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I N   S E N A T E

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Introduced by Sen. GALLIVAN -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in 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;

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

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1 (b) a brief statement describing and locating the line;

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

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

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

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

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

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

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

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

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

47 4. If the notice or the application filed pursuant to subdivisions two  
48 or three of this section respectively does not comply with the require-  
49 ments of such subdivision, the commission or its designee shall, prompt-  
50 ly, but in no event more than fourteen days from the date on which it  
51 receives the notice or application, advise the person in writing of  
52 noncompliance and how to comply.

53 5. Any person may file comments on an application with the commission.  
54 The record of the certification proceeding under subdivision seven OF  
55 THIS SECTION may be limited to the application, any comments filed by

1 the parties and any report prepared by the staff of the department of  
2 public service, whether or not it acts as a party.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 [(f)] (G) that the location of the facility as proposed conforms to  
38 applicable state and local laws and regulations issued thereunder, all  
39 of which shall be binding upon the commission, except that the commis-  
40 sion may refuse to apply any local ordinance, law, resolution or other  
41 action or any regulation issued thereunder or any local standard or  
42 requirement which would be otherwise applicable if it finds that as  
43 applied to the proposed facility such is unreasonably restrictive in  
44 view of the existing technology, or of factors of cost or economics, or  
45 of the needs of consumers whether located inside or outside of such  
46 municipality[.];

47 [(g)] (H) that the facility will serve the public interest, conven-  
48 ience, and necessity, provided, however, that a determination of neces-  
49 sity made by the power authority of the state of New York pursuant to  
50 section ten hundred five of the public authorities law for a major util-  
51 ity transmission facility for which an application has been filed prior  
52 to July first, nineteen hundred seventy-eight pursuant to section one  
53 hundred twenty-two of this chapter, shall be conclusive on the commis-  
54 sion.

55 S 5. This act shall take effect immediately.