
CHAPTER 200
H. B. No. 139—(Burgum)

SURETY FOR COSTS NON-RESIDENT PLAINTIFFS

An Act to amend and re-enact Section 9020 of the Compiled Laws of North Dakota for the year 1913, and to provide for the furnishing of surety for costs by plaintiffs who are non-residents or corporations other than United States corporations, declaring an emergency.

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

§ 1. AMENDMENT.] Section 9020 of the Compiled Laws of North Dakota for the year 1913 is hereby amended and re-enacted to read as follows:

§ 9020. SURETY FOR COSTS. HOW GIVEN. NON-RESIDENTS.] The Justice shall in all cases, when plaintiff is a non-resident of the State or a corporation, before issuing a summons, require of the plaintiff sufficient surety for costs; provided, however, that no surety for costs shall be required when the plaintiff is a public corporation, or a corporation that is an instrumentality or agency of the United States. The surety must be a resident of the State. His obligation shall be complete by simply endorsing the summons or signing his name on the complaint as security for costs. In all other cases the justice may in his discretion require surety for costs.

§ 2. EMERGENCY.] 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.

Approved March 10, 1937.

PUBLIC UTILITIES

CHAPTER 201
H. B. No. 230—(Thorson of Barnes)

METER DEPOSITS TO ELECTRIC POWER COMPANIES

An Act prohibiting electrical power companies from charging a deposit upon any meter installed upon the premises of any user of current unless interest is paid annually upon such deposit.

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

§ 1. It shall be unlawful for any person or corporation engaged in the business of furnishing electrical current for light, heat

or power in this State to require any customer to keep with the said person or corporation a deposit covering such meter, unless such person or corporation shall each year pay interest on such deposit at the rate of six per cent per annum. Such interest may be paid to the user of such current, or may be deducted from his or her indebtedness for current furnished, such deduction or payment to be made during the month of December of each calendar year. Provided, further, that that during the month of December following the taking effect of this Act that any and all unpaid accumulations of such interest shall also be paid or deducted as above provided.

§ 2. EMERGENCY.] Whereas an emergency exists, in that public utility companies have large sums of money on deposit upon which no interest is paid by them to the great damage of the users of electricity, this Act shall be in full force and effect from and after its passage and approval by the Governor.

Approved March 9, 1937.

CHAPTER 202

S. B. No. 245—(McGillic)

TESTING OF METERS—GAS AND ELECTRIC

An Act directing the Board of Railroad Commissioners to test electric meters of Electric Utility Companies and gas meters of Gas Utility Companies, and to determine the heat values of natural and/or artificial gas distributed by Public Gas Utility Companies, and making an appropriation for testing equipment therefor, and declaring an emergency.

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

§ 1. The Board of Railroad Commissioners of the State of North Dakota are hereby directed to make tests, from time to time, of meters of public utility companies which are used by the utility companies for measuring the amount of electric current passing through such meters to consumers, and are hereby directed to test, from time to time, meters of public utility gas companies used to measure the amount of gas passing through such meters for the use of its customers, and to make tests, from time to time, to determine the B. T. U. content of natural and/or artificial gas distributed by public utility companies in this State.

§ 2. That such tests are to be made for the purpose of determining the accuracy of the meters and to determine whether or not the B. T. U. content of gas, either natural or artificial, distributed by public utility companies is of the standard that may now or hereafter be prescribed by the Board of Railroad Commissioners under its general powers and duties.

§ 3. That the Board of Railroad Commissioners shall make such rules and regulations as it may deem proper and necessary to as the manner in which such tests of such meters and of such heat values shall be made.

§ 4. There is hereby appropriated to the use of the Board of Railroad Commissioners to purchase the necessary equipment to make such tests, as required by this Act, the sum of \$1,500.00, to be paid out upon proper voucher and audit by the State Auditing Board.

