

SHB 1037 - S AMD 471

By Senators Poulsen, Delvin

ADOPTED 04/12/2007

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 80.50.020 and 2006 c 205 s 1 and 2006 c 196 s 1 are
4 each reenacted and amended to read as follows:

5 The definitions in this section apply throughout this chapter
6 unless the context clearly requires otherwise.

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

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

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

17 (4) "Site" means any proposed or approved location of an energy
18 facility, alternative energy resource, or electrical transmission
19 facility.

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

26 (6) "Associated facilities" means storage, transmission, handling,
27 or other related and supporting facilities connecting an energy plant
28 with the existing energy supply, processing, or distribution system,
29 including, but not limited to, communications, controls, mobilizing or
30 maintenance equipment, instrumentation, and other types of ancillary

1 transmission equipment, off-line storage or venting required for
2 efficient operation or safety of the transmission system and overhead,
3 and surface or subsurface lines of physical access for the inspection,
4 maintenance, and safe operations of the transmission facility and new
5 transmission lines constructed to operate at nominal voltages (~~in~~
6 ~~excess~~) of at least 115,000 volts to connect a thermal power plant or
7 alternative energy facilities to the northwest power grid. However,
8 common carrier railroads or motor vehicles shall not be included.

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

11 (a) Crude or refined petroleum or liquid petroleum product
12 transmission pipeline of the following dimensions: A pipeline larger
13 than six inches minimum inside diameter between valves for the
14 transmission of these products with a total length of at least fifteen
15 miles;

16 (b) Natural gas, synthetic fuel gas, or liquefied petroleum gas
17 transmission pipeline of the following dimensions: A pipeline larger
18 than fourteen inches minimum inside diameter between valves, for the
19 transmission of these products, with a total length of at least fifteen
20 miles for the purpose of delivering gas to a distribution facility,
21 except an interstate natural gas pipeline regulated by the United
22 States federal power commission(~~(+)~~).

23 (~~(+e)~~) (8) "Electrical transmission facilities" (~~in excess of~~
24 ~~115,000 volts in national interest electric transmission corridors as~~
25 ~~designated by the United States secretary of the department of energy~~
26 ~~or the federal energy regulatory commission pursuant to section 1221 of~~
27 ~~the national energy policy act, and such rules and regulations as the~~
28 ~~secretary or the federal energy regulatory commission adopts to~~
29 ~~implement the act~~) means electrical power lines and related equipment.

30 (~~(+8)~~) (9) "Independent consultants" means those persons who have
31 no financial interest in the applicant's proposals and who are retained
32 by the council to evaluate the applicant's proposals, supporting
33 studies, or to conduct additional studies.

34 (~~(+9)~~) (10) "Thermal power plant" means, for the purpose of
35 certification, any electrical generating facility using any fuel,
36 including nuclear materials, for distribution of electricity by
37 electric utilities.

1 (~~(10)~~) (11) "Energy facility" means an energy plant or
2 transmission facilities: PROVIDED, That the following are excluded
3 from the provisions of this chapter:

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

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

9 (~~(11)~~) (12) "Council" means the energy facility site evaluation
10 council created by RCW 80.50.030.

11 (~~(12)~~) (13) "Counsel for the environment" means an assistant
12 attorney general or a special assistant attorney general who shall
13 represent the public in accordance with RCW 80.50.080.

14 (~~(13)~~) (14) "Construction" means on-site improvements, excluding
15 exploratory work, which cost in excess of two hundred fifty thousand
16 dollars.

17 (~~(14)~~) (15) "Energy plant" means the following facilities
18 together with their associated facilities:

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

28 (b) Facilities which will have the capacity to receive liquefied
29 natural gas in the equivalent of more than one hundred million standard
30 cubic feet of natural gas per day, which has been transported over
31 marine waters;

32 (c) Facilities which will have the capacity to receive more than an
33 average of fifty thousand barrels per day of crude or refined petroleum
34 or liquefied petroleum gas which has been or will be transported over
35 marine waters, except that the provisions of this chapter shall not
36 apply to storage facilities unless occasioned by such new facility
37 construction;

1 (d) Any underground reservoir for receipt and storage of natural
2 gas as defined in RCW 80.40.010 capable of delivering an average of
3 more than one hundred million standard cubic feet of natural gas per
4 day; and

5 (e) Facilities capable of processing more than twenty-five thousand
6 barrels per day of petroleum into refined products.

