

Introduced by

Senators Klein, Krebsbach, Robinson

Representatives Delmore, Keiser, Thoreson

1 A BILL for an Act to amend and reenact sections 49-03-01, 49-03-01.4, 49-03-01.5, 49-03-02,
2 49-03-03, 49-03-04, and 49-03-05 of the North Dakota Century Code, relating to electric
3 transmission providers.

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

5 **SECTION 1. AMENDMENT.** Section 49-03-01 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **49-03-01. Certificate of public convenience and necessity - Secured by electric public**
8 **utility.**

9 ~~No~~

- 10 1. An electric public utility henceforth shall may not begin construction or operation of a
11 public utility plant or system, or of an extension of a plant or system, ~~except as~~
12 ~~provided below~~, without first obtaining from the commission a certificate that public
13 convenience and necessity require or will require ~~such~~the construction and operation.
14 This section does not require an electric public utility to secure a certificate for an
15 extension within any municipality within which ~~it~~the electric public utility has lawfully
16 commenced operations. If any electric public utility in constructing or extending its line,
17 plant, or system, unreasonably interferes with or is about to interfere unreasonably
18 with the service or system of any other electric public utility, or any electric cooperative
19 corporation, the commission, on complaint of the electric public utility or the electric
20 cooperative corporation claiming to be injuriously affected, after notice and hearing as
21 provided in this title, may order enforcement of this section with respect to the
22 offending electric public utility and prescribe just and reasonable terms and conditions.
- 23 2. An electric transmission provider may not begin construction or operation of an electric
24 transmission line interconnecting with an existing electric transmission line owned or

1 operated by an electric public utility without first obtaining a certificate that public
2 convenience and necessity require or will require the construction or operation.

3 **SECTION 2. AMENDMENT.** Section 49-03-01.4 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **49-03-01.4. Enforcement of act.**

6 1. If any electric public utility or electric transmission provider violates or threatens to
7 violate any of the provisions of sections 49-03-01 through 49-03-01.5 or interferes with
8 or threatens to interfere with the service or system of any other electric public utility or
9 rural electric cooperative, the commission, after complaint, notice, and hearing as
10 provided in chapter 28-32, shall make its order restraining and enjoining ~~said~~the
11 electric public utility or electric transmission provider from constructing or extending its
12 interfering lines, plant, or system. In addition to the restraint imposed, the commission
13 shall prescribe ~~such~~any terms and conditions as ~~it shall deem~~the commission deems
14 reasonable and proper.

15 ~~Provided, further, that nothing herein contained shall be construed to~~

16 2. This section does not prohibit or limit any person, who has been injured in the person's
17 business or property by reason of a violation of sections 49-03-01 through 49-03-01.5
18 by any electric public utility, electric transmission provider, or electric cooperative
19 corporation, from bringing an action for damages in any district court of this state to
20 recover such damages.

21 **SECTION 3. AMENDMENT.** Section 49-03-01.5 of the North Dakota Century Code is
22 amended and reenacted as follows:

23 **49-03-01.5. Definitions.**

24 As used in sections 49-03-01 through 49-03-01.5:

- 25 1. "Electric provider" means either an electric public utility or a rural electric cooperative.
26 2. "Electric public utility" means a privately owned supplier of electricity offering to supply
27 or supplying electricity to the general public.
28 3. "Electric transmission line" means facilities for conducting electric energy at a design
29 voltage of one hundred fifteen kilovolts or greater phase to phase and more than one
30 mile long.

1 4. "Electric transmission provider" means an owner or operator, other than a rural electric
2 cooperative, of a transmission line the costs of which are recovered directly or
3 indirectly through transmission charges to an electric public utility.

4 5. "Person" includes an individual, an electric public utility, a corporation, a limited liability
5 company, an association, or a rural electric cooperative.

6 4.6. "Rural electric cooperative" includes any electric cooperative organized under chapter
7 10-13. An electric cooperative, composed of members as prescribed by law, shall not
8 be deemed to be an electric public utility.

9 5.7. "Service area" means a defined geographic area containing existing or future service
10 locations established by an agreement among electric providers and approved by the
11 commission.

12 6.8. "Service area agreement" means an agreement between electric providers
13 establishing service areas and designating service locations to be served by each
14 provider under section 49-03-06.

15 7.9. "Service location" means the structures, facilities, or improvements on a parcel of real
16 property to which electric service may be provided.

17 **SECTION 4. AMENDMENT.** Section 49-03-02 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **49-03-02. Prerequisites to issuance of certificate of public convenience and**
20 **necessity.**

21 1. Before any certificate may issue under this chapter, a certified copy of the articles of
22 incorporation or charter of the utility, if the applicant is a corporation, or a certified copy
23 of the articles of organization of the utility, if the applicant is a limited liability company,
24 ~~shall~~must be filed with the commission. At the hearing ~~of said~~on the application
25 ~~upon~~after notice as provided in this title, the utility shall submit evidence showing that
26 ~~such~~the applicant has received the consent, franchise, permit, ordinance, or other
27 authority of the proper municipality or other public authority, if required, or has or is
28 about to make application ~~therefor~~for authority. The commission shall have the power,
29 after notice and hearing, to:

30 4. a. Issue the certificate prayed for;

31 2. b. Refuse to issue ~~such~~the certificate;

1 under an ordinance hereafter granted where ~~it if either~~ has not suspended operation of its plant
2 and where ~~such the~~ franchise merely replaces or renews an expiring or expired franchise.

3 **SECTION 7. AMENDMENT.** Section 49-03-05 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **49-03-05. Complaint upon violation of chapter.**

6 ~~Whenever~~ if a public utility or electric transmission provider engages or is about to engage in
7 construction or operation as described in this chapter without having secured a certificate of
8 public convenience and necessity as required by the provisions of this chapter, or ~~whenever~~ if a
9 public utility or electric transmission provider constructs or extends its line, plant, or system, or
10 supplies, or offers to supply electric service in violation of this chapter, any interested
11 municipality, public authority, utility, electric cooperative corporation, or person, may file a
12 complaint with the commission. The commission ~~thereupon~~ acting on the complaint, or upon its
13 own motion without complaint, with or without notice, may make its order requiring the public
14 utility complained of to cease and desist from ~~such the~~ construction or operation or other
15 prohibited activity until the further order of the commission. Upon hearing had after due notice
16 given, the commission shall make ~~such an~~ order with respect to ~~such the~~ public utility or electric
17 transmission provider and prescribe ~~such~~ terms and conditions as are just and reasonable.