

PUBLIC UTILITIES

CHAPTER 430

HOUSE BILL NO. 1284
(Winkjer)

CROSSING UTILITY FACILITIES

AN ACT to authorize the public service commission to fix the terms under which the facilities of one public utility will be permitted to cross those of another public utility.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. THE COMMISSION MAY FIX TERMS BY WHICH THE FACILITIES OF ONE UTILITY MAY CROSS THOSE OF ANOTHER UTILITY.) Whenever public convenience and necessity requires that an electric or telephone distribution or transmission line, pipeline, or railroad track of any public utility cross a line or track of another public utility and the public utilities have failed to agree upon the terms and conditions or compensation for the same, the public service commission, after notice and hearing, may prescribe reasonable terms, conditions, and compensation under which the crossing shall be permitted.

Approved March 17, 1975

CHAPTER 431

SENATE BILL NO. 2456
(Mutch)

RAILROADS

AN ACT to create and enact sections 49-12-34 and 49-13-30 of the North Dakota Century Code, relating to railroad livestock shipments and railroad employee pay; to amend and reenact sections 8-10-05, 49-11-15, 49-11-17, subsection 1 of section 49-02-01, subsection 5 of section 49-02-02, and subsection 2 of section 49-11-06 of the North Dakota Century Code, relating to railroads; to repeal chapters 36-20 and 49-08 and sections 49-04-11, 49-04-12, 49-04-13, and 49-04-14 of the North Dakota Century Code, and section 49-09-12 of the 1973 Supplement to the North Dakota Century Code, relating to railroads; providing for a limited redraft of law relating to railroads in North Dakota.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 8-10-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

8-10-05. MESSAGES TRANSMITTED PROMPTLY.) All messages left at the office of any telegraph office must be transmitted promptly if said message is prepaid by the sender. In no case shall a full-rate message remain at the telegraph office unsent more than thirty minutes except in case of accident to the lines or during severe storms.

SECTION 2. AMENDMENT.) Subsection 1 of section 49-02-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Contract and common carriers for the transportation of persons and property;

SECTION 3. AMENDMENT.) Subsection 5 of section 49-02-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. To hold hearings on good cause being shown therefor or on its own motion, and to provide notice thereof and to shorten the period for which notice shall be given prior to hearing, when good cause exists for such action. Such notice, however, shall be reasonable in view of the

nature, scope, and importance of the hearing. Whenever it shall appear to the satisfaction of the commission that all of the interested parties have agreed concerning the matter at hand, the commission may issue its order without a hearing; and

SECTION 4. AMENDMENT.) Subsection 2 of section 49-11-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Firmly fastened planks, concrete, asphalt, or other suitable material for highway construction shall be used on and for the full length of the ties used in the road-bed of such railway where such crossing occurs. The highway material next inside of the rail shall not be more than two and one-half inches from the inside surface of such rail. The highway material used in the crossing shall not be less than three inches in thickness, and shall be laid so that the upper surface of the highway material shall be on a level with the upper surface of the rail. Such highway material shall extend along the railway the entire width of the highway grade and in no case less than twenty feet.

SECTION 5. AMENDMENT.) Section 49-11-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-11-15. PENALTY FOR VIOLATION OF ORDER.) Any railroad failing to comply with the order of the commission, if no appeal therefrom is taken, or if the order is affirmed on appeal, shall be guilty of an infraction.

SECTION 6. AMENDMENT.) Section 49-11-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-11-17. RAILROAD CROSSING OVER LAND OWNED ON BOTH SIDES BY ONE PERSON - PENALTY FOR FAILURE TO PROVIDE.) When any person owns land on both sides of any railroad and contiguous to the railway, the corporation or individual owning or operating such railway shall make and keep in good repair a proper cattle guard and causeway or other adequate means of crossing such railway at such reasonable place as may be designated by the landowner or his agent, upon at least ten days' written notice by the commission to the railroad corporation provided an adequate crossing is not otherwise accessible. The type of all cattle guards required by law to be constructed in this state before being installed shall be approved by the commission. The owner or person in possession of the land through which the railroad passes may recover twenty-five dollars for every thirty days of default on the part of the person or corporation operating the railroad after at least a ten-day notice served on an officer, roadmaster, or section foreman of the operating company has designated the place for the erection of the cattle-guarded crossings or the road crossing, requested and a like penalty for failure to keep such cattle guards or road crossings in good repair after at least a ten-day written notice has been served upon the operating company that such repairs are necessary.

