MAJOR FACILITY SITING

ENVIRONMENTAL QUALITY

CHAPTER 20

Sub-Chapter 16

Decision Standards

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Decision Standards

17.20.1601 ENERGY GENERATION AND CONVERSION FACILITIES, SERVICE AREA UTILITIES, NEED STANDARD IS REPEALED (History: 75-20-105, MCA; IMP, 75-20-301, 75-20-503, MCA; NEW, 1984 MAR p. 1844, Eff. 12/28/84; TRANS, from DNRC, 1996 MAR p. 2863; REP, 2001 MAR p. 2410, Eff. 12/7/01.)

17.20.1602 ENERGY GENERATION AND CONVERSION FACILITIES, COMPETITIVE UTILITIES, NEED STANDARD IS REPEALED (History: 75-20-105, MCA; IMP, 75-20-301, 75-20-503, MCA; NEW, 1984 MAR p. 1844, Eff. 12/28/84; TRANS, from DNRC, 1996 MAR p. 2863; REP, 2001 MAR p. 2410, Eff. 12/7/01.)

17.20.1603 ENERGY GENERATION AND CONVERSION FACILITIES, MINIMUM IMPACT STANDARD IS REPEALED (History: 75-20-105, MCA; IMP, 75-20-301, 75-20-503, MCA; NEW, 1984 MAR p. 1844, Eff. 12/28/84; TRANS, from DNRC, 1996 MAR p. 2863; REP, 2001 MAR p. 2410, Eff. 12/7/01.)

17.20.1604 LINEAR FACILITIES, PUBLIC INTEREST, CONVENIENCE AND NECESSITY STANDARD (1) In order for the department to find that a proposed facility will serve the public interest, convenience and necessity as required by 75-20-301, MCA, the department must find and determine that the discounted net present value of benefits (less costs) is greater for the facility than for any other reasonable alternative, based on a determination of the following:

(a) the findings required by ARM 17.20.1606;

(b) the cumulative environmental impacts of the facility, as determined for ARM 17.20.1607(1)(g);

(c) the benefits to the applicant, the state of Montana, the applicant's customers, and any other entities benefitting from the facility;

(i) benefits include internal benefits and external benefits; nonmonetary benefits must be quantified to the extent reasonably possible.

(d) the effects of the economic activity resulting from the proposed facility;

(e) the costs of the facility including internal costs of construction and operation and mitigation costs, plus other external costs and unmitigated environmental costs; nonmonetary costs must be quantified to the extent reasonably possible; and

(f) any other factors the board considers relevant.

(2) In making this finding the department shall consider the effects of the facility on the public health, welfare and safety. (History: 75-20-105, MCA; IMP, 75-20-301, MCA; NEW, 1984 MAR p. 1844, Eff. 12/28/84; TRANS, from DNRC, 1996 MAR p. 2863; AMD, 2001 MAR p. 2410, Eff. 12/7/01; AMD, 2005 MAR p. 252, Eff. 2/11/05.)

17.20.1605 ENERGY GENERATION AND CONVERSION FACILITIES, DECISIONS (1) In making its decision under 75-20-301(3), MCA, the department shall identify all:

(a) significant environmental impacts; and

(b) reasonable, cost-effective mitigation measures for those impacts.

(2) For those significant environmental impacts that cannot be mitigated below the level of significance, the department shall determine whether there is a threat of serious injury or damage to the environment, the social and economic conditions of inhabitants of the affected area, and the health, safety, or welfare of area inhabitants.

(3) In determining the reasonableness of mitigating measures under 75-20-301(3)(a), MCA, the department shall consider appropriate factors including, but not limited to, whether the measure:

(a) is within or can reasonably be expected to be within an applicant's or the department's ability to implement;

(b) is technologically feasible as shown through research, successful prototype testing, or successful implementation in similar situations;

(c) is likely to succeed in mitigating the identified significant impact when implemented individually or in conjunction with other adopted measures; and

(d) can be monitored for implementation and effectiveness.

(4) In determining whether a mitigating measure is cost-effective under 75-20-301(3)(a), MCA, the department shall use the following analysis:

(a) estimate the net present value of the cost of implementing the mitigating measure;

(b) estimate the net present value of the benefits of implementing the measure, including:

(i) reductions in adverse environmental impacts of the facility and any other benefits, that are readily quantifiable and valued in monetary terms; and

(ii) reductions in adverse impacts, and any other benefits, that are not readily quantifiable or not readily valued in monetary terms.

(c) if (4)(a) is greater than (4)(b)(i), and (4)(b)(ii) is not deemed significant, the mitigating measure is not cost-effective; and

(d) if (4)(a) is less than or equal to (4)(b)(i), or if (4)(a) is greater than (4)(b)(i) and (4)(b)(ii) is deemed to be significant and sufficient to outweigh the value of (4)(a) minus (4)(b)(i), the mitigating measure is cost-effective.

(5) All mitigating measures upon which the department relies in its decision must be made conditions of the certificate.