§ 5. EMERGENCY.] Whereas, an emergency now exists in that the Board of Railroad Commissioners has no equipment for the testing of gas meters or of heating value of gas, and that the equipment of the Board of Railroad Commissioners for the purpose of testing electric meters is obsolete, and of practically no value and that any tests made by such would not stand in any Court as giving a fair and accurate test of electric meters, and that it is highly desirable for the expeditious and efficient carrying out of this Act that such equipment be procured without unnecessary delay, 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.

Approved March 5, 1937.

CHAPTER 203

H. B. No. 124—(Godwin)

PUBLIC UTILITIES HEARINGS

An Act relating to the jurisdiction and powers of the Board of Railroad Commissioners of the State of North Dakota, relating to hearings and investigation in connection with public utilities; and relating to the payment of expenses of hearings, and investigations, and valuations, and/or revaluations, and of methods of assessing and collecting the same, re-creating and continuing "Public Utility Fund," a revolving fund, and declaring an emergency, and repealing all Acts or parts of Acts in conflict herewith, except the provisions of Acts relating to "Public Utility Fund."

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

(1) All hearings, investigations, proceedings, and valuations and/or revaluations, provided for in any of the laws in the State of North Dakota, now in force and effect, or which may hereafter become in force and effect, 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 hearings, 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, attorneys, 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, and after hearing had to determine the amount of such costs and expenditures, if hearing is demanded by the utility, shall render a bill therefor, and make an order for payment thereof 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 and order for payment thereof 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. Provided, however, that the total amount which may be charged by the Commission to any public utility, under authority of this Act, shall not exceed two per centum of the final value placed upon said public utility property used and useful in the intrastate utility operations, of such utility; provided, further, however, that the total amount which may be charged and assessed by the Commission to any public utility, under the authority of this Act, shall not exceed two per centum of the final value placed upon said public utility

property used and useful in the intrastate utility operations of such utility, and, provided further, however, that no petition for valuation and/or revaluation shall be filed or made, nor order of the Commission for valuation and/or revaluation shall be made more than once in every three years.

§ 3. 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 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.

§ 4. 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.

§ 5. 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.

§ 6. FUND CREATED.] There is hereby recreated a fund to be known as the "Public Utility Valuation Fund," which shall be a revolving fund, 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 monies now in said fund, or which may hereafter be paid into said fund, under the provisions of Chapter 220 of Session Laws of 1933, Chapter 253 of Session Laws of 1935, 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.

§ 7. 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, and/or Chapter 253 of the 1935 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 of the 1933 Session Laws, and/or Chapter 253 of the 1935 Session Laws shall remain in force so far as it shall be necessary to complete proceedings now pending.

§ 8. EMERGENCY.] This Act is declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

§ 9. REPEAL] Except as herein otherwise provided all Acts or parts of Acts in conflict herewith are hereby repealed, except the provisions of Acts creating a "Public Utility Fund."

Approved March 10, 1937.

CHAPTER 204

H. B. No. 212—(Freitag)

PUBLIC UTILITY RATES

An Act requiring certain matters to be considered by the Board of Railroad Commissioners in determining rates to be allowed to public utilities under their jurisdiction; repeal.

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

§ 1. In addition to all other statutory provisions existing at this time, the Board of Railroad Commissioners in determining the rates to be charged by any of the utilities under its jurisdiction, shall ascertain whether an advanced or fictitious cost price and/or a price in excess of the fair market value of any commodity, machinery, equipment, material, or service has been paid or is being paid, or charged, by said public utility, and if it shall appear that any such fictitious or advance price for any such commodity, machinery, equipment, service or material is being paid or charged, it shall be the duty of said Commissioners to fix and allow as a part of the valuation or rate basis only the reasonable and fair market price of such items, eliminating all such fictitious or excessive prices or values.

§ 2. All Acts or parts of Acts in conflict herewith are hereby repealed.

Approved March 9, 1937.

