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

2521

2013-2014 Regular Sessions

I N A S S E M B L Y

January 16, 2013

Introduced by M. of A. CRESPO -- read once and referred to the Committee on Energy

AN ACT to amend the public service law, in relation to incorporating environmental justice considerations into major utility transmission facility siting

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

Section 1. Subdivision 1 of section 122 of the public service law, as added by chapter 272 of the laws of 1970, is amended to read as follows:

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) the location of the site or right-of-way; (b) a description of the transmission facility to be built thereon; (c) a summary of any studies which have been made of the environmental impact of the project, and a description of such studies; (d) a statement explaining the need for the facility; (e) a description of any reasonable alternate location or locations for the proposed facility, a description of the comparative merits and detriments of each location submitted, and a statement of the reasons why the primary proposed location is best suited for the facility; (F) IN ACCORDANCE WITH RULES AND REGULATIONS PROMULGATED PURSUANT TO SECTION ONE HUNDRED THIRTY-ONE OF THIS ARTICLE, AN EVALUATION OF ANY SIGNIFICANT AND ADVERSE DISPROPORTIONATE ENVIRONMENTAL IMPACTS RESULTING FROM CONSTRUCTION AND OPERATION OF THE PROPOSED FACILITY ON ANY ENVIRONMENTAL JUSTICE AREA, INCLUDING ANY STUDIES IDENTIFYING THE AUTHOR AND DATES THEREOF, WHICH WERE USED IN THE EVALUATION; and [(f)] (G) such other information as the applicant may consider relevant or the commission may by regulation require. Copies of all the studies referred to in PARAGRAPHS (c) [above] AND (F) OF THIS SUBDIVISION shall be filed with the commission and shall be available for public inspection.

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

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S 2. Subdivision 1 of section 126 of the public service law is amended by adding a new paragraph (h) to read as follows:

(H) IF THE COMMISSION FINDS THAT THE FACILITY RESULTS IN OR CONTRIBUTES TO A SIGNIFICANT AND ADVERSE DISPROPORTIONATE ENVIRONMENTAL IMPACT IN A COMMUNITY IN WHICH AN ENVIRONMENTAL JUSTICE AREA IS LOCATED, THE APPLICANT WILL AVOID, OFFSET OR MINIMIZE THE IMPACTS CAUSED BY THE FACILITY UPON THE LOCAL COMMUNITY FOR THE DURATION THAT THE CERTIFICATE IS ISSUED TO THE MAXIMUM EXTENT PRACTICABLE USING VERIFIABLE MEASURES.

S 3. Paragraph (d) of subdivision 2 of section 128 of the public service law, as added by chapter 272 of the laws of 1970, is amended and a new paragraph (f) is added to read as follows:

(d) made in accordance with procedures set forth in this article or established by rule or regulation of the commission, OR BY THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION PURSUANT TO SECTION ONE HUNDRED THIRTY-ONE OF THIS ARTICLE.

(F) MADE PURSUANT TO A PROCESS THAT AFFORDED MEANINGFUL INVOLVEMENT OF CITIZENS AFFECTED BY THE FACILITY REGARDLESS OF AGE, RACE, COLOR, NATIONAL ORIGIN OR INCOME.

S 4. The public service law is amended by adding a new section 131 to read as follows:

S 131. ANALYSIS OF ENVIRONMENTAL JUSTICE ISSUES. 1. THE EVALUATION OF SIGNIFICANT AND ADVERSE DISPROPORTIONATE ENVIRONMENTAL IMPACTS OF THE PROPOSED FACILITY ON ANY ENVIRONMENTAL JUSTICE AREA PURSUANT TO PARAGRAPH (F) OF SUBDIVISION ONE OF SECTION ONE HUNDRED TWENTY-TWO OF THIS ARTICLE SHALL BE CONDUCTED IN ACCORDANCE WITH RULES AND REGULATIONS PROMULGATED BY THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION FOR THE ANALYSIS OF ENVIRONMENTAL JUSTICE ISSUES.

2. SUCH RULES AND REGULATIONS SHALL INCLUDE THE DEFINITION OF "ENVIRONMENTAL JUSTICE AREA" PROMULGATED BY THE DEPARTMENT PURSUANT TO SECTION ONE HUNDRED SIXTY-FOUR OF THIS CHAPTER AND SHALL, AT A MINIMUM, REQUIRE A COMPREHENSIVE DEMOGRAPHIC, ECONOMIC AND PHYSICAL DESCRIPTION OF ANY ENVIRONMENTAL JUSTICE AREA WHICH WILL BE SIGNIFICANTLY AND ADVERSELY IMPACTED BY CONSTRUCTION AND OPERATION OF THE FACILITY, COMPARED AND CONTRASTED WITH THE COUNTY IN WHICH THE FACILITY IS PROPOSED AND WITH ADJACENT COMMUNITIES WITHIN SUCH COUNTY, INCLUDING REASONABLY AVAILABLE DATA ON POPULATION, RACIAL AND ETHNIC CHARACTERISTICS, INCOME LEVELS, OPEN SPACE, AND PUBLIC HEALTH DATA, INCLUDING AVAILABLE DEPARTMENT OF HEALTH DATA ON INCIDENCE OF ASTHMA AND CANCER. THE DEPARTMENT MAY MAKE APPROPRIATE DISTINCTIONS IN SUCH RULES AND REGULATIONS FOR DIFFERENT TYPES OF TRANSMISSION FACILITIES.

S 5. On and after the three hundred sixty-sixth day after this act shall have become a law, the public service commission shall not accept any application for a certificate pursuant to section 122 of the public service law until the department of environmental conservation has promulgated rules and regulations required by section 131 of such law.

S 6. This act shall take effect immediately; provided that nothing in this act shall be construed to limit any administrative authority, with respect to matters included in this act, which authority existed prior to the effective date of this act. Within twelve months of the effective date of this act, all rules and regulations required pursuant to this act shall be adopted.