

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION  
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ROLL NUMBER

DESCRIPTION

1363

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Dennis Halliwell  
Operator's Signature

10/3/03  
Date

2003 HOUSE GOVERNMENT AND VETERANS AFFAIRS

HB 1363

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10/3/03  
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1363

House Government and Veterans Affairs Committee

☐ Conference Committee

Hearing Date 1-30-03

Tape Number	Side A	Side B	Meter #
1	x		16.4-end
1		x	0-10.9
Committee Clerk Signature <i>Jerry Rinker</i>			

Minutes: Chairman Klein: called the meeting to order. All committee members were present.

Dennis Boyd, MDU Resource Group: appeared in support of HB 1363. (SEE ATTACHED TESTIMONY).

Kathy, Excel Energy: appeared in favor of HB 1363.

Bob Graylin, President, Utility Share Holders of North Dakota : appeared in support of HB 1363

we agree with Mr. Boyd's testimony and urge a Do Pass.

Illona Jeffcoat-Sacco, Director, Public Utilities Division, PSC: appeared in opposition of HB 1363. (SEE ATTACHED TESTIMONY).

Representative Klein:? How many FTE's do you have at the present time.

Illona Jeffcoat-Sacco: In public utilities we have 4 and one haif, there are 3 and one half professional levels.

Representative Klemin: Has there ever been any notification in advance that they are going to do a rate filing.

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*Dennis Boyd*  
Operator's Signature

10/3/03  
Date

Page 2  
House Government and Veterans Affairs Committee  
Bill/Resolution Number HB 1363  
Hearing Date 1-30-03

Ilona Jeffcoat-Sacco: Yes, in fact.

Representative Kasper: Do you have a idea how much time it would save you compared to once you go through your process.

Ilona Jeffcoat-Sacco: Not as much time as you are hoping.

Representative Kasper: How many times does the PSC not hire when recommended.

Ilona Jeffcoat-Sacco: PSC usually does hire what the staff recommends. And yes, it could happen at that first recommendation.

Tony Clark, PSC: appeared in opposition on HB 1363. All we are are talking about today is rate increases.

Representative Grande: How often is a rate increase denied?

Tony Clark: Typically the entire increase is not granted.

Susan Wefald, Commissioner: speaking from my own point of view, staff has many responsibilities besides these rate cases. In this next bienium are there some things you can do to address these concerns. I would really appreciate if you would consider that.

Representative Sitte: would you be willing to compromise on the situation here and cutting it to six months?

Susan Wefald: One month off certainly would be better than two months off. However I would again say that if you would allow the commission to address this on its own for the next bienium and then if you hear bad reports in two years you can then come back and take care of it that the commission could not do on its own.

Chairman Klein: were you aware that this thing was going to be comin up?

Susan Wefald: no we had no idea this was going to be coming up.

Page 3  
House Government and Veterans Affairs Committee  
Bill/Resolution Number HB 1363  
Hearing Date 1-30-03  
Hearing closed.

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Deanna Halliwell  
Operator's Signature

10/3/03  
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1363

House Government and Veterans Affairs Committee

☐ Conference Committee

Hearing Date 1-30-03

Tape Number	Side A	Side B	Meter #
2	x		0.7-13.2
Committee Clerk Signature <i>Joseph Burke</i>			

Minutes:

Chairman Klein: called the hearing to order on HB 1363. All committee members present.

Representative Klemin: Moved to **AMEND** on HB 1363.

Representative Kasper: **SECOND** the amendment.

**VOTE 14 YES 0 NO 0 ABSENT**

Representative Kasper: Moved to **DO PASS** as amended HB 1363.

Representative Meier: **SECOND** the motion.

**VOTE 13 YES 1 NO 0 ABSENT.**

Representative Klein: will carry the bill to the floor.

Meeting adjourned.

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*Deanna Hall Smith*  
Operator's Signature

10/3/03  
Date

38302.0101  
Title.0200

Adopted by the Government and Veterans  
Affairs Committee  
January 30, 2003

VR  
1/30/03

HOUSE AMENDMENTS TO HOUSE BILL NO. 1363 GVA 2-03-03

Page 1, line 9, after "motion" insert "In whole or in part."

Page 1, line 10, remove the overstrike over "~~seven~~" and remove "five"

Renumber accordingly

Page No. 1

38302.0101

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Deanna Halliwell  
Operator's Signature

10/3/03  
Date

Date: 1-30-03  
Roll Call Vote #: 1363

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO.

House GOVERNMENT AND VETERANS AFFAIRS Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken to amend

Motion Made By Rep Klemm Seconded By Rep. Kasper

Representatives	Yes	No	Representatives	Yes	No
Chairman M.M. Klein	X		B. Amerman	X	
Vice Chairman B.B. Grande	X		L. Potter	X	
W.R. Devlin	X		C. Williams	X	
C.B. Haas	X		L. Winrich	X	
J. Kasper	X				
L.R. Klemm	X				
L. Meier	X				
M. Sitte	X				
W.W. Tieman	X				
R.H. Wikenheiser	X				

Total (Yes) 14 No 0

Absent

Floor Assignment

If the vote is on an amendment, briefly indicate intent:

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Operator's Signature

10/3/03  
Date



Date: 1-30-03  
Roll Call Vote #: 1363

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO.

House GOVERNMENT AND VETERANS AFFAIRS Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 38302.0101

Action Taken D.P. as amended

Motion Made By Rep. Kasper Seconded By Rep. Meier

Representatives	Yes	No	Representatives	Yes	No
Chairman M.M. Klein	x		B. Amerman	x	
Vice Chairman B.B. Grande		x	L. Potter	x	
W.R. Devlin	x		C. Williams	x	
C.B. Haas	x		L. Winrich	x	
J. Kasper	x				
L.R. Klemin	x				
L. Meier	x				
M. Sitte	x				
W.W. Tieman	x				
R.H. Wikenheiser	x				

Total (Yes) 13 No 1

Absent 0

Floor Assignment Rep. Klein

If the vote is on an amendment, briefly indicate intent:

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10/3/03  
Date

REPORT OF STANDING COMMITTEE (410)  
February 3, 2003 9:38 a.m.

