



SENATE BILL No. 814

September 21, 1993, Introduced by Senators SCHWARZ and
DUNASKISS and referred to the Committee on Technology
and Energy.

A bill to regulate the location, construction, and operation
of certain electric facilities and projects; to prescribe powers
and duties of the Michigan public service commission; and to pre-
scribe the powers and duties of certain local units of government
and officials of those local units of government.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "high-voltage transmission certification act".

3 Sec. 2. As used in this act:

4 (a) "Certificate" means a certificate of public convenience
5 and necessity issued for a facility pursuant to section 7.

6 (b) "Commission" means the Michigan public service
7 commission.

1 (c) "Construction" means any substantial action taken on a
2 route or site constituting placement or erection of a facility.
3 Construction does not include preconstruction activity.

4 (d) "Electric utility" means a person, partnership, corpora-
5 tion, association, governmental entity, or other legal entity
6 transmitting or distributing electric energy for sale or resale.

7 (e) "Facility" means a transmission line, a transmission
8 substation, the addition of circuits to an existing transmission
9 line, or the expansion of an existing transmission substation.

10 (f) "Municipality" means a city, township, or village.

11 (g) "Preconstruction activity" means any activity on a pro-
12 posed route or site conducted before construction of the facility
13 begins. Preconstruction activity includes, but is not limited
14 to, surveys, measurements, examinations, soundings, borings,
15 sample-taking, or other testing procedures, photography, apprais-
16 al, or tests of soil, groundwater, structures, or other materials
17 in or on the real property for contamination.

18 (h) "Route" means real property on or across which a trans-
19 mission line is constructed or operated.

20 (i) "Site" means real property on which a transmission sub-
21 station is constructed or operated.

22 (j) "Transmission line" means all structures, equipment, and
23 real property necessary to transfer electricity at system bulk
24 supply voltage of 100 kilovolts or more.

25 (k) "Transmission substation" means all structures, equip-
26 ment, and real property within a local enclosed area necessary to

1 switch and transform electricity at system bulk supply voltages
2 of 100 kilovolts or more.

3 Sec. 3. Transmission lines and transmission substations are
4 essential services affecting the public interest. The construc-
5 tion and operation of these facilities shall be regulated in a
6 uniform manner throughout this state pursuant to this act.

7 Sec. 4. An electric utility shall not begin construction of
8 a facility until the commission issues a certificate for the
9 facility.

10 Sec. 5. (1) Before applying for a certificate, an electric
11 utility shall schedule and hold a public meeting in each munici-
12 pality through which a proposed transmission line would pass or
13 in which a proposed transmission substation would be located.

14 (2) In the 30 days before a public meeting held pursuant to
15 subsection (1), the electric utility and officials of the munici-
16 palities shall meet to discuss the utility's desire to build the
17 facility and to explore the routes or sites to be considered.
18 The electric utility and the officials shall attempt to agree on
19 a route or site to present at the public meetings.

20 (3) If the electric utility and the officials cannot agree
21 on a route or site for the proposed facility, the municipalities
22 may oppose the utility's application for a certificate or may
23 submit to the commission 1 locally preferred route or site for
24 the proposed facility.

25 Sec. 6. (1) An electric utility shall apply for a certifi-
26 cate for a proposed facility not less than 1 year before the
27 planned date for beginning that facility's construction.

1 (2) An application for a certificate shall contain all of
2 the following:

3 (a) The planned date for beginning construction.

4 (b) A detailed description of the proposed facility, the
5 facility's route or site, and the facility's expected configura-
6 tion and use.

7 (c) The estimated overall cost of the proposed facility.

8 (d) Information supporting the need for the proposed
9 facility.

10 (e) Estimated quantifiable and nonquantifiable public bene-
11 fits of the proposed facility.

12 (f) Other information reasonably required by the commission
13 pursuant to rule.

14 Sec. 7. (1) Upon receiving an application pursuant to
15 section 6, the commission shall give public notice of an opportu-
16 nity to comment on the application, except as provided in
17 subsection (4). Based on any comments received, the commission
18 shall determine whether to conduct a hearing on the application
19 as a contested case pursuant to chapter 4 of the administrative
20 procedures act of 1969, Act No. 306 of the Public Acts of 1969,
21 being sections 24.271 to 24.287 of the Michigan Compiled Laws.

22 (2) If a hearing is not held, the commission shall promptly
23 grant or deny the application based upon the application and com-
24 ments received.

