

1 **UTILITY FACILITY REVIEW BOARD**

2 2007 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Aaron Tilton**

5 Senate Sponsor: Gregory S. Bell

7 **LONG TITLE**

8 **General Description:**

9 This bill amends Title 54, Chapter 14, Electrical Facility Review Board Act, to apply to
10 a gas corporation.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ applies the provisions of Title 54, Chapter 14, Electrical Facility Review Board Act,
14 to a gas corporation;
- 15 ▶ reduces the time within which the board must issue a written decision; and
- 16 ▶ makes technical changes.

17 **Monies Appropriated in this Bill:**

18 None

19 **Other Special Clauses:**

20 None

21 **Utah Code Sections Affected:**

22 AMENDS:

23 **54-14-101**, as enacted by Chapter 197, Laws of Utah 1997

24 **54-14-102**, as enacted by Chapter 197, Laws of Utah 1997

25 **54-14-103**, as enacted by Chapter 197, Laws of Utah 1997

26 **54-14-301**, as enacted by Chapter 197, Laws of Utah 1997

27 **54-14-305**, as enacted by Chapter 197, Laws of Utah 1997

28
29 *Be it enacted by the Legislature of the state of Utah:*

30 Section 1. Section **54-14-101** is amended to read:

31 **CHAPTER 14. UTILITY FACILITY REVIEW BOARD ACT**

32 **Part 1. General Provisions**

33 **54-14-101. Title.**

34 This chapter is known as the [~~Electrical~~] "Utility Facility Review Board Act."

35 Section 2. Section **54-14-102** is amended to read:

36 **54-14-102. Legislative findings.**

37 (1) (a) The Legislature finds that the construction of [~~transmission lines and substations~~
38 ~~by electrical corporations that are~~] facilities by public utilities under this title is a matter of
39 statewide concern.

40 (b) The construction of these facilities may affect the safety, reliability, adequacy, and
41 efficiency of service to customers in areas within the jurisdiction of more than a single local
42 government.

43 (c) Excess costs imposed by requirements of a local government for the construction of
44 facilities may affect either the rates and charges of the public utility to customers other than
45 customers within the jurisdiction of the local government or the financial viability of the public
46 utility, unless the local government pays for those excess costs.

47 (2) The Legislature finds that it is in the public interest to establish the [~~Electrical~~]
48 Utility Facility Review Board to resolve issues regarding the construction and installation of
49 [~~transmission lines and substations by any electrical corporation that is a~~] public utility
50 facilities.

51 Section 3. Section **54-14-103** is amended to read:

52 **54-14-103. Definitions.**

53 As used in this chapter:

54 (1) "Actual excess cost" means the difference in cost between:

55 (a) the standard cost of a facility; and

56 (b) the actual cost of the facility, including any necessary right-of-way, as determined
57 in accordance with Section 54-14-203.

58 (2) "Board" means the ~~[Electrical]~~ Utility Facility Review Board.

59 (3) "Commencement of construction of a facility" includes the project design and the
60 ordering of materials necessary to construct the facility.

61 (4) "Estimated excess cost" means any material difference in estimated cost between
62 the costs of a facility, including any necessary right-of-way, if constructed in accordance with
63 the requirements of a local government and the standard cost of the facility.

64 (5) "Facility" means a transmission line ~~[or]~~, a substation, a gas pipeline, a tap, a
65 measuring device, or a treatment device.

66 (6) (a) "Gas pipeline" means equipment, material, and structures used to transport gas
67 to the public utility's customers, including:

68 (i) pipe;

69 (ii) a compressor;

70 (iii) a pressure regulator;

71 (iv) a support structure; and

72 (v) any other equipment or structure used to transport or facilitate transportation of gas
73 through a pipe.

74 (b) "Gas pipeline" does not include a service line.

75 ~~[(6)]~~ (7) "Local government":

76 (a) means a city or town as defined in Section 10-1-104 or a county~~[-lf]~~; or

77 (b) may refer to one or more of the local governments in whose jurisdiction a facility is
78 located if a facility is proposed to be located in more than one local government jurisdiction[;
79 ~~"local government" may refer to one or more of the local governments in whose jurisdiction the~~
80 ~~facility is located].~~

81 ~~[(7)]~~ (8) "Pay" includes, in reference to a local government paying the actual excess
82 cost of a facility, payment by:

83 (a) a special district created by the local government; or

84 (b) a private entity other than the public utility pursuant to a regulation or decision of
85 the local government.

86 ~~[(8)]~~ (9) (a) "Standard cost" means the estimated cost of a facility, including any
87 necessary right-of-way, if constructed in accordance with:

- 88 (i) the public utility's normal practices; and
- 89 (ii) zoning, subdivision, and building code regulations of a local government, including
90 siting, ~~[setbacks]~~ setback, screening, and landscaping requirements:

- 91 (A) imposed on similar land uses in the same zone; and
- 92 (B) that do not impair the ability of the public utility to provide service to its customers
93 in a safe, reliable, adequate, and efficient manner.

94 (b) With respect to a transmission line, "standard cost" is the cost of any overhead line
95 constructed in accordance with the public utility's normal practices.

96 (c) With respect to a facility of a gas corporation, "standard cost" is the cost of
97 constructing the facility in accordance with the public utility's normal practices.

