
ENGROSSED SUBSTITUTE HOUSE BILL 1020

State of Washington

59th Legislature

2006 Regular Session

By House Committee on Technology, Energy & Communications
(originally sponsored by Representatives Morris and B. Sullivan)

READ FIRST TIME 01/31/05.

1 AN ACT Relating to siting electrical transmission under the energy
2 facility site evaluation council; amending RCW 80.50.020, 80.50.060,
3 and 80.50.090; adding a new section to chapter 80.50 RCW; and creating
4 a new section.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 80.50.020 and 2001 c 214 s 3 are each amended to read
7 as follows:

8 The definitions in this section apply throughout this chapter
9 unless the context clearly requires otherwise.

10 (1) "Applicant" means any person who makes application for a site
11 certification pursuant to the provisions of this chapter.

12 (2) "Application" means any request for approval of a particular
13 site or sites filed in accordance with the procedures established
14 pursuant to this chapter, unless the context otherwise requires.

15 (3) "Person" means an individual, partnership, joint venture,
16 private or public corporation, association, firm, public service
17 company, political subdivision, municipal corporation, government
18 agency, public utility district, or any other entity, public or
19 private, however organized.

1 (4) "Site" means any proposed or approved location of an energy
2 facility.

3 (5) "Certification" means a binding agreement between an applicant
4 and the state which shall embody compliance to the siting guidelines,
5 in effect as of the date of certification, which have been adopted
6 pursuant to RCW 80.50.040 as now or hereafter amended as conditions to
7 be met prior to or concurrent with the construction or operation of any
8 energy facility.

9 (6) "Associated facilities" means storage, transmission, handling,
10 or other related and supporting facilities connecting an energy plant
11 with the existing energy supply, processing, or distribution system,
12 including, but not limited to, communications, controls, mobilizing or
13 maintenance equipment, instrumentation, and other types of ancillary
14 transmission equipment, off-line storage or venting required for
15 efficient operation or safety of the transmission system and overhead,
16 and surface or subsurface lines of physical access for the inspection,
17 maintenance, and safe operations of the transmission facility and new
18 transmission lines constructed to operate at nominal voltages in excess
19 of ((200,000)) 115,000 volts to connect a thermal power plant to the
20 northwest power grid(~~(:—PROVIDED, That)~~). However, common carrier
21 railroads or motor vehicles shall not be included.

22 (7) "Transmission facility" means any of the following together
23 with their associated facilities:

24 (a) Crude or refined petroleum or liquid petroleum product
25 transmission pipeline of the following dimensions: A pipeline larger
26 than six inches minimum inside diameter between valves for the
27 transmission of these products with a total length of at least fifteen
28 miles;

29 (b) Natural gas, synthetic fuel gas, or ((~~liquefied~~)) liquefied
30 petroleum gas transmission pipeline of the following dimensions: A
31 pipeline larger than fourteen inches minimum inside diameter between
32 valves, for the transmission of these products, with a total length of
33 at least fifteen miles for the purpose of delivering gas to a
34 distribution facility, except an interstate natural gas pipeline
35 regulated by the United States federal power commission;

36 (c) Electrical transmission facilities in national interest
37 electric transmission corridors as designated by the United States
38 secretary of the department of energy or the federal energy regulatory

1 commission pursuant to section 1221 of the national energy policy act,
2 and such rules and regulations as the secretary or the federal energy
3 regulatory commission adopts to implement the act.

4 (8) "Independent consultants" means those persons who have no
5 financial interest in the applicant's proposals and who are retained by
6 the council to evaluate the applicant's proposals, supporting studies,
7 or to conduct additional studies.

8 (9) "Thermal power plant" means, for the purpose of certification,
9 any electrical generating facility using any fuel, including nuclear
10 materials, for distribution of electricity by electric utilities.

