

IN THE HOUSE

MARCH 26, 1987

RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS
CONCURRED IN.

MARCH 27, 1987

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

MARCH 31, 1987

ENROLLING REPORT.

APRIL 1, 1987

SIGNED BY SPEAKER.

IN THE SENATE

APRIL 2, 1987

SIGNED BY PRESIDENT.

IN THE HOUSE

APRIL 2, 1987

DELIVERED TO GOVERNOR.

APRIL 7, 1987

RETURNED FROM GOVERNOR WITH
RECOMMENDED AMENDMENTS.

APRIL 8, 1987

SECOND READING, GOVERNOR'S RECOM-
MENDED AMENDMENTS CONCURRED IN.

APRIL 9, 1987

THIRD READING, GOVERNOR'S RECOM-
MENDED AMENDMENTS CONCURRED IN.

TRANSMITTED TO SENATE.

IN THE SENATE

APRIL 11, 1987

SECOND READING, GOVERNOR'S RECOM-
MENDED AMENDMENTS CONCURRED IN.

APRIL 13, 1987

THIRD READING, GOVERNOR'S RECOM-
MENDED AMENDMENTS CONCURRED IN.

RETURNED TO HOUSE.

APRIL 14, 1987

IN THE HOUSE

RECEIVED FROM SENATE

SENT TO ENROLLING.

1 House BILL NO. 397
2 INTRODUCED BY Spencer Jackson

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO INCREASE THE
5 KILOVOLT THRESHOLD FOR THE PURPOSE OF DEFINING A
6 TRANSMISSION LINE UNDER THE MONTANA MAJOR FACILITY SITING
7 ACT; AMENDING SECTION 75-20-104, MCA; AND PROVIDING AN
8 IMMEDIATE EFFECTIVE DATE."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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

12 "75-20-104. Definitions. In this chapter, unless the
13 context requires otherwise, the following definitions apply:

14 (1) "Addition thereto" means the installation of new
15 machinery and equipment which would significantly change the
16 conditions under which the facility is operated.

17 (2) "Application" means an application for a
18 certificate submitted in accordance with this chapter and
19 the rules adopted hereunder.

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

1 does not include a facility or a natural gas or crude oil
2 gathering line 17 inches or less in inside diameter.

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

5 (5) "Board of health" means the board of health and
6 environmental sciences provided for in 2-15-2104.

7 (6) "Certificate" means the certificate of
8 environmental compatibility and public need issued by the
9 board under this chapter that is required for the
10 construction or operation of a facility.

11 (7) "Commence to construct" means:

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

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

25 (c) the commencement of eminent domain proceedings

1 under Title 70, chapter 30, for land or rights-of-way upon
2 or over which a facility may be constructed;

3 (d) the relocation or upgrading of an existing
4 facility defined by (b) or (c) of subsection (10), including
5 upgrading to a design capacity covered by subsection
6 (10)(b), except that the term does not include normal
7 maintenance or repair of an existing facility.

8 (8) "Department" means the department of natural
9 resources and conservation provided for in Title 2, chapter
10 15, part 33.

11 (9) "Department of health" means the department of
12 health and environmental sciences provided for in Title 2,
13 chapter 15, part 21.

14 (10) "Facility" means:

15 (a) except for crude oil and natural gas refineries
16 and those facilities subject to The Montana Strip and
17 Underground Mine Reclamation Act, each plant, unit, or other
18 facility and associated facilities designed for or capable
19 of:

20 (i) generating 50 megawatts of electricity or more or
21 any addition thereto (except pollution control facilities
22 approved by the department of health and environmental
23 sciences added to an existing plant) having an estimated
24 cost in excess of \$10 million;

25 (ii) producing 25 million cubic feet or more of gas

1 derived from coal per day or any addition thereto having an
2 estimated cost in excess of \$10 million;

3 (iii) producing 25,000 barrels of liquid hydrocarbon
4 products per day or more or any addition thereto having an
5 estimated cost in excess of \$10 million;

6 (iv) enriching uranium minerals or any addition thereto
7 having an estimated cost in excess of \$10 million; or

8 (v) utilizing or converting 500,000 tons of coal per
9 year or more or any addition thereto having an estimated
10 cost in excess of \$10 million;

11 (b) each electric transmission line and associated
12 facilities of a design capacity of more than 69 161
13 kilovolts, except that the term does not include an electric
14 transmission line and associated facilities of a design
15 capacity of 230 kilovolts or less and 10 miles or less in
16 length;

17 (c) each pipeline, whether partially or wholly within
18 the state, greater than 17 inches in inside diameter and 30
19 miles in length, and associated facilities;

20 (d) any use of geothermal resources, including the use
21 of underground space in existence or to be created, for the
22 creation, use, or conversion of energy, designed for or
23 capable of producing geothermally derived power equivalent
24 to 25 million Btu per hour or more or any addition thereto
25 having an estimated cost in excess of \$750,000;

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

2 (11) "Person" means any individual, group, firm,
3 partnership, corporation, cooperative, association,
4 government subdivision, government agency, local government,
5 or other organization or entity.

