

**2017 HOUSE POLITICAL SUBDIVISION**

**HB 1229**

# 2017 HOUSE STANDING COMMITTEE MINUTES

Political Subdivision Committee  
Prairie Room, State Capitol

HB 1229  
1/26/2017  
Job # 27470

- Subcommittee  
 Conference Committee

*Carmen Hickle*

## Explanation or reason for introduction of bill/resolution:

Relating to the cost of utility services charged to tenants of a mobile home park: and to provide a penalty.

Minutes:

1

**Chairman Klemin:** Opened the hearing on HB 1229.

**Rep. Louser:** Introduced the bill. I was approached by an individual who was having some problems with utility billing. The basic language was represented to Legislative Council and presented to Legal Services of ND. The bill provides the opportunity or the requirements the tenants receive an itemized utility bill when they live in a mobile home park. It does allow for some administrative fees and record keeping requirements for the landlord.

**Chairman Klemin:** The penalty on page 2, where does the civil penalty go?

**Rep. Louser:** I don't have the answer.

**Chairman Klemin:** It doesn't say in here who gets the civil penalty.

**Dennis Lozensky:** Lives at Holiday Park in Minot. The water bill went from \$10 to \$100 a month. They were converting the regular water bill, they mismanaged how they went about doing it. According to the bills there is 7.48 gallons in a cubic foot. I have a bill and the quantity was 2.46 cubic feet of water which is roughly 18 gallons. I got billed \$18.03. The actual usage for that amount was 150 gallons, if you take that in consideration at what they were charging. At \$1.50 per cubic foot and the average person uses 1500 to 1800 gallons of water a month, the bill will be thousands for dollars. No one could get an answer for why they were doing what they were doing. I was told if I didn't like what they were doing I could leave the park. We were also told the reason the water bills were so high is because they had a leak. I contacted 30 lawyers in the state to find out if there was anything that could be done, I was told they only work for the landlords. But when you are charging over 3000% more for water, there is something wrong. I was told its none of your business. We tried to get paperwork from them and they refused. I talked with the owner of the park, he had no clue what was going on. Something needs to be done to some of these parks that are overcharging for water.

Right now the water per gallon is \$7.21 per thousand, we are being charged \$9.00 per thousand. Plus, we are being charged for sewer and an administration fee of \$8.60 per month. The park is also being charged for a meter of \$400.02 per month. The owner told me he is losing money on the water. If every home has a meter and they read the meter and adjust it accordingly how can you be losing money? I just want to get something that is fair for everyone instead just one person.

**Rep. Beadle:** Since this whole issue started did they have anyone come out to test water pressure differences to check to see if there was a leak?

**Mr. Lozensky:** Yes, I contacted the company that sold the meters. He came out and checked the meter, it was reading correctly. They installed my meter but they never read it.

**Rep. Beadle:** Do they have a meter so they can know exactly how much water is coming into the park?

**Mr. Lozensky:** Yes, they do. They have a 2-inch meter coming into the park that tells them how much water the park is using. Apparently the park is losing water somewhere.

**Rep. Beadle:** So it's in the park boundaries?

**Mr. Lozensky:** It's in the park boundaries. Instead of finding the leak they raised everyone's water bill.

**Rep. Beadle:** Have they had anyone come in, aside from checking the meters. Have they had anybody check the water pressure within the lines?

**Mr. Lozensky:** I have done that myself and the water pressure is low.

**Rep. Johnson:** Did ownership of the park change hands?

**Mr. Lozensky:** Yes, it did in 2007. Mr. John Campbell bought it and they switched over the management to Minot Investment Management. They said we are not reading the meter we are charging a flat \$40. I was told again if I didn't like it I was free to leave. The problem is most of the trailers in that park are old. Any trailer that is over 20 years old are not allowed in the new parks. They told us, you have a leak, I shut the water off because I was gone for a month and when I got back I had a high water bill. They then said they made a mistake. The neighbor across the street had a bill for over \$400. They won't read the meter or fix the leak.

**Rep. Johnson:** In Fargo we have a combined utility bill, is that how it works in the trailer park?

**Mr. Lozensky:** No when I moved in, the park paid sewer and trash and you were billed for your water because they had a person read the meter. The new management company won't tell you anything. If they are losing water it should be up to the park to pay for it not the people.