SECTION 7.) Section 49-12-34 of the North Dakota Century Code is hereby created and enacted to read as follows:

49-12-34. SHIPMENT OF LIVESTOCK.) The commission may promulgate reasonable rules and regulations, consistent with federal requirements, governing the shipment of livestock by railroads to provide for the well-being and humane treatment of said livestock.

SECTION 8.) Section 49-13-30 of the North Dakota Century Code is hereby created and enacted to read as follows:

49-13-30. SEMIMONTHLY PAY TO RAILROAD EMPLOYEES.) All railroads doing business within this state are required to pay their employees, at least semimonthly, the wages earned by them within fifteen days of the date of such payment unless prevented by inevitable casualty. Whenever an employee shall be discharged, his wages shall be paid to him at the time of his discharge or whenever he shall demand the same thereafter.

SECTION 9. REPEAL.) Chapters 36-20 and 49-08, and sections 49-04-11, 49-04-12, 49-04-13, and 49-04-14 of the North Dakota Century Code, and section 49-09-12 of the 1973 Supplement to the North Dakota Century Code are hereby repealed.

Approved March 19, 1975

CHAPTER 432

HOUSE BILL NO. 1437
(Raymond)

NEWSPAPER TRUCKS EXEMPT FROM MOTOR CARRIER LAW

AN ACT to amend and reenact section 49-18-04 of the North Dakota Century Code, relating to contract motor carriers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 49-18-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-18-04. APPLICATION OF CHAPTER TO CONTRACT MOTOR CARRIERS LIMITED.) This chapter shall not apply to contract motor carriers of property or passengers operating:

1. Wholly within a city of this state;
2. Within not to exceed one mile of a city;
3. Exclusively in the transportation of children to or from school;
4. As rural mail carriers; or
5. Newspaper delivery service.

Approved March 12, 1975

CHAPTER 433

SENATE BILL NO. 2431
(Solberg)

UNIFORM TARIFF RATES

AN ACT to amend and reenact section 49-18-11 of the North Dakota Century Code, relating to the requirement that the rates for all classes of common carriers be uniform.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 49-18-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-18-11. RATES MUST BE UNIFORM FOR ALL CLASSES OF CARRIERS.) The rates and tariffs prescribed by the commission shall be uniform for similar service for all classes of carriers affected by this chapter. The use of a tariff bureau to promulgate and file a proposed tariff will create no presumption that the carrier using the bureau is violating section 146 of the Constitution of the state of North Dakota.

Not approved or disapproved by the Governor

Filed March 18, 1975

CHAPTER 434

SENATE BILL NO. 2172
(Committee on Transportation)
(At the request of the Public Service Commission)

MOTOR CARRIER PERMITS

AN ACT to amend and reenact section 49-18-21 of the North Dakota Century Code, relating to substituting the word permit in reference to certificates.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 49-18-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-18-21. CONTRACT MOTOR CARRIERS - HEARING FOR PERMIT.)
The commission, upon the filing of an application for a permit, as provided by section 49-18-20, may fix a time for hearing thereon, which shall be not less than ten days after such filing. The commission shall cause notice of such hearing to be served by registered or certified mail at least five days before the hearing upon every railroad corporation or other common carrier which is operating or which has applied for a certificate or permit to operate in the territory proposed to be served by the applicant and on other interested parties as determined by the commission. Any such common carrier, and any other interested person, may offer testimony for or against the granting of such permit.

