

PUBLIC UTILITIES

CHAPTER 253

S. B. No. 217—(Bonzer)

REDUCTION PUBLIC UTILITY RATES

An Act to amend and re-enact Chapter 220, Session Laws of the State of North Dakota for the year 1933, relating to petitions by patrons and users of services of public utility companies for reduction of public utility rates, authorizing negotiations touching such rates, providing for summary reduction of the same, relating to hearings, and investigations; and relating to valuation and/or revaluation of property of public utility companies and corporations by the Board of Railroad Commissioners; relating to payment of expenses of such hearings, and investigations, and valuations and/or revaluations and the methods of assessing and collecting the same; and repealing all acts or parts of acts in conflict herewith; and making an appropriation for the valuation by Board of Public Commissioners of the property of the public utilities, subject to the provisions of Chapter 192 of the Session Laws of 1919; creating a revolving fund, and declaring an emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. JURISDICTION AND POWERS.] In addition to the powers which it already possesses, the Board of Railroad Commissioners of the State of North Dakota is hereby vested with power and jurisdiction to supervise, regulate and determine rates of all associations, firms, corporations, persons, and agencies, which are now or which may hereafter be engaged in the business usually conducted by telephone and telegraph companies; pipe line companies for the transportation of gas, oil, and water; electric light companies and individuals engaged in generating, distributing and selling light, heat, or power; companies engaged in generating, distributing and selling gas, natural and artificial; and all heating companies for the distribution of heat, whether incorporated or not, within the state; and to do things necessary and convenient in the exercise of such powers and jurisdiction, and to enforce their orders.

§ 2. SUMMARY REDUCTION OF RATES ON PETITION OR ON THE BOARD'S OWN MOTION.] The Board of Railroad Commissioners, upon its own motion or whenever twenty-five per cent of the public utility company or corporation's patrons, customers or users within the incorporated limits of any city, village or town, shall petition the Board of Railroad Commissioners for a valuation and/ or revaluation of the property of such public utility company or corporation including necessary audits for the purpose of determining the rate or rates to be charged for the service rendered, said Board of Railroad Commissioners shall forthwith endeavor to arrive at a reasonable rate or rates, through negotiations with said utility company or

corporation and in the event they are unable to agree upon the new rate or rates to be charged for said service within thirty days after the filing of said petition, which new rate or rates shall grant a net reduction of not less than fifteen per cent from the rate or rates in force at the time of the filing of said petition, it shall be the duty of the Board of Railroad Commissioners to summarily and forthwith reduce the rate or rates then in force twenty-five per cent, and said reduced rate or rates shall be the rate or rates at which said service shall be furnished to the patrons until a hearing shall have been held and a new rate or new rates established, as hereinafter provided; provided, however, that petition for valuation and/ or revaluation shall not be filed or made more than once in every two years; provided further that each person, firm or corporation receiving service is to be considered a patron, customer or user within the preview of this act, regardless of the number of meters owned, rented or used, by such person, firm or corporation, but a firm shall be considered a separate entity from the individual members thereof.

§ 3. UTILITY MAY COLLECT FULL RATE:] Any public utility company or corporation whose rate or rates have been summarily reduced may continue to charge the full rate or rates in force before such reduction took effect, provided it keeps twenty-five per cent of said collections separate and apart from all other funds pending the final determination of said rate or rates by the Board of Railroad Commissioners and said utility shall remit to the several patrons, customers or users their proportionate share of said fund in case said matter is determined adversely to said public utility company or corporation, in whole or in part, said remittance to be made within sixty days after the new rate or rates shall have been established by the Board of Railroad Commissioners. Provided, however, that the Board of Railroad Commissioners in lieu of requiring a deposit as herein provided, shall have the power and is hereby granted the authority in the exercise of its discretion, to take from said public utility, a corporate surety bond of a corporate surety company, approved by the Commission, authorized to do such business within the State of North Dakota, said bond to be conditioned, that said public utility as principal, shall remit to the several customers, patrons or users, their proportionate share of twenty-five per cent of the gross earnings of the service or department being investigated in case said matter is determined adversely to said public utility company or corporation in whole or in part, said remittance to be made within sixty days after the new rate or rates shall have been established by the Board of Railroad Commissioners.

