

**State of North Dakota  
Public Service Commission**

**Public Service Commission  
Practice and Procedure  
Rulemaking**

**Case No. AD-14-762**

**Statement**

**Regulatory Analysis, Small Entity Analysis and Impact, Takings Assessment**

The proposed procedural rules consist of changes to the procedural rules in four areas: service of formal complaints; individual customer notice in utility rate related cases (bill stuffers); appearances at formal hearings, and protection of information.

The existing procedure when serving formal administrative complaints and notices related to those complaints is being clarified in the proposed rules, but not changed. One additional type of utility filing will be included with the existing types of filings for which individual utility customer notice is required. The requirement that staff who work on formal cases be noted as making a formal appearance is being deleted. The changes to the rules regarding when and how the Commission will protect information from general disclosure are the most comprehensive, but do not materially change the existing process, except to make protection of certain regularly filed information easier and less costly for everyone involved.

None of these changes should have any sort of negative impact, financial or otherwise, on regulated industry, consumers, other stakeholders, the Commission, or the public. On the contrary, the proposed rules make the administrative process more efficient and most will save resources for both the regulated community and the agency.

**Formal Complaints – N.D. Admin Code Sections 69-02-02-02 and 03**

The proposed changes to the rule regarding serving formal complaints and notices of hearing on formal complaints, and the rule for filing an Answer to a formal complaint, simply incorporate current practice. The existing language can be ambiguous, and the proposed changes are intended to clarify that the complaint and notice may, but are not required to, be served at the same time. It is usually more efficient to serve the complaint first, and then schedule the hearing and issue notice after the parties have knowledge of the action and input into the hearing date and time frame.

**Rate Case Bill Stuffers – N. D. Admin. Code Section 69-02-04-01**

The proposed change to section 69-02-04-01 adds one type of case, an advance determination of prudence case, to the list of cases in which the applicant utility must provide individual notice of the application to customers. An advance determination of prudence application has ratemaking consequences and that is the reason for requiring individual customer notice. Currently, even though the specific type of application is not mentioned in the rule, individual customer notices have been required and provided in

advance determination of prudence cases because of the ratemaking impact. The proposed change will make the rule consistent with current practice and will have no fiscal or other impact on industry, customers, other stakeholders or the public.

#### **Formal Appearance of Staff Analysts – N. D. Admin. Code Section 69-02-04-02**

Existing rule requires the staff **analysts** who work on a case to be noted in the Appearances. While the staff who work on a case are introduced by counsel at hearings, the rule requiring those persons to be listed in the Appearances has been inconsistently followed and serves no discernable purpose. Repealing that language will have no impact on any stakeholder.

#### **Protection of Information N.D. Admin. Code Chapter 69-02-09**

Since the Commission's trade secret rules were originally written, the legislature has added several types of open records exemptions. The procedural rules are being revised to accommodate filings that may deserve protection from disclosure under current state law, but are not strictly trade secret filings. In addition, for certain telecommunications filings, case by case protection applications and consequent Commission decisions will no longer be necessary, saving time and costs for both the telecommunications companies and the state.

Incorporating these changes will make the rules more generally applicable, more useful, easier to implement and more clear to those asking for protection for other than trade secret information. These changes will have no negative fiscal impact on the Commission, the state, any stakeholder or the public. These changes will also have no other impact on any party, except to make filing and processing such applications easier and more efficient.

The only alternative considered was not making these changes at this time, which would work to continue to make protection applications harder and less efficient to file and process. The alternative is not the best choice.

#### **Small Entity Analysis and Economic Impact Statement**

Each proposed rule could impact a small entity. However, the impact will be neutral or positive. Several of the proposals make the process involved more efficient and will save time and money for applicants and others interacting with the Public Service Commission. No alternatives were considered other than making no changes at all, which imposes a greater economic and regulatory burden on all impacted entities, including small entities and the agency.

#### **Regulatory Analysis and Takings Assessment**

Since none of the proposals will impact the regulated community by more than \$50,000, and no one has requested a regulatory analysis, none is being prepared at this time for any of the proposed rule changes.

Since none of the proposed rules constitutes a taking of private real property, no Taking Assessment is being prepared.