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An Act Regarding Requirements for Approval of a Transmission Line

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 35-A MRSA §3132, sub-§2, as amended by PL 2007, c. 575, §1, is further amended to read:

2. Construction of transmission line. Except as otherwise provided in subsection 3-A, whenever any person proposes to erect within this State a transmission line capable of operating at 69 kilovolts or more, that person shall file a petition for the approval of the proposed line in accordance with subsection 2-C. ~~The petition for approval of the proposed transmission line must contain such information as the commission by rule prescribes.~~ The petition for approval must be set down for public hearing. The commission shall issue its order within 6 months after the petition is filed unless this period is extended either by agreement of all the parties or by the commission upon its determination that the party seeking the extension would, because of circumstances beyond that party's control, be unreasonably disadvantaged unless the extension were granted, provided that as long as the party to that time had prosecuted its case in good faith and with due diligence.

At the time of filing of a petition for approval of a proposed line under this section, the person filing the petition shall send a copy of the petition by certified mail to the municipal officers of the municipality or municipalities in which the line is to be located.

Sec. 2. 35-A MRSA §3132, sub-§2-C is enacted to read:

2-C. Petition for approval of proposed transmission line. The petition for approval of the proposed transmission line must contain such information as the commission by rule prescribes, including, but not limited to:

A. A description of the effect of the proposed transmission line on public health and safety and scenic, historic, recreational and environmental values and of the proximity of the proposed transmission line to inhabited dwellings;

B. Justification for adoption of the route selected, including comparison with alternative routes that are environmentally, technically and economically practical; and

C. Results of an investigation of alternatives to construction of the proposed transmission line including energy conservation, distributed generation or load management.

Sec. 3. 35-A MRSA §3132, sub-§6, as amended by PL 2009, c. 123, §5, is further amended to read:

6. Commission order; certificate of public convenience and necessity. In its order, the commission shall make specific findings with regard to the public need for the proposed transmission line. If the commission finds that a public need exists, it shall issue a certificate of public convenience

and necessity for the transmission line. In determining public need, the commission shall, at a minimum, take into account economics, reliability, public health and safety, scenic, historic and recreational values, the proximity of the proposed transmission line to inhabited dwellings and alternatives to construction of the transmission line, including energy conservation, distributed generation or load management. If the commission orders or allows the erection of the transmission line, the order is subject to all other provisions of law and the right of any other agency to approve the transmission line. The commission shall, as necessary and in accordance with subsections 7 and 8, consider the findings of the Department of Environmental Protection under Title 38, chapter 3, subchapter 1, article 6, with respect to the proposed transmission line and any modifications ordered by the Department of Environmental Protection to lessen the impact of the proposed transmission line on the environment. A person may submit a petition for and obtain approval of a proposed transmission line under this section before applying for approval under municipal ordinances adopted pursuant to Title 30-A, Part 2, Subpart 6-A; and Title 38, section 438-A and, except as provided in subsection 4, before identifying a specific route or route options for the proposed transmission line. Except as provided in subsection 4, the commission may not consider the petition insufficient for failure to provide identification of a route or route options for the proposed transmission line. The issuance of a certificate of public convenience and necessity establishes that, as of the date of issuance of the certificate, the decision by the person to erect or construct was prudent. At the time of its issuance of a certificate of public convenience and necessity, the commission shall send to each municipality through which a proposed corridor or corridors for a transmission line extends a separate notice that the issuance of the certificate does not override, supersede or otherwise affect municipal authority to regulate the siting of the proposed transmission line. The commission may deny a certificate of public convenience and necessity for a transmission line upon a finding that the transmission line is reasonably likely to adversely affect any transmission and distribution utility or its customers.

Sec. 4. 35-A MRSA §3132, sub-§7, as amended by PL 2007, c. 148, §6, is further amended to read:

7. Environmental protection agency modification. If the commission has issued a certificate of public convenience and necessity for a proposed transmission line and the ~~Board~~Department of Environmental Protection in an order issued under Title 38, ~~section 484~~chapter 3, subchapter 1, article 6 makes a modification in the location, size, character or design of the transmission line, the person proposing the transmission line shall:

- A. Deliver a copy of the order to the commission; and
- B. State the nature of the modifications and all cost adjustments occasioned by the modifications to the cost of the proposed transmission line relied upon by the commission in issuing its certificate of public convenience and necessity under this section.

Sec. 5. Rulemaking. The Public Utilities Commission shall amend its rules governing the construction of new transmission lines to implement the provisions of this Act. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Effective September 12, 2009