

**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.