**Rep. Ertelt:** This bill would provide for up to 10% administrative fee, do you think that is a fair amount?

**Mr. Lozensky:** Yes, right now the administrative fee is \$8.42. Everyone pays the same no matter how much water you use. What is the lot rent supposed to cover at \$290 a month? They started adding in the sewer bill, which is more than water, at \$9.70 per thousand. That used to be included in the park lot rent.

**Brad Pederson, Attorney with Legal Service of ND:** HB 1229 tries to rectify what in the legal community is called a hidden cost to be poor. Yes, you pay your rent but then we see hidden costs added in. In the bill, remedy is allowed to be corrected before the fee is actually assessed. Holiday Park because they receive their water from Northwest Prairie Rural Water, actually goes into a water pit and they monitor the water out to the tenants. Our concern is how are they creating their numbers. Holiday Park is paying the water program .000675 per gallon of water used and charging 2962.96% higher rate. We are asking to put the costs up front and there are no hidden costs. It has to be about disclosure and about fairness.

**Rep K. Koppelman:** The hidden costs and lack of disclosure costs, you stated the landlords has the rights to do this, it's just the costs are being hidden and therefore people are finding they can't afford what they didn't bargain for. However, the bill includes both a provision requiring disclosure and also limitations on what can be charged. Do you favor both?

**Mr. Pederson:** Again it's the disclosure part of it. We are allowing for administrative fee in the bill and we are allowing the charges to be passed through. A 2968% increase, it's not fair living.

**Rep. Ertelt:** This bill provides for the mobile home park landlord to purchase utility on behalf for the tenants and bill them. Are we to understand they are not to do that by law?

**Mr. Pederson:** They are not; it is called a master meter. That's what is in place at Holiday Park, they are buying their water in the water pit and paying a set amount plus the percentage that they bring in each month, then they allocate it out, there allocation needs to be reasonable how to allocate that water out to a tenant. This is a hidden cost and that is what this provides to be an informed consumer.

**Rep. Ertelt:** So if the landlord was not purchasing the water in this pit and it was going via city services to the homes, then they would not be able to do as provided?

**Mr. Pederson:** There would be no good reason to. A smart landlord will not have their tenets hook up to MDU, or hook up to their own water. A smart landlord puts it on one bill and pays the bill then pass it on into the cost of renting the unit.

**Rep. Zubke:** The landlord is doing something reasonable in regards to all these utilities and if we pass this there is nothing to stop that landlord from taking that rent from \$290 up to \$350 a month is there?

**Mr. Pederson:** No.

**Senator O. Larsen:** I did an investigation and discussed it with the management team, North Prairie where they get the water, the city of Minot who takes care of the sewage. I looked at the bills, I looked at the water meter, and talked to other individuals there was no consistency. I went to North Prairie Water and they indicated they bill the group of this company so they send the number of gallons used. They also send to the Minot sewage the gallons of water used. They would bill them a gallon of water in and then convert to linear feet and charge them. What they were doing to the tenants was using their own calculations to make the formula. They stated they had it figured out and would charge the gallons coming in, then reformulate it to linear feet. North Prairie Water sends gallons in, the city of Minot sends a bill for sewage in gallons out. They do not do linear feet. I told them this would go away if they charge gallons in and gallons out. They indicated they had a water break and lost 30,000 gallons so there are fees incurred in that. I talked to other trailer park company and if they have to put meters in that it's not going to be good. I took one of the bills from this individual to North Prairie, because they have the meter reading how many gallons are going out. They plugged the gallons into their computer and that individual used 8000 gallons of water in a month. According to the true calculation of the linear feet.

**Rep. Maragos:** They calculated 8000 gallons based on the linear feet that was calculated by the company, what was the actual gallons in on that 8000 gallons?

**Sen. Larsen:** What I really paid attention to was when they were doing the calculations and she could not believe he used 8000 gallons of water. A household with 4 kids is like 1500 gallons.

**Rep. Pyle:** It varies by family. When the management company do they go in and check the toilets, check the faucets, do they check the connection underneath the trailers? A leaky toilet can use a lot of gallons.

