

PUBLIC UTILITIES

CHAPTER 342

H. B. No. 833

(Burk, Powell, Glaspey, Bloom)

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY, PIPELINES

AN ACT

To amend and reenact section 49-0301 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to provision of services by public utilities, the obtaining of certificates of public convenience and necessity, and the extension of pipeline gathering systems to oil and gas fields.

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

§ 1. Amendment.) Section 49-0301 of the 1957 Supplement to 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.

The provisions of the paragraphs numbered one, two and three of this section shall not be construed to exempt a public utility, operating an oil or gas pipeline gathering system for the purpose of collecting oil or gas at the well producing the oil or gas and transporting such products to another destination, from obtaining a certificate of public convenience and necessity from the public service commission prior to extending such

pipelines to provide service to any wells in an oil or gas field not presently served, unless such oil or gas field borders within three miles of an oil or gas field presently being served. 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 as are just and reasonable.

Approved March 14, 1959.

CHAPTER 343

S. B. No. 107

(Murphy, Krause, Vendsel, Lautenschlager)

PUBLIC UTILITY REGULATION

AN ACT

To amend and reenact section 49-0506 of the North Dakota Revised Code of 1943, relating to the filing by public utilities of rates, fares, schedules, classifications, contracts, rules, and regulations, with the public service commission, and the investigation thereof by the commission.

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

§ 1. **Amendment.**) Section 49-0506 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

49-0506. Hearing by Commission on Proposed Change of Rates.) Whenever a notice or any schedule stating an individual or joint rate, classification, contract, practice, rule, or regulation, increasing or decreasing, or resulting in an increase or decrease in any rate, shall be filed with the commission, the commission may suspend by motion such rate, classification, contract, practice, rule or regulation, but the period of suspension thereof shall not extend more than eleven months beyond the time when it otherwise would go into effect upon complaint or upon its own initiative without complaint, the commission may order a hearing, upon due notice, concerning the propriety of such rate, classification, contract, practice, rule, or regulation, and pending the hearing and decision thereon.

On such hearing, the commission shall establish the rates, classifications, contracts, practices, rules, or regulations proposed, in whole or in part, or others in lieu thereof, which it shall find to be just and reasonable. At any such hearing, the burden to show that the increased rate or proposed change of rate, classification, regulation, rule or practice is just and reasonable shall be upon the public utility making application therefor. All such rates, classifications, contracts, practices, rules, or regulations not so suspended, on the expiration of thirty days from the time of filing the same with the commission, or of such lesser time as the commission may grant, shall go into effect and be the established and effective rates, classifications, contracts, practices, rules, and regulations, subject to the power of the commission, after a hearing had on its own motion or upon complaint, to alter or modify the same.

Approved March 10, 1959.

CHAPTER 344

S. B. No. 94

(Luick, Wadeson, Livingston, George, Johnson, Foss.)
(Kee, Gilbertson, Kisse, Baeverstad)

THIRD BRAKEMAN

AN ACT

To amend and reenact section 49-1309 of the North Dakota Revised Code of 1943, relating to the number of brakemen required on trains.

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

§ 1. Amendment.) Section 49-1309 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

49-1309. Freight Trains of Over Forty Cars; How Manned.)

No railroad corporation doing business in this state which operates more than four trains in twenty-four hours shall operate over any of its lines or any part thereof outside of the yard limits any freight or mixed trains consisting of more than forty freight or other cars, exclusive of caboose and engine, with less than a full train crew consisting of five persons:

1. One conductor;
2. One engineer;
3. One fireman;
4. One brakeman; and

5. One flagman, such flagman to have at least one year's experience in train service.

This section does not apply to any branch or part of road which does not operate more than four trains in any twenty-four consecutive hours.

§ 2. Effect of Act.) No person employed as a brakeman on any railroad in this state on the effective date of this Act shall be discharged or lose his employment by reason of the provisions of this Act. However, whenever a brakeman retires, terminates or leaves his employment the railroad company need not replace the position so vacated, unless it is to fill a mandatory position under section 1 of this Act.

§ 3. Effect of Invalidity of Part of This Act.) If a court of competent jurisdiction shall adjudge to be invalid or unconstitutional any clause, sentence, paragraph, section or part of this Act, such judgment or decree shall not affect, impair, invalidate or nullify the remainder of this Act, but the effect thereof shall be confined to the clause, sentence, paragraph, section or part of this Act so adjudged to be invalid or unconstitutional.

Approved March 17, 1959.