Approved March 22, 1975

CHAPTER 435

SENATE BILL NO. 2196
(Committee on Transportation)
(At the request of the Public Service Commission)

MOTOR CARRIER CERTIFICATES

AN ACT to amend and reenact section 49-18-26 of the 1973 Supplement to the North Dakota Century Code, relative to certificates or permits.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 49-18-26 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-18-26. CERTIFICATES - PERMITS - DURATION - TRANSFER.) Certificates and permits issued to carriers by the commission under this chapter shall remain in force and effect subject to the regulatory and annual fee provisions of such chapter, and subject to all limitations and requirements thereof. Such certificate or permit shall be transferable only upon approval by the commission, after opportunity for hearing, giving notice to all interested parties; provided, however, that when there is an immediate and urgent need the commission may authorize the temporary transfer of a certificate or permit, pending hearing. Such temporary transfer shall be granted without a hearing and, unless suspended or revoked for good cause, shall be valid for such time as the commission shall specify but not for more than an aggregate of one hundred and eighty days, and shall create no presumption that the transfer of the certificate or permit shall be granted after the hearing on the application.

Approved March 13, 1975

CHAPTER 436

SENATE BILL NO. 2050

(L. Christensen, Fritzell, Morgan, Rait, Stroup, Wright)
(From Legislative Council Study)

ENERGY FACILITY SITING ACT

AN ACT to provide for energy conversion facility and transmission facility siting authority by the public service commission; providing a penalty; providing an appropriation; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. SHORT TITLE.) This Act may be cited as the "North Dakota Energy Conversion and Transmission Facility Siting Act".

SECTION 2. STATEMENT OF POLICY.) The legislative assembly finds that the construction of energy conversion facilities and transmission facilities affects the environment and the welfare of the citizens of this state. Therefore, it is necessary to ensure that the location, construction, and operation of energy conversion facilities and transmission facilities will produce minimal adverse effects on the environment and upon the welfare of the citizens of this state by providing that no energy conversion facility or transmission facility shall be located, constructed, and operated within this state without a certificate of site compatibility acquired pursuant to this Act. The legislative assembly hereby declares it to be the policy of this state to site energy conversion facilities and transmission facilities in an orderly manner compatible with environmental preservation and the efficient use of resources. In accordance with this policy, sites shall be chosen which minimize adverse human and environmental impact while ensuring continuing system reliability and integrity and ensuring that energy needs are met and fulfilled in an orderly and timely fashion.

SECTION 3. DEFINITIONS.) In this Act, unless the context or subject matter otherwise requires:

1. "Certificate" means the certificate of site compatibility issued under the provisions of this Act.
2. "Commission" means the North Dakota public service commission.

3. "Construction" includes any clearing of land, excavation, or other action that would affect the environment of the site after the effective date of this Act, but does not include activities incident to preliminary engineering or environmental studies.
4. "Corridor" means the general location of a transmission facility.
5. "Energy conversion facility" means any plant, addition, or combination of plant and addition, designed for or capable of:
 - a. Generation of fifty thousand kilowatts or more of electricity;
 - b. Manufacture or refinement of one hundred million cubic feet or more of gas per day;
 - c. Manufacture or refinement of fifty thousand barrels or more of liquid hydrocarbon products per day; or
 - d. Enrichment of uranium minerals.
6. "Facility" means an energy conversion facility, transmission facility, or both.
7. "Permit" means the permit for the construction of a transmission facility within a designated corridor issued under the provisions of this Act.
8. "Person" includes any individual, firm, association, partnership, cooperative, corporation, or any department, agency, or instrumentality of the state, or any subdivision thereof.
9. "Route" means the specific location of a transmission facility within a designated corridor.
10. "Site" means the location of an energy conversion facility.
11. "Transmission facility" means:
 - a. An electric transmission line and associated facilities with a design of two hundred kilovolts or more;
 - b. An electric transmission line and associated facilities with a design of sixty-nine to two hundred kilovolts, if the facility does not follow quarter section lines, section lines, property lines, roads, highways, or railroads; or

- c. A gas or liquid transmission line and associated facilities designed for or capable of transporting coal, gas, liquid hydrocarbon products, or water from or to an energy conversion facility described in subsection 5.
12. "Utility" means any person engaged in and controlling the generation, manufacture, refinement, or transmission of electric energy, gas, or liquid hydrocarbon products, including, but not limited to, electric power generation or transmission, coal gasification, coal liquefaction, petroleum refinement, uranium enrichment, and the transmission of coal, gas, liquid hydrocarbon products, or water from or to any energy conversion facility.