**Sen. Larsen:** The management system owners I believe they are checking the systems. I know from personal experience and a leaky faucet will suck down a ton of water. But the problem when you look at the history of the bills, if they came in and checked it and shut the water off it shouldn't be a consistent bill. Even if there was a leak that should come back down. I think they were stopping their leaks but the way they were doing their bill from feet to liters was very questionable.

**Alexander Kelsch, Kelsch, Kelsch, Ruff & Kranda Law Firm but representing ND Manufactured Housing Association:** (Testimony #1) on behalf of Kent French. It appears to be in a specific mobile home park and specific management park company.

**Chairman Klemin:** With this master meter situation is it uncommon to have sub meters for each of the units?

**Mr. Kelsch:** I don't believe it is uncommon. There would be an added cost that would come with that.

**Chairman Klemin:** This bill seems to require individual meters in order to allocate it out to each individual unit, is that right?

**Mr. Kelsch:** It doesn't specifically state that the meters have to be sub metered out. I believe that would ultimately become what would have to happen.

**Rep. Beadle:** The primary opposition from the manufactured homes is in terms of this bills limitation on the pass through expenses and the common areas expenses and their ability to pass this on and collect? As opposed to the opposition being on the disclosure?

**Mr. Kelsch:** The pass through of the common areas is a major part of it. At the same time the remaining portions, if we now have to provide itemized bills it will come as an added cost to the mobile home park.

**Rep. Beadle:** In terms of the necessity of separate sub metering, you are basically discussing the difference between a gross lease and a net lease. If we scrap most of the bill but require the disclosure in terms of when you enter into an agreement with a park this is how billing is handled and make sure we have simplified disclosures, would that address some of the concerns?

**Mr. Kelsch:** It might address some of the concerns. We don't require that of any other rental type of property in the state.

**Rep K. Koppelman:** Do you know if there was any remedy within the city? Do you know if there are city ordinances in ND similar to this where these issues have been attempted to be handled locally?

**Mr. Kelsch:** I will yield to Mr. Farnsworth.

**Chairman Klemin:** Hold that question. No other questions?

**Jim Farnsworth, Colonial Estates:** Urge a do not pass. Currently in Bismarck there are very few parks that are sub metered. Most parks are not sub-metered. When this situation was explored several years ago, by one of the parks, to do some sub metering, the cost was \$800 to \$1000 per home to install a metering system. It sounds like the situation in Minot is already sub-metered in that park and sounds like a local issue up there. If are going to subdivide the bills we are going to have to meter them somehow. You can't have an elderly person who uses very little water per month then you have a household with 6 people in their family taking our current bill and subdividing it. Common areas are private streets, they are not maintained, plowed or repaired by the city. I feel bad for the resident in Minot but it sounds like an individual park issue.

**Rep K. Koppelman:** Has cities dealt with ordinances, are there ordinances which apply to mobile home parks in Bismarck? Or are you aware of others in other places whether it is this issue or something similar?

**Mr. Farnsworth:** I am unaware of any major city in ND that has done any type of ordinance requiring sub metering.

**Rep K. Koppelman:** What about other types of things that are accomplished by ordinances? Are there city ordinances that regulate mobile parks in our cities?

**Mr. Farnsworth:** There are many ordinances.

**Rep K. Koppelman:** So if someone sought a local solution to a local problem it could be accomplished through a city ordinance rather than a state law?

**Mr. Farnsworth:** Absolutely.

**Rep. Johnson:** How do you prorate cost of water to your individuals?

**Mr. Farnsworth:** We don't, these are passed through costs that are part of the rent. Our entire water bill and street repair for the year, our street light bills, our maintenance to the park, plowing snow any costs are paid by the park. Once a year we look at those to see if our costs have gone up, so we can look at that for monthly costs for rent in the future.

**Rep. Johnson:** So your cost to the single person is the same cost as the family of 6?

**Mr. Farnsworth:** In this case it is.

**Chairman Klemin:** Closed the hearing on HB 1229.

# 2017 HOUSE STANDING COMMITTEE MINUTES

Political Subdivision Committee  
Prairie Room, State Capitol

HB 1229  
1/26/2017  
Job # 27494

- Subcommittee  
 Conference Committee

*Carmen Nickb*

## Explanation or reason for introduction of bill/resolution:

Relating to the cost of utility services charged to tenants of a mobile home park; and to provide a penalty.