6 (12) "Transmission substation" means any structure,
7 device, or equipment assemblage, commonly located and
8 designed for voltage regulation, circuit protection, or
9 switching necessary for the construction or operation of a
10 proposed transmission line.

11 (13) "Utility" means any person engaged in any aspect
12 of the production, storage, sale, delivery, or furnishing of
13 heat, electricity, gas, hydrocarbon products, or energy in
14 any form for ultimate public use."

15 NEW SECTION. Section 2. Extension of authority. Any
16 existing authority of the board of natural resources and
17 conservation to make rules on the subject of the provisions
18 of this act is extended to the provisions of this act.

19 NEW SECTION. Section 3. Effective date. This act is
20 effective on passage and approval.

-End-

APPROVED BY COMM. ON
NATURAL RESOURCES

HOUSE BILL NO. 397

INTRODUCED BY SPAETH, JACOBSON, CRIPPEN, THOMAS

A BILL FOR AN ACT ENTITLED: "AN ACT TO INCREASE UNDER CERTAIN CONDITIONS THE KILOVOLT THRESHOLD FOR THE PURPOSE OF DEFINING A TRANSMISSION LINE UNDER THE MONTANA MAJOR FACILITY SITING ACT; TO PROVIDE FOR NOTICE TO THE PUBLIC AND TO THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION; AMENDING SECTION 75-20-104, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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 facility is operated.

(2) "Application" means an application for a certificate submitted in accordance with this chapter and the rules adopted hereunder.

(3) "Associated facilities" includes but is not limited to transportation links of any kind, aqueducts, diversion dams, pipelines, 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 or a natural gas or crude oil gathering line 17 inches or less in inside diameter.

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

(5) "Board of health" means the board of health and environmental sciences provided for in 2-15-2104.

(6) "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.

(7) "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



1 experimentation;

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

5 (d) the relocation or upgrading of an existing
6 facility defined by (b) or (c) of subsection (10), including
7 upgrading to a design capacity covered by subsection
8 (10)(b), except that the term does not include normal
9 maintenance or repair of an existing facility.

10 (8) "Department" means the department of natural
11 resources and conservation provided for in Title 2, chapter
12 15, part 33.

13 (9) "Department of health" means the department of
14 health and environmental sciences provided for in Title 2,
15 chapter 15, part 21.

16 (10) "Facility" means:

17 (a) except for crude oil and natural gas refineries
18 and those facilities subject to The Montana Strip and
19 Underground Mine Reclamation Act, each plant, unit, or other
20 facility and associated facilities designed for or capable
21 of:

22 (i) generating 50 megawatts of electricity or more or
23 any addition thereto (except pollution control facilities
24 approved by the department of health and environmental
25 sciences added to an existing plant) having an estimated

1 cost in excess of \$10 million;

2 (ii) producing 25 million cubic feet or more of gas
3 derived from coal per day or any addition thereto having an
4 estimated cost in excess of \$10 million;

5 (iii) producing 25,000 barrels of liquid hydrocarbon
6 products per day or more or any addition thereto having an
7 estimated cost in excess of \$10 million;

8 (iv) enriching uranium minerals or any addition thereto
9 having an estimated cost in excess of \$10 million; or

10 (v) utilizing or converting 500,000 tons of coal per
11 year or more or any addition thereto having an estimated
12 cost in excess of \$10 million;

13 (b) each electric transmission line and associated
14 facilities of a design capacity of more than 69 ~~161~~ 115
15 kilovolts, except that the term:

16 (I) does not include an electric transmission line and
17 associated facilities of a design capacity of 230 kilovolts
18 or less and 10 miles or less in length; AND

19 (II) DOES INCLUDE AN ELECTRIC TRANSMISSION LINE WITH A
20 DESIGN CAPACITY OF MORE THAN 69 KILOVOLTS AND UP TO AND
21 INCLUDING 115 KILOVOLTS FOR WHICH OWNERS OF MORE THAN 25% OF
22 THE PROPERTY COMPRISING THE PROPOSED CENTERLINE LOCATION
23 HAVE NOT AGREED WITH THE APPLICANT TO A RIGHT-OF-WAY OR AN
24 OPTION FOR A RIGHT-OF-WAY FOR THE CENTERLINE LOCATION ON
25 THEIR PROPERTY;

1 (c) each pipeline, whether partially or wholly within
 2 the state, greater than 17 inches in inside diameter and 30
 3 miles in length, and associated facilities;

4 (d) any use of geothermal resources, including the use
 5 of underground space in existence or to be created, for the
 6 creation, use, or conversion of energy, designed for or
 7 capable of producing geothermally derived power equivalent
 8 to 25 million Btu per hour or more or any addition thereto
 9 having an estimated cost in excess of \$750,000;

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

11 (11) "Person" means any individual, group, firm,
 12 partnership, corporation, cooperative, association,
 13 government subdivision, government agency, local government,
 14 or other organization or entity.

15 (12) "Transmission substation" means any structure,
 16 device, or equipment assemblage, commonly located and
 17 designed for voltage regulation, circuit protection, or
 18 switching necessary for the construction or operation of a
 19 proposed transmission line.