SECTION 4. TEN-YEAR PLANS - CONTENTS.) Every utility which owns or operates, or plans within the next ten years to own or operate, any facility shall annually develop a ten-year plan as specified in this section. On or before July first of each year, every such utility shall submit its ten-year plan to the commission. The ten-year plan may be appropriate portions of a single regional plan or may be jointly prepared and submitted by two or more utilities and shall contain the following information:

1. A description of the general location, size, and type of all facilities to be owned or operated by the utility during the ensuing ten years, as well as those facilities to be removed from service during the planning period;
2. A description of the efforts by the utility to coordinate the plan with other utilities so as to provide a coordinated regional plan for meeting the utility needs of the region;
3. A description of the efforts to involve environmental protection and land use planning agencies in the planning process, as well as other efforts to identify and minimize environmental problems at the earliest possible stage in the planning process;
4. A statement of the projected demand for the service rendered by the utility for the ensuing ten years and the underlying assumptions for the projection, with such information being as geographically specific as possible, and a description of the manner and extent to which the utility will meet the projected demand; and
5. Any other relevant information as may be requested by the commission.

SECTION 5. INVENTORY OF POTENTIAL SITES - CRITERIA -

PUBLIC HEARINGS.)

1. The commission shall promptly initiate a public planning process where all interested persons can participate in developing the criteria and standards to be used by the commission in preparing an inventory of potential energy conversion facility sites and transmission facility corridors and to guide the site suitability evaluation and selection process. The participatory process shall include, but is not limited to, public hearings. Before substantial modifications of the initial criteria and standards are adopted, additional public hearings shall be held. Such criteria and standards shall be promulgated on or before January 1, 1976.
2. On or before July 1, 1976, the commission shall assemble and publish an inventory of potential energy conversion facility sites and transmission facility corridors. The inventory report of potential sites and corridors shall set forth the criteria and standards used in developing the potential site and corridor inventory. After completion of its final inventory of potential sites and corridors, the commission shall have a continuing responsibility to evaluate, update, and publish its inventory and if, due to changed circumstances or information, a site or corridor is inconsistent with prescribed criteria or does not meet prescribed standards, such site or corridor shall be removed from the inventory of potential sites and corridors.

SECTION 6. FACILITY DEVELOPMENT PLANS.) After publication by the commission of its initial inventory of potential sites and corridors, and the criteria by which such sites and corridors were selected, every utility which owns or operates or plans within the next five years to start construction, own, or operate energy conversion facilities or transmission facilities shall develop and annually submit to the commission its plans for facilities to meet and fulfill the projected future demands for service during the period covered by its ten-year report. The plans may be appropriate portions of a single regional plan or may be jointly prepared and submitted by two or more utilities, and shall contain the following information:

1. A description of the general size and type of all energy conversion facilities and transmission facilities to be owned and operated by the utility;
2. An identification of all existing facilities to be removed from service upon completion of construction of such energy conversion facilities or transmission facilities; and
3. An identification of the location of the tentative

preferred site and at least one alternative site for all energy conversion facilities, and the tentative preferred corridor and at least one alternative corridor for all transmission facilities on which construction is intended to be commenced, and the preliminary indication of the potential impact of the planned facilities on existing environmental values, and how potential adverse effects on such values will be avoided or minimized with the least detriment to the environment and the welfare of the public. Such site and corridor identification shall be made from the inventory published by the commission pursuant to section 5 or from sites or corridors offered by the utility. In the event a utility identifies a site or corridor not contained in the commissioner's inventory of potential sites and corridors, the utility shall set forth the reasons for such identification and shall make an evaluation of such identified sites and corridors using the commission's facility siting and routing criteria.

SECTION 7. CERTIFICATE OF SITE COMPATIBILITY REQUIRED.)

