
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

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INTRODUCED BY STUBAN, BROWN, KUKOVICH, COHEN, DeWEESE, HELFRICK,
HASAY, COSLETT AND D. R. WRIGHT, APRIL 24, 1979

REFERRED TO COMMITTEE ON MINES AND ENERGY MANAGEMENT,
APRIL 24, 1979

AN ACT

1 Providing for the location of electric power plants, creating
2 the Power Plant Siting Commission, and making appropriations.

3 TABLE OF CONTENTS

- 4 Section 1. Short title.
- 5 Section 2. Declaration of policy.
- 6 Section 3. Definitions.
- 7 Section 4. Location of electric power plants.
- 8 Section 5. Plant fuel and output capacity.
- 9 Section 6. Plants per site.
- 10 Section 7. Emissions.
- 11 Section 8. Limitation on power export.
- 12 Section 9. Transmission lines.
- 13 Section 10. Power Plant Siting Commission.
- 14 Section 11. Powers and duties of commission.
- 15 Section 12. Long-range planning.
- 16 Section 13. Certification of power plants.
- 17 Section 14. Interagency cooperation.

1 Section 15. Judicial review.
2 Section 16. Actions to enjoin violations.
3 Section 17. Reimbursement of costs.
4 Section 18. Annual distributions to reduce tax burden.
5 Section 19. Appropriations.
6 Section 20. Effective date.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. Short title.

10 This act shall be known and may be cited as the "Power Plant
11 Siting Act."

12 Section 2. Declaration of policy.

13 Because the Commonwealth has vast reserves of coal, the
14 public interest and the economic well-being, health and safety
15 of our citizens warrant the safe, efficient and environmentally
16 responsible use of coal, wood, water, wind and sun as fuel for
17 all future electric power operating plants within the
18 Commonwealth. Where available resources and conditions permit
19 geothermal, solar, tidal, waste, wind and wood sources of power
20 shall be given priority.

21 Section 3. Definitions.

22 The following words and phrases when used in this act shall
23 have, unless the context clearly indicates otherwise, the
24 meanings given to them in this section:

25 "Certificate." A certificate of public need and
26 environmental compatibility issued by the commission.

27 "Commission." The Power Plant Siting Commission.

28 "Construction."

29 (1) Any disturbance or clearing of the land, erection
30 thereon of any structure, or other substantial action that

would affect the natural environment of the site or route.

(2) The term "construction does not include preconstruction surveying, monitoring or testing (including borings) to determine foundation conditions or to establish background information related to the suitability of the site or to the protection of environmental values.

"Utility." Any person, corporation, political subdivision or other entity which owns or operates a power plant within this Commonwealth, or which intends to construct such a plant, however organized, whether investor owned, publicly owned or cooperatively owned.

Section 4. Location of electric power plants.

Electric power plants shall be located in the area where power is needed, and shall be designed to permit the recycling of waste heat to buildings in nearby communities.

Section 5. Plant fuel and output capacity.

Coal plant capacity shall not be less than 350 nor more than 800 megawatts. Plants fueled by geothermal, solar, tidal, waste, wind and wood may have a plant capacity of less than 350 megawatts.

Section 6. Plants per site.

There shall not be more than two plants located on an individual site, and the combined output shall not exceed 1600 megawatts.

Section 7. Emissions.

The emission levels of all power plants shall conform to the act of January 8, 1960 (1959 P.L.2119, No.787), known as the "Air Pollution Control Act," and to all other State and Federal pollution control laws. Existing generating plants with a remaining life expectancy of 15 years or more shall be retro-

1 fitted with anti-pollution devices by 1983.

2 Section 8. Limitation on power export.

3 No more than 15% of the generating capacity of any power
4 plant within the Commonwealth shall be exported.

5 Section 9. Transmission lines.

6 Electric transmission lines shall not exceed 500 kilovolts,
7 and shall be installed and operated so as to prevent corona
8 discharge into the surrounding environment.

