PENDING LEGISLATION REGARDING ELECTRICITY TRANSMISSION LINES

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Thank you for the opportunity to comment on this extremely important matter.

New York stands ready to work with Congress and the President to transform the electricity industry. However, current proposals being discussed have the potential to undermine New York's efforts to further develop renewable electricity resources in the northeast. Transformation of the electricity system must be undertaken with a sound and well-defined purpose and a commitment to optimizing local and regional cost-effective renewable resources first. The construction of significant amounts of renewable resources in geographic regions of the country requiring long transmission lines from remote load centers is unlikely to be the most cost-effective or practical approach to meeting the nation's renewable resource goals, should, therefore, be a last resort for developing indigenous renewable resources, improving energy diversity and security, and achieving reductions in carbon emissions.

Congress and the President acknowledge the importance of combating climate change and have proposed progressive plans designed to lower carbon emissions through the increased construction and operation of renewable energy resources. This is a laudable and timely goal, and one which the State of New York has long recognized and taken actions to achieve.

New York currently has more than 1,200 MW of wind electricity resources currently operating in the State. An additional 7,400 MW of wind resources are in the interconnection queue of the New York Independent System Operator. Potentially much more might materialize as the wind resources off the East Coast and Great Lakes are explored. A recent study suggests that wind resources located off the shores of the Great Lakes could provide more than 249,000 MW of renewable resources.[1] Hundreds of millions of dollars has been spent on the development, siting, construction and operation of these renewable resources in New York to meet its aggressive goals renewable portfolio standard (RPS) goal.

New York led the country in the promotion of renewable energy resources through the implementation of its RPS in 2004. New York is on track to provide 25 percent of electric energy use in the State from renewable resources by 2013. Governor Paterson has further challenged New York to stretch the goal to 30 percent of electric energy use provided by renewable resources by 2015. To date more than 3.5 million MWh of annual renewable energy has been contracted to be delivered to the residents of New York through this

[1] http://greengold.org/wind/documents/88.pdf

program. Contracts awarded under the program to date, using State and ratepayer funds, have amounted to $559 million.

In 2003, New York, along with nine other states from the Northeast and Mid-Atlantic developed and implemented the first mandatory cap-and-trade program in the United States to reduce greenhouse gas emissions through the Regional Greenhouse Gas Initiative (RGGI). Initiated and led by New York, the program encourages reductions in carbon dioxide (CO_2) emissions by setting emission limits for electric power plants, creating CO_2 allowances and establishing a CO_2 allowance auction process. RGGI's cap-and-trade program encourages regional electric generators and load serving entities to plan for and invest in lower carbon alternatives for electric production. Proceeds from the auction are in turn used for low-carbon electric production resources, including wind resources, transportation, energy efficiency, and support of other measures that reduce CO_2 across all sectors of the economy.

The federal legislative proposals, if not modified, could hinder the ability of states to ensure their consumers are receiving clean energy most economically. Moreover, even if the proposals are modified, failure to carefully designate renewable energy zones and allocate costs of transmission facilities, as contemplated by the legislative proposals, will likely, in the end, have a chilling effect on the development of renewable energy in some regions of the country. In addition, states that are not part of a renewable energy zone, but have been advancing policies, such as a RPS or CO_2 cap-and-trade, might be financially harmed as the once robust investment by renewable energy developers, and the associated industry that supports them, move out of state to other states that are part of these zones. Congress should work toward a solution for reducing CO_2 and other greenhouse gas emissions in a manner that does not cripple the robust renewable energy industry that some states have already developed.

Inter-regional transmission plans that provide a vision for build-out of the nation's transmission system are necessary before efficient use of renewables and siting of required transmission can be accomplished. The development of these plans must be open, transparent and provide meaningful governance on the conduct of studies. Provisions must be included to insure that plans respect all applicable national and regional electricity system reliability criteria.

States are best suited, in the first instance, to provide a thorough review of an application for a certificate to construct an electric transmission facility. The wealth of state experience in electric transmission siting and the efficiencies to be gained by the Federal Energy Regulatory Commission (FERC) from allowing the states to develop the record supports allowing states to proceed first in determining whether to grant a certificate to a transmission developer. In addition, the states should be given at least two years to develop the necessary and extensive record and to either deny or certificate a project before FERC considers assuming siting authority.

