

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 1265 Session of
1991

INTRODUCED BY REINARD, CORNELL AND TOMLINSON, APRIL 23, 1991

REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, APRIL 23, 1991

AN ACT

1 Amending Title 66 (Public Utilities) of the Pennsylvania
2 Consolidated Statutes, providing for review of siting and
3 construction of electric transmission lines by the
4 Pennsylvania Public Utility Commission.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Title 66 of the Pennsylvania Consolidated
8 Statutes is amended by adding a chapter to read:

9 CHAPTER 30

10 ELECTRIC TRANSMISSION LINES

11 Sec.

12 3001. Definitions.

13 3002. Application.

14 3003. Form and content of application.

15 3004. Filing and service of application and notice of filing.

16 3005. Hearing and notice.

17 3006. Determination and order.

18 3007. Applicability.

19 § 3001. Definitions.

1 The following words and phrases when used in this chapter
2 shall have the meanings given to them in this section unless the
3 context clearly indicates otherwise:

4 "Alternative route." A reasonable right-of-way which
5 includes not more than 25% of the right-of-way of the
6 applicant's proposed route.

7 "Commence construction." To begin clearing or disturbing the
8 land or the first act in erecting thereon an artificial
9 structure, but the term does not include action necessary for
10 the purpose of gathering survey, geological, environmental or
11 similar data.

12 "Customer." A party supplied with electric service by a
13 public utility.

14 "Customer's installation." Wiring and equipment on the
15 premises of a customer, and poles, wires or cables and other
16 facilities necessary to bring the terminus of the wiring of a
17 customer to a location where it may be connected to the service
18 line.

19 "Electric supply line." The wires or cables, with the
20 necessary supporting or containing structures and appurtenances,
21 used in connection with an overhead or underground system of a
22 public utility, providing electric power, located on a public
23 highway or utility right-of-way and used to transmit or
24 distribute electric energy.

25 "Eminent domain application." An application filed with the
26 commission by a public utility for a certificate of public
27 convenience for approval of the exercise of the power of eminent
28 domain to acquire rights-of-way for the construction, operation
29 and maintenance of an aerial transmission line.

30 "Existing transmission line right-of-way." A right-of-way of

1 sufficient width to accommodate two or more transmission lines
2 on the effective date of this act and on which at least one
3 transmission line was erected as of the effective date of this
4 act, or a right-of-way of sufficient width to accommodate two or
5 more lines for which siting approval was received and on which
6 at least one line has been constructed.

7 "HV transmission line" or "HV line." An overhead electric
8 supply line with a design voltage greater than 100,000 volts.

9 "Line extension." An addition to the public utility electric
10 supply line necessary to serve the premises of a customer, which
11 addition is so located that it cannot be supplied by means of a
12 service line from the existing electric supply line.

13 "Proposed route." The right-of-way on which the applicant
14 desires to construct a HV transmission line.

15 "Public utility." Persons or corporations in this
16 Commonwealth owning or operating equipment or facilities for
17 generating, transmitting, distributing or furnishing electricity
18 for the production of light, heat or power to or for the public
19 for compensation. The term does not include the following:

20 (i) A person or corporation not otherwise a public
21 utility who or which furnishes service only to himself or
22 itself.

23 (ii) A bona fide cooperative association which
24 furnishes service only to its stockholders or members on
25 a nonprofit basis.

26 "Service line." The wires or cables and appurtenances which
27 connect the electric supply line of the public utility with the
28 customer's installation and which comply with either of the
29 following:

30 (i) If overhead-open-wire or cable-construction, the

1 span, normally 100 feet, extending to a suitable support
2 provided by the customer.

3 (ii) If the electric supply line is of underground
4 construction, the underground facilities extending to but
5 not exceeding 18 inches inside the property line of the
6 customer.

7 "Siting application." An application filed with the
8 commission by a public utility under section 3002 (relating to
9 application).

10 "Transmission line." An overhead electric supply line with a
11 design voltage greater than 35,000 volts.

12 "Transmission line right-of-way." A right enjoyed over the
13 property of another subject to certain conditions which arise by
14 reason of one of the following:

15 (i) A lease.

