

Sixtieth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1221

Introduced by

Representatives Keiser, Delmore, Vigesaa

Senators Heitkamp, Klein, Wanzek

1 A BILL for an Act to create and enact a new section to chapter 49-05 of the North Dakota
2 Century Code, relating to public utility rate adjustments for recovery of costs resulting from
3 federal environmental mandates on existing electricity generating stations.

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

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

7 **Rate adjustment - Federal environmental mandate costs.**

- 8 1. The commission may approve, reject, or modify a tariff filed under section
9 49-05-06, which provides for an adjustment of rates to recover jurisdictional capital
10 costs and associated operating expenses incurred by a public utility to comply with
11 federal environmental mandates on existing electricity generating stations. For
12 purposes of this section, federal environmental mandates are limited to any
13 requirements under the Clean Air Act, the Clean Water Act, or any other federal
14 law or rule designed to protect the environment. Associated operating expenses
15 are costs incurred by the public utility to comply with the environmental mandate.
16 The tariff must:
- 17 a. Allow the public utility to recover on a timely basis its investment in capital
18 costs and associated operating expenses incurred to meet federal
19 environmental mandates not reflected in the utility's general rate schedule.
- 20 b. Allow a return on the public utility's investment made to meet federal
21 environmental mandates at the level approved in the utility's most recent
22 general rate case.
- 23 c. Provide a current return on construction work in progress to meet federal
24 environmental mandates provided the cost recovery from retail customers of

1 the allowance for funds used during construction is not sought through any
2 other means.

3 d. Terminate cost recovery after the public utility's costs and expenses to meet
4 federal environmental mandates have been recovered fully or have been
5 reflected in the utility's general rate tariffs.

6 2. Rate adjustments filed under the tariff must be accompanied by:

7 a. A description and quantification of the costs and expenses incurred by the
8 public utility to meet federal environmental mandates which are subject to
9 recovery;

10 b. A schedule for implementation of the applicable projects; and

11 c. Calculations to establish that the rate adjustment is consistent with the terms
12 of the tariff.

13 3. Upon receipt of a rate adjustment filed under the tariff, the commission shall
14 approve the rate adjustment to become effective unless, after notice and
15 opportunity for hearing and comment, the commission determines the rate
16 adjustment does not comply with the tariff or the incurred costs and expenses to
17 meet federal environmental mandates are not reasonable and prudent. The
18 commission may order the expenses of investigating rate adjustments to meet
19 federal environmental mandates under this section be paid by the public utility in
20 accordance with section 49-02-02. The public utility has the burden of proving that
21 the rate adjustment complies with the tariff and that the costs and expenses
22 incurred to meet federal environmental mandates are reasonable and prudent.