

Public
Service
Commission

**State
of
North Dakota**

FOR FURTHER INFORMATION CONTACT:

**Secretary of the Commission
Public Service Commission
State Capitol Building
Bismarck, North Dakota 58505**

**Leo M. Reinbold
President**

**Dale V. Sandstrom
Commissioner**

**Bruce Hagen
Commissioner**

ADDENDUM

On January 4, 1985, the Commission reorganized and reassigned portfolios as follows:

LEO M. REINBOLD, PRESIDENT:

Reclamation
Abandoned Mine Lands
Weights and Measures

DALE V. SANDSTRÖM:

Electric, Gas and Telephone Utilities
Pipeline Companies
Energy Facility Siting

BRUCE HAGEN:

Transportation
Grain Elevators
Auctioneers

SFN 6851

PUBLIC SERVICE COMMISSION

State of North Dakota

HISTORY OF THE COMMISSION

In 1886, the Territory of Dakota established the Board of Railroad Commissioners which had general jurisdiction over railroads, sleeping car companies, express companies and telegraph companies in Dakota Territory. Upon the division of Dakota Territory, the Constitution of North Dakota provided for the election of a Board of Railroad Commissioners and directed that its powers and duties be prescribed by law. In 1940, the name of the Board of Railroad Commissioners was changed to the Public Service Commission.

The North Dakota Legislature has broadened considerably the duties of the North Dakota Public Service Commission since its establishment as the Board of Railroad Commissioners. Today, the Public Service Commission has jurisdiction over railroads, contract and common motor carriers, telegraph and telephone companies, pipeline companies, electric companies, gas companies, water companies, heating companies, grain elevator and warehouse companies, weights and measures and public auctioneers and auction clerks. In addition, the Commission's jurisdiction has been expanded to supervise the siting of energy plants and transmission facilities and the reclamation of mined lands.

ORGANIZATION

Commissioners:

The three Public Service Commissioners are statewide elected officials, each serving a term of six years with one Commissioner's term expiring every two years. The Commissioners are responsible for the exercise of the powers and duties prescribed to the Public Service Commission under the law.

Each Commissioner exercises equal power. Hence, although the workload is divided among the Commissioners, they share equal responsibility for each decision. The portfolios of the present Commissioners are:

Richard Elkin, President: motor carriers, railroad companies, public warehousing, and Commission budget.

Bruce Hagen: electric utilities, telephone and telegraph companies, natural gas and pipeline companies, energy conversion and transmission facilities siting, and traffic division.

Leo M. Reinbold: surface-mined lands reclamation, auctioneers and auction clerks, and weights and measures.

Secretary to the Commission:

By statute, the Public Service Commission is required, every two years, to appoint an Executive Secretary to the Commission. This position assists the Commission by coordinating the operations of the Commission and relieving the individual Commissioners of administrative detail. The Secretary's office also administers the Commission's licensing of auctioneers and auction clerks.

Commerce Counsel:

The Attorney General of North Dakota is the ex officio Attorney for the Commission. However, by statute, the Attorney General may, and has, based on Commission recommendation, appointed a Commerce Counsel to act as chief legal advisor to the Commission.

COMMISSION DIVISIONS:

The Commission has organized its office and staff into the following six divisions:

- (1) Division of Weights and Measures
- (2) Motor Carrier Division
- (3) Public Warehousing Division
- (4) Reclamation Division
- (5) Traffic Division
- (6) Public Utility and Siting Division

FUNCTIONS OF THE COMMISSION DIVISIONS:**Division of Weights and Measures:**

The Division of Weights and Measures provides a basis for all commercial transactions involving the transfer of commodities by maintaining the necessary standards of weighing and measuring devices such as balances, meters, and measures to ensure that only accurate equipment and measuring practices are used when dealing in commercial trade.

Motor Carrier Division:

The Motor Carrier Division is charged with the responsibility of regulating motor carriers and motor vehicles engaged in the transportation of persons and property for compensation over the highways of North Dakota.

Public Warehousing Division:

The Public Warehousing Division provides for the licensing, bonding, and general supervision of grain elevators; roving grain and hay buyers; and storage companies storing goods, wares, and merchandise, other than grain in bulk.

Reclamation Division:

This division is responsible for the administration and enforcement of a state environmental protection law — the Reclamation of Surface Mined Lands, North Dakota Century Code Chapter 38-14.1. This division also administers that commission authority contained in the Surface Owner Protection Act, North Dakota Century Code 38-18, and Abandoned Mined Lands, NDCC, Chapter 38-14.2.

