

CHAPTER NO. 133.

HOUSE BILL NO. 605

INTRODUCED BY McBRIDE, KANDUCH, MENAHAN,  
COONEY, HUENNEKENS, HARPER, FRATES, SHELDEN

IN THE HOUSE

February 6, 1979	Introduced and referred to Committee on Natural Resources.
February 14, 1979	Committee recommend bill do pass. Report adopted.
February 15, 1979	Second reading, do pass as amended.
February 17, 1979	Correctly engrossed.
February 19, 1979	Third reading, passed. Transmitted to second house.

IN THE SENATE

February 20, 1979	Introduced and referred to Committee on Natural Resources.
March 1, 1979	Committee recommend bill be concurred in. Report adopted.
March 3, 1979	Second reading, concurred in.
March 6, 1979	Third reading, concurred in.

IN THE HOUSE

March 7, 1979	Returned from second house. Concurred in. Sent to enrolling.  Reported correctly enrolled.
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*House* BILL NO. *605*

INTRODUCED BY *McBride, Kandrach, Monahan, Ceeney, Huenrich, Hays, Frates, Sheldon*

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE DEFINITION OF A FACILITY UNDER THE MONTANA MAJOR FACILITY SITING ACT AS IT APPLIES TO GEOTHERMAL RESOURCES; AMENDING SECTION 75-20-104, MCA."

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

Section 1. Section 75-20-104, MCA, is amended to read:

"75-20-104. Definitions. In this chapter, unless the context requires otherwise the following definitions apply:

(1) "Addition thereto" means the installation of new machinery and equipment which would significantly change the conditions under which the certificate was issued.

(2) "Associated facilities" includes but is not limited to transportation links of any kind, aqueducts, diversion dams, transmission substations, storage ponds, reservoirs, and any other device or equipment associated with the production or delivery of the energy form or product produced by a facility, except that the term does not include a facility.

(3) "Board" means the board of natural resources and conservation provided for in 2-15-3302.

(4) "Certificate" means the certificate of

environmental compatibility and public need issued by the board under this chapter that is required for the construction or operation of a facility.

(5) "Commence to construct" means:

(a) any clearing of land, excavation, construction, or other action that would affect the environment of the site or route of a facility but does not mean changes needed for temporary use of sites or routes for nonutility purposes or uses in securing geological data, including necessary borings to ascertain foundation conditions;

(b) the fracturing of underground formations by any means if such activity is related to the possible future development of a gasification facility or a facility employing geothermal resources but does not include the gathering of geological data by boring of test holes or other underground exploration, investigation, or experimentation;

(c) the commencement of eminent domain proceedings under Title 70, chapter 30, for land or rights-of-way upon or over which a facility may be constructed;

(d) the relocation or upgrading of an existing facility defined by (b) or (c) of subsection (7), including upgrading to a design capacity covered by subsection (7)(b), except that the term does not include normal maintenance or repair of an existing facility.

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1 (6) "Department" means the department of natural  
2 resources and conservation provided for in Title 2, chapter  
3 15, part 33.

4 (7) "Facility" means:

5 (a) each plant, unit, or other facility and  
6 associated facilities, except for oil and gas refineries,  
7 designed for or capable of:

8 (i) generating 50 megawatts of electricity or more or  
9 any addition thereto (except pollution control facilities  
10 approved by the department of health and environmental  
11 sciences added to an existing plant) having an estimated  
12 cost in excess of \$250,000;

13 (ii) producing 25 million cubic feet of gas per day or  
14 more or any addition thereto having an estimated cost in  
15 excess of \$250,000;

16 (iii) producing 25,000 barrels of liquid hydrocarbon  
17 products per day or more or any addition thereto having an  
18 estimated cost in excess of \$250,000;

19 (iv) enriching uranium minerals or any addition thereto  
20 having an estimated cost in excess of \$250,000; or

21 (v) utilizing, refining, or converting 500,000 tons of  
22 coal per year or more or any addition thereto having an  
23 estimated cost in excess of \$250,000;

24 (b) each electric transmission line and associated  
25 facilities of a design capacity of more than 69 kilovolts,

1 except that the term does not include an electric  
2 transmission line and associated facilities of a design  
3 capacity of 230 kilovolts or less and 10 miles or less in  
4 length;

5 (c) each pipeline and associated facilities designed  
6 for or capable of transporting gas, water, or liquid  
7 hydrocarbon products from or to a facility located within or  
8 without this state of the size indicated in subsection  
9 (7)(a) of this section;

10 (d) any use of geothermal resources, including the use  
11 of underground space in existence or to be created, for the  
12 creation, use, or conversion of energy, designed for or  
13 capable of producing geothermally delivered power equivalent  
14 to 25 million Btu per hour or more or any addition thereto  
15 having an estimated cost in excess of \$250,000;

16 (e) any underground in situ gasification of coal.

