

## CHAPTER 116C

## ENVIRONMENTAL QUALITY BOARD

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**116C.03 CREATION OF THE ENVIRONMENTAL QUALITY BOARD; MEMBERSHIP; CHAIR; STAFF.**

*[For text of subd 1, see M.S.2000]*

Subd. 2. **Membership.** The members of the board are the director of the office of strategic and long-range planning, the commissioner of commerce, the commissioner of the pollution control agency, the commissioner of natural resources, the director of the office of environmental assistance, the commissioner of agriculture, the commissioner of health, the commissioner of trade and economic development, the commissioner of transportation, the chair of the board of water and soil resources, and a representative of the governor's office designated by the governor. The governor shall appoint five members from the general public to the board, subject to the advice and consent of the senate. At least two of the five public members must have knowledge of and be conversant in water management issues in the state. Notwithstanding the provisions of section 15.06, subdivision 6, members of the board may not delegate their powers and responsibilities as board members to any other person.

*[For text of subds 2a to 6, see M.S.2000]*

**History:** *1Sp2001 c 4 art 6 s 77*

**116C.52 DEFINITIONS.**

*[For text of subds 1 to 3, see M.S.2000]*

Subd. 4. **High voltage transmission line.** "High voltage transmission line" means a conductor of electric energy and associated facilities designed for and capable of operation at a nominal voltage of 100 kilovolts or more.

*[For text of subds 5 to 9, see M.S.2000]*

Subd. 10. **Utility.** "Utility" shall mean any entity engaged or intending to engage in this state in the generation, transmission or distribution of electric energy including, but not limited to, a private investor owned utility, cooperatively owned utility, and a public or municipally owned utility.

**History:** *2001 c 212 art 7 s 1,2*

**116C.53 SITING AUTHORITY.**

*[For text of subd 1, see M.S.2000]*

Subd. 2. **Jurisdiction.** The board is hereby given the authority to provide for site and route selection for large electric power facilities. The board shall issue permits for large electric power facilities in a timely fashion. When the public utilities commission has determined the need for the project under section 216B.243 or 216B.2425,

questions of need, including size, type, and timing; alternative system configurations; and voltage are not within the board's siting and routing authority and must not be included in the scope of environmental review conducted under sections 116C.51 to 116C.69.

**Subd. 3. Interstate routes.** If a route is proposed in two or more states, the board shall attempt to reach agreement with affected states on the entry and exit points prior to designating a route. The board, in discharge of its duties pursuant to sections 116C.51 to 116C.69 may make joint investigations, hold joint hearings within or without the state, and issue joint or concurrent orders in conjunction or concurrence with any official or agency of any state or of the United States. The board may negotiate and enter into any agreements or compacts with agencies of other states, pursuant to any consent of Congress, for cooperative efforts in certifying the construction, operation, and maintenance of large electric power facilities in accord with the purposes of sections 116C.51 to 116C.69 and for the enforcement of the respective state laws regarding such facilities.

**History:** 2001 c 212 art 7 s 3,4

### **116C.55 DEVELOPMENT OF POWER PLANT STUDY AREAS CRITERIA; PUBLIC HEARINGS; INVENTORY.**

Subd. 2. [Repealed, 2001 c 212 art 7 s 36]

Subd. 3. [Repealed, 2001 c 212 art 7 s 36]

### **116C.57 DESIGNATION OF SITES AND ROUTES; PROCEDURES; CONSIDERATIONS; EMERGENCY CERTIFICATION; EXEMPTION.**

**Subdivision 1. Site permit.** No person may construct a large electric generating plant without a site permit from the board. A large electric generating plant may be constructed only on a site approved by the board. The board must incorporate into one proceeding the route selection for a high voltage transmission line that is directly associated with and necessary to interconnect the large electric generating plant to the transmission system and whose need is certified as part of the generating plant project by the public utilities commission.

**Subd. 2. Route permit.** No person may construct a high voltage transmission line without a route permit from the board. A high voltage transmission line may be constructed only along a route approved by the board.

