

**Sixtieth Legislative Assembly of North Dakota
In Regular Session Commencing Wednesday, January 3, 2007**

SENATE BILL NO. 2031
(Legislative Council)
(Electric Industry Competition Committee)

AN ACT to create and enact a new section to chapter 49-05 of the North Dakota Century Code, relating to public utility rate adjustments for recovery of transmission facility costs.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 49-05 of the North Dakota Century Code is created and enacted as follows:

Rate adjustment - Transmission facility costs.

1. The commission may approve, reject, or modify a tariff filed under section 49-05-06 which provides for an adjustment of rates to recover jurisdictional capital and operating costs incurred by a public utility for new or modified electric transmission facilities. For purposes of this section, an electric transmission facility includes an electric transmission line as defined in chapter 49-21.1 and other transmission line equipment, including substations, transformers, and other equipment constructed to improve the power delivery capability or reliability of the electric transmission system; and operating costs include federally regulated costs charged to or incurred by the public utility to increase regional transmission capacity or reliability. The tariff must:
 - a. Allow the public utility to recover on a timely basis its investment and associated costs for new or modified electric transmission facilities not reflected in the utility's general rate schedule;
 - b. Allow a return on the public utility's investment made for new or modified electric transmission facilities at the level approved in the utility's most recent general rate case;
 - c. Provide a current return on construction work in progress for new or modified electric transmission facilities, provided the cost recovery from retail customers of the allowance for funds used during construction is not sought through any other means; and
 - d. Terminate cost recovery after the public utility's costs for new or modified electric transmission facilities have been recovered fully or have been reflected in the utility's general rate tariffs.
2. Rate adjustments filed under the tariff must be accompanied by:
 - a. A description and quantification of the costs incurred by the public utility for new or modified electric transmission facilities which are subject to recovery;
 - b. A schedule for implementation of the applicable transmission facility projects; and
 - c. Calculations to establish that the rate adjustment is consistent with the terms of the tariff.
3. Upon receipt of a rate adjustment filed under the tariff, the commission shall approve the rate adjustment to become effective unless, after notice and opportunity for hearing and comment, the commission determines the rate adjustment does not comply with the tariff

or the incurred costs for new or modified electric transmission facilities are not reasonable and prudent. The commission may order the public utility to pay the expenses of investigating rate adjustments for recovery of transmission facility costs under this section in accordance with section 49-02-02.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixtieth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2031.

Senate Vote: Yeas 45 Nays 0 Absent 2

House Vote: Yeas 85 Nays 0 Absent 9

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2007.

Approved at _____ M. on _____, 2007.

Governor

Filed in this office this _____ day of _____, 2007,
at _____ o'clock _____ M.

Secretary of State