7 ~~((15))~~ (16) "Land use plan" means a comprehensive plan or land
8 use element thereof adopted by a unit of local government pursuant to
9 chapter 35.63, 35A.63, 36.70, or 36.70A RCW, or as otherwise designated
10 by this act.

11 ~~((16))~~ (17) "Zoning ordinance" means an ordinance of a unit of
12 local government regulating the use of land and adopted pursuant to
13 chapter 35.63, 35A.63, 36.70, or 36.70A RCW or Article XI of the state
14 Constitution, or as otherwise designated by this act.

15 ~~((17))~~ (18) "Alternative energy resource" means: (a) Wind; (b)
16 solar energy; (c) geothermal energy; (d) landfill gas; (e) wave or
17 tidal action; or (f) biomass energy based on solid organic fuels from
18 wood, forest, or field residues, or dedicated energy crops that do not
19 include wood pieces that have been treated with chemical preservatives
20 such as creosote, pentachlorophenol, or copper-chrome-arsenic.

21 ~~((18))~~ (19) "Secretary" means the secretary of the United States
22 department of energy.

23 (20) "Preapplication process" means the process which is initiated
24 by written correspondence from the preapplicant to the council, and
25 includes the process adopted by the council for consulting with the
26 preapplicant and with cities, towns, and counties prior to accepting
27 applications for all transmission facilities.

28 (21) "Preapplicant" means a person considering applying for a site
29 certificate agreement for any transmission facility.

30 **Sec. 2.** RCW 80.50.060 and 2006 c 196 s 4 are each amended to read
31 as follows:

32 (1) The provisions of this chapter ~~((shall))~~ apply to the
33 construction of energy facilities which includes the new construction
34 of energy facilities and the reconstruction or enlargement of existing
35 energy facilities where the net increase in physical capacity or
36 dimensions resulting from such reconstruction or enlargement meets or
37 exceeds those capacities or dimensions set forth in RCW 80.50.020 (7)

1 and ~~((14))~~ (15). No construction of such energy facilities may be
2 undertaken, except as otherwise provided in this chapter, after July
3 15, 1977, without first obtaining certification in the manner provided
4 in this chapter.

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

10 (3)(a) The provisions of this chapter apply to the construction
11 ~~((of new)), reconstruction, or modification of~~ electrical transmission
12 ~~facilities ((or the modification of existing electrical transmission~~
13 ~~facilities in a national interest electric transmission corridor~~
14 ~~designated by the secretary)) when:~~

15 (i) The facilities are located in a national interest electric
16 transmission corridor as specified in RCW 80.50.045;

17 (ii) An applicant chooses to receive certification under this
18 chapter, and the facilities are: (A) Of a nominal voltage of at least
19 one hundred fifteen thousand volts and are located in a completely new
20 corridor, except for the terminus of the new facility or
21 interconnection of the new facility with the existing grid, and the
22 corridor is not otherwise used for electrical transmission facilities;
23 and (B) located in more than one jurisdiction that has promulgated land
24 use plans or zoning ordinances; or

25 (iii) An applicant chooses to receive certification under this
26 chapter, and the facilities are: (A) Of a nominal voltage in excess of
27 one hundred fifteen thousand volts; and (B) located outside an
28 electrical transmission corridor identified in (a)(i) and (ii) of this
29 subsection (3).

30 (b) For the purposes of this subsection, "modify" means a
31 significant change to an electrical transmission facility and does not
32 include the following: (i) Minor improvements such as the replacement
33 of existing transmission line facilities or supporting structures with
34 equivalent facilities or structures; (ii) the relocation of existing
35 electrical transmission line facilities; (iii) the conversion of
36 existing overhead lines to underground; or (iv) the placing of new or
37 additional conductors, supporting structures, insulators, or their
38 accessories on or replacement of supporting structures already built.