**Subd. 2a. Application.** Any person seeking to construct a large electric power generating plant or a high voltage transmission line must apply to the board for a site or route permit. The application shall contain such information as the board may require. The applicant shall propose at least two sites for a large electric power generating plant and two routes for a high voltage transmission line. The chair of the board shall determine whether an application is complete and advise the applicant of any deficiencies within ten days of receipt. An application is not incomplete if information not in the application can be obtained from the applicant during the first phase of the process and that information is not essential for notice and initial public meetings.

**Subd. 2b. Notice of application.** Within 15 days after submission of an application to the board, the applicant shall publish notice of the application in a legal newspaper of general circulation in each county in which the site or route is proposed and send a copy of the application by certified mail to any regional development commission, county, incorporated municipality, and township in which any part of the site or route is proposed. Within the same 15 days, the applicant shall also send a notice of the submission of the application and description of the proposed project to each owner whose property is on or adjacent to any of the proposed sites for the power plant or along any of the proposed routes for the transmission line. The notice shall identify a location where a copy of the application can be reviewed. For the purpose of giving mailed notice under this subdivision, owners shall be those shown on the records of the county auditor or, in any county where tax statements are mailed by the county

treasurer, on the records of the county treasurer; but other appropriate records may be used for this purpose. The failure to give mailed notice to a property owner, or defects in the notice, shall not invalidate the proceedings, provided a bona fide attempt to comply with this subdivision has been made. Within the same 15 days, the applicant shall also send the same notice of the submission of the application and description of the proposed project to those persons who have requested to be placed on a list maintained by the board for receiving notice of proposed large electric generating power plants and high voltage transmission lines.

**Subd. 2c. Environmental review.** The board shall prepare an environmental impact statement on each proposed large electric generating plant or high voltage transmission line for which a complete application has been submitted. For any project that has obtained a certificate of need from the public utilities commission, the board shall not consider whether or not the project is needed. No other state environmental review documents shall be required. The board shall study and evaluate any site or route proposed by an applicant and any other site or route the board deems necessary that was proposed in a manner consistent with rules adopted by the board concerning the form, content, and timeliness of proposals for alternate sites or routes.

**Subd. 2d. Public hearing.** The board shall hold a public hearing on an application for a site permit for a large electric power generating plant or a route permit for a high voltage transmission line. All hearings held for designating a site or route shall be conducted by an administrative law judge from the office of administrative hearings pursuant to the contested case procedures of chapter 14. Notice of the hearing shall be given by the board at least ten days in advance but no earlier than 45 days prior to the commencement of the hearing. Notice shall be by publication in a legal newspaper of general circulation in the county in which the public hearing is to be held and by certified mail to chief executives of the regional development commissions, counties, organized towns, townships, and the incorporated municipalities in which a site or route is proposed. Any person may appear at the hearings and offer testimony and exhibits without the necessity of intervening as a formal party to the proceedings. The administrative law judge may allow any person to ask questions of other witnesses. The administrative law judge shall hold a portion of the hearing in the area where the power plant or transmission line is proposed to be located.

**Subd. 3.** [Repealed, 2001 c 212 art 7 s 36]

**Subd. 4. Considerations in designating sites and routes.** The board's site and route permit determinations must be guided by the state's goals to conserve resources, minimize environmental impacts, minimize human settlement and other land use conflicts, and ensure the state's electric energy security through efficient, cost-effective power supply and electric transmission infrastructure. To facilitate the study, research, evaluation and designation of sites and routes, the board shall be guided by, but not limited to, the following considerations:

(1) Evaluation of research and investigations relating to the effects on land, water and air resources of large electric power generating plants and high voltage transmission lines and the effects of water and air discharges and electric and magnetic fields resulting from such facilities on public health and welfare, vegetation, animals, materials and aesthetic values, including base line studies, predictive modeling, and evaluation of new or improved methods for minimizing adverse impacts of water and air discharges and other matters pertaining to the effects of power plants on the water and air environment;

