

65 – INDEPENDENT AGENCIES – REGULATORY

407 - PUBLIC UTILITIES COMMISSION

CHAPTER 330 - Filing Requirements for Petitions for Certificates of Public Convenience and Necessity for Electric Transmission Facilities and Standards for Granting Certificates

SUMMARY - This rule establishes filing requirements pursuant to 35-A M.R.S.A. § 3132 for petitions for certificates of public convenience and necessity for the construction of new transmission lines of 100 kilovolts or more, and for amendments to agreements regarding such construction. This rule also establishes filing requirements for rebuilding and relocating transmission lines of 100 kilovolts or more. In addition, this rule establishes filing requirements for petitions for certificates of public convenience and necessity for the construction by a utility or non-utility of new transmission lines of 69 kilovolts or more that are financed, permitted, constructed, owned or operated by the Northern Maine Transmission Corporation or financed by the Finance Authority of Maine.

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1. APPLICATION OF RULE AND DEADLINESA. Certificate required.

1. A utility must petition for, and receive, a certificate of public convenience and necessity from the Commission before erecting a transmission line with a capacity of 100 kilovolts or more or rebuilding or relocating a transmission line that has, or will have a capacity of 100 kilovolts or more that is the subject of a notification under section 8(C). Any petition to erect a transmission line with a capacity of 100 kilovolts or more shall provide the information required by sections 6 and 7. Any petition required under section 8 for a certificate of public convenience and necessity to rebuild or relocate a transmission line shall provide the information required by sections 6 and 7. This Rule also applies to any amendment, extension or renewal of any contract between the utility and other parties with an ownership interest, governing the terms of their participation in the construction of a transmission facility subject to this Rule, for which the original contract was subject to the approval of the Commission.

2. A utility or non-utility must petition for, and receive, a certificate of public convenience and necessity from the Commission before erecting a transmission line capable of operating at 69 kilovolts or more that is financed, permitted, constructed, owned in whole or in part or operated by the Northern Maine Transmission Corporation pursuant to Title 10, chapter 1003 of the Maine Revised Statutes Annotated, or is financed by the Finance Authority of Maine pursuant to Title 10, section 1053, subsection 6, paragraph F of the Maine Revised Statutes Annotated. Any petition to erect a transmission line filed pursuant to this section 1(A)(2) of the rule shall provide the information required by sections 6 and 7.

B. Deadlines and extensions.

1. The Commission shall issue its order within 6 months after a petition for approval of a transmission line is filed.

2. The period may be extended either by agreement of all the parties or by the Commission upon its determination that the party seeking the extension had to that time prosecuted its case in good faith and with due diligence, was seeking the extension because of circumstances beyond that party's control for which it had no reasonable substitute, and would be unreasonably disadvantaged unless the extension were granted.

2. DETERMINATION OF COMPLIANCE WITH RULE

A. Review of sufficiency of filing. Within 15 days of the receipt of any petition submitted pursuant to this rule the Administrative Director of the Commission will inform the petitioner in writing of the specific deficiencies of the petition or that the petition complies with this rule. No petition shall be considered filed unless the requirements of this rule have been fulfilled. The filing date shall be the date the Administrative Director determines that a petition complies with the requirements of this rule.

B. Further review of sufficiency. Notwithstanding a finding by the Administrative Director that a petition is sufficient, any party to the proceedings commenced by the filing of the petition may contend that the information submitted pursuant to sections 6 and 7 of this chapter is insufficient or defective. A party making such contentions may make such motions as would be proper had the information specified in sections 6 and 7 been timely requested by that party under the rules governing discovery and been due to be served upon that party on the date of the petition filing. Any such motion must be made within 7 days after the party is allowed to participate in the proceeding or within 60 days after the initial receipt of the petition by the Commission, whichever is earlier.

3. REQUESTS FOR WAIVERS

A. General waiver provision. Upon written request and for good cause shown the Commission may waive any of the requirements of this rule, which are not mandated by statute.

B. Waiver of approval for amendments to previously approved agreements.

1. As provided in 35-A M.R.S.A. § 3132(11-A), a utility may request a waiver from the application of section 3132 for amendments to agreements which were previously approved by the Commission under section 3132. The cover letter accompanying any request for a waiver must specifically state in the first sentence of the text of the letter, that the request is being filed pursuant to this section and that if the Commission does not act within 30 days (or 7 days if applicable) the waiver will be considered granted. The request for waiver may pertain to a particular amendment or to a certain category or type of amendment. Requests for waivers must describe the amendment and state the basis for the request. If the utility desires expeditious processing of the request, it shall state the date by which a response is requested and the reasons for the request for expedition. The Commission may grant the waiver if it finds that good cause has been shown that application of section 3132 and this rule is unnecessary, burdensome or impractical, and that the underlying purposes of section 3132 will not be significantly impaired.