20 (13) "Utility" means any person engaged in any aspect
 21 of the production, storage, sale, delivery, or furnishing of
 22 heat, electricity, gas, hydrocarbon products, or energy in
 23 any form for ultimate public use."

24 NEW SECTION. SECTION 2. NOTICE REQUIREMENT FOR
 25 CERTAIN ELECTRIC TRANSMISSION LINES. WHENEVER A PERSON

1 PLANS TO CONSTRUCT AN ELECTRIC TRANSMISSION LINE OR
 2 ASSOCIATED FACILITIES OF A DESIGN CAPACITY OF MORE THAN 69
 3 KILOVOLTS AND UP TO AND INCLUDING 115 KILOVOLTS THAT IS MORE
 4 THAN 10 MILES IN LENGTH, PUBLIC NOTICE MUST BE PROVIDED TO
 5 PERSONS RESIDING IN THE AREA IN WHICH ANY PORTION OF THE
 6 ELECTRIC TRANSMISSION FACILITY MAY BE LOCATED AND NOTICE
 7 MUST BE PROVIDED TO THE DEPARTMENT. THIS NOTICE MUST BE MADE
 8 NO LESS THAN 180 DAYS PRIOR TO THE COMMENCEMENT OF
 9 ACQUISITION OF RIGHT-OF-WAY BY PUBLICATION OF A SUMMARY
 10 DESCRIBING THE TRANSMISSION FACILITY AND THE PROPOSED
 11 LOCATION OF THE FACILITY IN THOSE NEWSPAPERS THAT WILL
 12 SUBSTANTIALLY INFORM THOSE PERSONS OF THE CONSTRUCTION AND
 13 BY MAILING SUCH A SUMMARY TO THE DEPARTMENT.

14 NEW SECTION. Section 3. Extension of authority. Any
 15 existing authority of the board of natural resources and
 16 conservation to make rules on the subject of the provisions
 17 of this act is extended to the provisions of this act.

18 NEW SECTION. SECTION 4. CODIFICATION INSTRUCTION.
 19 SECTION 2 IS INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF
 20 TITLE 75, CHAPTER 20, PART 2, AND THE PROVISIONS OF TITLE
 21 75, CHAPTER 20, PART 2, APPLY TO SECTION 2.

22 NEW SECTION. Section 5. Effective date. This act is
 23 effective on passage and approval.

-End-

1 HOUSE BILL NO. 397

2 INTRODUCED BY SPAETH, JACOBSON, CRIPPEN, THOMAS

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO INCREASE UNDER
5 CERTAIN CONDITIONS THE KILOVOLT THRESHOLD FOR THE PURPOSE OF
6 DEFINING A TRANSMISSION LINE UNDER THE MONTANA MAJOR
7 FACILITY SITING ACT; TO PROVIDE FOR NOTICE TO THE PUBLIC AND
8 TO THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION;
9 AMENDING SECTION 75-20-104, MCA; AND PROVIDING AN IMMEDIATE
10 EFFECTIVE DATE."
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12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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

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15 context requires otherwise, the following definitions apply:16 (1) "Addition thereto" means the installation of new
17 machinery and equipment which would significantly change the
18 conditions under which the facility is operated.19 (2) "Application" means an application for a
20 certificate submitted in accordance with this chapter and
21 the rules adopted hereunder.22 (3) "Associated facilities" includes but is not
23 limited to transportation links of any kind, aqueducts,
24 diversion dams, pipelines, transmission substations, storage
25 ponds, reservoirs, and any other device or equipment

1 associated with the production or delivery of the energy
2 form or product produced by a facility, except that the term
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4 gathering line 17 inches or less in inside diameter.

5 (4) "Board" means the board of natural resources and
6 conservation provided for in 2-15-3302.7 (5) "Board of health" means the board of health and
8 environmental sciences provided for in 2-15-2104.9 (6) "Certificate" means the certificate of
10 environmental compatibility and public need issued by the
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12 construction or operation of a facility.

13 (7) "Commence to construct" means:

14 (a) any clearing of land, excavation, construction, or
15 other action that would affect the environment of the site
16 or route of a facility but does not mean changes needed for
17 temporary use of sites or routes for nonutility purposes or
18 uses in securing geological data, including necessary
19 borings to ascertain foundation conditions;20 (b) the fracturing of underground formations by any
21 means if such activity is related to the possible future
22 development of a gasification facility or a facility
23 employing geothermal resources but does not include the
24 gathering of geological data by boring of test holes or
25 other underground exploration, investigation, or

1 experimentation;

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

5 (d) the relocation or upgrading of an existing
6 facility defined by (b) or (c) of subsection (10), including
7 upgrading to a design capacity covered by subsection
8 (10)(b), except that the term does not include normal
9 maintenance or repair of an existing facility.

10 (8) "Department" means the department of natural
11 resources and conservation provided for in Title 2, chapter
12 15, part 33.

