

**Tidelands Resource Council Resolution – Adopted 10/06/10
Privileged and Confidential**

Utility or Utility Related Projects

Preamble:

The Tidelands Council is asked to approve this resolution providing a new valuation formula that more fairly values private use of State tidelands for Utility or Utility related projects, and replaces the former policy described in the Council meeting minutes of October 25, 1990. The formula adopted in 1990 represents the last time that compensation for this type of license (formerly known as “one-fee license”) was updated.

The proposed changes eliminate one-time payments for perpetual leases, which amount to a giveaway of State land for private use. Also proposed is the elimination of discounts for projects longer than 3,000 feet, ensuring the State receives full value for tidelands leases and licenses for Utility or Utility related projects.

The proposal also eliminates ancillary add-on fees. This will streamline the license (lease) application and renewal process, thus offering predictability to the business community. The attached Table 1 details the proposed changes.

Resolution:

This resolution regarding a formula to determine compensation for the lease of tidelands of the State of New Jersey for Utility or Utility related projects (e.g., pipelines, electric transmission lines, telecommunication lines and cables, outfalls, and other linear conveyances,) and practices regarding same, upon approval by the Tidelands Resource Council, will replace the fee schedule for “one-fee licenses” last updated and approved by the Council on October 25, 1990.

Applicability:

The provisions of this resolution shall apply to all license applications related to Utility or Utility related projects received on or after October 6, 2010. Additionally, this resolution shall apply to any existing license/lease when the license/lease holder requests a DEP permit for regulated activities within the license/lease area, or performs any addition, modification, alteration, or upgrade to the existing infrastructure other than for routine maintenance of the existing infrastructure.

The following practices concerning Utility or Utility related project licenses shall be effective immediately upon approval by the Council (NOTE: This is not an all-inclusive list):

1) Staff’s Discretion:

The formulation, addition, deletion, modification and interpretation of written and unwritten practices concerning Utility or Utility related project licenses are made at the discretion of the Bureau of Tidelands’ staff subject to review and ultimate approval of the Tidelands Resource Council or its successors.

2) Measurement:

The linear foot (LF) measurement shall be made horizontally along the proposed route between high water lines (present or former; as may be applicable) or between exterior grant lines as may exist and as said grant defines the extent of State riparian ownership. The width shall be calculated as the maximum distance perpendicular to the proposed route required by the project. The total square footage (SF) of the project shall be the width multiplied by the total linear feet.

3) Compensation:

The following schedule of compensation for Utility or Utility related project licenses applies to any Utility or Utility related project whether above ground, below ground, at ground level, or submerged. A minimum annual fee of \$1,250 shall apply to all licenses. There is no maximum fee. All licenses will be for fixed terms of no more than 24 years. The applicant has the right to renew the license at the end of its term. An annual payment

equal to the total square footage of the project multiplied by an initial base rate of \$0.10 per SF shall be applied to the first year of the license. Each year, for the full term of the license, the annual payment shall be subject to an adjustment of plus 2 and ½ percent (+2.5%).

The initial base rate and/or the minimum fee for new licenses, currently \$0.10 & \$1,250 respectively, shall be adjusted annually. See rate schedule on page 5.

- 4) Existing applications already received by the Bureau of Tidelands Management before October 6, 2010 that are not yet issued should be handled under the old policy with the following exceptions:
 - a. The license will not be in perpetuity
 - b. The license will not have a discount for over 3,000 linear feet.

Table 1: Proposed changes to compensation for tidelands licenses for linear projects.		
October 6, 2010		
	began 1990	2010
	<u>Current</u>	<u>Proposed</u>
minimum fee	\$750	\$1,250
base fee - aerial	\$0.375	\$0.10
base fee - underground first 3,000 feet	\$0.375	\$0.10
base fee - underground >3,000 feet	\$0.125	\$0.10
maximum # cables on one license	5	unspecified
charge for additional cables (per LF/cable)	\$1.50	\$0.00
new cables in existing license area (per LF/cable)	\$1.50	\$0.00
replacement cables	\$0.00	\$0.00
additional new cables during a replacement (per LF/cable)	\$1.50	\$0.00
payment schedule	one-time	annual
Term	perpetuity	up to 24 years
annual inflation adjustment	0	+2.5%

RATE SCHEDULE

Base Rate in 2010: \$0.10/sqft

Minimum Fee in 2010: \$1,250

Increase Per Year: 2.50%

Year	Base Fee	Minimum Fee
2010	\$0.10	\$1,250
2011	\$0.10	\$1,281
2012	\$0.11	\$1,313
2013	\$0.11	\$1,346
2014	\$0.11	\$1,380
2015	\$0.11	\$1,414
2016	\$0.12	\$1,450
2017	\$0.12	\$1,486
2018	\$0.12	\$1,523
2019	\$0.12	\$1,561
2020	\$0.13	\$1,600
2021	\$0.13	\$1,640
2022	\$0.13	\$1,681
2023	\$0.14	\$1,723
2024	\$0.14	\$1,766
2025	\$0.14	\$1,810
2026	\$0.15	\$1,856
2027	\$0.15	\$1,902
2028	\$0.16	\$1,950
2029	\$0.16	\$1,998
2030	\$0.16	\$2,048
2031	\$0.17	\$2,099
2032	\$0.17	\$2,152
2033	\$0.18	\$2,206
2034	\$0.18	\$2,261
2035	\$0.19	\$2,317
2036	\$0.19	\$2,375
2037	\$0.19	\$2,435
2038	\$0.20	\$2,496
2039	\$0.20	\$2,558
2040	\$0.21	\$2,622