(2) Environmental evaluation of sites and routes proposed for future development and expansion and their relationship to the land, water, air and human resources of the state;

(3) Evaluation of the effects of new electric power generation and transmission technologies and systems related to power plants designed to minimize adverse environmental effects;

(4) Evaluation of the potential for beneficial uses of waste energy from proposed large electric power generating plants;

- (5) Analysis of the direct and indirect economic impact of proposed sites and routes including, but not limited to, productive agricultural land lost or impaired;
- (6) Evaluation of adverse direct and indirect environmental effects that cannot be avoided should the proposed site and route be accepted;
- (7) Evaluation of alternatives to the applicant's proposed site or route proposed pursuant to subdivisions 1 and 2;
- (8) Evaluation of potential routes that would use or parallel existing railroad and highway rights-of-way;
- (9) Evaluation of governmental survey lines and other natural division lines of agricultural land so as to minimize interference with agricultural operations;
- (10) Evaluation of the future needs for additional high voltage transmission lines in the same general area as any proposed route, and the advisability of ordering the construction of structures capable of expansion in transmission capacity through multiple circuiting or design modifications;
- (11) Evaluation of irreversible and irretrievable commitments of resources should the proposed site or route be approved; and
- (12) When appropriate, consideration of problems raised by other state and federal agencies and local entities.

If the board's rules are substantially similar to existing regulations of a federal agency to which the utility in the state is subject, the federal regulations must be applied by the board.

No site or route shall be designated which violates state agency rules.

Subd. 5. [Repealed, 2001 c 212 art 7 s 36]

Subd. 5a. [Repealed, 2001 c 212 art 7 s 36]

*[For text of subd 6, see M.S.2000]*

Subd. 7. **Timing.** The board shall make a final decision on an application within 60 days after receipt of the report of the administrative law judge. A final decision on the request for a site permit or route permit shall be made within one year after the chair's determination that an application is complete. The board may extend this time limit for up to three months for just cause or upon agreement of the applicant.

Subd. 8. **Final decision.** (a) No site permit shall be issued in violation of the site selection standards and criteria established in this section and in rules adopted by the board. When the board designates a site, it shall issue a site permit to the applicant with any appropriate conditions. The board shall publish a notice of its decision in the State Register within 30 days of issuance of the site permit.

(b) No route permit shall be issued in violation of the route selection standards and criteria established in this section and in rules adopted by the board. When the board designates a route, it shall issue a permit for the construction of a high voltage transmission line specifying the design, routing, right-of-way preparation, and facility construction it deems necessary, and with any other appropriate conditions. The board may order the construction of high voltage transmission line facilities that are capable of expansion in transmission capacity through multiple circuiting or design modifications. The board shall publish a notice of its decision in the State Register within 30 days of issuance of the permit.

**History:** 2001 c 212 art 7 s 5-13

## 116C.575 ALTERNATIVE REVIEW OF APPLICATIONS.

Subdivision 1. **Alternative review.** An applicant who seeks a site permit or route permit for one of the projects identified in this section shall have the option of following the procedures in this section rather than the procedures in section 116C.57. The applicant shall notify the chair at the time the application is submitted which procedure the applicant chooses to follow.

Subd. 2. **Applicable projects.** The requirements and procedures in this section apply to the following projects:

- (1) large electric power generating plants with a capacity of less than 80 megawatts;
- (2) large electric power generating plants that are fueled by natural gas;
- (3) high voltage transmission lines of between 100 and 200 kilovolts;
- (4) high voltage transmission lines in excess of 200 kilovolts and less than five miles in length in Minnesota;
- (5) high voltage transmission lines in excess of 200 kilovolts if at least 80 percent of the distance of the line in Minnesota will be located along existing high voltage transmission line right-of-way;
- (6) a high voltage transmission line service extension to a single customer between 200 and 300 kilovolts and less than ten miles in length; and
- (7) a high voltage transmission line rerouting to serve the demand of a single customer when the rerouted line will be located at least 80 percent on property owned or controlled by the customer or the owner of the transmission line.

