

## Summary of State Transmission Siting Law in the Western Interconnection

This paper presents a summary of transmission siting law for the 11 western states in the Western Interconnection and 2 Canadian provinces. The objective of this paper is to provide the reader with general information on key aspects of state siting processes across the region and to inform policy discussions on siting.

The table below provides an overview of different features for each state. The left hand column provides links to a descriptive summary of each state’s siting process. Each state summary contains links to the underlying statutory provisions of the transmission siting process.

This initial draft attempts to capture the key parameters and compare siting processes among different states. We intend to build upon on this initial working draft and incorporate comments from stakeholders familiar with state siting laws.

	Permitting System	Permitting Authority	Scope of Authority	Permission Required	Demonstration of Need	Timeline	Environmental Impact Analysis
<a href="#"><u>Alberta</u></a>	<ul style="list-style-type: none"> <li>Province-level</li> <li>2-step process</li> </ul>	<ul style="list-style-type: none"> <li>Alberta Utilities Commission</li> </ul>	<ul style="list-style-type: none"> <li>A persons wishing to construct a transmission line</li> </ul>	<ul style="list-style-type: none"> <li>Permit to construct</li> </ul>	<ul style="list-style-type: none"> <li>Demonstrated through a need identification document</li> </ul>	<ul style="list-style-type: none"> <li>180 days, with 90 day extension, and further extension granted by Energy Minister when necessary</li> </ul>	<ul style="list-style-type: none"> <li>Commission may make environmental regulations when issuing permit</li> </ul>
<a href="#"><u>Arizona</u></a>	<ul style="list-style-type: none"> <li>State-level, single siting authority</li> <li>2-step process</li> </ul>	<ul style="list-style-type: none"> <li>Arizona Corporation Commission (final approval)</li> <li>ACC Transmission Line Siting Committee</li> </ul>	<ul style="list-style-type: none"> <li>Lines <math>\geq</math> 115kV.</li> <li>Decisions binding on all state and local agencies</li> <li>Local ordinances, plans, and regulations must be complied with</li> </ul>	<ul style="list-style-type: none"> <li>Certificate of Environmental Compatibility</li> </ul>	<ul style="list-style-type: none"> <li>Matter of committee discretion</li> <li>No CPCN needed</li> </ul>	<ul style="list-style-type: none"> <li>Statutory timeline for siting decisions</li> <li>Generally <math>\approx</math>180 days from submission of application</li> </ul>	<ul style="list-style-type: none"> <li>No official EIA required. Environmental impact is considered by the TLSC.</li> </ul>

<u>British Columbia</u>	<ul style="list-style-type: none"> <li>• Province-level, single siting authority</li> <li>• Single step process</li> </ul>	<ul style="list-style-type: none"> <li>• British Columbia Utilities Commission</li> </ul>	<ul style="list-style-type: none"> <li>• All public utilities plants or systems</li> </ul>	<ul style="list-style-type: none"> <li>• CPCN</li> </ul>	<ul style="list-style-type: none"> <li>• Must show need for CPCN.</li> <li>• Addressed through planning as well</li> </ul>	<ul style="list-style-type: none"> <li>•</li> </ul>	<ul style="list-style-type: none"> <li>• Environmental Assessment Certificate</li> </ul>
<u>California</u>	<ul style="list-style-type: none"> <li>• State-level, dual siting authority</li> <li>• PUC oversight of utilities</li> </ul>	<ul style="list-style-type: none"> <li>• CA Energy Commission (CEC)</li> <li>• California PUC</li> </ul>	<ul style="list-style-type: none"> <li>• CEC: Lines attached to generation <math>\geq 50\text{MW}</math></li> <li>• PUC: Utility-sponsored projects <math>&gt; 200\text{kV}</math></li> </ul>	<ul style="list-style-type: none"> <li>• CEC: certification</li> <li>• PUC: CPCN</li> </ul>	<ul style="list-style-type: none"> <li>• Need must be demonstrated for CPCN</li> <li>• Addressed through planning</li> </ul>	<ul style="list-style-type: none"> <li>• <math>\approx 1\text{yr.}</math> for CEC: notice of intent phase</li> <li>• <math>\approx 12</math> or <math>18</math> mos. for CEC application phase</li> </ul>	<ul style="list-style-type: none"> <li>• EIA done by Environmental Section of PUC, using CA Environmental Quality Act</li> </ul>
<u>Colorado</u>	<ul style="list-style-type: none"> <li>• County-level, appeals to PUC</li> <li>• PUC oversight of utilities</li> </ul>	<ul style="list-style-type: none"> <li>• Local, by county or municipality</li> <li>• Colorado PUC for utilities and power authorities</li> </ul>	<ul style="list-style-type: none"> <li>• Local: all lines</li> <li>• PUC: Utility-sponsored lines</li> </ul>	<ul style="list-style-type: none"> <li>• Local: permit, license, etc.</li> <li>• PUC: Cert. of Public Convenience and Necessity</li> </ul>	<ul style="list-style-type: none"> <li>• Local: requirements vary</li> <li>• Need must be demonstrated for CPCN</li> </ul>	<ul style="list-style-type: none"> <li>• Local: <math>\approx 120</math> days to issue/deny permits</li> <li>• PUC: <math>\approx 60</math> days to make CPCN decision</li> </ul>	<ul style="list-style-type: none"> <li>• Air permits must be obtained from CO Dept. of Public Health &amp; Environment.</li> </ul>
<u>Idaho</u>	<ul style="list-style-type: none"> <li>• County-level multiple siting authorities</li> <li>• State environ. permits</li> <li>• PUC oversight of Utilities and NIETCs</li> </ul>	<ul style="list-style-type: none"> <li>• Local, by county or municipality</li> <li>• Idaho DEQ</li> <li>• Idaho PUC</li> </ul>	<ul style="list-style-type: none"> <li>• Local: all lines</li> <li>• DEQ: all lines</li> <li>• PUC: Utility-sponsored projects</li> </ul>	<ul style="list-style-type: none"> <li>• Local: permit, license, etc.</li> <li>• DEQ: Environmental permits</li> <li>• PUC: CPCN</li> <li>• PUC: NIETC Route Certificate</li> </ul>	<ul style="list-style-type: none"> <li>• Clear showing of need for CPCN</li> <li>• No need for NIETCs because need assumed critical</li> </ul>	<ul style="list-style-type: none"> <li>• 12 month timeline on all NIETC Route Certificates.</li> </ul>	<ul style="list-style-type: none"> <li>• Environmental permits required from Dept. Environmental Quality</li> </ul>
<u>Montana</u>	<ul style="list-style-type: none"> <li>• State-level, single siting authority</li> </ul>	<ul style="list-style-type: none"> <li>• Montana DEQ</li> </ul>	<ul style="list-style-type: none"> <li>• Lines <math>\geq 69\text{kV}</math></li> <li>• Lines <math>\leq 230\text{kV}</math> and <math>\leq 10</math> miles are exempt</li> <li>• Decisions binding on state and local agencies</li> </ul>	<ul style="list-style-type: none"> <li>• Certificate of Compliance</li> </ul>	<ul style="list-style-type: none"> <li>• Need must be demonstrated for CPCN</li> <li>• Addressed through planning</li> </ul>	<ul style="list-style-type: none"> <li>• Statutory 9-month review period.</li> <li>• After review, 30-day time limit on decision.</li> <li>• Expedited process available in some cases</li> </ul>	<ul style="list-style-type: none"> <li>• Air and water quality permits must be obtained</li> <li>• EIA using SEPA standards</li> </ul>