## Minutes:

1

**Chairman Klemin:** Opened HB 1229 for committee work. (Addressed handout #1). It is sub metering utilities. Seems like HB 1229 is related to water.

**Rep. Longmuir:** Made a motion of do not pass.

**Rep K. Koppelman:** Second the motion.

**Rep. R. S. Becker:** I concur with the action we are going to take. The resident of the trailer park seemed to go to everyone and no one wanted to listen to him. What do we tell someone like that?

**Rep. Johnson:** That mobile home specific, the other gentleman said they don't pro-rate utilities. This is written for utilities that are pro-rated so now we are going to throw a bunch of trailer park owners into the mix and totally unaffordable.

**Rep. Pyle:** The suggestion we could make is to report the owner to the Better Business Bureau.

**Rep K. Koppelman:** We could talk to the bill sponsor and suggest Better Business Bureau is an option. Another is out ND Dept. of Labor and Human Rights. They deal with housing issues. I don't know if this violates any law but one of the good things is the way we do things in ND, our Labor Dept., our Commerce Dept., instead of being regulatory agencies that try to hammer offenders, they are people who try and find resolutions. If someone has a complaint about fair housing issue, they don't sue them, they try and get the landlord and tenant together to find a solution.

**Rep. Zubke:** I do agree with the action we are taking. There was some inconsistency with the gentleman testifying on the water.

**Rep. Guggisberg:** My first thought was why didn't the city take care of this because it seems like a city issue? When we heard from the attorney, they tried and it seems like they didn't get anywhere. Sen Larsen also tried to help out and didn't get the response he was hoping for.

**Rep. Johnson:** Rep. Guggisberg do you think this could be amended to include those trailer courts that do not pro-rate?

**Rep. Guggisberg:** If it would help it pass I think that is something they could live with.

**Rep. Simons:** I had a member who is a member of the Trailer Park Association and it is something they are looking at as well. It is a onetime deal.

**Rep. Ertelt:** I felt they were litigating a case. I feel for the man and that he could not get any help.

**Rep K. Koppelman:** There are civil remedies available.

**Rep. Maragos:** If there is nothing in statue that regulates this, then they have no standing so there would be no need to go to court. I have always felt that living in a trailer park, you have the least amount of protection of any home owners in the state. You are totally whim of the trailer park owner. If your trailer is 20 years old we aren't going to take it, so if he can't move it anywhere else what is he supposed to do? So he would lose his trailer if he leaves. Having been in this process for my 11<sup>th</sup> session, there have been a lot of trailer park issues and there is nothing that can be done because there are no statues to regulate it. I know you all are voting your conscience; we are not doing enough for the people that live in the trailer parks. The manufactured housing people and trailer park people don't like it because anything like this would limit their ability to hold those people hostage.

**Chairman Klemin:** There are some other statutes in Landlord – tenant law sets out landlord obligations for maintenance of the premises and has a long list of what has to be done on the part of the landlord. It also has tenant obligations in another section. 47.16.13.6 says any right or action is enforceable by action and the court may award reasonable attorney fees to the prevailing party. It's not that he doesn't have any remedies.

**Rep. Maragos:** With that statute does it state whether there is an absence of a contract or if there is a contract involved would those statutes still apply?

**Chairman Klemin:** It doesn't say that but there is a contract. It might not be written; it could be oral.

**Rep. Beadle:** One thing to point out, that wouldn't apply to this case in the mobile home park. It says a landlord of a residential dwelling unit. Because of the nature of how mobile home parks tend to be operating, it ends up being more of a land lease licensing. The only thing I can see us statutorily doing would be amending a landlord obligation to have full disclosures and disclaimers. All of this falls under contract law, when you enter into an agreement on

these lots, you are entering into a lease relationship and you need to negotiate the terms and conditions of that contract.

**Rep K. Koppelman:** There are other sections that deal with mobile home parks. 23.10.07 which talks about sanitation and safety, drinking water supplies is mentioned. I really think we have laws in place to protect people and if this was an abuse situation where these folks were put upon or defrauded, there are general fraud statutes that can be pursued as well.

**Rep. Guggisberg:** I think we are focusing on the way things should be, I believe the local government should have taken care of this. We can agree he has the opportunity to hire an attorney and win this case and get some money for it. We have someone who owns the trailer park who knows all this person has to his name is this trailer that is worth nothing, unless it is sitting on that pad.

