state parks, conservation easements, and historical sites like battlefields when determining where a federal electric transmission corridor should be designated;
- whether the Department of Energy is considering the effects of a corridor designation on the private property rights of landowners;
- whether the Department is considering the environmental impact of corridor designations;
- whether the Department of Energy is considering alternatives to constructing new electric transmission lines, like demand side management, distributed generation, and energy efficiency;

- whether the Department has adequately considered the actual benefit utility consumers would receive from new transmission lines; and
- whether the Department has adequately consulted states to determine if corridor designation will adversely impact the energy policies the state has developed.

There is nothing in the law requiring DOE to do any of this. And that is part of the reason there are concerns about the implementation of Section 1221. I hope that starting today, Congress will begin to get some answers.

Finally, I'd like to thank the Ranking Member of the Committee, Tom Davis, for suggesting today's hearing. His state is on the frontline of this issue, although many other states are probably not far behind.

I look forward to hearing from each of our witnesses today and I thank them for being here.