15.8079.05000

Sixty-fourth Legislative Assembly of North Dakota

FIRST ENGROSSMENT with Conference Committee Amendments ENGROSSED SENATE BILL NO. 2120

Introduced by

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Energy and Natural Resources Committee

(At the request of the Public Service Commission)

1	A BILL for an Act to amend and reenact subsection 3 of section 49-22-03 and subsection 1 of								
2	section	section 49-22-22 of the North Dakota Century Code, relating to the definition of construction							
3	and ene	ergy o	conve	rsion a	and transmission facility siting application fees.				
4	BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:								
5	SEC	СТІО	N 1. A	AMEN	DMENT. Subsection 3 of section 49-22-03 of the North Dakota Century				
6	Code is amended and reenacted as follows:								
7	3. "Construction" includes any clearing of land, excavation, or other action that would								
8		affe	ect the	e envir	conment of the site after April 9, 1975, but does not include activities:				
9		a.	Cor	nducte	d wholly within the geographic location for which a utility has previously				
10			obta	ained	a certificate or permit under this chapter, or on which a facility was				
11			con	structe	ed before April 9, 1975, if:				
12			(1)	The	activities are within the boundaries offor the construction of the same				
13				type	of facility as the existing type of facility as identified in a subdivision of				
14				subs	sections 5 or 12 of this section and the activities are:				
15				(a)	AWithin the geographic boundaries of a previously issued certificate				
16					or permit;				
17				(b)	For an energy conversion facility constructed before April 9, 1975,				
18					within the geographic location on which the facility was built; or				
19				(c)	For a transmission facility constructed before April 9, 1975, within a				
20					width of three hundred fifty feet [106.68 meters] on either side of the				
21					centerline;				
22			(2)	Exce	ept as provided in subdivision b, the activities do not affect any known				

exclusion or avoidance area; and

(3) The activities are for the construction:

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1			<u>(a)</u>	<u>Of a</u>	a new energy conversion facility;	
2			<u>(b)</u>	Of a	a new gas, liquid, or electric transmission facility;	
3			<u>(c)</u>	<u>To i</u>	mprove the existing energy conversion facility or gas, liquid, or	
4				elec	ctric transmission facility; or	
5			<u>(d)</u>	<u>To i</u>	ncrease or decrease the capacity of the existing energy	
6				con	version facility or gas, liquid, or electric transmission facility; and	
7		<u>(4)</u>	Befo	re co	enducting any activities, the utility certifies in writing to the	
8			com	missi	on that the :	
9			<u>(a)</u>	The	activities will not affect any known exclusion or avoidance area;	
10			<u>(b)</u>	The	activities are for the construction:	
11				[1]	Of a new energy conversion facility;	
12				<u>[2]</u>	Of a new gas, liquid, or electric transmission facility;	
13				<u>[3]</u>	To improve the existing energy conversion or gas, liquid, or	
14					electric transmission facility; or	
15				<u>[4]</u>	To increase or decrease the capacity of the existing energy	
16					conversion facility or gas, liquid, or electric transmission facility;	
17					and the	
18			<u>(c)</u>	<u>The</u>	utility will comply with all applicable conditions and protections in	
19				sitir	ng laws and rules and commission orders previously issued for any	
20				part	t of the facility.	
21	b.	Oth	erwise	e qua	lifying for exclusion under subdivision a, except that the activities	
22		are	expe	cted to	o affect a known avoidance area and the utility before conducting	
23		any activities:				
24		(1)	Cert	ifies i	n writing to the commission that:	
25			(a)	The	activities will not affect any known exclusion area; and	
26			(b)	<u>The</u>	e activities are for the construction:	
27				[1]	Of a new energy conversion facility;	
28				<u>[2]</u>	Of a new gas, liquid, or electric transmission facility;	
29				<u>[3]</u>	To improve the existing energy conversion facility or gas, liquid,	
30					or electric transmission facility; or	

1		[4] To increase or decrease the capacity of the existing energy
2		conversion facility or gas, liquid, or electric transmission facility;
3		<u>and</u>
4		(c) The utility will comply with all applicable conditions and protections in
5		siting laws and rules and commission orders previously issued for any
6		part of the facility;
7	(2)	Notifies the commission in writing that the activities are expected to impact
8		an avoidance area and provides information on the specific avoidance area
9		expected to be impacted and the reasons why impact cannot be avoided;
10		and
11	(3)	Receives the commission's written approval for the impact to the avoidance
12		area, based on a determination that there is no reasonable alternative to the
13		expected impact. If the commission does not approve impacting the
14		avoidance area, the utility must obtain siting authority under this chapter for
15		the affected portion of the site or route. If the commission fails to act on the
16		notification required by this subdivision within thirty days of the utility's filing
17		the notification, the impact to the avoidance area is deemed approved.
18	c. Inci	dent to preliminary engineering or environmental studies.
19	SECTION 2. A	MENDMENT. Subsection 1 of section 49-22-22 of the North Dakota Century
20	Code is amended	and reenacted as follows:
21	1. Every ap	plicant under this chapter shall pay to the commission an application fee:
22	a. An	applicant for a certificate of site compatibility shall pay an amount equal to five
23	hun	dred dollars for each one million dollars of investment in the proposed facility
24	as (lefined in the federal energy regulatory commission uniform system of
25	acc	ounts.
26	b. An	applicant for a certificate of corridor compatibility shall pay an amount equal to
27	five	thousand dollars for each one million dollars of investment in the proposed
28	faci	ity as defined in the federal energy regulatory commission uniform system of
29	acc	ounts.
30	c. An	applicant for a waiver shall pay the amount which would be required for an
31	ann	lication for a certificate of site or corridor compatibility for the proposed facility

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1 If a waiver is not granted for a proposed facility, such application fee paid shall be 2 allowed as a credit against fees payable under this section in connection with an 3 application under this chapter for a certificate or permit for the proposed facility. 4 An applicant for a transfer of a certificate or permit shall pay an amount to be d. 5 determined by the commission to cover anticipated expenses of processing the 6 application. 7 An applicant certifying to the commission under subsection 3 of section 49-22-03 e. 8 or obtaining siting authority under subdivision b of subsection 2 or subdivision c 9 of subsection 4 of section 49-22-16.3, shall pay an amount to be determined by 10 the commission to cover anticipated expenses of processing the application. 11 The application fee under this subsection shall subdivision a, b, or c may not be 12 less than fiveten thousand dollars nor more than one hundred thousand dollars.