No utility shall begin construction of an energy conversion facility or transmission facility in the state on or after either January 1, 1976, or the date of promulgation of criteria and standards under subsection 1 of section 5, whichever date is earlier, or exercise the right of eminent domain in connection with such construction without first having obtained a certificate of site compatibility issued with respect to such facility by the commission pursuant to this Act. Any facility, with respect to which a certificate is required, shall thereafter be constructed, operated, and maintained in conformity with such certificate and any terms, conditions, or modifications contained therein. A certificate may be transferred, subject to the approval of the commission, to any person who agrees to comply with the terms, conditions, and modifications contained therein.

SECTION 8. APPLICATION FOR A CERTIFICATE - PROOF OF SERVICE - AMENDMENT.)

1. An applicant for a certificate shall file with the commission an application, in such form as the commission may prescribe, containing the following information:
 - a. A description of the size and type of facility;
 - b. A summary of any studies which have been made of the environmental impact of the facility;
 - c. A statement explaining the need for the facility;
 - d. An identification of the location of the preferred site and at least one alternative site for any energy conversion facility;

- e. An identification of the location of the preferred corridors and at least one alternative corridor for any transmission facility;
 - f. A description of the comparative merits and detriments of each location identified, and a statement of the reasons why the preferred location is best suited for the facility; and
 - g. Such other information as the applicant may consider relevant or the commission may require.
2. After receiving the application, the commission shall serve a copy of the application on the chairman of the board of county commissioners of each county in which a portion of the facility is primarily and alternatively proposed to be located, the chief executive officer of each city in the county in which any portion of the facility is primarily or alternatively proposed to be located, and the head of each government agency charged with the duty of protecting the environment or planning land use in the area in which any portion of the facility is primarily or alternatively to be located.
 3. Inadvertent failure of service on any of the persons identified in subsection 2 may be cured pursuant to orders of the commission designed to afford them adequate notice to enable their effective participation in the proceeding. In addition, the commission shall serve notice of the application or copies thereof, or both, upon such other persons as the commission may deem appropriate.
 4. An application for an amendment of a certificate shall be in such form and contain such information as the commission shall prescribe.

SECTION 9. FACTORS TO BE CONSIDERED IN EVALUATING APPLICATIONS AND DESIGNATION OF SITES AND CORRIDORS.) The commission shall be guided by, but is not limited to, the following considerations to aid the study, research, evaluation, and designation of sites and corridors for energy conversion facilities and transmission facilities and the approval of specific transmission facilities and their routes:

1. Evaluation of research and investigations relating to the effects of energy conversion facilities and transmission facilities on land, water, and air resources and the effects of water and air discharges from such facilities on public health and welfare, vegetation, animals, materials, and aesthetic values, including baseline studies, predictive modeling, and monitoring of the water and air mass at proposed

- sites and sites of operating energy conversion facilities, evaluation of new or improved methods for minimizing adverse impacts of water and air discharges, and other matters pertaining to the effects of energy conversion facilities on the water and air environment.
2. Environmental evaluation of energy conversion facility sites and transmission facility corridors and routes proposed for future development and expansion and their relationship to the land, water, air, and human resources of the state.
 3. Evaluation of the effects of new energy conversion and transmission technologies and systems designed to minimize adverse environmental effects.
 4. Evaluation of the potential for beneficial uses of waste energy from proposed energy conversion facilities.
 5. Evaluation of adverse direct and indirect environmental effects which cannot be avoided should the proposed site, corridor, or route be accepted.
 6. Evaluation of alternatives to the proposed site, corridor, or route.
 7. Evaluation of irreversible and irretrievable commitments of resources should the proposed site, corridor, or route be approved.
 8. Analysis of the direct and indirect economic impact of proposed energy conversion facilities and transmission facilities.
 9. Analysis of existing plans of the state, local government, and private entities for other developments at or in the vicinity of the proposed site, corridor, or route.
 10. Evaluation of the effect on existing scenic areas, historic sites and structures, or archaeological sites at or in the vicinity of the proposed site, corridor, or route.
 11. Evaluation of the effect on areas unique because of biological wealth or because they are habitats for rare and endangered species at or in the vicinity of the proposed site, corridor, or route.
 12. Where appropriate, consideration of problems raised by federal agencies, other state agencies, and local entities.

