

MAY 5 1981

MINUTES OF MEETING  
SENATE NATURAL RESOURCES  
FEBRUARY 13, 1981

OF MONTANA

The eleventh meeting of the Natural Resources Committee was called to order by Senator Harold Dover, Chairman, at 12:30 P.M., on the above date in Room 405 of the State Capitol Building.

ROLL CALL: All members were present with the exception of Senator Manning.

Senator Stimatz, District #43, presented a senate bill for consideration as a committee bill. The bill is entitled - AN ACT PROVIDING FOR THE DEFINITION OF "GEOLOGY", "GEOLOGIST", "PROFESSIONAL GEOLOGIST", AND "CERTIFIED PROFESSIONAL GEOLOGIST"; PROVIDING THAT CERTAIN REPORTS CONTAINING GEOLOGICAL MATERIAL MUST BE PREPARED OR APPROVED BY A PROFESSIONAL GEOLOGIST OR CERTIFIED PROFESSIONAL GEOLOGIST. Senator Stimatz asked Mr. Groff to give a statement in support of the bill.

S. L. Groff, State Geologist, said that there is a movement in this country to register geologists. This bill would recognize geologists for what they are, giving a definition of Geology, Geologist, Professional Geologist and Certified Professional Geologist. There is an amendment proposed to this bill, a copy is attached.

Senator O'Hara made a motion that we present this bill as a committee bill. The motion passed unanimously.

CONSIDERATION OF SB 376 and SJR 14:

AN ACT REVISING AND CLARIFYING THE MONTANA  
MAJOR FACILITY SITING ACT TO INCREASE THE  
EXEMPTION LIMIT FOR AN ADDITION TO A FACILITY;  
REVISING THE DEFINITION OF A FACILITY. . .

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE  
OF REPRESENTATIVES OF THE STATE OF MONTANA  
REQUESTING THE ASSIGNMENT OF AN APPROPRIATE  
INTERIM COMMITTEE OF A STUDY OF VARIOUS ELEMENTS  
OF THE MONTANA MAJOR FACILITY SITING ACT.

Senator Steve Brown, District #15, presented these bills to the committee. Last session he was on a sub-committee that worked on amendments to the Major Facility Siting Act. He is aware of concerns about the Major Facility Siting Act and of all the controversy over the way in which the siting law problems are being handled. This bill is an attempt to deal with obvious problems with the Major Facility Siting Act and the resolution deals with the problems that need some study and deliberation before they can be addressed. Senator Brown went through the

proposed changes to the Major Facility Siting Act and gave justification for each change.

Chairman Dover asked for proponents to this bill.

James D. Mockler, Montana Coal Council, supports these bills. He passed out amendments which he said at one time were a part of the Major Facility Siting Act and some of them were addressed in the study.

Ward Shanahan, Northern Tier Pipeline, Dreyer Brothers, Inc., supports this bill but would like to see the grandfather clause made more specific to insure exclusion. He would also like to see the "utility" definition amendment submitted by Mr. Mockler adopted, as it would clear up ambiguity that makes a fertilizer plant a "utility" because it is utilizing energy in some form.

John Ross, Attorney, Montana Power Company, supports SJR 14. He agrees that the siting act is important and should be studied by all parties concerned before being amended. The changes should not be made quickly.

Leo Barry, Director, Department of Natural Resources, would like to go on record as supporting SB 376.

Margaret MacDonald, Northern Plains Resource Council, generally supports SB 376, with one major exception. See copy of written testimony attached.

Mike Males, Montana Environmental Information Center, supports SB 376 and opposes SJR 14. He questioned the exemption of natural gas as a facility on page 4, line 6. He supports the proposed amendments by Mr. Mockler, but feels that the 50 million limit should be reviewed by the committee before such a substantial change in the amount of money is made. On page 5, subsection (i), the language includes natural gas and crude oil pipelines but why did the sponsor exempt synthetic gas. He felt that on page 21, line 10, the 10 year waiting period was too long and should be cut down to 3 to 5 years.

Don Allen, Executive Director, Montana Petroleum Association, supports SJR 14 proposing a study of the problems. He is concerned with the language including natural gas and crude oil pipelines.

There were no opponents wishing to testify. Chairman Dover asked for questions from the committee.