Module No: HR-20-1499  
Carrier: M. Klein  
Insert LC: 38302.0101 Title: .0200

**REPORT OF STANDING COMMITTEE**

**HB 1363: Government and Veterans Affairs Committee (Rep. M. Klein, Chairman)**  
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends  
**DO PASS** (13 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). HB 1363 was placed on  
the Sixth order on the calendar.

Page 1, line 9, after "motion" insert "in whole or in part."

Page 1, line 10, remove the overstrike over "~~seven~~" and remove "five"

Renumber accordingly

(2) DESK, (3) COMM

Page No. 1

HR-20-1499

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Deanna Halliwell  
Operator's Signature

10/3/03  
Date

2003 SENATE GOVERNMENT AND VETERANS AFFAIRS

HB 1363

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Deanna Halliwell  
Operator's Signature

10/3/03  
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1363

Senate Government and Veterans Affairs Committee

☐ Conference Committee

Hearing Date 03/14/03

Tape Number	Side A	Side B	Meter #
Tape 1	x		0-4800
Committee Clerk Signature <i>Lisa Thompson</i>			

Minutes:

**Senator Karen Krebsbach**, Chairman opens HB 1363. All senators present.

**Representative Bette Grande**, sponsor of bill, goes over the bill. The amendment put on in the house was on Line 11, the seven was originally a five. She would like to see this put back in original form.

**Dennis Boyd, MDU Resources Group** (testimony and amendment attached)

**Senator Nelson** : Why is MDU not performance based?

**Boyd**: That is a management decision that has been made.

**Senator Nelson** : It seems that XCEL fluctuates all the time is that possible?

**Boyd**: There is a purchase gas change with that.

**Senator Nelson** : In amendments, it reads part of the rate increase, are you saying there will never be an increase?

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*Dennis Boyd*  
Operator's Signature

*10/3/03*  
Date

Page 2

Senate Government and Veterans Affairs Committee

Bill/Resolution Number HB 1363

Hearing Date 03/13/03  
FM

**Boyd:** We just had a decrease we had to change by the Public Service Commission and we had never had a change in 17 years.

**Senator Krebsbach :** The seven months and 30 days when was that implemented.

**Boyd:** Believe sometime in the mid to late 80's.

**Senator Krebsbach :** If for some unforeseen problem can the commission get an extension?

**Boyd:** I don't believe so, but I am not sure.

**Richard Elken, MDU Resources:** If utilities file a rate decrease the commission is fine with that. As to the time frame the commission has total jurisdiction. They can order a refund if they make a decision after the deadline.

**Kathy Aas, XCEL Energy,** we are in support of Dennis Boyd's testimony

*Neutral*

**Illona Jeffcoat-Sacco, Director, Public Utilities Division, Public Service Commission**

(attached is 2 sets of testimony, one for the engrossed bill as is and a supplemental set against the amendments from Mr. Boyd)

**Senator Wardner :** How is the fund replenished?

**Sacco:** We bill the companies involved.

**Senator Krebsbach :** What is the turn around time?

**Sacco:** Not to long.

**Senator Wardner :** What are some things you consider when granting and not granting rate increase?

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Dennis Boyd  
Operator's Signature

10/3/03  
Date

Page 3

Senate Government and Veterans Affairs Committee

Bill/Resolution Number HB 1363

Hearing Date 03/13/03

<sup>14</sup>  
**Sacco:** Most obvious, if new power plant is coming online then the cost has to be put on rate

payers and we take a look at that. The other is depreciation.

**Senator Wardner :** How about during the studying it they take the increase and have to pay back the refund does it matter?

**Sacco:** I believe the rate increase money would have to go into an escrow account and when decided it would either be paid back or the company would get that.

*Opposition*

**Susan Wefald, Public Service Commissioner,** speaking on behalf of herself.

The commission feels they have been very good about the time of review. We always make a big effort to finish those studies I have tried to be fair during rate cases but now we are being told we are not doing this fast enough. We are just trying to be a good commission.

Closed HB 1363

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*Dennis Halliwell*  
Operator's Signature

10/3/03  
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1363

Senate Government and Veterans Affairs Committee

☐ Conference Committee

Hearing Date 03/27/03

Tape Number	Side A	Side B	Meter #
Tape 1	x		775-2400
Committee Clerk Signature			

Minutes:

Senator Karen Krebsbach, Chairman opens HB 1363. All senators present.

Senator Wardner hands out amendments and goes through them. Senator Wardner moves for an adoption of 38302.0204

Senator Brown 2nd

Committee discussion

Senator Nelson asks Commissioner Susan Wefald from the Public Service Commission if Xcel and Ottertail are on a different system than MDU is?

Commissioner Wefald : Explains that they are on different types of systems depending on whether they are on natural gas, electric etc.

Senator Krebsbach: When it is rate increase request are you able to bill that back?

Wefald: The general fund is reimbursed by the company but not the PCS fund.

Senator Wardner: Could the commission suspend the filing right away?

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10/3/03  
Date

Page 2  
Senate Government and Veterans Affairs Committee  
Bill/Resolution Number HB 1363  
Hearing Date 03/27/03

**Wefald:** I suppose we could call a special meeting.

Vote on amendment 5 Yes 1 No

Senator Wardner moves for a Do Pass as amended

Senator Dever 2nd

5 Yes 1 No

Carrier: Senator Wardner

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Deanna Hall  
Operator's Signature

10/3/03  
Date



2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1363

Senate Government and Veterans Affairs Committee

☐ Conference Committee

Hearing Date 04/01/03

Tape Number	Side A	Side B	Meter #
Tape 1	x		0-1525
Committee Clerk Signature <i>[Signature]</i>			

Minutes:

Senator Karen Krebsbach, Chairman reopens Hb 1363. All senators present.

Senator Wardner moves for a reconsideration of the amendment .0204

Senator Dever seconds

All in favor by voice vote

Senator Wardner moves for a reconsideration of Do Pass as amended

Senator Brown 2nd

All in favor by voice vote.

**Dennis Boyd, MDU Resources**, explains all parties have come to an agreeance and they will be handing out an amendment they have come to terms with.

**Illona Jeffcoat Sacco, Public Service Commission** hands out the amendment and explains.

The commission does not take a position on this amendment, but they are more workable than before.