16 (ii) An easement.

17 (iii) A right to use or license.

18 (iv) An option to buy with right of possession.

19 (v) Ownership in fee simple absolute or any lesser
20 estate of land obtained for the purpose of constructing
21 and maintaining a transmission line or HV line.

22 § 3002. Application.

23 Upon the application of a public utility for authorization to
24 locate and construct a HV transmission line or any portion
25 thereof, upon approval of the application by the commission
26 first had and obtained and upon compliance with existing laws,
27 it shall be lawful for a public utility to commence construction
28 of the HV transmission line or portion thereof.

29 § 3003. Form and content of application.

30 (a) Form.--The form of applications shall be in conformity

1 with regulations promulgated by the commission.

2 (b) Signature required.--The application shall be signed by
3 a person having authority with respect thereto and having
4 knowledge of the matters therein set forth and shall be verified
5 under oath.

6 (c) Contents.--An application shall contain:

7 (1) The name of the applicant and the address of its
8 principal business office.

9 (2) The name, title and business address of the attorney
10 of the applicant and the person authorized to receive notice
11 and communications with respect to the application if other
12 than the attorney of the applicant.

13 (3) A general description, not a legal or metes and
14 bounds description, of the proposed route of the HV line to
15 include the number of route miles, the right-of-way width and
16 the location of the proposed HV line within each city,
17 borough, town and township traversed.

18 (4) The names and addresses of known persons,
19 corporations and other entities of record owning property
20 within the proposed right-of-way, together with an indication
21 of HV line rights-of-way acquired by the applicant.

22 (5) A general statement of the need for the proposed HV
23 line in meeting identified present and future demands for
24 service, of how the proposed HV line will meet that need and
25 of the engineering justifications for the proposed HV line.

26 (6) A statement of the safety considerations which will
27 be incorporated into the design, construction and maintenance
28 of the proposed HV line.

29 (7) A description of studies which had been made as to
30 the projected environmental impact of the HV line as proposed

1 and of the efforts which have been and which will be made to
2 minimize the impact of the HV line upon the environment and
3 upon scenic and historic areas, including, but not limited
4 to, impacts, where applicable, upon land use, soil and
5 sedimentation, plant and wildlife habitats, terrain,
6 hydrology and landscape.

7 (8) A description of the efforts of the applicant to
8 locate and identify any archaeologic, geologic, historic,
9 scenic or wilderness area of significance within two miles of
10 the proposed right-of-way and the location and identity of
11 the area discovered by the applicant.

12 (9) The location and identity of airports within two
13 miles of the nearest limit of the right-of-way of the
14 proposed HV line.

15 (10) A general description of reasonable alternative
16 routes to the proposed HV line, including a description of
17 the corridor planning methodology, a comparison of the merits
18 and detriments of each route and a statement of the reasons
19 for selecting the proposed HV line route.

20 (11) A list of the Federal, State and local governmental
21 agencies which have requirements which shall be met in
22 connection with the construction or maintenance of the
23 proposed HV line and a list of documents which have been or
24 are required to be filed with those agencies in connection
25 with the siting and construction of the proposed HV line.

26 (12) The estimated cost of construction of the proposed
27 HV line and the projected date for completion.

28 (13) The following exhibits:

29 (i) A depiction of the proposed route on aerial
30 photographs and topographic maps of suitable detail.

(ii) A description of the proposed HV line, including the length of the line, the design voltage, the size, number and materials of the conductors, the design of the supporting structures and their height, configuration and materials of construction, the average distance between supporting structures, the number of supporting structures, the line to structure clearances and the minimum conductor-to-ground clearance at midspan under normal load and average weather conditions and under predicted extreme load and weather conditions.

(iii) A simple drawing of a cross section of the proposed right-of-way of the HV line and any adjoining rights-of-way showing the placement of the supporting structures at typical locations, with the height and width of the structures, the width of the right-of-way and the lateral distance between the conductors and the edge of the right-of-way indicated.

