

PUBLIC UTILITIES

CHAPTER 283

S. B. No. 241
(Committee on Judiciary)

VALUATION OF PROPERTY OF PUBLIC UTILITIES FOR RATE MAKING PURPOSES

AN ACT

To amend and reenact section 49-0202 of the North Dakota Revised Code of 1943 relating to valuation of property of public utilities for rate making purposes.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.) Section 49-0202 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

49-0202. POWERS OF PUBLIC SERVICE COMMISSION WITH REFERENCE TO PUBLIC UTILITIES.) The commission shall have power:

1. To investigate all methods and practices of public utilities or other persons, subject to the provisions of this title;
2. To require them to conform to the laws of this state and to all rules, regulations, and orders of the commission not contrary to law;
3. To require copies of reports, rates, classifications, schedules, and time tables in effect and used by such utilities or other persons and all other information desired by the commission relating to such investigations and requirements to be filed with the commission;
4. To compel obedience to its lawful orders by proceedings of mandamus or injunction or other proper proceedings, in the name of the state, in any court having jurisdiction of the parties or of the subject matter;
5. 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; and

6. The public service commission may in its discretion require proof that no unreasonable profit is made in the sale of materials to or services supplied for any utility company by any firm or corporation owned or controlled directly or indirectly by such utility company or any affiliate, subsidiary, parent company, associate, or any corporation whose controlling stockholders are also controlling stockholders of such utility company, before permitting the value of said materials or services to be included in valuations or cost of operations for rate making purposes. If unreasonable profits have been made in any such transactions, valuations of said materials and services may be reduced accordingly.

Approved March 16, 1953.

CHAPTER 284

H. B. No. 765

(Andrew Benson, Acheson, Haugen, Wollitz)

CHARGES FOR RAISING AND LOWERING OF ELECTRIC SUPPLY AND COMMUNICATION LINES

AN ACT

To amend and reenact section 49-0222 of the 1949 Supplement to the North Dakota Revised Code of 1943, being section 2 of chapter 306 of the 1947 Session Laws for the State of North Dakota, relating to charges for raising and lowering of the electric supply and communication lines.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.) Section 49-0222 of the 1949 Supplement to the North Dakota Revised Code of 1943, being section 2 of chapter 306 of the North Dakota session laws of 1947, is hereby amended and reenacted to read as follows:

49-0222. CHARGES FOR RAISING AND LOWERING LINES; REIMBURSEMENT FOR UNREASONABLE DELAY.) Any party requesting the raising or lowering of electric supply and communication lines shall be required to pay not more than the actual cost reasonably and necessarily incurred therefor. The commission shall, upon application, and after notice and hearing, review and determine the reasonableness of any charges assessed for the raising and lowering of electric supply and communication

lines, and if said charges are found unreasonable, the commission shall fix a just and reasonable charge; provided however, that any person, firm or corporation in charge of electric supply or communication lines, who shall fail, except for good cause, to have said lines raised or lowered to permit the movement of buildings or other bulky objects at the time agreed upon, shall be liable for reasonable costs, damages and expenses occasioned by such unreasonable delay.

Approved February 27, 1953.

CHAPTER 285

H. B. No. 576

(Holand, Thompson, Haugen, Bourgois, Hofstrand, and Roen)

CONSTRUCTION AND EXTENSION OF LINES, PLANT, OR SYSTEM OF PUBLIC UTILITIES

AN ACT

To amend and reenact sections 49-0301, 49-0305, and 49-2010 of the North Dakota Revised Code of 1943, relating to construction and extension of line, plant, or system of public utilities, and declaring an emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.) Section 49-0301 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

49-0301. CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY; SECURED BY PUBLIC UTILITY.) No public utility henceforth shall begin in the construction or operation of a public utility plant or system or extension thereof, without first obtaining from the commission a certificate that public convenience and necessity require or will require such construction and operation. This section shall not be construed to require any such public utility to secure such certificate for:

1. An extension within any municipality or district within which it has lawfully commenced operations;
2. An extension within or to territory already served by it necessary in the ordinary course of its business; or

3. An extension into territory contiguous to that already occupied by it and not receiving similar service from another utility, or electric cooperative corporation or if no certificate of public convenience and necessity has been issued to any other public utility.

If any public utility in constructing or extending its line, plant, or system, unreasonably interferes with or is about to interfere unreasonably with the service or system of any other public utility, or any electric cooperative corporation, the commission on complaint of the public utility or the electric cooperative corporation claiming to be injuriously affected, after notice and hearing as provided in this title, may make such order enforcing this section with respect to such public utility and prescribe such terms and conditions are just and reasonable.

§ 2. AMENDMENT.) Section 49-0305 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

49-0305. COMPLAINT FILED BY MUNICIPALITY; OTHER PUBLIC AUTHORITY; UTILITY; ELECTRIC COOPERATIVE CORPORATION; PERSON.) Whenever a public utility engages or is about to engage in construction or operation as described in this chapter without having secured a certificate of public convenience and necessity as required by the provisions of this chapter, or whenever a public utility constructs or extends its line, plant, or system, or supplies, or offers to supply electric service in violation of this chapter, any interested municipality, public authority, utility, electric cooperative corporation, or person, may file a complaint with the commission. The commission thereupon, or upon its own motion without complaint, with or without notice, may make its order requiring the public utility complained of to cease and desist from such construction or operation or other prohibited activity until the further order of the commission. Upon hearing had after due notice given, the commission shall make such order with respect to such public utility and prescribe such terms and conditions as are just and reasonable.