CHAPTER 205

H. B. No. 123—(Hagen)

PUBLIC UTILITY RATE ADJUSTMENTS

An Act 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 temporary reductions or increases in rates, and for refunds and reoperations, and jurisdiction and duties of the Board of Railroad Commissioners, and declaring an emergency, and repealing all Acts or parts of Acts in conflict herewith.

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

§ 1. The Board of Railroad Commissioners, upon its own motion or whenever twenty-five per cent of the public utility 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, or within thirty days after the making of an order or resolution by the Board of Railroad Commissioners on its own motion, 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, and/or at the time of the making of the order or resolution by the Board of Railroad Commissioners on its own motion, it shall be the duty of the Board of Railroad Commissioners to proceed with a valuation and/or revaluation of the properties of the public utilities involved, in the manner as may be now or hereafter provided by the Laws of the State of North Dakota, provided further that each person, firm or corporation receiving service is to be considered a patron, customer or user within the purview 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.

§ 2. That if no new rate or rates shall have been agreed upon, as provided in Section 1 hereof, then pending the investigation and final order of the Board of Railroad Commissioners, if it be of the opinion that public interest so requires, shall immediately make an order that the said utility shall file with said Board of Railroad Commissioners, a corporate surety bond of a corporate surety company, approved by the Board of Railroad Commissioners, authorized to do such surety business within the State of North Dakota, said bond to be condi-

tioned, that said public utility as principal shall remit to the several customers, patrons, or users of the service of said utility company, during the period between the date of such order and the date that the rates to be charged, received and collected by such utility company, shall finally have been fixed, determined and prescribed in proceedings instituted hereunder, if on such final determination the rates fixed, determined and prescribed are less than the rates charged, received and collected by said public utility company during said period of time; the amount to be paid and remitted to each of the several customers, patrons or users shall be such sum as such customer, patron or user has paid to said utility for said service over and above the amounts that such customer, patron or user would have paid during said time had the rates fixed, determined and prescribed in the final order been in effect during said period, said bond and/or undertaking to be filed with said Board of Railroad Commissioners within thirty days after the service of said order upon said public utility; and service of said order may be made by personal service upon said public utility or by registered mail, and if by registered mail, service shall be deemed completed when such registered mail is delivered to said public utility, as evidenced by the registry return receipt for said registered mail.

§ 3. If within thirty days after the service of the order, as set forth in Section 2 hereof, the said public utility fails and neglects and refuses to file such bond and/or undertaking with the said Board of Railroad Commissioners, then in that event the said Board of Railroad Commissioners shall immediately fix, determine and prescribe temporary rates to be charged by said public utility pending the final determination of said rate proceeding, said temporary rates, so fixed, determined and prescribed shall be sufficient to provide a return of not less than five per centum per annum upon the original cost less accrued depreciation of the physical property of said public utility used and useful in the public service, and if the duly verified reports of said utility to the Commission do not show the original cost, less accrued depreciation, of said property, the Commission may estimate said cost less depreciation and fix, determine and prescribe rates as hereinbefore provided, and in determining the original cost and/or in estimating the cost as herein provided the said Commission may take into consideration any report or reports, annual or otherwise, filed with the Commission by any utility together with any other fact or information which the Commission may acquire or receive from an investigation of the books, records or papers of said public utility and from an inspection of the property of said public utility, and/or examination of any report or reports, annual or otherwise, made by the public utility involved in the proceedings, filed with the State Tax Commission, and/or any report or reports, annual or otherwise, made by the said public utility to either the Federal Power Commission, Federal Communications Commission and/or Federal Securities and Exchange Commission.

§ 4. If, on a final determination of the investigation, the rates fixed, determined and prescribed are less than the temporary rates fixed in Section 3 hereof, then the said public utility shall pay and/or remit to each of the several customers, patrons or users such sum as such customer, patron or user has paid to the said utility for the said service over and above the amounts that such customer, patron or user would have paid during the said time, had the rates fixed, determined and prescribed in the final order been in effect during the period that said temporary rates were in effect.