Senator Ryan does not like the legal terminology in the bill.

Senator Manley suggested postponing SB 376 until next session and passing the resolution to allow time for a study.

Senator Brown said there are three things that there was no disagreement from the people testifying which should be left in the bill and passed. These are 1 - Section 8, subsection (3); 2 - Section 9, subsection (3); and 3 - the issue of combining the Department of Health and the Board of Health. It is necessary to clarify how these agencies interact under the siting law process.

Senator Manley said with relation to the resolution, that all the parties who have input into this study should be present at the interim sessions.

Mr. Allen said that is the value of the study and except for the changes Senator Brown feels need to be made, the bill should not be passed until after the study.

Senator Van Valkenburg asked Mr. Barry if he had seen the amendment for 50 million and if the department had a position on that.

Mr. Barry said that he would have to look and see what type of facilities we would be exempting under that figure.

Senator Van Valkenburg asked about the definition of utility in Mr. Mockler's amendments.

Mr. Barry said this change, as he understands it, would be exempting fertilizer plants and synthetic fuel plants from basic need. This will exempt synthetic fuel which will be heavily subsidized by the federal government.

Mr. Shanahan said it is clear this does not mean an exemption of the fertilizer plant from this act, merely exempting it from the determination of need. This is the same case in gasification plants.

Senator Van Valkenburg asked Mr. Barry if he supported the resolution with respect to the study.

Mr. Barry does favor the study.

Senator Van Valkenburg asked Mr. Barry how much of his department's time would be tied up with respect to the study if the study is approved.

Mr. Barry said he could not give a good answer to that. It would depend on when the interim committee would request us to begin and how much legal council staff would be used. If the council provides a good deal of staff time, our staff wouldn't be overburdened. But if we are to shoulder the entire task it would perhaps be an overwhelming burden on the existing staff. Definitely limitations will be necessary.

Senator Dover asked Mr. Barry if he thought the \$750,000 figure was a little low.

Mr. Barry said \$750,000 is low, you couldn't construct very much with that.

Senator Manley said when the subdivision law was passed on 20 acres, we ended up with a couple of hundred of them. How many 19 inch pipelines will we end up with.

Senator Brown does not have an answer.

Mr. Barry said this was felt to be an economical cut off point.

EXECUTIVE SESSION: The subcommittee appointed to review SB's 138, 139, 140, 196 and 229 have worked these bills out and have proposed amendments they feel are necessary for these bills.

DISPOSITION OF SB 138: Senator Van Valkenburg asked if they wanted to leave the 80 megawatts on the bill. It is higher than that on the Major Facilities Siting Act, which is 50 megawatts.

Senator Tveit pointed out that this bill is in relation to small scale plants.

Senator Dover said the plants can go up to 80 megawatts.

Senator Manley felt it should be amended back down to 50 megawatts.

Senator Keating made a motion that SB 138 be amended from 80 megawatts to 50 megawatts. The motion passed unanimously.

Senator Brown said that at the hearing a recommendation was made to include wind.

Senator Keating said this is just small scale hydroelectric facilities. SB 139 and SB 140 will include wind.

Senator Brown made the motion that SB 138 do pass as amended. The motion passed unanimously.

DISPOSITION OF SB 139: Chairman Dover made a motion that we accept the amendments presented at our meeting on SB 139. The motion passed unanimously.

Senator Keating made a motion that we insert the word "wind," following the word "water," on page 1, line 21. The motion passed unanimously.

Senator Keating made a motion that on page 3, line 20, following "the" the word "levelized" be deleted. The motion passed unanimously.

Senator Van Valkenburg made a motion that we strike 80 megawatts and insert 50 megawatts on page 1, line 25.

Senator Elliott said that we would not be able to make an addition to an existing 50 megawatt plant. He recommended that we leave it at 80 megawatts.

Senator Van Valkenburg withdrew his motion.

Senator Keating made the motion that SB 139 do pass as amended. The motion passed unanimously.

DISPOSITION OF SB 140: Senator Keating made a motion that following the word "water," the word "wind," be inserted on page 4, line 14. The motion passed unanimously.

Senator Manley made a motion that SB 140 do pass as amended. The motion passed with a vote of 10 for and 1 opposed. Senator Elliott voted no to this motion.

