

**2023 HOUSE ENERGY AND NATURAL RESOURCES**

**HB 1097**

# 2023 HOUSE STANDING COMMITTEE MINUTES

## Energy and Natural Resources Committee Coteau AB Room, State Capitol

HB 1097  
1/12/2023

Relating to the definition of utility-scale energy storage and route adjustments for electric transmission lines; relating to the definition of electric energy conversion facility, the publication of notices of public hearings, payment of an administrative fee, adding hydrogen to definition, the publication of a public hearing and the payment of an administrative fee.

9:12 AM

Chairman Porter opened the hearing. Members present: Chairman Porter, Vice Chairman D. Anderson, Representatives Bosch, Conmy, Dockter, Hagert, Heinert, Ista, Kasper, Marschall, Novak, Olson, Roers Jones, and Ruby.

### Discussion Topics:

- Utility scale energy storage
- Electric power transmission line routes
- Filing fees
- Reasonable notice

Randy Christmann, Commissioner, PSC, Testimony #12970

Rep Heinert moved a Do Pass on HB 1097, seconded by Rep Hagert.

Representatives	Vote
Representative Todd Porter	Y
Representative Dick Anderson	Y
Representative Glenn Bosch	Y
Representative Liz Conmy	Y
Representative Jason Dockter	Y
Representative Jared Hagert	Y
Representative Pat D. Heinert	Y
Representative Zachary Ista	Y
Representative Jim Kasper	Y
Representative Andrew Marschall	Y
Representative Anna S. Novak	Y
Representative Jeremy Olson	Y
Representative Shannon Roers Jones	AB
Representative Matthew Ruby	AB

Yes 12 No 0 Absent 2 Motion carried. Rep Novak is carrier.

Chairman Porter closed hearing at 9:24 AM

*Kathleen Davis, Committee Clerk*

**REPORT OF STANDING COMMITTEE**

**HB 1097: Energy and Natural Resources Committee (Rep. Porter, Chairman)**  
recommends **DO PASS** (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB  
1097 was placed on the Eleventh order on the calendar.

**2023 SENATE ENERGY AND NATURAL RESOURCES**

**HB 1097**

# 2023 SENATE STANDING COMMITTEE MINUTES

## Energy and Natural Resources Committee Peace Garden Room, State Capitol

HB 1097  
3/3/2023

A bill relating to the definition of utility-scale energy storage and route adjustments for electric transmission lines; relating to the definition of electric energy conversion facility, the publication of notices of public hearings, payment of an administrative fee, and adding hydrogen to definitions.

9:30 AM Chairman Patten opened the meeting.

Chairman Patten and Senators Kessel, Kannianen, Beard, Boehm and Magrum are present.

### **Discussion Topics:**

- Hydrogen transmission
- Public hearing notices
- Sighting application fee

9:30 AM Randy Christmann, Chairman of the Public Service Commission, introduced the bill and provided written testimony #21842.

9:38 AM Carlee McLeod, President of Utility Shareholders of North Dakota, gave oral testimony in favor of the bill.

9:39 AM Chairman Patten closed the public hearing.

9:39 AM Chairman Patten closed the meeting.

*Rick Schuchard, Committee Clerk*

# 2023 SENATE STANDING COMMITTEE MINUTES

## Energy and Natural Resources Committee Peace Garden Room, State Capitol

HB 1097  
3/3/2023

A bill relating to the definition of utility-scale energy storage and route adjustments for electric transmission lines; relating to the definition of electric energy conversion facility, the publication of notices of public hearings, payment of an administrative fee, and adding hydrogen to definitions.

10:12 AM Chairman Patten opened the meeting.  
Chairman Patten and Senators Kessel, Kannianen, Beard, Boehm and Magrum are present.

### Discussion Topics:

- Committee action

10:12 AM Senator Magrum moved to adopt an amendment LC 23.8084.01001, #21915.  
Senator Boehm seconded the motion.

10:13 AM Roll call vote was taken.

Senators	Vote
Senator Dale Patten	Y
Senator Jeffery J. Magrum	Y
Senator Todd Beard	Y
Senator Keith Boehm	Y
Senator Jordan L. Kannianen	Y
Senator Greg Kessel	Y

Motion passed 6-0-0.

