

**Fifty-ninth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 4, 2005**

SENATE BILL NO. 2278
(Senator Klein)
(Representative Nottestad)

AN ACT to create and enact five new sections to chapter 49-05 of the North Dakota Century Code, relating to public utility rate stability plans.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 49-05 of the North Dakota Century Code is created and enacted as follows:

Rate stability plan for phasein of electric rate increases. Notwithstanding any other provisions of this title, a public utility planning the construction of an energy conversion facility, a major capital addition to an existing energy conversion facility in which the public utility has an ownership interest, a new transmission facility, a new renewable energy facility, or a new power purchase that is expected to have a material impact on rates, referred to collectively as an electric resource addition, may apply to the commission for a rate stability plan providing for the phasein of rate increases before the commercial operation of the electric resource addition. The commission may order that expenses associated with investigating the application made by the public utility for a rate stability plan be paid by the public utility in accordance with section 49-02-02. A rate stability plan approved by the commission may provide for the following:

1. Rate increases to be incrementally phased in before commercial operation of the electric resource addition; and
2. Any other conditions that benefit the public interest and may be imposed by the commission consistent with its findings in section 2 of this Act.

SECTION 2. A new section to chapter 49-05 of the North Dakota Century Code is created and enacted as follows:

Approval of rate stability plan. The commission may approve a rate stability plan as provided in section 1 of this Act if:

1. The public utility applies for a rate stability plan before commencement of construction or purchase of an electric resource addition;
2. The public utility files with its application a full cost-of-service analysis as required for a general rate increase, including a projection of costs and revenues to the date of the anticipated commercial operation of the electric resource addition;
3. The commission provides notice and holds a hearing, if appropriate, in accordance with section 49-02-02; and
4. The commission finds that the rate stability plan serves the public need for adequate, efficient, and reasonable service; rate stability; financial stability of the public utility; reasonable capital costs; just and reasonable rates; a fair rate of return; and other considerations that benefit the public interest.

SECTION 3. A new section to chapter 49-05 of the North Dakota Century Code is created and enacted as follows:

Annual review of rate stability plan. A rate stability plan approved by the commission involving an electric resource addition is subject to annual review until commercial operation of the resource addition. The public utility shall file annually an abbreviated cost-of-service analysis showing revenues, costs, and revenue requirements and a report of the progress of the construction showing accumulative construction costs and updated cost projections to complete the construction.

SECTION 4. A new section to chapter 49-05 of the North Dakota Century Code is created and enacted as follows:

Filing of general rate case before commercial operation. Before commercial operation of the electric resource addition, a public utility shall make a general rate case filing with a full cost-of-service analysis, including the electric resource addition, in accordance with section 49-05-05. The commission shall adjust the public utility's rates to be charged by the public utility commencing with commercial operation of the electric resource addition in accordance with section 49-05-05.

SECTION 5. A new section to chapter 49-05 of the North Dakota Century Code is created and enacted as follows:

Rate applications upon nonapproval of rate stability plan. If the commission does not approve a rate stability plan submitted pursuant to section 1 of this Act, nothing precludes a public utility from requesting a change in rates as otherwise authorized under this chapter.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Fifty-ninth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2278.

Senate Vote: Yeas 47 Nays 0 Absent 0

House Vote: Yeas 75 Nays 18 Absent 1

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2005.

Approved at _____ M. on _____, 2005.

Governor

Filed in this office this _____ day of _____, 2005,

at _____ o'clock _____ M.

Secretary of State