SENATE BILL NO. 301

INTRODUCED BY D. ZOLNIKOV

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING UTILITY LINES AND FACILITIES LAWS; ALLOWING THE COMMISSION TO GRANT A PUBLIC UTILITY A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR ELECTRIC TRANSMISSION FACILITY CONSTRUCTION; ESTABLISHING OPTIONAL RATEMAKING PROCEDURES AND TIMELINES; PROVIDING RULEMAKING AUTHORITY; PROVIDING DEFINITIONS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

WHEREAS, ADVANCED TRANSMISSION TECHNOLOGY OFFERS MULTIPLE ADVANTAGES, INCLUDING INCREASED CAPACITY ON EXISTING TRANSMISSION INFRASTRUCTURE, SIGNIFICANTLY REDUCED WILDFIRE RISK, especially when an installed powerline conductor has a thermal expansion coefficient no greater than that of an advanced composite conductor, AND IMPROVED GRID RELIABILITY, AND IS A COST-EFFECTIVE SOLUTION TO MONTANA'S CURRENT CONGESTION AND CURTAILMENTS OF TRANSMISSION PATHWAYS; AND

WHEREAS, THE INTENTION OF THIS LEGISLATION IS TO EXPEDITE THE NECESSARY AND OVERDUE TRANSMISSION UPGRADES NEEDED TO SERVE THE EVER-INCREASING DEMAND OF POWER; AND

WHEREAS, THE PUBLIC SERVICE COMMISSION HAS THE DECISIONMAKING AUTHORITY TO DETERMINE THE BALANCE BETWEEN MODERNIZING THE GRID TO INCREASE RELIABILITY AND IDENTIFYING WHAT COSTS ARE REASONABLE OR UNREASONABLE TO ENSURE RATEPAYER AFFORDABILITY.

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

NEW SECTION. **Section 1. Definitions.** As used IN [sections 1 through 3], unless the context clearly indicates otherwise, the following definitions apply:

(1) "Advanced transmission technology" means a technology that increases the capacity, efficiency, and reliability of an existing or new transmission facility~~, as defined in 42 U.S.C. 16422~~. For the purposes of [sections 1 through 3], the term applies to the following technology:

(a) underground cables;

(b) advanced conductor technology, such as advanced composite conductors, high temperature low-sag conductors, and fiber optic temperature sensing conductors;

(c) high-capacity ceramic electric wire, connectors, and insulators;

(d) high-voltage direct-current technology;

(e) flexible alternate-current transmission systems;

~~(f) energy storage devices, such as pumped storage hydropower, compressed air, superconducting magnetic energy storage, flywheels, and batteries;~~

~~(g) distributed generation, such as photovoltaic solar cells, fuel cells, and microturbines;~~

~~(h)~~(F) enhanced power device monitoring;

~~(i) direct system-state sensors;~~

~~(j)~~(G) power electronics and related software, including real-time monitoring and analytical software; and

~~(k)~~(H) any other technologies the commission considers appropriate.

(2) "Certificate of public convenience and necessity" means a written authorization to operate issued by the commission for constructing an electric transmission facility.

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

(4) "Transmission facility" means those facilities that are controlled or operated by a utility and used to provide transmission services as determined by the federal energy regulatory commission and the public service commission. The term includes advanced transmission technology.

NEW SECTION. **Section 2. Certificate of public convenience and necessity for transmission lines and facilities -- rulemaking.** (1) A public utility, as defined in 69-3-101, ~~or any other entity required to submit a certification application to the department pursuant to Title 75, chapter 20,~~ may request a certificate of public convenience and necessity from the commission prior to commencing actual construction work on an electric transmission facility that is rated higher than 69 kilovolts.

(2) ~~A UTILITY MAY REQUEST A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FROM THE~~

~~COMMISSION PURSUANT~~ ~~TO SUBSECTION (1). THE UTILITY SHALL NOTIFY THE COMMISSION IN WRITING THAT IT SEEKS THE CERTIFICATE.~~ IF THE UTILITY ~~NOTIFIES~~ REQUESTS A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FROM THE COMMISSION PURSUANT TO ~~THIS~~ SUBSECTION (1), THE DEPARTMENT MAY NOT MAKE A DETERMINATION REGARDING THE REQUIREMENTS OF SUBSECTIONS 75-20-301(1)(A), (1)(D)~~(III)~~, AND (1)(F).

~~(2)~~(3) (a) Upon receiving a request from a public utility or entity, the commission shall determine within ~~270~~ 300 days whether the construction of the proposed transmission facility is in the public interest and may grant or deny the certificate of public convenience and necessity.

(b) In making a determination, the commission ~~may~~ shall consider:

(i) the need for the proposed transmission facility to ensure reliable service for customers;

(ii) the ability of the proposed transmission facility to improve Montana utility customer access to reliable and cost-effective electric generation or storage facilities;

(iii) the anticipated costs and benefits of the proposed facility;

(iv) the use of advanced transmission technology; and

(v) any other factors deemed appropriate by the commission.

~~(3)~~(4) A commission-approved certificate of public convenience and necessity may satisfy the requirements set forth in 75-20-301(1)(a), (1)(d), AND (1)(f), ~~and (2)~~ when the department considers siting applications for proposed transmission facilities.

~~(4)~~(5) The commission shall adopt rules for the implementation of this section.

(6) NOTHING IN THIS SECTION ALTERS THE REQUIREMENTS OF TITLE 75, CHAPTER 20.

(7) NOTHING IN THIS SECTION REQUIRES THE PUBLIC SERVICE COMMISSION TO APPROVE RECOVERY OF COSTS.