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17 (a) except for crude oil and natural gas refineries
18 and those facilities subject to The Montana Strip and
19 Underground Mine Reclamation Act, each plant, unit, or other
20 facility and associated facilities designed for or capable
21 of:

22 (i) generating 50 megawatts of electricity or more or
23 any addition thereto (except pollution control facilities
24 approved by the department of health and environmental
25 sciences added to an existing plant) having an estimated

1 cost in excess of \$10 million;

2 (ii) producing 25 million cubic feet or more of gas
3 derived from coal per day or any addition thereto having an
4 estimated cost in excess of \$10 million;

5 (iii) producing 25,000 barrels of liquid hydrocarbon
6 products per day or more or any addition thereto having an
7 estimated cost in excess of \$10 million;

8 (iv) enriching uranium minerals or any addition thereto
9 having an estimated cost in excess of \$10 million; or

10 (v) utilizing or converting 500,000 tons of coal per
11 year or more or any addition thereto having an estimated
12 cost in excess of \$10 million;

13 (b) each electric transmission line and associated
14 facilities of a design capacity of more than 69 ~~±6±~~ 115
15 kilovolts, except that the term:

16 (I) does not include an electric transmission line and
17 associated facilities of a design capacity of 230 kilovolts
18 or less and 10 miles or less in length; AND

19 (II) DOES INCLUDE AN ELECTRIC TRANSMISSION LINE WITH A
20 DESIGN CAPACITY OF MORE THAN 69 KILOVOLTS AND UP TO AND
21 INCLUDING 115 KILOVOLTS FOR WHICH OWNERS-OF MORE THAN 25% OF
22 THE OWNERS OWNING MORE THAN 25% OF THE PROPERTY COMPRISING
23 THE PROPOSED CENTERLINE LOCATION HAVE NOT AGREED WITH THE
24 APPLICANT TO A RIGHT-OF-WAY OR AN OPTION FOR A RIGHT-OF-WAY
25 FOR THE CENTERLINE LOCATION ON THEIR PROPERTY;

1 (c) each pipeline, whether partially or wholly within
 2 the state, greater than 17 inches in inside diameter and 30
 3 miles in length, and associated facilities;

4 (d) any use of geothermal resources, including the use
 5 of underground space in existence or to be created, for the
 6 creation, use, or conversion of energy, designed for or
 7 capable of producing geothermally derived power equivalent
 8 to 25 million Btu per hour or more or any addition thereto
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11 (11) "Person" means any individual, group, firm,
 12 partnership, corporation, cooperative, association,
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 16 device, or equipment assemblage, commonly located and
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 21 of the production, storage, sale, delivery, or furnishing of
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 23 any form for ultimate public use."

24 NEW SECTION. SECTION 2. NOTICE REQUIREMENT FOR
 25 CERTAIN ELECTRIC TRANSMISSION LINES. WHENEVER A PERSON

1 PLANS TO CONSTRUCT AN ELECTRIC TRANSMISSION LINE OR
 2 ASSOCIATED FACILITIES OF A DESIGN CAPACITY OF MORE THAN 69
 3 KILOVOLTS AND UP TO AND INCLUDING 115 KILOVOLTS THAT IS MORE
 4 THAN 10 MILES IN LENGTH, PUBLIC NOTICE MUST BE PROVIDED TO
 5 PERSONS RESIDING IN THE AREA IN WHICH ANY PORTION OF THE
 6 ELECTRIC TRANSMISSION FACILITY MAY BE LOCATED AND NOTICE
 7 MUST BE PROVIDED TO THE DEPARTMENT. THIS NOTICE MUST BE MADE
 8 NO LESS THAN 180 DAYS PRIOR TO THE COMMENCEMENT OF
 9 ACQUISITION OF RIGHT-OF-WAY BY PUBLICATION OF A SUMMARY
 10 DESCRIBING THE TRANSMISSION FACILITY AND THE PROPOSED
 11 LOCATION OF THE FACILITY IN THOSE NEWSPAPERS THAT WILL
 12 SUBSTANTIALLY INFORM THOSE PERSONS OF THE CONSTRUCTION AND
 13 BY MAILING SUCH A SUMMARY TO THE DEPARTMENT. THE NOTICE MUST
 14 INFORM THE PROPERTY OWNERS THAT THEY HAVE CERTAIN RIGHTS
 15 CONCERNING THE LOCATION OF THE FACILITY AND THAT MORE
 16 INFORMATION CONCERNING THEIR RIGHTS CAN BE OBTAINED FROM THE
 17 DEPARTMENT OR THE APPLICANT.

18 NEW SECTION. Section 3. Extension of authority. Any
 19 existing authority of the board of natural resources and
 20 conservation to make rules on the subject of the provisions
 21 of this act is extended to the provisions of this act.

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 23 SECTION 2 IS INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF
 24 TITLE 75, CHAPTER 20, PART 2, AND THE PROVISIONS OF TITLE
 25 75, CHAPTER 20, PART 2, APPLY TO SECTION 2.