<u>Nevada</u>	<ul style="list-style-type: none"> <li>• State-level, single siting authority</li> </ul>	<ul style="list-style-type: none"> <li>• Nevada PUC</li> <li>• Division of Environmental Protection (review only)</li> </ul>	<ul style="list-style-type: none"> <li>• Lines <math>\geq</math> 200kV</li> <li>• Cooperatives considered utilities</li> </ul>	<ul style="list-style-type: none"> <li>• CPCN</li> <li>• Permits under Utility Environmental Permit Act</li> </ul>	<ul style="list-style-type: none"> <li>• Need must be demonstrated for CPCN</li> <li>• PUC is only entity allowed to consider need</li> </ul>	<ul style="list-style-type: none"> <li>• <math>\approx</math> 150 days to make decision</li> <li>• Application period pegged to federal EIS process.</li> </ul>	<ul style="list-style-type: none"> <li>• Summary of environmental analyses required with application</li> </ul>
<u>New Mexico</u>	<ul style="list-style-type: none"> <li>• State-level, single siting authority</li> <li>• Multiple permits</li> </ul>	<ul style="list-style-type: none"> <li>• New Mexico Public Regulation Commission</li> </ul>	<ul style="list-style-type: none"> <li>• Lines <math>\geq</math> 230 kV</li> <li>• Approval necessary for lines with right-of-way greater than 100 ft. in width</li> </ul>	<ul style="list-style-type: none"> <li>• CPCN</li> <li>• Location Permit</li> <li>• Right-of-Way Width Determination</li> </ul>	<ul style="list-style-type: none"> <li>• Need must be demonstrated for CPCN</li> <li>• Statutory recognition of need for transmission expansion</li> </ul>	<ul style="list-style-type: none"> <li>• <math>\approx</math> 9 mos. For CPCN</li> <li>• <math>\approx</math> 90 days for Location Permit</li> <li>• <math>\approx</math> 6 mos. for Determination of Right-of-Way</li> </ul>	<ul style="list-style-type: none"> <li>• statutory standards when reviewing applications for CPCN and Location Permit</li> </ul>
<u>Oregon</u>	<ul style="list-style-type: none"> <li>• State-level, single siting authority</li> </ul>	<ul style="list-style-type: none"> <li>• Energy Facility Siting Council</li> </ul>	<ul style="list-style-type: none"> <li>• Lines <math>\geq</math> 230kV and <math>\geq</math>10 miles</li> <li>• Decisions binding on state and local agencies</li> <li>• Local ordinances, plans, and regulations must be considered</li> </ul>	<ul style="list-style-type: none"> <li>• Site Certificate</li> </ul>	<ul style="list-style-type: none"> <li>• Addressed through planning</li> <li>• NIETC designation automatically meets need</li> </ul>	<ul style="list-style-type: none"> <li>• 2-phase process</li> <li>• 1: Notice of intent phase has no set time limit</li> <li>• 2: Application phase completed within 12 months</li> </ul>	<ul style="list-style-type: none"> <li>• Uses a standard-based process.</li> <li>• Uses land use criteria rather than a SEPA.</li> </ul>
<u>Utah</u>	<ul style="list-style-type: none"> <li>• County-level</li> <li>• Dispute resolution by review board with limited powers</li> <li>• PSC oversight</li> </ul>	<ul style="list-style-type: none"> <li>• Local, by county or municipality</li> <li>• Utah DEQ</li> <li>• Utah PSC</li> <li>• Utility Facility Review Board</li> </ul>	<ul style="list-style-type: none"> <li>• Local: all lines</li> <li>• DEQ: all lines</li> <li>• PSC: Utility-sponsored projects</li> </ul>	<ul style="list-style-type: none"> <li>• Local: permit, license, etc.</li> <li>• DEQ: Environmental permits</li> <li>• PSC: CPCN</li> <li>•</li> </ul>	<ul style="list-style-type: none"> <li>• Need must be demonstrated for CPCN</li> <li>• Review board will hear if a local permit is denied for a facility that is needed</li> </ul>	<ul style="list-style-type: none"> <li>• Local governments must respond to application within 120 days or the utility may seek review by Board.</li> </ul>	<ul style="list-style-type: none"> <li>• Environmental permits required from Dept. Environmental Quality</li> </ul>

<u>Washington</u>	<ul style="list-style-type: none"> <li>• State-level, single siting authority</li> </ul>	<ul style="list-style-type: none"> <li>• Energy Facility Site Evaluation Council</li> <li>• Governor (final approval)</li> </ul>	<ul style="list-style-type: none"> <li>• Lines associated with generation facilities <math>\geq 350\text{MW}</math></li> <li>• Optional, lines associated with 100% renewable generation (sponsor choice)</li> <li>• Lines <math>\geq 115\text{kV}</math> (sponsor choice)</li> <li>• ALL NIETC projects</li> <li>• Decisions binding on state and local agencies.</li> </ul>	<ul style="list-style-type: none"> <li>• Site Certification Agreement</li> </ul>	<ul style="list-style-type: none"> <li>• Need is assumed by statute and need not be demonstrated</li> </ul>	<ul style="list-style-type: none"> <li>• 3-phase process</li> <li>• 1: Preapplication phase has time limits for setting public hearings</li> <li>• 2: Application phase completed within 12 months</li> <li>• 3: Final approval within 60 days of receipt by governor</li> </ul>	<ul style="list-style-type: none"> <li>• EIA using SEPA standards</li> <li>• Process incorporates federally delegated water and air quality permits into decision</li> </ul>
<u>Wyoming</u>	<ul style="list-style-type: none"> <li>• County-level, appeals to PSC</li> <li>• PSC oversight of utilities</li> <li>• DEQ oversight of non-utilities</li> </ul>	<ul style="list-style-type: none"> <li>• Local, by county or municipality</li> <li>• Wyoming Public Service Commission</li> <li>• WY DEQ, Industrial Siting Council</li> </ul>	<ul style="list-style-type: none"> <li>• Local: all lines</li> <li>• PSC: Utility-sponsored projects <math>\geq 69\text{kV}</math> and <math>&gt; 3</math> miles</li> <li>• DEQ: all non-utility projects</li> </ul>	<ul style="list-style-type: none"> <li>• Local: permit, license, etc.</li> <li>• PSC: CPCN</li> <li>• DEQ: environmental permits</li> </ul>	<ul style="list-style-type: none"> <li>• Need must be demonstrated for CPCN</li> </ul>	<ul style="list-style-type: none"> <li>• DEQ: decisions must be made within 45 days of hearing</li> </ul>	<ul style="list-style-type: none"> <li>• DEQ conducts environmental evaluation when issuing permit</li> </ul>

## Alberta Transmission Siting Information

### General Information:

All transmission line project must obtain a permit from the Alberta Utilities Commission. [Hydro and Electric Energy Act Part 2 §14](#). Need is determined under the Electric Utilities Act.

### Siting Entities:

Alberta Utilities Commission (AUC)

### Authorizations Needed:

Permit issued by the AUC.

