



ENERGY DEVELOPMENT AND TRANSMISSION COMMITTEE

Tuesday, May 10, 2022
Roughrider Room, State Capitol
Bismarck, North Dakota

Senator Jessica Bell, Chairman, called the meeting to order at 9:00 a.m.

Members present: Senators Jessica Bell, Kathy Hogan, Curt Kreun, Dale Patten, Merrill Piepkorn; Representatives Dick Anderson, Tracy Boe, Mike Brandenburg, Alisa Mitskog, Todd Porter, Don Vigesaa

Member absent: Senator Brad Bekkedahl

Others present: See [Appendix A](#)

It was moved by Senator Hogan, seconded by Representative Vigesaa, and carried on a voice vote that the minutes of the March 1, 2022, meeting be approved as distributed.

COAL CONVERSION FACILITY RECLAMATION

Background

Mr. Christopher S. Joseph, Counsel, Legislative Council, presented a memorandum entitled [Coal Conversion Facility Bonding and Reclamation - Background Memorandum](#) regarding the committee's study of coal conversion facility bonding and reclamation. He provided an overview of the Energy Conversion and Transmission Facility Siting Act and noted:

- In North Dakota, there are no statutory requirements regarding the decommissioning time schedules or financial assurance requirements for coal or natural gas generation facilities.
- North Dakota Century Code Section 49-02-27 requires the Public Service Commission (PSC) to adopt rules governing the decommissioning of commercial wind energy conversion facilities and authorizes the PSC to adopt rules governing the decommissioning of commercial solar energy conversion facilities.
- In North Dakota, a surface coal mining operator shall supply a performance bond before the PSC may issue a mining permit.
- The PSC is required to set the bond at an amount sufficient to complete the reclamation plan in the event of forfeiture.

Basin Electric Power Cooperative

Ms. Jean Schafer, Senior Legislative Representative, Basin Electric Power Cooperative, presented testimony ([Appendix B](#)) regarding reclamation of coal conversion facilities.

Montana-Dakota Utilities Company

Mr. Jay Skabo, Vice President of Electric Supply, Montana-Dakota Utilities Company, presented testimony ([Appendix C](#)) regarding reclamation of coal conversion facilities.

Minnkota Power Cooperative

Mr. Craig Bleth, Vice President of Power Supply, Minnkota Power Cooperative, presented testimony ([Appendix D](#)) regarding reclamation of coal conversion facilities.

Public Service Commission

Ms. Julie Fedorchak, Commissioner, Public Service Commission, presented testimony ([Appendix E](#)) regarding Midcontinent Independent System Operator's perspective on operating the power grid and delivering electricity reliably, dependably, and affordably.

Mr. Randy Christmann, Commissioner, Public Service Commission, presented testimony ([Appendix F](#)) regarding Southwest Power Pool's perspective on operating the power grid and delivering electricity reliably, dependably, and affordably.

Mr. Christmann presented testimony ([Appendix G](#)) regarding the methods and amounts of financial assurance, schedules, economic considerations, statutes, rules, and policies relating to the remaining useful life and early retirement of coal conversion facilities and the role of the PSC in all electrical generation retirement.

Public Comment

Mr. Ladd Erickson, McLean County State's Attorney, provided testimony regarding the appropriate involvement of the public, local communities, and political subdivisions in the coal conversion facility retirement process. He noted:

- Closure of Coal Creek Station would have caused a regional depression. Three high schools would have been combined into one and the housing market and values in the central part of the state would have dropped.
- Although reclamation occurs immediately after coal removal, the release of the lands may not happen for many years because of the required rehabilitation process and bonding procedure for the surrounding land.
- The Legislative Assembly should learn from the business hurdles Rainbow Energy Center experienced during the acquisition of Coal Creek Station, and should enact regulatory schemes and financial incentives to ease the burden and legal liabilities incurred by a sale or transfer like the Coal Creek Station closure, which would have impacted the state economy negatively.