HB 0397/03

1 NEW SECTION. Section 5. Effective date. This act is
2 effective on passage and approval.

-End-

1 HOUSE BILL NO. 397

2 INTRODUCED BY SPAETH, JACOBSON, CRIPPEN, THOMAS

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO INCREASE UNDER
5 CERTAIN CONDITIONS THE KILOVOLT THRESHOLD FOR THE PURPOSE OF
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18 conditions under which the facility is operated.19 (2) "Application" means an application for a
20 certificate submitted in accordance with this chapter and
21 the rules adopted hereunder.22 (3) "Associated facilities" includes but is not
23 limited to transportation links of any kind, aqueducts,
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25 ponds, reservoirs, and any other device or equipment1 associated with the production or delivery of the energy
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10 environmental compatibility and public need issued by the
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13 (7) "Commence to construct" means:

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15 other action that would affect the environment of the site
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18 uses in securing geological data, including necessary
19 borings to ascertain foundation conditions;20 (b) the fracturing of underground formations by any
21 means if such activity is related to the possible future
22 development of a gasification facility or a facility
23 employing geothermal resources but does not include the
24 gathering of geological data by boring of test holes or
25 other underground exploration, investigation, or

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2 (c) the commencement of eminent domain proceedings

3 under Title 70, chapter 30, for land or rights-of-way upon

4 or over which a facility may be constructed;

5 (d) the relocation or upgrading of an existing

6 facility defined by (b) or (c) of subsection (10), including

7 upgrading to a design capacity covered by subsection

8 (10)(b), except that the term does not include normal

9 maintenance or repair of an existing facility.

10 (8) "Department" means the department of natural

11 resources and conservation provided for in Title 2, chapter

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14 health and environmental sciences provided for in Title 2,

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17 (a) except for crude oil and natural gas refineries

18 and those facilities subject to The Montana Strip and

19 Underground Mine Reclamation Act, each plant, unit, or other

20 facility and associated facilities designed for or capable

21 of:

22 (i) generating 50 megawatts of electricity or more or

23 any addition thereto (except pollution control facilities

24 approved by the department of health and environmental

25 sciences added to an existing plant) having an estimated

1 cost in excess of \$10 million;

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3 derived from coal per day or any addition thereto having an

4 estimated cost in excess of \$10 million;

5 (iii) producing 25,000 barrels of liquid hydrocarbon

6 products per day or more or any addition thereto having an

7 estimated cost in excess of \$10 million;

8 (iv) enriching uranium minerals or any addition thereto

9 having an estimated cost in excess of \$10 million; or

10 (v) utilizing or converting 500,000 tons of coal per

11 year or more or any addition thereto having an estimated

12 cost in excess of \$10 million;

13 (b) each electric transmission line and associated

14 facilities of a design capacity of more than ~~69~~ ±61 ±15 ~~69~~

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18 or less and 10 miles or less in length; AND

19 ~~(ii) DOES NOT INCLUDE AN ELECTRIC TRANSMISSION LINE WITH A~~

20 ~~DESIGN CAPACITY OF MORE THAN 69 KILOVOLTS AND UP TO AND~~

21 ~~INCLUDING 115 KILOVOLTS FOR WHICH OWNERS OF MORE THAN 25% OF~~

22 ~~THE OWNERS OWNING MORE THAN 25% OF THE PROPERTY COMPRISING~~

23 ~~THE PROPOSED CENTERLINE LOCATION HAVE NOT AGREED WITH THE~~

24 ~~APPLICANT TO A RIGHT-OF-WAY OR AN OPTION FOR A RIGHT-OF-WAY~~

25 ~~FOR THE CENTERLINE LOCATION ON THEIR PROPERTY;~~

1 (II) DOES NOT INCLUDE AN ELECTRIC TRANSMISSION LINE
 2 WITH A DESIGN CAPACITY OF MORE THAN 69 KILOVOLTS AND UP TO
 3 AND INCLUDING 115 KILOVOLTS FOR WHICH THE PERSON PLANNING TO
 4 CONSTRUCT THE LINE HAS OBTAINED RIGHT-OF-WAY AGREEMENTS OR
 5 OPTIONS FOR A RIGHT-OF-WAY FROM MORE THAN 75% OF THE OWNERS
 6 WHO COLLECTIVELY OWN MORE THAN 75% OF THE PROPERTY ALONG THE
 7 CENTERLINE;

8 (c) each pipeline, whether partially or wholly within
 9 the state, greater than 17 inches in inside diameter and 30
 10 miles in length, and associated facilities;

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 derived power equivalent
 15 to 25 million Btu per hour or more or any addition thereto
 16 having an estimated cost in excess of \$750,000;

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 19 partnership, corporation, cooperative, association,
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 21 or other organization or entity.

22 (12) "Transmission substation" means any structure,
 23 device, or equipment assemblage, commonly located and
 24 designed for voltage regulation, circuit protection, or
 25 switching necessary for the construction or operation of a

1 proposed transmission line.

2 (13) "Utility" means any person engaged in any aspect
 3 of the production, storage, sale, delivery, or furnishing of
 4 heat, electricity, gas, hydrocarbon products, or energy in
 5 any form for ultimate public use."