Cost allocation is a complicated issue that can undermine the good intentions of the legislation. The FERC should be directed to establish a proceeding that examines the differing approaches to cost allocation and results in rules that balance the many regional interests involved in allocation. Any cost allocation method, however, should be established for a transmission project proposed under either of these legislative proposals, prior to the FERC rending a determination on their application for siting.

New York's concerns related to the designation of renewable energy zones and the planning, siting and cost allocation for electric transmission facilities are further developed below.

Designation of Renewable Energy Zones

Designation of renewable energy zones should not disadvantage one geographic area of the country in favor of another. If not done carefully, designation of renewable energy zones could disadvantage New York's more than 1,200 MW of wind resources. The additional 7,400 MW of wind resources in the interconnection queue of the New York Independent System Operator, the possible 249,000 MW of off shore resources, as well as the numerous construction jobs and jobs associated with the operation and maintenance of future wind resource projects may fail to materialize if developers determine that their projects would obtain an advantage from siting in renewable energy zones.

Consequently, all renewable resource capability of a state or geographic area should be examined. The winds of the Great Plains, solar of the Southwest, hydroelectric resources of Canada, offshore winds of the East Coast and the Great Lakes as well as various wind rich resources in the Northeast should all be given equal opportunity to contribute to the renewable goal, interconnect to the electric grid and operate in the electric markets. Senator Reid's bill might ultimately stall renewable energy projects in geographic areas of the country that are not included in a renewable energy zone. The areas not designated as renewable energy zones will likely experience a dramatic reduction in regional investment in renewable energy as investors and developers seek out the advantages of being located in a renewable energy zone.

The most cost-effective way to reduce dependence on imported and fossil energy and to reduce carbon emission is to first optimize local resources available. For example, construction of a transmission line to bring lower-cost Canadian hydropower to New York might be the most cost-effective solution for reducing carbon emissions in New York, rather than building an exceptionally long electric transmission line from areas west of New York to bring both renewable, and potentially high fossil fuel-based energy to the State. The consequences of designating a renewable energy zone must be carefully evaluated for both the zone itself and for areas not so designated.

Interconnect-Wide Green Transmission Grid Project Planning

Senator Reid's bill calls for the certification by FERC of a regional planning entity that will be solely responsible for the development of an interconnection plan for connecting all renewable energy resources in a renewable energy zone to the electric transmission grid. One or more planning entities will be designated, according to the bill, for each interconnection. The Eastern interconnection covers all or portions of 38 states plus the District of Columbia, and several provinces in Canada. This expansive geographic region contains a diverse population of energy resources and transmission facilities along with varying environmental, business and social interests. To simply designate one (or even two) regional planning entities for the entire interconnection would create a very difficult challenge to integrate the vast diversity of the region.

Transmission planning is currently conducted at the regional and sub-regional level. Regional Transmission Organizations (RTOs) and Independent System Operators (ISOs),

working with utilities and state authorities owning transmission assets, load-serving entities and consumer groups, carefully evaluate the needs of the electricity grid from both a reliability and economic standpoint along with considering environmental public policy goals, and develop long range plans for the system. Moreover, transmission owners independently and state utility commissions continually evaluate the electric grid to determine where best to provide upgrades and new facilities for the electric transmission system. Taking this essential responsibility from the organizations best suited to perform transmission planning and vesting that responsibility in one or two interconnection-wide planning entities would invite inefficiency at best, and cause reliability problems at worse.

There is no need for Congress to reinvent the wheel. If transmission planning for the interconnection of renewable resources is necessary to ensure the continued expansion of renewable resource capacity, then perhaps the most efficient course of action for Congress is to mandate that FERC direct the RTOs and ISOs to conduct such planning. Where integrated RTO and ISO planning must occur, FERC should direct such planning to take place.

