

LEGISLATIVE BILL 119

Approved by the Governor March 20, 1979

Introduced by Warner, 25; Wesely, 26; Fowler, 27

AN ACT to amend section 70-1012, Reissue Revised Statutes of Nebraska, 1943, relating to the Power Review Board; to remove certain exceptions for municipalities supplying electricity as prescribed; to provide procedures to be followed when terminating certain construction contracts; and to repeal the original section. Be it enacted by the people of the State of Nebraska,

Section 1. That section 70-1012, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

70-1012. Before any electric generation facilities or any transmission lines or related facilities carrying more than seven hundred volts are constructed by any supplier, ~~other than a municipality within its corporate limits and its zoning area outside such corporate limits,~~ an application, filed with the board and containing such information as the board shall prescribe, shall be approved by the board, except ~~Provided,~~ that such approval shall not be required (1) for the construction of a transmission line extension or related facilities within a supplier's own service area or for the construction of a line not exceeding one half mile outside its own service area when all owners of electric lines located within one half mile of the extension consent thereto in writing and such consents are filed with the board or (2) for any generation facility when the board finds that: (a) Such facility is being constructed to replace a generating plant owned by the municipality with a capacity not greater than that of the plant being replaced, (b) such facility will generate less than twenty-five thousand kilowatts of electric energy at rated capacity, and (c) the applicant will not use the plant or transmission capacity to supply wholesale power to customers outside the applicant's existing retail service area or chartered territory. ~~and provided further, that such approval shall not be required of any municipal supplier for the construction or use within the county containing that municipality of any electric generation facility or any transmission lines connecting such generation facilities with the service area of such a municipal supplier where such facilities shall not be used to serve at retail any customers or service area not already within the service area of such municipality.~~

Sec. 2. In the event a supplier terminates construction of electric generation facilities after receiving approval for the facilities from the Nebraska Power Review Board, the supplier shall file with the board within thirty days of the action taken to terminate construction, a statement of the factors or reasons relied upon by the supplier in taking such action. Within ten days after receipt of such a filing, the board shall give notice of the filing to such other suppliers as it deems interested or affected by such action and it shall hold a hearing for the purpose of obtaining such additional information as the board deems advisable or necessary to inform other suppliers and the public of the reasons for such termination. Notice of any such hearing shall be given to those suppliers previously given notice of the filing. The board shall not have authority to approve or deny the action of a supplier terminating construction, and any such filing or hearing shall be advisory and solely for the purpose of informing the board, other suppliers, and the ratepayers of this state of the factors or reasons relied upon in taking action to terminate construction. Nothing in this section shall constitute or be construed as a defense to any cause of action, including a claim for breach of contract, resulting from such termination.

Sec. 3. That original section 70-1012, Reissue Revised Statutes of Nebraska, 1943, is repealed.