

ORIGINAL SENATE
FILE NO. SF0014

ENROLLED ACT NO. 6, SENATE

SIXTY-FIFTH LEGISLATURE OF THE STATE OF WYOMING
2019 GENERAL SESSION

AN ACT relating to public utilities; providing for the issuance of nonsitus certificates of public convenience and necessity; requiring certain public utilities to obtain a nonsitus certificate of public convenience and necessity; modifying provision governing certificates of convenience and necessity; specifying applicability of certificates; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 37-2-205.1 is created to read:

37-2-205.1. Nonsitus certificate of public convenience and necessity.

(a) Subject to subsection (b) of this section and unless otherwise waived by the commission, no public utility shall begin construction or complete the purchase of a line or plant, or of any extension of a line or material addition to a plant, outside the state of Wyoming without having first obtained from the commission a nonsitus certificate of public convenience and necessity determining that the present or future need for the nonsitus resource is prudent and in the public interest.

(b) A certificate shall only be required under this section if:

(i) The nonsitus resource is intended by the public utility to be a capital investment in a plant on which return is earned in Wyoming; and

(ii) The capital investment in the nonsitus resource exceeds one percent (1%) of the total capital investment in the plant on which return is earned, that is

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assigned or allocated to Wyoming customers, based on the public utility's most recent general rate case determination.

(c) No public utility shall include a capital investment in a nonsitus resource in rates charged to Wyoming customers without having first obtained from the commission a nonsitus certificate of public convenience and necessity pursuant to this section.

(d) Unless otherwise determined by the commission, issuance of a nonsitus certificate of public convenience and necessity shall not confer the right to recover a specific amount of the costs of the nonsitus resource in rates charged to Wyoming customers. Actual costs of the capital investment may be considered by the commission in a separate rate case determination.

(e) As used in this section:

(i) "Nonsitus resource" means construction or complete the purchase of a line or plant, or of any extension of a line or material addition to a plant, outside the state of Wyoming;

(ii) "Public utility" shall not include any cooperative electric utility as defined in W.S. 37-17-101(a)(i) that is exempt from public service commission retail rate regulation.

Section 2. W.S. 37-2-205(a) and by creating a new subsection (j) is amended to read:

37-2-205. Certificate of convenience and necessity; hearings.

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(a) Except as provided in this subsection, no public utility shall begin construction or complete the purchase of a line, or plant, or system, or of any extension of a line, or material addition to a plant, or system without having first obtained from the commission a certificate that the present or future public convenience and necessity require or will require such construction or purchase. This act shall not be construed to require any public utility operating outside of a city or town to secure a certificate for an extension into an area within which it has lawfully commenced operation, or for an extension into territory contiguous to its line, or plant ~~or system~~ for which no certificate is in force and is not served by a public utility of like character or for any extension within or to territory already served by it, necessary in the ordinary course of its business. If any public utility, in constructing or extending its line, or plant ~~or system~~ interferes or is about to interfere with the operation of the line, or plant ~~or system~~ of any other public utility already authorized or constructed, the commission on complaint of the public utility claiming to be injuriously affected, may after hearing make such order and prescribe the terms and conditions for the location of the lines, or plants ~~or systems~~ affected, as to it are just and reasonable. The power companies may, without the certificate, increase capacity of existing plants. For purposes of this subsection, "material addition" shall not include an addition to a plant that is necessary to serve load growth, provided that the capital investment in the addition shall not exceed one percent (1%) of the total capital investment in the plant on which return is earned, that is assigned or allocated to Wyoming customers, based on the public utility's most recent rate case determination.

(j) Unless otherwise determined by the commission, issuance of a certificate of convenience and necessity shall

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not confer the right to recover a specific amount of the costs of the construction or purchase in rates charged to Wyoming customers. Actual costs of the construction or purchase may be considered by the commission in a separate rate case determination.

Section 3. This act is effective July 1, 2019.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the Senate.

Chief Clerk