Subd. 3. **Application.** The applicant for a site or route permit for any of the projects listed in subdivision 2 who chooses to follow these procedures shall submit information as the board may require, but the applicant shall not be required to propose a second site or route for the project. The applicant shall identify in the application any other sites or routes that were rejected by the applicant and the board may identify additional sites or routes to consider during the processing of the application. The chair of the board shall determine whether an application is complete and advise the applicant of any deficiencies.

Subd. 4. **Notice of application.** Upon submission of an application under this section, the applicant shall provide the same notice as required by section 116C.57, subdivision 2b.

Subd. 5. **Environmental review.** For the projects identified in subdivision 2 and following these procedures, the board shall prepare an environmental assessment. The environmental assessment shall contain information on the human and environmental impacts of the proposed project and other sites or routes identified by the board and shall address mitigating measures for all of the sites or routes considered. The environmental assessment shall be the only state environmental review document required to be prepared on the project.

Subd. 6. **Public hearing.** The board shall hold a public hearing in the area where the facility is proposed to be located. The board shall give notice of the public hearing in the same manner as notice under section 116C.57, subdivision 2d. The board shall conduct the public hearing under procedures established by the board. The applicant shall be present at the hearing to present evidence and to answer questions. The board shall provide opportunity at the public hearing for any person to present comments and to ask questions of the applicant and board staff. The board shall also afford interested persons an opportunity to submit written comments into the record.

Subd. 7. **Timing.** The board shall make a final decision on an application within 60 days after completion of the public hearing. A final decision on the request for a site permit or route permit under this section shall be made within six months after the chair's determination that an application is complete. The board may extend this time limit for up to three months for just cause or upon agreement of the applicant.

Subd. 8. **Considerations.** The considerations in section 116C.57, subdivision 4, shall apply to any projects subject to this section.

Subd. 9. **Final decision.** (a) No site permit shall be issued in violation of the site selection standards and criteria established in this section and in rules adopted by the board. When the board designates a site, it shall issue a site permit to the applicant with any appropriate conditions. The board shall publish a notice of its decision in the State Register within 30 days of issuance of the site permit.

(b) No route designation shall be made in violation of the route selection standards and criteria established in this section and in rules adopted by the board. When the board designates a route, it shall issue a permit for the construction of a high voltage transmission line specifying the design, routing, right-of-way preparation, and facility construction it deems necessary and with any other appropriate conditions. The board may order the construction of high voltage transmission line facilities that are capable of expansion in transmission capacity through multiple circuiting or design modifications. The board shall publish a notice of its decision in the State Register within 30 days of issuance of the permit.

**History:** 2001 c 212 art 7 s 14

#### 116C.576 LOCAL REVIEW OF APPLICATIONS.

Subdivision 1. **Local review.** (a) Notwithstanding the requirements of sections 116C.57 and 116C.575, an applicant who seeks a site or route permit for one of the projects identified in this section shall have the option of applying to those local units of government that have jurisdiction over the site or route for approval to build the project. If local approval is granted, a site or route permit is not required from the board. If the applicant files an application with the board, the applicant shall be deemed to have waived its right to seek local approval of the project.

(b) A local unit of government with jurisdiction over a project identified in this section to whom an applicant has applied for approval to build the project may request the board to assume jurisdiction and make a decision on a site or route permit under the applicable provisions of sections 116C.52 to 116C.69. A local unit of government must file the request with the board within 60 days after an application for the project has been filed with any one local unit of government. If one of the local units of government with jurisdiction over the project requests the board to assume jurisdiction, jurisdiction over the project transfers to the board. If the local units of government maintain jurisdiction over the project, the board shall select the appropriate local unit of government to be the responsible governmental unit to conduct environmental review of the project.

