



Public Service Commission

State of North Dakota

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August 24, 2009

The Honorable Al Jaeger
North Dakota Secretary of State
Secretary of the Emergency Commission
State Capitol
Bismarck, North Dakota 58505

RE: Additional Fee, Siting Process Expense Recovery Fund, Continuing Appropriation
TransCanada Keystone Pipeline Siting Application, PSC Case No. PU-06-421

Dear Secretary Jaeger:

The Public Service Commission requests approval from the Emergency Commission under North Dakota Century Code § 49-22-22(2) to assess an additional application fee to cover continuing expenses in processing the referenced siting application which exceed the initial fee of \$100,000.

The Public Service Commission is requesting authorization to assess an additional \$50,000 siting application fee for deposit into the Siting Process Expense Recovery Fund. This is not a request for additional appropriation.

A more detailed explanation of this request is presented in the attached Emergency Commission Request.

Sincerely,

Darrell Nitschke
Executive Secretary

Attachment: SFN 02580

c: w/attachment: Tammy Dolan, OMB
Allen Kundson, Legislative Council
Public Service Commissioners
PSC Public Utilities Division
PSC Legal Division

680 PU-06-421 Filed: 8/24/2009 Pages: 3
**Letter Enclosing Request to Emergency
Commission**



REQUEST TO EMERGENCY COMMISSION
 STATE OF NORTH DAKOTA
 SFN 02580 (9-2007)

Submit original and 7 copies to Secretary of State

For reference, see North Dakota Century Code, Chapter 54-16

Date August 18, 2009	Department Number 408	Department Name Public Service Commission
Authorized Department Signature <i>Darrell Nitschke</i>	Name of Contact Person Darrell Nitschke, Executive Secretary	Telephone Number (701) 328-4098

PART A: BACKGROUND

1. Was any portion of this request presented to the last legislative session? (If yes, please explain legislative action in narrative) Yes No
2. Is any portion of this request a new program? (If yes, please explain in narrative) Yes No
3. Will the legislature be asked to continue this program in the next biennium? Yes No

PART B: FTE

4. Will this program require an increase in authorized FTE? Yes No
 If yes, how many?

PART C: INCREASE IN APPROPRIATION LINE ITEM

7. Will this program require state general fund money for a match in this biennium? Yes No
 If yes, estimate the amount of general fund money needed and explain its source in the narrative
8. Will this program require state general fund money in the next biennium? Yes No
 If yes, estimate the amount of general fund money needed in the next biennium.
9. Source of Funds for increased spending authority (check applicable box)
 Federal State Contingency Funds Other _____
10. Is this a pass-through from another agency? Yes No If yes, from which agency? _____
11. If this program is federally funded, will the legislature be asked to continue it if federal funds are no longer available? Yes No
 If yes, estimate the amount of general fund money needed in the next biennium.
12. Specify below the line item to be increased and the amount of the increase.

<u>Line Item</u>	<u>Amount</u>
Siting Process Expense Recovery Fund	\$50,000
Note: the \$50,000 additional fee will be deposited into the Siting Process Expense Recovery Fund for which the Commission has a continuing appropriation.	

PART D: INTRA-AGENCY LINE ITEM TRANSFER

<u>FROM - Line Item</u>	<u>TO - Line Item</u>	<u>Amount</u>
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PART E: NARRATIVE (attach separate sheets if necessary)

See attachment

Public Service Commission Request to Emergency Commission

PART E: NARRATIVE

North Dakota Century Code section 49-22-22 governs the assessment of an application fee for the recovery of expenses associated with the Public Service Commission's evaluation and designation process for siting energy conversion and transmission facilities. The applicant for a site certificate, corridor certificate, or route permit must remit an application fee for deposit into the siting process expense recovery fund established in the state treasury. The application fee is based on the dollars to be invested in the proposed project.

The statute contemplates that an application fee may not cover the entire cost of processing some siting applications and, therefore provides that applicants must pay additional fees as are reasonably necessary for completion of the siting process. The Commission must obtain the approval of the Emergency Commission to request such additional fees. A copy of N.D.C.C. section 49-22-22 is attached.

TransCanada Keystone Pipeline, LP filed an application with the Commission for the construction of a 218-mile, 30-inch crude oil pipeline originating in Cavalier County and ending in Sargent County, North Dakota crossing the property of over 600 landowners. In its order granting TransCanada's application, the Commission required a 3rd party inspector to oversee pipeline construction. The Commission retained an engineering firm as the 3rd party inspector, following a request for proposal and bid process. Costs associated with the contract for 3rd party inspection services are paid from the siting process expense recovery fund. TransCanada was expected to complete the North Dakota portion of the Keystone Pipeline project during the 2008 construction season. However, wet weather conditions delayed construction and construction resumed approximately June 8, 2009 and is expected to continue through the 2009 construction season.

Based on information provided by TransCanada about the construction schedule, the Commission proposes to assess an additional \$50,000 application fee to replenish the Commission's operating budget for contract expenditures that have exceeded the original application fee and complete the 3rd party inspection services on the duration of construction.

TransCanada has been informed of this need and has provided no objection to the additional fee. As required by statute, the Commission will refund any portion of the fee that exceeds the expenses incurred for the siting process.



Darrell Nitschke
Public Service Commission
Executive Secretary