9 Section 10. Power Plant Siting Commission.

10 (a) Establishment and composition.--There is hereby
11 established the Power Plant Siting Commission which shall
12 consist of the following:

13 (1) The designees of the:

14 Secretary of Agriculture

15 Secretary of Commerce

16 Secretary of Community Affairs

17 Secretary of Environmental Resources

18 Secretary of Labor and Industry

19 Secretary of Transportation

20 Chairman of the Public Utility Commission.

21 (2) Four citizens appointed by the Governor with the
22 advice and consent of the Senate. The four citizen members
23 shall consist of one member of each of the following
24 organizations, which may submit a list of prospective
25 candidates to the Governor for consideration:

26 Common Cause

27 Friends of the Earth

28 Pennsylvania Chamber of Commerce

29 The Sierra Club

30 (3) Ad hoc members consisting of one county

1 commissioner, one township supervisor and one member of the
2 borough council of any such political subdivision involved.

3 (b) Special provisions for citizen members.--No citizen
4 member of the commission shall have any financial interest in
5 any utility. Citizen members shall serve a term of four years
6 and may be reappointed. Every citizen member shall be entitled
7 to reimbursement for his actual expenses incurred in the
8 performance of his duties and compensation of \$60 for each day
9 of four hours or less and \$100 for each day of more than four
10 hours in which he participates in the business of the
11 commission.

12 (c) Chairman.--The Governor shall appoint, with the advice
13 and consent of the Senate, a person who shall serve as the
14 chairman of the commission without a vote except where necessary
15 to break a tie vote. The compensation of the chairman shall be
16 determined by the commission after consultation with the
17 Executive Board.

18 (d) Staff.--The commission shall employ an executive
19 director and such other clerical and professional employees as
20 shall be required to administer the provisions of this act.

21 Section 11. Powers and duties of commission.

22 The commission shall have the power and its duty shall be to:

23 (1) Review and compile the long-range power need reports
24 filed under this act and make the information contained in
25 the reports readily available to the public and interested
26 government agencies.

27 (2) Compile and publish each year a description of the
28 type and general location of each proposed power plant as
29 contained in the long-range plans of the utilities pursuant
30 to this act, identifying for each location the year when

1 construction is expected to commence and make such
2 information readily available to the general public, to each
3 newspaper of daily or weekly circulation within the area
4 affected by the proposed facility and to interested
5 government agencies.

6 (3) Conduct mandatory public hearings with respect to
7 any proposed power plant identified five years in advance of
8 construction and decide whether or not the facility should be
9 approved for inclusion in the utility's five-year inventory
10 of sites and lines. The hearings shall be held promptly after
11 the locations are first identified and the decisions shall be
12 based upon the principles set forth in this act.

13 (4) Conduct public hearings prior to the issuance of any
14 certificate for a power plant as near as feasible to the
15 proposed site within one year from the submission of an
16 application for a certificate and conduct at least one public
17 hearing for transmission lines as near as possible to the
18 proposed transmission line. The commission shall hold as many
19 additional hearings along the proposed route of the
20 transmission line as may be necessary to give the public an
21 adequate opportunity to be heard.

22 (5) Require such information from utilities as the
23 commission deems necessary to accompany applications for
24 certificates and require the utilities to assist in the
25 conduct of hearings and any investigations or studies which
26 the commission may undertake.

27 (6) Conduct such inspections, surveys, monitoring or
28 testing, with or without notice to the utility, as it deems
29 necessary or appropriate to carry out the purposes of this
30 act.

1 (7) Approve, with or without conditions, or disapprove
2 applications for certification filed under section 13 within
3 two years of receipt of the application.

4 (8) Adopt such rules and regulations as are necessary to
5 implement this act.

