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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1973

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ENROLLED

SENATE BILL NO. 247

(By Mr. Oates)

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PASSED April 14, 1973

In Effect from Passage



247

FILED IN THE OFFICE
EDGAR F. HEISKELL III
SECRETARY OF STATE
THIS DATE 5/3/73

ENROLLED
Senate Bill No. 247
(By Mr. Oates)

[Passed April 14, 1973; in effect from passage.]

AN ACT to amend article two, chapter twenty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section eleven-a; and to amend article two, chapter fifty-four of said code by adding thereto a new section, designated section two-a, all relating to requiring certificate of public convenience and necessity from public service commission prior to constructing high voltage power transmission line; procedures before commission; publication of notice of petition; providing hearing on request; approval, alteration or denial of certificate; exempting certain projects; rules and regulations of commission; and requiring copy of certificate to be appended to petition for eminent domain.

Be it enacted by the Legislature of West Virginia:

That article two, chapter twenty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section eleven-a; and that article two, chapter fifty-four of said code be amended by adding thereto a new section, designated section two-a, all to read as follows:

CHAPTER 24. PUBLIC SERVICE COMMISSION.

ARTICLE 2. POWERS AND DUTIES OF PUBLIC SERVICE COMMISSION.

§24-2-11a. Requirement for certificate of public convenience and necessity before beginning construction of high voltage transmission line; contents of application; notice; hearing; criteria for granting or denying certificate; regulations.

1 (a) No public utility, person or corporation shall begin
2 construction of a high voltage transmission line of two hun-
3 dred thousand volts or over, which line is not an ordinary
4 extension of an existing system in the usual course of busi-
5 ness as defined by the public service commission, unless and
6 until it or he shall have obtained from the public service
7 commission a certificate of public convenience and necessity
8 approving the construction and proposed location of such
9 transmission line.

10 (b) The application for such certificate shall be in such
11 form as the commission may prescribe and shall contain:

12 (1) A description, in such detail as the commission may
13 prescribe, of the location and type of line facilities which the
14 applicant proposes to construct;

15 (2) A statement justifying the need for such facilities;

16 (3) A statement of the environmental impact of such line
17 facilities; and

18 (4) Such other information as the applicant may deem
19 relevant or the commission may require.

20 (c) Upon the filing of such application, the applicant
21 shall publish, in such form as the commission shall direct,
22 as a Class II legal advertisement in compliance with the
23 provisions of article three, chapter fifty-nine of this code,
24 the publication area for such publication to be each county
25 in which any portion of the proposed transmission line is to
26 be constructed, a notice of the filing of such application and
27 that the commission may approve the same unless within
28 fifteen days after completion of publication a written
29 request for a hearing thereon has been received by the
30 commission from a person or persons alleging that the
31 proposed transmission line or its location is against the
32 public interest. If such request be timely received, the
33 commission shall set the matter for hearing on a date
34 within sixty days from completion of said publication, and
35 shall require the applicant to publish notice of the time
36 and place of hearing in the same manner as is herein re-
37 quired for the publication of notice of the filing of the
38 application.

39 (d) Within sixty days after the filing of said application,
40 or if hearing shall be held thereon, within ninety days after

41 final submission on oral argument or brief, the commission
42 may approve the application if it shall find and determine
43 that the proposed transmission line:

44 (1) Will economically, adequately and reliably contribute
45 to meeting the present and anticipated requirements for
46 electric power of the customers served by the applicant or
47 is necessary and desirable for present and anticipated
48 reliability of service for electric power for its service area
49 or region; and

50 (2) Will result in an acceptable balance between reason-
51 able power needs and reasonable environmental factors.

52 (e) The commission may impose conditions upon its
53 approval of the application, or modify the applicant's
54 proposal, to achieve an acceptable balance between reason-
55 able power needs and reasonable environmental factors.

56 (f) The provisions of this section shall not apply to the
57 construction of line facilities which will be part of a trans-
58 mission line for which any right-of-way has been acquired
59 prior to the first day of January, one thousand nine hun-
60 dred seventy-three.

61 (g) The commission shall prescribe such rules and
62 regulations as it may deem proper for the administra-
63 tion and enforcement of the provisions of this section,
64 which rules and regulations shall be promulgated in
65 accordance with the applicable provisions of chapter
66 twenty-nine-a of this code as if the same were set
67 forth herein in extenso.

CHAPTER 54. EMINENT DOMAIN.

ARTICLE 2. PROCEDURE.

§54-2-2a. Additional requirement for condemnation proceed- ing for right-of-way for certain high voltage trans- mission line.

1 In addition to the requirements set forth in section two of
2 this article, a public utility, person or corporation required
3 under section eleven-a, article two, chapter twenty-four of
4 this code to obtain a certificate of public convenience and
5 necessity for the construction and location of a high voltage
6 transmission line, shall file a certified or attested copy of

7 such certificate with its petition to condemn real or personal
8 property for the construction of such high voltage trans-
9 mission line. Failure to file such certified or attested copy
10 of such certificate shall result in dismissal of the petition.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

H. Darrel Darby
Chairman Senate Committee

Clarence C. Christian Jr.
Chairman House Committee

Originated in the Senate.

To take effect from passage.

Harold W. Carson
Clerk of the Senate

C. A. Blankenship
Clerk of the House of Delegates

W. F. Brotherton Jr.
President of the Senate

Lewis J. Brown
Speaker House of Delegates

The within approved this the 27th
April, 1973.
Arch A. Moore Jr.
Governor

PRESENTED TO THE
GOVERNOR

Date 4/27/73

Time 10:39 a.m.

RECEIVED

MAY 3 9 34 AM '73

OFFICE OF
SECRETARY OF STATE
STATE OF WEST VIRGINIA