

2458--A

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I N A S S E M B L Y

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Introduced by M. of A. BRONSON, SEAWRIGHT, ABINANTI -- read once and referred to the Committee on Corporations, Authorities and Commissions -- reported and referred to the Committee on Codes -- reported from committee, advanced to a third reading, amended and ordered reprinted, retaining its place on the order of third reading

AN ACT to amend the public service law, in relation to fuel gas transmission lines

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

- 1 Section 1. Section 120 of the public service law is amended by adding
2 a new subdivision 5 to read as follows:
3 5. "LANDOWNER" MEANS THE HOLDER OF ANY RIGHT, TITLE, OR INTEREST IN
4 REAL PROPERTY SUBJECT TO A PROPOSED SITE OR RIGHT OF WAY AS IDENTIFIED
5 FROM THE MOST RECENT TAX ROLL OF THE APPROPRIATE CITY OR COUNTY.
6 S 2. Section 121-a of the public service law, as added by chapter 538
7 of the laws of 1981, is amended to read as follows:
8 S 121-a. Procedures with respect to certain fuel gas transmission
9 lines. 1. All persons who intend to construct fuel gas transmission
10 lines as described in this section shall file with the commission for
11 its approval the standards and practices which will be applied to envi-
12 ronmental management and construction of all such lines or shall file a
13 certified statement agreeing to construct such lines in accordance with
14 standards and practices on file and approved by the commission.
15 2. A notice of intention to construct a fuel gas transmission line as
16 described in subdivision two of section one hundred twenty OF THIS ARTI-
17 CLE, which extends a distance of less than five miles and which is six
18 inches or less in nominal diameter, shall be filed with the commission
19 and shall contain:
20 (a) the date on or about which the applicant intends to begin
21 construction of the line;
22 (b) a brief statement describing and locating the line;

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

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(c) an indication of the approved environmental management and construction standards and practices that will be followed in an effort to minimize or avoid adverse environmental impacts to the maximum extent practicable.

A copy of such notice shall be served on each municipality in which any portion of such line is to be located and proof of service shall accompany the notice filed with the commission.

TO THE GREATEST EXTENT PRACTICABLE, EACH LANDOWNER OF LAND ON WHICH ANY PORTION OF SUCH FUEL GAS TRANSMISSION LINE IS PROPOSED TO BE LOCATED SHALL BE SERVED BY FIRST CLASS MAIL WITH A NOTICE THAT SUCH LANDOWNER'S PROPERTY MAY BE IMPACTED BY A PROJECT, INCLUDING A DESCRIPTION OF THE PROJECT AND AN EXPLANATION OF HOW TO FILE WITH THE COMMISSION A NOTICE OF INTENT TO BE A PARTY TO THE CERTIFICATION PROCEEDINGS AND THE TIME-FRAME FOR FILING SUCH APPLICATION.

3. An application to construct a fuel gas transmission line as described in subdivision two of section one hundred twenty OF THIS ARTICLE, which extends a distance of less than ten miles, other than a line described in subdivision two of this section, shall be filed with the commission and shall contain:

(a) the information required by paragraphs (a), (b), (d) and (f) of subdivision one of section one hundred twenty-two OF THIS ARTICLE;

(b) the description of the ecosystem, land use, visual and cultural resources which would be affected by the line; and

(c) an indication of the approved environmental management and construction standards and practices that will be followed in an effort to minimize or avoid adverse environmental impacts to the maximum extent practicable.

A copy of such application shall be served on: (i) the department of environmental conservation; (ii) the department of agriculture and markets; and (iii) each municipality in which any portion of such line is to be located; and proof of service shall accompany the application filed with the commission. The commission shall serve a copy of such application on such other person or entities as the commission may deem appropriate. Such action shall be deemed compliance with the applicable provisions of section one hundred twenty-two of this article. The applicant, the commission and those served shall constitute the parties notwithstanding the provisions of section one hundred twenty-four OF THIS ARTICLE.

TO THE GREATEST EXTENT PRACTICABLE, EACH LANDOWNER OF LAND ON WHICH ANY PORTION OF SUCH FUEL GAS TRANSMISSION LINE IS PROPOSED TO BE LOCATED SHALL BE SERVED BY FIRST CLASS MAIL WITH A NOTICE THAT SUCH LANDOWNER'S PROPERTY MAY BE IMPACTED BY A PROJECT, INCLUDING A DESCRIPTION OF THE PROJECT AND AN EXPLANATION OF HOW TO FILE WITH THE COMMISSION A NOTICE OF INTENT TO BE A PARTY TO THE CERTIFICATION PROCEEDINGS AND THE TIME-FRAME FOR FILING SUCH APPLICATION.

4. If the notice or the application filed pursuant to subdivisions two or three of this section respectively does not comply with the requirements of such subdivision, the commission or its designee shall, promptly, but in no event more than fourteen days from the date on which it receives the notice or application, advise the person in writing of noncompliance and how to comply.

5. Any person may file comments on an application with the commission. The record of the certification proceeding under subdivision seven OF THIS SECTION may be limited to the application, any comments filed by the parties and any report prepared by the staff of the department of public service, whether or not it acts as a party.

1 6. Upon receipt of a notice with respect to a fuel gas transmission
2 line that complies with subdivision two of this section, the commission
3 shall, within thirty days or less, determine whether there is a substan-
4 tial public interest requiring that the facility be reviewed in accord-
5 ance with the provisions of subdivision seven of this section. If the
6 commission determines that such review is not required it shall issue a
7 certificate authorizing such construction. Failure to act within such
8 thirty day period shall constitute a certificate for the purpose of this
9 article. If the commission determines that such review is required, the
10 commission shall serve a copy of the notice which shall constitute the
11 application, on such person or entities as the commission may deem
12 appropriate and which shall be deemed compliance with the applicable
13 provisions of section one hundred twenty-two of this article. The appli-
14 cant and such persons or entities shall constitute the parties, the
15 provisions of section one hundred twenty-four OF THIS ARTICLE notwith-
16 standing.

