

54-14-303 Actions or disputes for which board review may be sought.

- (1) A local government or public utility may seek review by the board, if:
 - (a) a local government has imposed requirements on the construction of a facility that result in estimated excess costs without entering into an agreement with the public utility to pay for the actual excess cost, except any actual excess costs specified in Subsection 54-14-201(2)(a) or (2)(b), at least 30 days before the date construction of the facility should commence in order to avoid significant risk of impairment of safe, reliable, efficient, and adequate service to customers of the public utility;
 - (b) there is a dispute regarding:
 - (i) the estimated excess cost or standard cost of a facility;
 - (ii) when construction of a facility should commence in order to avoid significant risk of impairment of safe, reliable, and adequate service to customers of the public utility;
 - (iii) whether the public utility has sought a permit, authorization, approval, exception, or waiver with respect to a facility sufficiently in advance of the date construction should commence, based upon reasonably foreseeable conditions, to allow the local government reasonable time to pay for any estimated excess cost;
 - (iv) the geographic boundaries of a proposed corridor as set forth in a notice submitted by a public utility to a local government pursuant to the provisions of Subsection 54-18-301(2)(a), provided the action is filed by the local government before the public utility files an application for a land use permit as set forth in Subsection 54-18-304(1)(a); or
 - (v) a modification proposed by a local government to a utility's proposed corridor that is identified in the public utility's notice of intent required pursuant to Subsection 54-18-301(3);
 - (c) a local government has required construction of a facility in a manner that will not permit the utility to provide service to its customers in a safe, reliable, adequate, or efficient manner;
 - (d) a local government has prohibited construction of a facility which is needed to provide safe, reliable, adequate, and efficient service to the customers of the public utility;
 - (e) a local government has not made a final decision on the public utility's application for a permit, authorization, approval, exception, or waiver with respect to a facility within 60 days of the date the public utility applied to the local government for the permit, authorization, approval, exception, or waiver;
 - (f) a facility is located or proposed to be located in more than one local government jurisdiction and the decisions of the local governments regarding the facility are inconsistent; or
 - (g) a facility is proposed to be located within a local government jurisdiction to serve customers exclusively outside the jurisdiction of the local government and there is a dispute regarding the apportionment of the actual excess cost of the facility between the local government and the public utility.
- (2)
 - (a) If an action is filed by a local government pursuant to Subsection (1)(b)(iv) or (v) seeking a modification to a target study area or a proposed corridor, the local government shall provide written notice of the action to any potentially affected landowner, as defined in Section 54-18-102, or affected entity, as defined in Section 54-18-102.
 - (b) A potentially affected landowner, as defined in Section 54-18-102, or affected entity, as defined in Section 54-18-102, shall have a right to intervene as a party in the proceeding.

Amended by Chapter 340, 2011 General Session