

1 SENATE BILL NO. 320

2 INTRODUCED BY L. JONES, COOK, KLOCK, OLSON

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT ENCOURAGING THE UPGRADING OF TRANSMISSION LINES
5 WITHIN EXISTING RIGHTS-OF-WAY TO AVOID THE PROLIFERATION OF NEW TRANSMISSION
6 CORRIDORS; CLARIFYING LEGISLATIVE FINDINGS AND CERTAIN DEFINITIONS UNDER THE MONTANA
7 MAJOR FACILITY SITING ACT; AMENDING SECTIONS 75-20-102 AND 75-20-104, MCA; AND PROVIDING
8 AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11

12 **Section 1.** Section 75-20-102, MCA, is amended to read:

13 **"75-20-102. Policy and legislative findings.** (1) The legislature, mindful of its constitutional obligations
14 under Article II, section 3, and Article IX of the Montana constitution, has enacted the Montana Major Facility
15 Siting Act. It is the legislature's intent that the requirements of this chapter provide adequate remedies for the
16 protection of the environmental life support system from degradation and provide adequate remedies to prevent
17 unreasonable depletion and degradation of natural resources.

18 (2) It is the constitutionally declared policy of this state to maintain and improve a clean and healthful
19 environment for present and future generations, to protect the environmental life-support system from degradation
20 and prevent unreasonable depletion and degradation of natural resources, and to provide for administration and
21 enforcement to attain these objectives.

22 (3) It is also constitutionally declared in the state of Montana that the inalienable rights of the citizens of
23 this state include the right to pursue life's basic necessities, to enjoy and defend life and liberty, to acquire,
24 possess, and protect property, and to seek safety, health, and happiness in all lawful ways. The balancing of
25 these constitutional rights is necessary in order to maintain a sustainable quality of life for all Montanans.

26 (4) The legislature finds that the construction of additional electric transmission facilities, pipeline
27 facilities, or geothermal facilities may be necessary to meet the increasing need for electricity, energy, and other
28 products. Therefore, it is necessary to ensure that the location, construction, and operation of electric
29 transmission facilities, pipeline facilities, or geothermal facilities are in compliance with state law and that an
30 electric transmission facility, pipeline facility, or geothermal facility may not be constructed or operated within this

1 state without a certificate of compliance acquired pursuant to this chapter.

2 (5) The legislature finds that increasing the capacity of existing transmission lines by replacing less
 3 efficient aging low-voltage transmission lines with higher-voltage lines, installing new conductors to lower
 4 impedance, and adding circuits to existing transmission lines within existing linear corridors reduces energy loss,
 5 conserves energy, and prevents unreasonable depletion and degradation of natural resources. Therefore,
 6 transmission upgrades within existing corridors serve the public interest, convenience, and necessity and
 7 transmission providers are encouraged to construct those transmission upgrades.

8 ~~(5)~~(6) The legislature also finds that it is the purpose of this chapter to:

- 9 (a) ensure protection of the state's environmental resources, including but not limited to air, water,
 10 animals, plants, and soils;
- 11 (b) ensure consideration of socioeconomic impacts;
- 12 (c) provide citizens with the opportunity to participate in facility siting decisions; and
- 13 (d) establish a coordinated and efficient method for the processing of all authorizations required for
 14 regulated facilities under this chapter."

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16 **Section 2.** Section 75-20-104, MCA, is amended to read:

17 **"75-20-104. Definitions.** In this chapter, unless the context requires otherwise, the following definitions
 18 apply:

19 (1) "Addition thereto" means the installation of new machinery and equipment that would significantly
 20 change the conditions under which the facility is operated.

21 (2) "Application" means an application for a certificate submitted in accordance with this chapter and the
 22 rules adopted under this chapter.

23 (3) (a) "Associated facilities" includes but is not limited to transportation links of any kind, aqueducts,
 24 diversion dams, pipelines, storage ponds, reservoirs, and any other device or equipment associated with the
 25 delivery of the energy form or product produced by a facility.

26 (b) The term does not include a transmission substation, a switchyard, voltage support, or other control
 27 equipment or a facility or a natural gas or crude oil gathering line 25 inches or less in inside diameter.

28 (4) "Board" means the board of environmental review provided for in 2-15-3502.

29 (5) "Certificate" means the certificate of compliance issued by the department under this chapter that
 30 is required for the construction or operation of a facility.

1 (6) "Commence to construct" means:

2 (a) any clearing of land, excavation, construction, or other action that would affect the environment of
3 the site or route of a facility but does not mean changes needed for temporary use of sites or routes for nonutility
4 purposes or uses in securing geological data, including necessary borings to ascertain foundation conditions;

5 (b) the fracturing of underground formations by any means if the activity is related to the possible future
6 development of a gasification facility or a facility employing geothermal resources but does not include the
7 gathering of geological data by boring of test holes or other underground exploration, investigation, or
8 experimentation;

9 (c) the commencement of eminent domain proceedings under Title 70, chapter 30, for land or
10 rights-of-way upon or over which a facility may be constructed;

11 (d) the relocation or upgrading of an existing facility defined by subsection (8)(a) or (8)(b), including
12 upgrading to a design capacity covered by subsection (8)(a), except that the term does not include normal
13 maintenance or repair of an existing facility.

