

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO

HOUSE BILL NO. 1579

Introduced by

Representatives Novak, Porter, Heinert

Senators Kessel, Patten

1 A BILL ~~for an Act to amend and reenact sections 49-03.1-01, 49-03.1-02, 49-03.1-03, and~~
2 ~~49-03.1-05 of the North Dakota Century Code, relating to the requirement for data centers to~~
3 ~~obtain a certificate of public convenience and necessity.~~for an Act to provide for a legislative
4 management study relating to the impact of large energy consumers on the state's electrical
5 grid.

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

7 ~~— **SECTION 1. AMENDMENT.** Section 49-03.1-01 of the North Dakota Century Code is~~
8 ~~amended and reenacted as follows:~~

9 ~~— **49-03.1-01. Certificates of public convenience and necessity – Who to secure.**~~

10 ~~— No public utility shall or data center may not begin construction or operation of a public~~
11 ~~utility plant or system data center infrastructure without first obtaining from the commission a~~
12 ~~certificate that public convenience and necessity require or will require such the construction and~~
13 ~~operation, provided that this certification may not be required for a cooperative-operated data~~
14 ~~center.~~

15 ~~— **SECTION 2. AMENDMENT.** Section 49-03.1-02 of the North Dakota Century Code is~~
16 ~~amended and reenacted as follows:~~

17 ~~— **49-03.1-02. Definitions.**~~

18 ~~— In this chapter, unless the context or subject matter otherwise requires:~~

19 ~~— 1. — "Commission" means the public service commission.~~

1 ~~2. "Data center" means a structure that primarily contains electronic equipment used to~~
2 ~~process, store, and transit digital information, or conduct data mining, owned by an~~
3 ~~investor-owned utility, which consumes twenty megawatts or more of energy, which~~
4 ~~may be:~~

5 ~~a. A freestanding structure;~~

6 ~~b. A portion of a larger structure which uses environmental control equipment to~~
7 ~~maintain the proper conditions for the operation of electronic equipments; or~~

8 ~~c. A structure that accommodates infrastructure, including servers, storage~~
9 ~~systems, and networking equipment, ensuring access to information, operating~~
10 ~~data mining, facilitating the operation of websites, applications, and services, and~~
11 ~~maintaining optimal performance and uninterrupted data availability for an~~
12 ~~enterprise or organization.~~

13 ~~3. "Public utility" includes any association, person, firm, corporation, limited liability~~
14 ~~company, or agency engaged or employed in this state to furnish its product or~~
15 ~~services to the public generally which is statutorily subject to the jurisdiction of the~~
16 ~~commission. The words "public utility" as used in this chapter do not apply to electric~~
17 ~~public utilities, telecommunications companies that are not incumbent~~
18 ~~telecommunications companies under chapter 49-21, or motor carriers of persons or~~
19 ~~property for hire.~~

20 ~~**SECTION 3. AMENDMENT.** Section 49-03.1-03 of the North Dakota Century Code is~~
21 ~~amended and reenacted as follows:~~

22 ~~**49-03.1-03. Certificate application.**~~

23 ~~Application for a certificate of public convenience and necessity shall be made upon forms~~
24 ~~prescribed by the commission. The commission shall make regulations for the filing of such~~
25 ~~application. The application must contain a financial statement, a description of the type of~~
26 ~~service to be offered, a map and description of the area to be served, and a list of all other~~
27 ~~public utilities or data centers providing similar service in the area. Upon the filing of an~~
28 ~~application for a certificate of public convenience and necessity, the commission shall set a~~
29 ~~hearing date which shall not be less than twenty days after the filing. The commission shall~~
30 ~~cause notice of the hearing to be served by certified mail, at least ten days before the day of~~
31 ~~hearing, upon every public utility or data center which is operating, or which has applied for a~~

1 ~~certificate of public convenience and necessity, in the area proposed to be served by the~~
2 ~~applicant, and on other interested parties as determined by the commission. The commission~~
3 ~~shall impose an application fee of up to ten thousand dollars for an application under this~~
4 ~~chapter. With the approval of the emergency commission, the commission may impose an~~
5 ~~additional amount. The commission shall pay the expenses of processing an application under~~
6 ~~this chapter from the application fee paid by the public utility or data center in accordance with~~
7 ~~section 49-02-02.~~