25 (3) If a hearing is held, the commission shall grant or deny
26 the application not later than 1 year after the application's
27 filing date. If municipalities described in section 5(1) submit

1 1 locally preferred route or site for the proposed facility, the
2 commission shall grant the application for either the electric
3 utility's proposed route or site or the locally preferred route
4 or site or shall deny the application. The commission shall
5 grant the application and issue a certificate if it determines
6 all of the following:

7 (a) The quantifiable and nonquantifiable public benefits of
8 the proposed facility justify the facility's cost.

9 (b) The proposed or locally preferred route or site is fea-
10 sible and reasonable.

11 (c) The proposed facility presents no reasonable threat to
12 public health or safety.

13 (4) If the electric utility applies to add circuits to a
14 transmission line or expand a transmission substation existing on
15 the effective date of this act, the commission shall grant or
16 deny the application within 30 days after the filing date. The
17 commission shall not give public notice of or hold a hearing on
18 the application. The commission shall grant the application and
19 issue a certificate if it determines the facility existed on the
20 effective date of this act.

21 (5) A certificate issued under this section shall identify
22 the facility's route or site and shall contain an estimated cost
23 for the facility.

24 Sec. 8. An electric utility and a local unit of government
25 may file a joint application with the commission to determine
26 whether the commission should issue a certificate for a proposed
27 project of the electric utility involving electricity at a system

1 bulk supply voltage of less than 100 kilovolts. The commission
2 shall proceed on a joint application in the same manner as pro-
3 vided in section 7. This act applies to a certificate issued
4 under this section.

5 Sec. 9. A court shall not stay, restrain, or enjoin precon-
6 struction activity related to a proposed facility for any of the
7 following reasons:

8 (a) A disagreement exists over the proposed route or site.

9 (b) The electric utility has not applied for a certificate.

10 (c) The commission has not granted or denied the
11 application.

12 (d) An alleged lack of public convenience or necessity.

13 Sec. 10. (1) A municipal ordinance, law, rule, regulation,
14 policy, or practice that prohibits or regulates the location or
15 development of a facility for which the commission has issued a
16 certificate is in conflict with this act and is not enforceable.

17 (2) A zoning ordinance or limitation imposed after an elec-
18 tric utility files for a certificate shall not limit or impair
19 the facility's construction, operation, or maintenance.

20 (3) In an eminent domain or other proceeding in a court of
21 this state or in a local, state, or regional administrative pro-
22 ceeding arising out of or related to a facility, a certificate
23 issued under this act is conclusive and binding as to the public
24 convenience and necessity for the facility and the facility's
25 compatibility with the public health and safety, or any zoning or
26 land use requirements in effect when the application was filed.

1 Sec. 11. (1) In determining an electric utility's rates,
2 the commission shall not disallow costs the utility incurs in
3 constructing a facility authorized by a certificate that do not
4 exceed the amount set forth in the certificate.

5 (2) If the facility's actual costs exceed the amount set
6 forth in the certificate, the commission shall hold a hearing to
7 determine what amount of the excess costs to include in rates.
8 The electric utility shall not recover through rates any costs
9 above the amount set forth in the certificate that the commission
10 determines were unreasonable or imprudently incurred.

11 Sec. 12. (1) The commission shall exempt from public dis-
12 closure information filed by or obtained from an electric utility
13 with respect to an application if the electric utility obtained
14 the information from a third party subject to a confidentiality
15 agreement and the information has not been publicly divulged
16 previously.

17 (2) If any person uses information described in
18 subsection (1) to forecast electrical demand, the person shall
19 structure the forecast so the third party is not identifiable
20 unless the third party waives confidentiality.

21 Sec. 13. (1) The commission may promulgate rules to imple-
22 ment this act pursuant to the administrative procedures act of
23 1969, Act No. 306 of the Public Acts of 1969, being
24 sections 24.201 to 24.328 of the Michigan Compiled Laws. The
25 rules may contain standards to determine a proposed facility's
26 health and safety aspects, including but not limited to standards
27 for permissible additions to electric and magnetic fields by the

1 facility. The commission may assess certificate application fees
2 for the electric utility to cover the commission's administrative
3 costs in processing the application and may require the electric
4 utility to hire consultants chosen by the commission to assist
5 the commission in evaluating those issues the application
6 raises.

7 (2) Until rules are promulgated pursuant to subsection (1),
8 the commission shall consider and determine any health or safety
9 issue a party raises in a proceeding concerning a certificate
10 application.