10:13 AM Senator Boehm moved DO PASS as amended on the bill.  
Senator Magrum seconded the motion.

10:14 AM Roll call vote was taken.

Senators	Vote
Senator Dale Patten	Y
Senator Jeffery J. Magrum	Y
Senator Todd Beard	Y
Senator Keith Boehm	Y
Senator Jordan L. Kannianen	Y
Senator Greg Kessel	Y

Motion passed 6-0-0.

Senator Boehm will carry the bill.  
This bill does not affect workforce development.  
10:14 AM Chairman Patten closed the meeting.  
*Rick Schuchard, Committee Clerk*

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172  
3-3-2023

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1097

Page 1, line 4, remove "subsection 4 of"

Page 5, replace lines 3 through 10 with:

**"SECTION 5. AMENDMENT.** Section 49-22-22 of the North Dakota Century Code is amended and reenacted as follows:

**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. ~~At the request of the commission and~~If an applicant does not agree to pay additional fees reasonably necessary for completion of the site, corridor, or route evaluation and designation process, 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.

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3. A siting process expense recovery fund is established in the state treasury. The commission shall deposit payments received under subsections 1 and 2 in the siting process expense recovery fund. All moneys deposited in the fund are appropriated on a continuing basis to the commission to pay expenses incurred in the siting process. The commission shall specify the time and method of payment of any fees and shall refund the portion of fees collected under subsections 1 and 2 which exceeds the expenses incurred for the evaluation and designation process.
4. Every applicant for a certificate of site compatibility, certificate of corridor compatibility and route permit, and transfer of a certificate or permit under this chapter shall pay to the commission an administrative fee equal to one hundred dollars for each one million dollars of original investment, not to exceed twenty-five thousand dollars. The administrative fee must be deposited in the public service commission program fund."

Renumber accordingly



**REPORT OF STANDING COMMITTEE**

**HB 1097: Energy and Natural Resources Committee (Sen. Patten, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1097 was placed on the Sixth order on the calendar. This bill does not affect workforce development.

Page 1, line 4, remove "subsection 4 of"

Page 5, replace lines 3 through 10 with:

**"SECTION 5. AMENDMENT.** Section 49-22-22 of the North Dakota Century Code is amended and reenacted as follows:

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

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  - 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. ~~At the request of the commission and~~If an applicant does not agree to pay additional fees reasonably necessary for completion of the site, corridor, or route evaluation and designation process, 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.

3. A siting process expense recovery fund is established in the state treasury. The commission shall deposit payments received under subsections 1 and 2 in the siting process expense recovery fund. All moneys deposited in the fund are appropriated on a continuing basis to the commission to pay expenses incurred in the siting process. The commission shall specify the time and method of payment of any fees and shall refund the portion of fees collected under subsections 1 and 2 which exceeds the expenses incurred for the evaluation and designation process.
4. Every applicant for a certificate of site compatibility, certificate of corridor compatibility and route permit, and transfer of a certificate or permit under this chapter shall pay to the commission an administrative fee equal to one hundred dollars for each one million dollars of original investment, not to exceed twenty-five thousand dollars. The administrative fee must be deposited in the public service commission program fund."

Renumber accordingly

# 2023 SENATE STANDING COMMITTEE MINUTES

## Energy and Natural Resources Committee Peace Garden Room, State Capitol

HB 1097  
3/9/2023

A bill relating to the definition of utility-scale energy storage and route adjustments for electric transmission lines; relating to the definition of electric energy conversion facility, the publication of notices of public hearings, payment of an administrative fee, and adding hydrogen to definitions.

2:16 PM Chairman Patten opened the meeting.

Chairman Patten and Senators Kessel, Kannianen, Boehm, Beard, and Magrum are present.

### Discussion Topics:

- Committee action

2:16 PM Senator Kannianen moved to reconsider the action that was previously taken on the bill. Motion seconded by Senator Boehm.

2:16 PM Roll call vote was taken.

Senators	Vote
Senator Dale Patten	Y
Senator Jeffery J. Magrum	Y
Senator Todd Beard	Y
Senator Keith Boehm	Y
Senator Jordan L. Kannianen	Y
Senator Greg Kessel	Y

Motion passes 6-0-0.

