

**54-14-305 Written decisions of board.**

- (1) The board shall issue a written decision on the review expeditiously and, in any event, not later than 75 days following the initial hearing.
- (2) The written decision shall:
  - (a) specify whether the facility should be constructed and, if so, whether any requirements or conditions imposed by the local government may not be imposed because they impair the ability of the public utility to provide safe, reliable, and adequate service to its customers; and
  - (b) resolve any dispute regarding:
    - (i) the standard cost or estimated excess cost of the facility;
    - (ii) the date on which 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;
    - (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) apportionment of the actual excess cost of the facility between the local government and the public utility under Subsection 54-14-303(1)(g); or
    - (v) the proposed location and siting of a facility subject to Chapter 18, Siting of High Voltage Power Line Act, and in accordance with Section 54-14-102.
- (3)
  - (a) Notwithstanding Subsection (6), the written decision of the board may designate the facility route for a high voltage transmission line pursuant to a dispute described under Section 54-14-304.
  - (b) The public utility is entitled to recover from its ratepayers any actual excess costs apportioned to it under Subsection (2)(b)(iv).
- (4) If the board determines that a facility that a local government has prohibited should be constructed, the written decision shall specify any general location parameters required to provide safe, reliable, adequate, and efficient service to the customers of the public utility.
- (5) The written decision shall leave to the local government any issue that does not affect the provision of safe, reliable, adequate, and efficient service to customers of the public utility or that does not involve an estimated excess cost.
- (6) With respect to local government requirements or conditions that impose an estimated excess cost but do not impair the provision of safe, reliable, and adequate service to the customers of the public utility, the written decision shall leave each siting issue to the local government except determination of the estimated excess cost and determination of when the construction of the facility should commence.
- (7)
  - (a) In determining when the construction of the facility should commence, the board shall consider whether the public utility sought a permit, authorization, approval, exception, or waiver from the local government in a timely manner based upon reasonably foreseeable conditions.
  - (b) If the board determines that the public utility did not seek a permit, authorization, approval, exception, or waiver in a timely manner, the board shall allow sufficient time for the local government to pay any actual excess cost that may be imposed as a result of requirements or conditions the local government has imposed that do not impair the provision of safe, reliable, and adequate service to customers of the public utility.
  - (c) There is a presumption that the utility has sought a permit, authorization, approval, exception, or waiver in a timely manner if the utility has complied with:

- (i) the notice and filing requirements of Chapter 18, Siting of High Voltage Power Line Act; or
- (ii) the timing requirements imposed by a local government land use ordinance.

Amended by Chapter 89, 2013 General Session