S T A T E O F N E W Y O R K

3040

2009-2010 Regular Sessions

I N A S S E M B L Y

January 22, 2009

Introduced by M. of A. KOLB, ERRIGO, BACALLES, WALKER, O'MARA -- Multi-Sponsored by -- M. of A. AMEDORE, BARCLAY, BURLING, CALHOUN, CROUCH, DUPREY, GIGLIO, REILICH, TOWNS, TOWNSEND -- read once and referred to the Committee on Energy

AN ACT to amend the public service law, in relation to improvements to electric transmission lines

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The public service law is amended by adding a new section 121-b to read as follows:

S 121-B. PROCEDURES WITH RESPECT TO INCREASING TRANSFER CAPABILITY OF EXISTING ELECTRIC TRANSMISSION LINES. 1. ANY PERSON PROPOSING (I) TO RECONSTRUCT AN ELECTRIC TRANSMISSION LINE AS DESCRIBED IN PARAGRAPH (A) OF SUBDIVISION TWO OF SECTION ONE HUNDRED TWENTY OF THIS ARTICLE, PREDOMINANTLY IN AN EXISTING UTILITY OR PUBLIC RIGHT-OF-WAY, FOR THE PURPOSE OF INCREASING THE TRANSFER CAPABILITY OF SUCH LINE, AND WHO HAS NOT RECEIVED A DETERMINATION FROM THE COMMISSION THAT THE RECONSTRUCTION CONSTITUTES THE REPLACEMENT OF EXISTING WITH LIKE FACILITIES, PURSUANT TO SUBDIVISION ONE OF SECTION ONE HUNDRED TWENTY-ONE OF THIS ARTICLE, OR (II) TO RECONSTRUCT AN ELECTRIC TRANSMISSION LINE THAT IS NOT DESCRIBED IN PARAGRAPH (A) OF SUBDIVISION TWO OF SECTION ONE HUNDRED TWENTY OF THIS ARTICLE AND SUCH RECONSTRUCTION WOULD RESULT IN A TRANSMISSION LINE AS DESCRIBED IN SUCH PARAGRAPH (A), IN AN EXISTING UTILITY OR PUBLIC RIGHT-OF-WAY, FOR THE PURPOSE OF INCREASING THE TRANSFER CAPABILITY OF SUCH LINE, AND WHO HAS NOT RECEIVED A DETERMINATION FROM THE COMMISSION THAT THE RECONSTRUCTION CONSTITUTES THE REPLACEMENT OF EXISTING WITH LIKE FACILITIES, PURSUANT TO SUBDIVISION ONE OF SECTION ONE HUNDRED TWENTY-ONE OF THIS ARTICLE, SHALL FILE AN APPLICATION WITH THE COMMISSION IDENTIFYING OR PROVIDING:

(A) THE LOCATION OF THE TRANSMISSION LINE, OR PORTION THEREOF, TO BE RECONSTRUCTED;

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

LBD05068-01-9

(B) A DESCRIPTION OF THE PROPOSED RECONSTRUCTION OF THE TRANSMISSION LINE;

(C) A STATEMENT EXPLAINING THE NEED FOR THE PROPOSED RECONSTRUCTION OF THE TRANSMISSION LINE;

(D) A SUMMARY OF ANY STUDIES THAT HAVE BEEN MADE OF THE ENVIRONMENTAL IMPACT OF THE PROPOSED LINE, AND A DESCRIPTION OF SUCH STUDIES;

(E) A DESCRIPTION OF THE ECOSYSTEM, LAND USE, VISUAL AND CULTURAL RESOURCES WHICH WOULD BE SUBSTANTIALLY AFFECTED BY THE PROPOSED RECONSTRUCTION OF THE TRANSMISSION LINE;

(F) A STATEMENT THAT THE APPLICANT SHALL COMPLY WITH ENVIRONMENTAL MANAGEMENT AND CONSTRUCTION STANDARDS AND PRACTICES APPROVED BY THE COMMISSION TO BE FOLLOWED, TO THE MAXIMUM EXTENT PRACTICABLE, DURING RECONSTRUCTION AND OPERATION, IN AN EFFORT TO MINIMIZE OR AVOID ADVERSE ENVIRONMENTAL IMPACTS FROM THE PROPOSED RECONSTRUCTION OF THE LINE; AND

(G) SUCH OTHER INFORMATION AS THE APPLICANT MAY CONSIDER RELEVANT OR AS THE COMMISSION MAY REQUIRE.