Subd. 2. **Applicable projects.** Applicants may seek approval from local units of government to construct the following projects:

- (1) large electric power generating plants with a capacity of less than 80 megawatts;
- (2) large electric power generating plants of any size that burn natural gas and are intended to be a peaking plant;
- (3) high voltage transmission lines of between 100 and 200 kilovolts;
- (4) substations with a voltage designed for and capable of operation at a nominal voltage of 100 kilovolts or more;
- (5) a high voltage transmission line service extension to a single customer between 200 and 300 kilovolts and less than ten miles in length; and
- (6) a high voltage transmission line rerouting to serve the demand of a single customer when the rerouted line will be located at least 80 percent on property owned or controlled by the customer or the owner of the transmission line.

Subd. 3. **Notice of application.** Within ten days of submission of an application to a local unit of government for approval of an eligible project, the applicant shall notify the board that the applicant has elected to seek local approval of the proposed project.

**History:** 2001 c 212 art 7 s 15

#### 116C.577 EMERGENCY PERMIT.

(a) Any utility whose electric power system requires the immediate construction of a large electric power generating plant or high voltage transmission line due to a major unforeseen event may apply to the board for an emergency permit after providing notice in writing to the public utilities commission of the major unforeseen event and the need for immediate construction. The permit must be issued in a timely manner, no

later than 195 days after the board's acceptance of the application and upon a finding by the board that (1) a demonstrable emergency exists, (2) the emergency requires immediate construction, and (3) adherence to the procedures and time schedules specified in section 116C.57 would jeopardize the utility's electric power system or would jeopardize the utility's ability to meet the electric needs of its customers in an orderly and timely manner.

(b) A public hearing to determine if an emergency exists must be held within 90 days of the application. The board, after notice and hearing, shall adopt rules specifying the criteria for emergency certification.

**History:** 2001 c 212 art 7 s 16

#### **116C.58 ANNUAL HEARING.**

The board shall hold an annual public hearing at a time and place prescribed by rule in order to afford interested persons an opportunity to be heard regarding any matters relating to the siting of large electric generating power plants and routing of high voltage transmission lines. At the meeting, the board shall advise the public of the permits issued by the board in the past year. The board shall provide at least ten days but no more than 45 days' notice of the annual meeting by mailing notice to those persons who have requested notice and by publication in the EQB Monitor.

**History:** 2001 c 212 art 7 s 17

#### **116C.59 PUBLIC PARTICIPATION.**

Subdivision 1. **Advisory task force.** The board may appoint one or more advisory task forces to assist it in carrying out its duties. Task forces appointed to evaluate sites or routes considered for designation shall be comprised of as many persons as may be designated by the board, but at least one representative from each of the following: Regional development commissions, counties and municipal corporations and one town board member from each county in which a site or route is proposed to be located. No officer, agent, or employee of a utility shall serve on an advisory task force. Reimbursement for expenses incurred shall be made pursuant to the rules governing state employees. The task forces expire as provided in section 15.059, subdivision 6. At the time the task force is appointed, the board shall specify the charge to the task force. The task force shall expire upon completion of its charge, upon designation by the board of alternative sites or routes to be included in the environmental impact statement, or upon the specific date identified by the board in the charge, whichever occurs first.

*[For text of subs 2 and 3, see M.S.2000]*

Subd. 4. **Scientific advisory task force.** The board may appoint one or more advisory task forces composed of technical and scientific experts to conduct research and make recommendations concerning generic issues such as health and safety, underground routes, double circuiting and long-range route and site planning. Reimbursement for expenses incurred shall be made pursuant to the rules governing reimbursement of state employees. The task forces expire as provided in section 15.059, subdivision 6. The time allowed for completion of a specific site or route procedure may not be extended to await the outcome of these generic investigations.

**History:** 2001 c 212 art 7 s 18,19

#### **116C.60 PUBLIC MEETINGS; TRANSCRIPT OF PROCEEDINGS; WRITTEN RECORDS.**

Meetings of the board, including hearings, shall be open to the public. Minutes shall be kept of board meetings and a complete record of public hearings shall be kept. All books, records, files, and correspondence of the board shall be available for public inspection at any reasonable time. The board shall also be subject to chapter 13D.

