

Transmission Line Siting, the PUC and the Role of Residents

The state's Public Utility Code requires its public utilities to furnish and maintain adequate, efficient, safe and reasonably priced utility service and facilities. It also allows utilities to make the changes necessary to ensure the quality and safety of that service. The Public Utility Commission (PUC) is the agency charged with ensuring that the public utilities are living up to those obligations. That includes oversight of the siting and construction of electric transmission lines.

Transmission line siting cases present two distinct issues: whether the need for the line exists; and, whether the proposed route is the best of all alternatives considered.

Transmission Line Siting Applications

When an electric company wants to build high-voltage transmission lines, it must file an application with the PUC that includes the proposal's costs and route.

The proposed route must be established as the best out of other alternatives considering safety; environmental impacts; impacts on scenic and historic sights; existing land use; soil and sedimentation; plant and wildlife habitats; terrain; hydrology; and landscape. Factors such as location of airports and archeological sights are also considered.

The application also must include information on the landowners, safety considerations and a statement of need. Need may be established by showing public benefits such as improved reliability, increased economic development, reduced consumer costs, and an increased demand. Needs of the regional system and the local area around the line also may be considered.

When the application is contested, the PUC assigns the proceeding to an Administrative Law Judge (ALJ), who fulfills a judicial role by presiding at formal hearings, which are open to the public and conducted like a court proceeding.

The PUC process consists of formal evidentiary proceedings and public input hearings. During the evidentiary hearings, the company and other formal parties, such as the PUC's Office of Trial Staff and the state's Office of Consumer Advocate and Office of Small Business Advocate present their cases.

Evidentiary hearings are specifically designed for the receipt of expert testimony and cross examination of expert witnesses from all active formal parties to the case. The entity proposing the line has the burden of proof to show a need and that the proposed route is appropriate.

Consumers may become formal protestants or parties in an evidentiary hearing by applying in writing. Consumers may speak for themselves or be represented by an attorney. Consumers also may testify at public input hearings, which are conducted by the ALJ in the affected areas. Consumer testimony becomes part of the record on which the PUC will base its decision. Consumers also may comment informally by writing or calling the PUC.

After weighing the evidence and hearing the arguments, the ALJ writes a recommended decision that addresses each issue in the case within limits set by law. The recommended decision may approve, deny or modify the application. Parties, including consumers, may file exceptions to the ALJ's decision and reply exceptions. The entire matter is then sent to the Commissioners for a vote. The Commissioners may accept, reject or modify the judge's decision.



Final Order

The Commissioners make the final decision during a public meeting in Harrisburg. The Order has the weight of law unless the PUC changes it in response to a petition for reconsideration, or it is successfully challenged in court or before the Federal Energy Regulatory Commission (FERC). Under the federal Energy Policy Act of 2005, if the line is contained within the U.S. Department of Energy (DOE) National Interest Electric Transmission Corridor (NIETC), declared of national need and the PUC denies the application or attaches conditions which the applicant wishes to contest, the applicant may move the proceeding to FERC for further action. FERC has authority to make its own decision which may reverse the PUC's decision, modify it or adopt it.

The proposed NIETC for the Mid-Atlantic region includes 52 out of Pennsylvania's 67 counties. Cameron, Clarion, Crawford, Elk, Erie, Forest, Lawrence, Lycoming, McKean, Mercer, Potter, Sullivan, Tioga, Venango, Warren counties are not included in the draft corridor designation. Besides Pennsylvania, the Mid-Atlantic region encompasses all or portions of Maryland, New Jersey, New York, Virginia and West Virginia. The PUC has called on DOE to withdraw its proposal and asked the federal agency to issue a new designation that has a more narrow scope and better reflects Congressional intent in establishing NIETC.

How Long Does It Take?

Pennsylvania laws and regulations establish no statutory deadline for the consideration of transmission line siting applications. However, if the proposed line is included in a NIETC, the Commission has one year from the date of the application or the date of the NIETC designation (whichever is later) to reach a final decision.

