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Sixty-third
Legislative Assembly
of North Dakota

FIRST ENGROSSMENT

ENGROSSED HOUSE BILL NO. 1147

Introduced by

Representatives Keiser, Porter

Senator Lyson

A BILL for an Act to create and enact a new section to chapter 49-22 of the North Dakota Century Code, relating to route adjustments for gas and liquid transmission lines; to amend and reenact subsections 4 and 10 of section 49-22-03 of the North Dakota Century Code, relating to definitions for siting a gas or liquid transmission line; to repeal section 49-22-07.1 of the North Dakota Century Code, relating to a letter of intent; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsections 4 and 10 of section 49-22-03 of the North Dakota Century Code are amended and reenacted as follows:

4. "Corridor" means the ~~general location of~~area of land in which a designated route may be established for a transmission facility.

10. "Route" means the ~~specific~~ location of a transmission facility within a designated corridor.

SECTION 2. A new section to chapter 49-22 of the North Dakota Century Code is created and enacted as follows:

Route adjustment before or during construction for gas or liquid transmission line.

1. Before or during construction, a utility, without any action by the commission, may adjust the route of a gas or liquid transmission line within the designated corridor if, before conducting any construction activities associated with the adjustment, the utility files with the commission certification and supporting documentation that:
   a. The construction activities will be within the designated corridor;
   b. The construction activities will not affect any known exclusion or avoidance areas within the designated corridor; and
   c. The utility will comply with the commission's order, laws, and rules designating the corridor and designating the route.

2. Before or during construction, a utility may adjust the route of a gas or liquid transmission line within the designated corridor that may affect an avoidance area if, before conducting any construction activities associated with the adjustment, the utility:

a. Files with the commission certification and supporting documentation that:

(1) The construction activities are within the designated corridor;

(2) The construction activities will not affect any known exclusion areas within the designated corridor;

(3) The construction activities are expected to impact an avoidance area with a specific description of the avoidance area expected to be impacted;

(4) Each owner of real property on which the adjustment is to be located and any applicable governmental entity with an interest in the same adjustment area do not oppose the adjustment, unless the utility previously received authorization from the commission for the impact to the avoidance area;

(5) For an impact for which the utility does not already have approval or has not filed the approval in paragraph 4, the utility has good cause and a specific reason to impact the avoidance area, and a reasonable alternative does not exist; and

(6) The utility will comply with the commission's order, laws, and rules designating the corridor and designating the route.

b. Receives the commission's written authorization that the utility may impact the avoidance area. If the commission does not authorize the impact to the avoidance area, the utility must obtain siting authority for the affected portion of the route adjustment. If the commission fails to act within ten working days of receipt of the utility's filing of the certification and supporting documentation under subdivision a of subsection 2, the route adjustment is deemed approved.

3. Before or during construction, a utility, without any action by the commission, may adjust the route of a gas or liquid transmission line outside the designated corridor if, before conducting any construction activities associated with the adjustment, the utility:

a. Files with the commission certification and supporting documentation that:

(1) The construction activities will not affect any known exclusion or avoidance areas;

(2) The route outside the corridor is no longer than one and one-half mile [2.41 kilometers];

(3) The utility will comply with the commission's order, laws, and rules designating the corridor and designating the route; and

(4) Each owner of real property on which the adjustment is to be located and any applicable governmental entity with an interest in the same adjustment area do not oppose the adjustment.

b. Files detailed field studies indicating exclusion and avoidance areas for an area encompassing the route outside the designated corridor equal to the length of the adjustment of the proposed corridor.

4. Before or during construction, a utility may adjust the route of a gas or liquid transmission line outside the designated corridor that may affect an avoidance area if, before conducting any construction activities associated with the adjustment, the utility:

a. Files with the commission certification and supporting documentation that:

(1) The construction activities will not affect any known exclusion areas;

(2) The construction activities are expected to impact an avoidance area with a specific description of the avoidance area expected to be impacted;

(3) The utility has good cause and a specific reason to impact the avoidance area, and a reasonable alternative does not exist;

(4) The route outside the corridor is no longer than one and one-half mile [2.41 kilometers];

(5) The utility will comply with the commission's order, laws, and rules designating the corridor and designating the route; and

(6) Each owner of real property on which the adjustment is to be located and any applicable governmental entity with an interest in the same adjustment area do not oppose the adjustment.

b. Files detailed field studies indicating exclusion and avoidance areas for an area encompassing the route outside the designated corridor equal to the length of the adjustment of the proposed corridor.

c. Receives the commission's written authorization that the utility may impact the avoidance area. If the commission does not authorize the impact to the avoidance area, the utility must obtain siting authority for the affected portion of the route adjustment. If the commission fails to act within ten working days of receipt of the utility's filing of the certification and supporting documentation under subdivisions a and b of subsection 4, the route adjustment is deemed approved.

5. The commission may not be required to hold a public hearing or publish a notice of opportunity for a public hearing for any route adjustment under this section.

SECTION 3. REPEAL. Section 49-22-07.1 of the North Dakota Century Code is repealed.

SECTION 4. EMERGENCY. This Act is declared to be an emergency measure.