DISPOSITION OF SB 196: Senator Etchart made a motion that SB 196 do pass. The motion passed unanimously.

RECONSIDERATION OF SB 140: Senator Ryan made a motion to reconsider SB 140. The motion passed unanimously.

Senator Van Valkenburg said there could be a single facility that was 80 megawatts.

Senator Keating said a new plant should be limited to 50 megawatts.

Senator Dover suggested making a total of 80 megawatts with no one facility greater than 50 megawatts.

Senator Ryan said this would give a five year tax break on a major facility.

Senator Dover said we could get Katherine to fix it so it goes up to 80 megawatts, 50 megawatts if it is a completely new plant and 80 megawatts if it is a situation on an existing facility.

Senator Elliott said subsection (c) takes care of this.

Senator Dover asked if the committee was against big business getting this break. If you are then we had better cut it back.

Senator Tveit said the bill is to help people, small power groups, to get more power plants.

Senator Keating said to leave it the way it is. If big business takes advantage of it, we can cut it down in two years.

Senator Etchart suggested that on page 4, line 16, following "capacity", the words "not greater than 50 megawatts," be inserted.

Senator Van Valkenburg so moved. The motion passed unanimously.

Senator Ryan made a motion that SB 140 do pass as amended. The motion passed unanimously.

DISPOSITION OF SB 229: Senator Hafferman made a motion to move the amendments.

Senator Brown said that if you adopt the amendments you are defeating the title of the bill which says "AUTHORIZING THE CONSTRUCTION AND OPERATION OF SUCH FACILITIES BY THE DEPARTMENT".

Senator Keating said in section 9 if no lease applications are received the Department may, upon legislative approval, proceed with construction.

Senator Dover said Katherine can fix the title to correspond with the body.

Chairman Dover asked for opposition to the motion on amendments. Senator Brown, Senator Van Valkenburg and Senator Ryan voted no on amendments numbered 2, 3, 4, & 6. Senator Hafferman voted no on amendment number 3. The motion passed.

Senator Keating made a motion that SB 229 do pass as amended. The motion passed with a vote of 8 for, 3 opposed. Senator Ryan, Senator Brown and Senator Van Valkenburg voted no on this bill.

ADJOURNMENT: There being no further business, the meeting adjourned at 2:30 P.M.

  
\_\_\_\_\_  
HAROLD DOVER, Chairman

ROLL CALL

NATURAL RESOURCES COMMITTEE

47th LEGISLATIVE SESSION - - 1981

Date 2/13/81

NAME	PRESENT	ABSENT	EXCUSED
Harold Dover, Chairman	✓		
Mark Etchart, Vice Chairman	✓		
Thomas Keating	✓		
Roger Elliott	<i>arrived late</i> ✓		
Larry Tveit	✓		
Jesse O'Hara	✓		
John Manley	✓		
William Hafferman	✓		
Steve Brown	✓		
Dave Manning		✓	
Patrick Ryan	✓		
Fred Van Valkenburg	✓		

Each day attach to minutes.

Amendment to SB 482

1. Title, line 8

Following: "A"

Insert: "GEOLOGIST OR"

2. Page 2, line 19

Following: "a"

Insert: "geologist or"



# NORTHERN PLAINS RESOURCE COUNCIL

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419 Stapleton Bldg  
Billings, Mt. 59101  
(406) 248-1154

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P.O. Box 886  
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BEFORE THE SENATE NATURAL RESOURCES COMMITTEE  
TESTIMONY OF MARGARET MACDONALD  
February 13, 1981

## SB 376

NPRC generally supports Senate Bill 376, as introduced, with one major exception. On the whole, we feel the bill would achieve four main objectives:

- 1) It clarifies the jurisdiction and role of the Department and Board of Health.
- 2) It clarifies the issue of judicial review with respect to Board and Department of Health decisions.
- 3) It appropriately incorporates major pipeline systems under the act which is inconsistent with the policy and intent of the act.
- 4) It streamlines the siting of a facilities in economically depressed communities.

We have one major reservation and objection to the bill which pertains to the fourth objective regarding siting facilities in depressed communities. Those facilities should represent the minimum adverse environmental impact within that given community. This legislation exempts them from doing so.