Role of Consumers

While the transmission siting process is complex, consumers have the right to be informed about the process, receive an explanation of the company's plan and have an opportunity to share their views on the proposal. Consumers have the right to participate in this process and can do so by

filing an informal complaint, by attending and testifying at a public input hearing or by filing a formal protest.

Formal Protest

Because the obligations related to fully participating in a complex case may be daunting for most consumers, the Commission's case management practices allow consumers some form of limited participation in complex multi-party proceedings such as transmission line siting.

Consumers filing a formal protest may wish to become full parties to the extensive litigation which will occur. This is accomplished by filing a formal protest within the time set forth in the Notice of the Application which will be published in the Pennsylvania Bulletin. Even if the deadline has passed consumers still have time to participate in the proceeding through public input hearings and other contacts to the PUC.

Public Input Hearings

In addition to a series of formal evidentiary hearings, the ALJ will conduct public input hearings, which are generally held in the area affected by the application. By attending a public input hearing and providing testimony, consumers place their views in the official record on which the PUC will base its decision. Consumers do not have to formally intervene to participate in a public input hearing.

Informal Objections/Comments

Consumers may contact the PUC with their views on the proposed transmission line by writing letters, completing an online complaint form or calling the consumer complaint hotline. Comments received are placed in the Commission's public file on the case. Consumers can contact the PUC by:

Mail: Pennsylvania Public Utility Commission
Bureau of Consumer Services
P.O. Box 3265
Harrisburg, PA 17105

Phone: 1-800-782-1110

Online: www.puc.state.pa.us – Click on "File Complaint" on the left side of the page to learn more.

Section 1103 - Title 66 - PUBLIC UTILITIES

§ 1103. Procedure to obtain certificates of public convenience.

(a) **General rule.**--Every application for a certificate of public convenience shall be made to the commission in writing, be verified by oath or affirmation, and be in such form, and contain such information, as the commission may require by its regulations. A certificate of public convenience shall be granted by order of the commission, only if the commission shall find or determine that the granting of such certificate is necessary or proper for the service, accommodation, convenience, or safety of the public. The commission, in granting such certificate, may impose such conditions as it may deem to be just and reasonable. In every case, the commission shall make a finding or determination in writing, stating whether or not its approval is granted. Any holder of a certificate of public convenience, exercising the authority conferred by such certificate, shall be deemed to have waived any and all objections to the terms and conditions of such certificate.

(b) **Investigations and hearings.**--For the purpose of enabling the commission to make such finding or determination, it shall hold such hearings, which shall be public, and, before or after hearing, it may make such inquiries, physical examinations, valuations, and investigations, and may require such plans, specifications, and estimates of cost, as it may deem necessary or proper in enabling it to reach a finding or determination.

(c) **Taxicabs.**--(Repealed).

(d) **Temporary authority.**--Except during the threat or existence of a labor dispute, the commission under such regulations as it shall prescribe may, without hearing, in proper cases, consider and approve applications for certificates of public convenience, and in emergencies grant temporary certificates under this chapter, pending action on permanent certificates; but no applications shall be denied without right of hearing thereon being tendered to the applicant.

(e) **Armored vehicles.**--A certificate of public convenience to provide the transportation of property of unusual value, including money and securities, in armored vehicles shall be granted by order of the commission upon application. Such carriers must conform to the rules and regulations of the commission.

(June 19, 1980, P.L.244, No.69, eff. 30 days; July 6, 1984, P.L.602, No.123, eff. imd.; Apr. 4, 1990, P.L.93, No.21, eff. 90 days; Dec. 30, 2002, P.L.2001, No.230, eff. 60 days; July 16, 2004, P.L.758, No.94)

2004 Repeal Note. Act 94 repealed subsec. (c). Section 25 of Act 94 provided that the repeal of subsec. (c) shall take effect in 270 days or on the date of publication of the notice under section 24 of Act 94. The notice was published in the Pennsylvania Bulletin March 12, 2005, at 35 Pa.B. 1737. See sections 20(5), 21(5) and 24 of Act 94 in the appendix to this title for special provisions relating to Pennsylvania Public Utility Commission contracts, preservation of rights, obligations, duties and remedies and publication in Pennsylvania Bulletin.

