

**TITLE 49
PUBLIC UTILITIES**

**CHAPTER 49-01
PUBLIC SERVICE COMMISSION**

49-01-01. Definitions.

In this title, unless the context or subject matter otherwise requires:

1. "Commission" means the public service commission.
2. "Commissioner" means one of the members of the public service commission.
3. "Public utility" includes any association, person, firm, corporation, limited liability company, or agency engaged or employed in any business enumerated in this title.
4. "Rate" means and includes every compensation, charge, fare, toll, rental, and classification, or any of them, demanded, observed, charged, or collected by any public utility for any service, product, or commodity, offered by it to the public, and any rules, regulations, practices, or contracts affecting any such compensation, charge, fare, toll, rental, or classification.

49-01-01.1. Public service commission program fund - Transfer to general fund.

1. A special fund is established in the state treasury and designated as the public service commission program fund. Moneys deposited in the fund may be spent by the public service commission pursuant to legislative appropriation to defray the expenses of the commission.
2. Revenue from the following sources must be deposited in the public service commission program fund:
 - a. Any fees collected to test or calibrate weighing and measuring devices and licensing of registered service companies and persons;
 - b. All money received from the public utility assessment;
 - c. All money received from the siting administrative fee; and
 - d. All interest and investment income earned on the balance of the fund.
3. The office of management and budget shall transfer any balance in the public service commission program fund that exceeds one million one hundred thousand dollars to the general fund at the end of each biennium.

49-01-02. Public service commission - How constituted.

The three persons elected public service commissioners, pursuant to the provisions of article V, section 2, of the Constitution of North Dakota, constitute and shall be known and designated as the public service commission of the state of North Dakota. They shall elect one of their number chairman of the commission and shall appoint a secretary.

49-01-03. Oath of public service commissioners.

Each commissioner before entering upon the duties of the office shall take the oath required of civil officers.

49-01-04. Offices of public service commission.

The commissioners shall keep their office at the seat of government and shall be provided with a suitable room, necessary office furniture, stationery, books, and maps, the expense thereof to be paid out of the state treasury pursuant to the appropriation for such purpose.

49-01-05. Salary of commissioners.

The annual salary of a commissioner is one hundred fifteen thousand three hundred four dollars through June 30, 2022, and one hundred seventeen thousand six hundred ten dollars thereafter. All fees received or charged by any commissioner for any act or service rendered in any official capacity must be accounted for and paid over by the commissioner monthly to the state treasurer and must be credited to the general fund of the state.

49-01-06. Public service commission - Majority vote.

All questions arising in connection with the action of the commissioners shall be decided by a majority vote.

49-01-07. Proceedings of public service commission.

The commission in all cases may conduct its proceedings, when not otherwise particularly prescribed by law, in a manner most conducive to the proper dispatch of business and to the ends of justice. A majority of the commission shall constitute a quorum for the transaction of business, but a commissioner shall not participate in any hearing or proceeding in which that commissioner has any direct personal pecuniary interest. The commission from time to time may make or amend such general rules or orders as may be requisite for the orderly regulation of proceedings before it, including forms of notice and the service thereof, which shall conform as nearly as possible to those in use in the courts of this state. Any party may appear before the commission and may be heard in person or by attorney. Every vote and official action of the commission shall be entered of record and its proceedings shall be public upon the request of any person interested. The commission shall have an official seal, which shall be judicially noticed, and every commissioner shall have the right to administer oaths and affirmations in any proceeding pending before the commission.

49-01-08. Appointment of examiners by public service commission.

The commission may designate any special assistant attorney general appointed by the attorney general as commerce counsel or counsel to the commission, the director of auto transportation, the chief statistician, the chief engineer, or any other person qualified in the law or possessing knowledge or expertise in the subject matter of the hearing to act as examiner for the purpose of holding any hearing which the commission, or any member thereof, has power or authority to hold.

49-01-09. Attorneys for public service commission - Attorney general - State's attorney - Duties - Additional counsel - Compensation.

The attorney general shall be ex officio attorney for the commission and personally or through commerce counsel shall:

1. Give to the commission such counsel, advice, and assistance necessary for the proper discharge of its powers and duties.
2. Appear for, and represent, the state at all hearings of the commission or appeals therefrom when necessary.
3. Institute, prosecute, or defend any action or proceeding which the commission may deem proper and expedient.

The state's attorney in any county, on request of the commission, shall institute, prosecute, appear in, and defend for the commission any and all actions and proceedings which the commission may institute and prosecute or to which the commission is a party. The commission may employ additional counsel to assist such attorney general or state's attorney, when in its judgment the exigencies of the case may require. The fee of such additional counsel shall be determined by the commission and approved by the office of management and budget and paid out of funds appropriated for such purpose.

49-01-10. Assistants - Authority of public service commission to appoint.

The commission may employ stenographers, rate experts, and such other employees as may be deemed necessary in the discharge of its official duties.

49-01-11. Enforcement of orders of commission - Costs and expenses.

All costs and expenses actually incurred by or upon the order of the attorney general incident to any litigation arising in connection with the enforcement of orders of the commission or other litigation commenced by or in charge of the attorney general shall be paid out of the general fund of the state upon vouchers to be approved by the office of the budget.

49-01-12. Disposition of penalties.

Except as otherwise provided, any penalty which shall be collected for violation of any provision of this title shall be paid into the state treasury for the general fund.

49-01-12.1. Public utility fee.

1. **The commission shall assess each electric and gas utility a fee in proportion to the utility's respective gross operating revenues from the retail sale of gas and electric service within the state during the preceding calendar year. The total of the combined assessments may not exceed three hundred thousand dollars per biennium. The fee must be paid quarterly and deposited in the public service commission program fund.**
2. In January of each year, each electric and gas public utility shall file with the public service commission the amount of gross receipts derived from the company's customers within the state during the preceding calendar year. The commission shall review the gross receipts annually and adjust the fee for each utility in proportion to the gross operating revenues.

49-01-13. Biennial report.

The commission shall submit a report to the governor and the secretary of state in accordance with section 54-06-04.

49-01-14. When copies of official documents are evidence.

Copies of all official documents and orders filed or deposited according to law in the office of the commission, certified by a commissioner or by the secretary or assistant secretary of the commission under its official seal to be true copies of the originals, shall be evidence in like manner as the originals.

49-01-15. Charges for copies and records determined by the public service commission.

The commission shall determine and fix all charges for furnishing copies, records, reports, and evidence. All fees charged and collected under this section, except those for transcripts of evidence which shall be paid to the person preparing such transcripts, shall be paid into the general fund of the state treasury.