

PUBLIC UTILITIES

CHAPTER 462

SENATE BILL NO. 2317
(Senators Redlin, Krauter, Nething)
(Representatives Gates, Hokana, Mahoney)

TELECOMMUNICATIONS REGULATION

AN ACT to amend and reenact section 49-02-01.1 of the North Dakota Century Code, relating to jurisdiction of the public service commission.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 49-02-01.1 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

49-02-01.1. Jurisdiction of commission limited as to certain utilities. ~~Nothing in this chapter shall authorize or in chapter 49-21 authorizes the commission to make any order affecting rates, contracts, services rendered, adequacy, or sufficiency of facilities, or the rules or regulations of any public utility owned and operated by the state or by any city, county, township, or other political subdivision of the state or any public utility, except a telecommunications utility, that is not operated for profit, but all other provisions herein shall apply to such utilities. The rates for local exchange telecommunications service of any nonprofit telecommunications company or telecommunications company having less than three thousand subscribers, upon a vote of the company's owners or board of directors, shall not be subject to the jurisdiction of the commission that is operated as a nonprofit, cooperative or mutual telecommunications company or is a telecommunications company having fewer than three thousand local exchange subscribers. However, any telecommunications utility that is operated as a nonprofit, cooperative or mutual telecommunications company or has fewer than three thousand local exchange subscribers is subject to sections 49-21-01.4 and 49-21-08 and is subject to subsection 7 of section 49-02-02 and sections 49-21-01.2, 49-21-01.3, 49-21-06, 49-21-07, 49-21-09, and 49-21-10, regarding rates, terms, and conditions of access services or connection between facilities and transfer of telecommunications between two or more telecommunications companies. Nothing in this section limits the authority of the commission under chapter 49-03.1 or sections 49-04-05 and 49-04-06.~~

Approved March 24, 1993
Filed March 25, 1993

CHAPTER 463

HOUSE BILL NO. 1131
(Industry, Business and Labor Committee)
(At the request of the Public Service Commission)

PSC ORDERS WITHOUT HEARING

AN ACT to amend and reenact subsection 5 of section 49-02-02 of the North Dakota Century Code, relating to public service commission orders that may be issued without hearings.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 5 of section 49-02-02 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

5. Hold hearings on good cause being shown therefor or on its own motion, and to provide notice thereof and to shorten the period for which notice shall be given prior to hearing, when good cause exists for such action. Such notice, however, shall be reasonable in view of the nature, scope, and importance of the hearing. Whenever it shall appear to the satisfaction of the commission that all of the interested parties have agreed concerning the matter at hand, or that no interested party has asked for a hearing, the commission may issue its order without a hearing.

Approved March 22, 1993
Filed March 23, 1993

CHAPTER 464

SENATE BILL NO. 2513
(Senators Goetz, Keller, Langley)
(Representatives Dorso, Mahoney, Tollefson)

PUBLIC UTILITY PROPERTY VALUATION

AN ACT to amend and reenact section 49-06-02 of the North Dakota Century Code, relating to valuation of public utility property for ratemaking purposes.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 49-06-02 of the North Dakota Century Code is amended and reenacted as follows:

49-06-02. Value of property for ratemaking purposes - Determination. The value of the property of a public utility, as determined by the public service commission for ratemaking purposes, ~~shall be~~ is the money honestly and prudently invested therein by the utility including construction work in progress for new facilities that use lignite mined in this state to generate electricity, as well as additions or modifications to existing lignite facilities, less accrued depreciation. The commission shall allow a public utility for those new or existing facilities utilizing lignite mined in this state as its primary fuel:

1. To recover its research and development costs incurred to develop lignite more cleanly, efficiently, or economically, including a reasonable rate of return on capital expenditures; and
2. To recover its incremental costs of complying with federal environmental laws, including a reasonable rate of return on capital expenditures. The commission may allow these costs to be recovered by an environmental surcharge that may be added to existing rates.

Approved March 25, 1993
Filed March 26, 1993

CHAPTER 465

HOUSE BILL NO. 1132
(Transportation Committee)
(At the request of the Public Service Commission)

RAILROAD SAFETY RULES

AN ACT to amend and reenact section 49-10.1-14 of the North Dakota Century Code, relating to the public service commission's jurisdiction to prescribe and enforce safety rules.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 49-10.1-14 of the North Dakota Century Code is amended and reenacted as follows:

49-10.1-14. ~~Commission to prescribe~~ may adopt and enforce safety rules and regulations. The commission, for the protection of persons and property, shall ~~promulgate, establish,~~ may adopt, in whole or in part, and enforce, railroad safety rules and regulations not inconsistent with any federal agency having jurisdiction over railroads, ~~by reference or otherwise, as now prescribed or which may from time to time be prescribed.~~ The commission may adopt rules and regulations more stringent than applicable federal rules and regulations when necessary to eliminate an essentially state or local safety hazard if ~~said the rules or regulations~~ are not incompatible with any federal law, or rule, or regulation and do not create an undue burden on interstate commerce.

