

1 _____ BILL NO. _____

2 INTRODUCED BY _____
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT EXEMPTING MERCHANT TRANSMISSION LINES FROM THE
5 MAJOR FACILITY SITING ACT; AMENDING SECTION 75-20-104, MCA; AND PROVIDING AN IMMEDIATE
6 EFFECTIVE DATE AND AN APPLICABILITY DATE."

7
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9
10 **Section 1.** Section 75-20-104, MCA, is amended to read:

11 **"75-20-104. Definitions.** In this chapter, unless the context requires otherwise, the following definitions
12 apply:

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

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

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

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

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

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

25 (6) "Commence to construct" means:

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

29 (b) the fracturing of underground formations by any means if the activity is related to the possible future
30 development of a gasification facility or a facility employing geothermal resources but does not include the

1 gathering of geological data by boring of test holes or other underground exploration, investigation, or
2 experimentation;

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

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

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

9 (8) "Facility" means, subject to 75-20-1202:

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

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

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

17 (iii) does not include electric transmission lines that are collectively less than 150 miles in length and are
18 required under state or federal regulations and laws, with respect to reliability of service, for an electrical
19 generation facility, as defined in 15-24-3001(4), or a wind generation facility, biomass generation facility, or
20 energy storage facility, as defined in 15-6-157, to interconnect to a regional transmission grid or secure firm
21 transmission service to use the grid for which the person planning to construct the line or lines has obtained
22 right-of-way agreements or options for a right-of-way from more than 75% of the owners who collectively own
23 more than 75% of the property along the centerline or centerlines;

24 (iv) does not include an upgrade to an existing transmission line of a design capacity of 50 kilovolts or
25 more to increase that line's capacity, including construction outside the existing easement or right-of-way. Except
26 for a newly acquired easement or right-of-way necessary to comply with electromagnetic field standards, a newly
27 acquired easement or right-of-way outside the existing easement or right-of-way as described in this subsection
28 (8)(a)(iv) may not exceed a total of 10 miles in length or be more than 10% of the existing transmission
29 right-of-way, whichever is greater, and the purpose of the easement must be to avoid sensitive areas or inhabited
30 areas or conform to state or federal safety, reliability, and operational standards designed to safeguard the

1 transmission network and protect electrical workers and the public.

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

3 (vi) does not include an energy storage facility, as defined in 15-6-157;

4 (vii) does not include a merchant transmission line;

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

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

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

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

14 (c) any use of geothermal resources, including the use of underground space in existence or to be
15 created, for the creation, use, or conversion of energy, designed for or capable of producing geothermally derived
16 power equivalent to 50 megawatts or more or any addition thereto, except pollution control facilities approved by
17 the department and added to an existing plant, except that the term does not include a compressed air energy
18 storage facility, as defined in 15-6-157; or

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

21 (9) "Merchant transmission line" means a transmission facility that transmits electricity for which costs
22 are not established and recovered by a Montana regulatory authority, the owner or operator of which charges
23 rates or assumes market risks for transmitting electricity for third parties that meet current criteria for evaluating
24 merchant transmission projects by the federal energy regulatory commission. A merchant transmission line
25 consists of a single transmission line with specified termination points constructed and entered into service as
26 a single unit.

27 ~~(9)~~(10) "Person" means any individual, group, firm, partnership, corporation, limited liability company,
28 cooperative, association, government subdivision, government agency, local government, or other organization
29 or entity.

30 ~~(10)~~(11) "Sensitive areas" means government-designated areas that have been recognized for their

1 importance to Montana's wildlife, wilderness, culture, and historic heritage, including but not limited to national
2 wildlife refuges, state wildlife management areas, federal areas of critical environmental concern, state parks and
3 historic sites, designated wilderness areas, wilderness study areas, designated wild and scenic rivers, or national
4 parks, monuments, or historic sites.

5 ~~(11)~~(12) "Transmission substation" means any structure, device, or equipment assemblage, commonly
6 located and designed for voltage regulation, circuit protection, or switching necessary for the construction or
7 operation of a proposed transmission line.

8 ~~(12)~~(13) "Transmission reliability agencies" means the federal energy regulatory commission, the western
9 electricity coordinating council, the national electric reliability council, and the midwest reliability organization.

10 ~~(13)~~(14) "Upgrade" means to increase the electrical carrying capacity of a transmission line by actions
11 including but not limited to:

- 12 (a) installing larger conductors;
- 13 (b) replacing insulators;
- 14 (c) replacing pole or tower structures;
- 15 (d) changing structure spacing, design, or guying; or
- 16 (e) installing additional circuits.

17 ~~(14)~~(15) "Utility" means any person engaged in any aspect of the production, storage, sale, delivery, or
18 furnishing of heat, electricity, gas, hydrocarbon products, or energy in any form for ultimate public use."

19

20 NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval.

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22 NEW SECTION. **Section 3. Applicability.** [This act] applies to applications received after [the effective
23 date of this act].

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