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*[Signature]*  
Operator's Signature

10/3/03  
Date

Page 2

Senate Government and Veterans Affairs Committee

Bill/Resolution Number HB 1363

Hearing Date 04/01/03

**Senator Krebsbach:** On rate increase, it is not limited to 50%?

**Sacco:** Yes, limitations come in on a, b, and c

Senator Wardner moves to adopt new amendments

Senator Brown 2nd

6 Yes 0 No

Senator Brown moves for a Do pass as amended

Senator Dever 2nd

6 Yes 0 No

Carrier: Senator Wardner

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Deanna Halliwell  
Operator's Signature

10/3/03  
Date

38302.0203  
Title.

Prepared by the Legislative Council staff for  
Senator Wardner  
March 19, 2003

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1363

Page 1, line 9, replace "In whole or in" with "a", replace the second underscored comma with "of", and after "rate" insert "Increase"

Page 1, line 11, overstrike "seven" and insert immediately thereafter "five"

Page 1, line 22, after the period insert "If the commission, in its final order, finds that the interim rate in effect is excessive, the commission may order a refund of the amount found to be excessive. The public utility shall promptly refund to persons entitled to a refund all interim amounts collected by the public utility in excess of the final rate approved by the commission, plus reasonable interest at a rate determined by the commission."

Renumber accordingly

Page No. 1

38302.0203

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Deanna Hallworth  
Operator's Signature

10/3/03  
Date

38302.0204  
Title.0300

Prepared by the Legislative Council staff for  
Senator Wardner  
March 26, 2003

**Senate Amendments to Engrossed HB 1363 - Government and Veterans Affairs  
Committee 03/27/2003**

Page 1, line 9, remove "in whole or in part," and overstrike "the rate," and insert immediately thereafter "up to fifty percent of the rate increase and the"

Page 1, line 11, overstrike "seven" and insert immediately thereafter "six"

Page 1, line 22, after the period insert "If the commission, in its final order, finds that the interim rate in effect is unreasonable, the commission may order a refund of the amount found to be unreasonable. The public utility shall promptly refund to persons entitled to a refund all interim amounts collected by the public utility in excess of the final rate approved by the commission, plus reasonable interest at a rate determined by the commission."

Renumber accordingly

Date: 3/27/03  
Roll Call Vote #: 1

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1363

Senate Government and Veteran Affairs Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Amendment 38302.0204

Motion Made By Wardner Seconded By Brown

Senators	Yes	No	Senators	Yes	No
Senator Karen Krebsbach, Chr.	✓		Senator April Fairfield	✓	
Senator Dick Dever, Vice Chr.	✓		Senator Carolyn Nelson		✓
Senator Richard Brown	✓				
Senator Rich Wardner	✓				

Total (Yes) 5 No 1

Absent 0

Floor Assignment \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

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Dennis Hallworth  
Operator's Signature

10/3/03  
Date

Date: 3/07/03  
Roll Call Vote #: 2

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1363

Senate Government and Veteran Affairs Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 38302.0204

Action Taken Do Pass as amended

Motion Made By Wardner Seconded By Dever

Senators	Yes	No	Senators	Yes	No
Senator Karen Krebsbach, Chr.	✓		Senator April Fairfield	✓	
Senator Dick Dever, Vice Chr.	✓		Senator Carolyn Nelson		✓
Senator Richard Brown	✓				
Senator Rich Wardner	✓				

Total (Yes) 5 No 1

Absent 0

Floor Assignment Wardner

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Operator's Signature

10/3/03  
Date

REPORT OF STANDING COMMITTEE (410)  
March 31, 2003 8:32 a.m.

Module No: SR-57-6133  
Carrier: Wardner  
Insert LC: 38302.0204 Title: .0300

**REPORT OF STANDING COMMITTEE**

**HB 1363, as engrossed: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (5 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). Engrossed HB 1363 was placed on the Sixth order on the calendar.**

Page 1, line 9, remove "in whole or in part," and overstrike "the rate," and insert immediately thereafter "up to fifty percent of the rate increase and the"

Page 1, line 11, overstrike "seven" and insert immediately thereafter "six"

Page 1, line 22, after the period insert "If the commission, in its final order, finds that the interim rate in effect is unreasonable, the commission may order a refund of the amount found to be unreasonable. The public utility shall promptly refund to persons entitled to a refund all interim amounts collected by the public utility in excess of the final rate approved by the commission, plus reasonable interest at a rate determined by the commission."

Renumber accordingly

Deanna Hallworth  
Operator's Signature

10/3/03  
Date

Date: 4/1/03  
Roll Call Vote #: 1

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1363

Senate Government and Veteran Affairs Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken reconsideration of amendment .0204

Motion Made By Wardner Seconded By Dever

Senators	Yes	No	Senators	Yes	No
Senator Karen Krebsbach, Chr.	✓		Senator April Fairfield	✓	
Senator Dick Dever, Vice Chr.	✓		Senator Carolyn Nelson	✓	
Senator Richard Brown	✓				
Senator Rich Wardner	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

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Donna Hall  
Operator's Signature

10/3/03  
Date



Date: 4/1/03  
Roll Call Vote #: 2

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1363

Senate Government and Veteran Affairs Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Reconsideration of amended. 0204 <sup>Do Pass as</sup>

Motion Made By Wardner Seconded By Brown

Senators	Yes	No	Senators	Yes	No
Senator Karen Krebsbach, Chr.	✓		Senator April Fairfield	✓	
Senator Dick Dever, Vice Chr.	✓		Senator Carolyn Nelson	✓	
Senator Richard Brown	✓				
Senator Rich Wardner	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

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Deanna Hallworth  
Operator's Signature

10/3/03  
Date

Prepared by Public Service Commission

PROPOSED AMENDMENT TO ENGROSSED HOUSE BILL NO. 1363

Page 1, line 6, after "rates." insert "1."

Page 1, line 9, after "motion" remove "in whole or in part."

Page 1, line 11, overstrike "seven" and insert immediately thereafter "six"

Page 1, after line 22, insert

- "2. Notwithstanding that the commission may suspend a filing and order a hearing, a public utility may file for interim rate relief as part of its general rate increase application and filing. If interim rates are requested, the commission shall order that the interim rate schedule take effect no later than sixty days after the initial filing date and without a public hearing. The interim rate schedule shall be calculated using the proposed test year cost of capital, rate base, and expenses, except that it shall include

  - (a) a rate of return on common equity for the public utility equal to that authorized by the commission in the public utility's most recent rate proceeding;
  - (b) rate base or expense items the same in nature and kind as those allowed by a currently effective commission order in the public utility's most recent rate proceeding; and
  - (c) no change in existing rate design.
3. In ordering an interim rate schedule, the commission may require a bond to secure any projected refund required by subsection 4. The terms of the bond, including the amount and surety, are subject to the commission's approval.
4. As ordered by the commission, the utility shall promptly refund to persons entitled thereto all interim rate amounts collected by it in excess of the final rates approved by the commission plus reasonable interest at a rate to be determined by the commission."