Approved March 12, 1993
Filed March 12, 1993

CHAPTER 466

SENATE BILL NO. 2397
(Senator Mutch)
(Representative Timm)

COMMON MOTOR CARRIER REGULATION

AN ACT to amend and reenact sections 49-18-08, 49-18-12, 49-18-14, 49-18-32, and 49-18-41 of the North Dakota Century Code, relating to the regulation of common motor carriers by the public service commission; to repeal section 49-18-40 of the North Dakota Century Code, relating to the transfer of commercial freighting truck license tags; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 49-18-08 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

49-18-08. Regulation of common motor carriers by commission. The commission shall ~~supervise and~~ regulate all common motor carriers of property or passengers and shall:

1. Fix, alter, regulate, and determine just, fair, reasonable, and sufficient rates, fares, charges, and classifications;
2. Regulate the facilities, accounts, and service, ~~and safety~~ of the operations of each ~~such~~ carrier;
3. Regulate operating schedules to meet the needs of any community ~~and~~ to ensure adequate transportation service to the territory served by ~~such~~ the carrier;
4. Prevent unfair competition, discrimination, or preferences between common motor carriers;
5. Require the filing of ~~annual and other reports~~, tariffs and schedules;
6. Supervise and regulate the relations between common motor carriers and the public to comply with the provisions of this chapter; and
7. Adopt rules to enforce the provisions of this chapter.

SECTION 2. AMENDMENT. Section 49-18-12 of the North Dakota Century Code is amended and reenacted as follows:

49-18-12. Common motor carrier - Certificate of public convenience - Temporary permit - Application. No common motor carrier shall operate within this state without ~~first~~ having obtained from the commission a certificate of public convenience and necessity. ~~Application therefor shall~~ An application must be made upon forms ~~to be~~ prescribed by the commission. The commission shall ~~make regulations~~ adopt rules for the filing of ~~such~~ the application. The application must contain a financial statement, a list of equipment ~~to be~~ used by the carrier,

a description of the type of service offered, and the route and territory ~~to be~~ served. ~~However, upon~~ Upon receipt of ~~such~~ an application and when there is an immediate and urgent need, the commission ~~shall have the authority to~~ may grant a temporary permit for service by a common motor carrier to a specified point or points or within a specified territory having no carrier service capable of meeting ~~such the~~ need. ~~Such~~ The temporary permit ~~shall must~~ be granted without a hearing and, unless suspended or revoked for good cause, ~~shall be is~~ valid for ~~such a~~ period of time as determined by the commission ~~shall specify~~, but for not more than ~~an aggregate of one hundred and eighty days, and shall create~~ creates no presumption that the corresponding certificate of public convenience and necessity ~~shall will~~ be granted after the hearing on the application. ~~Such~~ The temporary permit ~~shall be is~~ transferable only after notice to all interested parties and approval by the commission, after opportunity for hearing.

SECTION 3. AMENDMENT. Section 49-18-14 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

49-18-14. Factors to be considered by commission in granting certificate. Before granting a certificate to a common motor carrier, the commission shall ~~take into consideration~~ consider:

1. The need for service proposed by the applicant;
2. The effect on other existing transportation facilities;
3. The fitness and ability of applicant to provide service; and
4. ~~Adequacy of proposed service; and~~
5. ~~Such~~ Any other information as the commission ~~may deem~~ determines appropriate.

If the commission finds that the transportation ~~to be~~ authorized by the certificate is not consistent with the public convenience and necessity, the commission ~~shall~~ may not grant ~~such the~~ certificate.

SECTION 4. AMENDMENT. Section 49-18-32 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

¹ **49-18-32. Fees - Common or contract motor carrier.** Every common motor carrier and ~~every~~ contract carrier of property or passengers ~~now operating, or which hereafter shall operate, as such common or contract carrier in this state, at the time of making application when applying~~ for a certificate of public convenience and necessity or permit, and annually thereafter, on or before ~~April~~ fifteenth ~~January~~ first of each calendar year, shall pay a fee of not less than eighty-five dollars nor more than two hundred fifty dollars, ~~to be as~~ fixed by the commission in each instance. ~~Miscellaneous nonrefundable fees shall be as follows:~~

- | | | |
|-----------------------|-------------------------------------|--|
| 1- <u>Application</u> | <u>The nonrefundable fee for an</u> | <u>\$100.00</u> |
| | <u>application</u> | <u>for transfer of a certificate of public</u> |

¹ NOTE: Section 49-18-32 was also amended by section 1 of House Bill No. 1185, chapter 468.

	convenience and necessity	
2-	Application for the mortgaging of a certificate of public convenience and necessity	10.00
3-	Application for the issuance of a duplicate certificate of public convenience and necessity	5.00
4-	Copy of all records of the commission pertaining to auto transportation companies, per one hundred words or portion thereof is one hundred dollars.	.50

SECTION 5. AMENDMENT. Section 49-18-41 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

49-18-41. Identification ~~tag to be~~ certificate secured by a motor carrier - Temporary identification certificate for certain vehicles.