COPIES OF ALL STUDIES REFERRED TO IN PARAGRAPH (D) OF THIS SUBDIVISION SHALL BE FILED WITH THE COMMISSION AND MADE AVAILABLE FOR PUBLIC INSPECTION AT AN OFFICE OF THE APPLICANT NEAR THE PROJECT LOCATION.

THE APPLICANT SHALL PROVIDE FOR THE PUBLICATION OF A NOTICE, IN A NEWSPAPER OF GENERAL CIRCULATION IN EACH COUNTY IN WHICH THE LINE IS PROPOSED TO BE RECONSTRUCTED, OF SUCH APPLICATION FILED WITH THE COMMISSION. SUCH NOTICE SHALL CONTAIN A BRIEF DESCRIPTION OF THE LINE TO BE RECONSTRUCTED, THE PROPOSED RECONSTRUCTION WORK, INFORMATION TO IDENTIFY THE LOCATION OF THE RECONSTRUCTION WORK, THE DATE ON OR ABOUT WHICH RECONSTRUCTION IS INTENDED TO BEGIN, AND A STATEMENT THAT SUCH APPLICATION IS AVAILABLE FOR PUBLIC INSPECTION AT THE OFFICES OF THE COMMISSION AND AT ONE OR MORE SPECIFIED LOCATIONS NEAR THE PROPOSED PROJECT SITE.

2. EACH APPLICATION, INCLUDING THE APPLICATION FILED WITH THE COMMISSION, SHALL BE ACCOMPANIED BY PROOF OF SERVICE, AND SHALL BE SERVED ON THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, THE DEPARTMENT OF ECONOMIC DEVELOPMENT, THE DIVISION OF COASTAL RESOURCES OF THE DEPARTMENT OF STATE, THE DEPARTMENT OF AGRICULTURE AND MARKETS, THE DEPARTMENT OF TRANSPORTATION, THE OFFICE OF PARKS, RECREATION AND HISTORIC PRESERVATION, AND EACH MUNICIPALITY IN WHICH ANY PORTION OF THE RECONSTRUCTION WORK WILL OCCUR. THE APPLICANT SHALL SERVE A COPY OF SUCH APPLICATION ON SUCH OTHER PERSONS OR ENTITIES AS THE CHAIRMAN MAY DEEM APPROPRIATE. THE APPLICANT, THE COMMISSION AND THOSE SERVED SHALL CONSTITUTE THE PARTIES TO A PROCEEDING PURSUANT TO THIS SECTION, NOTWITHSTANDING THE PROVISIONS OF SECTION ONE HUNDRED TWENTY-FOUR OF THIS ARTICLE.

3. AFTER THE RECEIPT OF AN APPLICATION FILED PURSUANT TO SUBDIVISION ONE OF THIS SECTION, THE CHAIRMAN OF THE COMMISSION SHALL, WITHIN THIRTY DAYS, DETERMINE WHETHER THE APPLICATION COMPLIES WITH THE REQUIREMENTS OF THIS SECTION. IF THE APPLICATION DOES NOT COMPLY WITH SUCH REQUIREMENTS, SUCH CHAIRMAN SHALL PROMPTLY, BUT IN NO EVENT MORE THAN THIRTY DAYS AFTER RECEIPT OF THE APPLICATION, ADVISE THE PERSON, IN WRITING, OF SUCH NONCOMPLIANCE AND DEFICIENCIES TO BE CORRECTED.