8 ~~—~~ **SECTION 4. AMENDMENT.** ~~Section 49-03.1-05 of the North Dakota Century Code is~~
9 ~~amended and reenacted as follows:~~

10 ~~—~~ **49-03.1-05. Prerequisites to issuance of certificate of public convenience and**
11 **necessity -- Waiver of hearing.**

12 ~~—~~ **1.** ~~Before any certificate may be issued under this chapter, a certified copy of the articles~~
13 ~~of incorporation, charter, or organization of the public utility or data center, if the~~
14 ~~applicant is a corporation or a limited liability company, shall be filed with the~~
15 ~~commission. At the hearing on the application as provided in section 49-03.1-03, the~~
16 ~~applicant shall submit evidence showing that the applicant has received the consent,~~
17 ~~franchise, permit, ordinance, or other authority of the proper municipality or other~~
18 ~~public authority, if required, or has or is about to make application therefor. The~~
19 ~~commission shall have the power, after notice and hearing, to do any of the following:~~

20 ~~—~~ **1.** ~~a.~~ ~~Issue the certificate.~~

21 ~~—~~ **2.** ~~b.~~ ~~Refuse to issue the certificate.~~

22 ~~—~~ **3.** ~~c.~~ ~~Issue the certificate for the construction or operation of only a portion of the~~
23 ~~contemplated facility, line, plant, or system, or data center.~~

24 ~~—~~ **4.** ~~d.~~ ~~Issue the certificate for the partial exercise of the right or privilege sought,~~
25 ~~conditioned upon the applicant's having secured or upon the applicant's securing~~
26 ~~the consent, franchise, permit, ordinance, or other authority of the proper~~
27 ~~municipality or other public authority, and may attach to the exercise of the rights~~
28 ~~granted by any certificate such terms and conditions as in its judgment the public~~
29 ~~convenience and necessity may require.~~

~~2. Notwithstanding any of the foregoing provisions, the commission may grant a certificate if no interested party has requested a hearing on the application after receiving at least twenty days' notice of opportunity to request such hearing.~~

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - IMPACT OF LARGE ENERGY CONSUMERS ON THE ELECTRICAL GRID.

1. During the 2025-26 interim, the legislative management shall study the impact of large energy consumers, including data centers, on the electrical grid of this state, regulatory structure, and economic development. The study must include an evaluation of the:

- a. Electrical grid reliability and infrastructure requirements within the state, including the capacity of the electrical grid, necessary upgrades to accommodate large energy consumers, the cost of necessary upgrades to accommodate large energy consumers, how the cost of necessary upgrades to accommodate large energy consumers are allocated, effects of congestion on the electrical grid caused by increased development, and best practices for integrating high-demand users while maintaining reliability for all ratepayers;
- b. Regulatory consistency throughout the state, including an assessment of the manner in which state and local laws and regulations impact large energy consumers, whether the certificate of public convenience and necessity process is appropriate for private-sector end users, and whether regulatory inconsistencies exist between investor-owned utilities, rural electric cooperatives, municipal power providers, and independent power producers;
- c. Economic impacts affecting the energy industry of the state, including an assessment of job creation, tax revenue generation, and long-term investment trends tied to data center development and other large energy consumers;
- d. Market dynamics of the local and national energy industry, including the role of demand-side management, local versus regional energy market participation, and the ability of large consumers to support grid stability through off-peak consumption or other grid-supportive practices;
- e. Costs and impacts of all regulated and exempted public utilities, including best reporting practices; and

- 1 f. Regulatory and exemption criteria relating to load size, system integration,
2 application processes, impacts to consumers and access to the regional grid
3 systems, electrical generation sources, the feasibility of colocated backup
4 generators at various facilities, and generation sources including legacy electric
5 generation units.
- 6 2. The study must include input from representatives of:
 - 7 a. Data center operators and other large energy consumers operating or
8 considering investment in the state;
 - 9 b. Investor-owned utilities, rural electric cooperatives, municipal power providers,
10 and independent power producers;
 - 11 c. The public service commission;
 - 12 d. The lignite energy council;
 - 13 e. The North Dakota transmission authority;
 - 14 f. Regional transmission organizations;
 - 15 g. The petroleum council; and
 - 16 h. Any other relevant state or federal agency.
- 17 3. The legislative management shall report its findings and recommendations, together
18 with any legislation required to implement the recommendations, to the seventieth
19 legislative assembly.