Renumber accordingly

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Deanna Hall Smith  
Operator's Signature

10/3/03  
Date

*JCB*  
4-2-03

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1363

Page 1, line 6, after the second boldfaced period insert:

"1."

Page 1, line 9, remove "In whole or in part."

Page 1, line 11, overstrike "seven" and insert immediately thereafter "six"

Page 1, after line 22, insert:

- "2. Notwithstanding that the commission may suspend a filing and order a hearing, a public utility may file for interim rate relief as part of its general rate increase application and filing. If interim rates are requested, the commission shall order that the interim rate schedule take effect no later than sixty days after the initial filing date and without a public hearing. The interim rate schedule must be calculated using the proposed test year cost of capital, rate base, and expenses, except that the schedule must include:
- a. A rate of return on common equity for the public utility equal to that authorized by the commission in the public utility's most recent rate proceeding;
  - b. Rate base or expense items the same in nature and kind as those allowed by a currently effective commission order in the public utility's most recent rate proceeding; and
  - c. No change in existing rate design.
3. In ordering an interim rate schedule, the commission may require a bond to secure any projected refund required by subsection 4. The terms of the bond, including the amount and surety, are subject to the commission's approval.
4. As ordered by the commission, the utility shall promptly refund to persons entitled thereto all interim rate amounts collected by the public utility in excess of the final rates approved by the commission plus reasonable interest at a rate to be determined by the commission."

Renumber accordingly

Date: 4/1/03  
Roll Call Vote #: 3

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1363

Senate Government and Veteran Affairs Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Amendment

Motion Made By Wardner Seconded By Brown

Senators	Yes	No	Senators	Yes	No
Senator Karen Krebsbach, Chr.	✓		Senator April Fairfield	✓	
Senator Dick Dever, Vice Chr.	✓		Senator Carolyn Nelson	✓	
Senator Richard Brown	✓				
Senator Rich Wardner	✓				

Total (Yes) 6 No 0

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

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Deanna Hall Smith 10/3/03  
Operator's Signature Date

Date: 4/1/03  
Roll Call Vote #: 34

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1363

Senate Government and Veteran Affairs Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass as amended

Motion Made By Brown Seconded By Dever

Senators	Yes	No	Senators	Yes	No
Senator Karen Krebsbach, Chr.	✓		Senator April Fairfield	✓	
Senator Dick Dever, Vice Chr.	✓		Senator Carolyn Nelson	✓	
Senator Richard Brown	✓				
Senator Rich Wardner	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Wardner

If the vote is on an amendment, briefly indicate intent:

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Donna Halliwell  
Operator's Signature

10/3/03  
Date

REPORT OF STANDING COMMITTEE (410)  
April 2, 2003 11:15 a.m.

Module No: SR-59-6513  
Carrier: Wardner  
Insert LC: 38302.0206 Title: .0400

REPORT OF STANDING COMMITTEE

HB 1363, as engrossed: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1363 was placed on the Sixth order on the calendar.

Page 1, line 6, after the second boldfaced period insert:

"1."

Page 1, line 9, remove "In whole or in part."

Page 1, line 11, overstrike "seven" and insert immediately thereafter "six"

Page 1, after line 22, insert:

- "2. Notwithstanding that the commission may suspend a filing and order a hearing, a public utility may file for interim rate relief as part of its general rate increase application and filing. If interim rates are requested, the commission shall order that the interim rate schedule take effect no later than sixty days after the initial filing date and without a public hearing. The interim rate schedule must be calculated using the proposed test year cost of capital, rate base, and expenses, except that the schedule must include:
  - a. A rate of return on common equity for the public utility equal to that authorized by the commission in the public utility's most recent rate proceeding;
  - b. Rate base or expense items the same in nature and kind as those allowed by a currently effective commission order in the public utility's most recent rate proceeding; and
  - c. No change in existing rate design.
3. In ordering an interim rate schedule, the commission may require a bond to secure any projected refund required by subsection 4. The terms of the bond, including the amount and surety, are subject to the commission's approval.
4. As ordered by the commission, the utility shall promptly refund to persons entitled thereto all interim rate amounts collected by the public utility in excess of the final rates approved by the commission plus reasonable interest at a rate to be determined by the commission."

Renumber accordingly

2003 TESTIMONY

HB 1363

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10/3/03  
Date

**TESTIMONY OF DENNIS BOYD**

**HB 1363**

**January 30, 2003**

---

Mr. Chairman and members of the Committee, for the record my name is Dennis Boyd appearing this morning on behalf of MDU Resources Group and our utility division, Montana-Dakota Utilities Co. in support of HB1363. This legislation has been introduced at our request to address what is referred to in the utility world as "regulatory lag". Regulatory lag, simply stated, is the time between when a utility company incurs costs and the time the Public Service Commission issues a final order in a rate case which allows those costs to be included in rates.

Currently, when a utility company files a rate case, it must give 30 days notice during which time the Public Service Commission can suspend the requested rate and issue public notice. The Commission then has an additional 7 months in which to conduct hearings, review the request, and issue a final rate order, or in other words, the Commission has a total of 8 months before they issue their decision from the time of the initial filing. During this time period the company continues to incur costs not included in the rates and regulatory lag occurs.

HB1363 seeks to change the maximum suspension period for any rate change filed with the Commission from seven months to five months. Coupled with the initial 30 day notice requirement, the maximum time

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*Dennis Boyd*  
Operator's Signature

10/3/03  
Date



period for deciding a rate case filing would go from the current eight months to a total of six months.

There are two reasons we are requesting this change. I have already mentioned regulatory lag. It is critical that the rates for a public utility match the costs incurred in providing the service or commodity, and it is important that our rates be as current to our costs as possible. The preparation of a rate case by a utility company takes several months, and by the time we even begin this process, we are already behind in recovering our costs. In addition to the time it takes to prepare our rate case, the time the Commission takes to determine the final order in a rate case only lengthens and exacerbates the timely recovery of our costs.

