

Part 2 Conditions on Siting of Facilities

54-14-201 Conditions on siting of facilities by local governments -- Payment of actual excess costs.

If otherwise authorized by law, a local government may require or condition the construction of a facility in any manner if:

- (1) the requirements or conditions do not impair the ability of the public utility to provide safe, reliable, and adequate service to its customers; and
- (2) the local government pays for the actual excess cost resulting from the requirements or conditions, except:
 - (a) any actual excess costs that the public utility collects from its customers pursuant to an order, rule, or regulation of the commission; or
 - (b) any portion of the actual excess costs that the board requires to be borne by the public utility.

Enacted by Chapter 197, 1997 General Session

54-14-202 Public utility to provide standard cost and estimated excess cost.

- (1)
 - (a) A public utility shall provide the information described in Subsection (1)(b) if a local government:
 - (i) is considering imposing requirements or conditions on construction of a facility that may result in an estimated excess cost and requests that the public utility provide the estimated excess cost; or
 - (ii) recommends an alternative to the public utility's proposed high voltage transmission line corridor in accordance with the provisions of Title 54, Chapter 18, Siting of High Voltage Power Line Act.
 - (b) Subject to Subsection (1)(a), a public utility shall provide to the local government:
 - (i)
 - (A) the estimated standard cost of the facility; and
 - (B) the estimated excess cost of the facility if constructed in accordance with local government requirements or conditions; and
 - (ii) the estimated cost of the alternative line corridor proposed by a local government provided that all affected land use authorities agree to the alternative line corridor proposed by the local government.
- (2) If a public utility does not provide the information as described in Subsection (1), the local government may:
 - (a) appeal to the board; and
 - (b) request that the board review the information provided by the public utility.
- (3)
 - (a) If the board finds that the public utility has failed to provide the standard costs and estimated excess costs in accordance with the provisions of Subsection (1), the board may request additional information from the public utility.
 - (b) In accordance with Subsection (3)(a), a public utility shall provide any information requested by the board within 30 days of the day that the request was made.

- (c) If a public utility fails to comply with Subsections (3)(a) and (b), the board may suspend issuing its written decision in accordance with Section 54-14-305 for 30 days after the day on which the public utility provides the information requested under Subsection (3)(a).

Amended by Chapter 316, 2009 General Session

54-14-203 Actual excess cost.

- (1) If a local government issues a permit, authorization, approval, exception, or waiver based upon its agreement to pay for the actual excess cost of a facility, the local government shall within 30 days either accept the estimate of excess cost as the actual excess cost of a facility or request the public utility to obtain competitive bids for the facility if constructed in accordance with the requirements and conditions of the local government.
- (2) If the local government requests the public utility to obtain competitive bids, the public utility shall obtain competitive bids, and the actual excess cost of the facility shall be the difference between the lowest bid acceptable to the public utility plus the public utility's contract administration and oversight expense and the standard cost of the facility.
- (3) Any dispute regarding specifications, lowest acceptable bid, or administration and oversight expense shall be resolved by the board on an expedited basis.

Enacted by Chapter 197, 1997 General Session

54-14-204 Requirements or conditions on facility considered waived if local government does not pay for actual excess cost 30 days before construction.

Any requirement or condition in any permit, authorization, approval, exception, or waiver of a local government for a facility that imposes an actual excess cost shall be considered waived if the local government does not pay the public utility for the actual excess cost, except any actual excess costs specified in Subsection 54-14-201(2)(a) or (2)(b), within 30 days before the date construction of the facility should commence in order to avoid a significant risk of impairment of safe, reliable, and adequate service to customers of the public utility.

Enacted by Chapter 197, 1997 General Session