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SENATE BILL 672

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

Allen V. Hurt

AN ACT

RELATING TO ELECTRIC UTILITIES; PROVIDING AN ADDITIONAL  
CONSIDERATION FOR THE LOCATION OF GENERATION PLANT AND  
TRANSMISSION LINES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 62-9-3 NMSA 1978 (being Laws 1971,  
Chapter 248, Section 1) is amended to read:

"62-9-3. LOCATION CONTROL--LIMITATIONS. --

A. The legislature finds that it is in the public  
interest to consider any adverse effect upon the environment  
and upon the quality of life of the people of the state  
[which] that may occur due to plants, facilities and  
transmission lines needed to supply present and future  
electrical services. It is recognized that such plants,  
[lines and] facilities and transmission lines will be needed

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1 to meet growing demands for electric services and cannot be  
2 built without in some way affecting the physical environment  
3 where these plants, facilities and transmission lines are  
4 located. The legislature therefore declares that it is the  
5 purpose of this section to provide for the supervision and  
6 control by the commission of the location within this state of  
7 new plants, facilities and transmission lines for the  
8 generation and transmission of electricity for sale to the  
9 public.

10 B. No person, including ~~[any]~~ a municipality,  
11 shall begin the construction of ~~[any]~~ a plant designed for or  
12 capable of operation at a capacity of three hundred thousand  
13 kilowatts or more for the generation of electricity for sale  
14 to the public within or without this state, whether or not  
15 owned or operated by a person ~~[which]~~ that is a public utility  
16 subject to regulation by the commission, ~~[within this state]~~  
17 or of transmission ~~[line or]~~ lines in connection with such a  
18 plant, on a location within this state unless the location has  
19 been approved by the commission. For the purposes of this  
20 section, "transmission line" means any electric transmission  
21 line and associated facilities designed for or capable of  
22 operations at a nominal voltage of two hundred thirty  
23 kilovolts or more, to be constructed in connection with and to  
24 transmit electricity from a new plant for which approval is  
25 required.

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1 C. If a person is a public utility regulated by  
2 the commission, application for approval shall be submitted  
3 and disposition made in connection with the application for a  
4 certificate of public convenience and necessity in accordance  
5 with the provisions of the Public Utility Act.

6 D. If a person is not a public utility regulated  
7 by the commission, application for approval shall be made in  
8 writing setting forth the facts involved and filed with the  
9 commission. The commission shall, after a public hearing and  
10 upon notice as the commission may prescribe, act upon the  
11 application.

12 E. No approval shall be required for construction  
13 in progress on the effective date of this ~~[act]~~ section or for  
14 additions to or modifications of an existing plant or  
15 transmission line.

16 F. The commission shall approve the application  
17 for the location of the generating plant unless the commission  
18 finds that the operations of the facilities for which approval  
19 is sought will not be in compliance with all applicable air  
20 and water pollution control standards and regulations existing  
21 or will unduly impair power system reliability. The  
22 commission shall not require compliance with performance  
23 standards other than those established by the agency of this  
24 state having jurisdiction over a particular pollution source.

25 G. The commission shall approve the application

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1 for the location of the transmission [~~line or~~] lines unless  
2 the commission finds that the location will unduly impair  
3 important environmental values or the operation of the  
4 proposed transmission lines will unduly impair power system  
5 reliability.

6 H. No application shall be approved pursuant to  
7 this section [~~which~~] that violates an existing state, county  
8 or municipal land use statutory or administrative regulation  
9 unless the commission [~~shall find~~] finds that [~~such~~] the  
10 regulation is unreasonably restrictive and compliance  
11 [~~therewith~~] with the regulation is not in the interest of the  
12 public convenience and necessity, in which event and to the  
13 extent found by the commission [~~such~~] the regulation shall be  
14 inapplicable and void as to the siting. When it becomes  
15 apparent to the commission that an issue exists with respect  
16 to whether [~~such~~] a regulation is unreasonably restrictive and  
17 compliance [~~therewith~~] with the regulation is not in the  
18 interest of public convenience and necessity, it shall  
19 promptly serve notice of [~~such~~] that fact by certified mail  
20 upon the agency, board or commission having jurisdiction for  
21 land use of the area affected and shall make [~~such~~] the  
22 agency, board or commission a party to the proceedings upon  
23 its request and shall give it an opportunity to respond to  
24 [~~such~~] the issue. The judgment of the commission shall be  
25 conclusive on all questions of siting, land use, aesthetics

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1 and any other state or local requirements affecting the  
2 siting.

3 I. Nothing in this section shall be deemed to  
4 confer upon the commission power or jurisdiction to regulate  
5 or supervise any person, including a municipality, that is not  
6 otherwise a public utility regulated and supervised by the  
7 commission, with respect to its rates and service and with  
8 respect to its securities, nor shall any other provision of  
9 the Public Utility Act be applicable with respect to such a  
10 person, including a municipality. "