§ 5. DETERMINATION OF PERMANENT RATES.] Temporary rates so fixed, determined and prescribed under this Section shall be effective until the rates to be charged, received and collected by said utility company shall finally have been fixed, determined and prescribed. The Commission is hereby directed and required in any proceeding in which temporary rates are fixed, determined and prescribed under this Section, to consider the effect of such rates in fixing, determining and prescribing rates to be thereafter charged and collected by said public utility company on final determination of the rate proceeding.

§ 6. No petition or order for valuation and/or revaluation shall be filed or made more than once in every three years.

§ 7. 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 and/or Chapter 253 of the 1935 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 and Chapter 253 shall remain in force so far as it shall be necessary to complete proceedings now pending.

§ 8. EMERGENCY.] 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.

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

Approved March 10, 1937.

CHAPTER 206**H. B. No. 140—(Greiser)**

REPORTS OF PUBLIC UTILITIES

An Act relating to public utilities, reports of public utilities to the Board of Railroad Commissioners; valuations of public utilities made by the Board of Railroad Commissioners; duties of State Board of Equalization and/or State Tax Commissioner; and declaring an emergency.

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

§ 1. The State Board of Equalization and/or State Tax Commissioner shall, in assessing taxes upon public utilities, take into consideration the report or reports, annual or otherwise, filed with the Board of Railroad Commissioners by Public Utilities in arriving at the value of such public utility, for taxation purposes.

§ 2. Whenever the Board of Railroad Commissioners have made a valuation of any public utility, the State Board of Equalization and/or State Tax Commissioner shall take into consideration such valuation so made by the Board of Railroad Commissioners in arriving at the valuation of such public utility, for taxation purposes.

§ 3. EMERGENCY.] This Act is declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 10, 1937.

CHAPTER 207**S. B. No. 157—(Owings and Mutchler)**

TARIFF RATES

An Act amending and re-enacting sub-division (a) of Section 4609c14 of the Supplement to the Compiled Laws of 1913 concerning changes in the tariffs, rates, joint rates, fares, tolls, schedules or classifications or service; repealing all Acts or parts of Acts in conflict herewith; and declaring this Act to be an emergency measure.

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

§ 1. AMENDMENT.] That sub-division (a), Section 4609c14 of the Supplement to the Compiled Laws of 1913 shall be and the same is hereby amended and re-enacted to read as follows:

§ 4609c14. (a) No change shall be made by any public utility in any tariffs, rates, joint rates, fares, tolls, schedules or classifications, or service which have been filed and published by any public utility, except after thirty days' notice to the Commissioners,

which notice shall plainly state the changes proposed; provided, that the Commissioners may, in their discretion and for good cause shown, allow changes upon less than the notice herein specified either in particular instances or by a general order applicable to special or peculiar circumstances or conditions.

§ 2. REPEAL.] That all Acts or parts of Acts in conflict herewith are hereby repealed.

§ 3. EMERGENCY.] An emergency is hereby declared and this Act shall be in full force and effect from and after its passage and approval.

Approved March 10, 1937.

CHAPTER 208

H. B. No. 121—(Wolf)

FOR THE USE OF TAX REPORTS OF PUBLIC UTILITIES BY THE BOARD OF RAILROAD COMMISSIONERS IN DETERMINING VALUATIONS FOR RATE-MAKING PURPOSES

An Act relating to public utilities, tax reports of public utilities; and duties of the Board of Railroad Commissioners; and declaring an emergency.

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

§ 1. Upon request of the Board of Railroad Commissioners, a public utility shall furnish to the Board of Railroad Commissioners a verified copy of the public utility's tax reports filed by the public utility with the State Tax Commissioner; such tax reports shall be admissible in evidence before the Board of Railroad Commissioners in any matter or proceeding, or in any action or proceeding in any of the Courts of this State.

§ 2. EMERGENCY.] This Act is declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 10, 1937.