1. Except as provided in subsection 2, each motor carrier who under the statutes of this state must register with or secure a permit or certificate of public convenience and necessity from the commission, except a common carrier of passengers, at the time of securing ~~such the~~ certificate or permit, and annually thereafter on or before ~~April fifteenth~~ January first of each ~~calendar~~ year, shall secure from the commission an identification ~~tag certificate~~ for each motor vehicle operated within this state, ~~which shall be~~ in the form, ~~color combination, lettering, and numbering~~ prescribed by the commission. ~~The identification tag for each type of carrier licensed by the commission shall be identified in a manner different from that of each other type of carrier. The commission shall collect a fee of twenty dollars for each identification tag certificate. No motor carrier shall operate in this state without having an identification tag attached to certificate in each vehicle owned and operated by such the carrier. The identification plate shall be secured from the director of the department of transportation upon request from the commission.~~
2. A motor carrier operating a motor vehicle in this state for not more than thirty days a year may secure, in place of the identification ~~tag certificate~~ required under subsection 1, a temporary identification certificate for that motor vehicle from the commission. The fee for the temporary certificate is five dollars. When a motor vehicle is operated under the authority of a certificate issued under this subsection, the operator of the motor vehicle shall carry ~~that the~~ the certificate in the motor vehicle while it is operated in this state.

SECTION 6. REPEAL. Section 49-18-40 of the North Dakota Century Code is repealed.

SECTION 7. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 7, 1993
Filed April 8, 1993

CHAPTER 467

SENATE BILL NO. 2372
(Senator Mutch)
(Representative Timm)

MOTOR CARRIER APPLICATION PROTEST FEE

AN ACT to amend and reenact section 49-18-15 of the North Dakota Century Code, relating to a motor carrier application protest fee.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 49-18-15 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

49-18-15. Testimony - Issuance of certificate or permit - Conditions. A party opposing an application may offer testimony at an oral hearing if it filed a protest and request for hearing with the commission and the applicant within twenty days of receipt of the notice. The protest must state the objection, the protestant's witnesses, and the time needed to present the protestant's case, and must be accompanied by a fee of fifty dollars. A party supporting an application may offer testimony at the oral hearing. Based upon the evidence, the commission may grant or deny, in whole or in part, the certificate or permit requested.

Approved March 11, 1993
Filed March 11, 1993

CHAPTER 468

HOUSE BILL NO. 1185
 (Transportation Committee)
 (At the request of the Public Service Commission)

MOTOR CARRIER FEES

AN ACT to amend and reenact section 49-18-32 of the North Dakota Century Code, relating to filing fees for motor carrier applications.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 49-18-32 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1 49-18-32. Fees - Common or contract motor carrier. Every common motor carrier and every contract carrier of property or passengers now operating, or which hereafter shall operate, as such common or contract carrier in this state, at the time of making application for a certificate of public convenience and necessity or permit, and annually thereafter, on or before April fifteenth of each calendar year, shall pay a fee of not less than eighty-five dollars nor more than two hundred fifty dollars, to be fixed by the commission in each instance. ~~Miscellaneous nonrefundable fees shall be as follows:~~

1. Application <u>The nonrefundable fee for an application</u> for transfer of a certificate of public convenience and necessity	\$100-00
2. Application for the mortgaging of a certificate of public convenience and necessity	10-00
3. Application for the issuance of a duplicate certificate of public convenience and necessity	5-00
4. Copy of all records of the commission pertaining to auto transportation companies, per one hundred words or portion thereof	-50
<u>is one hundred dollars.</u>	

Approved March 19, 1993
 Filed March 19, 1993

¹ NOTE: Section 49-18-32 was also amended by section 4 of Senate Bill No. 2397, chapter 466.

