
SUBSTITUTE HOUSE BILL 1020

State of Washington

59th Legislature

2005 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 80.50.090, and 80.50.110; and adding a new section to chapter 80.50
4 RCW.

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 common carrier railroads or motor
21 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 liquified petroleum gas
30 transmission pipeline of the following dimensions: A pipeline larger
31 than fourteen inches minimum inside diameter between valves, for the
32 transmission of these products, with a total length of at least fifteen
33 miles for the purpose of delivering gas to a distribution facility,
34 except an interstate natural gas pipeline regulated by the United
35 States federal power commission;

36 (c) Electrical transmission or distribution lines and related
37 equipment designed for or capable of operating at a nominal voltage in
38 excess of one hundred fifteen thousand volts.

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

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

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

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

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

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

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

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

24 (14) "Energy plant" means the following facilities together with
25 their associated facilities:

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

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

37 (c) Facilities which will have the capacity to receive liquified

1 natural gas in the equivalent of more than one hundred million standard
2 cubic feet of natural gas per day, which has been transported over
3 marine waters;

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

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

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

16 (15) "Land use plan" means a comprehensive plan or land use element
17 thereof adopted by a unit of local government pursuant to chapter~~((s))~~
18 35.63, 35A.63, ~~((e))~~ 36.70, or 36.70A RCW.

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

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

29 **Sec. 2.** RCW 80.50.060 and 2001 c 214 s 2 are each amended to read
30 as follows:

31 (1) Except as provided in subsections (2) and (3) of this section,
32 the provisions of this chapter shall apply to the construction of
33 energy facilities which includes the new construction of energy
34 facilities and the reconstruction or enlargement of existing energy
35 facilities where the net increase in physical capacity or dimensions
36 resulting from such reconstruction or enlargement meets or exceeds
37 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, consistent with section
10 4 of this act, to the construction of new electrical transmission
11 facilities and the reconstruction or expansion of existing electrical
12 transmission facilities where the person developing the new or expanded
13 electrical transmission facilities chooses to receive certification
14 under this chapter.

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

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

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

27 **Sec. 3.** RCW 80.50.090 and 2001 c 214 s 7 are each amended to read
28 as follows:

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

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

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

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

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

13 NEW SECTION. **Sec. 4.** A new section is added to chapter 80.50 RCW
14 to read as follows:

15 (1) The council's jurisdiction under RCW 80.50.060(3) takes effect
16 July 1, 2007.

17 (2) Effective July 1, 2007, for applications to site electrical
18 transmission facilities under RCW 80.50.060(3), the council has
19 jurisdiction in counties or cities that have not, before the
20 applicant's submission of the application, identified corridors for
21 electrical transmission facilities in accordance with applicable
22 statutory or local land use planning requirements.

23 (3) Effective July 1, 2007, for applications to site electrical
24 transmission facilities under RCW 80.50.060(3), the council must
25 approve applications for siting of electrical transmission facilities
26 in corridors identified for such purposes by a county or city under
27 applicable statutory or local land use planning procedures.

28 (4) The provisions of this section are intended to limit the
29 council's authority to certify the location of electrical transmission
30 facilities but not the regulation, construction, and operational
31 conditions of the electrical transmission facilities.

32 **Sec. 5.** RCW 80.50.110 and 1975-'76 2nd ex.s. c 108 s 37 are each
33 amended to read as follows:

34 Except as provided in section 4 of this act:

35 (1) If any provision of this chapter is in conflict with any other
36 provision, limitation, or restriction which is now in effect under any

1 other law of this state, or any rule (~~(or regulation promulgated)~~)
2 adopted thereunder, this chapter shall govern and control and such
3 other law or rule (~~(or regulation promulgated thereunder)~~) shall be
4 deemed superseded for the purposes of this chapter(~~(-)~~); and

5 (2) The state (~~hereby~~) preempts the regulation and certification
6 of the location, construction, and operational conditions of
7 certification of the energy facilities included under RCW 80.50.060
8 (~~as now or hereafter amended~~).

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