**History:** 2001 c 212 art 7 s 20

**116C.61 LOCAL REGULATION; STATE PERMITS; STATE AGENCY PARTICIPATION.**

Subdivision 1. **Regional, county and local ordinances; rules, regulations; primary responsibility and regulation of site designation, improvement and use.** To assure the paramount and controlling effect of the provisions herein over other state agencies, regional, county, and local governments, and special purpose government districts, the issuance of a site permit or route permit and subsequent purchase and use of such site or route locations for large electric power generating plant and high voltage transmission line purposes shall be the sole site or route approval required to be obtained by the utility. Such permit shall supersede and preempt all zoning, building, or land use rules, regulations, or ordinances promulgated by regional, county, local and special purpose government.

*[For text of subd 2, see M.S.2000]*

Subd. 3. **State agency participation.** State agencies authorized to issue permits required for construction or operation of large electric power generating plants or high voltage transmission lines shall participate during routing and siting at public hearings and all other activities of the board on specific site or route designations and design considerations of the board, and shall clearly state whether the site or route being considered for designation or permit and other design matters under consideration for approval will be in compliance with state agency standards, rules, or policies.

**History:** 2001 c 212 art 7 s 21,22

**116C.62 IMPROVEMENT OF SITES AND ROUTES.**

Utilities that have acquired a site or route in accordance with sections 116C.51 to 116C.69 may proceed to construct or improve the site or route for the intended purposes at any time, subject to section 116C.61, subdivision 2, provided that if the construction and improvement has not commenced within four years after a permit for the site or route has been issued, then the utility must certify to the board that the site or route continues to meet the conditions upon which the site or route permit was issued.

**History:** 2001 c 212 art 7 s 23

**116C.64 FAILURE TO ACT.**

If the board fails to act within the times specified in section 116C.57, the applicant or any affected person may seek an order of the district court requiring the board to designate or refuse to designate a site or route.

**History:** 2001 c 212 art 7 s 24

**116C.645 REVOCATION OR SUSPENSION.**

A site or route permit may be revoked or suspended by the board after adequate notice of the alleged grounds for revocation or suspension and a full and fair hearing in which the affected utility has an opportunity to confront any witness and respond to any evidence against it and to present rebuttal or mitigating evidence upon a finding by the board of:

- (1) any false statement knowingly made in the application or in accompanying statements or studies required of the applicant, if a true statement would have warranted a change in the board's findings;
- (2) failure to comply with material conditions of the site certificate or construction permit, or failure to maintain health and safety standards; or
- (3) any material violation of the provisions of sections 116C.51 to 116C.69, any rule promulgated pursuant thereto, or any order of the board.

**History:** 2001 c 212 art 7 s 25



**116C.65 JUDICIAL REVIEW.**

Any applicant, party or person aggrieved by the issuance of a site or route permit or emergency permit from the board or a certification of continuing suitability filed by a utility with the board or by a final order in accordance with any rules promulgated by the board, may appeal to the court of appeals in accordance with chapter 14. The appeal shall be filed within 30 days after the publication in the State Register of notice of the issuance of the permit by the board or certification filed with the board or the filing of any final order by the board.

*History:* 2001 c 212 art 7 s 26

**116C.66 RULES.**

The board, in order to give effect to the purposes of sections 116C.51 to 116C.69, may adopt rules consistent with sections 116C.51 to 116C.69, including promulgation of site and route designation criteria, the description of the information to be furnished by the utilities, establishment of minimum guidelines for public participation in the development, revision, and enforcement of any rule, plan, or program established by the board, procedures for the revocation or suspension of a site or route permit, and the procedure and timeliness for proposing alternative routes and sites. No rule adopted by the board shall grant priority to state-owned wildlife management areas over agricultural lands in the designation of route avoidance areas. The provisions of chapter 14 shall apply to the appeal of rules adopted by the board to the same extent as it applies to review of rules adopted by any other agency of state government.