6 Section 12. Long-range planning.

7 The commission shall prepare and maintain a comprehensive,
8 integrated power plant plan for this Commonwealth. Every utility
9 shall prepare and submit annually to the commission a long-range
10 power plant report. The report shall contain a five-year
11 forecast of loads, resources and prospective sites and shall
12 describe the power plants which will be required to supply
13 system demands during the forecast period. The report shall
14 cover the ten-year period next succeeding the date of the report
15 and shall be in such form as may be prescribed by the
16 commission. Each utility shall provide in its report the
17 following information:

18 (1) A description of the general location, size and type
19 of all power plants to be constructed within this
20 Commonwealth during the ensuing five years by the utility.

21 (2) An identification, description and location of all
22 existing power plants within this Commonwealth to be removed
23 from service upon the completion of the projects described or
24 within the time period provided in this act.

25 (3) Identification of the location of tentative sites
26 within this Commonwealth upon which construction of a power
27 plant is scheduled to commence within the ensuing five-year
28 period. For each tentative site identified, the utility shall
29 describe the type and size of power plant to be constructed,
30 analyze anticipated impact of the facility on the environment

1 and public safety and health and set forth the plan of the
2 utility for avoiding or minimizing any adverse effects on the
3 environment and public safety and health including, but not
4 limited to, those caused by waste products of any kind as
5 well as heated water. The study shall include a cost-benefit
6 analysis or fluidized bed and magneto-hydrodynamic systems.

7 (4) A description of plan of the utility to coordinate
8 its power plant plans with those of other utilities so as to
9 provide an integrated regional and Commonwealth plan for
10 meeting the energy needs of the region and this Commonwealth.

11 (5) A description of its plan to involve Federal,
12 regional, Commonwealth and local government conservation and
13 land-use agencies, as well as public conservation and
14 environmental protection organizations, in their planning so
15 as to identify and minimize environmental problems at the
16 earliest possible stage in the planning process.

17 (6) A statement of the estimate of demand by the utility
18 for power in each year of the time period set under this act.
19 This estimate shall also state particularly:

20 (i) That portion of the demand for power which is to
21 be met by each power plant.

22 (ii) That portion of the demand which originates
23 outside this Commonwealth and that portion which
24 originates within this Commonwealth.

25 (iii) That portion of the power to be produced or
26 transmitted by any power plant which is to be allocated
27 to users within this Commonwealth.

28 (iv) That portion of the power to be produced or
29 transmitted by each power plant which will be allocated
30 to users outside this Commonwealth.

1 (7) Such additional information as the commission may
2 require to implement this act.

3 Section 13. Certification of power plants.

4 (a) General rule.--A utility shall not commence construction
5 or begin operation of a power plant without obtaining a
6 certificate of public need and environmental compatibility from
7 the commission. The facility shall be constructed, operated and
8 maintained in accordance with the terms and conditions required
9 by the commission and set forth in the certificate.

10 (b) Application.--Application for a certificate shall be on
11 such forms and contain such information as required by the
12 commission, including statements that either the necessary
13 requirements have been met and approvals or consents have been
14 obtained or that the plant complies with the standards and
15 criteria applicable to it, or the reasons why such standards and
16 criteria should be varied for the site, and shall be filed with
17 the commission not less than two years prior to commencement of
18 construction. An application may be amended during the period of
19 review with the approval of the commission. All power plants,
20 the certification of which is applied for, shall be planned for
21 construction on sites in the five-year inventory of sites of the
22 applicant approved by the commission pursuant to this act unless
23 for good cause shown the commission waives this requirement.

24 (c) Fee.--Each application for a certificate filed shall be
25 accompanied by a fee of \$2,500 which shall be paid into the
26 General Fund for use in defraying the administrative costs of
27 the commission.

28 (d) Issuance.--No certificate shall be issued until the
29 commission has determined that:

30 (1) The use of the site or routes for which a

1 certificate is sought is consonant with the protection of the
2 environment, public safety and health as provided in this
3 act.

4 (2) The plant for which a certificate is sought is
5 necessary to meet the energy needs of this Commonwealth.

6 (3) The plant is designed to operate in a safe, energy-
7 efficient and healthful manner.