2. If the Commission does not respond to a request for a waiver within 30 days, the request shall be considered granted. In the case of a request for expedited processing of the request for waiver, the request shall be considered to have been granted if the Commission has not responded by the date requested or within 7 days after filing of the request, whichever is greater. In the event of a denial of a waiver, the utility must file a petition as required in section 1. If the Commission grants a waiver for a category or type of amendment, as distinguished from a particular amendment, the utility shall notify the Commission of any amendments which fall within the category in the same manner prescribed for amendment to contracts not previously approved by the Commission under 35-A M.R.S.A. § 3132(11-B) and section 4 of this rule.

4. AMENDMENTS, EXTENSIONS AND RENEWALS TO CONTRACTS NOT ORIGINALLY SUBJECT TO APPROVAL BY THE COMMISSION

As provided in 35-A M.R.S.A. § 3132(11-A), for any amendment, extension or renewal of any contract otherwise subject to this rule, but for which the original contract was not subject to approval by the Commission, the utility shall file a copy of the proposed amendment, extension or renewal with the commission within 7 days of the day when the utility receives notice of the proposal. Commission approval of such amendments, extensions or renewals is not required.

5. FILING FEES

A. Fee required. A utility or non-utility shall pay a filing fee to the Commission when it files a petition under this rule. The amount of the fee shall equal $\frac{4}{100}$ of 1% (.04%) of the estimated cost to construct, rebuild or relocate the transmission line. Any portion of the filing fee received from a utility but not expended by the Commission to process the petition for a certificate of public convenience and necessity shall be returned to the utility.

B. Waiver. A utility or non-utility may request a waiver of all or a portion of the filing fee at the time the petition is filed. The Commission shall rule on the request for waiver within 30 days.

C. Exception for minor projects. A filing fee shall not be required with respect to an application concerning transmission lines if the total cost of the project is less than \$1,000,000, unless the Commission orders otherwise upon a finding of need for a filing fee.

6. NEW TRANSMISSION FACILITIES

A. Maps. The Petitioner shall include a map or plat of sufficient scale, which shows, in detail, the proposed location of the line; the width of the corridor in which it is proposed to be located; the location of existing incorporated communities; the principal topographic features of the proposed location; public or private recreational areas, parks, forests, hunting or fishing areas, or similar facilities; historical or scenic areas or places; rivers, lakes, streams, reservoirs and similar bodies of water, located within five miles of either side of the center line of the proposed corridor. The Petitioner shall also include a written description of the corridor in which the line will be constructed sufficient to locate the corridor on the face of the earth within the standards described in Chapter 140 of the Commission's Rules.

B. System diagrams. The Petitioner shall provide one-line system diagrams showing the following details:

1. All affected existing and proposed transmission lines, substations, substation buses, and transformers.
2. Existing and proposed voltage and capacity ratings of all affected lines, buses, transformers and protective and switching equipment.
3. Highest peak load experienced during normal operating conditions of each affected line and substation.
4. The highest peak load experienced during contingency operating conditions of each affected line and substation.

5. Projected five and ten year peak loading on each affected line and substation with and without proposed changes.

C. Description of type of line. The Petitioner shall provide a description of the standard type of construction configuration of the proposed line. The description shall include the height of the line, the number, type, class and average height of poles or towers to be placed thereon, the number, type and size of conductors to be used, and all safety features to be used in connection therewith.

D. Description of proposed corridor. The Petitioner shall provide a description of the proposed corridor, including all trimming clearances required and identifying locations where the degree of the slope is in excess of twenty degrees, and specifying those portions of the proposed corridor to which Petitioner has acquired property rights.

E. Cost estimates. The Petitioner shall provide a breakdown of cost estimates in the general form indicated.

	Line 1	Line 2	Substation 1	Total
Construction				
Labor				
Material				
General				
Administrative				
Land Total				

F. Costs to date. The Petitioner shall provide a breakdown, similar to Item E, of all costs incurred to date.

G. Description of changes. The Petitioner shall provide (1) descriptions of any other changes in plant or in system operation that will result from the erection or operations of the proposed lines, (2) an explanation of the causes of or reasons for all such changes, and (3) estimates of all costs associated with each such change.

H. Alternative routes. The Petitioner shall state whether alternate routes for the proposed lines have been investigated. If the Petitioner has investigated alternate routes for the proposed transmission lines, the Petition shall include all studies, reports, or other data relied upon in the investigation of alternate routes and shall clearly state the process by which Petitioner selected the proposed route.

I. Alternatives to construction of transmission line. The Petitioner shall state whether alternatives including conservation, distributed generation or load management to the proposed transmission line project were investigated. If the Petitioner has investigated alternatives, the petition shall include all studies, reports, or other data relied upon in the investigation of such alternatives and shall clearly state the process by which Petitioner decided upon the proposed construction, rebuilding, or relocation project.

Specifically, the Petitioner should state the purposes and benefits of the proposed project (such as the promotion of reliability and line loss reduction) and whether cost-benefit analyses have been performed.

