

1122

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 Energy

AN ACT to amend the public service law, in relation to intervenor funds for proceedings relating to siting of major utility transmission facilities; and to amend the state finance law, in relation to intervenor accounts

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

1 Section 1. Section 122 of the public service law is amended by adding
2 a new subdivision 5 to read as follows:
3 5. (A) FOR EVERY APPLICATION DEEMED COMPLETE BY THE COMMISSION AFTER
4 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 OVER ONE HUNDRED MILES, FOUR 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, REQUIRING A NEW RIGHT OF WAY AND ONE HUNDRED TWENTY-FIVE KILOVOLTS OR MORE EXTENDING A DISTANCE OF TEN MILES TO FIFTY MILES, ONE HUNDRED THOUSAND DOLLARS; FOR ELECTRIC MAJOR UTILITY TRANSMISSION FACILITIES UTILIZING AN EXISTING RIGHT OF WAY AND ONE HUNDRED TWENTY-FIVE KILOVOLTS OR MORE EXTENDING A DISTANCE OF TEN MILES TO FIFTY MILES, 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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1 HOWEVER, SUCH EXPENSES SHALL NOT BE AVAILABLE FOR JUDICIAL REVIEW. IF AT
2 ANY TIME SUBSEQUENT TO THE FILING OF THE APPLICATION, THE APPLICATION IS
3 AMENDED IN A MANNER THAT WARRANTS SUBSTANTIAL ADDITIONAL SCRUTINY, THE
4 COMMISSION MAY REQUIRE AN ADDITIONAL INTERVENOR FEE IN AN AMOUNT NOT TO
5 EXCEED ONE HUNDRED TWENTY-FIVE THOUSAND DOLLARS. THE COMMISSION SHALL
6 PROVIDE FOR TRANSCRIPTS, THE REPRODUCTION AND SERVICE OF DOCUMENTS, AND
7 THE PUBLICATION OF REQUIRED NOTICES, FOR MUNICIPAL AND OTHER LOCAL
8 PARTIES, IN ALL APPROPRIATE LANGUAGES. ANY MONEYS REMAINING IN THE
9 INTERVENOR ACCOUNT AFTER THE COMMISSION'S JURISDICTION OVER AN APPLICA-
10 TION HAS CEASED SHALL BE RETURNED TO THE APPLICANT.

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

24 S 2. The state finance law is amended by adding a new section 97-tt to
25 read as follows:

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

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

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

37 S 3. Severability. If any clause, sentence, paragraph, section or part
38 of this act shall be adjudged by any court of competent jurisdiction to
39 be invalid, such judgment shall not affect, impair or invalidate the
40 remainder thereof, but shall be confined in its operation to the clause,
41 sentence, paragraph, section or part thereof directly involved in the
42 controversy in which such judgment shall have been rendered.

43 S 4. This act shall take effect immediately; provided that nothing in
44 this act shall be construed to limit any administrative authority, with
45 respect to matters included in this act, which existed prior to the
46 effective date of this act.