

Senate Bill 2009

Presented by: Commissioner Julie Fedorchak
Public Service Commission

Before: House Appropriations Committee
Honorable Don Vigesaa, Chair

Date: March 3, 2023

TESTIMONY

Mr. Chair and members of the committee, I'm Commissioner Julie Fedorchak, here to testify for the Public Service Commission on Senate Bill 2009. Senate Bill 2009 includes a couple substantial policy amendments to the Public Service Commission's electrical siting program. We offer a few clarifications and have some concerns with these amendments.

Section 17 Amendment

The Section 17 Amendment adds, "written comments from the agriculture commissioner" to a list of factors to be considered in evaluating electrical applications and designations of sites, corridors, and routes. In the practical sense, it is unnecessary. The Department of Agriculture is already a designated agency that we notice for every siting case. That means we email a notification of every completed filing and Notice of Hearing for every project we receive directly to the agriculture commissioner, Doug Goehring. These requirements are spelled out in our administrative rules (Admin. Code. Section 69-06-01-05 attached) and it's worth noting that we also directly notify the following agencies as well:

The Commission welcomes and carefully considers comments provided by all agencies, including the Agriculture Commissioner. You'll note that letter (k) under number 1. of 40-22-09 already requires the commission to consider, "Problems raised by federal agencies, other state agencies and local entities" when evaluating siting applications. We aren't sure why the Ag Commissioner's budget bill includes a policy amendment directing us to do something we already do, but our concern is that singling out the Agricultural Commissioner diminishes other written comments that the Commission receives from other agencies in nearly every case. In my 10 years on the commission, I recall receiving comments only once from the Ag Commissioner on siting applications. On the contrary, we frequently receive and are advised by written comments from counties, the Department of Transportation, Parks and Recreation, the Aeronautics Commission, Game and Fish, the Department of Environmental Quality, the State Historic Society, and the Department of Water Resources, among others.

Section 18 Amendment

The Section 18 Amendment is also problematic. First, it eliminates *voluntary* mitigation payments for *direct* environmental impacts, and mandates payments for "any assessed adverse direct or indirect environmental impact". This is a significant expansion of the mitigation costs – making them mandatory and expanding them to include both direct and indirect impacts.

Every project has impacts on the people and environment of the state. Take a wind farm, for example. Impacts include lights, sound, shadow flicker, native grass land habitats, aeronautics, wildlife, viewsheds, farming practices, roads. Yet

this amendment offers no guidance for the Commission in assessing direct and indirect impacts for the purpose of payments. This amendment would essentially result in an environmental tax on each project with variable charges depending on how the Commission assesses the direct and indirect environmental impacts.

Also, this appears to conflict with the current statute provided in Section 17. 49-22-09(2) provides that the Commission “may not condition the issuance of a certificate” on an applicant providing a mitigation payment assessed or requested by another state agency to offset a negative impact on wildlife habitat. This amendment conditions every certificate or permit on an applicant providing payment to mitigate a direct or indirect environmental impact.

The Commission would simply request that mitigation payments remain voluntary by eliminating “shall” in favor of “may elect to.”

The commission supports requiring that 50 percent of any voluntary mitigation payments be deposited into the state’s environmental impact mitigation fund.

This concludes my testimony. I am available for questions.