8 (4) The plant is consistent with the long-range planning
9 objectives of this Commonwealth.

10 (5) The plant will have no substantial adverse effect
11 upon the surrounding environment, reserves and historic
12 areas.

13 (6) All practical alternative sites and routes have been
14 considered.

15 (7) The provisions of this act have been satisfied and
16 all requirements met or waived and approvals obtained or
17 waived by the agency involved or the commission.

18 (e) Expiration or extension.--Any certificate granted by the
19 commission shall expire if the construction of the plant has not
20 been commenced within five years of the date of issuance. A
21 certificate shall be extended, without an additional fee, for
22 one two-year period upon written request by the utility to the
23 commission.

24 (f) Existing plants.--Utilities which have commenced or
25 completed construction of power plants which are not in
26 operation on the effective date of this act shall be issued a
27 certificate, without payment of fee, upon filing with the
28 commission an application containing the following:

29 (1) A description of the location, type of plant and
30 date operation is scheduled to begin.

1 (2) Evidence that all licenses, permits and approvals
2 required by the Federal, regional, Commonwealth and local
3 governments for the protection of the environment and public
4 welfare, safety and health have been obtained.

5 (3) A statement of the quantity of power to be produced
6 or transmitted, the geographic area to be serviced by the
7 plant and the quantity of power to be generated or
8 transmitted for use within this Commonwealth.

9 Section 14. Interagency cooperation.

10 The Pennsylvania Public Utility Commission, Department of
11 Environmental Resources and other Commonwealth agencies are
12 authorized and required to cooperate with the commission so as
13 to fully coordinate and effectuate the purposes of this act. All
14 Commonwealth agencies shall make available to the commission
15 such information, staff expertise and technical assistance as
16 may be necessary.

17 Section 15. Judicial review.

18 Within 30 days of the grant, denial, revocation or suspension
19 of a certificate by the commission, any aggrieved party to the
20 proceeding may appeal the action of the commission to the
21 Commonwealth Court. The findings of fact on which such decision
22 is based shall be conclusive if supported by substantial
23 evidence on the record considered as a whole.

24 Section 16. Actions to enjoin violations.

25 When the commission determines that a utility has begun to
26 construct, operate or maintain a power plant as provided in this
27 act without having first obtained a certificate, or has begun to
28 construct, operate or maintain a power plant other than in
29 compliance with the certificate issued to it, or has caused any
30 of these acts to occur, it shall so notify the Attorney General

1 who shall bring an action for injunctive and other appropriate
2 relief on behalf of the Commonwealth.

3 Section 17. Reimbursement of costs.

4 (a) Planning costs.--Any political subdivision, referred to
5 in this act as "local taxing authority," which would be directly
6 affected by the location of a proposed power plant owned by a
7 public utility for which certification under section 13(a) is
8 sought shall be eligible for reimbursement for legal and expert
9 consultant fees, planning costs and other expenses incurred in
10 determining the impact of the proposed plant and costs incurred
11 in preparing testimony incident thereto. The reimbursement shall
12 be in an amount equal to the actual expenditures of the local
13 taxing authority for any proposed site.

14 (b) Impact costs.--Each local taxing authority which is
15 directly affected by the location of a power plant owned by a
16 public utility certified pursuant to the provisions of section
17 13 shall be eligible for reimbursement for the actual costs
18 directly related to the construction of a power plant as
19 determined by the commission. Reimbursable items of expenditure
20 shall include, but are not limited to, public service costs for
21 fire, police, roads, solid waste, sewage, education, health,
22 welfare, recreation and related administration.

23 (c) Revolving fund for financing capital projects.--Any
24 municipality that is required to construct or expand a major
25 public capital facility including, but not limited to, streets
26 or highways, bridges, sewage disposal and sewage treatment
27 facilities, solely by virtue of the direct or indirect effects
28 attributable to the location and construction of a power plant
29 owned by a public utility shall be eligible for an advance from
30 a revolving fund hereby established to finance part or all of

1 such capital facility. Any advance from the fund shall be repaid
2 in annual installments and shall not bear interest. The
3 commission shall establish a repayment schedule for each
4 advance, not to exceed ten years, taking into account the amount
5 thereof and the fiscal capacity of the municipality.