(iv) A system map which shows in suitable detail the location and voltage of existing transmission lines and substations of the applicant and the location and voltage of the proposed HV line and associated substations.

(14) A statement identifying litigation concluded or in progress which concerns property or matter relating to the proposed HV line, right-of-way route or environmental matters.

(15) Additional information as the commission may require.

(d) Letter of notification in lieu of application.--

(1) A letter of notification may be filed with the commission in lieu of the application process set forth in

1 sections 3002 (relating to application) through 3006
2 (relating to determination and order) for the following:

3 (i) An HV line which is proposed to be located
4 entirely on an existing transmission line right-of-way,
5 so long as the size, character design or configuration of
6 the proposed HV line does not substantially alter the
7 right-of-way.

8 (ii) An HV line which is proposed to be located
9 entirely within a public road.

10 (iii) An HV line which is proposed to be located
11 entirely within the applicant's existing transmission
12 line right-of-way and the property of the sole customer
13 to be served by the line, so long as the size, character,
14 design or configuration of the proposed HV line does not
15 substantially alter the right-of-way.

16 (iv) A line for which the voltage is proposed to be
17 increased above its present levels, as long as the size,
18 character, design or configuration of the proposed HV
19 line does not substantially alter the right-of-way.

20 (v) An HV line which is to be reconductored or
21 reconstructed as long as the size, character, design or
22 configuration of the proposed HV line does not
23 substantially alter the right-of-way.

24 (vi) An HV line having a proposed route of two miles
25 or less.

26 (2) The applicant shall file with the commission the
27 original and six copies of the letter of notification and an
28 affidavit of service showing the identity of those served
29 under paragraph (3).

30 (3) At the time of filing, the applicant shall serve a

1 copy of the letter of notification by registered or certified
2 mail upon those who would have otherwise been entitled to
3 receive a copy of an application or notice of filing an
4 application as set forth in section 3004 (relating to filing
5 and service of application and notice of filing).

6 (4) A letter of notification shall contain:

7 (i) The information described in subsection (c)(1)
8 through (3), (5) and (6).

9 (ii) The anticipated construction commencement date
10 and the proposed in-service date of the project.

11 (iii) Evidence to show that the size, character,
12 design and configuration of the proposed HV line will not
13 substantially alter its right-of-way where the letter is
14 filed under paragraph (1)(i) through (v).

15 (iv) A statement identifying the filing date on
16 which the filing of the letter of notification was or is
17 to be made, together with substantially the language set
18 forth in paragraph (6).

19 (v) A statement indicating that any comments or
20 objections related to the letter of notification may be
21 filed with the Secretary of the Public Utility
22 Commission, within 30 days of the filing date as
23 identified in subparagraph (iv), and failure to comment
24 or object could lead to approval of the letter of
25 notification without public input.

26 (5) On the day of filing of the letter of notification,
27 the applicant shall make one copy of the letter of
28 notification available for public examination during ordinary
29 business hours at a convenient location within a county in
30 which any part of the HV line will be located and

constructed.

(6) The commission will review and by order approve or disapprove a letter of notification. If the commission approves a letter of notification, the HV line shall be located and constructed without the application process set forth in this chapter. If the commission does not approve the letter of notification, its order shall direct the applicant to comply with the application process set forth in this chapter.

(e) Waiver of requirements.--Upon the petition of any party, upon the commission's own motion or upon the presiding officer's own motion, the commission or the presiding officer may waive one or more or all of the requirements in this chapter. The petition shall clearly state the requirement sought to be waived and the reasons therefor.

§ 3004. Filing and service of application and notice of filing.

(a) Filing.--The applicant shall file with the commission the original and six copies of the application. An affidavit of service showing the identity of those served under subsections (b) and (c) shall accompany the original and the copies of the application filed with the commission.

(b) Copies.--At the time of filing, the applicant shall serve a copy of the application by registered or certified mail, return receipt requested, upon the following:

(1) The chief executive officer, the governing body and the body charged with the duty of planning land use in each city, borough, town, township and county in which any portion of the HV line is proposed to be located.