SECTION 10. DESIGNATION OF SITES AND CORRIDORS.) The commission shall designate a suitable site or corridor for a

specific size and type of facility following the study, evaluation, and hearings, as provided in sections 9, 13, 14, and 15, on any site or corridor proposed by the utilities and such other sites and corridors, chosen from the inventory, as the commission deems necessary. This designation by the commission shall be made in accordance with the site selection criteria and standards established pursuant to section 5 in a finding with reasons for the designation and, for an application received prior to July 1, 1977, shall be made in a timely manner no later than one year after the application for a certificate requesting designation of a site or no later than six months after the application for a certificate requesting designation of a corridor. For an application received on or after July 1, 1977, the designation shall be made in a timely manner no later than six months after the application for a certificate requesting designation of a site or no later than three months after the application for a certificate requesting designation of a corridor. The time for designation of a site may be extended for six months by the commission for just cause. No site or corridor designation shall be made in violation of the site selection standards established pursuant to section 5. The commission shall indicate the reasons for any refusal and indicate changes necessary to allow siting in compliance with the standards. Upon designation of the site or corridor, the commission shall issue to the utility a certificate of site compatibility with such terms, conditions, or modifications deemed necessary by the commission.

SECTION 11. APPROVAL OF SPECIFIC TRANSMISSION FACILITY ROUTES WITHIN A DESIGNATED CORRIDOR.) No later than two years after the issuance of a certificate the utility shall apply to the commission for a permit for the construction of a transmission facility within the designated corridor. Following study, evaluation, and hearings on the type, design, routing, right-of-way preparation, and facility construction as identified in the utility's application and alternatives to the utility's corridor development proposal as provided in sections 9, 13, 14, and 15, the commission shall issue a permit with such terms, conditions, or modifications deemed necessary by the commission for the construction of a transmission facility within the designated corridor. This permit issuance by the commission shall be made in a timely manner and no later than six months after the application for a permit by the utility.

SECTION 12. EMERGENCY CERTIFICATION.) Any utility whose electric power system requires the immediate construction of an energy conversion facility or transmission facilities may make an application to the commission for an emergency certificate of site compatibility or permit for the construction of transmission facilities. The emergency certificate or permit shall be issued in a timely manner no later than six months after the application and upon a finding by the commission that a demonstrable emergency exists which requires such immediate construction and that adherence to the procedures and time schedules set forth in this Act would jeopardize the utility's electric power system. A public

hearing shall be held within ninety days of receipt of the application by the commission.

SECTION 13. PUBLIC HEARINGS - NOTICE.) The commission shall hold public hearings as prescribed by regulation in order to afford interested persons an opportunity to be heard regarding its inventory of potential sites and corridors and any other aspects of the commission's activities, duties, or policies arising under or set forth in this Act. The commission shall hold at least one public hearing in each county where a site or corridor is being considered for designation pursuant to section 10 as suitable for construction of an energy conversion facility or transmission facility; however, where more than one county is involved, the commission may consolidate the county hearings and hold a consolidated hearing or hearings in a place designated by the commission. Notice of public hearings shall be given by the commission at least ten days in advance but no earlier than forty-five days prior to such hearings. Notice shall be by publication in the official county newspaper of the county in which the public hearing is to be held and by mailed notice to the persons designated in subsection 2 of section 8.

SECTION 14. ADVISORY COMMITTEES - APPOINTMENT - COMPENSATION.) The commission may appoint one or more advisory committees to assist it in carrying out its duties under this Act. Committees appointed to evaluate sites or corridors considered for designation shall be composed of as many persons as may be appointed by the commission, but shall include a majority of public representatives; at least one representative from the state department of agriculture, a public or municipally owned utility, a private investor-owned utility, and a cooperatively owned utility; and one representative from each county and city in which an energy conversion facility or transmission facility is proposed to be located. Members of advisory committees shall be reimbursed, within the limits of legislative appropriations, for any necessary expenses in the amounts provided by law for state officials.

