

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1037

60th Legislature
2007 Regular Session

Passed by the House April 17, 2007
Yeas 98 Nays 0

Speaker of the House of Representatives

Passed by the Senate April 12, 2007
Yeas 48 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1037** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1037

AS AMENDED BY THE SENATE

Passed Legislature - 2007 Regular Session

State of Washington 60th Legislature 2007 Regular Session

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

READ FIRST TIME 01/22/07.

1 AN ACT Relating to siting electrical transmission under the energy
2 facility site evaluation council; 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).

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

6 **Sec. 1.** RCW 80.50.020 and 2006 c 205 s 1 and 2006 c 196 s 1 are
7 each reenacted and amended to read 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, alternative energy resource, or electrical transmission
3 facility.

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

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

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

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

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

37 (~~(+)~~) (8) "Electrical transmission facilities" (~~in excess of~~
38 ~~115,000 volts in national interest electric transmission corridors as~~

1 ~~designated by the United States secretary of the department of energy~~
2 ~~or the federal energy regulatory commission pursuant to section 1221 of~~
3 ~~the national energy policy act, and such rules and regulations as the~~
4 ~~secretary or the federal energy regulatory commission adopts to~~
5 ~~implement the act)) means electrical power lines and related equipment.~~

6 ((+8)) (9) "Independent consultants" means those persons who have
7 no financial interest in the applicant's proposals and who are retained
8 by the council to evaluate the applicant's proposals, supporting
9 studies, or to conduct additional studies.

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

14 ((+10)) (11) "Energy facility" means an energy plant or
15 transmission facilities: PROVIDED, That the following are excluded
16 from the provisions of this chapter:

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

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

22 ((+11)) (12) "Council" means the energy facility site evaluation
23 council created by RCW 80.50.030.

24 ((+12)) (13) "Counsel for the environment" means an assistant
25 attorney general or a special assistant attorney general who shall
26 represent the public in accordance with RCW 80.50.080.

27 ((+13)) (14) "Construction" means on-site improvements, excluding
28 exploratory work, which cost in excess of two hundred fifty thousand
29 dollars.

30 ((+14)) (15) "Energy plant" means the following facilities
31 together with their associated facilities:

32 (a) Any stationary thermal power plant with generating capacity of
33 three hundred fifty thousand kilowatts or more, measured using maximum
34 continuous electric generating capacity, less minimum auxiliary load,
35 at average ambient temperature and pressure, and floating thermal power
36 plants of one hundred thousand kilowatts or more, including associated
37 facilities. For the purposes of this subsection, "floating thermal

1 power plants" means a thermal power plant that is suspended on the
2 surface of water by means of a barge, vessel, or other floating
3 platform;

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

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

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

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

20 ~~((+15))~~ (16) "Land use plan" means a comprehensive plan or land
21 use element thereof adopted by a unit of local government pursuant to
22 chapter 35.63, 35A.63, 36.70, or 36.70A RCW, or as otherwise designated
23 by this act.

24 ~~((+16))~~ (17) "Zoning ordinance" means an ordinance of a unit of
25 local government regulating the use of land and adopted pursuant to
26 chapter 35.63, 35A.63, 36.70, or 36.70A RCW or Article XI of the state
27 Constitution, or as otherwise designated by this act.

28 ~~((+17))~~ (18) "Alternative energy resource" means: (a) Wind; (b)
29 solar energy; (c) geothermal energy; (d) landfill gas; (e) wave or
30 tidal action; or (f) biomass energy based on solid organic fuels from
31 wood, forest, or field residues, or dedicated energy crops that do not
32 include wood pieces that have been treated with chemical preservatives
33 such as creosote, pentachlorophenol, or copper-chrome-arsenic.

34 ~~((+18))~~ (19) "Secretary" means the secretary of the United States
35 department of energy.

36 (20) "Preapplication process" means the process which is initiated
37 by written correspondence from the preapplicant to the council, and

1 includes the process adopted by the council for consulting with the
2 preapplicant and with cities, towns, and counties prior to accepting
3 applications for all transmission facilities.

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

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

8 (1) The provisions of this chapter (~~(shall)~~) apply to the
9 construction of energy facilities which includes the new construction
10 of energy facilities and the reconstruction or enlargement of existing
11 energy facilities where the net increase in physical capacity or
12 dimensions resulting from such reconstruction or enlargement meets or
13 exceeds those capacities or dimensions set forth in RCW 80.50.020 (7)
14 and (~~(+14)~~) (15). No construction of such energy facilities may be
15 undertaken, except as otherwise provided in this chapter, after July
16 15, 1977, without first obtaining certification in the manner provided
17 in this chapter.

18 (2) The provisions of this chapter apply to the construction,
19 reconstruction, or enlargement of a new or existing energy facility
20 that exclusively uses alternative energy resources and chooses to
21 receive certification under this chapter, regardless of the generating
22 capacity of the project.

23 (3)(a) The provisions of this chapter apply to the construction
24 (~~(of new)~~), reconstruction, or modification of electrical transmission
25 facilities (~~(or the modification of existing electrical transmission~~
26 ~~facilities in a national interest electric transmission corridor~~
27 ~~designated by the secretary)~~) when:

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

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

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

6 (b) For the purposes of this subsection, "modify" means a
7 significant change to an electrical transmission facility and does not
8 include the following: (i) Minor improvements such as the replacement
9 of existing transmission line facilities or supporting structures with
10 equivalent facilities or structures; (ii) the relocation of existing
11 electrical transmission line facilities; (iii) the conversion of
12 existing overhead lines to underground; or (iv) the placing of new or
13 additional conductors, supporting structures, insulators, or their
14 accessories on or replacement of supporting structures already built.

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 (15).

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

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

28 NEW SECTION. Sec. 3. A new section is added to chapter 80.50 RCW
29 to read as follows:

30 (1) For applications to site electrical transmission facilities,
31 the council shall conduct a preapplication process pursuant to rules
32 adopted by the council to govern such process, receive applications as
33 prescribed in RCW 80.50.071, and conduct public meetings pursuant to
34 RCW 80.50.090.

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

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

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

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

12 (3)(a) In the absence of a corridor designation in the manner
13 prescribed in subsection (2) of this section, the council shall as part
14 of the preapplication process require the preapplicant to negotiate, as
15 provided by rule adopted by the council, for a reasonable time with
16 affected cities, towns, and counties to attempt to reach agreement
17 about a corridor plan. The application for certification shall
18 identify only the corridor agreed to by the applicant and cities,
19 towns, and counties within the proposed corridor pursuant to the
20 preapplication process.

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

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

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

31 (1) A preapplicant shall pay to the council a fee of ten thousand
32 dollars to be applied to the cost of the preapplication process as a
33 condition precedent to any action by the council, provided that costs
34 in excess of this amount shall be paid only upon prior approval by the
35 preapplicant, and provided further that any unexpended portions thereof
36 shall be returned to the preapplicant.

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

5 (3) The preapplication plan shall include but need not be limited
6 to:

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

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

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

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