S T A T E O F N E W Y O R K

1065

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. DESTITO, GUNTHER, LUPARDO, MAGEE -- Multi-Sponsored by -- M. of A. ALESSI, RABBITT -- read once and referred to the Committee on Corporations, Authorities and Commissions

AN ACT to amend the public service law and the state finance law, in relation to fees for completed applications for certification of major utility transmission facilities; and providing for the repeal of certain provisions upon expiration thereof

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 122 of the public service law is amended by adding a new subdivision 5 to read as follows:

5. (A) FOR EVERY APPLICATION DEEMED COMPLETE BY THE COMMISSION AFTER THE EFFECTIVE DATE OF THIS SUBDIVISION, EACH APPLICATION SHALL BE ACCOMPANIED BY A FEE IN AN AMOUNT EQUAL TO: FOR ELECTRIC MAJOR UTILITY TRANSMISSION FACILITIES OF ONE HUNDRED TWENTY-FIVE KILOVOLTS OR MORE EXTENDING A DISTANCE OF ONE MILE TO FIFTY MILES, TWO HUNDRED FIFTY THOUSAND DOLLARS; FOR ELECTRIC MAJOR UTILITY TRANSMISSION FACILITIES OF ONE HUNDRED TWENTY-FIVE KILOVOLTS OR MORE EXTENDING A DISTANCE OF OVER FIFTY MILES TO ONE HUNDRED MILES, THREE HUNDRED FIFTY THOUSAND DOLLARS; FOR ELECTRIC MAJOR UTILITY TRANSMISSION FACILITIES OF ONE HUNDRED TWENTY-FIVE KILOVOLTS OR MORE EXTENDING A DISTANCE OF OVER ONE HUNDRED MILES, FOUR HUNDRED FIFTY THOUSAND DOLLARS; OR FOR ELECTRIC MAJOR UTILITY TRANSMISSION FACILITIES OF ONE HUNDRED KILOVOLTS OR MORE AND LESS THAN ONE HUNDRED TWENTY-FIVE KILOVOLTS EXTENDING A DISTANCE OF TEN MILES OR MORE, ONE HUNDRED FIFTY THOUSAND DOLLARS. ALL SUCH FEES SHALL BE DEPOSITED IN THE INTERVENOR ACCOUNT, ESTABLISHED PURSUANT TO SECTION NINETY-SEVEN-TT OF THE STATE FINANCE LAW, TO BE DISBURSED AT THE COMMISSION'S DIRECTION, TO DEFRAY EXPENSES INCURRED BY MUNICIPAL AND OTHER PARTIES TO THE PROCEEDING (EXCEPT A MUNICIPALITY WHICH IS THE APPLICANT) FOR EXPERT WITNESS, CONSULTANT, ADMINISTRATIVE AND LEGAL FEES, PROVIDED,

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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HOWEVER, SUCH EXPENSES SHALL NOT BE AVAILABLE FOR JUDICIAL REVIEW. IF AT ANY TIME SUBSEQUENT TO THE FILING OF THE APPLICATION, THE APPLICATION IS AMENDED IN A MANNER THAT WARRANTS SUBSTANTIAL ADDITIONAL SCRUTINY, THE COMMISSION MAY REQUIRE AN ADDITIONAL INTERVENOR FEE IN AN AMOUNT NOT TO EXCEED ONE HUNDRED TWENTY-FIVE THOUSAND DOLLARS. THE COMMISSION SHALL PROVIDE FOR TRANSCRIPTS, THE REPRODUCTION AND SERVICE OF DOCUMENTS, AND THE PUBLICATION OF REQUIRED NOTICES, FOR MUNICIPAL AND OTHER LOCAL PARTIES, IN ALL APPROPRIATE LANGUAGES. ANY MONEYS REMAINING IN THE INTERVENOR ACCOUNT AFTER THE COMMISSION'S JURISDICTION OVER AN APPLICATION HAS CEASED SHALL BE RETURNED TO THE APPLICANT.

(B) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE COMMISSION SHALL PROVIDE BY RULES AND REGULATIONS FOR THE MANAGEMENT OF THE INTERVENOR ACCOUNT AND FOR DISBURSEMENTS FROM THE ACCOUNT, WHICH RULES AND REGULATIONS SHALL BE CONSISTENT WITH THE PURPOSE OF THIS SECTION TO MAKE AVAILABLE TO MUNICIPAL PARTIES AT LEAST ONE-HALF OF THE AMOUNT OF THE INTERVENOR ACCOUNT AND FOR USES SPECIFIED IN PARAGRAPH (A) OF THIS SUBDIVISION. IN ADDITION, THE COMMISSION SHALL PROVIDE OTHER PARTIES UP TO ONE-HALF OF THE AMOUNT OF THE INTERVENOR ACCOUNT, PROVIDED, HOWEVER, THAT THE COMMISSION SHALL ASSURE THAT THE PURPOSES FOR WHICH MONEYS IN THE INTERVENOR ACCOUNT WILL BE EXPENDED WILL CONTRIBUTE TO AN INFORMED DECISION AS TO THE APPROPRIATENESS OF THE SITE AND FACILITY AND ARE MADE AVAILABLE ON AN EQUITABLE BASIS IN A MANNER WHICH FACILITATES BROAD PUBLIC PARTICIPATION.

S 2. Any application deemed complete pursuant to article VII of the public service law, before the effective date of this act and under review by the commission shall be required to comply with subdivision 5 of section 122 of the public service law.

S 3. The state finance law is amended by adding a new section 97-tt to read as follows:

S 97-TT. INTERVENOR ACCOUNT. 1. THERE IS HEREBY ESTABLISHED IN THE JOINT CUSTODY OF THE STATE COMPTROLLER AND THE COMMISSIONER OF TAXATION AND FINANCE AN ACCOUNT TO BE KNOWN AS THE INTERVENOR ACCOUNT.

2. SUCH ACCOUNT SHALL CONSIST OF ALL REVENUES RECEIVED FROM SITING APPLICATION FEES FOR ELECTRIC MAJOR UTILITY TRANSMISSION FACILITIES PURSUANT TO SECTION ONE HUNDRED TWENTY-TWO OF THE PUBLIC SERVICE LAW.

3. MONEYS OF THE ACCOUNT, FOLLOWING APPROPRIATION BY THE LEGISLATURE, MAY BE EXPENDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE HUNDRED TWENTY-TWO OF THE PUBLIC SERVICE LAW. MONEYS SHALL BE PAID OUT OF THE ACCOUNT ON THE AUDIT AND WARRANT OF THE STATE COMPTROLLER ON VOUCHERS CERTIFIED OR APPROVED BY THE CHAIR OF THE PUBLIC SERVICE COMMISSION.

S 4. Severability. If any clause, sentence, paragraph, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

S 5. This act shall take effect immediately; provided, however, that the provisions of section two of this act shall expire December 31, 2009, when upon such date the provisions of such section shall be deemed repealed; and provided further that nothing in this act shall be construed to limit any administrative authority, with respect to matters included in this act, which existed prior to the effective date of this act.