11 (10) "Energy facility" means an energy plant or transmission
12 facilities: PROVIDED, That the following are excluded from the
13 provisions of this chapter:

14 (a) Facilities for the extraction, conversion, transmission or
15 storage of water, other than water specifically consumed or discharged
16 by energy production or conversion for energy purposes; and

17 (b) Facilities operated by and for the armed services for military
18 purposes or by other federal authority for the national defense.

19 (11) "Council" means the energy facility site evaluation council
20 created by RCW 80.50.030.

21 (12) "Counsel for the environment" means an assistant attorney
22 general or a special assistant attorney general who shall represent the
23 public in accordance with RCW 80.50.080.

24 (13) "Construction" means on-site improvements, excluding
25 exploratory work, which cost in excess of two hundred fifty thousand
26 dollars.

27 (14) "Energy plant" means the following facilities together with
28 their associated facilities:

29 (a) Any stationary thermal power plant with generating capacity of
30 three hundred fifty thousand kilowatts or more, measured using maximum
31 continuous electric generating capacity, less minimum auxiliary load,
32 at average ambient temperature and pressure, and floating thermal power
33 plants of one hundred thousand kilowatts or more, including associated
34 facilities. For the purposes of this subsection, "floating thermal
35 power plants" means a thermal power plant that is suspended on the
36 surface of water by means of a barge, vessel, or other floating
37 platform;

1 (b) Facilities that generate electricity using alternative energy
2 resources as the source of power;

3 (c) Facilities which will have the capacity to receive liquified
4 natural gas in the equivalent of more than one hundred million standard
5 cubic feet of natural gas per day, which has been transported over
6 marine waters;

7 ~~((e))~~ (d) Facilities which will have the capacity to receive more
8 than an average of fifty thousand barrels per day of crude or refined
9 petroleum or liquified petroleum gas which has been or will be
10 transported over marine waters, except that the provisions of this
11 chapter shall not apply to storage facilities unless occasioned by such
12 new facility construction;

13 ~~((d))~~ (e) Any underground reservoir for receipt and storage of
14 natural gas as defined in RCW 80.40.010 capable of delivering an
15 average of more than one hundred million standard cubic feet of natural
16 gas per day; and

17 ~~((e))~~ (f) Facilities capable of processing more than twenty-five
18 thousand barrels per day of petroleum into refined products.

19 (15) "Land use plan" means a comprehensive plan or land use element
20 thereof adopted by a unit of local government pursuant to chapter~~((s))~~
21 35.63, 35A.63, ~~((e))~~ 36.70, or 36.70A RCW.

22 (16) "Zoning ordinance" means an ordinance of a unit of local
23 government regulating the use of land and adopted pursuant to
24 chapter~~((s))~~ 35.63, 35A.63, ~~((e))~~ 36.70, or 36.70A RCW or Article XI
25 of the state Constitution.

26 (17) "Alternative energy resource" means: (a) Wind; (b) solar
27 energy; (c) geothermal energy; (d) landfill gas; (e) wave or tidal
28 action; or (f) biomass energy based on solid organic fuels from wood,
29 forest, or field residues, or dedicated energy crops that do not
30 include wood pieces that have been treated with chemical preservatives
31 such as creosote, pentachlorophenol, or copper-chrome-arsenic.

32 (18) "Secretary" means the secretary of the United States
33 department of energy.

34 NEW SECTION. Sec. 2. (1) Section 1221 of the national energy
35 policy act of 2005 directs a state authority to consult with other
36 state agencies, utilities, local municipal governments, public interest
37 groups, tribes, and other interested persons to convey their views to

1 the secretary and the federal energy regulatory commission regarding
2 appropriate limits on federal regulatory authority in the siting of
3 electrical transmission corridors in the state of Washington.

4 (2) Section 1221 of the national energy policy act also authorizes
5 a state siting authority, in those instances where applicants seek a
6 federal construction permit otherwise authorized pursuant to section
7 1221 of the act, to assert jurisdiction on the basis of existing state
8 regulatory authority.