17 (8) "Municipality" means any county or municipality  
18 within this state.

19 (9) "Person" means any individual, group, firm,  
20 partnership, corporation, cooperative, association,  
21 government subdivision, government agency, local government,  
22 or other organization or entity.

23 (10) "Utility" means any person engaged in any aspect  
24 of the production, storage, sale, delivery, or furnishing of  
25 heat, electricity, gas, hydrocarbon products, or energy in

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1 any form for ultimate public use."

-End-

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5 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE  
6 DEFINITION OF A FACILITY UNDER THE MONTANA MAJOR FACILITY  
7 SITING ACT AS IT APPLIES TO GEOTHERMAL RESOURCES; AMENDING  
8 SECTION 75-20-104, MCA."  
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10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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13 context requires otherwise the following definitions apply:

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15 machinery and equipment which would significantly change the  
16 conditions under which the certificate was issued.

17 (2) "Associated facilities" includes but is not  
18 limited to transportation links of any kind, aqueducts,  
19 diversion dams, transmission substations, storage ponds,  
20 reservoirs, and any other device or equipment associated  
21 with the production or delivery of the energy form or  
22 product produced by a facility, except that the term does  
23 not include a facility.

24 (3) "Board" means the board of natural resources and  
25 conservation provided for in 2-15-3302.

1 (4) "Certificate" means the certificate of  
2 environmental compatibility and public need issued by the  
3 board under this chapter that is required for the  
4 construction or operation of a facility.

5 (5) "Commence to construct" means:

6 (a) any clearing of land, excavation, construction, or  
7 other action that would affect the environment of the site  
8 or route of a facility but does not mean changes needed for  
9 temporary use of sites or routes for nonutility purposes or  
10 uses in securing geological data, including necessary  
11 borings to ascertain foundation conditions;

12 (b) the fracturing of underground formations by any  
13 means if such activity is related to the possible future  
14 development of a gasification facility or a facility  
15 employing geothermal resources but does not include the  
16 gathering of geological data by boring of test holes or  
17 other underground exploration, investigation, or  
18 experimentation;

19 (c) the commencement of eminent domain proceedings  
20 under Title 70, chapter 30, for land or rights-of-way upon  
21 or over which a facility may be constructed;

22 (d) the relocation or upgrading of an existing  
23 facility defined by (b) or (c) of subsection (7), including  
24 upgrading to a design capacity covered by subsection (7)(b),  
25 except that the term does not include normal maintenance or

1 repair of an existing facility.

2 (6) "Department" means the department of natural  
3 resources and conservation provided for in Title 2, chapter  
4 15, part 33.

5 (7) "Facility" means:

6 (a) each plant, unit, or other facility and  
7 associated facilities, except for oil and gas refineries,  
8 designed for or capable of:

9 (i) generating 50 megawatts of electricity or more or  
10 any addition thereto (except pollution control facilities  
11 approved by the department of health and environmental  
12 sciences added to an existing plant) having an estimated  
13 cost in excess of \$250,000;

14 (ii) producing 25 million cubic feet of gas per day or  
15 more or any addition thereto having an estimated cost in  
16 excess of \$250,000;

17 (iii) producing 25,000 barrels of liquid hydrocarbon  
18 products per day or more or any addition thereto having an  
19 estimated cost in excess of \$250,000;

20 (iv) enriching uranium minerals or any addition thereto  
21 having an estimated cost in excess of \$250,000; or

22 (v) utilizing, refining, or converting 500,000 tons of  
23 coal per year or more or any addition thereto having an  
24 estimated cost in excess of \$250,000;

25 (b) each electric transmission line and associated

1 facilities of a design capacity of more than 69 kilovolts,  
2 except that the term does not include an electric  
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5 length;

6 (c) each pipeline and associated facilities designed  
7 for or capable of transporting gas, water, or liquid  
8 hydrocarbon products from or to a facility located within or  
9 without this state of the size indicated in subsection  
10 (7)(a) of this section;

11 (d) any use of geothermal resources, including the use  
12 of underground space in existence or to be created, for the  
13 creation, use, or conversion of energy, designed for or  
14 capable of producing geothermally delivered DERIVED power  
15 equivalent to 25 million Btu per hour or more or any  
16 addition thereto having an estimated cost in excess of  
17 \$250,000;

18 (e) any underground in situ gasification of coal.

19 (8) "Municipality" means any county or municipality  
20 within this state.

21 (9) "Person" means any individual, group, firm,  
22 partnership, corporation, cooperative, association,  
23 government subdivision, government agency, local government,  
24 or other organization or entity.

25 (10) "Utility" means any person engaged in any aspect

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2 heat, electricity, gas, hydrocarbon products, or energy in  
3 any form for ultimate public use."

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-End-