(2) The president of the public utility, other than the applicant, in whose service territory any portion of the HV

1 line is proposed to be located.

2 (3) The Department of Environmental Resources.

3 (c) Notice.--

4 (1) At the time of filing, the applicant shall serve a
5 notice of filing and a map of suitable detail showing the
6 proposed route of the proposed facility by registered or
7 certified mail, return receipt requested, upon the following:

8 (i) The Secretary of the Department of
9 Transportation.

10 (ii) The Chairman of the Historical and Museum
11 Commission.

12 (iii) Other Federal, State or local agencies
13 designated in section 3003(c)(11) (relating to form and
14 content of application).

15 (2) The notice of filing shall contain a statement
16 identifying the filing, the date on which the filing was or
17 is to be made, a description of the proposed line, the design
18 voltage, the number of route miles, the right-of-way width
19 and the location of the proposed HV line within each township
20 traversed and a statement that a copy of the application is
21 available for public examination as provided in subsection
22 (d).

23 (d) Examination.--On the day of filing of the application,
24 the applicant shall make a copy of the application available for
25 public examination during ordinary business hours at a
26 convenient location within a county in which any part of the
27 proposed HV line will be located.

28 (e) Additional notice.--The applicant shall provide an
29 additional notice and shall serve additional copies of the
30 application upon all of the following:

1 (1) The persons, corporations and other entities of
2 record owning property within the proposed right-of-way and
3 within 1,000 feet of each side of the edge of the proposed
4 right-of-way.

5 (2) The members of the General Assembly in whose
6 district any portion of the HV line is proposed to be
7 located.

8 § 3005. Hearing and notice.

9 (a) Scheduling.--Upon the filing of an application, the
10 commission will set the time and place for hearing or hearings
11 of the application and will then require the applicant to
12 publish weekly for two consecutive weeks a notice of hearing in
13 a newspaper of general circulation within each municipality in
14 which the HV line is proposed to be located. The publication of
15 the notice of hearings shall begin at least 45 days before the
16 date set for the commencement of the hearings. The notice of
17 hearing for publication shall contain a brief description of the
18 proposed HV line, its location, a statement of the date, time,
19 place, and purpose of the hearing and a statement as to where
20 and when a copy of the application is available for public
21 examination.

22 (b) Notification.--The commission will notify each person or
23 agency designated in section 3004(b), (c) and (e) (relating to
24 filing and service of application and notice of filing), parties
25 granted leave to intervene under subsection (d) and parties
26 under subsection (i) of the time and place of hearings on the
27 application. After the initial hearing, further hearing notices
28 will be given by the commission.

29 (c) Grouping of parties.--Where it appears desirable, the
30 commission or the presiding officer may provide for the grouping

1 of parties with substantially similar interests for the purpose
2 of serving notices and other documents. If a group does not
3 designate a representative for the service of notices and
4 documents, the presiding officer may designate a representative.
5 Notice and documents shall be served only on the designated
6 representative. This subsection may not be construed, however,
7 to limit the right of a party to the proceeding to file motions,
8 briefs and the like with the presiding officer or commission
9 when appropriate.

10 (d) Intervention.--A request for leave to intervene shall be
11 in writing and shall state briefly the interest of the
12 intervenor and the objections to be raised. Upon proper request,
13 the commission will allow the timely intervention of any of the
14 persons or agencies listed in section 3004 (b), (c) and (e).
15 Upon proper request, the commission may allow the timely
16 intervention of another party deemed to have a substantial
17 interest in the proceeding or whose intervention will aid the
18 commission in its consideration of the application.

19 (e) Evidence.--At hearings held under this section, the
20 commission will accept evidence upon, and in its determination
21 of the application will consider, inter alia, the following
22 matters:

23 (1) The present and future necessity of the proposed HV
24 line in furnishing service to the public.

25 (2) The safety of the proposed HV line.

26 (3) The impact and the efforts which have been and will
27 be made to minimize the impact, if any, of the proposed HV
28 line upon the following:

29 (i) Land use.

30 (ii) Soil and sedimentation.

(iii) Plant and wildlife habitats.