CHAPTER 469

SENATE BILL NO. 2440
(Senators Nething, Redlin)
(Representatives Gates, Nelson)

TELECOMMUNICATIONS REGULATION

AN ACT to create and enact a new subsection to section 49-21-02.1 and three new sections to chapter 49-21 of the North Dakota Century Code, relating to the regulation of interexchange telecommunications companies, the authority of the public service commission, refunds, and quality of service; and to amend and reenact sections 49-21-01, 49-21-01.1, 49-21-01.2, 49-21-01.3, 49-21-01.4, 49-21-01.6, 49-21-02.2, 49-21-04, 49-21-06, 49-21-07, 49-21-09, and 49-21-22 of the North Dakota Century Code, relating to the regulation of telecommunications companies.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 49-21-01 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

49-21-01. Definitions. As used in this chapter, unless the context otherwise clearly requires:

1. "Access" means telecommunications services to connect a telecommunications customer or end user with a telecommunications company that allows for the origination or the termination, or both, of WATS, 800, and message toll type and private line telecommunications services and private line transport services. "Switched access" includes:
 - a. Local exchange central office switching and signaling;
 - b. Operator and recording intercept of calls;
 - c. Termination of end user lines in the local exchange central office; ~~and~~
 - d. The carrier common line charge for the line between the end user's premises and the local exchange central office; and
 - e. Telecommunications service, including connections, provided to allow transmission service and termination between an interexchange company's premises and the local exchange central office switch for the origination or termination of the interexchange company's switched telecommunications services.
2. "Essential telecommunications price factor" means ~~the annual change in a company's input cost index reduced by fifty percent of that company's productivity incentive adjustment;~~
 - a. In the case of group I telecommunications companies, a factor determined annually as the lower of:

- ~~i.~~ Transmission service necessary for the connection between the end user's premises and the local exchange central office switch including a trunk connection that has direct inward dialing and necessary signaling service such as touchtone used by end users for essential telecommunications services;
 - i. Single or multiparty flat-rate or measured residence and business service;
 - j. Single or multiparty flat-rate or measured combination business and residence service; and
 - k. The transmission service line for a coin or pay telephone.
- ~~4. "Input cost index" means a comparison of the cost of all goods and services purchased by a telecommunications company to the cost of the same goods and services in a base year. "Gross national product price index" means the fixed-weighted price index of prices of all the goods and services that make up gross national product, as published quarterly by the United States department of commerce, economics and statistics administration, bureau of economic analysis. "Average annual gross national product price index" means the mean of the gross national product price index published in the third calendar quarter of a year through the second calendar quarter of the following year.~~
 5. "Interexchange telecommunications company" means a person providing telecommunications service to end users located in separate local exchange areas.
 6. "Local exchange area" means a geographic territorial unit established by a telecommunications company for the administration of telecommunications services as approved and regulated in accordance with chapter 49-03.1.
 7. "Mutual telephone company" means a telephone cooperative organized and operating subject to the provisions of this chapter, and such a cooperative shall also be subject to the general law governing cooperatives, except where such general law is in conflict with this chapter.
 8. "Nonessential telecommunications service" means any telecommunications service, other than those essential telecommunications services listed in subsection 3 that a customer has the option to purchase either in conjunction with or separate from any essential telecommunications service. Nonessential telecommunications services include, but are not limited to:
 - a. InterLATA and intraLATA message toll service;
 - b. Private line transport service;
 - c. Calling features and information or enhanced services such as call waiting, call forwarding, three-way calling, intracall, speed calling, call transfer, voice or data store and forward, message delivery, or caller identification;

- d. Centrex services and features, not including transmission service described in subdivision h of subsection 3 of this section;
 - e. Installation of service connections in addition or supplementary to that described in subdivision g of subsection 3 which also provides transmission service between the end user's premises and the local exchange central office switch;
 - f. Mobile telecommunications services using radio spectrum or cellular technology; and
 - g. Packet-switched services.
9. "Price" means any charge set and published in accordance with chapter 49-21 and collected by a telecommunications company for any telecommunications service offered by it to the public or other telecommunications companies.
- ~~9. "Productivity incentive adjustment" means a telecommunications company's expected average annual change in productivity. "Productivity" means a measure of a telecommunications company's total output of services and products to the total amount of input of resources used to produce those services and products.~~
10. "Private line transport service" means a telecommunications service to a customer over a circuit dedicated to the customer's exclusive use, within a local exchange area, or between or among local exchanges. Private line transport service includes services to customers who are end users and services to telecommunications companies.
11. "Service element" means a telecommunications function or service component that is not useful to the user unless it is combined with one or more other telecommunications functions or service components.
- ~~10-~~ 12. "Telecommunications company" means a person engaged in the furnishing of telecommunications service within this state.
- ~~11-~~ 13. "Telecommunications service" means the offering for hire of telecommunications facilities, or transmitting for hire telecommunications by means of such facilities whether by wire, radio, lightwave, or other means.

SECTION 2. AMENDMENT. Section 49-21-01.1 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

49-21-01.1. Inapplicability of provisions of chapter. Telecommunications service does not include and the provisions of this title do not apply to:

1. The one-way transmission of radio or television signals for broadcast purposes, including the one-way transmission of video programming or other programming service by a cable system as well as subscriber interaction, if any, which is required for the selection of such video programming or other programming service.
2. A hospital, hotel, motel, or similar place of temporary accommodation owning or operating message switching or billing equipment solely for the

purpose of reselling telecommunications services to its patients or guests.

