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DESCRIPTION

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Operator's Signature

*Yubereca d. Lee*

Date

10-16-03

2003 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2117

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Operator's Signature

10-16-03  
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2117

Senate Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 1-15-03

Tape Number	Side A	Side B	Meter #
2	xx		4,100
Committee Clerk Signature <i>Lisa VanBerkom</i>			

Minutes: Chairman Mutch opened the hearing on SB 2117. All Senators present.

SB 2117 relates to expenses of public service commission rate proceedings.

**Testimony in support of SB 2117**

Illona Jeffcoat-Sacco, Director of the Public Utilities Division introduced the bill.

See attached testimony.

Tony Clark, Public Service Commissioner, wanted to add that the spending authority is delegated by the legislature. They can't do what ever they want with the funds.

**Testimony in opposition of SB 2117**

There was none, so they closed the hearing to make sure that everyone was contacted and able to testify in opposition or support of the bill. The committee decided to take no action until that was clear.

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*10-16-03*  
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2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2117

Senate Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 1-21-03

Tape Number	Side A	Side B	Meter #
1	xx		3215-4030
Committee Clerk Signature <i>Lisa VanBerkom</i>			

Minutes: Chairman Mutch called the committee to order. SB 2117 was addressed. SB 2117

relates to expenses of public service commission rate proceedings.

Without any discussion, Senator Nething moved a **DO NOT PASS**.

Senator Espegard seconded.

Senator Nething mentioned that recently there was a case where the Public Service Commission wanted an increase in rate from MDU. The district court reversed the order stating that PSC had overstepped its authority. He states that he dislikes that the current law gives them the authority to spend. He doesn't see a need for this bill. Also there is no cap on the amount PSC can spend.

Senator Mutch states he is in agreement.

Senator Heitkamp states that if it was a bad bill, someone would have opposed the bill in the first hearing.

Senator Nething states that the opposing testimony i.e. MDU, Qwest were contacted and the general feeling is that they all didn't come in for fear of retaliation.

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*10-16-03*  
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Senate Industry, Business and Labor Committee

Bill/Resolution Number 2117

Hearing Date 1-21-03

**Hearing is closed. Do NOT PASS Recommendation.**

**Roll Call Vote: 5 Yes. 2 No. 0 Absent.**

**Carrier: Senator Nething**

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**FISCAL NOTE**  
Requested by Legislative Council  
01/03/2003

Bill/Resolution No.: SB 2117

**1A. State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$25,000	\$0	\$25,000
Expenditures	\$0	\$0	\$0	\$25,000	\$0	\$25,000
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

**1B. County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

**2. Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

The Public Service commission has a Valuation Fund for use in certain types of cases. The appropriation for the Valuation Fund is a line item in the PSC's general appropriation. Today the Valuation Fund can be used for out-of-pocket expenses (publication of notices, purchase of transcripts, costs for an administrative law judge, costs of expert witnesses, etc.) in telecommunications cases, and gas and electric rate increase applications. Amounts paid from the Valuation Fund are billed back to and repaid by each utility involved in the case. Current appropriation for the Valuation Fund is \$125,000 for the 2001-2003 biennium, and \$125,000 is requested in the Commission's appropriation bill (SB 2008) for the 2003-2005 biennium. SB 2117 expands the use of the Valuation Fund to include additional types of gas and electric cases. Examples of these include staff complaints to lower rates, company applications for alternative regulation, and merger or transfer cases. The bill expands the authorized use of the fund, but requires no additional appropriation.

**3. State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

**A. Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

The amount \$25,000 represents the midpoint of the range \$0 to \$50,000. We are unable to project actual revenues or expenditures because we do not know how many or what types of cases may come up. However, whatever amounts are spent on these types of cases will be billed back to the utility involved, and paid back by that utility into the fund. Consequently, revenues will equal expenditures.

**B. Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

See above.

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive*

budget. Indicate the relationship between the amounts shown for expenditures and appropriations.

The appropriation for the use of the Valuation Fund is included in the Commission's general appropriation, SB 2008. SB 2117 requires no additional appropriation.

Name:	Ilona A. Jeffcoat-Sacco	Agency:	PSC
Phone Number:	328-2407	Date Prepared:	01/07/2003

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10-16-03  
Date

Date: 1-21-03  
Roll Call Vote #:

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 217

Senate IBL 2117 Committee

☐ Check here for Conference Committee**Legislative Council Amendment Number**

Action Taken **Do NOT PASS**

Motion Made By Netthing Seconded By Espegaard

[illegible]

Total (Yes) ~~4~~ 5 No 2

Absent \* O-Krebsbach voted later

Floor Assignment Nothing

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

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**Date**



**REPORT OF STANDING COMMITTEE (410)**  
January 21, 2003 11:56 a.m.

Module No: SR-11-0828  
Carrier: Nothing  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**  
SB 2117: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends  
**DO NOT PASS** (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2117 was  
placed on the Eleventh order on the calendar.

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2003 TESTIMONY

SB 2117

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**SB 2117**

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

**Before:** Senate Committee on Industry, Business and Labor  
Honorable Duane Mutch, Chairman

**Date:** 15 January 2003

**TESTIMONY**

Mr. Chairman and members of the committee, I am Illona A. Jeffcoat-Sacco, director of the Public Service Commission's Public Utilities Division. The Public Utilities Division administers the Commission's jurisdiction over telephone, gas and electric public utilities in North Dakota. The Public Service Commission supports Senate Bill 2117, introduced at our request.

The Public Utilities Valuation Fund is a Public Service Commission line item dedicated to covering out-of-pocket expenses on utility cases. Today the Valuation Fund can be used for all types of telephone cases, and for gas and electric rate increase applications.

When a gas or electric company applies for a rate increase, out-of-pocket costs such as the cost of legal publications, court reporter fees, administrative law judge fees and expert testimony can be paid for out of the Valuation Fund. Amounts paid from the Valuation Fund are then billed to the company applying for a rate increase. When the company repays, amounts collected are returned to the general fund.

Electric and gas utilities which pay into the fund can recover the amounts paid in their rates when these amounts are part of a general rate

change, because electric and gas utilities are rate-of-return regulated. While telephone companies also pay into the fund from time to time, the amounts they pay are not necessarily directly included in rates because telephone companies are not rate-of-return regulated. SB 2117 affects only electric and gas utilities.

Currently, as it concerns gas and electric companies, the Valuation Fund can be used only for rate increase proceedings. The purpose of SB 2117 is to allow use of the fund for rate decrease proceedings as well as other types of proceedings such as requests for alternative regulation, fuel cost recovery, restructuring issues or mergers. The proposed statutory change is necessary to allow the Public Service Commission more discretion in the use of the fund.

The Public Service Commission believes that the public interest will best be served by allowing use of the fund for rate decrease and other proceedings. Currently, if an electric or gas company is consistently earning more than its allowed return, the Commission can consider opening an investigation into that company's rates, but the company knows that the Commission can probably not afford to fully investigate and prosecute the case without the help of the Valuation Fund. If the Commission had the resources to fully investigate earnings, merger impacts or other types of electric and gas cases, including the resources to retain appropriate expert witnesses, the proceedings would not be weighted in favor of the company, as is the case today. For regulation to be successful, ratepayers must have sufficient resources to maintain the delicate balance that is the focus of these proceedings. We believe the best and fairest way to accomplish this is to allow the use of the Valuation Fund for a broader range of cases.

This completes my testimony. I will be happy to answer any questions you might have.

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