NEW SECTION. **SECTION 3. ~~APPROVAL~~ ADVANCED COST APPROVAL OF TRANSMISSION AND RELATED FACILITIES.** (1) A PUBLIC UTILITY MAY APPLY TO THE COMMISSION FOR ADVANCED COST APPROVAL OF TRANSMISSION LINES AND RELATED FACILITIES NOT YET PROCURED, PROVIDED THE UTILITY COMPLIES WITH [SECTION 2].

(2) WITHIN 45 DAYS OF A UTILITY'S APPLICATION FOR ADVANCED COST APPROVAL, THE COMMISSION SHALL DETERMINE IF THE APPLICATION IS ADEQUATE AND IN COMPLIANCE WITH THE COMMISSION'S MINIMUM FILING

REQUIREMENTS. IF THE COMMISSION DETERMINES THE APPLICATION IS INADEQUATE, IT SHALL EXPLAIN THE DEFICIENCIES.

(3) THE COMMISSION SHALL ISSUE AN ORDER WITHIN 90 DAYS AFTER RECEIVING AN APPLICATION FOR TRANSMISSION LINES AND RELATED FACILITIES, UNLESS THE COMMISSION DETERMINES THAT EXTRAORDINARY CIRCUMSTANCES WARRANT ADDITIONAL TIME.

(4) SUBJECT TO [SECTION 2(2)] AND AFTER THE ~~APPLICANT MEETS THE REMAINING REQUIREMENTS OF~~ DEPARTMENT ISSUES THE CERTIFICATE OF COMPLIANCE PURSUANT TO TITLE 75, CHAPTER 20, AS APPLICABLE, THE COMMISSION MAY:

(A) (I) APPROVE OR DENY, IN WHOLE OR IN PART~~:~~,

~~(I) AN~~ APPLICATION FOR ADVANCED COST APPROVAL OF ~~TRANSMISSION LINES AND FACILITIES; AND~~

~~(II) COST RECOVERY FOR COSTS NOT PRUDENTLY INCURRED~~ A TRANSMISSION LINE AND FACILITY TO GIVE THE PUBLIC UTILITY A PRESUMPTION IN ANY FUTURE RATE PROCEEDING THAT THE ACTUAL CONSTRUCTION COSTS FOR THAT LINE ARE PRUDENT IF THE ACTUAL CONSTRUCTION COSTS ARE LESS THAN OR EQUAL TO THE APPROVED COSTS; OR

(II) TO THE EXTENT ACTUAL COSTS ARE GREATER THAN APPROVED COSTS, THERE IS NO PRESUMPTION THE ACTUAL CONSTRUCTION COSTS FOR THAT LINE ARE PRUDENT, AND THE COMMISSION SHALL DETERMINE IF THE COSTS ARE PRUDENT AND RECOVERABLE; AND

(B) CONSIDER ALL RELEVANT INFORMATION UNTIL THE ADMINISTRATIVE RECORD IN THE PROCEEDING IS CLOSED FOR THE COMMISSION'S EVALUATION OF AN APPLICATION.

~~NEW SECTION. **Section 3. Electric transmission optional ratemaking procedures -- rulemaking.** (1) A public utility operating electric transmission facilities that are part of a bulk electric system subject to regulation by the federal energy regulatory commission and whose rates are set by the federal energy regulatory commission using a formula rate process is eligible for optional ratemaking procedures as described in this section.~~

~~(2) An eligible public utility may establish the optional ratemaking procedures in a general rate filing pursuant to Title 69, chapter 3, part 3. If the public utility is eligible and the proposed optional ratemaking procedures are consistent with this section, the commission may ap prove optional ratemaking procedures that~~

~~include the following elements:~~

~~(a) The revenues and costs associated with providing electric transmission service must be unbundled from the revenues and costs associated with providing all other services. Cost recovery and savings from advanced transmission technology compared to legacy transmission technology must be considered over the expected life of the transmission line.~~

~~(b) The rates associated with the provisions of electric transmission service must be set annually using forecasted revenues and costs expected over a 12-month period, including forecasted revenues the public utility anticipates it will collect from the provisions of the federal energy regulatory commission jurisdictional transmission services during that same period.~~

~~(c) (i) At the conclusion of each forecasted 12-month period, a public utility shall make a filing to adjust for a recovery that is above or below the actual, prudently incurred costs and for any revenues the public utility receives from providing federal energy regulatory commission jurisdictional services.~~

~~(ii) If the federal energy regulatory commission grants the recovery of costs in the rate base during construction, the public utility may seek similar treatment of these costs through the optional ratemaking procedures described in this section.~~

~~(3) Following the initial implementation of unbundled electric transmission rates and optional ratemaking procedures, the commission shall:~~

~~(a) authorize the public utility to change the rates it charges that are associated with its provision of electric transmission service on a schedule comparable to the schedule the public utility uses to change its federal energy regulatory commission formula rates; and~~

~~(b) authorize a change in the rates associated with the provision of electric transmission service that is set to go into effect no later than 30 days from the date of filing on an interim basis.~~

~~(4) A filing to change rates pursuant to this section must comply with the Montana Administrative Procedure Act, Title 2, chapter 4, part 6.~~

~~(5) The commission may adopt rules for the implementation of this section."~~

NEW SECTION. **Section 4. Codification instruction.** [Sections 1 through 3] are intended to be

codified as an integral part of Title 69, chapter 4, part 1, and the provisions of Title 69, chapter 4, part 1, apply to [sections 1 through 3].

NEW SECTION. **Section 5. Effective date.** [This act] is effective on passage and approval.

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