3. Telegraph service.
4. Home and, business, and coinless or coin-operated public or semipublic telephone terminal equipment and the use of such equipment.
5. The lease of telecommunications equipment by a telecommunications company from a person whose business is the leasing or sale of such equipment.
6. Billing and collection services.
7. Inside wire and premise cable installation and maintenance.
8. Directory services which are not essential, such as "yellow pages" advertising and boldface or color listings in "white pages".

SECTION 3. AMENDMENT. Section 49-21-01.2 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

49-21-01.2. Exemption - Rate regulation. Except as provided for in this chapter and sections 49-02-01.1, ~~49-02-02, 49-02-04, 49-02-05, 49-02-05.1, 49-02-21, 49-02-22, and 49-04-02.1, and 49-04-05,~~ telecommunications companies and all telecommunications services are exempt from the provisions of ~~chapter 49-02 and from the provisions of section 49-02-02 and chapters 49-02, 49-04, 49-05, and 49-06 which concern rates.~~ Telecommunications companies and services are not subject to rate or rate of return regulation. Any telecommunications company may ~~inform the commission, in writing, that it does not want~~ elect not to be subject to the provisions of this section and section 49-21-01.3, and ~~that it wants to be~~ subject to rate and rate of return regulation, by filing an election with the commission in writing. For telecommunications companies with over fifty thousand ~~end users subscribers,~~ the election not to be exempt from rate and rate of return regulation is a one-time, irrevocable decision election.

SECTION 4. AMENDMENT. Section 49-21-01.3 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

49-21-01.3. Certain price increases prohibited - Essential telecommunications services. Changes in essential telecommunications services prices are prohibited except as specifically provided for in chapter 49-21 and section 49-02-01.1.

1. All increases or decreases in governmentally imposed surcharges and any financial impact on cost of essential telecommunications services caused by governmentally imposed changes in taxes, accounting practices, or separations procedures ~~for essential services~~ must be fully reflected in any price for those services within thirty days of the effective date of the surcharge or change.
2. The price of essential telecommunications services may be changed according to the essential telecommunications price factor. Increases may be reflected in prices after notice to the company's customers one billing period in advance. A decrease must be reflected in prices within thirty days of the effective date of the price factor. ~~The commission shall set a company's price factor to be effective January 1, 1990, and annually thereafter.~~ The commission shall publish the essential

telecommunications price factor to be effective January 1, 1994, and annually thereafter, determined by reference to the average annual gross national product price index for the four calendar quarters ending with the second calendar quarter of the preceding calendar year. No price for a service may be changed more than once a year. Prices may be changed by service element, but the aggregate annual price change for a service may not exceed the essential telecommunications price factor. Complaints may be made pursuant to section 49-21-06 for any prices changed under this subsection. A discounted price for an essential telecommunications service is not the price of a service for purposes of this section. Discontinuing or altering any discount price for an essential telecommunications service is not a price change as regulated by this subsection.

3. Nothing in this section prohibits the lowering of a price of an essential service based on reasonable business practices in a competitive environment provided that no price change may be anticompetitive or otherwise in violation of antitrust or unfair trade practice laws.
4. Whenever a price change provided for in this section is less than three percent of the existing price, notwithstanding any time limitations in this section, a telecommunications company may accumulate such changes in price subject to the following conditions:
 - a. Price increases may be accumulated up to a percentage total of five percent.
 - b. Price decreases may be accumulated only to the extent that there is an offsetting accumulated price increase of an equal or greater percentage. Accumulated price decreases may never exceed accumulated price increases.
 - c. Price decreases may be accumulated only for two years beginning January first of the year in which the change is allowed.
 - d. Accumulated price increases may be implemented at the discretion of the telecommunications company.
 - e. The effective date of implementation of an accumulated price change may be prospective only, and in accordance with the filing requirements of section 49-21-04.

SECTION 5. AMENDMENT. Section 49-21-01.4 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

49-21-01.4. Purchase of essential telecommunications services. Customers of any telecommunications company must be permitted to purchase essential telecommunications services separate from all other telecommunications services. A telecommunications company may disconnect local exchange or essential telecommunications services only pursuant to rules adopted by the commission.

SECTION 6. AMENDMENT. Section 49-21-01.6 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

49-21-01.6. Call identification services - Charges prohibited - Notice - Exceptions.

