



Public Service Commission  
State of North Dakota

JUN 01 2012

COMMISSIONERS

Tony Clark  
Brian P. Kalk  
Kevin Cramer

Executive Secretary  
Darrell Nitschke

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Bismarck, North Dakota 58505-0480  
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Fax: 701-328-2410  
TDD: 800-366-6888 or 711

1 June 2012

Mr. John Walstad  
Code Revisor  
North Dakota Legislative Council  
State Capitol  
600 East Boulevard, 2<sup>nd</sup> Floor  
Bismarck, ND 58505-0360

Re: Notice of Intent to Amend Administrative Rules  
Case Nos. PU-12-162, PU-12-165, and RC-12-166

Dear Mr. Walstad:

Enclosed please find copies of:

- Commission Motion Proposing Amendments, Scheduling Hearing, Issuing Notice of Intent to Amend Rules and Notice of Hearing, and Issuing an abbreviated Notice
- Notice of Intent to Amend Administrative Rules and Notice of Hearing
- Abbreviated Notice of Intent to Amend Administrative Rules and Notice of Hearing
- Proposed rule changes on the following:
  - Section 69-02-05-12 Interrogatories in cases under N.D.C.C. Title 49
  - Section 69-09-02-35 Installation and maintenance - Conformance to National Electrical Safety Code
  - Section 69-09-02-37 Electric master metering prohibited - Exception
  - Article 69-06 Energy Conversion and Transmission Facility Siting
  - Article 69-05.2 Surface Coal Mining and Reclamation Operations

If you have any questions please do not hesitate to call.

Best Regards,

  
Illona A. Jeffcoat-Sacco  
General Counsel

enclosures

Received by the office of the Legislative Council this \_\_\_\_ day of June, 2012  
By: \_\_\_\_\_

APPROVED

DATE: 5-30-12



**MOTION**

**May 30, 2012**

**Public Service Commission  
Public Utilities  
Rulemaking**

**Case No. PU-12-162**

**Public Service Commission  
Siting  
Rulemaking**

**Case No. PU-12-165**

**Public Service Commission  
Reclamation  
Rulemaking**

**Case No. RC-12-166**

I move the Commission propose the following revisions to the North Dakota Administrative Code, schedule a hearing, issue a Notice of Intent to Amend Administrative Rules and a Notice of Public Hearing, and issue an abbreviated Notice of Intent to Amend Administrative Rules and Notice of Public Hearing for publication in each official county newspaper throughout the state as required by law.

Section 69-02-05-12 Interrogatories in cases under North Dakota Century Code Title 49 (create)

Section 69-09-02-35 Installation and maintenance - Conformance to National Electrical Safety Code (amend)

Section 69-09-02-37 Electric master metering prohibited - Exception (repeal)

Article 69-06 Energy Conversion and Transmission Facility Siting (amend and create)

Article 69-05.2 Surface Coal Mining and Reclamation Operations (amend and create)

2 **PU-12-165** Filed: 5/30/2012 Pages: 44  
Commission Motion proposing Rules, schedule hearing, and issue Notices

2 **PU-12-162** Filed: 5/30/2012 Pages: 44  
Commission Motion proposing Rules, schedule hearing, and issue Notices

2 **RC-12-166** Filed: 5/30/2012 Pages: 44  
Commission Motion proposing Rules, schedule hearing, and issue Notices

**STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION**

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Rulemaking**

**Case No. RC-12-166**

**NOTICE OF INTENT TO AMEND ADMINISTRATIVE RULES  
AND NOTICE OF PUBLIC HEARING**

**May 30, 2012**

**PLEASE TAKE NOTICE** that the Public Service Commission will hold a public hearing to address proposed amendments to North Dakota Administrative Code Article 69-05.2. The hearing will be held at **10:00 a.m., on July 12, 2012, in the Commission Hearing Room, 12th floor, State Capitol, Bismarck, North Dakota.** The proposed revisions to the North Dakota Administrative Code are as follows:

**Public Utilities - Case No. PU-12-162**

**Discovery Response Time - Section 69-02-05-12**

The Commission is proposing a new section to Chapter 69-02-05 relating to discovery response time in public utility cases. The rule addition requires that interrogatory responses and objections be received in ten business days.

**National Electrical Safety Code - Section 69-09-02-35**

The proposed change to North Dakota Administrative Code section 69-09-02-35 adopts by reference the current National Electrical Safety Code, the 2012 Edition.

**Master Metering - Section 69-09-02-37**

The proposal repeals North Dakota Administrative Code section 69-09-02-37 that prohibits master metering of electric service in certain multi-tenant commercial or residential buildings unless a waiver is granted. Master metering is the practice of metering all electric service through a single meter instead of requiring separate meters and separate bills for each tenant. Landlords choosing to master meter would pay one



electric bill for their entire building such that tenants in the building would not receive an electric bill from the distribution utility.