4. UPON A DETERMINATION THAT AN APPLICATION COMPLIES WITH SUCH REQUIREMENTS, THE COMMISSION SHALL, WITHIN THIRTY DAYS THEREAFTER, DETERMINE WHETHER THERE IS A SUBSTANTIAL PUBLIC INTEREST REQUIRING REVIEW OF THE LINE PROPOSED TO BE RECONSTRUCTED IN ACCORDANCE WITH THE PROVISIONS OF SUBDIVISION SEVEN OF THIS SECTION. IF THE COMMISSION DETERMINES THAT SUCH REVIEW IS NOT REQUIRED IT SHALL ISSUE A CERTIFICATE AUTHORIZING SUCH RECONSTRUCTION. IF THE COMMISSION DETERMINES THAT SUCH REVIEW IS REQUIRED, IT SHALL FIX A DATE FOR A PUBLIC HEARING NOT LESS THAN TWENTY BUT NO MORE THAN SIXTY DAYS FROM SUCH DETERMINATION. THE

COMMISSION MAY REQUIRE A PREHEARING CONFERENCE TO EXPEDITE THE ORDERLY CONDUCT AND DISPOSITION OF THE HEARING, TO SPECIFY THE ISSUES, AND TO OBTAIN STIPULATIONS AS TO UNDISPUTED MATTERS.

5. ANY PERSON MAY FILE COMMENTS ON AN APPLICATION WITH THE COMMISSION.

6. THE COMMISSION SHALL RENDER A FINAL DECISION UPON THE RECORD WITHIN ONE HUNDRED FIFTY DAYS FROM THE DATE OF A DETERMINATION BY THE CHAIRMAN OF THE COMMISSION THAT AN APPLICATION COMPLIES WITH SUBDIVISION ONE OF THIS SECTION, PROVIDED THAT THE COMMISSION MAY EXTEND THE DEADLINE IF ADDITIONAL TIME IS NECESSARY TO CONSIDER A MATERIAL AND SUBSTANTIAL AMENDMENT TO THE APPLICATION, OR IF THE APPLICANT WAIVES THE DEADLINE.

7. THE COMMISSION SHALL RENDER A DECISION UPON THE RECORD EITHER GRANTING OR DENYING THE APPLICATION AS FILED, OR GRANTING IT UPON SUCH TERMS, CONDITIONS, LIMITATIONS OR MODIFICATIONS OF THE RECONSTRUCTION OR OPERATION OF THE LINE AS THE COMMISSION MAY DEEM APPROPRIATE. IN RENDERING ITS DECISION ON SUCH APPLICATION, THE COMMISSION SHALL FIND AND DETERMINE:

(A) THE NEED FOR THE PROPOSED RECONSTRUCTION OF THE LINE;

(B) THE NATURE OF THE PROBABLE ENVIRONMENTAL IMPACT OF THE PROPOSED RECONSTRUCTION OF THE LINE;

(C) THAT THE DESIGN FOR THE PROPOSED RECONSTRUCTION OF THE LINE MINIMIZES ADVERSE ENVIRONMENTAL IMPACTS, TO THE EXTENT PRACTICABLE, CONSIDERING THE STATE OF AVAILABLE TECHNOLOGY;

(D) THAT THE PROPOSED RECONSTRUCTION WORK CONFORMS TO APPLICABLE STATE AND LOCAL LAWS AND REGULATIONS ISSUED PURSUANT THERETO, ALL OF WHICH SHALL BE BINDING UPON THE COMMISSION, EXCEPT THAT THE COMMISSION MAY REFUSE TO APPLY ANY LOCAL LAW, ORDINANCE, RESOLUTION OR OTHER ACTION OR ANY REGULATION ISSUED THEREUNDER OR ANY LOCAL STANDARD OR REQUIREMENT THAT WOULD OTHERWISE BE APPLICABLE IF IT FINDS THAT, AS APPLIED TO THE PROPOSED LINE, SUCH LOCAL LAW, ORDINANCE, RESOLUTION OR OTHER ACTION OR ANY REGULATION ISSUED PURSUANT THERETO OR ANY LOCAL STANDARD OR REQUIREMENT IS UNREASONABLY RESTRICTIVE IN VIEW OF THE EXISTING TECHNOLOGY OR OF FACTORS OF COST OR ECONOMICS, OR OF THE NEEDS OF CONSUMERS WHETHER LOCATED INSIDE OR OUTSIDE OF SUCH MUNICIPALITY; AND

(E) THAT THE PROPOSED RECONSTRUCTION OF THE LINE WILL SERVE THE PUBLIC INTEREST, CONVENIENCE AND NECESSITY.

S 2. This act shall take effect on the thirtieth day after it shall have become a law and shall apply to applications filed on or after such effective date.