The second reason we are seeking this change is because with the increased use of computers, interactive video, and other technological advances, we believe Commission decisions can be made in a shorter time frame. The maximum time period for Commission review and decisions should reflect today's technology.

The last time Section 49-05-06 was changed was in 1987. At that time the total maximum time period for decisions was a total of 12 months. I would note that South Dakota has a total of six months to decide a rate change filing, and they have operated under this time frame since 1977, long before the implementation of computer technology. The size of the Public

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D. Anna Hallmark  
Operator's Signature

10/3/03  
Date

Utilities Commission staff in South Dakota is similar to the size of the staff of the North Dakota Public Service Commission.

I would also like to mention there are other states which have a longer time frame for deciding rate cases. For example Montana and Minnesota currently have nine and ten months respectively to decide rate cases. However, in both of those states there are provisions for interim rate relief. Under the interim provisions, the utility is allowed to implement the new rates within about 60 days of the initial filing, subject to refund if the final order is less than the request. North Dakota has no such interim rate provisions.

Finally, Mr. Chairman and members of the Committee, I would like to remind you that the Public Service Commission has the ability to charge all costs incurred by the Commission directly to the utility requesting the rate increase. In other words, if the Commission needs to hire extra staff, expert witnesses, technical experts, etc. those costs are all billed to the utility.

We ask your favorable consideration of HB1363 and a Do Pass committee recommendation. That concludes my testimony. I have several individuals from our Regulatory Affairs Department with me, and we would be happy to answer your questions.

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10/3/03  
Date

## HB 1363

**Presented by:** Illona Jeffcoat-Sacco  
Director, Public Utilities Division  
Public Service Commission

**Before:** House Government and Veterans Affairs Committee  
Honorable Matthew M. Klein, Chairman

**Date:** 30 January 2003

### TESTIMONY

Mr. Chairman and members of the committee, I am Illona Jeffcoat-Sacco, director of the Public Service Commission's Public Utilities Division. The Public Utilities Division administers the Commission's jurisdiction over telephone, gas and electric public utilities in North Dakota. The commission asked me to appear here today to oppose HB 1363

The Commission is greatly concerned with the shortened amount of time this bill allows the Commission to process rate cases. There are three general reasons why:

1. The Commission faces procedural realities that make a shortened time frame unfeasible.
2. A shortened time frame unfairly tips the balance of regulatory policy too far in favor of one side.
3. A six-month window is outside the norm for regulatory commissions.

This is especially true for a commission of the size of North Dakota's.

#### Unfeasible Time Frame:

When a utility company wishes to increase rates, it simply files new prices with the Commission. Unless the PSC suspends the new rates and

asks for an investigation, the prices are assumed by law to be just and reasonable, and take effect 30 days after filing. Typically, however, the PSC does suspend the increase and the rate case time limits we are debating here today start running. Because these rate cases are highly technical proceedings involving auditors, accountants, engineers and other expert witnesses, they consume a great deal of time.

I should note, the Commissioners themselves are impartial judges in these matters. One or two of the 3.5 Public Utilities Division professional staff members and the Commission's counsel are usually assigned as "advocacy staff." Others are assigned as "advisory staff." Advocacy staff investigates the filing and presents testimony, advisory staff helps the Commission analyze the record and write the order. Due to prohibitions against *ex parte* communications, Commissioners are barred from speaking with advocacy staff or the utility about the case while it is open. The procedure truly does resemble a court proceeding in which staff and the utility company present their cases to Commission. The Commission's decision must be based on the record and fully explain how the Commission reached each conclusion.

The record that is built for the commission's benefit is substantial. Advocacy staff and the utilities prepare hundreds of pages of testimony and exhibits. I have brought the paperwork from just one recent case, MDU's recent gas rate increase case, to give you an idea of just how much preparation goes into these presentations.

The procedures the Commission must follow eat up large chunks of the time window. Here is how the timeline worked for the recent MDU gas case under the current eight-month window:

- 12 April 2002 - MDU filed its gas rate increase application.
- 24 April 2002 - Commission suspended the filing.
- 8 May 2002 - Commission issued RFP for consulting services in response to staff request for technical assistance.
- 29 and 30 May 2002 - responses to the RFP received.
- 5 June 2002 - notice of hearing and public input session issued.
- 17 June 2002 - staff recommended consultant.
- 3 July 2002 - Commission moved to hire consultant.
- 15 July 2002 - public input sessions held via interactive video in Bismarck, Devils Lake, Minot, Jamestown, Williston and Dickinson.
- 7 and 8 October 2002 - technical hearing held.
- 23 October 2002 - transcript of hearing filed.
- 15 November 2002 - briefs and proposed orders filed.
- 10 December 2002 - order issued, two days under the deadline.

You can see that there is already very little time for investigation, discovery, writing direct testimony, rebuttal of the other side's written testimony, writing a round of testimony responding to each other's rebuttal, holding a formal hearing before the commission, analyzing the record and writing an order. Hopefully, you can also now see why chopping two months off the time we have to handle these proceedings is of great concern.

### Unfairly Tips the Balance

As a matter of fairness, this shortened timeframe is not in the public interest. When a utility company files new, increased rates, and the Commission does not act within the statutory time, the new rates automatically go into effect. In other words, even if the delay in the case is the utility company's fault, when the clock runs out the company gets to start charging the new rates, no matter how unjustified. There is no similar counterbalance in favor of ratepayers.

In addition, the utility has as much time as it wants to file its rate increase application and its new rates. All the company's work developing the new rates and preparing supporting documentation is done *before* it files, and *before* the clock starts running. When the company files, the filing includes the company's testimony and supporting documentation. The Commission has to do all its work after the filing, under the statutory deadline.

### The Proposed Time Frame is Outside the Norm

Attached is a survey completed this week of our regional and peer state commissions. It compares the time frames and utility staff resources available to each of these commissions. As you can see – six months is outside the norm. It would be especially burdensome considering that North Dakota has the smallest regulatory staff – by far – of any of the states.