**Siting - Case No. PU-12-165 - Article 69-06**

The revisions to North Dakota Administrative Code Article 69-06, Energy Conversion and Transmission Facility Siting, update the process for processing siting applications by the North Dakota Public Service Commission and clarify what is required in each siting application. Items that are currently included in commission guidelines are incorporated into the rules. The resulting rules also address issues specific to wind energy conversion facilities and the new lower jurisdiction threshold for wind energy conversion facilities.

**Reclamation - Case No. RC-12-166 - Article 69-05.2**

Several changes are proposed to North Dakota Administrative Code Article 69-05.2 pertaining to surface coal mining and reclamation operations. The federal Office of Surface Mining is requiring that provisions be added for the Commission's use of the Applicant Violator System prior to the approval of mining permits, renewals and certain revisions. The Applicant Violator System is a national database of mining companies that have unabated violations or unpaid civil penalties. A mining company that is linked to an entity in this database may be ineligible to receive a new mining permit, renewal, or revision that proposes to permit or mine additional lands. The proposed rules also contain procedures for companies to use if they want to challenge information or links in the Applicant Violator System. Two other rule changes are also being proposed. One adds a new subsection to an existing rule on the format of electronic permit applications and the other modifies an existing provision to make it consistent with another rule that was previously amended. The proposed amendments are not expected to have an impact on the regulated community in excess of \$50,000.

Two other rule changes are recommended by staff. One adds a new subsection to an existing rule with general requirements for the format of electronic applications. The other change will make a minor correction to a provision that should have been changed more than fifteen years ago when another rule was modified to no longer require the renewal of a permit once lands in that permit are no longer being mined or used in support of mining.

The proposed rule changes and the statements concerning the Regulatory Analysis, Small Entity Regulatory Analysis and Economic Impact, and Takings Assessment may be reviewed at the Public Service Commission's offices on the 12th floor of the State Capitol, Bismarck, North Dakota. To obtain a copy of the proposed rule changes or the statements contact the Public Service Commission at 600 East Boulevard Avenue, Department 408, Bismarck, North Dakota 58505-0480, 701-328-2400, toll free 1-877-245-6685, Relay North Dakota TTY 1-800-366-6888, or

NDPSC@ND.gov. This information is also available to view on the Commission's web site at [www.psc.state.nd.us](http://www.psc.state.nd.us) under "Formal Actions/Case Search".

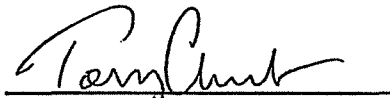
Interested persons may submit written comments on the proposed rules. Written comments should be filed with Darrell Nitschke, Executive Secretary, Public Service Commission, 600 East Boulevard Avenue, Department 408, Bismarck, North Dakota 58505-0480, or NDPSC@ND.gov. The comment period closes 10 days after the hearing. Comments must be received by the close of business on July 23, 2012.

If you require any auxiliary aids or services, such as readers, signers, or Braille materials, please notify the Commission at least 24 hours in advance.

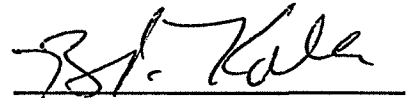
**PUBLIC SERVICE COMMISSION**



**Kevin Cramer  
Commissioner**



**Tony Clark  
Chairman**



**Brian P. Kalk  
Commissioner**



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NOTICE OF INTENT TO AMEND ADMINISTRATIVE RULES  
NOTICE OF PUBLIC HEARING

May 30, 2012

TAKE NOTICE that the Public Service Commission will hold a public hearing to address proposed amendments to the N.D. Admin. Code, relating to public utilities, energy conversion and transmission facility siting, and surface coal mining and reclamation operations.

The public hearing will be held at 10:00 a.m., July 12, 2012, in the Commission Hearing Room, 12th floor, State Capitol, Bismarck, North Dakota. Written comments may be submitted to the Public Service Commission until the close of business on July 23, 2012.

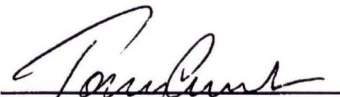
A copy of the proposed rules may be obtained from the Public Service Commission, 600 East Boulevard Avenue, Department 408, Bismarck, North Dakota 58505-0480, 701-328-2400, toll free 1-877-245-6685, Relay North Dakota TTY: 1-800-366-6888, or NDPSC@ND.gov. This information is also available to view on the Public Service Commission's web site at [www.psc.state.nd.us](http://www.psc.state.nd.us) under "Formal Actions/Case Search".

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