

FISCAL NOTE
Requested by Legislative Council
12/22/2014

Bill/Resolution No.: SB 2135

- 1 A. **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.*

	2013-2015 Biennium		2015-2017 Biennium		2017-2019 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

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

	2013-2015 Biennium	2015-2017 Biennium	2017-2019 Biennium
Counties	\$0	\$0	\$0
Cities	\$0	\$0	\$0
School Districts	\$0	\$0	\$0
Townships	\$0	\$0	\$0

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Allows utility company and Commission to agree to extend the statutory suspension period for tariff filings.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Bill has no impact on PSC revenues, expenditures or appropriations.

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.*

No revenue impact.

- 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.*

No impact on expenditures

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

No impact on appropriations.

Name: Ilona A. Jeffcoat-Sacco

Agency: PSC

Telephone: 701-328-2407

Date Prepared: 12/22/2014

2015 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2135

2015 SENATE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Roosevelt Park Room, State Capitol

SB 2135
1/13/2015
Job Number 21877

- Subcommittee
 Conference Committee

Committee Clerk Signature

Era Lubelt

Explanation or reason for introduction of bill/resolution:

Relating to suspension period for tariff filings

Minutes:

Attachment

Vice Chairman Campbell: Opened the hearing.

Illona A. Jeffcoat-Sacco, General Counsel Public Service Commission: Written Testimony Attached (1). (:12-4:38)

Senator Murphy: Said that he understood tariff to be a monetary amount but in this case it's the entire agreement?

Illona A. Jeffcoat-Sacco: Yes. She understands what the meaning of tariff is in the way he is thinking and it is probably a component of this but the actual language that has that number in it and the terms in conditions of service. (4:53-5:27)

Senator Murphy: It's a holistic use of the term.

Illona A. Jeffcoat-Sacco: Yes.

Senator Murphy: Asked about the part in her testimony that states that companies are allowed to increase their rates within 60 days of filing and if she is saying that they usually don't do that because they know they may have to give a refund.

Illona A. Jeffcoat-Sacco: She said no and that she shortened the process in that paragraph he is referring to. (5:45-6:46) Continues with her written testimony.

Senator Miller: Asked if what she was saying is that they would notify the utility company, that they would need more time to finish and the utility company would say yes or no.

Illona A. Jeffcoat-Sacco: Yes that is essentially what the bill does. (8:09-8:25)

Senator Miller: Would there be any pressure on a utility to okay an extension based upon a temporary increase in their rate?

Illona A. Jeffcoat-Sacco: She said she thought about that but the other part would be if the rates are going down the utility would be thrilled not to extend the suspension period. (8:36-9:51)

Senator Miller: Asked if a cap on the end saying this and no more than a year would be a sound policy or if that isn't something they would want to do.

Illona A. Jeffcoat-Sacco: Said that those are all possibilities. (10:10-11:20)

Senator Sinner: Asked what happens if they can't agree.

Illona A. Jeffcoat-Sacco: If they couldn't agree the company would have the right to take its rates. The commission would immediately go to court to get an injunction because they would be in the middle of this process. (11:30-12:51)

Senator Sinner: Said the scenario of no agreement probably wouldn't happen. They would come to some agreement on the days and the commission would have to make a decision by that date.

Illona A. Jeffcoat-Sacco: Yes exactly.

Mike Diller, Director of Economic Regulation Public Service Commission: He said he doesn't believe there will ever be any issue with the utility companies agreeing to give them more time. (13:46-15:23)

Senator Sinner: Asked for an example of a case where this happened, where they needed more days.

Mike Diller: Said he had two cases and he continued to share what happened in those cases. (15:40-20:20)

Vice Chairman Campbell: Asked for anybody else in support or opposition.

Carlee Mcleod, President, Utility Shareholders of North Dakota: Neutral. (21:00-21:26)

Vice Chairman Campbell: Closed the hearing.

Senator Miller moved for a do pass.

Senator Poolman seconded the motion.

Roll Call Vote: Yes-6 No-0 Absent-1

Senator Miller will carry the bill.

**2015 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 2135**

Senate Industry, Business and Labor Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Senator Miller Seconded By Senator Poolman

Senators	Yes	No	Senators	Yes	No
Chairman Klein			Senator Murphy	x	
Vice Chairman Campbell	x		Senator Sinner	x	
Senator Burckhard	x				
Senator Miller	x				
Senator Poolman	x				

Total (Yes) 6 No 0

Absent 1

Floor Assignment Senator Miller

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

REPORT OF STANDING COMMITTEE

SB 2135: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2135 was placed on the Eleventh order on the calendar.

2015 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2135

2015 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee Peace Garden Room, State Capitol

SB 2135
3/9/2015
24521

- Subcommittee
 Conference Committee

Ellen Letang

Explanation or reason for introduction of bill/resolution:

Suspension period for tariff filings.

Minutes:

Attachment 1

Chairman Keiser: Opens the hearing on SB 2135.

Illona Jeffcoat-Sacco~General Counsel for the PSC: (Attachment 1).

4:34

Representative Becker: Are you aware of approximately when it was shorten from 9 months to 6 months and are you aware of approximately when you were required to fall under that procurement process?

Jeffcoat-Sacco: I could look both of those up for you.

Representative Ruby: When do you anticipate a company would agree to an extension?

