

2009 SENATE NATURAL RESOURCES

SB 2137

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2137

Senate Natural Resources Committee

Check here for Conference Committee

Hearing Date: January 8, 2009

Recorder Job Number: 6677

Committee Clerk Signature

Minutes:

Senator Lyson Chairman of the Senate Natural Resources Committee opened the hearing on bill 2137, relating to the powers of the public service commission and electric and gas public utility application fees.

All committee members were present (7).

Illona A. Jeffcoat-Sacco, General Counsel, for the Public Service Commission, introduced SB 2137 (see attached testimony #1).

Senator Hogue asked if there is a mechanism for the applicant to contest their bill.

Illona a. Jeffcoat-Sacco stated that to her knowledge that no one has ever challenged, but expects that the way they would challenge would have to orally tell them that they questioned the amount of the bill and the applicant would be taken seriously.

Senator Triplett commented about the over struck part where it strikes out the piece about the interest in the old way where the amount not paid would draw interest at rate of 6%. Are you planning to pay interest in reverse for the money that you're holding if these processes take six or either 10 months or are is the interest minimal relative to the accounting that you think you are saving with the utilities also.

Illona a. Jeffcoat-Sacco responded that they have had to go after some companies to get bills paid not because they didn't want to pay but because it was lost some place in their company. We have never charged interest and we were never expecting to pay interest on the sighting cases. The time frame is about the same. Our sighting cases refund process is now in our rules. When the case is complete we retain a portion, in case we have to inspect in like a year, but then we refund the remainder. It could be six to eight months for the companies to get their refund, but so far there has not been a problem.

Senator Schneider asked if other states do this through direct billing or through refundable application fees.

Illona A. Jeffcoat-Sacco replied that most of the other states have the utilities assessed for their entire utility regulatory budget. These states usually assess their utilities based on their size. South Dakota has a combination where part is an assessment and part of it is based on the case.

Senator Schneider asked what the typical size of a refund would be this year.

Illona A. Jeffcoat-Sacco responded that it depends on the expenses, for example if you have travel pay. It is a big range but you can easily spend \$100,000 on a rate case.

Bob Graveline appeared on behalf of the members for the Utility Share Holders of North Dakota. We have worked with Illona on this bill and we are in support of her and the bill.

Senator Lyson closed the hearing on SB 2137.

Senator Triplett moved to include the amendments and pass SB 2137.

Senator Hogue seconded the motion.

Senator Lyson called for roll call. All senators were in favor and SB 2137 passed.

Senator Triplett was assigned as carrier for SB 2137

FISCAL NOTE
Requested by Legislative Council
12/23/2008

Bill/Resolution No.: SB 2137

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Currently, the costs and expenses of certain types of gas and electric utility cases can be charged back to the utility involved in the case. This bill changes the funding mechanism to an application fee, with any unexpended remainder refunded to the utility involved.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

none

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

none

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

none

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

none

Name:	Illona A. Jeffcoat-Sacco	Agency:	PSC
Phone Number:	328-2407	Date Prepared:	12/29/2008

Date: Jan 8-2009

Roll Call Vote #: 2137

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. "Click here to type Bill/Resolution No."

Senate Natural Resources Committee

Check here for Conference Committee

Legislative Council Amendment Number 98207.0101

Action Taken Do Pass Do Not Pass Amended

Motion Made By Sen. Triplett Seconded By Sen. Hogue

Senators	Yes	No	Senators	Yes	No
Senator Stanley W. Lyson, Chairman	X		Senator Jim Pomeroy	X	
Senator David Hogue, Vice Chairman	X		Senator Mac Schneider	X	
Senator Robert S. Erbele	X		Senator Constance Triplett	X	
Senator Layton W. Freborg	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Sen. Triplett

If the vote is on an amendment, briefly indicate intent:

They amended and passed the bill in one vote.

REPORT OF STANDING COMMITTEE

SB 2137, as amended, Natural Resources Committee (Sen. Lyson, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (07 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2137, as amended, was placed on the Sixth order on the calendar.

Page 2, line 31, after "waive" insert "or reduce"

Page 4, line 6, after the underscored period insert "The commission may waive or reduce the fee."

Page 5, line 24, after the underscored period insert "The commission may waive or reduce the fee."

Page 6, line 21, after the underscored period insert "The commission may waive or reduce the fee."

Renumber accordingly

2009 HOUSE NATURAL RESOURCES

SB 2137

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2137

House Natural Resources Committee

Check here for Conference Committee

Hearing Date: 2-27-09

Recorder Job Number: 9851

Committee Clerk Signature

Nancy L. Gerhardt

Minutes:

Vice Chairman Damschen – We'll open the hearing for SB 2137.

Iliona A. Jeffcoat-Sacco – Public Service Commission – See **Attachment # 1**. Questions?

Bob Graveline – Utility Shareholders of ND – More than 2500 members. We've worked with

the PSC on this bill and we support it and recommend a Do Pass. Questions?

Sandy Tabor – Lignite Energy Council – We want to let you know we too are supportive of this bill. Questions?

Vice Chairman Damschen – Further testimony in favor of SB 2137? Opposition? Close the hearing on SB 2137.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2137

House Natural Resources Committee

Check here for Conference Committee

Hearing Date: 2-27-09

Recorder Job Number: 9852

Committee Clerk Signature

Nancy L. Gerhardt

Minutes:

Rep. Nottestad – Move Do Pass

Rep. DeKrey – 2nd.

Vice Chairman Damschen – We have a motion for a Do Pass from Rep. Nottestad with a 2nd

from Rep. DeKrey. Discussion? The clerk will call the roll on SB 2137.

Yes 9 No 0 Absent 4 Carrier Rep. Clark

Date: 2-27-2009
Roll Call Vote #: _____

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2137

House Natural Resources Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass As Amended

Motion Made By Nottestad Seconded By DeKrey

Representatives	Yes	No	Representatives	Yes	No
Chairman Porter	✓		Rep Hanson	✓	
Vice Chairman Damschen	✓		Rep Hunsakor	✓	
Rep Clark	✓		Rep Kelsh		
Rep DeKrey	✓		Rep Myxter	✓	
Rep Drovdal	✓		Rep Pinkerton		
Rep Hofstad					
Rep Keiser	✓				
Rep Nottestad	✓				

Total (Yes) 9 No 0

Absent 4

Floor Assignment Clark

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2137: Natural Resources Committee (Rep. Porter, Chairman) recommends DO PASS
(9 YEAS, 0 NAYS, 4 ABSENT AND NOT VOTING). SB 2137 was placed on the
Fourteenth order on the calendar.

2009 TESTIMONY

SB 2137

Senate Bill 2137

Presented by: Illona A. Jeffcoat-Sacco
General Counsel
Public Service Commission

Before: Senate Natural Resources Committee
Honorable Stanley W. Lyson, Chairman

Date: 8 January 2009

TESTIMONY

Mr. Chairman and committee members, I am Illona A. Jeffcoat-Sacco, General Counsel for the Public Service Commission. I appear on behalf of the Commission in support of Senate Bill 2137, which was introduced at our request. The purpose of Senate Bill 2137 is to change the way the Commission's out of pocket expenses are recovered in four types of electric and gas utility cases.

The four types of cases are rate cases, applications for advance determinations of prudence, recovery of transmission investment, and recovery of investment to comply with environmental requirements. Currently, expenses in these four types of cases are paid by the Commission and then billed back to the utility involved. This involves a substantial amount of paperwork and accounting entries that can be eliminated by moving to a refundable application fee.

Under Senate Bill 2137, a refundable application fee is assessed for each of the four types of cases. Expenses for each case will be paid out of the application fee for that type of case. Any amount remaining after expenses are paid will be refunded to the utility involved. The process proposed by this bill for

these four types of cases is the same process used for siting application fees and siting case expenses. In addition, any company affected by this bill will pay the same amount as they would pay under the current mechanism. The only difference is that the application fee process is administratively more efficient for both the Commission and the utilities involved.

After discussion with representatives of industry, we have drafted an amendment (attached) to allow the Commission discretion to waive or reduce the fee.

This concludes my testimony. I will be happy to answer any questions you may have.

PROPOSED AMENDMENTS TO SENATE BILL NO. 2137

Page 2, line 31, after "waive" insert "or reduce"

Page 4, line 6, after the period insert "The commission may waive or reduce the fee."

Page 5, line 24, after the period insert "The commission may waive or reduce the fee."

Page 6, line 21, after the period insert "The commission may waive or reduce the fee."

Renumber accordingly

Engrossed Senate Bill 2137

Presented by: Illona A. Jeffcoat-Sacco
General Counsel
Public Service Commission

Before: House Natural Resources Committee
Honorable Todd K. Porter, Chairman

Date: 27 February 2009

TESTIMONY

Mr. Chairman and committee members, I am Illona A. Jeffcoat-Sacco, General Counsel for the Public Service Commission. I appear on behalf of the Commission in support of Engrossed Senate Bill 2137, which was introduced at our request. The purpose of Engrossed Senate Bill 2137 is to change the way the Commission's out of pocket expenses are recovered in four types of electric and gas utility cases.

The four types of cases are rate cases, applications for advance determinations of prudence, recovery of transmission investment, and recovery of investment to comply with environmental requirements. Currently, expenses in these four types of cases are paid by the Commission and then billed back to the utility involved. This involves a substantial amount of paperwork and accounting entries that can be eliminated by moving to a refundable application fee.

Under Engrossed Senate Bill 2137, a refundable application fee is assessed for each of the four types of cases. Expenses for each case will be paid out of the application fee for that type of case. Any amount remaining after

expenses are paid will be refunded to the utility involved. The bill incorporates discretion to waive or reduce the fee when appropriate.

The process proposed by this bill for these four types of cases is the same process used for siting application fees and siting case expenses. In addition, any company affected by this bill will pay the same amount as they would pay under the current mechanism. The only difference is that the application fee process is administratively more efficient for both the Commission and the utilities involved.

This concludes my testimony. I will be happy to answer any questions you may have.