### Planning:

“When the Independent System Operator determines that an expansion or enhancement of the capability of the transmission system is or may be required to meet the needs of Alberta and is in the public interest, the Independent System Operator must prepare and submit to the Commission for approval a needs identification document that

- describes the constraint or condition affecting the operation or performance of the transmission system and indicates the means by which or the manner in which the constraint or condition could be alleviated;
- describes a need for improved efficiency of the transmission system, including means to reduce losses on the interconnected electric system, or
- describes a need to respond to requests for system access service.”

[Electric Utilities Act §34\(1\)](#).

The ISO may “direct the owner of a transmission facility to submit, for Commission approval under the *Hydro and Electric Energy Act*, a transmission facility proposal to meet the need identified.” [Electric Utilities Act §35\(1\)](#).

### General Siting Process:

The AUC is required to make a decision on a permit in a timely manner, within 180 days if possible. [Hydro and Electric Energy Act 15.2\(1\)](#). If the AUC cannot make its decision within 180 days it must inform the applicant of the reasons why it has not made its decision and give an estimated date for the decision. [Hydro and Electric Energy Act 15.2\(2\)\(a\)](#). The AUC must then make a decision within 90 days. [Hydro and Electric Energy Act 15.2\(2\)\(b\)](#).

If the ISO submits a needs identification document that concerns the same transmission line project proposal for which a permit is being sought, the two may be combined into one decision. [Hydro and Electric Energy Act 15.4](#).

“When the Commission is considering an application for an approval, permit or licence under this Part in respect of a transmission line or part of a transmission line that has the potential to meet a need identified in a needs identification document that has been approved by the Commission under section 34(1) of the *Electric Utilities Act*, the Commission shall take into account a certification by the Independent System Operator that the technical aspects of the application meet the requirements set out in the needs identification document.” [Hydro and Electric Energy Act 15.1](#).

“Subject to the approval of the Minister responsible for the *Environmental Protection and Enhancement Act*, the Commission may make regulations as to the measures to be taken in the construction, operation or abandonment of any power plant or transmission line for the control of pollution and ensuring environment conservation.” [Hydro and Electric Energy Act 5\(4\)](#).

## **Arizona Transmission Siting Information**

### **General Information:**

The transmission siting process in Arizona is a centralized, 2-step process controlled by the Arizona Corporations Commission (ACC). Any entity wanting to build a transmission line in the state must obtain a Certificate of Environmental Compatibility (CEC). Municipalities do not have the power to deny transmission lines and are mandated to work with utilities to plan transmission. [ARS § 40-360.52](#). Arizona has set specific timelines for the transmission siting process. Violations of the deadlines outlined in the statutes may allow utilities to go ahead with the construction of the transmission project without approval.

### **Siting Entities:**

The ACC has a Transmission Line Siting Committee (TLSC) that reviews and decides whether to grant Certificates of Environmental Compatibility (CEC) for proposed transmission lines. See [ARS § 40-360](#). The TLSC consists of members from the AG's office, environmental representatives, water resources, energy, ACC, the public, incorporated cities and towns, counties, and agriculture. See [ARS § 40-360.01](#). If the TLSC grants the CEC, then the matter is presented to the ACC, who approves, denies or modifies the CEC granted by the committee.

### **Authorizations Needed:**

Certificate of Environmental Compatibility.

### **Planning:**

Arizona's transmission planning structure is integrated and coordinated with the transmission siting process. Entities must file a 10-year plan for any line over 115 kV before it may file an application for the new transmission line. [ARS § 40-360.02\(A\)](#). The ACC conducts a biennial analysis of all the current 10-year plans. Part of the analysis looks at the planned lines and the current lines and makes a determination as to the reliability of the transmission system.

### **General Siting Process:**

Transmission project developers must file an application for any line greater than or equal to 115kV. The application for transmission line siting is submitted to the Director of Utilities, who delivers it to the TLSC chairman within five days. Each committee member receives a copy of the application within ten days of the filing. [ARS § 40-360.02](#).

Once the TLSC has the application, it has ten days to provide public notice of the time and place for the hearing on the application. [ARS § 40-360.02](#) The hearing must be held between 30 and 60 days from the date that notice is given. [ARS § 40-360.02](#) Persons entitled to be parties to the case under ARS § 40-360.05(A) or (C) must file a notice of intent to be a party with the Director of Utilities no less than ten days before the hearing. [R14-3-204\(A\)](#). In addition, the Presiding Officer may, upon his own motion and notice, include parties but must do so no less than 10 days

before the hearing. [R14-3-204\(D\)](#). No persons may become parties to the proceeding once the deadline has elapsed. [R14-3-204\(F\)](#).

The TLSC has 180 days from the date of receipt by the chairman of the application, to issue its decision. [R14-3-204\(A\)](#). An extension or continuance may be requested and granted for good cause shown by the requesting party. In the case an extension or continuance is granted by the presiding officer, the 180-day period will cease to run during the extension or continuance. [R14-3-209](#).

The TLSC passes its decision to the ACC. Once the transfer to the ACC occurs, the ACC has between 30 and 60 days to approve the certificate. There is an appeals process wherein the ACC will hear appeals from parties wishing to have the issuance of a certificate ordered or to have the denial of a certificate reconsidered. See [ARS § 40-360.07](#). All appeals must be filed with the ACC within 15 days of the decision. The ACC then has 60 days to make a decision on the appeal.

If the TLSC or ACC fails to act within the timelines prescribed by statute, the company seeking the certificate may immediately begin construction on the transmission lines. [ARS § 40-360.08](#).

### **Federal Issues:**

Transmission siting in Arizona must take into account a great deal of federal and reservation land issues. NIETC designations are also an extremely important consideration for the ACC.

## **British Columbia Transmission Siting Information**

### **General Information:**

The transmission siting process in British Columbia is a centralized, single-step process controlled by the British Columbia Utilities Commission (BCUC). Any utility wanting to build a transmission line, or expansion, must obtain a Certificate of Public Convenience and Necessity from the BCUC.

### **Siting Entities:**

British Columbia Utilities Commission. [UCAP Part 3 §45\(1\)](#), [UCAP Part 3 §46\(8\)](#).

### **Authorizations Needed:**

Certificate of Public Convenience and Necessity.

### **Planning:**

The British Columbia Utilities Commission is required to conduct an inquiry into the province's transmission infrastructure every 6 years. The study must examine electricity transmission capacity and needs for 20 years from the inquiry start date. The first inquiry must be started by March 31, 2009. [Utilities Commission Act Part \(UCAP\) 1, §5](#). In addition, utilities must file with the BCUC every year a plan for all extensions to its electricity facilities that it plans to construct. [UCAP Part 3 §45\(6\)](#).

All utilities must file with the BCUC a long-term resource plan that includes:

- an estimate of the demand for energy the public utility would expect to serve if the public utility does not take new demand-side measures during the period addressed by the plan;
- a plan of how the public utility intends to reduce the demand referred to in paragraph (a) by taking cost-effective demand-side measures;
- an estimate of the demand for energy that the public utility expects to serve after it has taken cost-effective demand-side measures;
- a description of the facilities that the public utility intends to construct or extend in order to serve the estimated demand referred to in paragraph (c);
- information regarding the energy purchases from other persons that the public utility intends to make in order to serve the estimated demand referred to in paragraph (c);
- an explanation of why the demand for energy to be served by the facilities referred to in paragraph (d) and the purchases referred to in paragraph (e) are not planned to be replaced by demand-side measures;
- any other information required by the commission.  
[UCAP Part 3 §44.1\(2\)\(a\)-\(g\)](#).