A six-month goal might be more attainable for those states with larger staffs. That's because they have little or no need to contract for expert witnesses and testimony – they have individual accountants, economists, engineers and attorneys at the ready on their staffs – so there is no need to

write RFPs and jump through all of the procedural hurdles. Having greater flexibility with their resources likely saves these states 6 or 8 weeks that we are required to expend in North Dakota. States with larger staffs also likely have more ongoing oversight – so that when a rate case comes up – those experts need much less “lead time” to get their cases prepared.

Finally, please know that the Public Utility Division staff handles far more than just rate cases while this clock is running. In our state, the staff that handles rate cases, is the same staff that

- handles transmission and pipeline line siting
- analyzes utility cost of fuel and purchased gas adjustments
- oversees telephone company access charges
- resolves hundreds of direct consumer complaints
- processes telecommunications interconnection agreement filings
- carries out state oversight of wholesale telecommunications markets
- registers utility companies to provide service in North Dakota
- analyzes regional electric transmission issues
- monitors performance of investor owned utilities
- participates in federal utility proceedings, including design of a new standard market for wholesale electric energy
- processes electric territorial disputes

Our one Special Assistant Attorney General is the staff advocacy attorney in rate cases and also has general legal responsibility over everything within the PSC jurisdiction from coal mine reclamation to grain

elevator insolvencies. To say the staff is stretched thin is an understatement.

In the final analysis, the time in which we must complete rate cases is already shorter than it is in many states, and shorter than it was when I first started working for the Commission. In 1987, the Commission had a total of 12 months to process a rate case, and we had 6 FTEs in Public Utilities and two attorneys. Today our resources are far less. We hope the legislature will not exacerbate this dilemma by passing this bill. We urge a no vote.

Thank you Mr. Chairman, I'd be happy to answer any questions you may have.



# **State Public Utility Commissions Survey of Rate Case Time Limits and Commission Resources**

State	Time Limit	# of public utility regulatory FTE
Alaska	15 months	62 FTE
Delaware	7 months	29 FTE
Idaho	7 months	50 FTE
Iowa	10 months	67 FTE
Kansas	8 months	45 FTE
Minnesota	10 months *	44 FTE
Montana	9 months (after 9 months, rates go into effect subject to refund)	16 FTE
North Dakota	8 months	5 FTE **
South Dakota	6 months	9 FTE
Vermont	8.5 months	45 FTE
Wisconsin	No Time Limit ***	150 FTE
Wyoming	10 months	14 FTE

\* Utility allowed a portion of requested increase as interim rates.

\*\* 4 Full-Time PUD Employees

CPA - Split between PUD and General Office (.5 FTE)

Attorney - Responsible for all Commission functions including PUD (.5 FTE)

\*\*\* No statutory timeframe. Required biennial rate cases usually take 8-9 months to complete.

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10/3/03  
Date

Testimony of Dennis Boyd  
MDU Resources Group, Inc.  
Engrossed House Bill 1363  
Senate Government, Veterans Affairs Committee  
March 14, 2003

---

Good Morning Madam Chair and members of the committee. For the record my name is Dennis Boyd, appearing this morning on behalf of MDU Resources Group and more specifically our utility division, Montana-Dakota Utilities. HB1363 was introduced at our request and deals with the time frame within which the Public Service Commission must issue its final order in rate increase proceedings. It was designed to address what is referred to in the utility world as "regulatory lag". Regulatory lag, simply stated, is the time between when a utility company incurs costs and the time the Public Service Commission issues a final order in a rate case which allows those costs to be recovered in the utilities' rates.

As the bill was originally introduced, it changed the existing time frame for rate case decisions from a current total of 8 months, reducing it to a total of 6 months from the date a rate case is filed with the Commission. During the testimony in the House, the subject of interim rates was mentioned. Interim rates are rates which are put into effect and are charged by the utility, subject to refund with interest, during the time period when the Commission is determining its final decision.

Testimony from the Commission indicated the Commission was uncertain if they had the authority to issue an interim order. In the press of committee activity, the bill was amended by the House Government and Veterans Affairs committee in a manner which the committee thought addressed both MDU's concerns and those of the Public Service Commission, who objected to the bill. The House added the words "in whole or in part", which I believe the committee thought addressed both the

concerns of MDU and the Commission. As sometimes happens in the legislative process, the House amendment unfortunately only addressed the concerns of the Public Service Commission and not those of MDU. By then, the committee report had been signed and the bill was on the way to the House floor. Rather than have the bill returned from the House floor, I indicated I would attempt to further amend in the Senate. Both the committee chairman and vice chair, as indicated by comments a few minutes ago, support that effort.

At this time, Madam Chair and members of the committee, I would like to offer the following amendment, which further clarifies the Commission's authority to grant interim rate relief and changes the bill back to its original intent. The amendment I am offering deletes the comma after the word "motion", and deletes the words "in whole or in" in line 9 of page 1 of the Engrossed House bill, and replaces those words with the word "a". Additionally in line 9 of page 1, my amendment deletes the comma after the word "part" and replaces the comma with the word "of" and adds the word "increase," after the word "rate". As amended, line 9 on page 1 would then read, "the commission, the commission may suspend by motion a part of the rate increase,". In addition the amendment deletes the word "seven" and replaces it with the word "five" in line 11 on page 1.

If I may now, Madam Chair and members of the committee, I would like to back up and explain how the current process works and why we asked to have HB1363 introduced in the first place.

Currently, when a utility company files a rate case, it files a new rate structure with the Public Service Commission. Those new rates are assumed to be reasonable and would go into effect 30 days after the filing, UNLESS the PSC suspends those rates and orders an investigation and hearing. I am unaware of a single instance during my career, now in its 26th year, when

the Commission has not suspended the rates and ordered an investigation and public hearings. Nor am I aware of a single instance where a Commission has granted interim rate relief. Typically, the Commission will wait 2-3 weeks after the filing and then suspend the rates. The Commission then has an additional 7 months in which to review the request, conduct hearings, and issue a final rate order. In other words the Commission has a total of 8 months - the initial 30 days plus 7 months - from the date of filing before they must issue their final decision. During this time period a regulated company such as Montana-Dakota Utilities continues to incur costs not included in the rates, and regulatory lag occurs.

The amendment we have offered to HB1363 also seeks to change the maximum suspension period (currently seven months) for any rate change filed with the Commission to a maximum of five months. Again, coupled with the initial 30 day notice period, the maximum time period for deciding a rate case filing would go from the current 8 months to a total of 6 months. The amendment also clarifies that the Commission may suspend the requested rates.

