

**CHAPTER 69-09-02**  
**STANDARDS OF SERVICE - ELECTRIC**

Section

69-09-02-01	Rates and Regulations to be Filed
69-09-02-02	Information Available to Customers [Superseded]
69-09-02-02.1	Information to Customers
69-09-02-03	Service Connections
69-09-02-04	Deposits and Guarantees
69-09-02-05	Discontinuance of Service [Superseded]
69-09-02-05.1	Discontinuance of Electric Service
69-09-02-06	Continuity of Service
69-09-02-07	Extension of Service
69-09-02-08	Temporary Service
69-09-02-09	Customer Complaints
69-09-02-10	Meter Readings
69-09-02-11	Billing
69-09-02-12	Adjustment of Bill for Meter Errors
69-09-02-13	Refunds and Deficiency Billings
69-09-02-14	Classification of Service
69-09-02-15	Resale and Submetering
69-09-02-16	Measuring Customer Service
69-09-02-17	Standard Frequency
69-09-02-18	Standard Voltage and Allowable Variation
69-09-02-19	Voltage Measurement and Voltage Records
69-09-02-20	Accuracy of Portable Indicating Instruments
69-09-02-21	Accuracy of Watt-Hour Meters
69-09-02-22	Accuracy of Demand Meters
69-09-02-23	Multipliers and Test Constants
69-09-02-24	Instrument Transformers
69-09-02-25	Meter Testing Equipment
69-09-02-26	Meter Testing
69-09-02-27	Determination of Average Meter Error
69-09-02-28	Meter Records
69-09-02-29	Location of Meters
69-09-02-30	Public Interest
69-09-02-31	Cooperation
69-09-02-32	Advance Notice
69-09-02-33	Principle of Least Cost
69-09-02-34	Location of Lines
69-09-02-35	Installation and Maintenance - Conformance to National Electrical Safety Code
69-09-02-36	Raising and Lowering Electric Supply and Communication Lines
69-09-02-37	Electric Master Metering Prohibited - Exception [Repealed]
69-09-02-38	Advertising by Electric Utilities
69-09-02-39	Automatic Adjustment Clauses

**69-09-02-01. Rates and regulations to be filed.**

1. Schedules of rates and charges for the furnishing of electric service, and rules and regulations pertaining thereto, shall be filed with the commission by each utility. The provisions thereof shall be definite and so stated as to minimize ambiguity or the possibility of misinterpretation. The rate schedules, or the rules and regulations, shall include, together with such other information as may be deemed pertinent, the following:

- a. The class of customers to which each rate applies. There shall also be shown any limitation on loads and type of equipment which may be connected, the price per unit of service, and the number of units per billing period to which the prices apply, the period of billing, the minimum bill, the method of measuring demands including method of calculating or estimating loads or minimums, definition of service classification and other terms used in the schedule, and any special terms and conditions applicable. The discount for prompt payment or penalty for late payment, if any, the period, if any, during which the net amount must be paid, and the date when bills become delinquent, shall be specified.
  - b. The nominal voltage at which service will be supplied and the type of service available (direct current, single or polyphase alternating current).
  - c. A list of cities and unincorporated communities where rates are applicable. If the utility has various rural rates, the areas where the rural rates are available shall be indicated.
  - d. A specification of such portion of service connection facilities as the utility furnishes, owns, and maintains, such as service drop, metering equipment, utilization control equipment, etc.
  - e. A statement of the type of special construction commonly requested by customers which the utility allows to be connected, e.g., underground service, and the terms and conditions upon which such construction will be permitted.
  - f. The regulations with which prospective customers must comply as a condition of receiving service, and the terms of any agreements required.
  - g. The regulations governing the establishment of credit, and the making of deposits, by customers to ensure payment for electric service.
  - h. The notice to the utility by a customer required to have service discontinued.
  - i. The regulations covering the furnishing of temporary, emergency, auxiliary, and standby service.
  - j. The regulations covering requirements for the installation of special facilities, such as demand-limiting devices or power factor corrective equipment.
  - k. The regulations governing the location of metering equipment, or other company equipment, and the connection of utilization equipment requiring special controls.
2. Any proposed change in rates or charges for the furnishing of electric service, or rules and regulations pertaining thereto, shall be filed with the commission not less than thirty days prior to the effective date thereof. The filing shall include a statement indicating the reason for the proposed change, the number of customers affected, the estimated increase or decrease in annual revenue and the basis for the estimate, and the existing rate schedules or rules and regulations, if any, to be superseded.
  3. Special contracts for the sale of electric energy to customers shall be filed with the commission showing the name and address of the customer, the point where energy is delivered, the rate to be charged, term of contract, load conditions, voltage of delivery, and other provisions of the contract.
  4. Standard contract forms for the sale of electric energy for streetlighting, municipal water pumping, or other services, shall be filed with the commission showing availability, rates, and all other terms and conditions thereof.

**General Authority:** NDCC 28-32-02, 49-02-11

**Law Implemented:** NDCC 49-02-03, 49-02-11

**69-09-02-02. Information available to customers.**

Superseded by section 69-09-02-02.1.

**69-09-02-02.1. Information to customers.**

A utility shall:

1. Keep copies of its rate schedules, rules, and regulations on file in every office where payments are received.
2. Send a statement to each customer containing a clear and concise explanation of the existing rate schedule, and any rate schedule applied for, that is applicable to that customer.
  - a. The statement shall be sent:
    - (1) Not later than sixty days after the date of commencement of service to the customer; and
    - (2) Not later than thirty days after filing an increase in a rate schedule applicable to such customer. The statement must include for each of the major classes of customers for which there is a separate rate, a summary analysis which shows the economic impact of the proposed rate change and rate design changes, if any, for an average customer within a class based upon an average annual consumption and a statement that the rates applied for are proposed only and that, if the rates are suspended by the commission, the new rates will not be effective until commission action has been taken; and
    - (3) As required by the commission under section 69-02-04-01.
  - b. The statement must include notice to customers regarding the availability and location of the information required in subsection 1.
3. Include with each customer bill, at least once each year:
  - a. A clear and concise summary of the existing rate schedules applicable to each of the major classes of customers for which there is a separate rate;
  - b. An identification of any classes whose rates are not summarized; and
  - c. A notice calling the attention of the customer to the availability of alternative rate schedules for the customer's particular class of service and that, upon request, the utility will assist the customer in determining the billing for load conditions specified by the customer under various rate schedules. The customer, after selecting a particular rate schedule, shall take service under the rate schedule for a period of not less than twelve months, unless the rates are changed or there is a material change in the customer's load.
4. Send each customer upon request, without charge, a clear and concise statement of the actual consumption and cost of energy by the customer for each billing period during the prior year, unless the consumption and cost data is not reasonably ascertainable by the utility.
5. Provide, upon request, information and assistance to the extent reasonably possible so that customers may secure safe and efficient service. A utility must inform each customer of any

change made or proposed to be made in any condition of service that would affect the efficiency of the service or the operation of appliances which may be in use by the customer.

6. File with the commission a sample copy of the statement format required by subsections 2 and 4 and a copy of the summary and notice required by subsection 3. Any format changes in statements or notices under this section must be filed immediately with the commission.

**History:** Effective October 1, 1980; amended effective April 1, 2001.

**General Authority:** NDCC 49-02-11

**Law Implemented:** NDCC 49-02-11

#### **69-09-02-03. Service connections.**

1. A utility shall not connect a customer for electric service until the customer has obtained all necessary permits from the proper authorities. Service may be denied to any customer for failure to comply with the applicable requirements of this chapter or with the service regulations of the utility on file with the commission.
2. A utility may require a customer to sign an application for electric service, and to make a deposit to ensure payment therefore, before making a service connection.

**General Authority:** NDCC 49-02-11

**Law Implemented:** NDCC 49-02-11

#### **69-09-02-04. Deposits and guarantees.**

1. An electric utility may require an applicant for service to make a deposit sufficient to cover the estimated charge for furnishing service to the customer for a sixty-day period. A receipt showing the amount of the deposit, the date the deposit was made, and the depositor's name shall be issued to the depositor. Each utility shall keep a deposit record showing the same information as shown on the depositor's receipt, and shall provide a method of repayment in case the depositor's receipt has become lost or destroyed.
2. The utility shall each year pay interest on such deposit at the rate paid by the Bank of North Dakota on a six-month certificate of deposit. Such rate will be determined as of the first business day of each year, on a six-month certificate of deposit with the smallest deposit required. The interest may be paid to the depositor, or may be deducted from the depositor's indebtedness to the utility for electric service. The payment or deduction for interest must be made during each calendar year, or whenever a deposit is refunded or service discontinued.
3. The utility may accept in lieu of a cash deposit a contract signed by a guarantor, satisfactory to the utility, whereby the payment of a specified sum not to exceed the required cash deposit is guaranteed. The term of such contract must be indeterminate, but it must automatically terminate when the customer gives notice of service discontinuance to the utility or a change in location covered by the guarantee agreement or thirty days after written request for termination is made to the utility by the guarantor. However, no agreement may be terminated without the customer having made satisfactory settlement for any balance which the customer owes the utility. Upon termination of a guarantee contract a new contract or a cash deposit may be required by the utility.

**History:** Amended effective April 1, 1985.

**General Authority:** NDCC 49-02-11

**Law Implemented:** NDCC 49-02-11

#### **69-09-02-05. Discontinuance of service.**

Superseded by section 69-09-02-05.1.

**69-09-02-05.1. Discontinuance of electric service.**

1. A utility may disconnect service if the customer is delinquent in payment for services rendered. However, no utility shall discontinue service to a customer for failure to pay for such service until the utility shall first have given the customer notice of its intention to discontinue such service on account of delinquency. The notice shall:
  - a. Be sent by first-class mail addressed to the customer at the place where service is rendered, except that in the case of residential customers sixty-five years of age or older, or for handicapped customers, personal notice by delivery is required. A copy of each notice must also be mailed to the nearest social service office and to any other appropriate financial assistance agency, providing that prior approval has been given by the customer pursuant to subsection 2.
  - b. Show the amount of the delinquency.
  - c. Include the telephone number of the public service commission.
  - d. Advise the customer of the customer's rights and remedies, including, but not limited to, the right of the customer to stay termination for up to thirty days if the customer advises the utility within the ten-day notice period that dangerous health conditions exist or that the customer is sixty-five years of age or older or that the customer is handicapped. In addition, the notice shall advise the customer of the customer's right to work out a satisfactory deferred installment agreement for delinquent accounts and of the opportunity to enter into equal monthly payment plans for future service.
  - e. Inform the customer that service will be discontinued if the delinquent account is not paid within ten calendar days from the date of mailing or personal delivery of the notice, or if a satisfactory installment agreement is not made with the utility for payment of the delinquent bill.

If the customer elects to enter into a deferred installment agreement for delinquent accounts, service may not be terminated; however, the utility may discontinue service without further notice if the customer fails to pay the delinquent account on or before the date specified in the notice, or in accordance with the deferred installment agreement. The customer shall have the privilege of paying the delinquent account at any time prior to the actual disconnection of service, and the person directed by the utility to make the disconnection shall be deemed authorized and shall accept payment of the delinquent account if tendered to the person by the customer before actual disconnection of service is made.

2. It shall be the responsibility of all residential customers sixty-five years of age or older, handicapped, or having an emergency medical problem in the household, including life-sustaining appliances, such as kidney dialysis, to notify the utility of such status. To assist in such notification, all utilities shall annually include a preaddressed postage-paid postcard in the monthly billing mailed to all residential customers during the billing period ending October first. Such notice shall also be provided to all new customers in that service area when they are first provided service by the utility.

The postcard shall include the following questions:

	YES	NO
1. Is any member of your household 65 years of age or older, or handicapped?	—	—
2. Do you have any emergency medical problem in your household?	—	—

3. Do you desire that the area social service office or other appropriate financial assistance agency be notified in the event of a proposed disconnect? \_\_\_ \_\_\_
4. Do you desire that some other third party be contacted in the event of a disconnect? \_\_\_ \_\_\_

If so, name and address of person \_\_\_\_\_

5. If you are having difficulty paying your utility bill, please contact our local service representative or business office so that we can work with you on your problem.

Utility Telephone Number \_\_\_\_\_

Office Address \_\_\_\_\_

Date \_\_\_\_\_ Name \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_  
Signature

3. Service shall not be disconnected under this section on weekends, Fridays, state holidays, the day before a state holiday, or after twelve noon on any day. A report describing the total number of actual disconnects, date and time, type of customer, and amount of delinquency for each disconnected customer shall be filed monthly with the commission within ten days after the last day of each month.
4. Whenever service has been disconnected for nonpayment of a bill, before reconnection is made the customer shall pay the reconnection fee established in the utility's rate schedules; make a deposit pursuant to section 69-09-02-04 if all or a part of the previous deposit was used in settlement of the delinquent bill; and make a satisfactory settlement for the delinquent bill and for service rendered between the last meter reading date and the date service was disconnected.
5. In the event the customer disputes the amount of a bill for service, the customer may, to prevent disconnection for nonpayment, pay the disputed bill under protest to the utility. Alternatively, the customer may request a formal hearing pursuant to section 69-02-02-02 in which case the utility shall not disconnect service for nonpayment of the disputed bill until a final decision has been issued by the commission. The utility shall immediately give the commission notice of the dispute, and the commission may investigate the dispute. The utility shall refund to the customer any part of such payment made under protest found by the commission to be excessive.
6. A utility may not disconnect service to a customer for failure of the customer to pay for merchandise purchased from the utility; to pay for a different class of service furnished by the utility; to pay for service rendered to a previous occupant of the premises; or to pay the bill of another customer as guarantor thereof.
7. A utility may discontinue service to a customer for failure to comply with regulations of the utility on file with the commission pertaining to installation and operation of utilization equipment, or for use of equipment which interferes with, or adversely affects, the service to other customers, provided the customer has first been notified and afforded reasonable opportunity to change or disconnect such equipment.
8. A utility may discontinue service to a customer upon ten days' written notice if the meter or other equipment installed by the utility has been tampered with, or if there has been a

diversion of service, or if the customer is utilizing electricity before the energy has passed through a meter installed by the utility.

9. When a customer who has tenants is including the cost of utility services in the rent charged and the utility bill becomes delinquent, the utility before disconnecting service must also notify the tenants in writing at least ten days prior to the proposed termination date. The utility must allow each tenant to apply to become the customer of the utility in the tenant's own name, to have the service to the rental facility continued or resumed, and to pay the pro rata share of future bills. Such tenant-customer shall be subject to all the provisions of this chapter.
10. A utility may not discontinue service to a customer for nonpayment of a deposit.

**History:** Effective October 1, 1980; amended effective May 1, 1996; July 1, 1997; April 1, 2001; January 1, 2002.

**General Authority:** NDCC 49-02-11

**Law Implemented:** NDCC 49-02-11

#### **69-09-02-06. Continuity of service.**

1. An electric public utility is responsible for ensuring reliable service.
2. Each utility shall make every reasonable effort to prevent interruptions of service, and when such interruptions occur shall endeavor to reestablish service within the shortest possible time. Whenever the service is necessarily interrupted or curtailed for the purpose of working on equipment, it shall be done at a time which, if at all practicable, will cause the least inconvenience to customers, except in cases of emergency.
3. Each utility shall keep a record of all interruptions to service affecting the entire distribution system of any single community or an important division of a community, and include in the record the date and time of interruption, the date and time service was restored, and, if known, the cause of each interruption. Service interruption records shall be kept for a period of six years.
4. If an electric public utility fails to meet its obligation to provide reliable service to customers, the commission may require action, assess disallowances or fines, or provide a penalty. A penalty, disallowance or fine, or action must take into consideration the nature, circumstances, and gravity of the violation, degree of culpability, history of prior service interruptions, and good faith attempts to ensure reliability.
5. By May first each year, each electric public utility shall file with the commission the records required by this section. The commission, at any time, may upon notice to the electric public utility may require a filing of the records required by this section for a specified time period or specific interruption.
6. Each electric public utility shall include in its annual May first filing, reliability statistics for the previous calendar year, including institute of electrical and electronics engineers standard 1366 indices system average interruption frequency index, system average interruption duration index, customer average interruption duration index. Each utility shall include with this filing the datapoints used to calculate each of the above indices and a detailed breakdown of each major event day. These statistics must be compiled by each electric public utility for its North Dakota distribution system.

**History:** Amended effective January 1, 2022.

**General Authority:** NDCC 49-02-11

**Law Implemented:** NDCC 49-02-11

**69-09-02-07. Extension of service.**

1. It shall be the obligation of each utility to make reasonable extensions of its lines and services to new customers within any area in which it is authorized to serve.
2. Each utility shall file with the commission its rules for extending service to new customers, and shall file any changes in the rules which may be made from time to time.
3. If the utility does not consider that an extension within its service area is justified, the commission, upon request of one or more prospective customers to be served by the extension, may set the matter for public hearing to determine if the extension should be made, and the terms and conditions thereof.

**General Authority:** NDCC 49-02-11

**Law Implemented:** NDCC 49-02-11

**69-09-02-08. Temporary service.**

1. Temporary service is defined as service to circuses, carnivals, traveling shows, construction projects, and all other purposes which from their very nature evidently will be of short duration.
2. A customer taking temporary service shall pay the regular rates applicable to the class or classes of service rendered for all energy used, and, in addition, shall pay the installation and removal cost, less salvage value, of facilities installed by the utility to furnish temporary service to the customer.
3. The utility may require the customer to make an advance deposit sufficient to cover the estimated cost of furnishing temporary service.

**General Authority:** NDCC 49-02-11

**Law Implemented:** NDCC 49-02-11

**69-09-02-09. Customer complaints.**

Each utility shall promptly investigate and keep a record of written complaints received from its customers in regard to safety, service, or operation of its system. The record shall show the name and address of the complainant, the date and nature of the complaint, and its disposition and the date thereof. The complaint records shall be kept for a period of three years.

**General Authority:** NDCC 49-02-11

**Law Implemented:** NDCC 49-02-11

**69-09-02-10. Meter readings.**

1. Readings of all meters used for determining charges to customers shall be made each month. The term "month" means the period between any two consecutive regular meter reading dates, which shall be as nearly as practicable at thirty-day intervals. The meter reading date may be advanced or postponed not more than five days without adjustment of the billing for the period.
2. The utility may read meters used for determining charges to customers less frequently than once each month provided authorization thereof is obtained from the commission.
3. The utility may obtain the meter readings on a form supplied to the customer provided a utility representative reads the meter at least once each three months, and when there is a change of occupancy of the premises, unless otherwise authorized by the commission.
4. Records of all meter readings shall be maintained for a period of six years.

**General Authority:** NDCC 49-02-11

**Law Implemented:** NDCC 49-02-11

**69-09-02-11. Billing.**

1. Bills for electric service shall be rendered monthly, unless otherwise authorized by the commission, or unless service is rendered for a period of less than a month. The term "month" as used for billing purposes means the period between any two consecutive regular meter reading dates, which shall be as nearly as practicable at thirty-day intervals. Bills shall be prorated for periods of less than one month when service is begun or terminated between regular meter reading dates. Bills shall be prorated for a fraction of a month on a daily basis, unless a different basis for proration of bills for fractions of a month is provided in the utility's service regulations on file with the commission.
2. Each bill shall show the present meter reading; the date of the present meter reading; the number of kilowatt hours consumed; the demand, if used for billing purposes; the date or time when the bill is due; the gross and net amounts of the bill and the date or time after which the gross amount must be paid, or the net amount of the bill and the date or time after which the penalty applies and the amount thereof; and identity of the class of service or rate schedule under which the bill is computed. Estimated bills and prorated bills shall be distinctly marked as such.
3. The utility may, if it is unable to obtain a meter reading, bill the customer on an estimated consumption. The basis for the estimate shall be the normal consumption for a corresponding period during the preceding year, or average consumption during the three preceding months.
4. If the period between meter readings is more than one month, the bill for the entire period may be computed on the assumption of uniform monthly use of service during the entire period. However, if estimated monthly bills have been rendered during the period and the customer does not object thereto, bills for the interim period between meter readings need not be recomputed. If the customer objects to an estimated bill, or to a bill based on uniform monthly use, and presents reasonable evidence of zero consumption, or of material variation in consumption, during one or more months of the interim billing period, the bill shall be recomputed on the basis of actual use during each month.
5. Bills for service shall be rendered within thirty days from the present meter reading date. A record of all bills for electric service rendered to customers shall be maintained for a period of six years.

**General Authority:** NDCC 49-02-11

**Law Implemented:** NDCC 49-02-11

**69-09-02-12. Adjustment of bill for meter errors.**

1. Whenever a watt-hour meter is found upon a test made at the request of the customer to have an average error of more than two percent, or a demand meter is found to have an error of more than the allowable limits specified in these rules, an adjustment of bills for service shall be made. The amount of the adjustment shall be calculated on the basis that the metering equipment should be one hundred percent accurate. The utility shall refund to the customer any excess charges for incorrectly metered electric service for a period equal to one-half the time elapsed since the last previous meter test, but not to exceed six months. The utility may charge the customer for any deficiency in billing for incorrectly metered electric service for a period equal to one-half the time elapsed since the last previous meter test, but not to exceed six months. Adjustments shall be based on actual monthly consumptions.

Errors in meter registrations due to "creep" shall be calculated by timing the rate of "creeping" and assuming that the "creeping" affected the meter registration for one-half the time elapsed since the last previous meter test, but not to exceed six months.

2. When the average meter error cannot be determined by test because of failure of part or all of the metering equipment, it shall be permissible to use the registration of check metering installations, if any, or to estimate the quantity of energy used on all available data. The customer shall be advised of the metering equipment failure, and of the basis for the estimated bill. Any adjustment because of failure of metering equipment shall be from the date of the metering equipment failure, if known; or if not known, for a period equal to one-half the time elapsed since the last previous meter test, but not to exceed six months.

**General Authority:** NDCC 49-02-11

**Law Implemented:** NDCC 49-02-11

#### **69-09-02-13. Refunds and deficiency billings.**

Application for refund of any payment to a utility claimed to be in excess of established rates schedules, or rules and regulations pertaining thereto, shall be made within six years from the date of payment. A utility may not retroactively bill a customer a deficiency charge for service rendered more than six years prior to the date of the bill.

**General Authority:** NDCC 49-02-11

**Law Implemented:** NDCC 49-02-11

#### **69-09-02-14. Classification of service.**

1. Residential service is defined as service for general household purposes in space occupied as living quarters, such as single private residences, single apartments, fraternity houses and sorority houses, and for garages, or other auxiliary buildings on the same premises used by the residential customer.
2. Commercial service is defined as service to a business enterprise in space occupied and operated for commercial purposes, such as stores, offices, shops, hotels, garages, wholesale houses, filling stations, barber shops, beauty shops, and any other space occupied for commercial purposes.

A business enterprise operated by an individual, a partnership, or a corporation, may include more than one type of business activity at the same location.

A landlord renting space to separate business enterprises in the same building may take electric service through a single meter on the commercial service rate provided electric service is furnished for occupants of the building as part of the rent, subject, however, to the provisions restricting master meters contained in section 69-09-02-37.

If a single business enterprise occupies more than one unit of space in the conduct of the same business, each separate unit will be metered individually and considered a separate service unless the customer makes provision for the necessary circuits to connect the separate units to permit the use of a single meter.

3. A customer occupying a building for residential and commercial purposes jointly may combine the customer's residential and commercial use on the applicable commercial service rate.
4. Other classes of electric service furnished by the utility shall be defined in applicable rate schedules, or in rules and regulations pertaining thereto. Service to customers for which no specific rate schedule is applicable shall be billed on the commercial or general service rate.

**History:** Amended effective October 1, 1980.

**General Authority:** NDCC 49-02-11

**Law Implemented:** NDCC 49-02-11

**69-09-02-15. Resale and submetering.**

Electric service furnished by a public utility under established rate schedules shall not be resold or submetered by a customer unless the rate schedule under which the customer receives service specifically so provides.

**General Authority:** NDCC 49-02-11

**Law Implemented:** NDCC 49-02-11

**69-09-02-16. Measuring customer service.**

1. All electrical energy sold to customers shall be measured by commercially acceptable measuring devices owned and maintained by the utility, except where it is impracticable to meter loads, such as multiple streetlighting, or temporary or special installations, in which case the consumption may be estimated. Every reasonable effort shall be made to measure at one point all electrical quantities necessary for billing a customer under a given rate.
2. All electric service to the same class of customers rendered under the same rate schedule shall be metered with instruments having generally similar characteristics.

**General Authority:** NDCC 49-02-11

**Law Implemented:** NDCC 49-02-11

**69-09-02-17. Standard frequency.**

1. Each utility furnishing alternating current service shall adopt a standard service frequency for its system.
2. Under normal operating conditions the utility shall maintain a frequency of not more than plus or minus three percent of standard frequency.
3. Variations in frequency in excess of those specified herein caused by service interruptions, the action of the elements, temporary separation of parts of the system, or other causes beyond the control of the utility shall not be considered violations of this section.

**General Authority:** NDCC 49-02-11

**Law Implemented:** NDCC 49-02-11

**69-09-02-18. Standard voltage and allowable variation.**

1. Each utility furnishing electric service shall adopt a standard nominal voltage, or voltages, as may be required by the design of its distribution system for its entire constant voltage service area or for each of the several districts into which the distribution system, or systems, may be divided. The voltage maintained at the utility's service terminals as installed for each customer shall be reasonably constant with a variation in voltage at any time of not more than seven percent above or below nominal voltage. A utility may furnish electric service to a particular customer, or to a group of customers at a specific location, on its system under conditions of voltage variation greater than seven percent if approval thereof is obtained from the commission.
2. Variations in voltage in excess of those specified herein caused by service interruptions, the action of the elements, temporary separation of parts of the utility's system, infrequent and

unavoidable fluctuations of short duration, or other causes beyond the control of the utility shall not be considered a violation of this section.

**General Authority:** NDCC 49-02-11

**Law Implemented:** NDCC 49-02-11

**69-09-02-19. Voltage measurement and voltage records.**

1. Each utility shall employ at least one portable indicating voltmeter, and at least one device capable of producing recorded voltage measurements in continuous service at the plant, office, or on a customer's premises. Each utility shall make a sufficient number of voltage measurements to indicate the character of the service furnished to its customers and to satisfy the commission, upon request, of its compliance with established voltage requirements. All voltage measurement records shall be available for inspection by the commission for a period of one year.
2. Each recording voltmeter shall be checked with an indicating voltmeter when it is placed in operation and when it is removed, or periodically if the instrument is in a permanent location.

**History:** Amended effective January 1, 2002.

**General Authority:** NDCC 49-02-11

**Law Implemented:** NDCC 49-02-11

**69-09-02-20. Accuracy of portable indicating instruments.**

All portable indicating electrical instruments used for determining quality of service to customers or for billing purposes, such as voltmeters, ammeters, and wattmeters, shall be checked against suitable secondary reference standards at least once in each twelve months. If the portable indicating instrument is found appreciably in error at zero, or in error by more than two percent of indication at full scale deflection, it shall be adjusted to indicate correctly.

**General Authority:** NDCC 49-02-11

**Law Implemented:** NDCC 49-02-11

**69-09-02-21. Accuracy of watt-hour meters.**

Watt-hour meters used for measuring electrical energy furnished to customers shall:

1. Be of proper design for the circuit on which they are used, be in good mechanical condition, and shall register correctly.
2. Not creep at "no load". A meter shall be considered to creep when the load wires are disconnected, and potential is impressed, if the disk makes more than one full revolution in five minutes or less.
3. Be accurate, when used on alternating current circuits, to within plus or minus two percent, at unity power factor, on light load (ten percent of meter reading) and on full load (one hundred percent of meter rating); and to within plus or minus three percent, at fifty percent lagging power factor, on full load (one hundred percent of meter rating).
4. Be accurate, when used on direct current circuits, to within plus or minus two percent on light load (ten percent of meter rating) and on full load (one hundred percent of meter reading).
5. If polyphase meters, have their elements in balance within two percent of full load (one hundred percent of meter rating) at unity power factor, and at fifty percent lagging power factor.

6. If used in conjunction with instrument transformers, for which laboratory test records are available, be adjusted so that the overall accuracy of the metering installation will meet the requirements of this section.

**General Authority:** NDCC 49-02-11

**Law Implemented:** NDCC 49-02-11

#### **69-09-02-22. Accuracy of demand meters.**

Demand meters, demand registers, or demand attachments used to measure electric service to customers shall: be in good mechanical and electrical condition; have proper constants, indicating scale, contact device, and resetting device; not register at no load; and be accurate within the following limits:

1. Curve-drawing meters which record quantity-time curves, and integrated-demand meters, shall be accurate to within plus or minus two percent of full scale deflection throughout their working range. Timing elements measuring specific demand intervals shall be accurate to within plus or minus two percent, and the timing element which serves to provide a record of the time of day when the demand occurs shall be accurate to within plus or minus four minutes in twenty-four hours.
2. Lagging-demand meters shall be accurate to within plus or minus four percent of full scale deflection.

**General Authority:** NDCC 49-02-11

**Law Implemented:** NDCC 49-02-11

#### **69-09-02-23. Multipliers and test constants.**

1. Meters which are not direct reading, and meters operating from instrument transformers, shall have the multiplier plainly marked on the dial of the instrument or other suitable location, and all charts taken from recording meters shall be marked with the date of the record, the meter number, the customer, and the chart multiplier.
2. The register ratio shall be marked on all meter registers. The watt-hour constant for the meter itself shall be shown on all watt-hour meters.

**General Authority:** NDCC 49-02-11

**Law Implemented:** NDCC 49-02-11

#### **69-09-02-24. Instrument transformers.**

1. Instrument transformers used in conjunction with metering equipment to measure electric energy furnished to customers shall be in proper mechanical condition and shall have electrical insulation satisfactory for the service on which used.
2. The accuracy of current transformers shall comply with the requirements of American standards association accuracy class 1.2.
3. The accuracy of potential transformers shall comply with the requirements of American standards association accuracy class 0.6.
4. Instrument transformers for special installations may be tested in a laboratory before installation provided the last records are kept to aid in adjusting the meter used in conjunction with the transformer.

5. Current transformers shall be tested for short-circuited primary or secondary turns, high resistance connections, and proper wire connections whenever the metering installation is tested for accuracy.
6. The nameplate voltage ratio of potential transformers shall be checked whenever the metering installation is tested for accuracy.

**General Authority:** NDCC 49-02-11

**Law Implemented:** NDCC 49-02-11

**69-09-02-25. Meter testing equipment.**

1. Each utility shall maintain sufficient laboratories, meter testing shops, secondary standards, instruments, and facilities to determine the accuracy of all types of meters and measuring devices used by the utility.
2. Each utility maintaining primary standards such as precision wattmeters, volt boxes, resistances, and timing devices shall have such standards certified at the time of purchase as to accuracy by a recognized laboratory other than that of the manufacturer of the standard.
3. Utilities not maintaining standardization laboratories may obtain authorization from the commission to have their standards certified for them by an approved laboratory.
4. Secondary watt-hour meter standards shall not be in error by more than plus or minus three-tenths of one percent at loads and voltages at which they are to be used, and shall not be used to check or calibrate working standards unless the secondary standard has been checked and adjusted, if necessary, within the preceding twelve months. A history and calibration record shall be kept for each secondary standard watt-hour meter.
5. Any two or more of at least three watt-hour meters may be used as a secondary standard to check portable rotating standards provided there is no discrepancy in accuracy between any two of the watt-hour meters used by more than two-tenths of one percent at standard test loads. Calibration and history records shall be maintained for each of the meters used as secondary standards.
6. Secondary standard indicating instruments shall not be in error by more than plus or minus one-half of one percent of indication at commonly used scale deflections, and shall not be used to check or calibrate portable indicating instruments unless the secondary standard has been checked and adjusted, if necessary, within the preceding twelve months. A calibration record shall be maintained for each standard.
7. All working rotating standards, when regularly used, shall be compared with a secondary standard at least once a month if they are of the commutator type, and at least once in every six months if of the induction type. Working rotating standards infrequently used shall be compared with a secondary standard before they are used.
8. Working rotating standards shall be adjusted, if necessary, so that their accuracy will be within plus or minus three-tenths of one percent at unity power factor, and within plus or minus one-half of one percent at fifty percent lagging power factor at all voltages and loads at which the standard may be used. A history and calibration record shall be kept for each working rotating standard.
9. The meter accuracies herein required for all primary, secondary, and portable standards shall be referred to one hundred percent. Service measuring equipment shall be adjusted to within the accuracies required assuming the portable test equipment to be one hundred percent accurate; provided, that a utility may use calibration records to compensate for known errors of secondary standards and working standards in adjusting service measuring equipment.

**General Authority:** NDCC 49-02-11

**Law Implemented:** NDCC 49-02-11

**69-09-02-26. Meter testing.**

1. The testing of any unit of metering equipment shall consist of a comparison of its accuracy with a standard of known accuracy. Meters shall be adjusted as closely as practicable to the condition of zero error, and may be checked for accuracy at the point where they are installed, or at a central testing laboratory, or in a mobile testing laboratory.
2. All meters shall be tested for accuracy before initially placed in service. Metering equipment associated with instrument transformers shall be tested for accuracy on the customer's premises within sixty days after installation and whenever the instrument transformers are changed.
3. Meters shall be tested for accuracy at unity power factor, provided that polyphase meters shall also be checked for accuracy at fifty percent power factor whenever tested.
4. Watt-hour meters, and associated equipment such as demand measuring devices, shall be periodically tested for accuracy in accordance with a plan approved by the commission or the following schedule:

**PERIODIC TEST SCHEDULE**

Meter Description	To Be Tested At Least Once in Every
Alternating current meters:	
Up to and including twelve kilovolt-amperes	120 months
Over twelve kilovolt-amperes up to and including one hundred kilovolt-amperes	36 months
Over one hundred kilovolt-amperes	12 months
Direct current meters:	
Up to and including six kilowatts	42 months
Over six kilowatts up to and including one hundred kilowatts	18 months
Over one hundred kilowatts	12 months

The kilovolt-ampere rating of an alternating current, single-element meter, or the kilowatt rating of a direct current meter, is the product of the rated voltage and the rated current. In the case of polyphase or multielement meters, the rating is the product of the rated voltage and the rated current multiplied by the number of meter elements. When meters are connected to and tested in conjunction with instrument transformers, the nominal rating of the transformer shall be used in the determination of the kilovolt-ampere rating of the metering equipment.

5. An electric service utility shall test the accuracy of any meter upon request of the customer, shall provide the customer with a report of the test results, and shall keep the complete original test record and a copy of the report on file in the utility's office.
6. A customer may request in writing to the commission that the utility's test be supervised by a commission representative.

7. The customer may not be charged for the test provided the customer requests no more than one test each twelve-month period, otherwise the utility may charge a tariffed rate. The charge must be waived if the meter error is more than plus or minus two percent.

**History:** Amended effective July 1, 1997.

**General Authority:** NDCC 49-02-11

**Law Implemented:** NDCC 49-02-11

#### **69-09-02-27. Determination of average meter error.**

Whenever a metering installation is found upon any test to be in error by more than two percent at any test load, the average error shall be determined as follows:

1. If the metering installation is used to measure a load which has practically constant characteristics, such as a streetlighting load, the meter shall be tested under similar conditions of load and the accuracy of the meter "as found" shall be considered as the average error.
2. If a single-phase, or direct current, metering installation is used on a varying load, the average error shall be the weighted algebraic average of the error at light load, with a weighting of one, and the error at heavy load, with a weighting of four.
3. If a polyphase metering installation is used on a varying load, the average error shall be the weighted algebraic average of the error at light load (unity power factor) with a weighting of one, the error at heavy load (unity power factor) with a weighting of four, and the error at heavy load (fifty percent lagging power factor) with a weighting of two.

**General Authority:** NDCC 49-02-11

**Law Implemented:** NDCC 49-02-11

#### **69-09-02-28. Meter records.**

1. Each utility shall keep a history record of each unit of metering equipment used for measuring service to customers showing date of purchase; utility's identification number; essential nameplate data; associated equipment, if any; dates of tests; results of all "as found" and "as left" tests; and locations where installed together with dates of installation and removal. A utility may keep separate records at different locations on its system for each unit of metering equipment in lieu of a history record provided that said records include all data required on a history record and that the two most recent tests records are retained. Only the most recent test record need be kept if a complete history record is maintained.
2. A test record shall be made whenever a unit of metering equipment is tested. The test record shall show the utility's identification number; nameplate data; location of the unit; equipment with which the device is associated; date of test; reason for test; register readings before and after the test; a statement as to whether the meter "creeps", and in case of creeping, the rate; a statement of "as found" and "as left" accuracies sufficiently complete to permit checking of the calculations; an indication that all required checks have been made; a statement of repairs made, if any; identification of test standard used; and name of person making the test.
3. Each utility shall file with the commission annually a summary report of all meter tests made during the year on forms to be supplied by the commission.

**General Authority:** NDCC 49-02-11

**Law Implemented:** NDCC 49-02-11

**69-09-02-29. Location of meters.**

1. Meters on customers premises shall be installed in locations free of conditions detrimental to the metering equipment, and where the metering equipment will not create a hazard, or be inconvenient for servicing or reading. Meters shall be located so that there is not less than three feet [.91 meters] of unobstructed space in front of the meter, and so that the top of the meter is not less than four feet [1.22 meters], nor more than seven feet [2.13 meters], above the floor, ground, or permanent platform.
2. Outdoor meters shall be mounted securely on rigid structures such as yard poles, houses, garages, or other buildings. Outdoor meters shall be located so that they will not be subject to damage by passing objects.
3. Indoor metering equipment shall be located as near as practicable to the point where service enters the building, and shall be mounted securely on a permanent structure in a location free from excessive moisture, high temperature, and vibration. Meters shall not be placed in attics, living rooms, bathrooms, toilets, bedrooms, over doors or windows, or in any location where annoyance or inconvenience might be caused by servicing or reading the meter. When two or more meters are installed in an office, apartment, or other building, the meters shall be placed side by side on the same meter board with a distance between centers of not less than seven and one-half inches [19.05 centimeters] for alternating current meters and fifteen inches [38.1 centimeters] for direct current meters.

**General Authority:** NDCC 49-02-11

**Law Implemented:** NDCC 49-02-11

**69-09-02-30. Public interest.**

The public has a paramount right to:

1. All forms of public service efficiently rendered at a reasonable cost.
2. Require that public service facilities shall be so constructed and maintained as not to constitute a hazard to life and property.
3. Establish regulations which will permit the full economic use of public rights of way for the distribution of all classes of utility service.

**General Authority:** NDCC 49-02-04

**Law Implemented:** NDCC 49-02-04, 49-20-02

**69-09-02-31. Cooperation.**

A utility contemplating new construction, or changes in construction or operating conditions of its facilities, should make every reasonable effort to avoid conflicts or interference with other public service facilities in situations or proximity. It shall be the duty of utilities concerned to cooperate, and to adopt, after full consideration of all factors, the best engineering solution to problems of conflict and interference due to unavoidable proximity of facilities.

**General Authority:** NDCC 49-02-04

**Law Implemented:** NDCC 49-02-04, 49-20-02

**69-09-02-32. Advance notice.**

It shall be the duty of a utility to give advance notice (at least sixty days where practicable, but not less than twenty days) to other utilities serving in the same general territory of contemplated new

construction, or of changes in construction of operating conditions of its facilities in situations of existing or anticipated proximity.

**General Authority:** NDCC 49-02-04

**Law Implemented:** NDCC 49-02-04, 49-20-02

**69-09-02-33. Principle of least cost.**

It shall be the duty of utilities, when coordination of facilities is necessary to avoid or mitigate conflicts or interference, to adopt, after a full consideration of all factors, the most practicable method which provides the greatest present and future economy and convenience in rendering the services involved irrespective of whether the selected method applies to electric supply or signal systems or both.

**General Authority:** NDCC 49-02-04

**Law Implemented:** NDCC 49-02-04, 49-20-02

**69-09-02-34. Location of lines.**

In situations where communication lines and electric supply lines on the same right of way are not to occupy joint poles or where either kind of line is alone on a right of way, all communication lines should be placed on one side of the right of way and all electric supply lines should be placed on the other side.

In the construction or reconstruction of electric supply and communication lines, unnecessary crossings of the right of way from side to side should be avoided.

Overbuilding of one line by another line should be avoided where practicable. Where necessary for different types of lines to occupy the same side of a right of way, joint use is generally preferable to overbuilding.

**General Authority:** NDCC 49-02-04

**Law Implemented:** NDCC 49-02-04, 49-20-02

**69-09-02-35. Installation and maintenance - Conformance to National Electrical Safety Code.**

The installation and maintenance of electric supply and communication lines shall conform to rules and regulations established in the 2017 edition of the National Electrical Safety Code which is adopted by reference. Copies of these regulations may be obtained from the public service commission, state capitol, Bismarck, North Dakota 58505-0480.

**History:** Amended effective September 1, 1984; January 1, 1988; December 1, 1990; August 1, 1993; July 1, 1997; March 1, 2003; July 1, 2008; April 1, 2013; July 1, 2017.

**General Authority:** NDCC 49-02-04

**Law Implemented:** NDCC 49-02-04, 49-20-02

**69-09-02-36. Raising and lowering electric supply and communication lines.**

1. If the circumstances necessitate the raising or lowering of electric supply or communication lines to permit the movement of buildings or other bulky objects, the person in charge of such movement shall give the official in charge of the lines preliminary advance notice thereof not less than ninety-six hours prior to the time of crossing, unless a shorter notice is mutually agreed upon. The preliminary advance notice shall include the following information:
  - a. The name and address of the owner, and mover, of the building or other object to be transported.
  - b. The location of the proposed crossings.

c. The height, when mounted, of the building or other object aboveground.

The person in charge of the movement of a building or other bulky object shall give the official in charge of electric supply or communication lines final advance notice not less than twenty-four hours prior to the time of crossing, and shall then specify the day and hour of arrival at the proposed crossings.

If, in the opinion of the official in charge of electric supply or communication lines, the proposed crossings will necessarily cause a serious interruption of services provided by the line, then the raising or lowering of the line shall be made at such time as to cause least inconvenience to the users thereof. The time of crossing, in that case, shall be fixed by the official in charge of the line after due consideration of all factors involved, including any requirements imposed by law upon the mover; but, except by mutual agreement, the time shall not be later than twenty-four hours after the time of crossing specified in the final advance notice. However, if, in the opinion of the official, any interruption of service provided by the line will materially affect public health, safety, or welfare, then the official in charge of the line may petition the commission for authority to refuse the request for crossing. The official in charge of electric supply or communication lines may require that all requests for crossing of lines under the official's supervision be in writing.

2. The person in charge of the movement of a building or other bulky object which will necessitate the raising or lowering of electric supply or communication lines shall ascertain, in advance, the ownership of all lines along the proposed route of travel, and shall give the official in charge of each line due notice of proposed crossings as provided for in this section.
3. The official in charge of electric supply or communication lines may require that any person requesting the raising or lowering thereof to permit the movement of a building or other bulky object shall deposit, in advance, the estimated cost of raising or lowering and restoring the lines. The official shall promptly notify the person requesting the raising or lowering of lines that a deposit will be required. The deposit shall be made not less than twenty-four hours prior to the time of the proposed crossing, unless a lesser time is agreed upon. Any amount of the deposit in excess of the cost of raising or lowering and restoring the lines shall be refunded to the depositor. If the cost thereof exceeds the deposit, the person making the request shall promptly pay any amount in excess of the deposit.
4. After compliance with all requirements provided for in this section, the official in charge of the electric supply or communication lines shall proceed to raise or lower the lines to permit the movement of buildings or other bulky objects at the time agreed upon, or as specified in the final advance notice.
5. The person in charge of the movement of a building or other bulky object shall notify the official in charge of electric supply or communication lines in advance of the specified time of crossing of any probable delay in arriving at the proposed crossings. Likewise, the official in charge of the lines shall promptly notify the mover of any unavoidable delay in raising or lowering lines at the proposed crossings.
6. Any person required to pay for the raising or lowering and restoring of electric supply or communication lines shall, upon request, be furnished an itemized statement showing in detail all costs incurred.
7. If any charge is made for the raising or lowering and restoring of electric supply or communication lines, the official in charge of said lines shall make and keep, for a period of not less than one year, a record of all direct costs incurred each time the lines under the official's supervision are raised or lowered to permit the movement of a building or other bulky object. However, if the cost of raising or lowering and restoring a particular line exceeds fifty

dollars, records shall be made and kept, for a period of not less than one year, showing the following additional information:

- a. The original written request for crossings, if submitted in writing, and a notation of the day and hour received.
  - b. A memorandum of an oral request for crossing, noting thereon the day and hour received, and any other pertinent information.
  - c. The location of the crossing, or crossings.
  - d. The estimated cost of the crossings, if quoted; and the amount of deposit received, if any.
  - e. The day and hour the electric supply or communication lines were ready for crossing.
  - f. The day and hour the crossing was completed.
  - g. The number of wires involved, whether wires were raised or lowered to permit crossing, and any other pertinent information regarding work performed and time required to complete the job.
  - h. The vertical clearance in feet [meters] of lowest wire aboveground before wires were raised, if the owner or mover of the building or other object requests that information.
  - i. If an electric supply line, the normal voltage between wires, and whether line was deenergized.
  - j. Names of crew members assigned to job; hours worked by each crew member; method of transportation, indicating miles [kilometers] traveled or time required; and a list of materials used on the job.
8. The charges which may be assessed for the raising or lowering and restoring of electric supply or communication lines shall be the direct cost incurred.
  9. Any official in charge of electric supply or communication lines who fails, except for good cause, to have the lines raised or lowered to permit the movement of buildings or other bulky objects at the time specified, as provided for in this section, shall be deemed to have violated this chapter.

**General Authority:** NDCC 49-02-21

**Law Implemented:** NDCC 49-02-21

**69-09-02-37. Electric master metering prohibited - Exception.**

Repealed effective April 1, 2013.

**69-09-02-38. Advertising by electric utilities.**

1. Definitions. For purposes of this section:
  - a. "Advertising" means the commercial use, by an electric utility, of any media, including newspaper, printed matter, radio, and television, in order to transmit a message to a substantial number of members of the public or to the utility's electric customers.
  - b. "Institutional advertising" means advertising which has as its primary objective the enhancement or preservation of the corporate image of the utility and to present it in a favorable light to the general public and investors.

- c. "Political advertising" means any advertising for the purpose of influencing public opinion with respect to legislative, administrative, or electoral matters, or with respect to any controversial issue of public importance.
- d. "Promotional advertising" means any advertising for the purpose of encouraging any person to select or use the service or additional service of an electric utility or the selection or installation of any appliance or equipment designed to use the utility's service.
- e. "Institutional advertising", "political advertising", and "promotional advertising" do not include:
  - (1) Advertising which informs electric customers how they can conserve energy or can reduce peak demand for electric energy.
  - (2) Advertising required by law or regulations.
  - (3) Advertising relating to service interruptions, safety measures, or emergency conditions.
  - (4) Advertising concerning employment opportunities with an electric utility.
  - (5) Advertising which promotes the conservation of limited resources, the use of more plentiful resources, or the use of energy efficient appliances, equipment, or services.
  - (6) Any explanation or justification of existing or proposed rate schedules, or notifications of hearings thereon.
  - (7) Advertising determined by the commission to benefit customers and serve the public interest.
- 2. Any expenditure by the utility for institutional, promotional, or political advertising shall be excluded from operating expenses in the cost of service determination for ratemaking purposes.
- 3. Advertising expenditures which are reasonable in amount and which are not excluded by the provisions of this section may be included as operating expenses in the cost of service determination for ratemaking purposes.

**History:** Effective October 1, 1980.

**General Authority:** NDCC 49-02-11

**Law Implemented:** NDCC 49-02-11

**69-09-02-39. Automatic adjustment clauses.**

- 1. As used in this section, the term "automatic adjustment clause" means a tariff provision that provides for increases or decreases, or both, without prior hearing, in rates reflecting increases or decreases, or both, in energy costs incurred by an electric utility.
- 2. An automatic adjustment clause that does not conform to the principles set out in this section may not be in the public interest. This section contemplates that the filing of a proposed rate tariff that includes a nonconforming automatic adjustment clause may result in suspension of all or part of the tariff.
- 3. The automatic adjustment clause must be in a form that provides for periodic adjustments per kilowatt-hour of sales equal to the difference between the energy cost per kilowatt-hour of sales in the base period and in the current period in accordance with the following formula:

$$\text{Adjustment Factor} = (F_m - S_m) - (F_b - S_b)$$

For the purposes of this formula: "Fm" is the expense of fossil and nuclear fuel in the current period; "Fb" is the expense of fossil and nuclear fuel in the base period; "Sm" is the kilowatt-hour sales in the current period; and "Sb" is the kilowatt-hour sales in the base period. The energy costs per kilowatt-hour for the current period shall be calculated from data covering actual costs from the most recent four-month period as follows: Energy costs for actual months 1, 2, 3, and 4 plus unrecovered (or less overrecovered) prior cumulative energy costs divided by kilowatt-hour sales for actual months 1, 2, 3, and 4 equals the energy cost adjustment for month 6.

4. Energy costs (F) are the cost of:
  - a. Fuel consumed in the utility's own plants, and the utility's share of fossil and nuclear fuel consumed in jointly owned or leased plants;
  - b. The actual identifiable fuel costs associated with energy purchased for reasons other than those identified in subdivision c;
  - c. The net energy cost of energy purchases, exclusive of capacity or demand charges, irrespective of the designation assigned to such transaction, when such energy is purchased:
    - (1) On an economic dispatch basis. Included therein may be such costs as the charges for economic energy purchases and the charges as a result of scheduled outage, all such kinds of energy being purchased by the buyer to substitute for its own higher cost energy;
    - (2) From a renewable energy source, including hydropower, wood, windpower, and biomass; and
    - (3) From a qualifying facility as defined in 18 CFR part 292;
  - d. Less the cost of fuel recovered through intersystem sales including the fuel costs related to economy energy sales and other energy sold on an economic dispatch basis.
5. Sales (S) are all kilowatt-hours sold, excluding intersystem sales. Where for any reason, billed system sales cannot be coordinated with fuel costs for the billing period, sales may be equated to the sum of:
  - a. Generation;
  - b. Purchases;
  - c. Interchange-in; less
  - d. Energy associated with pumped storage operations; less
  - e. Intersystem sales referred to in subdivision d of subsection 4; less
  - f. Total system losses.
6. The adjustment factor developed according to this procedure must be modified to properly allow for losses (estimated if necessary) associated only with wholesale sales for resale.
7. The cost of fuel other than nuclear may include only those items listed in Account 151 of the Uniform System of Accounts for Public Utilities and Licensees. The cost of nuclear fuel is that

in Account 518, to the extent that the cost has not already been included in the cost of other fuel.

8. If the current price of fuels is in litigation or otherwise being collected subject to refund, the utility shall advise the commission and shall keep a separate account of amounts paid that are subject to refund, and shall advise the commission of the final outcome.
9. Notice of change in the adjustment must be filed with the commission prior to billing. The notice must include:
  - a. Workpapers calculating the adjustment; and
  - b. To the extent possible, an explanation of market and other factors causing the change.
10. If a particular circumstance prevents the use of a standard or its use would result in an undue burden, the commission may for good cause shown, permit deviation from a standard.
11. The commission may review an automatic adjustment clause at any time to ensure the maximum economies in those operations and purchases which affect the rates to which the clause applies. The commission's review may include an evidentiary hearing. In making this review, the commission may examine and, if appropriate, cause to be audited, the practices of a utility relating to costs subject to an automatic adjustment clause, and may require any filings and reports that may be necessary to carry out the review, including volumes, prices, and contracts for all fuel and electric energy from all sources and a disclosure of any affiliation between the electric utility and the seller of fuel, electric energy, or other items to the utility.
12. Each utility shall cause an independent audit of its automatic adjustment clause to be performed annually. A copy of the auditor's report must be filed annually with the commission.

**History:** Effective October 1, 1980; amended effective February 1, 1995.

**General Authority:** NDCC 49-02-11

**Law Implemented:** NDCC 49-02-11