


MEMORANDUM

To: Commissioners Cramer, Clark and Kalk

From: Illona A. Jeffcoat-Sacco 

Re: 2011 PSC Bill Drafts

Date: 23 November 2010

This item is on the next Administrative Agenda to determine what PSC bill drafts will be filed for the 2011 session. Attached are bill drafts on four topics, two of which include more than one bill draft option.

ADP – there are two bill drafts on the ADP law: one to repeal the law and one to remove the seemingly guaranteed return on equity. **Which one, if any, do you want to file?** (Also, please recall a draft on the ADP law that you received some months ago from industry—let me know if you need another copy.)

Rate Cases – there are three bill drafts on rate cases: one to increase the fee, one to extend the time, and one that does both. **Which, if any, do you want to file?**

Internet Auctions – there is one bill draft to exempt internet auctions from our jurisdiction. **Do you want to file it?**

Externalities – there is one bill draft to revise the externalities definition. **Do you want to file it?**

Thank you.

Draft 1

September 27, 2010

Prepared at the request of Commissioner Kalk

Sixty-second
Legislative Assembly
of North Dakota

Introduced by

A BILL for an Act to repeal section 49-05-16 of the North Dakota Century Code,
relating to an application for an advance determination of prudence.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. REPEAL. Section 49-05-16 of the North Dakota Century
Code is repealed.

Sixty-second
Legislative Assembly
of North Dakota

Introduced by

A BILL for an Act to amend and reenact subsection 5 of section 49-05-16 of the North Dakota Century Code, relating to cost recovery for a project granted an advance determination of prudence in the event the project is no longer prudent.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 5 of section 49-05-16 of the North Dakota Century Code is amended and reenacted as follows:

5. If at any time following an initial commission order, the commission, following a subsequent hearing, determines that continuation of a project is no longer prudent or that its prior order should be modified, the public utility may apply to the commission to recover in its rates, and in a timely manner consistent with the public utility's financial obligations, the amounts the public utility already has expensed, incurred, or obligated on a project, including interest expense ~~and a return on equity invested in the project~~ up to the time the new order is entered even though the project may never be fully operational or used by the public utility to serve its customers.

October 4, 2010

Prepared at the request of Commissioner Cramer

Sixty-second
Legislative Assembly
of North Dakota

Introduced by

A BILL for an Act to amend and reenact subsection 11 of section 49-05-04 of the North Dakota Century Code, relating to the application fee in rate increase applications.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 11 of section 49-05-04 of the North Dakota Century Code is amended and reenacted as follows:

11. An application fee in the amount of ~~one hundred twenty-five thousand dollars~~ two hundred fifty thousand dollars. Upon request of the commission and with the approval of the emergency commission, the applicant shall pay such additional fees as are reasonably necessary for completion of the application process by the commission. The commission shall pay the expenses of investigating a rate increase application under this section from the application fee paid by the public utility in accordance with section 49-02-02. The commission may waive or reduce the fee.

November 15, 2010

Prepared at the request of Commissioner Cramer

Sixty-second
Legislative Assembly
of North Dakota

Introduced by

A BILL for an Act to amend and reenact subsection 1 of section 49-05-06 of the North Dakota Century Code, relating to the maximum amount of time the commission may suspend a tariff change.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 49-05-06 of the North Dakota Century Code is amended and reenacted as follows:

49-05-06. Hearing by commission on proposed change of rates.

1. Whenever a notice or any schedule stating an individual or joint rate, classification, contract, practice, or rule, increasing or decreasing, or resulting in an increase or decrease in any rate, is filed with the commission, the commission may suspend by motion the rate, classification, contract, practice, or rule but the period of suspension may not extend more than ~~six~~ eleven months beyond the time when it otherwise would go into effect. Upon complaint or upon its own initiative without complaint the commission may order a hearing, upon due notice, concerning the propriety of the rate, classification, contract, practice, or rule. On such hearing, the commission shall establish the rates, classifications, contracts, practices, or rules proposed, in whole or in part, or others in lieu thereof, which it finds to be just and reasonable. At any such hearing, the burden to show that the increased rate or proposed change of rate, classification, rule, or

practice is just and reasonable is upon the public utility applying for the increase. All such rates, classifications, contracts, practices, or rules, not suspended, on the expiration of thirty days from the time of filing with the commission, or of such lesser time as the commission may grant, become effective rates, classifications, contracts, practices, or rules, subject to the power of the commission, after a hearing had on its own motion or upon complaint, to alter or modify the same.