Jeffcoat-Sacco: A company is realizing that they are not ready to respond to the last submission of staff within that time frame or a hearing for 7 months. They might notice it at the 3 month stage because they might know they want a certain amount of time to respond. So they file an email to me that says that we agree to that rate not to take effect.

Representative Ruby: Do they file the interim rate or file later?

Jeffcoat-Sacco: They are asking for their interim rates but they are not filing tariffs so it does not have a suspension or interim rate associated with it either.

Representative Becker: Do you feel 9 months is not long enough. Is there a down side to unlimited period of time?

Jeffcoat-Sacco: The downside the utilities would bring to your attention rapidly the unlimited period. We tossed around different time frames because I think it was 12 months

before it was 9 months. What we realized what was working was the agreement that we have now and we would simply codified that so there wasn't a question that it might be illegal.

Representative Becker: This is already what you're doing and you are asking us to make it legal.

Jeffcoat-Sacco: We feel it's legal; we just want to codify that and I don't think that the utilities would let us get by with that.

Chairman Keiser: There was a concern that the PSC was dragging their feet and with this language we leave the power in the hands of the companies. The option to not extending it is in the 5 lines right below it.

Jeffcoat-Sacco: You are right.

Chairman Keiser: Anyone else here to testify in support of SB 2135, opposition, neutral? Closes the hearing, what are the wishes of the committee?

Vice Chairman Sukut: Moves a Do Pass.

Representative Hanson: Seconded.

Roll call was taken for a Do Pass on SB 2135 with 14 yes, 0 no, 1 absent and Representative Becker will carry the bill.

Date: March 9, 2015

Roll Call Vote: 1

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2135

House Industry, Business & Labor Committee

Subcommittee Conference Committee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
Other Actions: Reconsider _____

Motion Made By Rep Sukut Seconded By Rep Hanson

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	x		Representative Lefor	x	
Vice Chairman Sukut	x		Representative Louser	x	
Representative Beadle	x		Representative Ruby	x	
Representative Becker	x		Representative Amerman	x	
Representative Devlin	x		Representative Boschee	x	
Representative Frantsvog	As		Representative Hanson	x	
Representative Kasper	x		Representative M Nelson	y	
Representative Laning	x				

Total (Yes) 14 No 0

Absent 1

Floor Assignment Rep Rick Becker

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

REPORT OF STANDING COMMITTEE

SB 2135: Industry, Business and Labor Committee (Rep. Keiser, Chairman)
recommends **DO PASS** (14 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING).
SB 2135 was placed on the Fourteenth order on the calendar.

2015 TESTIMONY

SB 2135

Senate Bill 2135

Presented by: Illona A. Jeffcoat-Sacco, General Counsel
Public Service Commission

Before: Senate Industry, Business and Labor Committee
The Honorable Jerry Klein, Chairman

Date: January 13, 2015

TESTIMONY

Mister Chairman and committee members, I am Illona Jeffcoat-Sacco, General Counsel with the Public Service Commission. The Public Service Commission asked me to testify today in support of Senate Bill 2135, introduced at our request.

A tariff is the service agreement between a regulated utility and its customers. The rate charged for utility service, and the terms and conditions of that service, are found in a utility's tariffs filed with the Public Service Commission. State law provides that any tariff change filed by a utility takes effect 30 days after filing, unless suspended by the Commission, and existing law limits the length of any suspension to six months.

The Commission suspends tariff filings only when the Commission needs time to review and analyze the filing, and possibly set it for public hearing. This is usually necessary when a utility files for a general rate increase, and in some other filings with rate impacts. Cases that impact rates are often complex and lengthy, involving substantial discovery, expert analysis by financial and economic specialists, voluminous testimony and exhibits, and several days of

hearings. We find that often six months is simply not enough time to fully and fairly process tariff filings with rate impacts.

Some years ago, the suspension period was reduced from nine months to six. In those days, the Commission could retain supplemental outside expertise more quickly than we can now. Today, it takes at least two months to retain such services through the state procurement process, evaluate the bids, recommend a vendor, allow time for the vendors not chosen time to submit grievances etc. before work on the case can even begin. Add to that the time needed for public input sessions, several days of formal, technical hearings, by post-hearing filings, and Commission deliberation, and one can easily see how six months can be too short.

Another difference is that today companies are allowed to increase their rates within 60 days of filing for an increase, subject to refund should the Commission find the request to be excessive. Accordingly, there is no harm to a utility company if the suspension of its tariff is longer than six months. In fact, when it takes longer than six months to process a case, the utility often agrees not to exercise its right to the statutory tariff effective date. This is because the objective of both the utility and the Commission is to reach the best possible result in the proceeding.

The proposed legislation is an attempt to codify the Commission's current practice. In simple cases, our staff has been able to review and make a recommendation to the Commission in one month. However, complex cases often take longer, whether it is due to the time required to hire experts, the

discovery process, the formal hearing, or the post-hearing filings. Completing those complex cases within six or seven months is undoable.

The Commission wants to abide by the law but not neglect its duty to carefully examine these rate requests in the interest of the ratepayers of North Dakota. The Commission must weigh the interests of both the utility companies and the ratepayers we serve. We respectfully request your favorable consideration and a do pass on this bill.

Mister Chairman, this concludes my testimony. I will be happy to answer any questions the committee may have.

Senate Bill 2135

Presented by: Illona A. Jeffcoat-Sacco, General Counsel
Public Service Commission

Before: House Industry, Business and Labor Committee
The Honorable George Keiser, Chairman

Date: March 9, 2015

TESTIMONY

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