

Washington, DC - Congressman Maurice Hinchey (D-NY) today wrote to Jon Wellinghoff, Chairman of the Federal Energy Regulatory Commission (FERC) urging the agency to reconsider and withdraw its recent petition to reverse a decision by the Fourth Circuit Court of Appeals that directly impacts FERC's ability to override states in permitting electricity transmission lines. FERC has appealed the February 2009 Piedmont Environmental Council v. FERC decision, in which the Fourth Circuit ruled FERC had overextended its jurisdiction regarding siting power lines over the objections of states in areas designated as National Interest Electric Transmission Corridors or "National Corridors." The Court ruled that FERC could not override decisions in cases where state regulatory authorities denied power line applications within a one-year time period, a ruling which had direct and significant impacts on projects such as the recently-withdrawn proposal by New York Regional Interconnect, Inc. (NYRI.)

Writing in the letter, Hinchey noted, "The Piedmont decision restored some much-needed balance to FERC's previous interpretation of its jurisdiction under the Federal Power Act...and rightfully limited FERC's ability to site transmission facilities in National Corridors in cases where a state permitting authority denied such an application within one year. During the prior Administration, FERC made decisions regarding its siting jurisdiction in National Corridors that Congress never intended to grant to the agency, particularly overriding state permitting authorities on projects that are intrastate rather than interstate and that are considered and reviewed in a timely manner."

Hinchey also argued that FERC's effort was counterproductive to helping the United States meet its real energy needs, noting, "As New York has seen clearly in its recent battle against the transmission lines proposed by New York Regional Interconnect, resources and time that could have and should have been used to make progress in ensuring electricity reliability in a thoughtful and environmentally respectful manner have been wasted fighting a poorly conceived project that could have benefited from FERC's previous interpretation of its jurisdiction."

Hinchey voted against the Energy Policy Act of 2005, which created the National Corridors designation and gave FERC jurisdiction in permitting major transmission lines in some cases. Hinchey subsequently fought the U.S. Department of Energy's efforts to designate most of New York State as a National Corridor and vehemently opposed the proposal by New York Regional Interconnect to build a 190-mile transmission line through New York State. This opposition included working to block rate payer subsidies through FERC for the NYRI project and sponsoring legislation to eliminate provisions of the Energy Policy Act that established National Corridors and FERC's involvement in state power line proposals.

Commenting on the letter, Hinchey indicated, "While I am delighted that the citizens of New York State prevailed in stopping the NYRI power line, I remain deeply concerned that FERC has now taken steps to defend and reinstate the broken system and twisted logic that it tried to use to override state decisions on power line projects that are within the boundaries of one state. Communities Against Regional Interconnect (CARI) and other groups deserve a great deal of credit for defeating NYRI and for successfully arguing the case before the Fourth Circuit. FERC should recognize its mistake, withdraw its efforts to overturn that decision and begin to work cooperatively and productively with our state to achieve our common energy goals."

The text of the letter follows:

April 9, 2009

Jon Wellinghoff, Chairman
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

Dear Chairman Wellinghoff:

I am writing to urge you to reconsider and withdraw FERC's recent petition for rehearing of *Piedmont Environmental Council v. FERC*, Nos. 07-1651, et al., 2009 U.S. App. LEXIS 2944 (4th Cir. Feb. 18, 2009.) As you know, this decision by the Fourth Circuit Court of Appeals clarified and limited FERC's jurisdiction in permitting electricity transmission facilities if denied by a state permitting authority within one year.

The Department of Energy's 2007 actions designating most of New York State as part of a National Interest Electric Transmission Corridor or "National Corridor" was strongly opposed by New York State residents and many of its state and federal officials, including me. Many New York residents and leaders remain justifiably concerned by the implications of this designation and continue to be alarmed by the possibility that FERC might permit electricity transmission projects that are located wholly in our state in cases in which the New York Public Service

Commission has denied such permits based on lack of need or out of concern for the public interest.

The Piedmont decision restored some much-needed balance to FERC's previous interpretation of its jurisdiction under the Federal Power Act § 216(b)(1)(C)(i), 16 U.S.C. §824(B)(1)(C)(i), and rightfully limited FERC's ability to site transmission facilities in National Corridors in cases where a state permitting authority denied such an application within one year. During the prior Administration, FERC made decisions regarding its siting jurisdiction in National Corridors that Congress never intended to grant to the agency, particularly overriding state permitting authorities on projects that are intrastate rather than interstate and that are considered and reviewed in a timely manner.

I request that FERC withdraw its petition and begin to work with the respective state transmission siting authorities to set in place a more cooperative and productive process to advance the electricity reliability needs of our nation. The decisions and action taken by the Department of Energy and FERC under the Bush Administration were not only confrontational to and dismissive of state siting authorities but also completely unproductive and harmful to the relationships between state and federal agencies that need to be fostered in order to meet our future energy needs in a sustainable and rational manner. As New York has seen clearly in its recent battle against the transmission lines proposed by New York Regional Interconnect, resources and time that could have and should have been used to make progress in ensuring electricity reliability in a thoughtful and environmentally respectful manner have been wasted fighting a poorly conceived project that could have benefited from FERC's previous interpretation of its jurisdiction. FERC's recent request for a rehearing will only serve to continue the animosity and distrust that has resulted from the agency's prior actions over the past several years.

I thank you in advance for your consideration of this important matter and look forward to your response. Please do not hesitate to contact me if I can provide any assistance on this or other matters.

Sincerely,

Maurice D. Hinchey