6 NEW SECTION. SECTION 2. NOTICE REQUIREMENT FOR
 7 CERTAIN ELECTRIC TRANSMISSION LINES. WHENEVER A PERSON
 8 PLANS TO CONSTRUCT AN ELECTRIC TRANSMISSION LINE OR
 9 ASSOCIATED FACILITIES OF A DESIGN CAPACITY OF MORE THAN 69
 10 KILOVOLTS AND UP TO AND INCLUDING 115 KILOVOLTS THAT IS MORE
 11 THAN 10 MILES IN LENGTH, PUBLIC NOTICE MUST BE PROVIDED TO
 12 PERSONS RESIDING IN THE AREA IN WHICH ANY PORTION OF THE
 13 ELECTRIC TRANSMISSION FACILITY MAY BE LOCATED AND NOTICE
 14 MUST BE PROVIDED TO THE DEPARTMENT. THIS NOTICE MUST BE MADE
 15 NO LESS THAN 180 DAYS PRIOR TO THE COMMENCEMENT OF
 16 ACQUISITION OF RIGHT-OF-WAY BY PUBLICATION OF A SUMMARY
 17 DESCRIBING THE TRANSMISSION FACILITY AND THE PROPOSED
 18 LOCATION OF THE FACILITY IN THOSE NEWSPAPERS THAT WILL
 19 SUBSTANTIALLY INFORM THOSE PERSONS OF THE CONSTRUCTION AND
 20 BY MAILING SUCH A SUMMARY TO THE DEPARTMENT. THE NOTICE MUST
 21 INFORM THE PROPERTY OWNERS THAT THEY HAVE CERTAIN RIGHTS
 22 CONCERNING THE LOCATION OF THE FACILITY AND THAT MORE
 23 INFORMATION CONCERNING THEIR RIGHTS CAN BE OBTAINED FROM THE
 24 DEPARTMENT OR THE APPLICANT PERSON PLANNING TO CONSTRUCT THE
 25 TRANSMISSION LINE.

1 NEW SECTION. Section 3. Extension of authority. Any
2 existing authority of the board of natural resources and
3 conservation to make rules on the subject of the provisions
4 of this act is extended to the provisions of this act.

5 NEW SECTION. SECTION 4. CODIFICATION INSTRUCTION.
6 SECTION 2 IS INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF
7 TITLE 75, CHAPTER 20, PART 2, AND THE PROVISIONS OF TITLE
8 75, CHAPTER 20, PART 2, APPLY TO SECTION 2.

9 NEW SECTION. Section 5. Effective date. This act is
10 effective on passage and approval.

-End-

STANDING COMMITTEE REPORT

SENATE

March 16

19 87

MR. PRESIDENT

We, your committee on NATURAL RESOURCES

having had under consideration HOUSE BILL No. 397

THIRD reading copy (BLUE)
color

INCREASES THE KILOVOLT THRESHOLD FOR TRANSMISSION LINES UNDER MFS
SPAETH (JACOBSON)

Respectfully report as follows: That HOUSE BILL No. 397

BE AMENDED AS FOLLOWS:

1. Page 4, line 14.

Following: "±6±"

Strike: "115"

Insert: "69"

2. Page 4, lines 19 through 25.

Following: line 18

Strike: lines 19 through 25 in their entirety

Insert: "(ii) does not include an electric transmission line with a design capacity of more than 69 kilovolts and up to and including 115 kilovolts for which the person planning to construct the line has obtained right-of-way agreements or options for a right-of-way from more than 75% of the owners who collectively own more than 75% of the property along the centerline;"

3. Page 6, line 17.

Following: "THE"

Strike: "APPLICANT"

Insert: "person planning to construct the transmission line"

AND AS AMENDED
BE CONCURRED IN

~~XXXXXXXX~~

~~XXXXXXXX~~

Thomas F. Keating
Senator Thomas F. Keating,

Chairman.

3/16/87
3:05
JJS

GOVERNOR'S AMENDMENTS
TO HOUSE BILL 397
(REFERENCE COPY)
(APRIL 7, 1987)

1. Title, line 8.
Following: "CONSERVATION;"
Insert: "TO PROVIDE FOR VERIFICATION OF LANDOWNER
CONSENT;"
2. Page 6, line 11.
Following: "LENGTH,"
Insert: "it must provide"
Following: "NOTICE"
Strike: "MUST BE PROVIDED"
3. Page 6, lines 13 and 14.
Following: "AND" on line 13
Strike: remainder of line 13 through "PROVIDED" on line 14
4. Page 6, line 21.
Following: "OWNERS"
Strike: "THAT THEY HAVE CERTAIN RIGHTS"
Insert: "of their rights under this chapter"
5. Page 6, lines 24 and 25.
Following: "DEPARTMENT" on line 24
Strike: remainder of lines 24 and 25
6. Page 6.
Following: line 25
Insert: "NEW SECTION. Section 3. Verification. (1) Prior to constructing a transmission line under subsection (10)(b)(II) of 75-20-104 the person planning to construct the line must provide to the department within 36 months of the date of the public notice provided under [section 2] unless extended by the board for good cause: (a) copies of the right-of-way agreements or options for a right-of-way containing sufficient information to establish landowner consent to construct the line; and (b) sufficient information for the department to verify to the board that the requirements of subsection (10)(b)(II) of 75-20-104 are satisfied.
(2) The provisions of subsection (10)(b)(II) of 75-20-104 do not apply to any facility for which public notice under [section 2] has been given but for which the requirements of this subsection (1) have not been complied with."
Re-number: subsequent sections
7. Page 7, line 6.
Strike: "SECTION 2 IS"
Insert: "Sections 2 and 3 are"

