

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**Public Service Commission
Common Pipeline Carriers
Rulemaking**

Case No. PU-20-398

**Statements on Regulatory Analysis, Small Entity Analysis,
Takings Assessment, and Fiscal Note**

October 22, 2020

The Commission is proposing a new Section to North Dakota Administrative Code Chapter 69-09-11, Common Pipeline Carriers. The purpose of the new Chapter 69-09-11, is to provide clarity regarding the filing and maintenance of common pipeline carrier tariffs.

The proposed rule is not the result of new legislation and is not pursuant to emergency rulemaking.

Regulatory Analysis

N.D.C.C. § 28-32-08 requires an agency to prepare a regulatory analysis if the rule is expected to have an impact on the regulated community in excess of fifty thousand dollars, or if one is requested as provided in the law. The law provides, in part:

1. The regulatory analysis must contain:
 - a. A description of the classes of persons who probably will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule;
 - b. A description of the probable impact, including economic impact, of the proposed rule;
 - c. The probable costs to the agency or commission of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues; and
 - d. A description of any alternative methods for achieving the purpose of the proposed rule that were seriously considered by the agency or commission and the reasons why the methods were rejected in favor of the proposed rule.

A regulatory analysis has not been requested, and the proposal is not expected to impact the regulated community by an amount in excess of fifty thousand dollars (\$50,000.00). Consequently, no regulatory analysis has been prepared.

Takings Assessment

N.D.C.C. § 28-32-09 requires an entity to prepare a written assessment of the constitutional takings implications of a proposed rule that may limit the use of private real property.

The proposed new chapter is not anticipated to limit the use of private property.

Small Entity Regulatory Analysis

N.D.C.C. § 28-32-08.1 requires that before adoption of any proposed rule, the adopting agency prepare a regulatory analysis in which the agency considers options to minimize adverse impact on small entities. The law provides, in part:

2. The agency shall consider each of the following methods of reducing impact of the proposed rule on small entities:

a. Establishment of less stringent compliance or reporting requirements for small entities;

The proposed new chapter is not anticipated to impact small entities. As a result, not establishment of less stringent compliance or reporting requirements were provided.

b. Establishment of less stringent schedules or deadlines for compliance or reporting requirements for small entities;

The proposed new chapter is not anticipated to impact small entities. As a result, no additional schedules or deadlines were provided.

c. Consolidation or simplification of compliance or reporting requirements for small entities;

The proposed new chapter is not anticipated to impact small entities. As a result, there were no consolidation or simplification requirements provided.

d. Establishment of performance standards for small entities to replace design or operational standards required in the proposed rule; and

The proposed new chapter is not anticipated to impact small entities. As a result, no performance standard is established.

- e. Exemption of small entities from all or any part of the requirements contained in the proposed rule.

The proposed new chapter is not expected to impact small entities. As a result there is no exemption.

Small Entity Economic Impact Statement

The proposed new chapter is not anticipated to impact small entities. There are no additional costs required for compliance. It will clarify that common pipeline carrier tariffs do not need to be filed with the Commission annually. There is no probable effect on state revenues. This is the least intrusive and costly method of achieving the purpose of the proposed rule.

Fiscal Note

No fiscal impact is anticipated from the proposed new chapter.