We support the waiver of the alternative siting study under the conditions described in the proposed legislation. This can be done without deleting consideration of the minimum adverse environmental impact. The phrase ~~and~~ applicability that goes beyond the mere question of which town or county would be least adversely affected.

In any given spot, things can be done to minimize the adverse impacts of a major facility. It is inappropriate and unfair to assume that the people of Great Falls or Anaconda, for example, should be subjected to a facility that does not represent the least adverse impacts - one of the central concepts embodied by the siting act - within the confines of the single site selected. The streamlining of siting a major facility in such a community should not take out the substantive function of the act in the process. The streamlining should address the time element of moving forward on siting where it is recognized that the social and economic infrastructure of a community need the growth that would accompany a facility. It should not say the people of Anaconda or Great Falls are not entitled to as clean and responsible an industrial neighbor as ~~that which might be~~ required of a Tenneco in Wibaux, for instance.

That portion of the amendment goes too far - it throws the baby out with the bath water - and we strongly urge the committee to alter the appropriate sections of this bill to redress the problem.

Amendments to SB 376

Amendment 1:

Page 4, line 13  
Following: "\$250,000"  
Strike: "~~\$750,000~~"  
Insert: "\$50 million" *10, M*

Page 4, line 16  
Following: "\$250,000"  
Strike: "~~\$750,000~~"  
Insert: "\$50 million"

Page 4, line 19  
Following: "\$250,000"  
Strike: "~~\$750,000~~"  
Insert: "\$50 million"

Page 4, line 21  
Following: "\$250,000"  
Strike: "~~\$750,000~~"  
Insert: "\$50 million"

Page 4, line 24  
Following: "\$250,000"  
Strike: "~~\$750,000~~"  
Insert: "\$50 million" *✓*

Page 5, line 22  
Following: "\$250,000"  
Strike: "~~\$750,000~~"  
Insert: "\$50 million"

Amendment 2:

Page 4, line 22  
Following: "utilizing"  
Strike: "refining,"

Amendment 3:

Page 6, lines 8 through 11 *✓*  
Following: "(13)"  
Strike: remainder of lines 8 through 11 in their entirety  
Insert: "'Utility' means any person who is subject to regulation by the Montana Public Service Commission or generates electricity or energy in any form for direct sale to the public."

Page 19, line 25  
Following: "facilities"  
Strike: "however"

Page 20, lines 1 through 3  
Strike: entire lines

Amendment 4:

Page 21, between lines 21 and 22:

Insert:

"(5) The board shall waive compliance with the requirements of sections 75-20-211(1)(a)(iv) and (v), 75-20-214, 75-20-216(3) and 75-20-303(3)(iv) relating to the study, evaluation and consideration of alternative sites if the applicant makes a clear and convincing showing to the board at a public hearing that there is only one feasible site that can be considered for construction of the facility."

NAME:

MIKE MALES

DATE: 13 FEB '81

ADDRESS:

P.O. Box 1184 Helena 59601

PHONE:

443-2520

REPRESENTING WHOM?

Exothermic Endothermic

APPEARING ON WHICH PROPOSAL:

SB 376

DO YOU:

SUPPORT?

X

AMEND?

OPPOSE?

COMMENTS:

STR 14 - Oppose

SB 376 - SUPPORT W/AMENDMENT

NAME: Mr. J. H. Smith DATE: 2/9/51

ADDRESS: 121 Standard Bldg

PHONE: 272 4445

REPRESENTING WHOM? W. J. P. (Council)

APPEARING ON WHICH PROPOSAL: SB 376

DO YOU: SUPPORT?    AMEND?    OPPOSE?   

COMMENTS: in an above mentioned report

to successfully discuss same

NAME: WARD SHANAHAN DATE: 2-13-81

ADDRESS: Box 1686 Helena

PHONE: 442-8560

REPRESENTING WHOM? Northern Tier Pipeline, Dryer Bros  
IN

APPEARING ON WHICH PROPOSAL: SB 376

DO YOU: SUPPORT? \_\_\_\_\_ AMEND? X OPPOSE? \_\_\_\_\_

COMMENTS: \_\_\_\_\_

• MAKE GRANDFATHER CLAUSE MORE SPECIFIC  
TO INSURE EXCLUSION

• ADOPT "UTILITY" DEFINITION AMENDMENT  
TO CLEAR UP AMBIGUITY THAT MAKES  
A FERTILIZER PLANT A "UTILITY"  
BECAUSE IT IS UTILIZING ENERGY  
IN SOME FORM.