**Rep K. Koppelman:** On the same section of code, 23.10.07.1 it specifically deals with service fees.

**Rep. Johnson:** If we are going to impose upon them they have to meter their water at \$800 to \$1000 per unit. Then we have gone the other way. Who ever made the motion, if they would withdraw that I would work on a hog house amendment.

**Rep. Longmuir:** I do not wish to withdraw.

**Rep. Beadle:** That is what I was going to say as well and if we did want to withdraw the motion. I would propose in that scenario is hog house amendment to amend 23-10.7.1 service fees. I would add, landlord must disclose appropriate fees to any residents in the trailer park.

Motion carried 8 yes, 6 no, 1 absent.

Rep. Longmuir will carry the bill.

**Chairman Klemin:** Closed HB 1229.

Date: 1-26-17  
 Roll Call Vote: 1

**2017 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. HB 1229**

House Political Subdivisions 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 Longmuir Seconded By Koppelman

Representatives	Yes	No	Representatives	Yes	No
Chairman Klemin	/		Rep. Guggisberg		/
Vice Chairman Hatlestad	/		Rep. Hanson	/	
Rep. Beadle		/			
Rep. Becker		/			
Rep. Ertelt	/				
Rep. Johnson	/	/			
Rep. Koppelman	/				
Rep. Longmuir	/				
Rep. Maragos		/			
Rep. Pyle	/				
Rep. Simons	/	/			
Rep. Toman		/			
Rep. Zubke	/				

Total (Yes) 8 No 6

Absent 1

Floor Assignment Longmuir

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

**REPORT OF STANDING COMMITTEE**

**HB 1229: Political Subdivisions Committee (Rep. Klemin, Chairman)** recommends **DO NOT PASS** (8 YEAS, 6 NAYS, 1 ABSENT AND NOT VOTING). HB 1229 was placed on the Eleventh order on the calendar.

2017 TESTIMONY

HB 1229

1-26-17

#1

HB1229

**Testimony in Opposition to  
HOUSE BILL NO. 1229**

**House Political Subdivisions Committee**

**January 26, 2017**

Chairman Klemin, members of the House Political Subdivisions Committee, for the record my name is Kent French. I am the Legislative Committee Chair for the North Dakota Manufactured Housing Association. Unfortunately, I am unable to attend the hearing in person. However, I have asked that our lobbyist, Alexander Kelsch, of Kelsch Kelsch Ruff & Kranda Law Firm, provide my testimony to you today on behalf of the North Dakota Manufactured Housing Association in opposition to HB 1229.

The North Dakota Manufactured Housing Association (NDMHA) is a state trade association representing all segments of the manufactured housing industry, including: manufactured home builders, suppliers, retailers, community developers, owners and managers, insurers and financial services companies. NDMHA works to promote fair laws and regulations, increase and improve financing options, promote a positive image of manufactured housing, provide technical analysis and counsel, promote industry professionalism and remove zoning barriers to the use of manufactured housing. Through these various programs and activities, NDMHA seeks to promote the use of manufactured housing to consumers, developers, lenders, community operators, insurers, the media and public officials in an effort so more Americans can realize their dream of affordable home ownership.

NDMHA opposes HB 1229 because it is an inappropriate and unnecessary effort to establish a new chapter of property law which would establish guidelines and limitations for how a mobile home park can operate and what can or cannot be charged for the use and rental of mobile home lots. Further, HB 1229 eliminates the pass through of utility services for common areas that are provided for the benefit of the entire mobile home park and its tenants.

There are no similar regulations that I am aware of that establish these types of guidelines and limitations for how rental homes, apartment buildings or condominium

rentals are administered and operated for their respective tenants. A mobile home park is not significantly different than any of those other housing arrangements for tenants. Why would we as a State want to establish these strict regulations and limitations to mobile home parks? The application of these types of regulations to a mobile home park are unfair and discriminatory.