14 (7) "Department" means the department of environmental quality provided for in 2-15-3501.

15 (8) "Facility" means:

16 (a) each electric transmission line and associated facilities of a design capacity of more than 69 kilovolts,
17 except that the term:

18 (i) does not include an electric transmission line and associated facilities of a design capacity of 230
19 kilovolts or less and 10 miles or less in length;

20 (ii) does not include an electric transmission line with a design capacity of more than 69 kilovolts ~~but less~~
21 ~~than 230 kilovolts~~ for which the person planning to construct the line has obtained right-of-way agreements or
22 options for a right-of-way from more than 75% of the owners who collectively own more than 75% of the property
23 along the centerline;

24 (iii) does not include ~~an electric transmission line~~ lines that are collectively less than 150 miles in length
25 ~~and extends from~~ and are required under state or federal regulations and laws, WITH RESPECT TO RELIABILITY OF
26 SERVICE, for an electrical generation facility, as defined in 15-24-3001(4), or a wind generation facility or biomass
27 generation facility, as defined in 15-6-157, ~~to the point at which the transmission line connects to a regional~~
28 ~~transmission grid at an existing transmission substation or other facility~~ to interconnect to a regional transmission
29 grid or secure firm transmission service to use the grid for which the person planning to construct the line or lines
30 has obtained right-of-way agreements or options for a right-of-way from more than 75% of the owners who

1 collectively own more than 75% of the property along the centerline or centerlines;

2 (iv) does not include an upgrade to an existing transmission line of a design capacity of 50 kilovolts or
3 more to increase that line's capacity ~~to less than or equal to 230 kilovolts~~, including construction outside the
4 existing easement or right-of-way. Except for a newly acquired easement or right-of-way necessary to comply
5 with electromagnetic field standards, a newly acquired easement or right-of-way outside the existing easement
6 or right-of-way as described in this subsection (8)(a)(iv) may not exceed a total of 10 miles in length or be more
7 than 10% of the existing transmission right-of-way, whichever is greater, and the purpose of the easement must
8 be to avoid sensitive areas or inhabited areas or conform to state or federal safety, reliability, and operational
9 standards designed to safeguard the transmission network and protect electrical workers and the public.

10 (v) does not include a transmission substation, a switchyard, voltage support, or other control equipment;

11 (b) (i) each pipeline, whether partially or wholly within the state, greater than 25 inches in inside diameter
12 and 50 miles in length, and associated facilities, except that the term does not include:

13 (A) a pipeline within the boundaries of the state that is used exclusively for the irrigation of agricultural
14 crops or for drinking water; or

15 (B) a pipeline greater than 25 inches in inside diameter and 50 miles in length for which the person
16 planning to construct the pipeline has obtained right-of-way agreements or options for a right-of-way from more
17 than 75% of the owners who collectively own more than 75% of the property along the centerline;

18 (ii) each pipeline, whether partially or wholly within the state, greater than 17 inches in inside diameter
19 and 30 miles in length, and associated facilities used to transport coal suspended in water;

20 (c) any use of geothermal resources, including the use of underground space in existence or to be
21 created, for the creation, use, or conversion of energy, designed for or capable of producing geothermally derived
22 power equivalent to 50 megawatts or more or any addition thereto, except pollution control facilities approved by
23 the department and added to an existing plant; or

24 (d) for the purposes of 75-20-204 only, a plant, unit, or other facility capable of generating 50 megawatts
25 of hydroelectric power or more or any addition thereto.

26 (9) "Person" means any individual, group, firm, partnership, corporation, limited liability company,
27 cooperative, association, government subdivision, government agency, local government, or other organization
28 or entity.

29 (10) "Sensitive areas" means government-designated areas that have been recognized for their
30 importance to Montana's wildlife, wilderness, culture, and historic heritage, including but not limited to national

1 wildlife refuges, state wildlife management areas, federal areas of critical environmental concern, state parks and
2 historic sites, designated wilderness areas, wilderness study areas, designated wild and scenic rivers, or national
3 parks, monuments, or historic sites.

4 (11) "Transmission substation" means any structure, device, or equipment assemblage, commonly
5 located and designed for voltage regulation, circuit protection, or switching necessary for the construction or
6 operation of a proposed transmission line.

7 (12) "Upgrade" means to increase the electrical carrying capacity of a transmission line by actions
8 including but not limited to:

9 (a) installing larger conductors;

10 (b) replacing insulators;

11 (c) replacing pole or tower structures; ~~or~~

12 (d) changing structure spacing, design, or guying; or

13 (e) installing additional circuits.

14 (13) "Utility" means any person engaged in any aspect of the production, storage, sale, delivery, or
15 furnishing of heat, electricity, gas, hydrocarbon products, or energy in any form for ultimate public use."

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17 NEW SECTION. Section 3. Effective date. [This act] is effective on passage and approval.

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19 NEW SECTION. Section 4. Applicability. [This act] applies to applications for certificates filed after
20 [the effective date of this act].

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