

SENATE FILE NO. SF0014

Public utilities-certificates of convenience and necessity.

Sponsored by: Joint Corporations, Elections & Political
Subdivisions Interim Committee

A BILL

for

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

8

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

10

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

12

13 **37-2-205.1. Nonsitus certificate of public convenience**
14 **and necessity.**

15

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

10

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

13

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

17

18 (ii) The capital investment in the nonsitus
19 resource exceeds one percent (1%) of the total capital
20 investment in the plant on which return is earned, that is
21 assigned or allocated to Wyoming customers, based on the
22 public utility's most recent general rate case determination.

23

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

6

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

14

15 (e) As used in this section:

16

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

21

22 (ii) "Public utility" shall not include any
23 cooperative electric utility as defined in W.S.

1 37-17-101(a)(i) that is exempt from public service commission
2 retail rate regulation.

3

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

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7 **37-2-205. Certificate of convenience and necessity;**
8 **hearings.**

9

10 (a) Except as provided in this subsection, no public
11 utility shall begin construction or complete the purchase of
12 a line, or plant, ~~or system,~~ or of any extension of a line,
13 or material addition to a plant, ~~or system~~ without having
14 first obtained from the commission a certificate that the
15 present or future public convenience and necessity require or
16 will require such construction or purchase. This act shall
17 not be construed to require any public utility operating
18 outside of a city or town to secure a certificate for an
19 extension into an area within which it has lawfully commenced
20 operation, or for an extension into territory contiguous to
21 its line, or plant ~~or system~~ for which no certificate is in
22 force and is not served by a public utility of like character
23 or for any extension within or to territory already served by

1 it, necessary in the ordinary course of its business. If any
2 public utility, in constructing or extending its line, or
3 plant ~~or system~~ interferes or is about to interfere with the
4 operation of the line, or plant ~~or system~~ of any other public
5 utility already authorized or constructed, the commission on
6 complaint of the public utility claiming to be injuriously
7 affected, may after hearing make such order and prescribe the
8 terms and conditions for the location of the lines, or plants
9 ~~or systems~~ affected, as to it are just and reasonable. The
10 power companies may, without the certificate, increase
11 capacity of existing plants. For purposes of this subsection,
12 "material addition" shall not include an addition to a plant
13 that is necessary to serve load growth, provided that the
14 capital investment in the addition shall not exceed one
15 percent (1%) of the total capital investment in the plant on
16 which return is earned, that is assigned or allocated to
17 Wyoming customers, based on the public utility's most recent
18 rate case determination.

19

20 (j) Unless otherwise determined by the commission,
21 issuance of a certificate of convenience and necessity shall
22 not confer the right to recover a specific amount of the costs
23 of the construction or purchase in rates charged to Wyoming

1 customers. Actual costs of the construction or purchase may
2 be considered by the commission in a separate rate case
3 determination.

4

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

6

7

(END)