Any person wanting to conduct surface coal mining operations in North Dakota must apply and receive a permit from the Commission before initiating any mining activity. This permit application must contain an operations and reclamation plan that demonstrates to the Commission that the mining activity is to be conducted in an environmentally sound manner, that the landowners rights and property are safeguarded and that a productive post-mining land use can be achieved through the reclamation process. The Reclamation Division conducts frequent inspections of each mining operation to ensure that all reclamation plans are being followed as specified within the permit application.

Traffic Division:

The Traffic Division is responsible for the regulation of rates, charges, and practices of carriers (railroad, truck, pipelines) engaged in the movement of goods or people, moving wholly within North Dakota. This Division also serves the Commission in its representation of North Dakota's interests in these areas in the federal domain of interstate commerce.

Public Utility Division:

The Public Utility Division is composed of three departments: Accounting, Engineering, and Siting.

The Accounting Department receives and prepares annual summaries of the required reports of regulated public utilities. This Department also conducts financial investigations of the public utilities, as a background for utility rate cases, and on numerous occasions, presents financial exhibits in these cases.

The Engineering Department functions as a technical advisory group on commission matters relating to the design of rates, services and other miscellaneous matters of North Dakota telephone, telegraph, electric, gas and radio common carrier utilities. Railway safety matters are also a function of this department.

The Siting Department of the Public Utility Division is charged with the siting of energy conversion and transmission facilities in such a way as to minimize their adverse environmental effects, North Dakota Century Code 49-22.

Inquiries:

General inquiries regarding the Public Service Commission may be addressed to the Secretary of the Commission. Specific inquiries regarding the functions of each division may be addressed to the Director of that Division (or department chief in the instance of accounting, engineering, or siting). All requests for hearings, declaratory rulings, and participation in rulemaking may be addressed to the Secretary of the Commission, unless specific public notice directs otherwise.

All correspondence to the below-listed persons should be addressed as follows:

(Person's name and title)
North Dakota Public Service Commission
State Capitol Building
Bismarck, ND 58505-0165

Richard Elkin, President of the Commission
Bruce Hagen, Commissioner
Leo M. Reinbold, Commissioner
Janet Sauter, Secretary to the Commission
Ray H. Walton, Commerce Counsel
Bruce Niebergall, Director, Weights & Measures Division
Robert Senger, Director, Motor Carrier Division
Richard Bresnahan, Director, Public Warehousing Division
Dr. Edward J. Englerth, Director, Reclamation Division
John I. Finsness, Director, Traffic Division
Roy Paetzke, Chief Accountant, Accounting Department
Wallace Owen, Chief Engineer, Public Utility Division

PROCEDURE IN MAJOR RATE CASES:

This is a brief summary of procedure which the Public Service Commission normally follows in processing rate applications from large utilities.

The Case Begins

A large utility's application to raise its rates begins when it files a detailed proposal with the Public Service Commission. The proposal contains an actual twelve-month income statement including actual rates of return on investments. The utility proposal may also contain projected revenues, expenses and investments for a projected twelve-month period, during which the proposed rates are to be in effect. A test year characterized by actual operating results is a historical test year, while a test year based on budgeted figures is called a forecast test year. It is the test year figures which are used by the Commission to determine if the utility's existing rates are inadequate and whether the utility's proposed new rates are reasonable. The proposal also includes the proposed rate increases and rate of return on investments along with an explanation of major revenue, expense and investment changes.

At this time, the PSC also requires analyses of consumer consumption and the impact the proposed rate increase would have on consumers.

This information is distributed to the appropriate PSC staff members to help them as they begin their study of the proposal. At this point, customers are notified of the proposal by a utility bill insert and by the news media.

PSC Staff Preparation

To assist the Commission in rate cases, members of the PSC staff audit the utility to learn whether the company's reported levels of expenses, plant investment and revenues are correct. The staff may testify as to what revenue, expenses and plant should be allowed in the application. Additionally, testimony usually includes recommendations regarding return on invested capital, including debt and common stock. On this matter, the Commission usually hires an independent expert to do a study and to make a recommendation as to an adequate rate of return on capital for the company.

PSC staff will analyze the utility's proposed rate designs. Often the staff will offer alternative rate designs. Rate designs are important because they determine how much each person will pay and how much revenue various customer classes (residential, industrial, etc.) will contribute to the overall revenue requirement of the utility's North Dakota operations.

PSC Issues a Notice

A hearing notice, which gives the time, location, and subject of the hearing is issued after the PSC staff completes its investigation of the utility's proposal. The notice briefly describes the proposal, including the size of the requested revenue increase, the utility's reasons for the application, and how the public can obtain or review the utility's application. The location of a hearing depends on available funds, anticipated public participation, and workload.

