

House Bill 1097

Presented by: Randy Christmann, Chair
Public Service Commission

Before: Senate Energy and Natural Resources Committee
Honorable Dale Patten, Chair

Date: March 3, 2023

TESTIMONY

Mr. Chair and members of the committee, I'm Randy Christmann, Chair of the Public Service Commission (Commission), here to testify on HB 1097. HB 1097 provides the following changes to the state's siting jurisdiction:

- The amendments add utility scale energy storage of over five megawatts and hydrogen refinement and transmission as facilities to be sited by the Commission. Storage is addressed in Sections 1 and 2 of the bill, and hydrogen refinement and transmission are addressed in Section 6.
- HB 1097 allows the Commission to provide two notices at a reasonable interval prior to the public hearing rather than once outside of twenty days and once within twenty days of the public hearing. With many publications moving towards weekly or bimonthly publications, an inflexible 20-day publication threshold has resulted in proceedings being pushed back weeks. Section 7 of the bill covers this for hydrocarbons and Section 3 for electrical.

- Electric transmission lines are permitted to adjust routes within and around the site corridor if proper filings and conditions are met. This amendment is the same ~~section~~ language that currently exists within the pipeline transmission law (49-22.1) to provide flexibility during construction to mitigate newly discovered impacts. This change is accomplished in Section 4 of the bill.
- Clarifies a more narrowed interpretation of when administrative fees are collected for an application to when a new permit or certificate is requested, or a permit or certificate is reviewed for transfer to a new company or entity. There have been some questions about whether applications for project amendments, waivers, or other procedural requests assess an administrative fee. The Commission believes that this was not the intent of the administrative fee and is requesting this correction. This change is accomplished with Sections 5 and 8 of the bill.

Since this bill was filed, a new problem has developed and we are seeking an amendment to this bill to address another section of the Siting Act. Current law requires developers to submit a Siting Application Fee which we then use to pay for the costs associated with the siting process. The fee is based on their estimate of the cost of the project, and is capped at \$100,000. Whatever amount is not needed and used for the case is ultimately refunded to the developer. If more is needed, we are able to go to the Emergency Commission for authorization to accept additional funding from that applicant.

This amendment would allow the Commission to accept application fees above \$100,000 if agreeable to the applicant. It is important to developers that the Commission is able to carry out our siting responsibilities appropriately. If we have to wait for the Emergency Commission to approve the necessary funding, it could delay a certificate approval by months, which could ultimately mean missing a construction season. And again I remind you, that this only applies to additional fees that the developer agrees to.

This concludes my testimony. Thank you for your time and I am available for questions.

49-22-22. Siting process expense recovery - Deposit in special fund - Continuing appropriation.

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 facility.
 - 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 facility.
 - 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 requesting an amendment to a certificate or permit or 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 shall pay an amount to be determined by the commission to cover anticipated expenses of processing the application.
 - f. The application fee under subdivision a, b, or c may not be less than ten thousand dollars nor more than one hundred thousand dollars.
 - g. ~~If an application fee is less than twenty five thousand dollars, an~~ An applicant may agree to pay additional fees that are reasonably necessary for completion of the site, corridor, or route evaluation and designation process.
2. If an applicant does not agree to pay additional fees reasonably necessary for completion of the site, corridor, or route evaluation and designation process, ~~At the request of the commission and~~ with the approval of the emergency commission, the applicant shall pay such additional fees as are reasonably necessary for completion of the electric energy conversion facility site, electric transmission facility corridor, or electric transmission facility route evaluation and designation process by the commission. The application fee under subsection 1 and any additional fees required of the applicant under this subsection may not exceed an amount equal to one thousand dollars for each one million dollars of investment in a proposed energy conversion facility or ten thousand dollars for each one million dollars of investment in a proposed electric transmission facility