

For the issuance of each permit sticker as provided in section nineteen D, twenty dollars for every one thousand pounds or fraction thereof of the weight of such motor vehicle or trailer or semitrailer, including the maximum load to be carried thereon, in excess of the maximum weight for which such motor vehicle or trailer or semitrailer may otherwise be operated under the provisions of section nineteen A; except for permits granted for the carrying of irreducible loads for which the fee shall be fifty dollars for each such permit.

SECTION 12. The provisions of sections four and five of this act shall take effect on July first, nineteen hundred and seventy-five.

Approved August 14, 1974.

Chap. 852. AN ACT PROVIDING FOR THE PRESERVATION AND ENHANCEMENT OF THE ENVIRONMENT IN CONJUNCTION WITH THE SITING AND OPERATION OF FACILITIES FOR THE TRANSMISSION OF NATURAL GAS AND THE MANUFACTURE OR STORAGE OF LIQUEFIED OR SYNTHETIC NATURAL GAS OR PROPANE AND FOR THE PROMOTION OF A RELIABLE, ADEQUATE, ECONOMIC, AND SAFE SUPPLY OF NATURAL GAS.

Be it enacted, etc., as follows:

SECTION 1. Section 69G of chapter 164 of the General Laws, inserted by section 1 of chapter 1232 of the acts of 1973, is hereby amended by striking out the definitions of "Applicant", "Council", and "Facility" and inserting in place thereof the following definitions:—

"Applicant", a person or persons who submit a long-range plan to the council, or applies to the council for a certificate of environmental impact and public need.

"Council", the Energy Facilities Siting Council established under the provisions of section sixty-nine H.

"Facility", (1) any bulk electric generating unit, including associated buildings and structures, designed for, or capable of, operating at a gross capacity of one hundred megawatts or more; (2) any new electric transmission line having a design rating of sixty-nine kilovolts or more and which is one mile or more in length except re-conductoring or rebuilding of existing transmission lines at the same voltage; (3) any ancillary structure which is an integrated part of the operation of any electric generating unit or transmission line which is a facility; (4) any unit, including associated buildings and structures, designed for, or capable of, the manufacture or storage of gas; and (5) any new pipeline for the transmission of gas having a normal operating pressure in excess of one hundred pounds per square inch gauge which is greater than one mile in length except restructuring, rebuilding, or relaying of existing transmission lines of the same capacity.

SECTION 2. Said section 69G of said chapter 164, as so appear-

ing, is hereby further amended by adding the following definitions:—

“Gas”, a term which shall include natural gas, propane air, synthetic natural gas, and liquefied natural gas.

“Gas company”, (1) a gas company as defined in section one; (2) a corporation organized under the laws of the commonwealth empowered to manufacture or store gas for resale or distribution to a gas company as defined in section one; (3) a foreign corporation empowered under the laws of its state of incorporation to manufacture or store gas for resale or distribution to a gas company as defined in section one, and qualified to do business in the commonwealth; (4) a natural gas pipeline company as defined in section twenty-five B; and (5) a municipal corporation empowered to operate a municipal gas plant under the provisions of section thirty-five or section thirty-six.

“Liquefied natural gas”, a natural gas that has been changed into a liquid by cooling the temperature at atmospheric pressure to approximately -260°F .

“Natural gas”, a type of gas which originates in the ground and is predominantly methane.

“Propane air”, a type of gas produced by those facilities which add commercial grade propane to air for mixture with natural gas.

“Synthetic natural gas”, a type of gas which is made by a facility which produces a gaseous fuel from the manufacture, conversion or reforming of liquid or solid hydrocarbons.

SECTION 3. Section 69H of said chapter 164, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:—

There is hereby established the Energy Facilities Siting Council which shall be responsible for implementing the energy policies contained in sections sixty-nine H to sixty-nine R, inclusive, to provide a necessary energy supply for the commonwealth with a minimum impact on the environment at the lowest possible cost.

SECTION 4. The second paragraph of said section 69H of said chapter 164, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:— Said council shall be composed of the secretary of consumer affairs, the secretary of communities and development, the secretary of environmental affairs, and the secretary of human services, or their respective designees, and four persons to be appointed by the governor for terms of three years, one of whom shall be experienced in the conservation and protection of the environment, one of whom shall be a professional engineer registered under the provisions of chapter one hundred and twelve, one of whom shall be experienced in matters relating to the electric power industry and who shall vote only on those matters directly related to such industry, and one of whom shall be experienced in matters relating to the gas industry and who shall vote only on those matters directly related to such industry, provided that the council shall not include as a member any person who receives, or has during the previous two years received, a significant portion of his income directly or indirectly from a holder of, or an applicant for, a national pollutant discharge elimination system permit.