1984 Amendment. Act 123 added subsec. (e).

1980 Amendment. Act 69 added subsecs. (c) and (d), effective in 30 days as to subsec. (c)(4) and immediately as to the remainder of the section. See the preamble and sections 2, 3 and

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4 of Act 69 in the appendix to this title for special provisions relating to legislative findings, taxicab service in first class cities; annual reports to committees of General Assembly and effective date and applicability.

Cross References. Section 1103 is referred to in section 2407 of this title; section 5516 of Title 53 (Municipalities Generally).

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§ 1104. Certain appropriations by right of eminent domain prohibited.

Unless its power of eminent domain existed under prior law, no domestic public utility or foreign public utility authorized to do business in this Commonwealth shall exercise any power of eminent domain within this Commonwealth until it shall have received the certificate of public convenience required by section 1101 (relating to organization of public utilities and beginning of service).

Cross References. Section 1104 is referred to in section 1511 of Title 15 (Corporations and Unincorporated Associations).

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§ 57.71. Application.

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

Authority

The provisions of this § 57.71 issued under the Public Utility Code, 66 Pa.C.S. § 501.

Source

The provisions of this § 57.71 adopted May 19, 1978, effective May 20, 1978, 8 Pa.B. 1403.

Cross References

This section cited in 52 Pa. Code § 5.14 (relating to applications requiring notice); 52 Pa. Code § 57.1 (relating to definitions); and 52 Pa. Code § 57.72 (relating to form and content of application).

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§ 57.72. Form and content of application.

- (a) Applications shall be in conformity with § 1.31 (relating to form of documentary filings generally). Supporting exhibits such as maps, photographs and other engineering materials may be on paper not exceeding 28 inches by 40 inches.
- (b) The application shall be signed by a person having authority with respect thereto and having knowledge of the matters therein set forth and shall be verified under oath.
- (c) An application shall contain:
- (1) The name of the applicant and the address of its principal business office.
 - (2) The name, title and business address of the attorney of the applicant and the person authorized to receive notice and communications with respect to the application if other than the attorney of the applicant.
 - (3) A general description—not a legal or metes and bounds description—of the proposed route of the HV line, to include the number of route miles, the right-of-way width and the location of the proposed HV line within each city, borough, town and township traversed.
 - (4) The names and addresses of known persons, corporations and other entities of record owning property within the proposed right-of-way, together with an indication of HV line rights-of-way acquired by the applicant.
 - (5) A general statement of the need for the proposed HV line in meeting identified present and future demands for service, of how the proposed HV line will meet that need and of the engineering justifications for the proposed HV line.
 - (6) A statement of the safety considerations which will be incorporated into the design, construction and maintenance of the proposed HV line.
 - (7) A description of studies which had been made as to the projected environmental impact of the HV line as proposed and of the efforts which have been and which will be made to minimize the impact of the HV line upon the environment and upon scenic and historic areas, including but not limited to impacts, where applicable, upon land use, soil and sedimentation, plant and wildlife habitats, terrain, hydrology and landscape.
 - (8) A description of the efforts of the applicant to locate and identify archaeologic, geologic, historic, scenic or wilderness areas of significance within 2 miles of the proposed right-of-way and the location and identity of the areas discovered by the applicant.
 - (9) The location and identity of airports within 2 miles of the nearest limit of the right-of-way of the proposed HV line.
 - (10) A general description of reasonable alternative routes to the proposed HV line,

including a description of the corridor planning methodology, a comparison of the merits and detriments of each route, and a statement of the reasons for selecting the proposed HV line route;

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

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

(13) The following exhibits:

(i) A depiction of the proposed route on aerial 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 mid-span 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 § § 57.71—57.76 for the following:

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

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

(iii) An HV line which is proposed to be located entirely within applicant's existing

transmission line right-of-way and the property of the sole customer to be served by the line, so long as the size, character, design or configuration of the proposed HV line does not substantially alter the right-of-way.