1. Any telephone call identification service offered in this state by a telecommunications company or rural telephone cooperative must allow a caller, at least on a per call basis, to withhold, at no cost to the caller, display of a caller's telephone number from the telephone instrument of the individual receiving the telephone call placed by the caller.
2. The telecommunications company or rural telephone cooperative may not charge any caller who requests that that person's telephone number be withheld from the recipient of any call placed by the caller.
3. A telecommunications company or rural telephone cooperative offering a call identification service shall notify its subscribers that their calls may be identified to a called party at least thirty days before the service is offered. In the case of a telecommunications company or rural telephone cooperative presently offering a call identification service, notice must be given within thirty days of July 17, 1991.
4. This ~~chapter~~ section does not apply to:
 - a. An identification service that is used within the same limited system, including a Centrex, Centron, or private branch exchange (PBX) system, as the recipient telephone.
 - b. An identification service that is used on a public agency's emergency telephone line or on a line that receives the primary emergency telephone number (911).
 - c. An identification service provided in connection with legally sanctioned call tracing or tapping procedures.
 - d. An identification service provided in connection with any "700", "800", or "900" access code telecommunications service, or any voice or data store and forward service.
 - e. Any other service that, after investigation by the commission, the commission finds that a nondisclosure or similar agreement will protect the privacy interests of a calling party.

SECTION 7. A new subsection to section 49-21-02.1 of the 1991 Supplement to the North Dakota Century Code is created and enacted as follows:

Notwithstanding any other provisions of this section, telecommunications companies which provide only nonessential services are subject to the same level of commission regulation, oversight, and monitoring.

SECTION 8. AMENDMENT. Section 49-21-02.2 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

49-21-02.2. Cross-subsidization prohibited. Revenues obtained from regulated telecommunications services, including essential and nonessential telecommunications services, may not be used to subsidize or otherwise give advantage to a telecommunications company in its unregulated services, and revenues

from essential telecommunications services may not be used to subsidize or otherwise give advantage to a telecommunications company in its nonessential telecommunications services. The commission may require a telecommunications company to keep separate books of account, to allocate costs in accordance with procedures established by rule or order of the commission, and to perform other acts that will assist the commission in enforcing this section. The price charged for an unregulated telecommunications service or a nonessential telecommunications service must cover the cost of providing that service.

SECTION 9. AMENDMENT. Section 49-21-04 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

49-21-04. Price schedules filed with the commission. Each telecommunications company shall file with the commission in such form and detail as it may require, subject to considerations for maintaining trade secrets or commercial confidentiality:

1. Schedules showing all prices, including those prices set by contract and the individual unbundled or unpackaged price of any essential service, in effect at the time for any telecommunications service rendered to the public by such telecommunications company within this state; ~~and~~
2. All rules and regulations which in any manner affect the prices charged or to be charged for such service; and
3. All new prices and any price changes of essential services at least sixty days before the effective date of the new price or price change, unless the commission upon application and for good cause allows a lesser time, and except prices changed in accordance with subsection 1 of section 49-21-01.3, which will be filed at least ten days before the expiration of the thirty-day period mandated in that section. No price or price change is effective until filed in accordance with this chapter. Each filing under this section must be accompanied by a fifty-dollar filing fee.

SECTION 10. AMENDMENT. Section 49-21-06 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

49-21-06. Complaint against prices. There is a rebuttable presumption that prices for essential telecommunications services in effect on July 1, 1989, are fair and reasonable. Any person may ~~make complaint~~ complain to the commission, or the commission on its own motion may complain and begin investigation, of the ~~unreasonableness or inadequacy~~ reasonableness, fairness, or adequacy of any price for any essential or nonessential service. Any notice and hearing by the commission will be ~~conducted~~ provided in accordance with ~~section 49-05-03 chapter 28-32~~ and the commission can only set aside, after notice and hearing, any price for a service it investigates pursuant to this section which it determines, ~~after notice and hearing,~~ to be unreasonable, unfair, or inadequate. This section must be construed to authorize the commission to set aside any unreasonable, unfair, or inadequate price set by a telecommunications company for the connection between facilities of two or more telecommunications companies and for the transfer of telecommunications, provided this section may not be construed to set aside any price set by contract between telecommunications companies and in effect on July 1, 1989, upon complaint by one of the parties to the contract that the price is

unreasonably high. ~~Other complaints are subject to the commission's authority pursuant to section 49-05-01.~~

SECTION 11. AMENDMENT. Section 49-21-07 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

49-21-07. Discrimination unlawful. It shall be unlawful for any telecommunications company to make any unjust or unreasonable discrimination in prices, practices, or service for or in connection with like telecommunications service, or give any undue or unreasonable preference or advantage to any person or telecommunications company or to subject any person or telecommunications company to any undue or unreasonable prejudice or disadvantage in the service rendered by it to the public or to a telecommunications company, or to charge or receive for any such service rendered, more or less than the prices provided for in the schedules then on file with the commission. ~~So long as the price for access service is subject to the provisions of subsection 2 of section 49-21-01.3, a~~ A telecommunications company, including a telecommunications company exempt from one or more provisions of title 49 under section 49-21-02.1 providing intrastate interexchange message toll services shall charge uniform prices on all routes where it offers such services. A telecommunications company providing local exchange service and message toll ~~type~~ and private line services shall cover in its price for message toll ~~type~~ and private line services, the price of providing access service in its own exchanges. Nothing in this chapter shall be construed to prevent any telecommunications company from offering or providing volume or other discounts based on reasonable business practices; from passing through any state, municipal or local taxes to the specific geographic areas from which the taxes originate; or from furnishing free telecommunications service or service at reduced prices to its officers, agents, servants, or employees.