8. Page 7, line 8.
Following: "TO"
Strike: "SECTION 2"
Insert: "sections 2 and 3"

9. Page 7.
Following: line 8
Insert: "NEW SECTION. Section 6. Applicability. The provisions of this act do not apply to any transmission lines or associated facilities that have been certified under this chapter prior to the effective date of this act."
Renumber: subsequent section

HOUSE BILL NO. 397

INTRODUCED BY SPAETH, JACOBSON, CRIPPEN, THOMAS

A BILL FOR AN ACT ENTITLED: "AN ACT TO INCREASE UNDER CERTAIN CONDITIONS THE KILOVOLT THRESHOLD FOR THE PURPOSE OF DEFINING A TRANSMISSION LINE UNDER THE MONTANA MAJOR FACILITY SITING ACT; TO PROVIDE FOR NOTICE TO THE PUBLIC AND TO THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION; TO PROVIDE FOR VERIFICATION OF LANDOWNER CONSENT; AMENDING SECTION 75-20-104, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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 facility is operated.

(2) "Application" means an application for a certificate submitted in accordance with this chapter and the rules adopted hereunder.

(3) "Associated facilities" includes but is not limited to transportation links of any kind, aqueducts, diversion dams, pipelines, 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 or a natural gas or crude oil gathering line 17 inches or less in inside diameter.

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

(5) "Board of health" means the board of health and environmental sciences provided for in 2-15-2104.

(6) "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.

(7) "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



1 other underground exploration, investigation, or
2 experimentation;

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

6 (d) the relocation or upgrading of an existing
7 facility defined by (b) or (c) of subsection (10), including
8 upgrading to a design capacity covered by subsection
9 (10)(b), except that the term does not include normal
10 maintenance or repair of an existing facility.

11 (8) "Department" means the department of natural
12 resources and conservation provided for in Title 2, chapter
13 15, part 33.

14 (9) "Department of health" means the department of
15 health and environmental sciences provided for in Title 2,
16 chapter 15, part 21.

17 (10) "Facility" means:

18 (a) except for crude oil and natural gas refineries
19 and those facilities subject to The Montana Strip and
20 Underground Mine Reclamation Act, each plant, unit, or other
21 facility and associated facilities designed for or capable
22 of:

23 (i) generating 50 megawatts of electricity or more or
24 any addition thereto (except pollution control facilities
25 approved by the department of health and environmental

1 sciences added to an existing plant) having an estimated
2 cost in excess of \$10 million;

3 (ii) producing 25 million cubic feet or more of gas
4 derived from coal per day or any addition thereto having an
5 estimated cost in excess of \$10 million;

6 (iii) producing 25,000 barrels of liquid hydrocarbon
7 products per day or more or any addition thereto having an
8 estimated cost in excess of \$10 million;

9 (iv) enriching uranium minerals or any addition thereto
10 having an estimated cost in excess of \$10 million; or

11 (v) utilizing or converting 500,000 tons of coal per
12 year or more or any addition thereto having an estimated
13 cost in excess of \$10 million;

14 (b) each electric transmission line and associated
15 facilities of a design capacity of more than 69 ~~161~~ ~~115~~ 69
16 kilovolts, except that the term:

17 (I) does not include an electric transmission line and
18 associated facilities of a design capacity of 230 kilovolts
19 or less and 10 miles or less in length; AND

20 ~~{II} DOES INCLUDE AN ELECTRIC TRANSMISSION LINE WITH A~~
21 ~~DESIGN CAPACITY OF MORE THAN 69 KILOVOLTS AND UP TO AND~~
22 ~~INCLUDING 115 KILOVOLTS FOR WHICH OWNERS OF MORE THAN 25% OF~~
23 ~~THE OWNERS OWNING MORE THAN 25% OF THE PROPERTY COMPRISING~~
24 ~~THE PROPOSED CENTERLINE LOCATION HAVE NOT AGREED WITH THE~~
25 ~~APPLICANT TO A RIGHT-OF-WAY OR AN OPTION FOR A RIGHT-OF-WAY~~

FOR THE CENTERLINE LOCATION ON THEIR PROPERTY;

(II) DOES NOT INCLUDE AN ELECTRIC TRANSMISSION LINE WITH A DESIGN CAPACITY OF MORE THAN 69 KILOVOLTS AND UP TO AND INCLUDING 115 KILOVOLTS FOR WHICH THE PERSON PLANNING TO CONSTRUCT THE LINE HAS OBTAINED RIGHT-OF-WAY AGREEMENTS OR OPTIONS FOR A RIGHT-OF-WAY FROM MORE THAN 75% OF THE OWNERS WHO COLLECTIVELY OWN MORE THAN 75% OF THE PROPERTY ALONG THE CENTERLINE;

(c) each pipeline, whether partially or wholly within the state, greater than 17 inches in inside diameter and 30 miles in length, and associated facilities;

(d) any use of geothermal resources, including the use of underground space in existence or to be created, for the creation, use, or conversion of energy, designed for or capable of producing geothermally derived power equivalent to 25 million Btu per hour or more or any addition thereto having an estimated cost in excess of \$750,000;

(e) any underground in situ gasification of coal.