NAME:

ADDRESS:

PHONE:

REPRESENTING WHOM?

APPEARING ON WHICH PROPOSAL:

DO YOU:

SUPPORT?

AMEND?

OPPOSE?

COMMENTS:



NAME: James P. MacRae DATE: 2/13

ADDRESS: 2301 Colonial Dr

PHONE: 442-6223

REPRESENTING WHOM? *MT. Coal Council*

APPEARING ON WHICH PROPOSAL: SB 376 SJR 14

DO YOU: SUPPORT? ☒ AMEND? ☒ OPPOSE?

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

February 13, 1981

PROPOSED AMENDMENTS TO SB 229

1. Page 2, lines 10 and 11.

Following: "control"

Strike: "as of [the effective date of this act],"

2. Page 4, line 20.

Following: line 20

Insert: "(4) If all lease applications are rejected, the department may not construct a facility on its own"

3. Page 5, lines 17 and 18.

Strike: "or if the board rejects all lease applications under [section

4. Page 5, line 18.

Following: "department"

Strike: "shall"

Insert: "may upon approval of the legislature"

5. Page 5, line 20.

Following: the first "and"

Strike: "shall"

6. Page 5, line 22.

Following: "chapter."

Insert: "Construction may not commence until such time as the board has presented clear and convincing evidence to the legislature that construction by the department is economically feasible and is the most practical means by which the facility could be developed."

7. Page 6, line 2.

Following: "utility"

Strike: "or"

Insert: ",",

8. Page 6, line 3.

Following: "cooperative,"

Insert: "or a federal power-marketing agency"

9. Page 8, lines 11 through 13.

Following: "the"

Strike: "rural electrification administration upon petition by a rural electric cooperative or a generation and transmission cooperative"

Insert: "federal energy regulatory commission upon proper petition"



2/13/81

BILL NO. SJR 14

# VISITOR'S REGISTER

[illegible]

(Please leave prepared statement with Secretary)

DATE

2/16/81

COMMITTEE ON

Natural Resources

## VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
<del>James H. Walker</del>	<del>Mont. Coal Council</del>	<del>367</del> <del>430</del>	<del>✓</del>	
Pat Wilson	Montco	367 430	✓	
Steve Clark	Mont. Bureau	367 430	✓	
Greg Lewis	Dept. of Health & Welfare	367		
<del>James H. Walker</del>	<del>Mont. Coal Council</del>	<del>367</del>	✓	
Tom Staples	Mont. Coal Council	367	✓	
Mike D. [unclear]	Common Cause			
Tom Staples	self	430		
Tom Staples	self	430		
Tom Staples	self	430		
Tom Staples	self	430		
Hal [unclear]	self	430		
Barry [unclear]	DNR	430		
David W. [unclear]	NHES	430		
David B. Rackman	Mont. High Assn	430		X
Tom [unclear]	Mont. Bureau	430/430		
Tom [unclear]	Western Energy Co.	367		
Tom [unclear]	DHES	430		
Mark [unclear]	Environmental [unclear]			
Larry Feltner	" "	" "		X
Tom [unclear]				
James H. Walker	Shell Oil Co.	367	✓	
Tom [unclear]	Rocky Mountain			
Tom [unclear]	IPRC	430 367		✓
Tom [unclear]	Panda River [unclear]	367		

# STANDING COMMITTEE REPORT

February 13, 1981

MR. PRESIDENT

We, your committee on NATURAL RESOURCES

having had under consideration SENATE Bill No. 138

Respectfully report as follows: That SENATE Bill No. 138

be amended as follows:

1. Page 2, line 9.  
Following: "of"  
Strike: "80"  
Insert: "50"

And, as so amended,  
DO PASS

# STANDING COMMITTEE REPORT

February 13,

1981

**PRESIDENT**

MR. ....

**NATURAL RESOURCES**

We, your committee on .....

**SENATE**

having had under consideration .....