SECTION 12. AMENDMENT. Section 49-21-09 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

49-21-09. Telecommunications - Connections. ~~Whenever the commission shall find that a connection can be made reasonably between the facilities of two or more telecommunications companies for the transfer of telecommunications and that public convenience and necessity will be subserved thereby, the commission may require that such connection be made and may order that telecommunications be transmitted and transferred by the companies, as provided in this section. When, after notice and hearing in accordance with chapter 28-32, the commission finds that public convenience and necessity require the use by one telecommunications company of facilities or services of another telecommunications company, and that such use will not result in irreparable injury to the owner or other users of such facilities or services, nor any substantial detriment to the facilities or services, and that such telecommunications companies have failed to agree upon such use or the terms and conditions or compensation for the same, the commission, by order, may direct that such use be permitted, and may prescribe reasonable compensation, terms, and conditions. If such use is directed, the telecommunications company to which the use is permitted is liable to the owner or other users of such facilities or services for such damage as may result therefrom to the property of such owner or other users thereof.~~

SECTION 13. AMENDMENT. Section 49-21-22 of the 1991 Supplement to the North Dakota Century Code as amended by section 1 of Senate Bill No. 2393, as approved by the fifty-third legislative assembly, is amended and reenacted as follows:

49-21-22. Regulatory reform review commission - Appointments - Compensation - Report to legislative council. The regulatory reform review commission shall review the operation and effect of North Dakota telecommunications law on an ongoing basis during the interims between the 1993 and 1999 legislative sessions and shall submit a report regarding its operation and effect to the legislative council in 1994, 1996, and 1998. The regulatory reform review commission consists of one member of the public service commission who has responsibility for telecommunications regulation, two members of the senate, appointed by the president of the senate, and two members of the house of representatives, appointed by the speaker. The chairman of the legislative council shall designate the chairman and vice chairman of the regulatory reform review commission from the legislative members of the commission. The public service commission shall provide technical assistance and the legislative council shall provide staff services to the regulatory reform review commission. The legislative members of the regulatory reform review commission are entitled to the same compensation as provided for members of committees of the legislative council under section 54-35-10. The legislative council shall pay the compensation for the legislative members of the regulatory reform review commission. The public service commission shall pay the expenses of the member of the public service commission serving on the regulatory reform review commission and of the public service commission staff providing technical assistance while carrying out their duties.

SECTION 14. A new section to chapter 49-21 of the North Dakota Century Code is created and enacted as follows:

Powers in general. The commission has the power to:

1. Investigate all methods and practices of telecommunications companies.
2. Require telecommunications companies to conform to the laws of this state and to all rules, regulations, and orders of the commission not contrary to law.
3. Require copies of reports as to rates, prices, and terms and conditions of service in effect and used by the company, and all other information deemed relevant and necessary by the commission in the exercise of its authority.
4. Compel obedience to its lawful orders by proceedings of mandamus or injunction or other proceedings, in the name of the state, in any court having jurisdiction of the parties or of the subject matter.
5. Hold hearings on good cause being shown, upon notice and subject to the provisions of chapter 28-32.
6. Employ and fix the compensation of experts, engineers, auditors, attorneys, and other such assistance for complaints, investigations, and other proceedings relating to telecommunications companies. The expense of any hearings, and the compensation and actual expenses of any employees of the commission while engaged upon any such hearings must, upon the order of the commission, be paid by the telecommunications company involved in such hearings. The commission shall ascertain the exact cost and expenditure. After giving the telecommunications company notice and opportunity to demand a hearing, and after a hearing, if any, is held, the commission may render a bill and make an order for payment. The bill and

order must be delivered by certified mail or personal delivery to the managing officer of the telecommunications company. Upon receipt of the bill and order for payment, the telecommunications company has thirty days within which to pay the amount billed. All amounts not paid within thirty days after receipt of the bill and order for payment thereafter draw interest at the rate of six percent per annum. All amounts collected by the commission under this subsection must be deposited in the general fund of the state treasury.