2:17 PM Senator Boehm moved to adopt amendment 23.8084.01002 and add emergency clause. Motion seconded by Senator Beard.

2:17 PM Roll call vote was taken.

Senators	Vote
Senator Dale Patten	Y
Senator Jeffery J. Magrum	Y
Senator Todd Beard	Y
Senator Keith Boehm	Y
Senator Jordan L. Kannianen	Y
Senator Greg Kessel	Y

Motion passes 6-0-0.

2:18 PM Senator Beard moved to Do Pass the bill as amended. Motion seconded by Senator Kessel.

2:18 PM Roll call vote was taken.

<b>Senators</b>	<b>Vote</b>
Senator Dale Patten	Y
Senator Jeffery J. Magrum	Y
Senator Todd Beard	Y
Senator Keith Boehm	Y
Senator Jordan L. Kannianen	Y
Senator Greg Kessel	Y

Motion passes 6-0-0.

Senator Boehm will carry the bill.

This bill does not affect workforce development.

2:18 PM Chairman Patten closed the meeting.

*Rick Schuchard, Committee Clerk*

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182  
3-7-23

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1097

Page 1, line 3, remove "and"

Page 1, line 4, remove "subsection 4 of"

Page 1, line 9, after "fee" insert "; and to declare an emergency"

Page 5, replace lines 3 through 10 with:

**"SECTION 5. AMENDMENT.** Section 49-22-22 of the North Dakota Century Code is amended and reenacted as follows:

**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.

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2. ~~At the request of the commission and~~ If an applicant does not agree to pay additional fees reasonably necessary for completion of the site, corridor, or route evaluation and designation process, 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.
  3. A siting process expense recovery fund is established in the state treasury. The commission shall deposit payments received under subsections 1 and 2 in the siting process expense recovery fund. All moneys deposited in the fund are appropriated on a continuing basis to the commission to pay expenses incurred in the siting process. The commission shall specify the time and method of payment of any fees and shall refund the portion of fees collected under subsections 1 and 2 which exceeds the expenses incurred for the evaluation and designation process.
  4. Every applicant for a certificate of site compatibility, certificate of corridor compatibility and route permit, and transfer of a certificate or permit under this chapter shall pay to the commission an administrative fee equal to one hundred dollars for each one million dollars of original investment, not to exceed twenty-five thousand dollars. The administrative fee must be deposited in the public service commission program fund."

Page 6, line 26, insert immediately after the period:

**"SECTION 9. EMERGENCY.** This Act is declared to be an emergency measure."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1097: Energy and Natural Resources Committee (Sen. Patten, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1097 was placed on the Sixth order on the calendar. This bill does not affect workforce development.

Page 1, line 3, remove "and"

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Page 1, line 9, after "fee" insert "; and to declare an emergency"

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  - 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. ~~At the request of the commission and~~ If an applicant does not agree to pay additional fees reasonably necessary for completion of the site, corridor, or route evaluation and designation process, 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.
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  4. Every applicant for a certificate of site compatibility, certificate of corridor compatibility and route permit, and transfer of a certificate or permit under this chapter shall pay to the commission an administrative fee equal to one hundred dollars for each one million dollars of original investment, not to exceed twenty-five thousand dollars. The administrative fee must be deposited in the public service commission program fund."

Page 6, line 26, insert immediately after the period:

**"SECTION 9. EMERGENCY.** This Act is declared to be an emergency measure."

Renumber accordingly



**TESTIMONY**

**HB 1097**

## House Bill 1097

**Presented by:** Commissioner Randy Christmann  
Public Service Commission

**Before:** House Energy and Natural Resources Committee  
Honorable Todd Porter, Chair

**Date:** January 12, 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 if proper filings and conditions are met. This amendment is the same section that currently exists within the pipeline transmission law (49-22.1) to provide flexibility during construction to mitigate 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.

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

## 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.
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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

**SECTION 5. AMENDMENT.** ~~Subsection 4 of section~~ Section 49-22-22 of the North Dakota Century Code is amended and reenacted as follows.

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  - 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.
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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.

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