SECTION 15. PUBLIC PARTICIPATION - MEETINGS - RECORDS.)

1. The commission shall adopt broad-spectrum citizen participation as a principle of operation. The form of public participation shall not be limited to public hearings and advisory committees and shall be consistent with the commission's rules and regulations established pursuant to this Act.
2. Meetings of the commission, including hearings, shall be open to the public and minutes shall be kept of commission meetings and hearings. All books, records, files, and correspondence of the commission shall be available for public inspection at any reasonable time.

SECTION 16. EFFECT OF ISSUANCE OF CERTIFICATE OR PERMIT - FACILITY LICENSING - STATE AGENCY PARTICIPATION.)

1. The issuance of a certificate of site compatibility or a transmission facility permit and subsequent purchase and use of such site or route locations for energy conversion facilities and transmission facilities shall, subject to subsections 2 and 3, be the sole site approval required to be obtained by the utility.
2. A certificate of site compatibility for an energy conversion facility shall not supersede or preempt any county or city land use, zoning, or building rules, regulations, or ordinances and no site shall be designated which violates local land use, zoning, or building rules, regulations, or ordinances. A permit for the construction of a transmission facility within a designated corridor may supersede and preempt any county or city land use, zoning, or building rules, regulations, or ordinances upon a finding by the commission that such rules, regulations, or ordinances, as applied to the proposed route, are unreasonably restrictive in view of existing technology, factors of cost or economics, or needs of consumers whether located in or out of the county or city. Without such a finding by the commission, no route shall be designated which violates local land use, zoning, or building rules, regulations, or ordinances.
3. Utilities subject to this Act shall obtain state permits that may be required to construct and operate energy conversion facilities and transmission facilities. A state agency in processing a utility's facility permit application shall be bound to the decisions of the commission with respect to the site designation for the energy conversion facility or the corridor or route designation for the transmission facility and with respect to other matters for which authority has been granted to the commission by this Act.
4. State agencies authorized to issue permits required for construction or operation of energy conversion facilities or transmission facilities shall participate in and present the position of the agency at public hearings and all other activities of the commission on specific site, corridor, or route designations of the commission, which position shall clearly state whether the site, corridor, or route being considered for designation or permit approval for a certain size and type of facility will be in compliance with state agency standards, regulations, or policies. No site or route shall be designated which violates state agency regulations.

SECTION 17. IMPROVEMENT OF SITES OR LOCATIONS.) Utilities which have acquired an energy conversion facility site or transmission line route in accordance with the provisions of this Act may proceed to construct or improve such site or route for the intended purposes at any time, subject to subsections 2 and 3

of section 16; provided, that if such construction and improvement commences more than four years after a certificate or permit for the site or route has been issued, then the utility must certify to the commission that such site or route continues to meet the conditions upon which the certificate of site compatibility or transmission facility construction permit was issued.

SECTION 18. RULES AND REGULATIONS.) The commission shall adopt rules and regulations with respect to the promulgation of facility siting criteria, information to be furnished by the utilities, guidelines for public participation in the development, revision, and enforcement of any regulation, plan, or program of the commission, and other matters of procedure and enforcement pursuant to chapter 28-32.

SECTION 19. HEARING - JUDICIAL REVIEW.) Any person aggrieved by the issuance of a certificate of site compatibility or transmission facility construction permit from the commission, certification of continuing suitability filed by a utility with the commission, promulgation of a final order by the commission, or failure by the commission to act, may request a rehearing by the commission. The hearing shall be conducted pursuant to chapter 28-32. There shall be a right of appeal to the district court from any adverse ruling by the commission.

SECTION 20. REVOCATION OR SUSPENSION OF CERTIFICATE OR PERMIT.) A certificate of site compatibility or permit for the construction of a transmission facility may be revoked or suspended for:

1. Any material false statement in the application or in accompanying statements or studies required of the applicant.
2. Failure to comply with the certificate or permit or any terms, conditions, or modifications contained therein.
3. Violation of the provisions of this Act or rules or regulations issued pursuant to this Act by the commission.