SECTION 15. A new section to chapter 49-21 of the North Dakota Century Code is created and enacted as follows:

Excessive charges - Refunds. When complaint has been made to the commission or by the commission on its own motion concerning any price for a telecommunications service, and the commission has found, upon a hearing after notice given as required by law, that the telecommunications company has charged for such service a price in excess of the price permitted under section 49-21-01.3, has discriminated unreasonably, or has otherwise violated a statute, rule, or order, the commission may order that the telecommunications company make due refunds or reparations, with interest from the date of collection.

SECTION 16. A new section to chapter 49-21 of the North Dakota Century Code is created and enacted as follows:

Quality of service - Procedure and remedies. Any customer, and the commission on its own motion, may complain concerning the quality of service provided by a telecommunications company providing telecommunications services in the state. Any person, and the commission on its own motion, may complain concerning any violation of law or rule or order of the commission. The commission, pursuant to chapter 28-32, will provide notice of the complaint and the time and place of hearing. Whenever the commission finds, after notice and hearing in accordance with chapter 28-32, that the services of a telecommunications company are inadequate, or the company is in violation of a law, rule, or order, the commission may, in addition to the penalties prescribed in chapter 49-07, direct the telecommunications company to take whatever remedial actions are reasonable and necessary to provide adequate service or to bring the company into compliance with the applicable law, rule, or order.

Approved April 21, 1993

Filed April 22, 1993

CHAPTER 470

SENATE BILL NO. 2385
(Senators Schoenwald, Goetz)
(Representatives Kretschmar, Mahoney)

INTRALATA DIALING PARITY

AN ACT to create and enact a new section to chapter 49-21 of the North Dakota Century Code, relating to the provisioning of dialing parity in the North Dakota intraLATA long distance market; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 49-21 of the North Dakota Century Code is created and enacted as follows:

Universal telephone service - Dialing parity - IntraLATA equal access. In order to continue to make available to all people of this state modern and efficient telecommunications services at the most economic and reasonable cost, the provisioning of dialing parity on an intraLATA basis, otherwise known as 1+ intraLATA equal access, may not be required to be provided by any company providing local exchange service.

SECTION 2. EXPIRATION DATE. This Act is effective through July 31, 1999, and after that date is ineffective.

Approved March 24, 1993
Filed March 25, 1993

CHAPTER 471

SENATE BILL NO. 2393
 (Senators Nething, Redlin)
 (Representatives Gates, Nelson)

REGULATORY REFORM REVIEW COMMISSION

AN ACT to amend and reenact section 49-21-22 of the North Dakota Century Code, relating to the regulatory reform review commission and compensation of the members of the commission.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 49-21-22 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

49-21-22. Regulatory reform review commission - Appointments - Compensation - Report to legislative council. The regulatory reform review commission shall review the operation and effect of ~~subsection 2 of section 49-02-01, section 49-21-01, subsection 6 of section 49-21-01.1, sections 49-21-01.2, 49-21-01.3, 49-21-01.4, 49-21-02.1, 49-21-02.2, 49-21-04 through 49-21-07, 49-21-09, and 49-21-22~~ North Dakota telecommunications law on an ongoing basis during the interims between the ~~1989, 1991, 1993, and 1995~~ 1993 and 1999 legislative sessions and shall submit a report regarding its operation and effect to the legislative council in ~~1990, 1992, and 1994~~ 1996 and 1998. The regulatory reform review commission consists of ~~the members~~ one member of the public service commission who has responsibility for telecommunications regulation, two members of the senate, appointed by the president of the senate, and two members of the house of representatives, appointed by the speaker. The chairman of the legislative council shall designate the chairman and vice chairman of the regulatory reform review commission from the legislative members of the commission. The public service commission shall provide technical assistance and ~~the legislative council shall provide staff services to the regulatory reform review commission.~~ The legislative members of the regulatory reform review commission are entitled to the same compensation as provided for members of committees of the legislative council under section 54-35-10. The legislative council shall pay the compensation for the legislative members of the regulatory reform review commission. The public service commission shall pay the expenses of the member of the public commission serving on the regulatory reform review commission and of the public service commission staff providing technical assistance while carrying out its duties under subsection 2 of section 49-02-01, section 49-21-01, subsection 6 of section 49-21-01.1, sections 49-21-01.2, 49-21-01.3, 49-21-01.4, 49-21-02.1, 49-21-02.2, 49-21-04 through 49-21-07, 49-21-09, and 49-21-22 including expenses incurred for holding meetings and preparing reports shall, upon the order of the public service commission, be paid by the telecommunications companies affected by subsection 2 of section 49-02-01, section 49-21-01, subsection 6 of section 49-21-01.1, sections 49-21-01.2, 49-21-01.3, 49-21-01.4, 49-21-02.1, 49-21-02.2, 49-21-04 through 49-21-07, 49-21-09, and 49-21-22 in the manner provided in section 49-02-02.

Approved March 24, 1993
 Filed March 25, 1993