The Commission sends this notice to local media and has it published as a legal notice in the official county newspaper of each county served by the utility.

The Hearing Begins

PSC hearings are conducted by hearing examiners. The examiner functions like a judge. The examiner's primary duties are to ensure that a case record is developed on which the Commission can base its decision and that the hearing is conducted in a fair and orderly manner. Examiners are also required to make legal rulings on evidence and procedure.

Citizen Involvement

Anyone including, but not limited to, consumers, local government officials, and representatives of industry, may participate in the PSC hearings. The PSC usually schedules night hearings to receive testimony of a non-technical nature from members of the public. Testimony received at these public input hearings is recorded and published as a part of the entire hearing transcript which is reviewed by the Commission in making its final decision. **If you wish to make a statement at one of these public input sessions, sign your name on the witness roster which will be located near the entrance to the hearing room. All witnesses will be called in the order in which their name appears on the roster. When your name is called, please step to the microphone in the middle of the room, state your name and address, and then make your statement.** If you like, you may read from a prepared statement. As a public witness, you will have the opportunity to express your views and concerns on any aspect of the proposed rate increase. If your statement as a public witness is limited to your views and concerns, you need not make your statement under oath and the utility company will not be allowed to cross examine you. If you want to present specific facts as part of your statement and you want these facts as part of the official record, you should request the hearing examiner to swear you in prior to making your statement. You should include in your statement the source from which you acquired any factual information. As a sworn witness, the utility company may ask cross examination questions concerning your testimony.

The more effort you put into preparation for the hearing, the more effectively you will be able to present your views. Your participation will be enhanced if you review specific information about the utility's rate application and the general basis on which the Commission must decide the case.

After all members of the public make their statements at the public input session, a representative of the utility company may be asked to respond to particular questions or concerns expressed by the public.

Public input sessions are only a part of the total hearing process. In addition, technical hearings are also held at which the company is required to submit testimony and evidence in support of its requested increase. The utility and the PSC technical staff members, as well as any intervenors, are present at the hearing to listen to testimony, cross examine witnesses, and testify. The PSC staff or the intervenors may present alternatives to the applicant's proposal. The Commission does not deny members of the public the opportunity to testify at the technical hearing and the public is always welcome to attend the technical hearings; however, public testimony, unless technical in nature, should be presented at the public input session if possible.

If you find it necessary to make a statement during the technical portion of the hearing, please try to inform the examiner before the hearing or during a recess. If you have a time restriction, inform the examiner, who will attempt to accommodate you.

Persons or organizations that desire to take an active part in the technical portion of the hearing should file with the Commission a petition to intervene in the proceeding. As an intervenor, a party is allowed to present testimony through technical or expert witnesses as well as cross examine utility or Commission witnesses.

Some Issues

The following are some major issues the Commission usually considers while making rate application decisions. Public opinion and comment are important factors in the decision process, but many technical aspects must also be considered. If these issues are not taken into account, many utilities could face financial hardship, and utility services often taken for granted, would be jeopardized.

Rate of Return

One thing to remember is that all public utilities need investors to lend and invest money for new plant construction. These investors must receive a reasonable return on their investments or they won't keep their money invested in the utility. Similarly, new investors will not be attracted unless they can expect a reasonable rate of return on their investments. Therefore, a reasonable return on investment is required and the PSC is required by law to provide a fair return to ensure adequate service.

Revenue Requirement

This refers to how much money it takes to cover the utility's expenses and return on investment used and useful in providing service in North Dakota. This amount is the total of many things, such as labor, energy production, energy distribution, customer accounting, administrative expense and required return on plant.

Designing Rates

There are many different customer classes; for example, residential, commercial and industrial. Each customer class is responsible for a different proportion of the utility's costs. The costs of service may depend upon the classes' character of energy consumption, such as patterns of daily or seasonal use, and the level of class consumption. Thus, many factors are considered when designing new rates.

Decision Making . . .

After all the facts have been gathered, the file containing the transcripts from the hearing and other information pertaining to the rate application goes to the Commissioners. They review the "record" before making a final decision.

The PSC's three full-time Commissioners will discuss the case at a meeting and reach a decision. The Commission's decision will establish the amount of revenue to allow the company to meet its expenses, pay interest on its debt, and provide a reasonable return to stockholders so the utility will continue attracting investment necessary to provide future service. Also, the decision assigns the proper rate for each customer category (residential, consumer, and industrial) reflecting as closely as possible the cost of providing service for these customers.

Parties to the case can ask the PSC for reconsideration or may challenge the decision in court.