## **General Siting Process:**

The applicant must submit whatever documents, etc. the BCUC prescribes. The BCUC then must decide whether or not to hold a hearing. The BCUC is not required to hold a hearing on an application for CPCN. [UCAP Part 3 §46\(2\)](#). If the project or matters in the application were “determined to be in the public interest in the course of considering a long-term resource plan” then the BCUC may grant the certificate. [UCAP Part 3 §46\(3.2\)](#). If, however, the matters addressed in the application were not addressed in the long-term resource plan, then the BCUC must consider the following in making a decision to issue the CPCN:

- the government's energy objectives,
- the most recent long-term resource plan filed by the public utility under section 44.1, if any, and
- whether the application for the certificate is consistent with the requirements imposed on the public utility under sections 64.01 and 64.02, if applicable. [UCAP Part 3 §46\(3.1\)](#).

Projects must also obtain an Environmental Assessment Certificate under the Environmental Assessment Act. The Lieutenant Governor in Council may make regulations prescribing what projects are considered reviewable projects under the Act. [Environmental Assessment Act, §5](#). The Executive Director of the Environmental Assessment Office determines what information the applicant must provide and oversees the decision process. In some cases, projects will need approval under the Canadian Environmental Assessment Act.

# California Transmission Siting Information

## General Information

California has a centralized, multi-agency siting system. All transmission lines in the state, attached to generation facilities of 50MW or more, must be certified by the California Energy Commission (CEC). [PRC 15-1-25500](#). Transmission projects proposed by an electric public utility are regulated by the California Public Utilities Commission. A public utility is defined as every common carrier and electrical corporation “where the service is performed for, or the commodity is delivered to, the public or any portion thereof.” [PRC 15-1-216\(a\)](#).

## Siting Entities:

- CA Energy Commission (CEC)
- CA Public Utilities Commission (CPUC)

## Authorizations Needed:

The CEC must certify the site and transmission project. The PUC must issue a CPCN for all public utility transmission projects.

## General Siting Process:

An entity that wishes to apply for certification must first file a Notice of Intention to File an Application for Certification to the CEC. The notice is an attempt to preliminarily determine the suitability of the proposed sites to “accommodate the facilities and to determine the general conformity of the proposed sites and related facilities with standards of the commission and assessments of need...” [PRC 15-1-25502](#). Once the notice is received the CEC will publish a summary in all affected county papers, transmit a copy to the CPUC for lines that require a CPCN, and forward a copy to the Attorney General. The CEC will request comments from all affected local authorities.

Within 45 days of the filing of the notice the CEC will hold information presentations in the affected counties. Not more than 15 days after the presentations end, the CEC will hold a nonadjudicatory hearing to determine the issues that may be eliminated from further consideration and the issues that will be heard at the certification hearing. The CEC will then publish a summary and hearing order. This must be done no more than 150 days after the filing of the notice. Adjudicatory hearing may follow no sooner than 30 days after the publishing of the summary. The CEC then has 300 days to review the notice and issue its final report. Then, within 30 days the CEC will hold hearing on the approval of the notice. The CEC must issue its written decision within one year of the original filing.

Next the entity must submit an application for the project certification. The CEC has 18 months to make a decision on certifying the project, or 12 months if the application is filed within one year of the approval of the notice of intent. A denial is the end of process and judicial review may be sought. An approval is not the end of the process.

Proceedings for the PUC CPCN can be started at the same time as those under the CEC, however, the PUC may not issue a CPCN unless the CEC has issued its certification.

**Application Requirements:**

The Notice must include 3 alternative sites, one of which must not include any coastal land. [PRC 15-1-25503](#). In addition the notice must include statements of environmental, technical and economic advantages and disadvantages as well as a report on the compatibility of the project with the most recent electricity report issued pursuant to PRC 15-1-25308.

## Colorado Transmission Siting Information

### General Information:

Colorado has a decentralized transmission siting structure. All lines require local government permits. Lines built by a public utility also require a Certificate of Public Convenience and Necessity (CPCN). An entity may appeal a permit denial at the local level to the PUC, under certain circumstances.

### Siting Entities:

- Local governments
- Colorado PUC

### Authorizations Needed:

The type of permit and process varies from county to county and must to be determined on an individual basis. A public utility must obtain a Certificate of Public Convenience and Necessity from the PUC in addition to any necessary county permits. A Public Utility is defined as every common carrier, electrical corporation, person, or municipality, “operating for the purpose of supplying the public for domestic, mechanical, or public uses and every corporation, or person declared by law to be affected with a public interest.” [CRS 40-1-103](#). Each of the above-listed entities is “a public utility and to be subject to the jurisdiction, control, and regulation of the [Public Utilities] commission.” [CRS 40-1-103](#).

### General Siting Process:

For public utilities or power authorities, the siting process has two steps. First, the utility must apply for a Certificate of Public Convenience and Necessity from the PUC. Prior to this and no later than the filing of the CPCN application, the utility must notify the affected local government(s) of its transmission plans. [CRS 29-20-108\(4\)\(a\)](#). Once the local governments have been informed, the utility must then obtain applicable permits from each affected local government. This may occur simultaneously with the proceedings for the CPCN. The CPCN may be issued without possession of all the local permits. [City of Fort Morgan v. Pub. Utils. Comm’n, 159 P.3d 87 \(Colo. 2007\)](#).

Once the CPCN application is filed with the PUC, the PUC has 60 days to issue the CPCN, deny it, or request additional information. [CRS 24-65.1-108](#). The decision of the PUC may be appealed to the district court for limited review of issues of law. [CRS 40-6-115](#).

The local government has 28 days to respond to an applicant with a request for more information if such a request is necessary. Local governments are required to respond with a decision within 120 days of the filing of a preliminary application (when required) or within 90 days of filing of an application. Lack of response on the part of the local authority will be deemed approval. [CRS 29-20-108\(2\)](#).

Decisions of the local government may be appealed to the PUC if the utility has either filed for or obtained a CPCN; a CPCN is not required; or the PUC has previously entered an order. Thus, the CPCN filing is a prerequisite to any appeal of a local government decision.

**Interstate Cooperation:**

The PUC is authorized to confer with or hold joint hearings with the authorities of other states or any agency of the U.S. in connection with any matter under Title 40 ([CRS 40](#)) and to enter into cooperative agreements with said entities to enforce the economic and safety laws of Colorado and the U.S. [CRS 40-2-115](#).

## **Idaho Transmission Siting Information**

### **General Information:**

Idaho has a decentralized transmission siting system wherein local authorities have siting authority for all transmission lines. Public utilities must obtain a Certificate of Public Convenience and Necessity from the Public Utilities Commission. A public utility is defined as every common carrier, and electrical corporation and each is “subject to the jurisdiction, control and regulation of the commission...” [IC 61-129](#). All entities must obtain proper environmental permits from the Department of Environmental Quality. Local authority can be preempted, and other siting requirements foregone, in the case of a proposed line located in a NIETC. In this case, the applicant must obtain a Route Certificate from the PUC.

### **Siting Entities:**

- Local Governments
- Idaho PUC
- Idaho DEQ

### **Authorizations Needed:**

The type and process varies from local authority to local authority. A utility must obtain a Certificate of Public Convenience and Necessity (CPCN). Various air and water permits must be obtained from the Department of Environmental Quality. For lines within a NIETC the PUC must issue a Route Certificate. [IC 61-1701](#).