7. SYSTEM RELIABILITY

A. Analysis required. Each Petition shall include an analysis of the effects of the proposed line or rebuilding or relocation of a line on (1) the reliability of the transmission system as a whole and any relevant portion or subsystem thereof, and (2) the capability of the transmission systems to serve existing and projected loads.

B. Content of analysis. The analysis shall clearly identify:

1. The standards and design criteria used to evaluate the effects on system reliability and capability; and
2. All assumptions and data used in the analysis including load flow modeling and lines in and contingency analysis.

8. REBUILDING AND RELOCATION OF TRANSMISSION LINES

A. Annual report. Each transmission and distribution utility shall submit by April 1 of each year to the Director of the Technical Analysis Division a schedule of transmission line rebuilding or relocation projects which it intends to carry out during the next 5 years concerning transmission lines that will become, or will remain at, voltages of 100 kilovolts or more. The utility shall also identify in the schedule the planned construction of any transmission lines which will be capable of initially carrying 100 kilovolts or more, even if it is not expected to carry 100 kilovolts or more. The failure of a utility to file a schedule shall constitute an affirmative statement by the utility that it has no projects which it intends to carry out during the next 5 years. A waiver of any provision of this section may be requested from, and granted by, the Director of the Division of Technical Analysis for good cause shown. Requests must be in writing and state the basis for the requested waiver.

B. Content of report. The contents of the annual schedule must include the following information on each proposed project:

1. Identification (e.g. "Section 35")
2. Location
3. Length
4. Year Originally Constructed
5. Voltage Level

6. Existing Conductor (e.g. "266.8 KCM ACSR")
7. Existing Structure Material and Design (e.g. "Wood H-Frame")
8. Peak Load

9. A copy of the most recent depreciation study conducted by the company which includes the useful lives of the poles and conductors which constitute the existing transmission system.

10. Estimated cost of the rebuilding or relocation project in nominal dollars.

C. Notification to submit petition. If the Director of the Division of Technical Analysis notifies the transmission and distribution utility within 60 days of the annual filing that an investigation of any transmission line rebuilding or relocation is warranted, the utility must submit a petition for public convenience and necessity pursuant to section 1 of this rule. The absence of Commission notification requiring the utility to file a petition does not preclude such notification in subsequent years.

9. FINAL ORDERS AND STANDARDS FOR GRANTING CERTIFICATES

A. Final Order, Finding of Public Need.

In accordance with 35-A M.R.S.A. § 3132(6), the Commission will make specific findings with regard to the need for the proposed transmission line in its order deciding whether to issue a certificate of public convenience and necessity. If the Commission finds a public need for the proposed transmission line exists, it shall issue a certificate of public convenience and necessity for the transmission line.

B. Public Need defined.

The Commission establishes public need by determining that ratepayers will benefit by the proposed transmission line. Benefits are determined based upon the electrical need for the line, taking into account economics, safety and reliability. The proposed transmission line must be reasonable compared to the other alternatives. Cost is an important consideration, but public need can be established for a proposed transmission line that is not the least cost alternative because aesthetic, environmental or other factors justify a reasonable cost increase. Public need of a transmission line proposed by a non-utility, and for which a certificate of public convenience and necessity is required by 35-A M.R.S.A. § 3132(2) and this rule, shall be determined in the same manner that the Commission determines public need for a transmission line proposed by a transmission and distribution utility.

10. DELEGATION

The Commission's authority to grant waivers and exceptions under this chapter is hereby delegated to the Administrative Director and to the Hearing Examiner in any

proceeding, both of whom shall consult with the Directors of Technical Analysis and Finance before acting on any request. This delegation does not limit the Commission's ability to consider requests directly or to review the actions of the Administrative Director or Hearing Examiner thereunder.

BASIS STATEMENT: Chapter 33, Filing Requirements for Petitions of Public Convenience and Necessity for New Generating and Transmission Facilities, was adopted by Order dated June 27, 1979, in Docket No. M.202. The factual and policy basis for the original rule is set forth in the Order in M.202. The Rule was renumbered as Chapter 330 and amended in a number of respects in Docket No. 88-174. The factual and policy basis for these amendments is set for in the Commission's Order Adopting Rule and Statement of Factual and Policy Basis, Docket No. 88-174, issued on December 30, 1988. The Rule was amended again in Docket No. 2004-572. The factual and policy basis for these amendments is set forth in the Commission's Order Adopting Rule and Statement of Factual and Policy Basis, Docket No. 2004-572, issued on May 2, 2005. Copies of these statements and orders have been filed with this Rule at the Office of the Secretary of State. Copies may also be obtained from the Administrative Director of the Public Utilities Commission, 242 State Street, Augusta, Maine 04333-0012.

AUTHORITY: 35-A M.R.S.A. §§ 101, 103, 104, 107, 111, 112, 3131 and 3132.

This rule was approved by the Secretary of State on 5/13/05, and will be effective on 5/18/05.