The chief administrative law judge shall adopt procedural rules for public hearings relating to the site and route permit process. The rules shall attempt to maximize citizen participation in these processes consistent with the time limits for board decision established in sections 116C.57, subdivision 8, and 116C.575, subdivision 7.

*History:* 2001 c 212 art 7 s 27

**116C.67 [Repealed, 2001 c 212 art 7 s 36]****116C.69 BIENNIAL REPORT; APPLICATION FEES; APPROPRIATION; FUNDING.**

Subdivision 1. **Biennial report.** Before November 15 of each even-numbered year the board shall prepare and submit to the legislature a report of its operations, activities, findings, and recommendations concerning sections 116C.51 to 116C.69. The report shall also contain information on the board's biennial expenditures, its proposed budget for the following biennium, and the amounts paid in permit application fees and in assessments pursuant to this section. The proposed budget for the following biennium shall be subject to legislative review.

Subd. 2. **Site application fee.** Every applicant for a site permit shall pay to the board a fee in an amount equal to \$500 for each \$1,000,000 of production plant investment in the proposed installation as defined in the Federal Power Commission Uniform System of Accounts. The board shall specify the time and manner of payment of the fee. If any single payment requested by the board is in excess of 25 percent of the total estimated fee, the board shall show that the excess is reasonably necessary. The applicant shall pay within 30 days of notification any additional fees reasonably necessary for completion of the site evaluation and designation process by the board. In no event shall the total fees required of the applicant under this subdivision exceed an amount equal to 0.001 of said production plant investment (\$1,000 for each \$1,000,000). All money received pursuant to this subdivision shall be deposited in a special account. Money in the account is appropriated to the board to pay expenses incurred in processing applications for site permits in accordance with sections 116C.51 to 116C.69 and in the event the expenses are less than the fee paid, to refund the excess to the applicant.

Subd. 2a. **Route application fee.** Every applicant for a transmission line route permit shall pay to the board a base fee of \$35,000 plus a fee in an amount equal to \$1,000 per mile length of the longest proposed route. The board shall specify the time

and manner of payment of the fee. If any single payment requested by the board is in excess of 25 percent of the total estimated fee, the board shall show that the excess is reasonably necessary. In the event the actual cost of processing an application up to the board's final decision to designate a route exceeds the above fee schedule, the board may assess the applicant any additional fees necessary to cover the actual costs, not to exceed an amount equal to \$500 per mile length of the longest proposed route. All money received pursuant to this subdivision shall be deposited in a special account. Money in the account is appropriated to the board to pay expenses incurred in processing applications for route permits in accordance with sections 116C.51 to 116C.69 and in the event the expenses are less than the fee paid, to refund the excess to the applicant.

Subd. 3. **Funding; assessment.** The board shall finance its base line studies, general environmental studies, development of criteria, inventory preparation, monitoring of conditions placed on site and route permits, and all other work, other than specific site and route designation, from an assessment made quarterly, at least 30 days before the start of each quarter, by the board against all utilities with annual retail kilowatt-hour sales greater than 4,000,000 kilowatt-hours in the previous calendar year.

Each share shall be determined as follows: (1) the ratio that the annual retail kilowatt-hour sales in the state of each utility bears to the annual total retail kilowatt-hour sales in the state of all these utilities, multiplied by 0.667, plus (2) the ratio that the annual gross revenue from retail kilowatt-hour sales in the state of each utility bears to the annual total gross revenues from retail kilowatt-hour sales in the state of all these utilities, multiplied by 0.333, as determined by the board. The assessment shall be credited to the special revenue fund and shall be paid to the state treasury within 30 days after receipt of the bill, which shall constitute notice of said assessment and demand of payment thereof. The total amount which may be assessed to the several utilities under authority of this subdivision shall not exceed the sum of the annual budget of the board for carrying out the purposes of this subdivision. The assessment for the second quarter of each fiscal year shall be adjusted to compensate for the amount by which actual expenditures by the board for the preceding fiscal year were more or less than the estimated expenditures previously assessed.

**History:** 2001 c 212 art 7 s 28