### **Preemption of local siting authority:**

Local authority may be preempted in cases of NIETC designation provided certain conditions are met. In order for an entity to seek preemption of local authority it must show the following:

- The notice shall “disclose how the [utility] intends to account for each of the permitting entities and when it proposes to file with these entities for the respective permits or other authorizations prior to the route certificate application. [IC 61-1704\(f\)](#).
- The application must show that the lines will be used in interstate commerce. [IC 61-1705\(1\)\(e\)](#).
- The application must show the same criteria listed in [IC 61-1703\(2\)](#), which are the considerations that the PUC must make in reviewing the application. [IC 61-1705\(1\)\(e\)](#).
- A specific request for preemption of certain local governments and a list of local applications that are pending, denied, or contain approval conditions to which the utility objects. [IC 61-1705\(1\)\(j\)&\(2\)\(f\)](#).

### **General Siting Process:**

All entities proposing to build transmission lines in the state must seek permits from the local authorities as to location of the lines. County and city planning and zoning commissions must

adopt a “Comprehensive Plan” that includes an analysis of utility transmission corridors. IC §67-6508(h). These plans, if they exist, can serve as the basis for siting transmission lines within the county. Entities should contact the city planner in the affected areas.

If the lines will be in a NIETC, the applicant must submit a Notice of Intent to file at least 120 days prior to submission of the application. [IC 61-1704\(1\)](#). Once the notice is filed, the entity must hold public hearings and workshops along the proposed route. [IC 61-1707\(1\)](#) If no application is filed within 180 days of the filing of the Notice of Intent, the notice is considered withdrawn. [IC 61-1704\(1\)](#) Within 21 days of receipt of the notice, the PUC shall convene a preapplication conference with the transmitting utility, federal, state, local government and tribal permitting entities. [IC 61-1704\(4\)](#). The PUC shall issue its final order within 12 months of the receipt of the application. [IC 61-1705\(5\)](#).

### **Application Requirements:**

For Route Certificates, the applicant need not demonstrate need because, at least in NIETC cases, the legislature finds that “the efficient and safe transmission of electricity is critical to the well-being of the citizens and the economy of this state, the region and the nation.” [IC 61-1701](#).

### **Interstate Cooperation:**

Idaho is a member of the Pacific Northwest Electric Power and Conservation Planning Council (PNEPCPC) (with MT, OR, & WA). [IC 61-1201](#). A state office is to be designated as “PNEPCPC member” and will be filled by two governor appointees. [IC 61-1202](#).

### **Federal Issues:**

The PUC is the sole siting entity for NIETC transmission projects. The statute specifically states that PUC preemption is meant to “avoid federal preemption.” [IC 61-1701](#). The statute directly addresses preemption by eliminating the need aspect and providing a general understanding that projects are “critical” to the wellbeing of the state, region and nation. [IC 61-1701](#). The statute also specifically harmonizes Route Certificate criteria with the criteria for preemption in §1221 of the 2005 EPA Act. It includes language about regional and national benefits, significant reduction in transmission congestion, and national security and energy independence. [IC 61-1703\(2\)](#). Finally, the statute harmonizes preemption of local authority with 1221 language and provides for preemption of local siting authority in the following instances: (1) local government denies or does not authorize a NIETC project within 60 days of the PUC’s receipt of an application for Route Certificate; (2) the local government imposes too strict a condition on the project. [IC 61-1703\(3\)\(a-b\)](#).

## Montana Transmission Siting Information

### General Information:

Montana's siting process is centralized in the Department of Environmental Quality (DEQ), under the Major Facility Siting Act of 2003 (MFSA). [70-25 MCA](#). The MFSA supersedes all siting decisions by other government entities, state or local. [75-20-103 MCA](#). Montana has a consolidated process for all facility siting that includes transmission lines. Transmission facilities covered by the MFSA include:

- Transmission lines 69kV and higher.
- Lines less than 230kV and less than 109 miles in length are exempt.
- Lines that are 69 to 115kV of which 75% of the land owners owning at least 75% of the land have agreed to grant an easement. [75-20-104\(8\) MCA](#). Such a project must file a notice and hold public hearing pursuant to [75-20-207 MCA](#) and [75-20-208 MCA](#). 100% renewable facilities that choose to be sited under ERSEC, regardless of their capacity. [RCW 80.50.060\(1-2\)](#).

### Siting Entities:

- Montana DEQ.

### Authorizations Needed:

Certificate of Compliance. [75-20-201 MCA](#).

Applicable permits for environmental impact. [75-20-216\(3\) MCA](#).

### Preemption of local siting authority:

A Certificate of Compliance supersedes all other laws and rules of any state or local agency or regulation. [75-20-103 MCA](#). Local concerns and standards are taken into consideration. The location of any new transmission lines must conform to applicable state and local laws and regulations but the DEQ can override those laws when it finds that, as applied to the proposed facility, the law or regulation is unreasonably restrictive in view of the existing technology, cost, need of consumers. [75-20-301\(e\) MCA](#).

### General Siting Process<sup>1</sup>:

The siting process begins with the submission of an application. The application must include, among other things, a showing of need, reliability analysis, cost-benefit analysis, justification for location, and alternate site analysis. [75-20-211\(1\)\(a\)\(iii\) MCA](#), [75-20-301\(3\) MCA](#). In addition, the application must provide proof that notice of the application was given to persons residing in a county in which any portion of the line is proposed to be located. [75-20-211\(4\) MCA](#).

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<sup>1</sup> Note that detailed information on the siting process can be found in the [Circular 1](#).

Within 30 days of receipt of the application, the DEQ must inform the applicant that the application is or is not complete. If the application is not complete, the applicant must refile. Within 15 days of refiling, the DEQ must again inform the applicant of the completeness of the application. Once the application is complete, the DEQ has 9 months to conduct its review. The review consists of two parts that occur simultaneously. The DEQ must review the application and project plans to make sure they conform with the statutory criteria. Simultaneously, the DEQ must draft and issue all related permits that are not covered by MFSA. These must be issued prior to the release of the DEQ report. Once the 9 months are up the DEQ must issue its report. Thirty days after the report is issued, the DEQ must issue, or deny, the Certification. If the transmission line project meets the criteria listed in [75-20-301\(3\) MCA](#) the DEQ **shall** issue the Certificate. [75-20-301\(3\) MCA](#).

The DEQ's decision may be appealed to the Board of Environmental Review. All appeals must be filed within 30 days of the issuance of the certification. [75-20-223 MCA](#). Decisions of the Board may be appealed to the district courts.

An expedited review process of 90 days is available for facilities that are unlikely to have a significant environmental impact. [75-20-231 MCA](#).

### **Application Requirements:**

Generally, applicant must demonstrate that “the facility or alternative incorporates all reasonable, cost-effective mitigation of significant environmental impacts; and that unmitigated impacts, including those that cannot be reasonably quantified or valued in monetary terms, will not result in: (i) a violation of a law or standard that protects the environment; or (ii) a violation of a law or standard that protects the public health and safety.” [75-20-301\(3\) MCA](#). Applicants must also include a statement of need for transmission lines. [75-20-211\(1\)\(a\)\(iii\) MCA](#).

### **Federal Issues:**

The DEQ may time their processes to match federal timelines for projects subject to joint state and federal law.