If interconnection-wide planning is pursued, legislation must include requirements for balanced, transparent governance of the effort that includes representation for all covered planning authorities and states. Recent attempts at interconnection-wide planning in the east have shown that parochial interests of those in control of planning studies dictate planning parameters. Furthermore, all reliability rules and siting constraints must be respected in the development of the plan. New York has the legislative right to impose reliability standards more stringent than national standards and must be accommodated in any planning interconnection-wide process. New York also has long standing regulations that limit electro-magnetic field levels related to transmission design that must be respected by the planning process.

Federal Siting of Transmission

The legislative proposals preempt either outright, or after an ambiguous period of time, the state's authority to certificate electric transmission lines. In the event of preemption, the proposals authorize FERC to certify electric transmission projects, grant transmission owners the power of eminent domain, and perform all necessary environmental reviews.

The states have unique experience to certificate an electric transmission line and have been performing this function since the inception of the electric transmission system. Knowledge of environmentally sensitive local areas, understanding of the unique characteristics of the local electricity transmission system, and familiarity with the public interest all favor allowing the state to be first with the certification process. Moreover, issues related to transmission siting can vary depending on the geographic area the facility is located. For example, siting electric transmission facilities in rural areas, which may include government-owned land, presents a far different set of considerations than siting the same facilities in densely populated urban areas. Developing a record, which at times can be thousands of pages of testimony and thousands of exhibits, is a daunting task that the states are well equipped and expertly trained to undertake. It would be more efficient if states are allowed to develop the record and conduct the siting proceeding in the first instance and reserve for FERC a backstop role to review the state determination. State public utility commissions possess significant experience and have expertise in evaluating electric transmission projects. Given the wealth of state experience in electric transmission siting and

the efficiencies that may be gained by the Commission, Congress, should it pursue federalizing electric transmission siting, should at a minimum give the states two years at least to evaluate and either deny or certificate a project before preempting the states. This process has worked well in the recent siting of the multi-state TRAIL transmission facility in the PJM territory.

Both legislative proposals are also sketchy on the type of analysis that FERC must undertake in order to grant a certificate. Furthermore, the interconnection plan to be developed by the regional planning entity is devoid of any requirement that cost-effective local resources should be considered. If a massive build-out of electric transmission facilities is going to be undertaken in the country, ratepayers of this nation deserve a system that brings renewable energy to geographic areas in a cost-effectively. Assuming that FERC has jurisdiction over transmission siting for renewable energy zones, a cornerstone of FERC's evaluation of a project should be whether the costs, both economic and environmental, of the transmission facility outweigh the benefits of construction of such a facility, including overall reduction in emission levels. Calculation of benefits can and should consider more than the economic or reliability benefits that might be provided by the project. The benefits provided by increasing fuel diversity, greater energy independence and security, and improving the environment can all be factored into the calculation of project attributes to determine if there is a public benefit from the siting of the new facility.

FERC must also consider the physical operation of the electric transmission system and other resources that might use the new transmission facilities. For example, carbon emissions might increase nationally as a result of coal plants using the transmission facility during periods when renewable resources are not operating. These reasonably likely scenarios should also be factored into the analysis of the benefits and costs provided by a project.

Cost Allocation of Transmission Project Costs

Cost allocation, an aspect of both Senator Reid's and the Majority's Draft Proposal must be done right. Poorly crafted cost allocation rules can undermine the overriding goal of renewable development. Cost-allocation principles need to be in place before any specific project enters the siting process, be it at the state or federal level. Entities that will be held responsible for the project costs must be aware of the proceeding and the potential impacts that could result from the case. For example, charging only the beneficiaries of a project for the costs introduces the complication of defining who the beneficiaries are and by how much they benefit so that costs can be allocated proportionate to the benefits. On the other hand, socialization of costs can potentially create inequities as some costs will have to be paid by entities that may not benefit at all from the project. Rather than specify a cost- allocation methodology in legislation, FERC should be charged with establishing appropriate cost-allocation principles through an open proceeding where the differing approaches can be examined and regional interests can be balanced.

Conclusion

New York supports a national energy agenda that moves the nation toward greater energy independence and diversity, development of indigenous energy resources and the jobs associated with it, carbon emission reductions, and minimizes to the greatest extent the

costs to consumers for attaining both goals. We stand ready to work with Senator Reid, Senator Bingaman, and the members of this Committee to reach these goals.