§ 4. HEARINGS: INVESTIGATIONS: EXPERTS: RIGHTS TO HIRE: PAYMENT OF COMPENSATION AND EXPENSES:]

(1) All hearings, investigations, proceedings, and valuations and/ or revaluations shall be public and shall be governed by this act and by the rules, practice, and procedure heretofore or hereafter

to be adopted by the Board of Railroad Commissioners, and in the conduct thereof, the technical rules of evidence shall not be applied. No informality in any hearing, investigation, proceeding, or valuation and/ or revaluation, or in the manner of taking testimony, shall invalidate any order, decision, rule, regulation or rate made, approved, promulgated, or confirmed by said Board of Railroad Commissioners.

(2) The Board of Railroad Commissioners shall have authority and is hereby invested with power to employ any and all rate experts, engineers, auditors, accountants, and any and all other expert help and assistance, and to fix the compensation therefor; provided however, that the expense of such hearings, investigations, and proceedings, and the compensation and actual expense of any such employees shall be paid by the utility being investigated or involved in such hearing or proceedings. The Board of Railroad Commissioners shall ascertain such costs and expenditures and after giving such public utility notice thereof and opportunity to be heard thereon, shall render a bill therefor by registered mail or by personally handing to one of the managing officers of such public utility, either at the commencement of such valuation and/ or revaluation, or from time to time during the progress thereof, or at the conclusion of such valuation and/ or revaluation, as such board shall determine. Upon the bill so rendered, such public utility shall, within ten days after receipt thereof by such utility, as evidenced by return register receipt or other proof, pay to such board the amount of said costs and expenses so billed and such bill shall be paid as a condition precedent to the right of appeal by such utility from any order or decision of the Board of Railroad Commissioners.

§ 5. ADDITIONAL AMOUNT TO BE PAID: REFUND:] That in the event the amount so fixed shall be insufficient to cover the total cost and expenses of such valuation and/ or revaluation, the Board of Railroad Commissioners may from time to time and as often as shall be necessary, make its order for an amount sufficient to cover such additional costs, and the same shall be levied and collected in the same manner as the original amount; and in the event the original order shall be for an amount in excess of the actual cost and expense of such investigation, such surplus shall be refunded to the utility depositing the same, such refund to be made within thirty days after the actual amount has been determined.

§ 6. AMOUNT NOT PAID TO DRAW INTEREST: ATTORNEY GENERAL TO COLLECT WHEN:] All amounts billed against public utilities under the provisions of this act not paid within thirty days after the service of notice as herein provided, shall draw interest at the rate of six per cent per annum from the date of the service of said notice, and it shall be the duty of the Attorney General to proceed by action, in the name of the state, to collect said amount or amounts,

together with interest and the costs of the suit, and any amount so recovered shall be credited to the fund herein provided for.

§ 7. WRITS OF ATTACHMENT AND GARNISHMENT SUMMONS TO BE ISSUED: WHEN: HOW:] In connection with any action brought by the Attorney General as herein provided for, the court, or clerk thereof, shall have power to issue writs of attachment against the property of the utility company involved without bond and without the usual affidavit for attachment, and the Attorney General may cause garnishment summons to be issued in connection with any such actions without filing an affidavit as now by law provided.

§ 8. FUND CREATED:] There is hereby created a fund to be known as the "Public Utility Valuation Fund," which shall be a revolving appropriation fund and there is hereby appropriated out of any funds in the State Treasury, not otherwise appropriated to said public utility valuation fund, the sum of \$25,000.00 and all costs and expenses of valuation and/ or revaluations collected under the provisions of this act whether collected through voluntary payments or through suit shall be paid into the State Treasury monthly and shall be credited to the said Public Utility Valuation Fund, in addition to the sum of \$25,000.00 hereby appropriated, the same to constitute a revolving fund to be used by said Board of Railroad Commissioners in the performance of its duties in the making of such valuations and/ or revaluations and shall be paid out upon proper voucher and audit by the State Auditing Board.

§ 9. NOT TO INVALIDATE PENDING PROCEEDINGS:] No part of these amendments shall be construed as in any way affecting any proceedings now pending under provisions of Chapter 220 of the 1933 Session Laws, but they shall apply as far as possible to said proceedings where it can be done without invalidating proceedings taken and had up to the present time, and the provisions of said Chapter 220 shall remain in force so far as it shall be necessary to complete proceedings now pending.

§ 10. EMERGENCY:] Whereas an emergency now exists in that the laws as now enacted are inadequate for the expeditious handling of the proceedings contemplated under this act, therefore, this act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

§ 11. REPEAL.] Except as herein otherwise provided all acts or parts of acts in conflict herewith are hereby repealed.

Approved March 7, 1935.