## **Nevada Transmission Siting Information**

### **General Information:**

Nevada has a centralized, multi-agency siting system. The Nevada Public Utilities Commission is the siting authority for all lines greater than or equal to 200kV. Entities must obtain a Certificate of Public Convenience and Necessity and a permit under the Utilities Environmental Permit Act (UEPA). The Department of Conservation and Natural Resources reviews and consults on all applications for permits in conjunction with the PUC. The PUC is the only body that is allowed to consider need when making their determination on an application.

Power cooperatives are considered utilities. A “utility facility” is defined as “electric generating plants and their associated facilities that are or will be located entirely within the boundaries of a county whose population is 100,000 or more,” OR “which use or will use renewable energy, as defined in [NRS 704.7811](#), as their primary source of energy to generate electricity and which have or will have a generating capacity of not more than 35 megawatts.” [NRS 704.860](#). “Associated facilities” include transmission lines  $\geq$  200kV. [NRS 704.860\(2\)\(a\)](#).

### **Siting Entities:**

- Nevada PUC
- Division of Environmental Protection (review only)

### **Authorizations Necessary:**

Certificate of Public Convenience and Necessity. In order for an entity to build a “utility facility” it must obtain a UEPA permit. In addition, other permits pertaining to other agencies might be necessary.

### **General Siting Process:**

If a utility is proposing a line for which there is no federal environmental analysis necessary, then the applicant may submit its application with a summary of the environmental analyses completed. If a federal analysis is necessary, the applicant must submit to the PUC, no later than the date on which the applicant files with the respective federal agency, an application for approval that contains a summary of any studies the applicant anticipates will be conducted. The applicant must then file an amended application with the analysis summary, no later than 30 days after the completion of such analysis. [NRS 704.870](#).

Upon receipt of the application, the PUC has 5 days to issue notice, in which it will set a deadline for protests and the inclusion of parties. If no protests are filed during the time allotted by the PUC then the PUC may forego any hearing and make its decision. The PUC has 150 days to render a decision on an application and 120 days on an amended application. All other necessary permits (from other agencies) must also be decided within 150/120 day time limit if those applications were filed before or at the same time as the permit application.

**Application Requirements:**

For UEPA permits, the application need include a summary of any environmental studies completed. [NRS 704.870](#). A permit may only be granted if the applicant can determine: (1) the nature of the probable effect on the environment; (2) extent to which the facility is needed to ensure reliable utility service to customers in this State; (3) that the need for the facility balances any adverse effect on the environment; (4) that the facility represents the minimum adverse effect on the environment, considering the state of available technology and the nature and economics of the various alternatives; (5) that the location of the facility as proposed conforms to applicable state and local laws and regulations issued thereunder and the applicant has obtained, or is in the process of obtaining, all other permits, licenses and approvals required by federal, state and local statutes, regulations and ordinances; and (6) that the facility will serve the public interest. [NRS 704.890](#).

**Interstate Cooperation:**

The PUC is the entity that communicates with other states and federal agencies and is charged with making joint investigations, holding joint hearings, and issuing joint order with other states' agencies when appropriate.

**Federal Issues:**

The application process is pegged to the completion of any federal environmental analyses. The application must be amended by the applicant upon completion of the federal analysis and the timeline for decisions on the amended applications does not start until the amended application is submitted.

# **New Mexico Transmission Siting Information**

## **General Information**

New Mexico has a centralized siting system. The New Mexico Public Regulation Commission (PRC) controls all aspects of siting transmission lines. New Mexico requires three permits to build a transmission line greater than or equal to 230kV (Certificate of Public Convenience and Necessity, Location Permit, Right-of-Way Width Determination). Transmission lines having a right of way greater than 100 feet in width, regardless of voltage, in cases other than a fee simple acquisition, must be approved.

The legislature recognizes the need for expansion or construction of transmission lines and, therefore, has declared that the supervision and control of location of new transmission lines in the state is under the control of the PRC. [NMSA 62-9-3](#).

## **Siting Entities:**

- New Mexico Public Regulation Commission (PRC)

## **Authorizations Needed:**

- Certificate of Public Convenience and Necessity
- Location Permit
- Right-of-Way Width Determination

## **Preemption of Local Siting Authorities:**

The final decision of the Commission preempts all local laws and regulations and “shall be conclusive on all questions of siting, land use, aesthetics and any other state or local requirements affecting the siting.” [NMSA 62-9-3\(I\)](#).

## **General Siting Process:**

A utility must apply for permits from local authorities, however, if that application is not approved or is not decided within 240 days by the local authority, the utility can submit a location permit application to the Commission.

Once an application for CPCN is filed the Commission will issue appropriate notice. If no protest is filed within 60 days of the notice, the Commission may forego the hearing. The Commission must issue its order within 9 months of the filing date or grant one 6-month extension for good cause shown. [NMSA 62-9-1](#). An application may submit and application for CPCN to determine need prior to submitting an application for the Location Permit. [NMSA 62-9-3\(C\)](#). If the CPCN and Location Permit applications are filed together both must be issued or denied within 9 months. If they are filed separately, the Location Permit must be issued within 90 days of the filing of the permit application.

The Commission shall not approve a permit for a project that violates an existing state, county or municipal land use statutory or administrative regulation “unless the Commission finds that the regulation is unreasonably restrictive and compliance with the regulation is not in the interest of the public convenience and necessity, in which event and to the extent found by the commission the regulation shall be inapplicable and void as to the siting.” [NMSA 62-9-3\(G\)](#).

Finally, if the right-of-way required for the transmission line is more than 100 feet, the utility must seek a Determination of Right-of-Way width. The Commission has six months to issue its denial or approval of the application for a right-of-way determination.

### **Application Requirements:**

The Commission will consider the following environmental concerns when reviewing an application:

- Existing plans of the state, local government and private entities for other developments;
- Fish, wildlife and plant life;
- Noise emission levels and interference with communication signals;
- Proposed availability of the location to the public for recreation, consistent with safety considerations;
- Existing scenic areas, religious, cultural or historic sites. [NMSA 62-9-3\(M\)](#)

## **Oregon Transmission Siting Information**

### **General Information:**

The transmission siting process in Oregon is **controlled** by the Oregon Department of Energy and decisions on siting are made by the Oregon Energy Facility Siting Council (Council). Decisions of the Council are binding on all state agencies and local government or subdivisions. The Council has jurisdiction over all lines greater than or equal to 230kV and 10 miles in length. Unlike most western states, Oregon employs a standard-based process, as opposed to a state NEPA statute. The standards address environmental and other concerns.

### **Siting Entities:**

- Oregon Energy Facility Siting Council

### **Authorizations Needed:**

In order for an entity to build a transmission line that falls within the Council's jurisdiction, it must obtain a Site Certificate.

### **Preemption of local siting authority:**

A Site Certificate from the Council preempts all other Oregon law and “shall bind the state and all counties and cities and political subdivisions in this state as to the approval of the site and the construction and operation of the facility.” [ORS 469.401\(3\)](#). Local concerns and standards are taken into consideration by the Council but counties, etc. do not automatically have the authority to site energy facilities under Council jurisdiction. Applicants must choose whether to have the local authority or the Council make a decision as compliance with local land use policies. If the applicant chooses the local authority, the Council will not rule on a certificate unless the local authority approves the land use. If the applicant chooses the Council, the Council will gather all pertinent land use law from the affected counties and make its decisions.

### **General Siting Process:**

The Oregon process is divided into two phases: (1) Notice of Intent and (2) Application.