There are two reasons we are requesting this change. I have already mentioned regulatory lag. Any unregulated business will quickly raise its prices when it incurs increased costs. A grocer will raise the price of a loaf of bread if his wholesale costs increase. A gas station will raise the price of gasoline if his wholesale costs increase. I think I've seen that happen three or four times in the last week or ten days. So will any other business. In most instances any other business is able to raise its prices quickly, maybe even overnight, to recover its increased costs. It is particularly critical for a capital-intensive business such as a public utility that the utility rates match the costs incurred in providing the service or commodity, and it is critical that a utility's rates be as current to its costs as possible. When the recovery of increased costs drags out for months, regulatory lag occurs.

By the time a utility even begins to prepare a rate case, the utility is already months behind - sometimes a year or more behind - in recovering increased costs. In addition, the time the Commission takes to determine a final order in a rate case only lengthens and frustrates the timely recovery of costs.

As an aside Madam Chair and members of the committee, I would like to point out an important difference here between regulated investor-owned utilities and the Rural Electric Cooperatives. While we are subject to a lengthy procedure which almost always takes 8 months in changing our rates, RECs can change their rates in a matter of days - or perhaps in a matter of hours with a conference telephone call. Their boards simply meet and make any desired changes. I've even heard some REC lobbyists refer to this as "coffee cup regulation". While I don't believe that type of regulation is in the public interest, it is relevant to our discussion today because in many instances a customer of a regulated investor-owned electric utility company may live next door or across the street from a customer served by an unregulated Rural Electric Cooperative. Regulatory lag is another unfair burden placed on regulated investor-owned utilities which is not placed on our competitors, the rural electric cooperatives.

The second reason we are seeking this change is because with the increased use of computers, interactive video, and other technological advances, we believe Commission decisions can be made in a shorter time frame. That time frame should reflect today's technology.

I'd like to point out, Madam Chair and members of the committee, that this entire regulatory process applies only to MDU natural gas rates, MDU electric rates, and Xcel Energy natural gas rates. The electric rates of Xcel Energy and Otter Tail Power Company are governed by an entirely different regulatory process called performance-based rates which do

not require the filing of formal rate cases. In addition rate case filings are not frequent occurrences. While MDU has had some natural gas rate cases in recent years, the last MDU electric rate case was in 1986 - 17 years ago! The Public Service Commission is simply not overburdened with rate cases.

Our sister state South Dakota requires utility rate cases to be decided in six months, exactly what our amendment to HB1363 is requesting in North Dakota. South Dakota has operated under the six-month requirement since 1977. While the South Dakota Public Utility Commission does have 3 or 4 more full time employees than the North Dakota Public Service Commission, the ND Commission enjoys the benefit of the Public Utility Valuation Fund - a funding mechanism created by the legislature which allows the Commission to hire any additional staff for rate increase proceedings and bill ALL THE EXPENSES FOR THE ADDITIONAL STAFF TO THE UTILITY COMPANY REQUESTING A RATE INCREASE. In other words, if the Commission needs to hire additional lawyers, accountants, cost of capital experts or other expert technical witnesses, engineers, clerical or other staff, etc.-- whatever they need - they can hire those people and bill all the expenses associated with hiring additional staff to the regulated utility with NO IMPACT to their department budget or appropriation.

Thank you Madam Chair and members of the committee, that concludes my testimony. I ask for your favorable consideration of the amendment I have offered, and then a Do Pass recommendation of HB1363. I do have some individuals from our regulatory affairs department with me, and we would be happy to answer your questions.

**Proposed Amendments to Engrossed House Bill 1363 Offered  
by Dennis Boyd, MDU Resources Group, Inc.**

Section 1, Page 1, Line 9: delete the comma after the word "motion" and delete the words "in whole or in" and replace those words with the word "a". Additionally in Section 1, Page 1, Line 9, delete the comma after the word "part" and replace with the word "of" and add the word "increase," after the word "rate".

As amended, Section 1, Page 1, Line 9 would then read, "the commission, the commission may suspend by motion a part of the rate increase,"

In addition, Section 1, Page 1, Line 11: delete the word "seven" and replace with the word "five"

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Dennis Boyd  
Operator's Signature

10/3/03  
Date

## **Engrossed HB 1363**

**Presented by:** Illona Jeffcoat-Sacco  
Director, Public Utilities Division  
Public Service Commission

**Before:** Senate Government and Veterans Affairs Committee  
Honorable Karen K. Krebsbach, Chair

**Date:** 14 March 2003

### **TESTIMONY**

Madam Chair and members of the committee, I am Illona Jeffcoat-Sacco, director of the Public Service Commission's Public Utilities Division. The Public Utilities Division administers the Commission's jurisdiction over telephone, gas and electric public utilities in North Dakota. The Commission is neutral on Engrossed HB 1363.

The Commission was strongly opposed to the original bill. We appreciate the changes made in the House and ask you to either maintain the language providing a seven month time frame, or alternatively, defeat the bill.

As the bill now stands it merely clarifies that the PSC has the authority to grant a partial rate increase at the time a rate case is filed, subject to refund with interest.

We understand that amendments may be proposed to change the engrossed bill back to its original language shortening the rate case time frame. If these amendments are proposed, we would oppose them and



respectfully request the opportunity to supplement our testimony to further explain our opposition at that time.

Thank you. This completes my testimony. I'd be happy to answer any questions you may have.

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Operator's Signature

10/3/03  
Date

## Engrossed HB 1363

**Presented by:** Illona Jeffcoat-Sacco  
Director, Public Utilities Division  
Public Service Commission

**Before:** Senate Government and Veterans Affairs Committee  
Honorable Karen K. Krebsbach, Chairman

**Date:** 14 March 2003

### SUPPLEMENTAL TESTIMONY

Madam Chair and members of the committee, I am Illona Jeffcoat-Sacco. The commission asked me to supplement my testimony today to oppose any amendment to Engrossed HB 1363 that would shorten the time frame applicable to processing a rate case.

There are three general reasons why a shorter rate case time frame is unreasonable:

1. The Commission faces procedural realities that make a shortened time frame unfeasible.
2. A shortened time frame unfairly tips the balance of regulatory policy too far in favor of one side.
3. A six-month window is outside the norm for regulatory commissions. This is especially true for a commission of the size of North Dakota's.