(6) For each facility and associated facilities, a certificate of environmental compatibility must contain:

(a) an approved reclamation plan;

(b) an approved monitoring plan;

(c) any construction and reclamation bonds required by the department;

(d) a set of environmental specifications addressing measures to reduce impacts of construction, operation, and decommissioning; and

(e) a topographic map having a scale of 1:24,000 showing section lines, the site boundary, location of the facility, facility components, and any associated facility(ies).

(7) A certificate holder must comply with all terms of a certificate of environmental compatibility including, but not limited to, the items in (5) and (6) above. (History: 75-20-105, MCA; IMP, 75-20-301, MCA; NEW, 2001 MAR p. 2410, Eff. 12/7/01.)

17.20.1606 ELECTRIC TRANSMISSION LINES, NEED STANDARD

(1) In order to find that there is a need for an electric transmission facility as required by 75-20-301, MCA, the department must find that the services of the facility are needed by finding and determining the following:

(a) For facilities for which insufficient power transfer capacity at adequate voltage levels under normal operating conditions is a stated basis of need in the application, either that:

(i) the transfer capacity of the proposed facility will be required within two years of the date the proposed facility is to be placed in service; or

(ii) if the finding in (1)(a)(i) cannot be met, that the expected benefits of constructing a transmission line with the transfer capacity of the proposed line, instead of a line for which the finding in (1)(a)(i) can be met, warrant the costs based on a finding and determination of the following:

(A) the expected benefits of building the proposed line compared with a line that would satisfy (1)(a)(i); and

(B) the extra costs of building the proposed line compared with a line that would satisfy (1)(a)(i).

(b) For facilities for which insufficient power transfer capacity at adequate voltage levels under contingent operating conditions is a stated basis of need in the application, that:

(i) there is or will be a power transfer capacity shortage under contingent conditions that will be rectified by the proposed facility within two years of the date the proposed facility is to be placed in service; and

(ii) the contingent conditions under which existing transfer capacity is insufficient, are sufficiently likely to occur to give a reasonable assurance that the expected benefits of the proposed facility exceed the costs of the facility.

(c) For facilities for which transient stability under normal operating conditions is a stated basis of need in the application, that there is or will be a transient stability problem under normal operating conditions, that will be rectified by the proposed facility within two years after the date the proposed facility is to be placed in service.

(d) For facilities for which transient stability under contingent operating conditions is a stated basis of need in the application, that:

(i) there is or will be a transient stability problem under contingent operating conditions that will be rectified by the proposed facility within two years of the date the proposed facility is to be placed in service; and

(ii) the contingent conditions under which the transient stability problems arise are sufficiently likely to occur to give a reasonable assurance that the expected benefits of the proposed facility exceed the costs.

(e) For facilities for which excessive voltage drop under normal operating conditions is a stated basis of need in the application, that:

(i) there is, or will be within two years after the proposed facility is to be placed in service, an excessive voltage drop that will be rectified by the proposed facility; and

(ii) the applicable design or operating voltage drop criteria used to justify the proposed facility are reasonably likely to result in benefits in excess of costs.

(f) For facilities for which excessive voltage drop under contingent operating conditions is a stated basis of need, that:

(i) there is or will be within two years after the proposed facility is to be placed in service a problem of excessive voltage drop under contingent operating conditions which will be rectified by the proposed facility; and

(ii) the applicable design or operating voltage drop criteria and the expected frequency and duration of the contingent operating conditions under which the problem exists are such as to give a reasonable assurance that the expected benefits of the proposed facility exceed the costs of the facility.

(g) For facilities for which reliability of service is a stated basis of need in the application:

(i) that the reliability criteria of the applicant will be violated within two years of the date the proposed facility is to be placed in service if the proposed facility is not built or some other solution is not implemented; and

(ii) that the value of the savings from reduced outage plus any value for general reliability of service, over the life of the facility, is reasonably likely to exceed the cost of the proposed facility.

(h) For facilities for which economy considerations are a stated basis of need:

(i) that the expected benefits of the proposed facility exceed the costs of the facility, given:

(A) the difference between expected system costs with and without the line;

(B) the expected location and size of markets and price for surplus power; and

(C) the expected source, quantity and price of purchased economy energy; and

(ii) that the benefits of the line warrant the resource commitment associated with it given the degree of uncertainty surrounding the benefits, likely markets, and economy purchases identified in (1)(h)(i); and

(iii) if transmission capacity exists that could carry the desired energy power flow without violating voltage drop, transfer capacity or other transmission planning criteria, that:

(A) the existing capacity is not available to the applicant at reasonable cost;

(B) the applicant has made every reasonable effort to reach agreement with the owners of the existing capacity;

(C) no agreement has been reached with the owners of the existing capacity; and

(D) no means exist for reaching a reasonable agreement with the owners of the existing capacity or for otherwise gaining access at reasonable terms to the existing capacity.

(i) For all facilities, that any forecast of loads is consistent with available information about loads and load growth in the area to be served by the proposed facility. (History: 75-20-105, MCA; IMP, 75-20-301, MCA; NEW, 1984 MAR p. 1844, Eff. 12/28/84; TRANS, from DNRC, 1996 MAR p. 2863; AMD, 2005 MAR p. 252, Eff. 2/11/05.)