The Notice of Intent phase is first and is a substantial part of the permitting process.<sup>2</sup> The applicant must submit a Notice of Intent to provide the Council with information about the proposed energy facility and its potential impacts. At this time, other state agencies and local authorities will work with the Department of Energy to analyze the plan and make comments. [OAR 345-015-0110](#). Public meeting must be held at this time. There is no set time limit for this phase of the process and the application process will not start until this phase is complete.

Once the State Department of Energy has reviewed the Notice of Intent and carried out all the related steps, it issues a Project Order. [OAR 345-015-0160](#). The project order identifies

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<sup>2</sup> Information on the Notice of Intent requirements can be found at [OAR 345-020-0006](#) through [0060](#).

applicable statutes, rules and local ordinances. It describes any special information needed for the application. It also determines “analysis areas” for which the applicant must assess impacts.

The applicant may only submit an application once a Project Order has been issued. It is at this time that the applicant must choose to submit to local land use regulations or the Council’s authority for land use decisions. Within 60 days of receipt of the application, the Department of Energy must inform the applicant as to the completeness of the application. [OAR 345-015-0190](#). Until an application is complete it is considered a preliminary application. Once the application is complete, the Council has 12 months to make a decision. [OAR 469.370\(2\)\(9\)\(d\)](#).

Contested cases can be reviewed by the Council. Parties have 30 days to file an application for review of the Council’s decision and that application must be acted upon within 30 days of the filing of the application for review or it is deemed denied. [ORS 469.403\(1\)](#). A party has 30 days from the date of the denial, or 60 days from the date of the original decision if no review is requested, to file a petition for review with the state Supreme Court. Appeals are heard directly by the state Supreme Court. [ORS 469.403\(3\)](#). The Supreme Court must rule on the petition for review within 6 months. [ORS 469.403\(6\)](#).

### **Application Requirements:**

All proposed projects must be in compliance with state planning goals. [ORS 469.504](#); [ORS 469.503\(4\)](#). In addition, the state’s environmental and energy statutes set out specific standards that proposed projects must meet in order to obtain a certificate. If the project meets the standards, the Council must issue the certificate. The standards address issues of feasibility, site suitability, and environmental and community impacts. [Website](#). Specific areas addressed: soil protections, land use, protected areas, retirement and financial assurance, fish and wildlife habitat, threatened and endangered species, scenic and aesthetic values, historic, cultural and archaeological resources, recreation, public services, waste minimization, CO2 emissions, and need standard for non-generating facilities. [ORS 469.501](#).

In addition to the standards listed above, transmission project sponsors must show that they can meet certain design and construction standards. [OAR 345-024-0090](#). Need must also be demonstrated for transmission lines. Need can be demonstrated by showing that the line’s capacity is included in a least cost plan approved by the Oregon PUC, is part of an energy plan for a public utility district, or through usual analysis of reliability, supply and demand. [OAR 345-023](#). If a proposed line is within a NIETC, need is assumed. [OAR 345-023-0005\(1\)](#)

### **Interstate Cooperation:**

The Council is instructed to advise, consult, and cooperate with other states and the federal government. [ORS 469.470\(4\)](#).

# Utah Transmission Siting Information

## General Information

Utah has a decentralized siting process wherein local governments issue siting permits and the Utah Public Service Commission issues Certificate of Public Convenience and Necessity. Utah also has a Utility Facility Review Board that was created to resolve disputes between local governments and utilities over facility siting.

### Siting Entities:

- Local governments
- Utah Public Service Commission
- Utah Department of Environmental Quality
- Utility Facility Review Board (limited review powers)

### Authorization Needed:

In order for an entity to build a transmission line, it must obtain applicable permits from local governments as well as a CPCN from the PSC. In addition, entities must obtain applicable permits from the DEQ.

### Preemption of local siting authority:

The Review Board may hear disputes over cost and some siting matters. The Board's power is limited and the Board can not preempt a local siting decision, though it may require the local government to alter its conditions or requirements.

### General Siting Process:

An entity that wishes to build a transmission line must follow the local government(s) siting regulation and procedures. The local government has 120 days to respond to the entity's application or the entity may request review by the Board. In addition, the entity must submit an application for a CPCN to the state PSC.

A local government or utility may seek review by the Board if:

- There is a dispute regarding cost or schedule;
- Allowance of reasonable time for local government to pay for extra cost;
- A local government has required construction of a facility in a manner that will not permit the utility to provide service to its customers in a safe, reliable, adequate, or efficient manner;
- A local government has prohibited construction of a facility which is needed to provide safe, reliable, adequate, and efficient service to the customers of the public utility;
- A local government has not made a final decision on the public utility's application for a permit, authorization, approval, exception, or waiver with respect to a facility within 120 days of the date the public utility applied to the local government;

- A facility is located or proposed to be located in more than one local government jurisdiction and the decisions of the local governments regarding the facility are inconsistent; **OR**
- A facility is proposed to be located within a local government jurisdiction to serve customers exclusively outside the jurisdiction of the local government and there is a dispute regarding the apportionment of the actual excess cost of the facility between the local government and the public utility. [UC 54-14-303](#).

Any party may apply for rehearing of any matters determined in the action or proceeding. “The applicant may not urge or rely on any ground not set forth in the application in an appeal to any court. Any application for rehearing not granted by the commission within 20 days is denied.

## Washington Transmission Siting Information

### General Information:

Washington has a centralized siting system. The transmission siting authority in Washington is vested in the Washington Energy Facility Site Evaluation Council (EFSEC) pursuant to the Energy Facilities Site Location Act (EFSLA). Decisions made by EFSEC must be approved by the governor.

EFSLA supersedes all siting decisions of other government entities, state or local. [RCW 80.50.110\(1\)](#). EFSEC jurisdiction covers all lines associated with generation facilities covered by EFSLA as follows:

- All transmission lines associated with generation facilities expanded or constructed to greater than 350 MW. [RCW 80.50.020\(15\)](#)
- 100% renewable facilities that choose to be sited under ERSEC, regardless of their capacity. [RCW 80.50.060\(1-2\)](#). See also [Residents Opposed to Kittitas Turbines v. State Energy Facility Site Evaluation Council](#).
- EFSEC has authority if an applicant chooses to receive certification by EFSEC and has facilities that are at least 115 KV, and are located in more than one jurisdiction that has promulgated land use plans or zoning ordinances;
- An applicant chooses to receive certification by the EFSEC but is located outside existing or NIETC corridors. [RCW 80.50.060\(3\)\(a\)\(ii-iii\)](#).
- All facilities and lines located in a NIETC are under EFSEC jurisdiction. [RCW 80.50.060\(3\)\(a\)\(i\)](#).

### Siting Entities:

- EFSEC
- Governor

### Authorization Needed:

In order for an entity to build a transmission line that falls within EFSEC jurisdiction, it must obtain a Site Certification Agreement from EFSEC and approved by the governor.

### Preemption of local siting authority:

Site Certification authorizes the applicant to construct transmission lines in lieu of any other permit or document required by any other agency or subdivision. [RCW 80.50.120\(2\)](#). In issuing the Site Certification, EFSEC must include conditions to protect the interests of the local government or affected community. [RCW 80.50.100\(1\)](#). In addition, EFSEC must hold public hearing in accordance with [RCW 80.50.090\(2\)](#).