6 (d) Administration of payments.--The distributions provided
7 for in subsections (a), (b) and (c) shall be made by the
8 commission from funds appropriated to it for such purposes. In
9 all cases the commission shall insure that:

10 (1) All costs and expenditures reimbursed are
11 attributable to the location or construction of the power
12 plant.

13 (2) The costs and expenditures are necessary to the
14 welfare and well-being of the residents of the local taxing
15 authority and do not finance a level of public services
16 higher than would exist absent the power plant.

17 (3) No payment shall exceed actual costs incurred or to
18 be incurred by a local taxing authority.

19 Section 18. Annual distributions to reduce tax burden.

20 (a) General rule.--The local taxing authorities in which is
21 located every electric generating plant owned by a public
22 utility subject to the jurisdiction of the Pennsylvania Public
23 Utility Commission or the corresponding regulatory agency of any
24 other state or of the United States, but not including a
25 municipality or municipal authority, shall be entitled to an
26 annual subvention based on actual cost of providing additional
27 services such as roads, classrooms, police, fire, sewer and
28 waste disposal.

29 (b) Plant located in more than one county.--In the event an
30 electric generating plant is located in more than one county,

1 the gross amount calculated under subsection (a) shall be
2 allocated among the counties on the basis of the actual costs of
3 providing additional services.

4 (c) Reports.--Annually, on or before April 1, every public
5 utility shall report to the commission the following information
6 for each electric generating plant which it operates:

7 (1) The location by local taxing authority.

8 (2) The assessed value for county tax purposes of the
9 plant (including such surrounding real property as is
10 necessary for its operation) and the assessed values of the
11 portions of the plant, if any, which are not located within
12 coincident local taxing authorities.

13 (3) The net kilowatt-hours of electricity generated
14 during the preceding calendar year. In the case of pumped
15 storage generating plants, net electricity generated shall be
16 generation exclusive of plant use.

17 (4) Such additional information as may be required by
18 the commission to administer this act.

19 (d) Payments.--The annual subvention authorized by this
20 section shall be calculated by the commission on the basis of
21 the information furnished pursuant to subsection (a) and payment
22 shall be made to each eligible local taxing authority on or
23 before June 30 of each year.

24 (e) Use of payments.--Every local taxing authority shall use
25 the annual payments received under this section to permanently
26 reduce real property and other local taxes. The relief from
27 taxes granted under this act shall not be eroded by any local
28 taxing authority so as to defeat the purpose of this act. Any
29 person objecting to an increase in the rate of local taxes on
30 the ground that the increase erodes the tax relief made

1 available under this act may petition the court of common pleas
2 for equitable relief.

3 Section 19. Appropriations.

4 (a) Appropriations.--The following sums are hereby
5 specifically appropriated for the fiscal year July 1, 1979 to
6 June 30, 1980 for the following purposes and in the following
7 amounts:

8 (1) For reimbursement to local governments for planning
9 and impact costs as provided in section 17(a) and (b),
10 \$1,600,000.

11 (2) For the revolving fund for capital projects as
12 provided in section 17(c), \$1,500,000.

13 (3) For annual subventions to eligible local taxing
14 authorities as provided in section 18, \$11,500,000.

15 (4) For administrative purposes for the Power Plant
16 Siting Commission, \$140,000.

17 (b) Revolving fund.--The General Assembly hereby declares
18 its intent to annually appropriate \$1,500,000 for the revolving
19 fund for capital projects as provided in section 17(c) until the
20 total amount appropriated has reached \$7,000,000 and that
21 thereafter the fund shall be self-sustaining.

22 Section 20. Effective date.

23 This act shall take effect July 1, 1979 or in 30 days,
24 whichever is later.