

HOUSE BILL NO. 303

INTRODUCED BY A. OLSON, BALES, KEANE, LANGE, MATTHEWS, MCGEE, PETERSON

A BILL FOR AN ACT ENTITLED: "AN ACT MODIFYING THE DEFINITION OF "FACILITY" UNDER THE MONTANA MAJOR FACILITY SITING ACT AS IT RELATES TO TRANSMISSION LINES; AMENDING SECTION 75-20-104, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

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

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

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

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

(3) "Associated facilities" includes but is not limited to transportation links of any kind, aqueducts, diversion dams, pipelines, transmission substations, storage ponds, reservoirs, and any other device or equipment associated with the delivery of the energy form or product produced by a facility, except that the term does not include a facility or a natural gas or crude oil gathering line 25 inches or less in inside diameter.

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

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

(6) "Commence to construct" means:

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

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

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

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

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

(8) "Facility" means:

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

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

(ii) does not include an electric transmission line ~~with a design capacity of more than 69 kilovolts but less than 230 kilovolts~~ WITH A DESIGN CAPACITY OF MORE THAN 69 KILOVOLTS BUT LESS THAN 230 KILOVOLTS for which the person planning to construct the line has obtained right-of-way agreements or options for a right-of-way from more than 75% of the owners who collectively own more than 75% of the property along the centerline; ~~and IF:~~

~~— (A) THE LINE HAS A DESIGN CAPACITY OF MORE THAN 69 KILOVOLTS BUT LESS THAN 230 KILOVOLTS; OR; AND~~

~~(iii) does not include an electric transmission line extending~~

~~(B) THE LINE (III) DOES NOT INCLUDE AN ELECTRIC TRANSMISSION LINE THAT IS LESS THAN 150 MILES IN LENGTH AND EXTENDS from an electrical generation facility, as defined in 15-24-3001(4), to the point at which the transmission line connects to a regional transmission grid at an existing transmission substation or other facility FOR WHICH THE PERSON PLANNING TO CONSTRUCT THE LINE HAS OBTAINED RIGHT-OF-WAY AGREEMENTS OR OPTIONS FOR A RIGHT-OF-WAY FROM MORE THAN 75% OF THE OWNERS WHO COLLECTIVELY OWN MORE THAN 75% OF THE PROPERTY ALONG THE CENTERLINE;~~

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

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

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

(ii) each pipeline, whether partially or wholly within the state, greater than 17 inches in inside diameter

and 30 miles in length, and associated facilities used to transport coal suspended in water;

(c) any use of geothermal resources, including the use of underground space in existence or to be created, for the creation, use, or conversion of energy, designed for or capable of producing geothermally derived power equivalent to 25 million Btu's per hour or more or any addition thereto, except pollution control facilities approved by the department and added to an existing plant; or

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

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

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

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

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

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