SECTION 5. The fifth paragraph of said section 69H of said chapter 164, as so appearing, is hereby amended by striking out clause (4) and inserting in place thereof the following clause:—

(4) To establish a schedule of filing fees as follows: (a) not to exceed twenty-five thousand dollars in any instance for applications for certificates of environmental impact and public need, as the council may determine; provided, however, that such filing fee for any municipal corporation empowered to operate a municipal lighting plant under the provisions of section thirty-five or thirty-six shall not exceed the sum of two thousand five hundred dollars; and (b) for long-range forecasts or supplements thereto a total maximum amount of four hundred thousand dollars annually from the electric companies with the fee for each applicant being determined by its proportion of the total kilowatt hour sales to ultimate customers in the commonwealth for the prior year, and a total maximum amount of one hundred and twenty-five thousand dollars annually from the gas companies with the fee for each applicant being determined by its pro rata percentage of the firm gas revenues from sales to consumers in the commonwealth for the prior year.

SECTION 6. Section 69I of said chapter 164, as so appearing, is hereby amended by striking out the first, second and third paragraphs and inserting in place thereof the following three paragraphs:—

On or before December thirty-first, nineteen hundred and seventy-five, and every fifth year thereafter, every electric company shall, individually or jointly with others, file with the council a long-range forecast with respect to the electric power needs and requirements of its market area, taking into account wholesale bulk power sales or purchases or other co-operative arrangements with other electric companies, for the ensuing ten-year period. On or before December thirty-first, nineteen hundred and seventy-five, and every fifth year thereafter, every gas company shall individually or jointly with others, file with the council a long-range forecast with respect to the gas needs and requirements of its market area, taking into account wholesale bulk gas sales or purchases or other co-operative arrangements with other gas companies, for the ensuing five-year period. As regional plans covering longer time periods are developed, they shall be filed with the council.

Said forecasts shall include, in such form and detail as the council shall prescribe, the following information:

(1) A description of all then existing agreements with other electric or gas companies for joint planning or joint forecasting of electric power or gas needs and the purchase or sale of electric power or gas or reserve capacity.

(2) A forecast of the electric power or gas needs for its market area, taking into account wholesale bulk power or gas sales or purchases, or other co-operative arrangements with other utilities and energy policies as adopted by the commonwealth.

(3) A description of actions planned to be taken by the company which will affect capacity to meet such needs, including, but not limited to: expansion, reduction, or removal of existing facilities; con-

struction or acquisition of additional facilities; a description of alternatives to planned action such as other methods of generating, manufacturing or storing, other site locations, other sources of electrical power or gas, and no additional electric power or gas; a description of the environmental impact of each proposed facility, provided, however, that the above provisions shall not apply to facilities which have been approved as part of a previous long-range forecast or supplement thereto. The council shall after public notice and a period for comment be empowered to issue and revise its own list of guidelines providing a minimum of data for initial review such as land use impact, water resources impact, air quality impact, solid waste impact, radiation impact and noise impact.

Every electric and gas company, either individually or jointly with others, shall also file annually a supplement thereto revising and updating said long-range forecast for a minimum of one year.

SECTION 7. The first sentence of the fourth paragraph of said section 69I of said chapter 164, as so appearing, is hereby amended by inserting after the word "electric" in line 2, the words: — or gas.

SECTION 8. The first paragraph of section 69J of said chapter 164, as so appearing, is hereby amended by striking out the third sentence and inserting in place thereof the following sentence: — In addition, a public hearing shall be held in each locality in which a generating plant site or gas facility contained in the long-range forecast or supplement is located, except that a public hearing shall not be required in a locality containing a proposed site if such a hearing has already been held in regard to that particular site in conjunction with a previously filed long-range forecast or supplement.

SECTION 9. Said section 69J of said chapter 164, as so appearing, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph: —

The council by a majority vote shall within twelve months from the date of filing approve a long-range forecast if it determines that it meets the following requirements: all information relating to current activities, facilities agreements and energy policies as adopted by the commonwealth is substantially accurate and complete; projections of demand for electric power or gas and of the capacities for existing and proposed facilities are based on substantially accurate historical information and reasonable statistical projection methods; projections relating to service area, facility use and pooling or sharing arrangements are consistent with such forecasts of other companies subject to this chapter as may have already been approved and reasonable projections of activities of other companies in the New England area; and plans for expansion and construction of the applicant's new facilities are consistent with current health, environmental protection, and resource use and development policies as adopted by the commonwealth.