The opportunity to pass through the cost of utilities, including the costs and expenses of the common areas that are made available to, and used by and for the benefit of, the occupants or tenants is a normal practice that should not be prohibited under HB 1229. The restrictions and limitations within HB 1229 would interfere with free enterprise. Further, the civil penalty provisions are also unusual and punitive. There is already a natural mechanism in place if a tenant does not want to be charged for the cost of utilities for the common areas, if those costs are passed along by the mobile home park owner: that tenant can decide that they want to leave that mobile home park and relocate to someplace else.

Accordingly, on behalf of the NDMHA, I would urge a **DO NOT PASS** recommendation for **HB 1229**. I would be happy to try to answer any questions.

HB 1229

# 1

1-26-17



Public Service Commission  
State of North Dakota

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26 January 2017

Honorable Lawrence R. Klemin, Chairman  
Political Subdivisions Committee  
North Dakota House of Representatives  
600 East Boulevard Avenue  
Bismarck, ND 58505

Re: House Bill 1229

Dear Chairman Klemin:

The Public Service Commission was present at the Committee Hearing on House Bill 1229 on January 26, 2017, but I was not quick enough to the podium and the Committee did not ask for testimony neutral to the bill.

The Commission would appreciate this opportunity to describe how House Bill 1229 relates to, or impacts, the Commission's regulatory authority.

Much of the testimony on this bill related to water utility issues, and the Commission does not regulate water utilities. However, the Commission does regulate investor-owned electric and gas utilities that the bill appears to include.

The Commission's current administrative rules for regulated natural gas public utilities do not allow resale of natural gas unless the reseller is engaged in the business of distributing gas, has a contract with the public utility that allows resale, and the reseller has a certificate of public convenience and necessity. Attached is North Dakota Administrative Code section 69-09-01-25. The intent is to meter individual end user energy usage.

The Commission's current administrative rules for regulated electric public utilities do not allow resale or submetering unless the public utility's rate schedule allows the arrangement. Attached is North Dakota Administrative Code section 69-09-02-15. Again, the intent is to meter individual end user energy usage. The Commission's electric service rules do not apply to rural electric cooperatives.

The history behind existing rules dates back to the 1973 and 1975 energy crisis. As part of the National Energy Act, federal law promoted energy conservation and energy efficiency. States were required to consider adopting utility regulations to increase use of clean energy and to improve energy efficiency. The Commission's rules require the measurement of energy consumption at the end user location, the end user pays only for

that energy usage, and therefore, the end user can make an individual decision about energy consumption and energy conservation.

It appears HB 1229 would require measurement of energy consumption at the end user location however, if HB 1229 passes, the Commission would need to make regulatory modifications to allow resale of electric and gas utility services.

An additional area of the Commission's jurisdiction that may have impact from HB 1229 is pipeline safety. The Commission is uncertain whether HB1229 addresses ownership of the natural gas distribution system within the mobile home park. If HB1229 allows landlord ownership of the natural gas distribution system and the system is located entirely on the customer's premises, then the mobile home park gas distribution system would not be operated and maintained by a public utility in accordance with federal pipeline safety regulations. A landlord-owned electric distribution system is not subject to the National Electric Safety Code that adopted under the Commission authority for public utilities, but would be subject to the National Electric Code under the oversight of the North Dakota State Electrical Board.

Mister Chairman, the Commission would be happy to answer any questions regarding these comments.

Best regards,



Patrick Fahn  
Director of Public Utilities  
Division

attachments

c: Rep. Patrick Hatlestad,  
Rep. Sebastian Ertelt,  
Rep. Kim Koppelman,  
Rep. Brandy Pyle,  
Rep. Karla Rose Hanson,

Rep. Thomas Beadle,  
Rep. Ron Guggisberg,  
Rep. Donald Longmuir,  
Rep. Luke Simons,  
Rep. Denton Zubke

Rep. Rich Becker  
Rep. Mary Johnson  
Rep. Andrew Maragos  
Rep. Nathan Toman

8. A customer is defined to include any person, firm, or corporation receiving service of one or more classes, and metered by one or more meters.

**General Authority:** NDCC 49-02-11

**Law Implemented:** NDCC 49-02-11

**69-09-01-22. Meter readings on bills.**

Bills rendered periodically to consumers for metered service shall show the readings of the meter at the beginning and end of the period for which the bills are rendered and the dates of the meter readings. On all bills which are computed on any other basis than a definite charge per unit of service, the other factors used in computing the bill shall be clearly stated so that the amount may be readily computed from the information appearing on the bill.