November 15, 2010

Prepared at the request of Commissioner Cramer

Sixty-second
Legislative Assembly
of North Dakota

Introduced by

A BILL for an Act to amend and reenact subsection 11 of section 49-05-04 and subsection 1 of section 49-05-06 of the North Dakota Century Code, relating to the application fee in rate increase applications and the maximum amount of time the commission may suspend a tariff change.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 11 of section 49-05-04 of the North Dakota Century Code is amended and reenacted as follows:

11. An application fee in the amount of ~~one hundred twenty-five thousand dollars~~ two hundred fifty thousand dollars. Upon request of the commission and with the approval of the emergency commission, the applicant shall pay such additional fees as are reasonably necessary for completion of the application process by the commission. The commission shall pay the expenses of investigating a rate increase application under this section from the application fee paid by the public utility in accordance with section 49-02-02. The commission may waive or reduce the fee.

SECTION 2. AMENDMENT. Subsection 1 of section 49-05-06 of the North

Dakota Century Code is amended and reenacted as follows:

49-05-06. Hearing by commission on proposed change of rates.

1. Whenever a notice or any schedule stating an individual or joint rate, classification, contract, practice, or rule, increasing or decreasing, or resulting in an increase or decrease in any rate, is filed with the commission, the commission may suspend by motion the rate, classification, contract, practice, or rule but the period of suspension may not extend more than ~~six~~ eleven months beyond the time when it otherwise would go into effect. Upon complaint or upon its own initiative without complaint the commission may order a hearing, upon due notice, concerning the propriety of the rate, classification, contract, practice, or rule. On such hearing, the commission shall establish the rates, classifications, contracts, practices, or rules proposed, in whole or in part, or others in lieu thereof, which it finds to be just and reasonable. At any such hearing, the burden to show that the increased rate or proposed change of rate, classification, rule, or practice is just and reasonable is upon the public utility applying for the increase. All such rates, classifications, contracts, practices, or rules, not suspended, on the expiration of thirty days from the time of filing with the commission, or of such lesser time as the commission may grant, become effective rates, classifications, contracts, practices, or rules, subject to the power of the commission, after a hearing had on its own motion or upon complaint, to alter or modify the same.

Sixty-second
Legislative Assembly
of North Dakota

Introduced by

A BILL for an Act to amend and reenact section 51-05.1-04 of the North Dakota Century Code, relating to auctioneer and auctioneer clerk definitions, and internet auctions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 51-05.1-04 of the North Dakota Century Code is amended and reenacted as follows:

51-05.1-04. Definitions.

1. Except as provided in subsection 5, ~~An~~ an auctioneer within the meaning of this chapter is a person, who for a compensation or valuable consideration, sells or offers for sale either real or personal property at public auction, as a whole or partial vocation.
2. Except as provided in subsection 5, A a clerk within the meaning of this chapter is any person, firm, partnership, copartnership, association, corporation, or limited liability company, who for a compensation or valuable consideration, is employed either directly or indirectly by an owner while the sale is in progress to record each item offered for sale, its selling price, the buyer's name or number, to collect all proceeds of said sale, to pay all expenses connected with the sale, to prepare a full closing statement of all receipts and disbursements, and make settlement thereon to parties properly entitled thereto within a reasonable length of time.

3. ~~A single act performed or isolated transactions in the selling of property at auction for another shall not constitute the person performing, offering, or attempting to perform any of the acts enumerated herein, an auctioneer within the meaning of this chapter. "Internet auction" means the selling or offering for sale either real or personal property at public auction exclusively via the internet.~~
4. "Seller" means the owner or consignor of property to be sold at auction.
5. A person performing a single act or an isolated transaction in the selling of property at auction for another does not constitute the person performing, offering, or attempting to perform any of the acts enumerated in this section, and is not an auctioneer or clerk within the meaning of this chapter. A person conducting or employed by a person conducting an internet auction is not an auctioneer or clerk within the meaning of this chapter.

Sixty-second
Legislative Assembly
of North Dakota

Introduced by

A BILL for an Act to amend and reenact section 49-02-23 of the North Dakota Century Code, relating to the definition of environmental externality values.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. 49-02-23. Consideration of environmental externality values prohibited. The commission may not use, require the use of, or allow electric utilities to use environmental externality values in the planning, selection, or acquisition of electric resources or the setting of rates for providing electric service. Environmental externality values are numerical costs or quantified values that are assigned to represent either:

1. ~~Environmental~~ environmental costs that are not internalized in the cost of production or the market price of electricity from a particular electric resource; or
2. ~~The alleged costs of complying with future environmental laws or regulations that have not yet been enacted.~~