

**Sixty-fifth Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 3, 2017**

HOUSE BILL NO. 1398  
(Representatives J. Nelson, Holman, Seibel, Skroch, Weisz)  
(Senators Dotzenrod, Kannianen, Klein)

AN ACT to amend and reenact section 49-02-01.1 of the North Dakota Century Code, relating to the jurisdiction of the public service commission.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Section 49-02-01.1 of the North Dakota Century Code is amended and reenacted as follows:

**49-02-01.1. Jurisdiction of commission limited as to certain utilities - Exemption.**

1. Nothing in this chapter or in chapter 49-21 authorizes the commission to make any order affecting rates, contracts, services rendered, adequacy, or sufficiency of facilities, or the rules or regulations of any public utility owned and operated by the state or by any city, county, township, or other political subdivision of the state or any public utility, that is not operated for profit, that is operated as a nonprofit, cooperative, or mutual telecommunications company or is a telecommunications company having fewer than eighteen thousand local exchange subscribers. However, any telecommunications utility that is operated as a nonprofit, cooperative, or mutual telecommunications company or has fewer than eighteen thousand local exchange subscribers is subject to sections 49-21-01.4, 49-21-02.4, 49-21-23, 49-21-24, and 49-21-25, subsections 6 through 14 of section 49-21-01.7, and to sections 49-21-01.2, 49-21-01.3, 49-21-06, 49-21-07, 49-21-09, and 49-21-10, regarding rates, terms, and conditions of access services or connection between facilities and transfer of telecommunications between two or more telecommunications companies. Nothing in this section limits the authority of the commission granted under chapters 49-03 and 49-03.1 or sections 49-04-05 and 49-04-06.
2. Upon receipt of a resolution from the governing body of a city not served on August 1, 2017, with natural gas distribution service from a public utility requesting an exemption, and stating its reasons for doing so, the commission shall grant the public utility an exemption from sections 49-02-03, 49-02-11, and 49-02-15, and chapters 49-03.1 and 49-04 if the public utility:
  - a. Has a franchise to supply customers within the city and the area of the extraterritorial zoning jurisdiction of the city with natural gas distribution service;
  - b. Consents to the exemption; and
  - c. Serves no more than two thousand five hundred customers within the city and the area of the extraterritorial zoning jurisdiction of the city.
3. Upon approval of the exemption, the rates, contracts, or services rendered by the public utility within the exempted area are subject to regulation by the city.
4. Notwithstanding an exemption granted under this section, the public utility remains subject to any rules of the commission governing customer service disconnections, and resale of natural gas service furnished or causing the resale of natural gas service by any customer is prohibited.
5. If a city files with the commission a resolution of its governing body rescinding the request for exemption, if the public utility serves more than two thousand five hundred customers within

the city and the area of the city's extraterritorial zoning jurisdiction, or if the public utility requests rescinding the exemption for good cause, the commission may rescind the exemption granted under this section. The commission may require a public utility providing nonexempt natural gas distribution service to provide any exempted natural gas distribution service as a separate business entity.

6. Equipment covered by this section must be installed and maintained in compliance with the instructions provided by the manufacturer of any previously-installed equipment to which it will be added. Appliances designed to use only a specific fuel may not be converted to use a different fuel if the manufacturer has prohibited the conversions.

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Chief Clerk of the House

\_\_\_\_\_  
Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-fifth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1398.

House Vote:      Yeas 76              Nays 16              Absent 2

Senate Vote:      Yeas 39              Nays 8              Absent 0

\_\_\_\_\_  
Chief Clerk of the House

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2017.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2017.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2017,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State