**General Authority:** NDCC 49-02-11

**Law Implemented:** NDCC 49-02-11

**69-09-01-23. Adjustment of bills for meter error.**

If on testing of any service meter, either by the utility or by the commission, such meter shall be found to have a percentage of error greater than that allowed by the commission, the following provisions for the adjustment of bills shall be observed:

1. **Fast meters.** When a meter is found to be fast in excess of two percent in tests made at the request of the consumer, the utility shall refund to the customer an amount equal to the excess charged for the gas incorrectly metered. The period over which the correction is to be made shall be one-half of the time elapsed since the last previous test. The period shall not exceed six months. No part of a minimum service charge shall be refunded.
2. **Slow meters.** When a meter is found to be slow in excess of two percent in tests made at the request of the consumer, the utility may make a charge to the consumer for the gas incorrectly metered. The period over which the correction is to be made shall be one-half of the time elapsed since the last previous test. The period shall not exceed six months. If a meter is found not to register for any period, the utility shall estimate the charge for the gas under similar conditions, preceding or subsequent thereto, or overused by averaging the amounts registered over similar and corresponding periods in previous years. Such action shall be taken only in cases of substantial importance where the utility is not at fault allowing the incorrect meter to be in service.

**General Authority:** NDCC 49-02-11

**Law Implemented:** NDCC 49-02-11

**69-09-01-24. Refunds.**

No application for refunds of any payments to a utility claimed to be in excess of the rules, regulations, schedules, rates, or tariffs shall be made to the commission after the expiration of six years from the date of payment.

**General Authority:** NDCC 49-02-11

**Law Implemented:** NDCC 49-02-11

**69-09-01-25. Resale.**

Gas service furnished on standard rates or contracts furnished by a public utility shall not be resold or caused to be resold by any customer unless the customer is engaged in the business of distributing gas and has a contract to this effect approved by the commission, and has a certificate of public convenience and necessity granted by the commission.

**69-09-02-14. Classification of service.**

1. Residential service is defined as service for general household purposes in space occupied as living quarters, such as single private residences, single apartments, fraternity houses and sorority houses, and for garages, or other auxiliary buildings on the same premises used by the residential customer.
2. Commercial service is defined as service to a business enterprise in space occupied and operated for commercial purposes, such as stores, offices, shops, hotels, garages, wholesale houses, filling stations, barber shops, beauty shops, and any other space occupied for commercial purposes.

A business enterprise operated by an individual, a partnership, or a corporation, may include more than one type of business activity at the same location.

A landlord renting space to separate business enterprises in the same building may take electric service through a single meter on the commercial service rate provided electric service is furnished for occupants of the building as part of the rent, subject, however, to the provisions restricting master meters contained in section 69-09-02-37.

If a single business enterprise occupies more than one unit of space in the conduct of the same business, each separate unit will be metered individually and considered a separate service unless the customer makes provision for the necessary circuits to connect the separate units to permit the use of a single meter.

3. A customer occupying a building for residential and commercial purposes jointly may combine the customer's residential and commercial use on the applicable commercial service rate.
4. Other classes of electric service furnished by the utility shall be defined in applicable rate schedules, or in rules and regulations pertaining thereto. Service to customers for which no specific rate schedule is applicable shall be billed on the commercial or general service rate.

**History:** Amended effective October 1, 1980.

**General Authority:** NDCC 49-02-11

**Law Implemented:** NDCC 49-02-11

**69-09-02-15. Resale and submetering.**

Electric service furnished by a public utility under established rate schedules shall not be resold or submetered by a customer unless the rate schedule under which the customer receives service specifically so provides.

**General Authority:** NDCC 49-02-11

**Law Implemented:** NDCC 49-02-11

**69-09-02-16. Measuring customer service.**

1. All electrical energy sold to customers shall be measured by commercially acceptable measuring devices owned and maintained by the utility, except where it is impracticable to meter loads, such as multiple streetlighting, or temporary or special installations, in which case the consumption may be estimated. Every reasonable effort shall be made to measure at one point all electrical quantities necessary for billing a customer under a given rate.
2. All electric service to the same class of customers rendered under the same rate schedule shall be metered with instruments having generally similar characteristics.

**General Authority:** NDCC 49-02-11