9 (3) Section 1221 of the national energy policy act further
10 authorizes a state siting authority to approve the siting of facilities
11 or consider the interstate benefits to be achieved by proposed
12 construction or modification as provided for in section
13 1221(b)(1)(A)(i)-(ii) of the act or other provisions of the act, or
14 rules and regulations implementing the act, and to convey the views and
15 recommendations regarding the need for and impact of a transmission
16 facility where the federal energy regulatory commission is determined
17 to have jurisdiction.

18 NEW SECTION. **Sec. 3.** A new section is added to chapter 80.50 RCW
19 to read as follows:

20 The council is designated as the state authority for purposes of
21 siting transmission facilities under the national energy policy act of
22 2005 and for purposes of other such rules or regulations that may be
23 adopted by the secretary. The council's authority regarding
24 transmission facilities is limited to those transmission facilities
25 that are the subject of section 1221 of the national energy policy act
26 and this chapter.

27 **Sec. 4.** RCW 80.50.060 and 2001 c 214 s 2 are each amended to read
28 as follows:

29 (1) Except as provided in subsections (2) and (3) of this section,
30 the provisions of this chapter shall apply to the construction of
31 energy facilities which includes the new construction of energy
32 facilities and the reconstruction or enlargement of existing energy
33 facilities where the net increase in physical capacity or dimensions
34 resulting from such reconstruction or enlargement meets or exceeds
35 those capacities or dimensions set forth in RCW 80.50.020 (7) and (14).

1 No construction of such energy facilities may be undertaken, except as
2 otherwise provided in this chapter, after July 15, 1977, without first
3 obtaining certification in the manner provided in this chapter.

4 (2) The provisions of this chapter apply to the construction,
5 reconstruction, or enlargement of a new or existing energy facility
6 that exclusively uses alternative energy resources and chooses to
7 receive certification under this chapter, regardless of the generating
8 capacity of the project.

9 (3) The provisions of this chapter apply to the construction of new
10 electrical transmission facilities or the modification of existing
11 electrical transmission facilities in a national interest electric
12 transmission corridor designated by the secretary.

13 (4) The provisions of this chapter shall not apply to normal
14 maintenance and repairs which do not increase the capacity or
15 dimensions beyond those set forth in RCW 80.50.020 (7) and (14).

16 ((+4)) (5) Applications for certification of energy facilities
17 made prior to July 15, 1977 shall continue to be governed by the
18 applicable provisions of law in effect on the day immediately preceding
19 July 15, 1977 with the exceptions of RCW 80.50.190 and 80.50.071 which
20 shall apply to such prior applications and to site certifications
21 prospectively from July 15, 1977.

22 ((+5)) (6) Applications for certification shall be upon forms
23 prescribed by the council and shall be supported by such information
24 and technical studies as the council may require.

25 **Sec. 5.** RCW 80.50.090 and 2001 c 214 s 7 are each amended to read
26 as follows:

27 (1) The council shall conduct an informational public hearing in
28 the county of the proposed site as soon as practicable but not later
29 than sixty days after receipt of an application for site
30 certification(~~(:—PROVIDED, That)~~). However, the place of such public
31 hearing shall be as close as practical to the proposed site.

32 (2) Subsequent to the informational public hearing, the council
33 shall conduct a public hearing to determine whether or not the proposed
34 site is consistent and in compliance with city, county, or regional
35 land use plans or zoning ordinances. If it is determined that the
36 proposed site does conform with existing land use plans or zoning

1 ordinances in effect as of the date of the application, the city,
2 county, or regional planning authority shall not thereafter change such
3 land use plans or zoning ordinances so as to affect the proposed site.

4 (3) Prior to the issuance of a council recommendation to the
5 governor under RCW 80.50.100 a public hearing, conducted as an
6 adjudicative proceeding under chapter 34.05 RCW, the administrative
7 procedure act, shall be held. At such public hearing any person shall
8 be entitled to be heard in support of or in opposition to the
9 application for certification.

10 (4) Additional public hearings shall be held as deemed appropriate
11 by the council in the exercise of its functions under this chapter.

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