

#### **49-22.1-11. Advisory committees - Appointment - Compensation.**

The commission may appoint one or more advisory committees to assist it in carrying out its duties under this chapter. Committees appointed to evaluate sites or corridors considered for designation must be composed of as many persons as may be appointed by the commission, but must include a majority of public representatives; at least one representative from the state department of agriculture, a public or municipally owned utility, a private investor-owned utility, and a cooperatively owned utility; and one representative from each county and city in which a gas or liquid energy conversion facility or gas or liquid transmission facility is proposed to be located. Members of advisory committees are entitled to be reimbursed, within the limits of legislative appropriations, for any necessary expenses in the amounts provided by law for state officials.

#### **49-22.1-12. Cooperation with state and federal agencies and political subdivisions.**

The commission may, and is encouraged to, cooperate with and receive and exchange technical information and assistance from and with any department, agency, or officer of any state or of the federal government to eliminate duplication of effort, to establish a common database, or for any other purpose relating to the provisions of this chapter. The commission shall cooperate and exchange technical information with directly impacted political subdivisions as outlined in subsection 2 of section 49-22.1-13.

#### **49-22.1-13. Effect of issuance of certificate or permit - Local land use, zoning, or building rules, regulations, or ordinances - State agency rules.**

1. The issuance of a certificate of site compatibility or a route permit is, subject to subsections 2 and 3, the sole site or route approval required to be obtained by the utility.
2.
  - a. A certificate of site compatibility for a gas or liquid energy conversion facility may not supersede or preempt any local land use; zoning; or building rules, regulations, or ordinances, and a site may not be designated which violates local land use; zoning; or building rules, regulations, or ordinances.
  - b. Except as provided in this section, a permit for the construction of a gas or liquid transmission facility within a designated corridor supersedes and preempts any local land use or zoning regulations.
  - c. Before a gas or liquid transmission facility is approved, the commission shall require the applicant to comply with the road use agreements of the impacted political subdivision. A permit may supersede and preempt the requirements of a political subdivision if the applicant shows by a preponderance of the evidence the regulations or ordinances are unreasonably restrictive in view of existing technology, factors of cost or economics, or needs of consumers regardless of their location, or are in direct conflict with state or federal laws or rules.
  - d. When an application for a certificate for a gas or liquid transmission facility is filed, the commission shall notify the townships with retained zoning authority, cities, and counties in which any part of the proposed corridor is located. The commission may not schedule a public hearing sooner than forty-five days from the date notification is sent by mail or electronic mail. Upon notification, a political subdivision shall provide a listing to the commission of all local requirements identified under this subsection. The requirements must be filed at least ten days before the hearing or the requirements are superseded and preempted.
  - e. An applicant shall comply with all local requirements provided to the commission pursuant to subdivision d, which are not otherwise superseded by the commission.
3. Utilities subject to this chapter shall obtain state permits that may be required to construct and operate gas or liquid energy conversion facilities and gas or liquid transmission facilities. A state agency in processing a utility's facility permit application is bound to the decisions of the commission with respect to the site designation for the gas or liquid energy conversion facility or the corridor or route designation for the gas

or liquid transmission facility and with respect to other matters for which authority has been granted to the commission by this chapter.

4. A site or route may not be designated which violates the rules of any state agency. A state agency with jurisdiction over any aspect of a proposed facility shall present the position of the agency at the public hearing on an application for a certificate, a permit, or a waiver, which position must clearly state whether the site, corridor, or route being considered for designation will be in compliance with the agency's rules. For purposes of this chapter it is presumed a proposed facility will be in compliance with a state agency's rules if that agency fails to present its position on the proposed site, corridor, or route at the appropriate public hearing.

**49-22.1-14. Unfair tactics in acquiring land or easements for a facility - Court action - Cancellation of easement - Penalty.**

1. Any person employed by a public utility to acquire easements for a facility subject to this chapter may not use any harassment, threat, intimidation, misrepresentation, deception, fraud, or other unfair tactics to induce the owner of the land to be affected by the facility to grant or agree to any easements.
2. If at least five landowners aggrieved by the conduct of a person or persons, acting on behalf of the same utility, acquiring easements for a site or route of a facility allege use of harassment, threat, intimidation, misrepresentation, deception, fraud, or other unfair tactics by the person or persons acquiring or attempting to acquire the easement, an action may be brought in the appropriate district court.
3. Upon a determination by the court that a person employed by the utility used harassment, threat, intimidation, misrepresentation, deception, fraud, or other unfair tactics in acquiring or attempting to acquire an easement from at least five separate landowners, the court, by order, shall declare the easements void and may order any compensation paid therefor returned to the offending utility, or allow the landowner to retain the compensation, or award to the landowner up to three times the amount of the compensation involved as damages, punitive or compensatory. The court shall award costs and reasonable attorney's fees to the plaintiff if the court rules in favor of the plaintiff.
4. Upon a determination by the court that the utility involved did knowingly allow, encourage, or operate in active consort or participation with a person utilizing an unfair tactic, the court shall cause a copy of its memorandum opinion or order to be filed with the commission.
5. Upon receiving a copy of a memorandum opinion or order issued by a district court pursuant to this section, the commission may revoke or suspend the permit issued with respect to the route affecting the aggrieved landowners. If a permit has not been issued with respect to a site or route affecting the aggrieved landowners, the commission may refuse to issue a permit for such portion of the route.

**49-22.1-15. Route adjustment before or during construction for gas or liquid transmission line.**

1. Before or during construction, a utility, without any action by the commission, may adjust the route of a gas or liquid transmission line within the designated corridor if, before conducting any construction activities associated with the adjustment, the utility files with the commission certification and supporting documentation that:
  - a. The construction activities will be within the designated corridor;
  - b. The construction activities will not affect any known exclusion or avoidance areas within the designated corridor; and
  - c. The utility will comply with the commission's order, laws, and rules designating the corridor and designating the route.
2. Before or during construction, a utility may adjust the route of a gas or liquid transmission line within the designated corridor that may affect an avoidance area if, before conducting any construction activities associated with the adjustment, the utility:
  - a. Files with the commission certification and supporting documentation that: