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South Dakota

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October 11, 2022

Patricia Van Gerpen
Executive Director
Public Utilities Commission
500 E. Capitol Avenue
Pierre, SD 57501

RE: HP22-002, *In re Application of Navigator Heartland Greenway, LLC*

Ms. Van Gerpen,

This letter is to provide information to the Commission and interested persons regarding the filing fee in the above-captioned matter, which is on the agenda for the Commission's October 11 meeting.

SDCL 49-41B-12 provides in relevant part:

At the time of filing an application as required in § 49-41B-11 or as subsequently required by the commission, an applicant shall deposit with the commission an initial amount to be determined by the commission based upon the estimated cost of investigating, reviewing, processing, and serving notice of an application. ... The maximum fee chargeable may not exceed one-quarter of one percent of the first one hundred million dollars of estimated construction cost plus one-twentieth of one percent of all additional *estimated construction costs of the facility*. However, the minimum total fee chargeable may not be less than eight thousand dollars.
{emphasis added}

In the past, Staff has consistently calculated the maximum fee chargeable based upon estimated cost of construction within this state, rather than construction of the entire project. Because the amount Staff came up with had generally been a maximum amount that Staff was confident would be more than sufficient to cover expenses, it was not necessary to request the Commission make a determination as to whether the amount should be calculated using the estimated cost of construction within South Dakota or the estimated cost of construction for the entire project. Nonetheless, had an issue arisen in the past and the fee become an issue, Staff could always have come back before the Commission and asked for reconsideration and recalculation of the filing fee.

The size or length of a project does not necessarily dictate the scope of the review, although a smaller project will have a lower construction cost. Because this issue has now arisen, and the maximum fee may fall well short of the actual expenses, Staff felt it prudent to clarify our calculations when providing them to the Commission.

Based upon cost of construction within this state, the maximum filing fee would be \$271,000. Based upon entire project costs, the maximum filing fee would be approximately \$1,800,000. As a point of reference, Staff has recently obtained two proposals from consultants to review the Summit Carbon Solutions' Midwest Carbon Express Project in Docket HP22-001, and the total amount for those two consultants to review that project is not to exceed \$269,690. If Staff obtains those same consultants for Docket HP22-002 and the maximum filing fee is based on South Dakota construction costs, it is likely that the entire cost associated with Staff's review and processing of the Application will not be recoverable from Navigator Heartland Greenway, LLC.

Sincerely,



Kristen N. Edwards
Staff Attorney

Cc: James Moore