

**FIRST ENGROSSMENT
with Senate Amendments**

Fifty-eighth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1363

Introduced by

Representatives Wald, Delmore, Grande, M. Klein

Senators Fischer, Tollefson

1 A BILL for an Act to amend and reenact section 49-05-06 of the North Dakota Century Code,
2 relating to public service commission rates change hearings.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Section 49-05-06 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **49-05-06. Hearing by commission on proposed change of rates.**

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

- 1 2. Notwithstanding that the commission may suspend a filing and order a hearing, a
2 public utility may file for interim rate relief as part of its general rate increase
3 application and filing. If interim rates are requested, the commission shall order
4 that the interim rate schedule take effect no later than sixty days after the initial
5 filing date and without a public hearing. The interim rate schedule must be
6 calculated using the proposed test year cost of capital, rate base, and expenses,
7 except that the schedule must include:
- 8 a. A rate of return on common equity for the public utility equal to that authorized
9 by the commission in the public utility's most recent rate proceeding;
- 10 b. Rate base or expense items the same in nature and kind as those allowed by
11 a currently effective commission order in the public utility's most recent rate
12 proceeding; and
- 13 c. No change in existing rate design.
- 14 3. In ordering an interim rate schedule, the commission may require a bond to secure
15 any projected refund required by subsection 4. The terms of the bond, including
16 the amount and surety, are subject to the commission's approval.
- 17 4. As ordered by the commission, the utility shall promptly refund to persons entitled
18 thereto all interim rate amounts collected by the public utility in excess of the final
19 rates approved by the commission plus reasonable interest at a rate to be
20 determined by the commission.