SECTION 21. PENALTIES.) Any person required by this Act to have a certificate or permit who begins construction of an energy conversion facility or transmission facility without previously securing a certificate or permit as prescribed by this Act, or who constructs, operates, or maintains an energy conversion facility or transmission facility other than in compliance with the certificate or permit and any terms, conditions, and modifications contained therein is guilty of a class A misdemeanor and is subject to a civil penalty of not more than ten thousand dollars. The civil penalty provided for in this section shall be recoverable by suit filed by the commission and shall be deposited in the fund provided for in section 22 and shall be available to the commission and, subject to legislative appropriation, may be expended for the administration and enforcement of this Act.

Any person who willfully violates any regulation issued or approved pursuant to this Act or who willfully falsifies, tampers with, or renders inaccurate any monitoring device or method required to be maintained under this Act shall be guilty of a class A misdemeanor.

Notwithstanding any other provision of this Act, the commission may, by injunctive procedures, without bond or other undertaking, proceed against any person in violation of the provisions of this Act, or the rules and regulations issued thereunder. No liability whatsoever shall accrue to the commission or its authorized representative in proceeding against any person pursuant to this section.

SECTION 22. APPLICATION FEES - ADDITIONAL FEES - DEPOSIT.)

1. Every applicant for a certificate of site compatibility shall pay to the commission an application fee in an amount equal to five hundred dollars for each one million dollars of investment in the proposed installation as defined in the federal power commission uniform system of accounts. The application fee under this subsection shall not be less than five thousand dollars nor more than one hundred fifty thousand dollars. The commission shall specify the time and manner of payment of the application fee.
2. The applicant shall pay such additional fees as are reasonably necessary for completion of the energy conversion facility site, transmission facility corridor, or transmission facility route evaluation and selection process by the commission. The commission shall specify the time and method of payment of any additional fees and shall refund the portion of such additional fees received from the applicant for completion of the site, corridor, or route evaluation and selection process which exceeds the expenses incurred for the evaluation and selection process. In no event shall the application fee under subsection 1 and any additional fees required of the applicant under this subsection exceed an amount equal to one thousand dollars for each one million dollars of investment in the proposed installation.
3. All fees collected under the provisions of this Act shall be deposited in the state treasury and credited to a special account to be designated as the energy conversion and transmission facility siting fund. This fund shall be available to the commission, and, subject to legislative appropriation, may be expended for the administration and enforcement of this Act and in processing applications for certificates or permits in accordance with the provisions of this Act.

SECTION 23. APPROPRIATION.) There is hereby appropriated

out of any moneys in the general fund of the state treasury, not otherwise appropriated, and out of the energy conversion and transmission facility siting fund in the state treasury, the sums hereinafter named, or so much thereof as may be necessary, to the public service commission for the purpose of administering the provisions of this Act for the fiscal period beginning with the effective date of this Act and ending June 30, 1977:

Salaries and wages	\$ 92,000
Fees and services	524,500
Supplies and materials	11,500
Equipment	3,500
Refunds	50,000
Contingencies	313,500
Total all funds	<u>\$995,000</u>
Less estimated income deposited in the energy conversion and trans- mission facility siting fund	<u>805,000</u>
Total general fund transfer and appropriation	\$190,000

SECTION 24. TRANSFER.) There is hereby transferred on July 1, 1977, and at the end of every biennial fiscal period thereafter, to the general fund in the state treasury out of the energy conversion and transmission facility siting fund any moneys available in the energy conversion and transmission facility siting fund, but at no time shall there be a transfer of moneys to the general fund which will reduce the balance in the energy conversion and transmission facility siting fund below \$100,000. The transfers shall be upon order of the public service commission and shall be continued until an amount equal to the general fund transfer and appropriation provided in section 23 shall be fully transferred to the general fund.

SECTION 25. EMERGENCY.) This Act is declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved April 9, 1975