Sixty-fourth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2015

SENATE BILL NO. 2120
(Energy and Natural Resources Committee)
(At the request of the Public Service Commission)

AN ACT to amend and reenact subsection 3 of section 49-22-03 and subsection 1 of section 49-22-22 of the North Dakota Century Code, relating to the definition of construction and energy conversion and transmission facility siting application fees.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 3 of section 49-22-03 of the North Dakota Century Code is amended and reenacted as follows:

3. "Construction" includes any clearing of land, excavation, or other action that would affect the environment of the site after April 9, 1975, but does not include activities:

   a. Conducted wholly within the geographic location for which a utility has previously obtained a certificate or permit under this chapter, or on which a facility was constructed before April 9, 1975, if:

      (1) The activities are ~~within the boundaries of~~for the construction of the same type of facility as the existing type of facility as identified in a subdivision of subsections 5 or 12 of this section and the activities are:

         (a) ~~A~~Within the geographic boundaries of a previously issued certificate or permit;

         (b) For an energy conversion facility constructed before April 9, 1975, within the geographic location on which the facility was built; or

         (c) For a transmission facility constructed before April 9, 1975, within a width of three hundred fifty feet [106.68 meters] on either side of the centerline;

      (2) Except as provided in subdivision b, the activities do not affect any known exclusion or avoidance area; ~~and~~

      (3) The activities are for the construction:

         (a) Of a new energy conversion facility;

         (b) Of a new gas, liquid, or electric transmission facility;

         (c) To improve the existing energy conversion facility or gas, liquid, or electric transmission facility; or

         (d) To increase or decrease the capacity of the existing energy conversion facility or gas, liquid, or electric transmission facility; and

      (4) Before conducting any activities, the utility certifies in writing to the commission that ~~the~~:

         (a) The activities will not affect any known exclusion or avoidance area;

         (b) The activities are for the construction:

            [1] Of a new energy conversion facility;

[2] Of a new gas, liquid, or electric transmission facility;

[3] To improve the existing energy conversion or gas, liquid, or electric transmission facility; or

[4] To increase or decrease the capacity of the existing energy conversion facility or gas, liquid, or electric transmission facility; and ~~the~~

(c) The utility will comply with all applicable conditions and protections in siting laws and rules and commission orders previously issued for any part of the facility.

b. Otherwise qualifying for exclusion under subdivision a, except that the activities are expected to affect a known avoidance area and the utility before conducting any activities:

(1) Certifies in writing to the commission that:

(a) The activities will not affect any known exclusion area; ~~and~~

(b) The activities are for the construction:

[1] Of a new energy conversion facility;

[2] Of a new gas, liquid, or electric transmission facility;

[3] To improve the existing energy conversion facility or gas, liquid, or electric transmission facility; or

[4] To increase or decrease the capacity of the existing energy conversion facility or gas, liquid, or electric transmission facility; and

(c) The utility will comply with all applicable conditions and protections in siting laws and rules and commission orders previously issued for any part of the facility;

(2) Notifies the commission in writing that the activities are expected to impact an avoidance area and provides information on the specific avoidance area expected to be impacted and the reasons why impact cannot be avoided; and

(3) Receives the commission's written approval for the impact to the avoidance area, based on a determination that there is no reasonable alternative to the expected impact. If the commission does not approve impacting the avoidance area, the utility must obtain siting authority under this chapter for the affected portion of the site or route. If the commission fails to act on the notification required by this subdivision within thirty days of the utility's filing the notification, the impact to the avoidance area is deemed approved.

c. Incident to preliminary engineering or environmental studies.

SECTION 2. AMENDMENT. Subsection 1 of section 49-22-22 of the North Dakota Century Code is amended and reenacted as follows:

1. Every applicant under this chapter shall pay to the commission an application fee:

a. An applicant for a certificate of site compatibility shall pay an amount equal to five hundred dollars for each one million dollars of investment in the ~~proposed~~ facility ~~as defined in the federal energy regulatory commission uniform system of accounts~~.

b. An applicant for a certificate of corridor compatibility shall pay an amount equal to five thousand dollars for each one million dollars of investment in the ~~proposed~~ facility ~~as defined in the federal energy regulatory commission uniform system of accounts~~.

c. An applicant for a waiver shall pay the amount which would be required for an application for a certificate of site or corridor compatibility for the proposed facility. If a waiver is not granted for a proposed facility, such application fee paid shall be allowed as a credit against fees payable under this section in connection with an application under this chapter for a certificate or permit for the proposed facility.

d. An applicant for a transfer of a certificate or permit shall pay an amount to be determined by the commission to cover anticipated expenses of processing the application.

e. An applicant certifying to the commission under subsection 3 of section 49-22-03 or obtaining siting authority under subdivision b of subsection 2 or subdivision c of subsection 4 of section 49-22-16.3, shall pay an amount to be determined by the commission to cover anticipated expenses of processing the application.

f. The application fee under ~~this subsection shall~~subdivision a, b, or c may not be less than ~~five~~ten thousand dollars nor more than one hundred thousand dollars.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-fourth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2120.

Senate Vote:	Yeas 47	Nays 0	Absent 0
House Vote:	Yeas 91	Nays 0	Absent 3

Secretary of the Senate

Received by the Governor at 9:19 A.M. on April 24, 2015.

Approved at 3:01 P.M. on April 28, 2015.

Governor

Filed in this office this 28th day of April, 2015,

at 4:30 o'clock P.M.

Secretary of State