### General Siting Process:

Prior to the application process, EFSEC must conduct a preapplication analysis of the potential sites. [RCW 80.50.330\(1\)](#). EFSEC shall choose an independent consultant to conduct an analysis of the potential transmission sites. [463-22-050 WAC](#). “The report of study shall set forth a general analysis of the potential environmental impact of the proposed energy facility and shall identify significant areas of environmental concern. The study may also encompass whatever other matters the [EFSEC] and potential applicant deem essential for an adequate appraisal of the potential site and potentially impacted areas surrounding or adjacent to the site.” [463-22-050 WAC](#). The cost of the preapplication analysis is \$10,000. Within 60 days of the receipt of the fee, EFSEC shall hold an informal public hearing. [RCW 80.50.340](#).

Depending on the results of the preapplication analysis, EFSEC “may grant an applicant expedited processing of an application for certification upon finding that the environmental impact of the proposed energy facility is not significant or will be mitigated to a nonsignificant level under [RCW 43.21C.031](#) and the project is found under [RCW 80.50.090\(2\)](#) to be consistent and in compliance with city, county, or regional land use plans or zoning ordinances.” [RCW 80.50.075](#). EFSEC has 60 days from the receipt of the application to conduct a public informational meeting concerning the expedited application. In addition, compliance with city, county or regional land use plans or zoning ordinances must be determined at a public hearing. [463-43-040 WAC](#).

If an application does not qualify for expedited processing EFSEC has 60 days from the date of receipt of an application to hold an informational public hearing in the affected county(ies). EFSEC must also hold a public hearing to determine if the proposed site conforms with existing land use plans or zoning ordinances. If the proposed site conforms, the zoning and land use plans may not be changed in a way that adversely affects the proposed line. [RCW 80.50.090](#). After the public hearings, EFSEC holds an adjudicative proceeding wherein any person shall be heard in support of or opposition to the proposed line. [RCW 80.50.090](#).

Within 12 months of the receipt of an application, EFSEC must submit its recommendation to the Governor for approval. [RCW 80.50.100\(1\)](#). The governor has 60 days from the date of receipt of the recommendation to approve, deny, or request reconsideration of the proposed project. [RCW 80.50.100\(2\)](#). Any reconsideration shall be handled in an expeditious manner and upon return to the governor, must be approved or denied by the governor within 60 days. [RCW 80.50.100\(2\)](#).

### **Application Requirements / Showing of Need:**

The applicant is not required to show necessity or need. Transmission need is assumed: “It is the policy of the state of Washington to recognize the pressing need for increased energy facilities, and to ensure through available and reasonable methods, that the location and operation of such facilities will produce minimal adverse effects on the environment, ecology of the land and its wildlife, and the ecology of state waters and their aquatic life.” [RCW 80.50.010](#).

### **Interstate Cooperation:**

The EFSEC is the body responsible for communicating “state concerns and interests to other states, regional organizations, and the federal government on the location, construction, and operation of any energy facility which may affect the environment, health, or safety of the citizens of the state of Washington.” [RCW 80.50.040\(11\)](#). “When developing recommendations as to the disposition of an application for the construction or modification of transmission facilities under this chapter, the fuel source of the electricity carried by the transmission facilities shall not be considered.” [RCW 80.50.045\(4\)](#).

### **Federal Issues:**

The EFSLA directly addresses the issue of 1221 preemption. The EFSLA makes EFSEC the state authority for siting transmission lines under the jurisdiction of state law and EAct 2005 §1221. EFSEC is directed to consult with “other state agencies, utilities, local municipal governments, public interest groups, tribes, and other interested persons to convey their views to the secretary and the federal energy regulatory commission regarding appropriate limits on federal regulatory authority in the siting of electrical transmission corridors in the state of Washington.” [RCW 80.50.045\(1-2\)](#).

In addition the EFSLA created the NIETC Task Force and charged this entity with negotiating the terms of interstate compacts to establish a regional process for siting in NIETCs in a manner satisfactory to the conditions of §1221. [RCW 80.50.350](#); [RCW 80.50.350\(2\)\(a\)](#). Finally, the EFSEC operational regulations require the council to combine EFSEC and federal hearings whenever practicable and desirable. [463-14-070 WAC](#).

## **Wyoming Transmission Siting Information**

### **General Information:**

Wyoming does not have a centralized source for transmission siting. Projects must first receive permits from counties and local governments. From there, the siting process authority is dependent upon whether the line sponsor is a regulated public utility. If the project sponsor is a utility, then the transmission siting process is run by the Public Service Commission (PSC). The PSC has jurisdiction over lines greater than or equal to 69kV and longer than 3 miles. Lines greater than 230 kV require public notice and hearing. The PSC also hears appeals from local authority siting decisions.

If the sponsor is an entity other than a regulated public utility, the sponsor must seek applicable permit(s) from the state Department of Environmental Quality (DEQ). The Industrial Siting Council, a body within the DEQ, must issue permits for all transmission lines that cost over \$96,900,000. [W.S. §35-12-106](#) and [W.S. §35-12-102](#).

### **Siting Entities:**

- Wyoming Public Service Commission
- Department of Environmental Quality
  - Industrial Siting Division (ISD)
  - Industrial Siting Council (ISC)

### **Authorizations Needed:**

Utilities are required to obtain a Certificate of Public Convenience and Necessity. All others must obtain a permit from the ISC. In addition, there may be additional permits, for ground water use for example, that must be obtained from individual departments within DEQ.

### **Preemption of local siting authority:**

PSC authority does not preempt local authority. If, however, a local authority rejects a line or adds conditions to their approval, the utility may appeal to the PSC.

### **General Siting Process:**

#### Utilities:

If a utility wishes to construct a transmission line it must submit an application for a Certificate of Public Convenience and Necessity. There are no specific time limits set out in the statute for how long the PSC has to make a decision once the application is submitted. The applicant must demonstrate financial ability and necessity of additional service to the community. Once a final decision is made, the PSC will issue or deny the certificate. Unless otherwise prescribed, any order the PSC makes is effective 30 days after its issuance. [W.S. §37-2-213](#).

If the proposed line will require the condemnation of land, the Certificate must be obtained prior to any condemnation hearings. [W.S. §37-2-205\(f\)](#).

PSC decisions may be reheard at the request of any interested person at any time after the issuance of the order. The request for a rehearing stays the portions of the order to be reheard. [W.S. §37-2-214](#). A decision of the PSC may also be appealed under the process set forth in the Wyoming Admin. Procedure Act.

Non-Utilities:

Entities must submit an application to the ISC. The application must include a statement of why location was selected, environmental impact studies, preliminary evaluations and plans or proposals for alleviating social, economic, environmental impacts. [W.S. §35-12-109](#). In addition, the application must address the following issues: scenic, recreational, archaeological and historical resources; land use patterns; economic base; housing; transportation; sewer and water, solid waste, police and fire, educational, and health and hospital facilities; water supply; and other relevant areas.

Once the application is submitted and a hearing has been held, the Council has 45 days to conduct its analysis and render its final decision. [W.S. §35-12-113](#).

“Any party ... aggrieved by the final decision of the council on an application for a permit may obtain judicial review by the filing of a petition in any state district court in which the major portion of the proposed facility is to be located within thirty (30) days after the issuance of a final decision.” [W.S. §35-12-114](#).

**Interstate Cooperation:**

The PSC is authorized to confer with other state and federal commissions and agencies. [W.S. §37-2-114](#).