Bill No. **139**

Respectfully report as follows: That .....

**SENATE**

Bill No. **139**

be amended as follows:

1. Title, line 9.

Following: "COMMISSION"

Insert: "OR TO ELECTRIC COOPERATIVES UNDER TERMS AND CONDITIONS  
MUTUALLY AGREED UPON AND IN COMPLIANCE WITH THE PUBLIC UTILITY  
REGULATORY POLICIES ACT"

2. Page 1

Following: Line 15

Insert: "(2) "Electric cooperative" means a rural electric cooperative  
organized under the laws of Montana, or a foreign corporation  
admitted to do business in Montana."

Renumber subsequent subsections in Section 1.

3. Page 1, line 21.

Following: "water,"

Insert: "wind,"

XXXXXX

DO PASS

JRF

(continue 1)

February 13,

81

19.....

4. Page 2, line 6.

Following: "section 1"

Strike: "(3)"

Insert: "(4)"

5. Page 2, line 9.

Following: "may" on line 8.

Strike: "not engage in the distribution of the electricity it generates"

Insert: "generate electricity from the sources described in [section 1(4)(a)] and may contract for the sale of that electricity with an electric cooperative under terms and conditions mutually agreed upon between the parties and in compliance with the rates and regulations established by the Public Utility Regulatory Policies Act"

6. Page 3, line 20.

Following: "the"

Strike: "levelized"

And, as so amended,  
DO PASS



# STANDING COMMITTEE REPORT

February 13, 19 31

MR. **PRESIDENT**

We, your committee on **NATURAL RESOURCES**

having had under consideration **SENATE** Bill No. **140**

Respectfully report as follows: That **SENATE** Bill No. **140**

be amended as follows:

1. Page 4, line 14.

Following: "water,"

Insert: "wind,"

2. Page 4, line 16.

Following: "capacity"

Insert: "not greater than 50 megawatts"

And, as so amended,

DO PASS

# STANDING COMMITTEE REPORT

February 13,

19 81

**PRESIDENT**

MR. ....

**NATURAL RESOURCES**

We, your committee on .....

**SENATE**

having had under consideration ..... Bill No. **196**

**SENATE**

Respectfully report as follows: That ..... Bill No. **196**

DO PASS

# STANDING COMMITTEE REPORT

February 13, 1981

MR. **PRESIDENT**

## **NATURAL RESOURCES**

We, your committee on

having had under consideration **SENATE** Bill No. **229**

Respectfully report as follows: That **SENATE** Bill No. **229**

be amended as follows:

1. Title, line 10.

Following: "LEASE" on line 9

Strike: "IS CONSUMMATED"

Insert: "APPLICATIONS ARE RECEIVED AND PROHIBITING CONSTRUCTION BY  
THE DEPARTMENT IF ALL LEASE APPLICATIONS ARE REJECTED BY THE BOARD."

2. Page 2, lines 10 and 11.

Following: "control"

Strike: "as of, [the effective date of this act],"

3. Page 4, line 21.

Following: line 20

Insert: "(4) If all lease applications are rejected, the department  
may not construct a facility on its own."

XXXXXX

(continued)

February 13,

31  
19.....

4. Page 5, lines 17 and 18.

Following: "[section 3]" Line 16

Strike: "or if the board rejects all lease applications under  
[section 4],"

5. Page 5, line 18.

Following: "department"

Strike: "shall"

Insert: "may upon approval of the legislature"

6. Page 5, line 20.

Following: the first "and"

Strike: "shall"

7. Page 5, line 22.

Following: "chapter."

Insert: "Construction may not commence until such time as the department  
has presented clear and convincing evidence to the legislature that  
construction is economically feasible and is the most practical means  
by which the facility could be developed."

8. Page 6, line 2.

Following: "utility"

Strike: "or"

Insert: ", "

9. Page 6, line 3.

Following: "cooperative,"

Insert: "or a federal power-marketing agency"

10. Page 8, lines 11 through 13.

Following: "the" on line 11

Strike: "rural electrification administration upon petition by a  
rural electric cooperative or a generation and transmission  
cooperative"

Insert: "federal energy regulatory commission upon proper petition"

And, as so amended  
DO PASS

*J.A.*