NATURAL GAS AND PROPANE INFRASTRUCTURE DEVELOPMENT

Background

Mr. Joseph presented a memorandum entitled [Natural Gas and Propane Infrastructure Development - Background Memorandum](#) regarding the committee's study of natural gas and propane infrastructure development in the state. He provided an overview of the study and prior studies related to natural gas and propane and noted:

- According to Montana-Dakota Utilities Company, there are 91 communities served with natural gas in North Dakota, totaling approximately 150,000 customers, and 366 communities unserved with natural gas, totaling approximately 46,000 homes.
- The North Bakken Expansion Project would provide 200 million cubic feet of natural gas transportation capacity per day. In addition, the project would provide approximately 67 miles of new pipeline construction, compression, and ancillary facilities to transport natural gas from core Bakken production areas in western North Dakota to an interconnection point with Northern Border Pipeline.
- Extracted oil and natural gas are subject to the oil and gas gross production tax and the oil extraction tax. Materials used to extract oil and gas may be subject to sales or use taxes. Pipelines and other infrastructure used to transport oil and gas may be subject to property taxes.
- Generators of electricity from sources other than coal or wind, with a generation capacity of 100 kilowatts or more, are subject to payments in lieu of taxes pursuant to Section 57-33.2-04. Payments in lieu of taxes consist of a tax of 50 cents per kilowatt times the rated capacity of the generation unit, plus a tax of 1 mill per kilowatt-hour of electricity generated by the production unit during the taxable period.

Pipeline Authority

Mr. Justin J. Kringstad, Director, North Dakota Pipeline Authority, presented testimony ([Appendix H](#)) regarding North Dakota's natural gas production and transportation dynamics. He provided an overview of the current infrastructure available for natural gas and propane and the challenges related to the development of natural gas and propane infrastructure.

Propane Gas Association

Mr. Mike Rud, Executive Director, North Dakota Propane Gas Association, presented testimony ([Appendix I](#)) regarding propane storage expansion.

Tax Department

Mr. Brian Kroshus, Tax Commissioner, provided testimony regarding the implementation of Senate Bill No. 2328 (2021). He noted:

- Senate Bill No. 2328 provides a producer employing a flare mitigation system installed on a qualifying well on or after June 30, 2021, a temporary credit against the oil extraction tax. The credit is equal to 75 cents per one million British thermal units of flare mitigation resulting from the onsite flare mitigation system. The credit may be claimed for up to 12 months per well and may not exceed \$6,000 per well per month. The credit does not apply to production from wells located within the exterior boundaries of the Fort Berthold Reservation unless the Chairman of the Mandan, Hidatsa, and Arikara Nation submits to the Tax Commissioner a written request for the credit to apply. The credit is effective through June 30, 2023.
- The Tax Department has received certifications for 16 wells. The first certifications were received in December 2021. Certifications are issued by the Industrial Commission.
- The total value of credits received by the 16 wells is estimated to be \$353,000 based on projected production.

Crusoe Energy Systems Inc.

Mr. Cully Cavness, President, Co-Founder, and Chief Operating Officer, Crusoe Energy Systems Inc., presented testimony ([Appendix J](#)) regarding digital flare mitigation. He noted:

- Crusoe Energy Systems Inc., operates 39 module data centers at 10 sites in North Dakota.
- 45 percent of the company's operating business and data center activity occurs in North Dakota.
- The company's operation activities reduce flaring in several dozen wells in North Dakota.

LIGNITE COAL INDUSTRY REPORT

Mr. Jon Godfread, Insurance Commissioner, provided a report ([Appendix K](#)) regarding the availability, cost, and risks associated with insurance coverage in the lignite coal industry. He noted:

- Since 2018, obtaining adequate, affordable insurance coverage has proven challenging for companies in the lignite coal sector. The situation has been driven primarily by external market forces, which have been exacerbated by the reduction of insurance underwriting capacity from the coal sector due to net-zero carbon emissions efforts and related environmental movements.
- The need for reliable, affordable energy production, especially unencumbered by geopolitical risk, has been highlighted in recent months.
- Given the importance of the lignite sector to North Dakota's energy consumers, labor market, and economy at large, Lignite Energy Council members and stakeholders should consider alternatives to the commercial insurance market.
- Conducting a study to assess the feasibility of forming one or more captive insurance companies for members of the lignite coal sector is recommended. The feasibility study should include an analysis of the business, regulatory, risk, and financial and tax requirements and implications of captive insurance companies.

No further business appearing, Chairman Bell adjourned the meeting at 3:00 p.m.

Christopher S. Joseph
Counsel

ATTACH:11