17 7. The commission shall render a decision upon the record within sixty
18 days from the date on which it receives an application complying with
19 subdivision three OF THIS SECTION or within sixty days from the date on
20 which it receives a notice complying with subdivision two OF THIS
21 SECTION on which it has made a determination that review under this
22 subdivision is in the public interest. Where the commission has required
23 a hearing it may extend the time required to render a decision. In
24 rendering its decision on a notice filed pursuant to subdivision two OF
25 THIS SECTION and reviewed under this subdivision, the commission is
26 required to find and determine only that the construction of a fuel gas
27 transmission line will minimize or avoid adverse environmental impacts
28 to the maximum extent practicable. In rendering its decision on an
29 application filed pursuant to subdivision three OF THIS SECTION, the
30 commission shall make only the determinations required by paragraphs
31 (a), (b), (e), (f) and (g) of subdivision one of section one hundred
32 twenty-six OF THIS ARTICLE.

33 S 3. Subdivision 2 of section 122 of the public service law, as added
34 by chapter 272 of the laws of 1970, paragraph (a) as amended by chapter
35 464 of the laws of 1975, subparagraph ii of paragraph (a) as amended and
36 subparagraph v of paragraph (a) as relettered by chapter 362 of the laws
37 of 1987, and subparagraph iv of paragraph (a) as amended by chapter 72
38 of the laws of 2004, is amended to read as follows:

39 2. Each application shall be accompanied by proof of service of: (a) a
40 copy of such application on:

41 i. each municipality in which any portion of such facility is to be
42 located, both as primarily proposed and in the alternative locations
43 listed. Notice to a municipality shall be addressed to the chief execu-
44 tive officer thereof and shall specify the date on or about which the
45 application is to be filed;

46 ii. the commissioner of environmental conservation, the commissioner
47 of [commerce] ECONOMIC DEVELOPMENT, the secretary of state, the commis-
48 sioner of agriculture and markets and the commissioner of parks, recre-
49 ation and historic preservation;

50 iii. each member of the legislature through whose district the facili-
51 ty or any alternate proposed in the application would pass;

52 iv. in the event such facility or any portion thereof is located
53 within its jurisdiction, the Tug Hill commission[.];

54 v. in the event such facility or any portion thereof is located with-
55 in the Adirondack park, as defined in subdivision one of section 9--0101
56 of the environmental conservation law, the Adirondack park agency.

(b) a notice of such application on persons residing in municipalities entitled to receive notice under subparagraph i[.] of paragraph a OF THIS SUBDIVISION. Such notice shall be given by the publication of a summary of the application and the date on or about which it will be filed, to be published under regulations to be promulgated by the commission, in such form and in such newspapers as will serve substantially to inform the public of such application.

(C) TO THE GREATEST EXTENT PRACTICABLE, EACH LANDOWNER OF LAND ON WHICH ANY PORTION OF SUCH PROPOSED FACILITY IS TO BE LOCATED SHALL BE SERVED BY FIRST CLASS MAIL WITH A NOTICE THAT SUCH LANDOWNER'S PROPERTY MAY BE IMPACTED BY A PROJECT, INCLUDING A DESCRIPTION OF THE PROJECT AND AN EXPLANATION OF HOW TO FILE WITH THE COMMISSION A NOTICE OF INTENT TO BE A PARTY TO THE CERTIFICATION PROCEEDINGS AND THE TIMEFRAME FOR FILING SUCH APPLICATION.

S 4. Paragraphs (d), (e), (f) and (g) of subdivision 1 of section 126 of the public service law, paragraphs (d), (e) and (f) as added by chapter 272 of the laws of 1970 and paragraph (g) as amended by chapter 760 of the laws of 1978, are amended to read as follows:

(d) THAT THE FACILITY REPRESENTS A MINIMUM ADVERSE IMPACT ON ACTIVE FARMING OPERATIONS THAT PRODUCE CROPS, LIVESTOCK AND LIVESTOCK PRODUCTS, AS DEFINED IN SECTION THREE HUNDRED ONE OF THE AGRICULTURE AND MARKETS LAW, CONSIDERING THE STATE OF AVAILABLE TECHNOLOGY AND THE NATURE AND ECONOMICS OF VARIOUS ALTERNATIVES, AND THE OWNERSHIP AND EASEMENT RIGHTS OF THE IMPACTED PROPERTY;

(E) in the case of an electric transmission line, (1) what part, if any, of the line shall be located underground; (2) that such facility conforms to a long-range plan for expansion of the electric power grid of the electric systems serving this state and interconnected utility systems, which will serve the interests of electric system economy and reliability;

[(e)] (F) in the case of a gas transmission line, that the location of the line will not pose an undue hazard to persons or property along the area traversed by the line;

[(f)] (G) that the location of the facility as proposed conforms to applicable state and local laws and regulations issued thereunder, all of which shall be binding upon the commission, except that the commission may refuse to apply any local ordinance, law, resolution or other action or any regulation issued thereunder or any local standard or requirement which would be otherwise applicable if it finds that as applied to the proposed facility such 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[.];

[(g)] (H) that the facility will serve the public interest, convenience, and necessity, provided, however, that a determination of necessity made by the power authority of the state of New York pursuant to section ten hundred five of the public authorities law for a major utility transmission facility for which an application has been filed prior to July first, nineteen hundred seventy-eight pursuant to section one hundred twenty-two of this chapter, shall be conclusive on the commission.

S 5. This act shall take effect immediately.