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

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

(vi) An HV line having a proposed route of 2 miles or less.

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

(3) At the time of filing, the applicant shall serve a copy of the letter of notification by registered or certified mail upon those who would have otherwise been entitled to receive a copy of an application or notice of filing an application as set forth in § 57.74 (relating to filing and service of application and notice of filing).

(4) A letter of notification shall contain:

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

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

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

(iv) A statement identifying the filing date on which the filing of the letter of notification was or is to be made, together with substantially the language set forth in paragraph (5).

(5) 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 subchapter. 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 subchapter.

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

Source

The provisions of this § 57.72 adopted May 19, 1978, effective May 20, 1978, 8 Pa.B. 1403; amended January 7, 1983, effective January 8, 1983, 13 Pa.B. 131. Immediately preceding text appears at serial page (50512).

Cross References

This section cited in 52 Pa. Code § 5.14 (relating to applications requiring notice); and 52 Pa. Code § 57.74 (relating to filing and service of application and notice of filing).

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052 Pa. Code § 57.73. [Reserved].

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§ 57.73. [Reserved].

Source

The provisions of this § 57.73 adopted May 19, 1978, effective May 20, 1978, 8 Pa.B. 1403; reserved January 7, 1983, effective January 8, 1983, 13 Pa.B. 131. Immediately preceding text appears at serial pages (50512) to (50514).

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§ 57.74. 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 line is proposed to be located.

(3) The Department of Environmental Resources, Attention: Bureau of Environmental Planning; Post Office Box 2357, 101 S. Second Street, Harrisburg, Pennsylvania 17120.

(c) *Notice.*

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

(i) The Secretary of the Department of Transportation, Room 1200 Transportation and Safety Building, Harrisburg, Pennsylvania 17120.

(ii) The Chairman of the Historical and Museum Commission, Post Office Box 1026, Harrisburg, Pennsylvania 17120.

(iii) Other local, State or Federal agencies designated in § 57.72(c)(11) (relating to form and content of application).

(iv) The persons, corporations and other entities designated in § 57.72(c)(4), unless they are served with a copy of the application under § 57.75(i) (relating to hearing and notice).

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

(d) *Examination.* On the day of filing of the application, the applicant shall make a copy of

the application available for public examination during ordinary business hours at a convenient location within a county in which any part of the proposed HV line will be located.

(e) *Additional notice.* The applicant shall provide an additional notice and shall serve such additional copies of the application without cost as the Commission may require.

Source

The provisions of this § 57.74 adopted May 19, 1978, effective May 20, 1978, 8 Pa.B. 1403; amended January 7, 1983, effective January 8, 1983, 13 Pa.B. 131. Immediately preceding text appears at serial pages (50514) to (50515).

Cross References

This section cited in 52 Pa. Code § 5.14 (relating to applications requiring notice); 52 Pa. Code § 57.72 (relating to form and content of application); and 52 Pa. Code § 57.75 (relating to hearing and notice).

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§ 57.75. Hearing and notice.

(a) Upon the filing of an application, the Commission will set the time and place for hearing or hearings of the application and will thereupon require the applicant to cause the weekly publication for two consecutive weeks of a notice of hearing in a newspaper of general circulation within each municipality in which the HV line is proposed to be located. The publication of the notice of hearings shall begin at least 45 days before the date set for the commencement of the hearings. The notice of hearing for publication shall contain a brief description of the proposed HV line, its location, a statement of the date, time and place of the hearing and of its purpose and a statement as to where and when a copy of the application is available for public examination.

(b) The Commission will notify each person or agency designated in § 57.74(b) and (c) (relating to filing and service of application and notice of filing), parties granted leave to intervene under subsection (c), and parties under subsection (i) of the time and place of hearings on the application. After the initial hearing, further hearing notices will be given by the Commission.

