

Sixtieth  
Legislative Assembly  
of North Dakota

## 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 include any requirements  
13 under the Clean Air Act, the Clean Water Act, or any other federal law or rule, or  
14 any state law or rule implementing a federal law or rule, designed to protect the  
15 environment. Associated operating expenses are costs incurred by the public  
16 utility to comply with the environmental mandate. 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.