

**HOUSE BILL NO. 1398**

Introduced by

Representatives J. Nelson, Holman, Seibel, Skroch, Weisz

Senators Dotzenrod, Kannianen, Klein

1 A BILL for an Act to amend and reenact section 49-02-01.1 of the North Dakota Century Code,  
2 relating to the jurisdiction of the public service commission.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Section 49-02-01.1 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6 **49-02-01.1. Jurisdiction of commission limited as to certain utilities - Exemption.**

7 1. Nothing in this chapter or in chapter 49-21 authorizes the commission to make any  
8 order affecting rates, contracts, services rendered, adequacy, or sufficiency of  
9 facilities, or the rules or regulations of any public utility owned and operated by the  
10 state or by any city, county, township, or other political subdivision of the state or anya  
11 public utility, that is not operated for profit, that is operated as a nonprofit, cooperative,  
12 or mutual telecommunications company or is a telecommunications company having  
13 fewer than eighteen thousand local exchange subscribers. However, anya  
14 telecommunications utility that is operated as a nonprofit, cooperative, or mutual  
15 telecommunications company or has fewer than eighteen thousand local exchange  
16 subscribers is subject to sections 49-21-01.4, 49-21-02.4, 49-21-23, 49-21-24, and  
17 49-21-25, subsections 6 through 14 of section 49-21-01.7, and to sections 49-21-01.2,  
18 49-21-01.3, 49-21-06, 49-21-07, 49-21-09, and 49-21-10, regarding rates, terms, and  
19 conditions of access services or connection between facilities and transfer of  
20 telecommunications between two or more telecommunications companies. Nothing in  
21 this section limits the authority of the commission granted under chapters 49-03 and  
22 49-03.1 or sections 49-04-05 and 49-04-06.

23 2. The commission, upon receipt of a resolution of a municipality's governing body  
24 requesting an exemption from the provisions of this section which affect rates.

~~contracts, services rendered, adequacy, or sufficiency of facilities, or the rules of a public utility that is under a franchise with the municipality to supply natural, manufactured, or mixed gas and serves two thousand five hundred or fewer customers in the municipality and twenty five thousand or fewer customers in this state, shall grant the requested exemption from this section for the public utility's business in that municipality. An exemption granted applies to any service provided outside of a municipality's border which is incidental to the public utility's system within the municipality's border. The public utility shall file with the commission all initial and subsequent changes in rates and tariffs upon approval by the municipality. The commission shall require the utility to adopt the commission's policies and procedures governing disconnection during cold weather. If a municipality files with the commission a resolution of its governing body rescinding the request for exemption, the commission shall regulate the public utility's business in that municipality under this section.~~ Upon receipt of a resolution from the governing body of a city not served on August 1, 2017, with natural gas distribution service from a public utility requesting an exemption, and stating its reasons for doing so, the commission shall grant the public utility an exemption from sections 49-02-03, 49-02-11, and 49-02-15, and chapters 49-03.1 and 49-04 if the public utility:

- a. Has a franchise to supply customers within the city and the area of the extraterritorial zoning jurisdiction of the city with natural gas distribution service;
- b. Consents to the exemption; and
- c. Serves no more than two thousand five hundred customers within the city and the area of the extraterritorial zoning jurisdiction of the city.

3. Upon approval of the exemption, the rates, contracts, or services rendered by the public utility within the exempted area are subject to regulation by the city.
4. Notwithstanding an exemption granted under this section, the public utility remains subject to any rules of the commission governing customer service disconnections, and resale of natural gas service furnished or causing the resale of natural gas service by any customer is prohibited.
5. If a city files with the commission a resolution of its governing body rescinding the request for exemption, if the public utility serves more than two thousand five hundred

1           customers within the city and the area of the city's extraterritorial zoning jurisdiction, or  
2           if the public utility requests rescinding the exemption for good cause, the commission  
3           may rescind the exemption granted under this section. The commission may require a  
4           public utility providing nonexempt natural gas distribution service to provide any  
5           exempted natural gas distribution service as a separate business entity.  
6           6. Equipment covered by this section must be installed and maintained in compliance  
7           with the instructions provided by the manufacturer of any previously-installed  
8           equipment to which it will be added. Appliances designed to use only a specific fuel  
9           may not be converted to use a different fuel if the manufacturer has prohibited the  
10           conversions.