

N.D.C.C. §49-02-23 clearly prohibits the Public Service Commission (“Commission”) from considering environmental externality values in the planning, selection, or acquisition of electric resources. N.D.C.C. §49-02-23(1) identifies as environmental externality values environmental costs that are not internalized in the cost of production or market price of electricity from a particular electric resource, and N.D.C.C. §49-02-23(2) identifies as environmental externality values “[t]he alleged costs of complying with future environmental laws or regulations that have not yet been enacted.” N.D.C.C. §49-02-23 applies to this proceeding because this proceeding involves the advance determination of prudence of the construction of an electric generation resource.

The prohibition contained in N.D.C.C. §49-02-23 does not preclude consideration of other evidence concerning environmental issues that may be brought before the Commission. The statute only prohibits the consideration of environmental externality values.

Dated: April 16, 2007.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'William W. Binek', is written over a horizontal line.

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