### Unfeasible Time Frame:

When a utility company wishes to increase rates, it simply files new prices with the Commission. Unless the PSC suspends the new rates and asks for an investigation, the prices are assumed by law to be just and reasonable, and take effect 30 days after filing. Typically, however, the PSC does suspend the increase and the rate case time limits start running. Because these rate cases are highly technical proceedings involving auditors, accountants, engineers and other expert witnesses, they consume a great deal of time.

By way of background, please note that the Commissioners themselves are impartial judges in these matters. One or two of the 3.5 Public Utilities Division professional staff members, and the Commission's counsel, are usually assigned as "advocacy staff." Others are assigned as "advisory staff." Advocacy staff investigates the filing and presents testimony, advisory staff helps the Commission analyze the record and write the order. Due to prohibitions against *ex parte* communications, Commissioners are barred from speaking with advocacy staff or the utility about the case while it is open. The procedure truly does resemble a court proceeding in which staff and the utility company present their cases to Commission. The Commission's decision must be based on the record and fully explain how the Commission reached each conclusion.

The record that is built for the commission's benefit is substantial. Advocacy staff and the utilities prepare hundreds of pages of testimony and exhibits. The procedures the Commission must follow eat up large chunks of the time window. Here is how the timeline worked for the recent MDU gas case under the current eight-month window:

- 12 April 2002 - MDU filed its gas rate increase application.
- 24 April 2002 - Commission suspended the filing.
- 8 May 2002 - Commission issued RFP for consulting services in response to staff request for technical assistance.
- 29 and 30 May 2002 - responses to the RFP received.
- 5 June 2002 - notice of hearing and public input session issued.
- 17 June 2002 - staff recommended consultant.
- 3 July 2002 - Commission moved to hire consultant.
- 15 July 2002 - public input sessions held via interactive video in Bismarck, Devils Lake, Minot, Jamestown, Williston and Dickinson.
- 7 and 8 October 2002 - technical hearing held.
- 23 October 2002 - transcript of hearing filed.
- 15 November 2002 - briefs and proposed orders filed.
- 10 December 2002 - order issued, two days under the deadline.

You can see that there is already very little time for investigation, discovery, writing direct testimony, rebuttal of the other side's written testimony, writing a round of testimony responding to each other's rebuttal, holding a formal hearing before the commission, analyzing the record and writing an order. Hopefully, you can also now see why any shortening of the time we have to handle these proceedings is of great concern.

### Unfairly Tips the Balance

As a matter of fairness, a shortened timeframe would not be in the public interest. When a utility company files new, increased rates, and the Commission does not act within the statutory time, the new rates automatically go into effect. In other words, even if the delay in the case is the utility company's fault, when the clock runs out the company gets to start charging the new rates, no matter how unjustified. There is no similar counterbalance in favor of ratepayers.

In addition, the utility has as much time as it wants to file its rate increase application and its new rates. All the company's work developing the new rates and preparing supporting documentation is done **before** it files, and **before** the clock starts running. When the company files, the filing includes the company's testimony and supporting documentation. The Commission has to do all its work after the filing, under the statutory deadline.

### A Shortened Time Frame is Outside the Norm

Attached is a survey of our regional and peer state commissions. It compares the time frames and utility staff resources available to each of these commissions. As you can see – a shorter time frame would be outside the norm. It would be especially burdensome considering that North Dakota has the smallest regulatory staff – by far – of any of the states.

A shorter time frame might be more attainable for those states with larger staffs. That's because they have little or no need to contract for expert witnesses and testimony – they have individual accountants,

economists, engineers and attorneys at the ready on their staffs – so there is no need to write RFPs and jump through all of the procedural hurdles. Having greater flexibility with their resources likely saves these states 6 or 8 weeks that we are required to expend in North Dakota. States with larger staffs also likely have more ongoing oversight – so that when a rate case comes up – those experts need much less “lead time” to get their cases prepared.

Finally, please know that the Public Utility Division staff handles far more than just rate cases while this clock is running. In our state, the staff that handles rate cases, is the same staff that:

- handles transmission and pipeline line siting,
- analyzes utility cost of fuel and purchased gas adjustments,
- oversees telephone company access charges,
- resolves hundreds of direct consumer complaints,
- processes telecommunications interconnection agreement filings,
- carries out state oversight of wholesale telecommunications markets,
- registers utility companies to provide service in North Dakota,
- analyzes regional electric transmission issues,
- monitors performance of investor owned utilities,
- participates in federal utility proceedings, including design of a new standard market for wholesale electric energy; and
- processes electric territorial disputes

Our one Special Assistant Attorney General is the staff advocacy attorney in rate cases and also has general legal responsibility over everything within the PSC jurisdiction from coal mine reclamation to grain elevator insolvencies. To say the staff is stretched thin is an understatement.

In the final analysis, the time in which we must complete rate cases is already shorter than it is in many states, and shorter than it was when I first started working for the Commission. In 1987, the Commission had a total of 12 months to process a rate case, and we had 6 FTEs in Public Utilities and two attorneys. Today our resources are far less. Consequently, we very much appreciate the action taken by the House to maintain a reasonable period in which to process rate cases.

Thank you for allowing me to supplement my testimony to respond to the proposed amendments. I'd be happy to answer any questions you may have.

## State Public Utility Commissions Survey of Rate Case Time Limits and Commission Resources

State	Time Limit	# of public utility regulatory FTE
Alaska	15 months	62 FTE
Delaware	7 months	29 FTE
Idaho	7 months	50 FTE
Iowa	10 months	67 FTE
Kansas	8 months	45 FTE
Minnesota	10 months *	44 FTE
Montana	9 months (after 9 months, rates go into effect subject to refund)	16 FTE
North Dakota	8 months	5 FTE **
South Dakota	6 months	9 FTE
Vermont	8.5 months	45 FTE
Wisconsin	No Time Limit ***	150 FTE
Wyoming	10 months	14 FTE

\* Utility allowed a portion of requested increase as interim rates.

\*\* 4 Full-Time PUD Employees

CPA - Split between PUD and General Office (.5 FTE)

Attorney - Responsible for all Commission functions including PUD (.5 FTE)

\*\*\* No statutory timeframe. Required biennial rate cases usually take 8-9 months to complete.

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*Deanna Hall*  
Operator's Signature

10/3/03  
Date