

# STATE OF NEW YORK

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6609

2019-2020 Regular Sessions

## IN ASSEMBLY

March 14, 2019

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Introduced by M. of A. KOLB, MONTESANO, STEC, DiPIETRO, BRABENEC --  
Multi-Sponsored by -- M. of A. BARCLAY, CROUCH, FRIEND, GIGLIO -- 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 Assem-  
bly, do enact as follows:

1 Section 1. The public service law is amended by adding a new section  
2 121-b to read as follows:

3 § 121-b. Procedures with respect to increasing transfer capability of  
4 existing electric transmission lines. 1. Any person proposing (i) to  
5 reconstruct an electric transmission line as described in paragraph (a)  
6 of subdivision two of section one hundred twenty of this article,  
7 predominantly in an existing utility or public right-of-way, for the  
8 purpose of increasing the transfer capability of such line, and who has  
9 not received a determination from the commission that the reconstruction  
10 constitutes the replacement of existing with like facilities, pursuant  
11 to subdivision one of section one hundred twenty-one of this article, or  
12 (ii) to reconstruct an electric transmission line that is not described  
13 in paragraph (a) of subdivision two of section one hundred twenty of  
14 this article and such reconstruction would result in a transmission line  
15 as described in such paragraph (a), in an existing utility or public  
16 right-of-way, for the purpose of increasing the transfer capability of  
17 such line, and who has not received a determination from the commission  
18 that the reconstruction constitutes the replacement of existing with  
19 like facilities, pursuant to subdivision one of section one hundred  
20 twenty-one of this article, shall file an application with the commis-  
21 sion identifying or providing:

22 (a) the location of the transmission line, or portion thereof, to be  
23 reconstructed;

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

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1 (b) a description of the proposed reconstruction of the transmission  
2 line;

3 (c) a statement explaining the need for the proposed reconstruction of  
4 the transmission line;

5 (d) a summary of any studies that have been made of the environmental  
6 impact of the proposed line, and a description of such studies;

7 (e) a description of the ecosystem, land use, visual and cultural  
8 resources which would be substantially affected by the proposed recon-  
9 struction of the transmission line;

10 (f) a statement that the applicant shall comply with environmental  
11 management and construction standards and practices approved by the  
12 commission to be followed, to the maximum extent practicable, during  
13 reconstruction and operation, in an effort to minimize or avoid adverse  
14 environmental impacts from the proposed reconstruction of the line; and

15 (g) such other information as the applicant may consider relevant or  
16 as the commission may require.

17 Copies of all studies referred to in paragraph (d) of this subdivision  
18 shall be filed with the commission and made available for public  
19 inspection at an office of the applicant near the project location.

20 The applicant shall provide for the publication of a notice, in a  
21 newspaper of general circulation in each county in which the line is  
22 proposed to be reconstructed, of such application filed with the commis-  
23 sion. Such notice shall contain a brief description of the line to be  
24 reconstructed, the proposed reconstruction work, information to identify  
25 the location of the reconstruction work, the date on or about which  
26 reconstruction is intended to begin, and a statement that such applica-  
27 tion is available for public inspection at the offices of the commission  
28 and at one or more specified locations near the proposed project site.

29 2. Each application, including the application filed with the commis-  
30 sion, shall be accompanied by proof of service, and shall be served on  
31 the department of environmental conservation, the department of economic  
32 development, the division of coastal resources of the department of  
33 state, the department of agriculture and markets, the department of  
34 transportation, the office of parks, recreation and historic preserva-  
35 tion, and each municipality in which any portion of the reconstruction  
36 work will occur. The applicant shall serve a copy of such application on  
37 such other persons or entities as the chairman may deem appropriate. The  
38 applicant, the commission and those served shall constitute the parties  
39 to a proceeding pursuant to this section, notwithstanding the provisions  
40 of section one hundred twenty-four of this article.

41 3. After the receipt of an application filed pursuant to subdivision  
42 one of this section, the chairman of the commission shall, within thirty  
43 days, determine whether the application complies with the requirements  
44 of this section. If the application does not comply with such require-  
45 ments, such chairman shall promptly, but in no event more than thirty  
46 days after receipt of the application, advise the person, in writing, of  
47 such noncompliance and deficiencies to be corrected.

48 4. Upon a determination that an application complies with such  
49 requirements, the commission shall, within thirty days thereafter,  
50 determine whether there is a substantial public interest requiring  
51 review of the line proposed to be reconstructed in accordance with the  
52 provisions of subdivision seven of this section. If the commission  
53 determines that such review is not required it shall issue a certificate  
54 authorizing such reconstruction. If the commission determines that such  
55 review is required, it shall fix a date for a public hearing not less  
56 than twenty but no more than sixty days from such determination. The

1 commission may require a prehearing conference to expedite the orderly  
2 conduct and disposition of the hearing, to specify the issues, and to  
3 obtain stipulations as to undisputed matters.

4 5. Any person may file comments on an application with the commission.

5 6. The commission shall render a final decision upon the record within  
6 one hundred fifty days from the date of a determination by the chairman  
7 of the commission that an application complies with subdivision one of  
8 this section, provided that the commission may extend the deadline if  
9 additional time is necessary to consider a material and substantial  
10 amendment to the application, or if the applicant waives the deadline.

11 7. The commission shall render a decision upon the record either  
12 granting or denying the application as filed, or granting it upon such  
13 terms, conditions, limitations or modifications of the reconstruction or  
14 operation of the line as the commission may deem appropriate. In render-  
15 ing its decision on such application, the commission shall find and  
16 determine:

17 (a) the need for the proposed reconstruction of the line;

18 (b) the nature of the probable environmental impact of the proposed  
19 reconstruction of the line;

20 (c) that the design for the proposed reconstruction of the line mini-  
21 mizes adverse environmental impacts, to the extent practicable, consid-  
22 ering the state of available technology;

23 (d) that the proposed reconstruction work conforms to applicable state  
24 and local laws and regulations issued pursuant thereto, all of which  
25 shall be binding upon the commission, except that the commission may  
26 refuse to apply any local law, ordinance, resolution or other action or  
27 any regulation issued thereunder or any local standard or requirement  
28 that would otherwise be applicable if it finds that, as applied to the  
29 proposed line, such local law, ordinance, resolution or other action or  
30 any regulation issued pursuant thereto or any local standard or require-  
31 ment is unreasonably restrictive in view of the existing technology or  
32 of factors of cost or economics, or of the needs of consumers whether  
33 located inside or outside of such municipality; and

34 (e) that the proposed reconstruction of the line will serve the public  
35 interest, convenience and necessity.

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