SECTION 10. Section 69K of said chapter 164, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph: —

Any electric or gas company which proposes to construct or operate facilities in the commonwealth may petition the council for a certifi-

cate of environmental impact and public need with respect to such facility. The council shall consider such petition providing: the electric or gas company is prevented from building a facility because it cannot meet standards imposed by a state or local agency with commercially available equipment or because the processing or granting by a state or local agency of any approval, consent, permit or certificate has been unduly delayed; or the electric or gas company believes there are inconsistencies among resource use permits issued by such state or local agencies; or the electric or gas company believes that a nonregulatory issue or condition has been raised or imposed by such state or local agencies such as but not limited to aesthetics and recreation; or the facility cannot be constructed due to any disapprovals, conditions or denials by local governments, except with respect to any lands or interest therein, excluding public ways, owned or managed by any state agency or local government.

SECTION 11. Said section 69K of said chapter 164, as so appearing, is hereby further amended by striking out the sixth paragraph and inserting in place thereof the following paragraph:—

A certificate may be transferred to any other electric or gas company by the holder thereof, subject to the terms and conditions contained therein.

SECTION 12. Paragraph A of section 69L of said chapter 164, as so appearing, is hereby amended by striking out clause (3) and inserting in place thereof the following clause:—

(3) A copy of the long-range plan approved by the council under the provisions of section sixty-nine J, in proof of the need for the facility to meet the energy requirements of the applicant's market area, taking into account wholesale bulk power or gas sales or purchase or other co-operative arrangements with other utilities and energy policies as adopted by the commonwealth; provided, however, that this requirement may be waived by the council for emergency or unforeseen conditions which jeopardize the health and safety of the public.

SECTION 13. The second paragraph of section 69O of said chapter 164, as so appearing, is hereby amended by striking out clause (1) and inserting in place thereof the following clause:—

(1) the need for the facility to meet the energy requirements of the applicant's market area taking into account wholesale bulk power or gas sales or purchases or other co-operative arrangements with other utilities and energy policies as adopted by the commonwealth.

SECTION 14. Said second paragraph of said section 69O of said chapter 164, as so appearing, is hereby further amended by striking out clause (3) and inserting in place thereof the following clause:—

(3) the extent to which construction and operation of the facility will fail to conform with existing state and local laws, ordinances, by laws, rules and regulations and reasonableness of exemption thereunder, if any, consistent with the implementation of the energy policies contained in this act to provide a necessary power or gas supply for the commonwealth with a minimum impact on the environment at the lowest possible cost; and.

SECTION 15. The third sentence of section 69O of said chapter

164, as so appearing, is hereby amended by striking out, in lines 5 and 6, the words "electric power" and inserting in place thereof the word:— energy.

SECTION 16. Section 69R of said chapter 164, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:—

Any electric or gas company may petition the department for the right to exercise the power of eminent domain with respect to the facility or facilities specified and contained in the proposed long-range electric power or gas forecast submitted in accordance with section sixty-nine I if such electric or gas company is unable to reach agreement with the owners of land for the acquisition of any necessary estate or interest in land. The company shall forward at the time of filing such petition a copy thereof to each city and town affected.

SECTION 17. Said section 69R of said chapter 164, as so appearing, is hereby further amended by striking out the fifth paragraph and inserting in place thereof the following paragraph:—

Following a taking under this section, the electric or gas company may forthwith proceed to utilize such land. If the electric or gas company shall not utilize the land so taken for the purpose or purposes authorized in the department's order within such time as the department shall determine, its rights under such taking shall cease and terminate.

SECTION 18. Said section 69R of said chapter 164, as so appearing, is hereby further amended by striking out the seventh paragraph and inserting in place thereof the following paragraph:—

This section shall apply only to bulk electric generating units and ancillary structures and to facilities for the manufacture or storage of gas as defined in section sixty-nine G and should not be construed as abrogating the department's jurisdiction described in section seventy-two in respect to transmission lines or the department's jurisdiction described in sections seventy-five B through seventy-five G, inclusive, in respect to natural gas transmission lines.

SECTION 19. Section 2 of said chapter 1232 is hereby amended by striking out, in line 1, the words "Electric Power" and inserting in place thereof the word:— Energy—, and by striking out, in line 7, the word "one" and inserting in place thereof the word:— two.

SECTION 20. Section 3 of said chapter 1232 is hereby amended by striking out, in line 1, the words "Electric Power" and inserting in place thereof the word:— Energy.

SECTION 21. Section 6 of said chapter 1232 is hereby amended by adding the following sentence:— This act shall not apply to any matter over which any agency, department, or instrumentality of the federal government has exclusive jurisdiction.

Approved August 14, 1974.