(iv) Terrain.

(v) Hydrology.

(vi) Landscape.

(vii) Archaeologic areas.

(viii) Geologic areas.

(ix) Historic areas.

(x) Scenic areas.

(xi) Wilderness areas.

(xii) Scenic rivers.

(4) The availability of reasonable alternative routes.

(f) Amendment of application.--Upon the order of the commission or the presiding officer, the applicant may amend its application prior to the closing of the record, if every party, utility, agency or municipality affected by the amendment is given reasonable notice thereof and an opportunity to present evidence with respect to the amendment.

(g) Expedited applications.--Upon petition of the applicant, setting forth the circumstances which require the prompt availability of an HV line, the commission may grant expedited consideration of the application. The commission will give preference to the hearing and decision of expedited applications over other applications filed under this chapter and will decide the same as speedily as possible.

(h) Decisions without hearing.--If no protests or petitions to intervene other than that of the commission staff or petitions to intervene which support an application have been received by the commission seven days prior to the hearing scheduled under subsection (a), the applicant may move and the presiding officer may order that the case be submitted on the

1 applications, exhibits, written testimony and briefs of the
2 applicants and written testimony, exhibits or briefs filed by
3 the commission's staff. The motion may not be granted over the
4 protest of the commission's staff, but, in such a case, hearings
5 shall be held. To move for a decision without hearing, the
6 applicant shall have filed written testimony and exhibits at
7 least 30 days prior to the date of hearing. The applicant shall
8 also have given notice that it may make a motion under this
9 subsection in its notice of hearing published as provided for in
10 subsection (a).

11 (i) Eminent domain.--

12 (1) Proceedings on eminent domain applications for the
13 same HV line are entitled to be consolidated with the
14 proceeding on the HV line's siting application.

15 (2) An eminent domain application for which
16 consolidation with a siting application is desired under
17 subsection (a) shall be considered by the presiding officer
18 at the hearing on the siting application, and the commission
19 shall issue an order granting or denying the eminent domain
20 application if, prior to the hearing, the public utility
21 filing the eminent domain application serves a copy of the
22 proposed HV line's siting application upon the persons,
23 corporations or other entities having a property interest
24 sought to be acquired by the eminent domain application.

25 (3) Unless the applicable eminent domain application has
26 been withdrawn by the public utility, a person, corporation
27 or other entity which is served a copy of the siting
28 application as required by subsection (b) shall be a party to
29 the proceeding on the siting application.

30 (4) A portion of the record of a proceeding under this

chapter may be admitted into the record of a subsequent proceeding on an eminent domain application for the same HV line upon reasonable notice by motion plainly identifying the matters offered. If only part of the record is offered, a party may require the movant to introduce portions relevant to the part introduced and a party may introduce other portions.

§ 3006. Determination and order.

(a) Determination.--The commission will issue its order, along with its opinion, if any, either granting or denying the application, in whole or in part, as filed or upon the terms, conditions or modifications of the location, construction, operation or maintenance of the line as the commission may deem appropriate. The commission will not grant the application, either as proposed or as modified, unless it finds and determines as to the proposed HV line that:

(1) There is a need for it.

(2) It will not create an unreasonable risk of danger to the health and safety of the public.

(3) It is in compliance with applicable statutes and regulations providing for the protection of the natural resources of this Commonwealth.

(4) It will have minimum adverse environmental impact, considering the electric power needs of the public, the state of available technology and the available alternatives.

(b) Order.--A commission order granting a siting application will be deemed to include a grant of authority, subject to the provisions of law, to locate and construct the proposed HV transmission line within a corridor consisting of the area of 500 feet on each side of the center line of the proposed HV

1 transmission line unless the applicant requests and the
2 commission approves a corridor of a different size. A proposed
3 HV transmission line may not be constructed outside the
4 corridor, except upon petition to and approval by the
5 commission.

6 § 3007. Applicability.

7 This chapter shall apply to every HV line or portion thereof
8 which is not in regular permanent service on or after the
9 effective date of this chapter.

10 Section 2. This act shall take effect in 60 days.