(11) "Person" means any individual, group, firm, partnership, corporation, cooperative, association, government subdivision, government agency, local government, or other organization or entity.

(12) "Transmission substation" means any structure, device, or equipment assemblage, commonly located and designed for voltage regulation, circuit protection, or

switching necessary for the construction or operation of a proposed transmission line.

(13) "Utility" means any person engaged in any aspect of the production, storage, sale, delivery, or furnishing of heat, electricity, gas, hydrocarbon products, or energy in any form for ultimate public use."

NEW SECTION. SECTION 2. NOTICE REQUIREMENT FOR CERTAIN ELECTRIC TRANSMISSION LINES. WHENEVER A PERSON PLANS TO CONSTRUCT AN ELECTRIC TRANSMISSION LINE OR ASSOCIATED FACILITIES OF A DESIGN CAPACITY OF MORE THAN 69 KILOVOLTS AND UP TO AND INCLUDING 115 KILOVOLTS THAT IS MORE THAN 10 MILES IN LENGTH, IT MUST PROVIDE PUBLIC NOTICE MUST BE--PROVIDED TO PERSONS RESIDING IN THE AREA IN WHICH ANY PORTION OF THE ELECTRIC TRANSMISSION FACILITY MAY BE LOCATED AND NOTICE-MUST-BE-PROVIDED TO THE DEPARTMENT. THIS NOTICE MUST BE MADE NO LESS THAN 180 DAYS PRIOR TO THE COMMENCEMENT OF ACQUISITION OF RIGHT-OF-WAY BY PUBLICATION OF A SUMMARY DESCRIBING THE TRANSMISSION FACILITY AND THE PROPOSED LOCATION OF THE FACILITY IN THOSE NEWSPAPERS THAT WILL SUBSTANTIALLY INFORM THOSE PERSONS OF THE CONSTRUCTION AND BY MAILING SUCH A SUMMARY TO THE DEPARTMENT. THE NOTICE MUST INFORM THE PROPERTY OWNERS THAT-THEY-HAVE-CERTAIN-RIGHTS OF THEIR RIGHTS UNDER THIS CHAPTER CONCERNING THE LOCATION OF THE FACILITY AND THAT MORE INFORMATION CONCERNING THEIR RIGHTS CAN BE OBTAINED FROM THE DEPARTMENT OR-THE APPLICANT

PERSON-PLANNING-TO-CONSTRUCT-THE-TRANSMISSION-LINE:

NEW SECTION. SECTION 3. VERIFICATION. (1) PRIOR TO CONSTRUCTING A TRANSMISSION LINE UNDER SUBSECTION (10)(B)(II) OF 75-20-104, THE PERSON PLANNING TO CONSTRUCT THE LINE MUST PROVIDE TO THE DEPARTMENT WITHIN 36 MONTHS OF THE DATE OF THE PUBLIC NOTICE PROVIDED UNDER [SECTION 2], UNLESS EXTENDED BY THE BOARD FOR GOOD CAUSE:

(A) COPIES OF THE RIGHT-OF-WAY AGREEMENTS OR OPTIONS FOR A RIGHT-OF-WAY CONTAINING SUFFICIENT INFORMATION TO ESTABLISH LANDOWNER CONSENT TO CONSTRUCT THE LINE; AND

(B) SUFFICIENT INFORMATION FOR THE DEPARTMENT TO VERIFY TO THE BOARD THAT THE REQUIREMENTS OF SUBSECTION (10)(B)(II) OF 75-20-104 ARE SATISFIED.

(2) THE PROVISIONS OF SUBSECTION (10)(B)(II) OF 75-20-104 DO NOT APPLY TO ANY FACILITY FOR WHICH PUBLIC NOTICE UNDER [SECTION 2] HAS BEEN GIVEN BUT FOR WHICH THE REQUIREMENTS OF SUBSECTION (1) HAVE NOT BEEN COMPLIED WITH.

NEW SECTION. Section 4. Extension of authority. Any existing authority of the board of natural resources and conservation to make rules on the subject of the provisions of this act is extended to the provisions of this act.

NEW SECTION. SECTION 5. CODIFICATION INSTRUCTION. SECTION-2-IS SECTIONS 2 AND 3 ARE INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF TITLE 75, CHAPTER 20, PART 2, AND THE PROVISIONS OF TITLE 75, CHAPTER 20, PART 2, APPLY TO SECTION

2 SECTIONS 2 AND 3.

NEW SECTION. SECTION 6. APPLICABILITY. THE PROVISIONS OF THIS ACT DO NOT APPLY TO ANY TRANSMISSION LINES OR ASSOCIATED FACILITIES THAT HAVE BEEN CERTIFIED UNDER THIS CHAPTER PRIOR TO THE EFFECTIVE DATE OF THIS ACT.

NEW SECTION. Section 7. Effective date. This act is effective on passage and approval.

-End-