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

5 (5) Applications for certification of energy facilities made prior
6 to July 15, 1977 shall continue to be governed by the applicable
7 provisions of law in effect on the day immediately preceding July 15,
8 1977 with the exceptions of RCW 80.50.190 and 80.50.071 which shall
9 apply to such prior applications and to site certifications
10 prospectively from July 15, 1977.

11 (6) Applications for certification shall be upon forms prescribed
12 by the council and shall be supported by such information and technical
13 studies as the council may require.

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

16 (1) For applications to site electrical transmission facilities,
17 the council shall conduct a preapplication process pursuant to rules
18 adopted by the council to govern such process, receive applications as
19 prescribed in RCW 80.50.071, and conduct public meetings pursuant to
20 RCW 80.50.090.

21 (2) The council shall consider and may recommend certification of
22 electrical transmission facilities in corridors designated for this
23 purpose by affected cities, towns, or counties:

24 (a) Where the jurisdictions have identified electrical transmission
25 facility corridors as part of their land use plans and zoning maps
26 based on policies adopted in their plans;

27 (b) Where the proposed electrical transmission facility is
28 consistent with any adopted development regulations that govern the
29 siting of electrical transmission facilities in such corridors; and

30 (c) Where contiguous jurisdictions and jurisdictions in which
31 related regional electrical transmission facilities are located have
32 either prior to or during the preapplication process undertaken good
33 faith efforts to coordinate the locations of their corridors consistent
34 with RCW 36.70A.100.

35 (3)(a) In the absence of a corridor designation in the manner
36 prescribed in subsection (2) of this section, the council shall as part
37 of the preapplication process require the preapplicant to negotiate, as

1 provided by rule adopted by the council, for a reasonable time with
2 affected cities, towns, and counties to attempt to reach agreement
3 about a corridor plan. The application for certification shall
4 identify only the corridor agreed to by the applicant and cities,
5 towns, and counties within the proposed corridor pursuant to the
6 preapplication process.

7 (b) If no corridor plan is agreed to by the applicant and cities,
8 towns, and counties pursuant to (a) of this subsection, the applicant
9 shall propose a recommended corridor and electrical transmission
10 facilities to be included within the proposed corridor.

11 (c) The council shall consider the applicant's proposed corridor
12 and electrical transmission facilities as provided in RCW 80.50.090 (2)
13 and (4), and shall make a recommendation consistent with RCW 80.50.090
14 and 80.50.100.

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

17 (1) A preapplicant shall pay to the council a fee of ten thousand
18 dollars to be applied to the cost of the preapplication process as a
19 condition precedent to any action by the council, provided that costs
20 in excess of this amount shall be paid only upon prior approval by the
21 preapplicant, and provided further that any unexpended portions thereof
22 shall be returned to the preapplicant.

23 (2) The council shall consult with the preapplicant and prepare a
24 plan for the preapplication process which shall commence with an
25 informational public hearing within sixty days after the receipt of the
26 preapplication fee as provided in RCW 80.50.090.

27 (3) The preapplication plan shall include but need not be limited
28 to:

29 (a) An initial consultation to explain the proposal and request
30 input from council staff, federal and state agencies, cities, towns,
31 counties, port districts, tribal governments, property owners, and
32 interested individuals;

33 (b) Where applicable, a process to guide negotiations between the
34 preapplicant and cities, towns, and counties within the corridor
35 proposed pursuant to section 3 of this act.

36 NEW SECTION. **Sec. 5.** 2006 c 196 s 2 (uncodified) is repealed."

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1 On page 1, line 2 of the title, after "council;" strike the
2 remainder of the title and insert "amending RCW 80.50.060; reenacting
3 and amending RCW 80.50.020; adding new sections to chapter 80.50 RCW;
4 and repealing 2006 c 196 s 2 (uncodified)."

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