98 ~~[(9)]~~ (10) (a) "Substation" means a separate space within which electric supply
99 equipment is located for the purpose of switching, regulating, transforming, or otherwise
100 modifying the characteristics of electricity, including:

101 (i) electrical equipment such as transformers, circuit breakers, voltage regulating
102 equipment, buses, switches, capacitor banks, reactors, protection and control equipment, and
103 other related equipment;

104 (ii) the site at which the equipment is located, any foundations, support structures,
105 buildings, or driveways necessary to locate, operate, and maintain the equipment at the site;
106 and

107 (iii) the structure intended to restrict access to the equipment to qualified persons.

108 (b) "Substation" does not include a distribution pole-mounted or pad-mounted
109 transformer that is used for the final transformation of power to the voltage level utilized by the
110 customer.

111 ~~[(10)]~~ (11) "Transmission line" means an electrical line, including structures,
112 equipment, plant, or fixtures associated with the electrical line, operated at a nominal voltage
113 of 34,000 volts or above.

114 Section 4. Section **54-14-301** is amended to read:

115 **54-14-301. Creation, purpose, and composition of board.**

116 (1) The [~~Electrical~~] Utility Facility Review Board is created within the Department of
117 Commerce to resolve disputes between local governments and public utilities regarding the
118 siting and construction of [~~electrical~~] facilities as provided in this part.

119 (2) The board shall be composed of:

120 (a) the three members of the commission;

121 (b) an individual appointed by the governor from a list of nominees of the Utah League
122 of Cities and Towns; and

123 (c) an individual appointed by the governor from a list of nominees of the Utah
124 Association of Counties.

125 (3) The chair of the commission shall serve as chair of the board.

126 (4) Members of the commission shall serve as members of the board during their terms
127 of office as commissioners and until their successors on the commission have been appointed
128 and taken office.

129 (5) (a) Members of the board who are not commissioners:

130 (i) shall have four-year terms, except the initial term of the individual first appointed
131 by the governor from nominees of the Utah Association of Counties shall be two years;

132 (ii) may be appointed for one succeeding term; and

133 (iii) may continue to serve until their successor takes office.

134 (b) Vacancies in the board of members who are not commissioners shall be filled for
135 the unexpired term.

136 (6) Three members of the board [~~shall~~] constitute a quorum.

137 (7) A member of the board may be removed for cause by the governor.

138 (8) (a) (i) Members who are not state or local government employees shall receive no
139 compensation or benefits for their services, but may receive per diem and expenses incurred in
140 the performance of the member's official duties at the rates established by the Division of
141 Finance under Sections 63A-3-106 and 63A-3-107.

142 (ii) Members may decline to receive per diem and expenses for their service.

143 (b) (i) State government officer and employee members who do not receive salary, per
144 diem, or expenses from their agency for their service may receive per diem and expenses
145 incurred in the performance of their official duties from the board at the rates established by the
146 Division of Finance under Sections 63A-3-106 and 63A-3-107.

147 (ii) State government officer and employee members may decline to receive per diem
148 and expenses for their service.

149 (c) (i) Local government members who do not receive salary, per diem, or expenses
150 from their employer for their service on the board may receive per diem and expenses incurred
151 in the performance of their official duties at the rates established by the Division of Finance
152 under Sections 63A-3-106 and 63A-3-107.

153 (ii) Local government members may decline to receive per diem and expenses for their
154 service.

155 Section 5. Section **54-14-305** is amended to read:

156 **54-14-305. Written decisions of board.**

157 (1) The board shall issue a written decision on the review expeditiously and, in any
158 event, not later than [~~140~~] 45 days following the initial hearing.

159 (2) The written decision shall:

160 (a) specify whether the facility should be constructed and, if so, whether any
161 requirements or conditions imposed by the local government may not be imposed because they
162 impair the ability of the public utility to provide safe, reliable, and adequate service to its
163 customers; and

164 (b) resolve any dispute regarding:

165 (i) the standard cost or estimated excess cost of the facility;

166 (ii) the date on which construction of the facility should commence in order to avoid a
167 significant risk of impairment of safe, reliable, and adequate service to customers of the public
168 utility;

169 (iii) whether the public utility has sought a permit, authorization, approval, exception,

170 or waiver with respect to a facility sufficiently in advance of the date construction should
171 commence, based upon reasonably foreseeable conditions, to allow the local government
172 reasonable time to pay for any estimated excess cost; or

173 (iv) apportionment of the actual excess cost of the facility between the local
174 government and the public utility pursuant to Subsection 54-14-303(7).

175 (3) If the board determines that a facility that a local government has prohibited should
176 be constructed, the written decision shall specify any general location parameters required to
177 provide safe, reliable, adequate, and efficient service to the customers of the public utility.

178 (4) The written decision shall leave to the local government any issue that does not
179 affect the provision of safe, reliable, adequate, and efficient service to customers of the public
180 utility or that does not involve an estimated excess cost.

181 (5) With respect to local government requirements or conditions that impose an
182 estimated excess cost but do not impair the provision of safe, reliable, and adequate service to
183 the customers of the public utility, the written decision shall leave each siting issue to the local
184 government except determination of the estimated excess cost and determination of when the
185 construction of the facility should commence.

186 (6) In determining when the construction of the facility should commence, the board
187 shall consider whether the public utility sought a permit, authorization, approval, exception, or
188 waiver from the local government in a timely manner based upon reasonably foreseeable
189 conditions, and, if the board determines that the public utility did not do so, it shall allow
190 sufficient time for the local government to pay any actual excess cost that may be imposed as a
191 result of requirements or conditions the local government has imposed that do not impair the
192 provision of safe, reliable, and adequate service to customers of the public utility.