(c) Where it appears desirable, the Commission or the presiding officer may provide for the grouping of parties with substantially similar interests for the purpose of serving notices and other documents. If a group does not designate a representative for the service of notices and documents, the presiding officer may designate a representative. Notice and documents shall be served only on the designated representative. This subsection may not be construed, however, to limit the right of a party to the proceeding to file motions, briefs, and the like with the presiding officer or Commission when appropriate.

(d) A request for leave to intervene shall be in writing and shall state briefly the interest of the intervenor and the objections to be raised. Upon proper request, the Commission will allow the timely intervention of any of the persons or agencies listed in § 57.74(b) and (c). Upon proper request, the Commission may allow the timely intervention of another party deemed to have a substantial interest in the proceeding or whose intervention will aid the Commission in its consideration of the application.

(e) At hearings held under this section, the Commission will accept evidence upon, and in its determination of the application it will consider, *inter alia*, the following matters:

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

(2) The safety of the proposed HV line.

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

(i) Land use.

- (ii) Soil and sedimentation.
 - (iii) Plant and wildlife habitats.
 - (iv) Terrain.
 - (v) Hydrology.
 - (vi) Landscape.
 - (vii) Archeologic areas.
 - (viii) Geologic areas.
 - (ix) Historic areas.
 - (x) Scenic areas.
 - (xi) Wilderness areas.
 - (xii) Scenic rivers.
- (4) The availability of reasonable alternative routes.
- (f) 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) 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 to the hearing and decision of expedited applications preference over other applications filed under this subchapter and will decide the same as speedily as possible.
- (h) 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 7 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 applications, exhibits, written testimony and briefs of the applicants and written testimony, exhibits or briefs filed by the Commission's staff. The motion may not be granted over the protest of the Commission's staff, but, in such a case, hearings shall be held. To move for a decision without hearing, the applicant shall have filed written testimony and exhibits at least 30 days prior to the date of hearing. The applicant shall also have given notice that it may make a motion under this subsection in its notice of hearing published as provided for in subsection (a).
- (i) Eminent domain:
- (1) Proceedings on eminent domain applications for the same HV line are entitled to be consolidated with the proceeding on the HV line's siting application.

(2) An eminent domain application for which consolidation with a siting application is desired under subsection (a) shall be considered by the presiding officer at the hearing on the siting application, and the Commission shall issue an order granting or denying the eminent domain application; provided that, prior to the hearing, the public utility filing the eminent domain application serves a copy of the proposed HV line's siting application upon the persons, corporations or other entities having a property interest sought to be acquired by the eminent domain application.

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

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

Source

The provisions of this § 57.75 adopted May 19, 1978, effective May 20, 1978, 8 Pa.B. 1403; amended January 7, 1983, effective January 8, 1983, 13 Pa.B. 131. Immediately preceding text appears at serial pages (50515) to (50516).

Cross References

This section cited in 52 Pa. Code § 5.14 (relating to applications requiring notice); 52 Pa. Code § 57.72 (relating to form and content of application); and 52 Pa. Code § 57.74 (relating to filing and service of application and notice of filing).

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§ 57.76. Determination and order.

(a) The Commission will issue its order, 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:

- (1) That there is a need for it.
- (2) That it will not create an unreasonable risk of danger to the health and safety of the public.
- (3) That it is in compliance with applicable statutes and regulations providing for the protection of the natural resources of this Commonwealth.
- (4) That 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) 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 centerline of the proposed HV transmission line unless the applicant requests and the Commission approves a corridor of a different size. A proposed HV transmission line may not be constructed outside the corridor, except upon petition to and approval by the Commission.

Source

The provisions of this § 57.76 adopted May 19, 1978, effective May 20, 1978, 8 Pa.B. 1403; amended January 7, 1983, effective January 8, 1983, 13 Pa.B. 131. Immediately preceding text appears at serial pages (50516) to (50517).

Cross References

This section cited in 52 Pa. Code § 5.14 (relating to applications requiring notice); and 52 Pa. Code § 57.72 (relating to form and content of application).

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