

Amendment - 2nd Reading-yellow - Requested by: Daniel Zolnikov - (S) Committee of the Whole

- 2025
69th Legislature 2025

Drafter: Jason Mohr,

SB0301.003.001

SENATE BILL NO. 301

INTRODUCED BY D. ZOLNIKOV

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING UTILITY LINES AND FACILITIES LAWS; ALLOWING THE COMMISSION TO GRANT A PUBLIC UTILITY A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR ELECTRIC TRANSMISSION FACILITY CONSTRUCTION; ESTABLISHING OPTIONAL RATEMAKING PROCEDURES AND TIMELINES; PROVIDING RULEMAKING AUTHORITY; PROVIDING DEFINITIONS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

WHEREAS, ADVANCED TRANSMISSION TECHNOLOGY OFFERS MULTIPLE ADVANTAGES, INCLUDING INCREASED CAPACITY ON EXISTING TRANSMISSION INFRASTRUCTURE, SIGNIFICANTLY REDUCED WILDFIRE RISK, AND IMPROVED GRID RELIABILITY, AND IS A COST-EFFECTIVE SOLUTION TO MONTANA'S CURRENT CONGESTION AND CURTAILMENTS OF TRANSMISSION PATHWAYS; AND

WHEREAS, THE INTENTION OF THIS LEGISLATION IS TO EXPEDITE THE NECESSARY AND OVERDUE TRANSMISSION UPGRADES NEEDED TO SERVE THE EVER-INCREASING DEMAND OF POWER; AND

WHEREAS, THE PUBLIC SERVICE COMMISSION HAS THE DECISIONMAKING AUTHORITY TO DETERMINE THE BALANCE BETWEEN MODERNIZING THE GRID TO INCREASE RELIABILITY AND IDENTIFYING WHAT COSTS ARE REASONABLE OR UNREASONABLE TO ENSURE RATEPAYER AFFORDABILITY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Definitions.** As used IN [sections 1 through 3], unless the context clearly indicates otherwise, the following definitions apply:

(1) "Advanced transmission technology" means a technology that increases the capacity, efficiency, and reliability of an existing or new transmission facility, ~~as defined in 42 U.S.C. 16422.~~ For the purposes of [sections 1 through 3], the term applies to the following technology:

(a) underground cables;

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~~THE CERTIFICATE. IF THE UTILITY NOTIFIES REQUESTS A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FROM THE COMMISSION PURSUANT TO THIS SUBSECTION (1), THE DEPARTMENT MAY NOT MAKE A DETERMINATION REGARDING THE REQUIREMENTS OF SUBSECTIONS 75-20-301(1)(A), (1)(D)(III), AND (1)(F).~~

~~(2)(3)~~ (a) Upon receiving a request from a public utility or entity, the commission shall determine within ~~270~~ 300 days whether the construction of the proposed transmission facility is in the public interest and may grant or deny the certificate of public convenience and necessity.

(b) In making a determination, the commission may consider:

(i) the need for the proposed transmission facility to ensure reliable service for customers;

(ii) the ability of the proposed transmission facility to improve customer access to reliable and cost-effective electric generation or storage facilities;

(iii) the anticipated costs and benefits of the proposed facility;

(iv) the use of advanced transmission technology; and

(v) any other factors deemed appropriate by the commission.

~~(3)(4)~~ A commission-approved certificate of public convenience and necessity may satisfy the requirements set forth in 75-20-301(1)(a), (1)(d), AND (1)(f), ~~and (2)~~ when the department considers siting applications for proposed transmission facilities.

~~(4)(5)~~ The commission shall adopt rules for the implementation of this section.

~~(6)~~ NOTHING IN THIS SECTION ALTERS THE REQUIREMENTS OF TITLE 75, CHAPTER 20.

~~(7)~~ NOTHING IN THIS SECTION REQUIRES THE PUBLIC SERVICE COMMISSION TO APPROVE RECOVERY OF COSTS.

NEW SECTION. SECTION 3. ~~APPROVAL~~ ADVANCED COST APPROVAL OF TRANSMISSION AND RELATED FACILITIES. (1) A PUBLIC UTILITY MAY APPLY TO THE COMMISSION FOR ADVANCED COST APPROVAL OF TRANSMISSION LINES AND RELATED FACILITIES NOT YET PROCURED, PROVIDED THE UTILITY COMPLIES WITH [SECTION 2].

(2) WITHIN 45 DAYS OF A UTILITY'S APPLICATION FOR ADVANCED COST APPROVAL, THE COMMISSION SHALL DETERMINE IF THE APPLICATION IS ADEQUATE AND IN COMPLIANCE WITH THE COMMISSION'S MINIMUM FILING REQUIREMENTS. IF THE COMMISSION DETERMINES THE APPLICATION IS INADEQUATE, IT SHALL EXPLAIN THE

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(3) THE COMMISSION SHALL ISSUE AN ORDER WITHIN 90 DAYS AFTER RECEIVING AN APPLICATION FOR TRANSMISSION LINES AND RELATED FACILITIES, UNLESS THE COMMISSION DETERMINES THAT EXTRAORDINARY CIRCUMSTANCES WARRANT ADDITIONAL TIME.

(4) SUBJECT TO [SECTION 2(2)] AND AFTER THE APPLICANT MEETS THE REMAINING REQUIREMENTS OF DEPARTMENT ISSUES THE CERTIFICATE OF COMPLIANCE PURSUANT TO TITLE 75, CHAPTER 20, AS APPLICABLE, THE COMMISSION MAY:

(A) (i) APPROVE OR DENY, IN WHOLE OR IN PART:
(i) AN APPLICATION FOR ADVANCED COST APPROVAL OF TRANSMISSION LINES AND FACILITIES; AND
(ii) COST RECOVERY FOR COSTS NOT PRUDENTLY INCURRED a transmission line and facility to give the public utility a presumption in any future rate proceeding that the actual construction costs for that line are prudent if the actual construction costs are less than or equal to the approved costs; or
(ii) to the extent actual costs are greater than approved costs, there is no presumption the actual construction costs for that line are prudent, and the commission shall determine if the costs are prudent and recoverable; AND

(B) CONSIDER ALL RELEVANT INFORMATION UNTIL THE ADMINISTRATIVE RECORD IN THE PROCEEDING IS CLOSED FOR THE COMMISSION'S EVALUATION OF AN APPLICATION.

NEW SECTION. Section 3. ~~Electric transmission optional ratemaking procedures~~

rulemaking. (1) A public utility operating electric transmission facilities that are part of a bulk electric system subject to regulation by the federal energy regulatory commission and whose rates are set by the federal energy regulatory commission using a formula rate process is eligible for optional ratemaking procedures as described in this section.

(2) An eligible public utility may establish the optional ratemaking procedures in a general rate filing pursuant to Title 69, chapter 3, part 3. If the public utility is eligible and the proposed optional ratemaking procedures are consistent with this section, the commission may approve optional ratemaking procedures that include the following elements: