

PUBLIC UTILITIES

CHAPTER 399

SENATE BILL NO. 2036

(Legislative Council)
(Government Organization Committee)

RAILROAD REGULATION

AN ACT to amend and reenact sections 49-10.1-01, 49-10.1-02, and 49-10.1-03 of the North Dakota Century Code, relating to the regulation of railroads by the public service commission.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 49-10.1-01 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

49-10.1-01. Authority of public service commission. The commission, to the extent hereinafter provided shall have authority and power to not inconsistent with federal law, may regulate railroads within this state to the extent railroad activities constitute intrastate commerce. The commission shall exercise its jurisdiction over intrastate rail rates consistent with federal law so as to obtain certification of such jurisdiction from the federal government. All provisions of the North Dakota Century Code inconsistent with federal requirements for certification of intrastate rail jurisdiction shall be deemed inapplicable to the regulation of intrastate rail rates. All references to railroads in the North Dakota Century Code are subject to this provision without any requirement that such references specifically mention this limited jurisdiction of the state of North Dakota may represent the state interests in direct negotiations with rail carriers and in proceedings before Congress, federal agencies, and courts.

SECTION 2. AMENDMENT. Section 49-10.1-02 of the North Dakota Century Code is amended and reenacted as follows:

49-10.1-02. Public policy concerning the regulation of railroads. All railroads are hereby declared to be common carriers affected with a public interest and subject to regulation as prescribed by this chapter and other applicable provisions of law. The commission, to the extent not inconsistent with federal law, shall regulate railroads to ensure that all rates, fares facilities, and charges made by any railroad shall be services are just and reasonable, and shall are not be unduly discriminatory, unduly or unreasonably prejudicial, nor unduly or unreasonably preferential. ~~No~~ railroad shall charge, demand, collect, or receive for the transportation of property or persons, or for any service in connection therewith, a remuneration which is more or less than, or different from, the rates, fares, and charges which legally have been established and filed with the commission as provided for in this chapter, nor shall any railroad refund or remit in any manner or by any device any portion of the rates, fares, and charges required to be collected by the tariffs on file with the commission or ordered by the commission. The commission shall further promote

the safety and protection of persons and property being transported by, coming in contact with, or otherwise being directly affected by railroads.

SECTION 3. AMENDMENT. Section 49-10.1-03 of the North Dakota Century Code is amended and reenacted as follows:

49-10.1-03. Regulatory powers. The commission shall regulate all railroads carrying property or passengers within this state. The commission, to the extent not inconsistent with federal law, shall:

1. ~~Fix, alter, regulate, and determine just, fair, reasonable and sufficient rates, fares, charges, and classifications, including joint rates, fares, charges, and classifications for the transportation of freight or passengers over continuous lines or routes in this state operated by one or more railroads.~~
2. ~~Require the filing with the commission of a tariff setting forth the rates, fares, charges, and classifications in a form and in a manner that the commission may prescribe from time to time which the commission shall require the railroad to open upon request of the shipper or consignee for public inspection within this state.~~
3. ~~Regulate the facilities, accounts, services, and safety of each such railroad.~~
4. ~~Prevent unfair competition, unjust discrimination, or undue or unreasonable preferences between shippers or consignees by lines of competing railroads.~~
5. 2. Require the filing of reports and data by railroads as the commission may ~~from time to time~~ determine to be necessary to allow it to carry out its regulatory functions ~~as set forth in~~ under this chapter and other provisions of law.
6. 3. Regulate railroads in all matters affecting the relations between railroads and the public to the end that ~~the provisions of this chapter~~ may be fully and completely carried out.
7. ~~Have power and authority, by general order or otherwise, to prescribe rules and regulations in conformity with this chapter applicable to railroads, and to do all things necessary to carry out and enforce the provisions of this chapter.~~

Approved March 19, 1997
Filed March 19, 1997

CHAPTER 400**HOUSE BILL NO. 1309**

(Representatives R. Kelsch, Huether, Stenehjem)
(Senators Holmberg, Robinson)

RAILROAD POLICE AUTHORITY

AN ACT to amend and reenact section 49-10.1-05 of the North Dakota Century Code, relating to the authority, jurisdiction, and powers of railroad police.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 49-10.1-05 of the North Dakota Century Code is amended and reenacted as follows:

49-10.1-05. ~~Security officers~~ Railroad police. ~~Security officers hired by railroads, station agents, train crews, and trackmen~~ Railroad police officers who are designated by a railroad to be licensed under the laws of this state, while engaged in their employment with the railroad ~~shall~~ have the authority of a "law enforcement officer" pursuant to subsection ~~48~~ 17 of section 12.1-01-04 for the purpose of arresting any person committing a felony on railroad property or associated with railroad equipment, or to arrest a person committing a misdemeanor involving railroad property or relating to persons or property being transported by the railroad, or awaiting transportation by the railroad, and ~~shall further~~ have the power of removing an individual from a train who has no right to be there, or who is engaging in a conduct prohibited by title 12.1. ~~Persons so arrested shall be forthwith turned over to local or county law enforcement officers.~~

Approved March 13, 1997
Filed March 13, 1997

CHAPTER 401

SENATE BILL NO. 2075

(Natural Resources Committee)

(At the request of the Public Service Commission)

TRANSMISSION FACILITIES AND POWER EMERGENCIES

AN ACT to amend and reenact sections 49-22-03 and 49-22-07 of the North Dakota Century Code, relating to transmission facilities and power emergencies.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 49-22-03 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

49-22-03. Definitions. In this chapter, unless the context or subject matter otherwise requires:

1. "Certificate" means the certificate of site compatibility or the certificate of corridor compatibility issued under ~~the provisions~~ of this chapter.
2. "Commission" means the North Dakota public service commission.
3. "Construction" includes any clearing of land, excavation, or other action that would affect the environment of the site after April 9, 1975, but does not include activities incident to preliminary engineering or environmental studies.
4. "Corridor" means the general location of a transmission facility.
5. "Energy conversion facility" means any plant, addition, or combination of plant and addition, designed for or capable of:
 - a. Generation of fifty thousand kilowatts or more of electricity;
 - b. Manufacture or refinement of one hundred million cubic feet [2831684.66 cubic meters] or more of gas per day, regardless of the end use of the gas;
 - c. Manufacture or refinement of fifty thousand barrels [7949.36 cubic meters] or more of liquid hydrocarbon products per day; or
 - d. Enrichment of uranium minerals.
6. "Facility" means an energy conversion facility, transmission facility, or both.
7. "Permit" means the permit for the construction of a transmission facility within a designated corridor issued under ~~the provisions~~ of this chapter.

8. "Person" includes any individual, firm, association, partnership, cooperative, corporation, limited liability company, or any department, agency, or instrumentality of a state or of the federal government, or any subdivision thereof.
9. "Power emergency" means an electric transmission line and associated facilities that have been damaged or destroyed by natural or manmade causes resulting in a loss of power supply to consumers of the power.
10. "Route" means the specific location of a transmission facility within a designated corridor.
- ~~40.~~ 11. "Site" means the location of an energy conversion facility.
- ~~44.~~ 12. "Transmission facility" means any of the following:
 - a. An electric transmission line and associated facilities with a design in excess of one hundred fifteen kilovolts. "Transmission facility" does not include a temporary transmission line loop that is:
 - (1) Connected and adjacent to an existing transmission facility that was sited under this chapter;
 - (2) Within the corridor of the sited facility and does not cross known exclusion or avoidance areas;
 - (3) Less than one mile long; and
 - (4) In place for less than one year.
 - b. A gas or liquid transmission line and associated facilities designed for or capable of transporting coal, gas, liquid hydrocarbons, liquid hydrocarbon products, or carbon dioxide. ~~The provision of this~~ This subdivision does not apply to an oil or gas pipeline gathering system. For purposes of this chapter, a gathering system includes the pipelines and associated facilities used to collect oil from the lease site to the first pipeline storage site where pressure is increased for further transport, or pipelines and associated facilities used to collect gas from the well to the gas processing facility.
 - c. A liquid transmission line and associated facilities designed for or capable of transporting water from or to an energy conversion facility.
- ~~42.~~ 13. "Utility" means any person engaged in and controlling the generation, manufacture, refinement, or transmission of electric energy, gas, liquid hydrocarbons, or liquid hydrocarbon products, including; ~~but not limited to,~~ ~~to,~~ electric power generation or transmission, coal gasification, coal liquefaction, petroleum refinement, uranium enrichment, and the transmission of coal, gas, liquid hydrocarbons, or liquid hydrocarbon products, or the transmission of water from or to any energy conversion facility.

SECTION 2. AMENDMENT. Section 49-22-07 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

49-22-07. Certificate of site compatibility or route permit required. ~~No~~ A utility ~~shall~~ may not begin construction of an energy conversion facility or transmission facility in the state, or exercise the right of eminent domain in connection with ~~such~~ that construction, without first having obtained a certificate of site compatibility or a route permit from the commission pursuant to this chapter. ~~A~~ The facility ~~shall thereafter~~ must be constructed, operated, and maintained in conformity with ~~such~~ the certificate or permit; and any terms ~~and~~, conditions ~~contained therein and subsequent~~, or modifications ~~thereof~~ of the certificate or permit. A certificate or permit may be transferred, subject to the approval of the commission, to any person who agrees to comply with its terms, conditions, and modifications.

If a power emergency exists which necessitates the relocation of a portion of an electric transmission line and associated facilities from the designated route, the owner of the line shall give telephonic notice to the commission in advance of the relocation. The line may then be relocated to restore power as soon as practicable. After the line has been relocated the owner shall file with the commission a request to approve the relocated route.

Approved March 7, 1997
Filed March 10, 1997

CHAPTER 402**SENATE BILL NO. 2328**

(Senators St. Aubyn, Freborg, Lindaas)
(Representatives Carlson, Froseth, Skarphol)

**ONE-CALL EXCAVATION NOTICE SYSTEM
EFFECTIVE DATE**

AN ACT to amend and reenact subdivision e of subsection 4 of section 49-23-03 of the North Dakota Century Code and section 9 of chapter 455 of the 1995 Session Laws, relating to the effective date for the one-call excavation notice system.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹ **SECTION 1. AMENDMENT.** Subdivision e of subsection 4 of section 49-23-03 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

- e. The notification center must be in operation by ~~August~~ March 1, 1997 1998.

SECTION 2. AMENDMENT. Section 9 of chapter 455 of the 1995 Session Laws is amended and reenacted as follows:

SECTION 9. EFFECTIVE DATE. Sections 2, 4, 6, 7, and 8 of this Act become effective on ~~August~~ March 1, 1997 1998. Beginning August 1, 1996, operators and excavators shall plat locations and provide information to the board and the one-call notification center to enable the one-call notification center to begin operating on ~~August~~ March 1, 1997 1998.

Approved March 19, 1997
Filed March 19, 1997

¹ Section 49-23-03 was also amended by section 21 of Senate Bill No. 2052, chapter 432.