§ 3. AMENDMENT.) Section 49-2010 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

49-2010. COMMISSION MAY REQUIRE EXTENSION OF ELECTRIC TRANSMISSION LINES.) Whenever any city or village, or the inhabitants thereof within, or contiguous to, the territory served by an electric transmission line operated by a public utility subject to the jurisdiction of the commission shall desire to obtain the service furnished by such public utility, the proper

authorities of such city or village, or fifteen percent of the inhabitants thereof, may petition the commission for the extension of such transmission line and service to, into, or through such municipality. The commission thereupon shall enter into an investigation concerning the practicability and reasonableness of such proposed extension and service and the public convenience and necessity to be subserved thereby, and if, after notice and hearing, the commission finds that such extension of line and service is practicable and can be made reasonably, taking into consideration the amount of revenue likely to be derived therefrom and the prospect for a reasonable return to the utility upon the value of such extension, and further finds that public convenience and necessity will be subserved thereby, and that the city, village or territory contiguous thereto is not already receiving electric service from another public utility or electric cooperative corporation, the commission, by its order, shall require the extension of such line and service by such public utility for the purpose of serving such municipality and the inhabitants thereof upon condition that a franchise for such operation be granted to such public utility by the proper authorities of such municipality, and upon such other terms and conditions as may be just and reasonable. A certified copy of such order, when filed with the auditor or clerk of such municipality, shall have the same force and effect as an application by the utility for a franchise. The commission shall fix just and reasonable rates for such service and such reasonable rules and regulations as may be necessary pertaining thereto.

§ 4. EMERGENCY.) This act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 12, 1953.

CHAPTER 286

H. B. No. 597
(Benson and Acheson and Arndt)

WINDSHIELDS, ETC., FOR RAILROAD TRACK MOTOR CARS

AN ACT

To provide for the installation of windshields, windshield wipers and, upon request canopy or tops on track motor cars operated by railroads and providing a penalty.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1.) From any after January 1, 1954, every person, firm or corporation operating or controlling any railroad running through or within this state shall equip each of its track motor cars with:

1. A windshield and windshield wiper for cleaning rain, snow and other moisture from said windshield. Such windshield wiper shall be maintained in good order and so constructed as to be controlled or operated by operator of said track motor car.

§ 2.) From and after January 1, 1954, every person, firm or corporation operating or controlling any railroad running through or within this state shall, upon request of the foreman, equip each of its track motor cars with a canopy or top of such construction as to adequately protect the occupants of said track motor cars from the rays of the sun, rain or inclement weather.

§ 3. PENALTY.) Any person, firm or corporation operating or controlling any railroad running through or within this state, using or permitting to be used on its line in this state a track motor car in violation of the provisions of this Act shall be guilty of a misdemeanor and shall be punished by a fine of one hundred dollars for each violation.

Approved March 10, 1953.

CHAPTER 287

S. B. No. 124
(Bridston)

COMMON OR CONTRACT CARRIER; INSURANCE OR BOND
REQUIRED FOR GRANTING A CERTIFICATE
OF PUBLIC CONVENIENCE

AN ACT

Relating to motor carriers; amending and reenacting section 49-1833 of the North Dakota Revised Code of 1943; and providing that the commission in granting a certificate to a motor carrier require the filing of insurance or bond.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.) Section 49-1833 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

49-1833. INSURANCE OR BOND REQUIRED OF COMMON OR CONTRACT CARRIER; LIABILITY OF INSURER AND SURETY; TRIAL.) The commission in granting a certificate to any common motor carrier and in granting a permit to any contract carrier shall require the owner or operator first to procure either liability and property damage insurance or a surety bond to be approved by the commission as to the form, sufficiency, and surety thereof and written by a company authorized to write such insurance in this state in an amount to be designated by the commission. The conditions of such liability insurance or surety bond shall be such as to guaranty the payment of any loss or damage to property, or on account of the death of or injury to persons, resulting from the negligence of such carrier. In any action for damages resulting from the negligence of such carrier, the insurer or surety shall not be joined as a party defendant nor shall the fact of the ultimate liability of such insurer or surety be disclosed or commented on to the jury. Upon final judgment the insurer or surety shall become liable directly to the owner of such judgment for the full amount thereof but not exceeding the amount of the policy of insurance or surety bond applicable to such loss. Each insurance policy or bond so required shall be filed with the commission and shall be kept in full force and effect, and upon the failure to do so the certificate or permit shall be revoked and cancelled; provided that, a certificate of any company authorized to write liability or property damage insurance in the state, in

a form approved by the commission and certifying that there is in effect a liability insurance policy required by this section, may be filed in lieu of the policy itself. The commission also shall require the owner or operator first to procure a surety bond, written by a company authorized to write such bond in this state, in an amount to be designated by the commission, to guaranty the payment by the carrier to the shipper or its agent, of all cash or collect on delivery charges collected by said carrier in connection with the operation or conduct of his business as such common motor carrier or contract carrier.

§ 2.) All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 16, 1953.