17.20.1607 LINEAR FACILITIES, MINIMUM IMPACT STANDARD

(1) In order for the department to find and determine that a linear facility represents the minimum adverse environmental impact, considering the state of available technology and the nature and economics of the various alternatives as required by 75-20-301, MCA:

(a) the department finds and determines:

(i) that the expected net present value of costs, including monetary costs of construction to the applicant, external monetary costs, and the value of reasonably quantifiable environmental impacts is lower for the proposed facility than for any other available alternative that would meet the need finding required by ARM 17.20.1606. Other available alternatives include transmission alternatives, alternative energy resources and energy conservation, alternative transmission technologies, alternative levels of transmission reliability and the no action alternative;

(ii) that unquantified environmental impacts are not significantly adverse to alter the finding required by (1)(a)(i);

(iii) that all mitigation measures included in the mitigation plan in (1)(a)(vii)(C) have been incorporated in the cost finding required by (1)(a)(i);

(iv) that the final location for the facility achieves the best balance among the preferred location criteria listed in Circular MFSA-2, section 3.1 considering environmental impact and economic cost;

(v) that the final location for the facility will not cross one of the areas listed in Circular MFSA-2, section 3.2(1)(d)(i) and (ii), unless the legislative or administrative unit of government with direct authority over the area has given the applicant permission to locate the facility there;

(vi) that reasonable alternative locations for the facility were considered in selecting the final location, pursuant to Circular MFSA-2, section 3.0;

(vii) that the final location for the facility will result in less cumulative adverse environmental impact and economic cost than siting the facility in any reasonable alternative location, based on the following:

(A) identification of any probable significant adverse environmental impacts;

(B) identification of reasonable mitigation for these significant adverse environmental impacts;

(C) adoption of an acceptable mitigation plan based on the measures identified in (1)(a)(vii)(B), including environmental specifications, that will be included in conditions to the certificate; and

(D) adoption of an acceptable monitoring plan, including a reclamation plan, that will be included in conditions to the certificate.

(viii) if in making the finding required by (1)(a)(vii), the final location for the facility crosses one or more of the areas listed in Circular MFSA-2, section 3.2(1)(d)(iii) through (xi) and section 3.4(1)(b) through (w) for transmission lines and in Circular MFSA-2, sections 3.2(1)(e) and 3.4(2) for pipelines, either that no significant adverse environmental impacts would result in the area(s); or

(A) that any significant adverse environmental impacts affecting the environmental resources, qualities or characteristics for these areas have been identified;

(B) that reasonable mitigation for these significant adverse environmental impacts has been identified;

(C) that an acceptable mitigation plan based on the measures identified in (1)(a)(viii)(B), including environmental specifications, has been identified and will be included in conditions to the certificate; and

(D) that an acceptable monitoring plan, including a reclamation plan, has been identified, and will be included in conditions to the certificate.

(2) The department must condition its approval of a facility on the following standards:

(a) for electric transmission facilities, that average annual noise levels, as expressed by an A-weighted day-night scale (L_{DN}) will not exceed:

(i) 50 decibels at the edge of the right-of-way in residential and subdivided areas unless the affected landowner waives this condition;

(ii) 55 decibels at the edge of the property boundaries of substations in residential and subdivided areas.

(b) for electric transmission facilities, that appropriate mitigation has been identified to prevent unacceptable interference with stationary radio, television, and other communication systems and will be included in conditions to the certificate;

(c) for electric transmission facilities, that the facility will adhere to the national electric safety code regarding transmission lines.

(d) for electric transmission facilities, that the electric field at the edge of the right-of-way will not exceed one kV per meter measured one meter above the ground in residential or subdivided areas unless the affected landowner waives this condition, and that the electric field at road crossings under the facility will not exceed seven kV per meter measured one meter above the ground.

(e) for electric transmission facilities, that the facility will comply with the identification and marking standards established by the federal aviation administration.

(f) for pipeline facilities, that compliance with applicable U.S. department of transportation pipeline standards will be achieved.

(g) for all linear facilities, that the facility will comply with environmental specifications developed for the facility.

(h) for all linear facilities, that any other standards the department deems important will be met. (History: 75-20-105, MCA; IMP, 75-20-105, 75-20-211, 75-20-301, MCA; NEW, 1984 MAR p. 1844, Eff. 12/28/84; TRANS, from DNRC, 1996 MAR p. 2863; AMD, 2001 MAR p. 2415, Eff. 12/7/01; AMD, 2005 MAR p. 252, Eff. 2/11/05.)

17.20.1608 LINEAR FACILITIES, MINIMUM IMPACT STANDARD FOR CENTERLINES IS REPEALED (History: 75-20-105, MCA; IMP, 75-20-301, 75-20-302, MCA; NEW, 1984 MAR p. 1844, Eff. 12/28/84; TRANS, from DNRC, 1996 MAR p. 2863; REP, 2001 MAR p. 2415, Eff. 12/7/01.)