

2017 SENATE ENERGY AND NATURAL RESOURCES

SB 2314

2017 SENATE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee Fort Lincoln Room, State Capitol

SB 2314
2/9/2017
JOB #28160

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature

Pam Hever

Explanation or reason for introduction of bill/resolution: Relating to energy rates and resources and renewable energy production.

Minutes:

Attch#1=Sen Unruh; Attch#2=Mark Nisbet;
Attch#3=Jeremy Rham; Attch#4 and
#5=Dale Niezwaag; Attch#6=Stacey Dahl;
Attch#7=Todd Kranda for Deb Birgen

Attendance taken: All committee members present

Chairwoman Unruh: Open hearing on SB 2314.

Chairwoman Unruh: I am Sen Jessica Unruh from Dist 33, Beulah, ND: This is my bill. (see Attch#1) (1.00- 00) I will stand for questions.

Sen. Armstrong: I do not understand 'with the solely for meeting in other states renewable energies'. I do not understand the grid and how do you tract that?

Chairwoman Unruh: You will hear from some of the utilities and they will explain in detail.

Vice Chair Kreun: We will hear from those in favor.

Chairwoman Unruh: Moving to in opposition of SB 2314.

Mark Nisbet, ND Manager for Xcel Energy: (see Attch#2) (6.06-9.59) We are opposed to SB 2314. Please do not pass.

Jeremy Rham, Ottertail Power Co.: (see Attch#3) (11.00-15.30) We are opposed to SB 2314. We suggest a do not pass.

Chairwoman Unruh: Section 3 with the reporting requirements, would you be opposed to continuing to the way they previously were reporting in that section of Code?

Jeremy: No, not opposed to that.

Dale Niezwaag, Basin Electric: (16.28-18.45) (see Attch#4 and Attch#5) We are opposed to this bill. We do not think it helps ND. Goes on to explain his attachment #5. (20.00). They will call on the lowest priced generation to come first. You have your generation cost and you have your cost to transmit it. Combination of these two items that saw this is the lowest cost generation to serve your load. As the load goes up, more expensive price generation comes on line. Always using the efficiencies in the system. The entire region. Market pricing is confusing. Why don't you just shut down the wind and run coal. On bottom of page 2, here is what happens. It has to reimburse the developer, even when shut down.

Chairwoman Unruh: Does that reimbursement apply to wind energy only? Does it apply to other energy say power plant does not get to be produced because wind comes on line? Do they get reimbursed in the same fashion?

Dale: No they do not. That is part of the contract. That is what we do as utilities. There is getting to be so much wind energy so we need to change a few things.

Sen. Cook: If you negotiate with developer and do some of the things stated above, I'm guessing the price of electricity would increase.

Dale: That's right. On top of page 3, you see the PTC, production Tax Credit. (25.05)

Stacey Dahl, Minnkota Power, Grand Forks, ND: (see Attch#6) Our opposition to this bill is in section 2 and 3. (26.21-31.00) We want to help make this bill better. Please do not pass as is.

Todd Kranda, Attorney at Kelsch Law firm. I am appearing on behalf of **Deb Birgen**, Missouri River Energy Services, Director of Government Relations: (see Attch#7) (31.19-32.23). We ask for a do not pass

Chairwoman Unruh: Any Agencies? Do not see any. Hearing on SB2314 is closed.

2017 SENATE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee Fort Lincoln Room, State Capitol

SB 2314
2/10/2017
Job #28216

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature

Pam Dever

Explanation or reason for introduction of bill/resolution: Relating to energy rates and resources and renewable energy production.

Minutes:

Committee work

Chairwoman Unruh: Let's look at SB 2314. We can go through the sections. We heard lots of testimony yesterday on section 3. I think we could strike the new language and go back to the old reporting requirements that companies had prior to this bill. She held up a report she got during an interim meeting by PSC. I would be willing to work on amendments for section 3.

Sen. Oban: With or without amending out this section 3, I got the impression this was unnecessary.

Chairwoman Unruh: What we heard was that it was the other two sections were not necessary. There is a change in approach to the way the legislature looks at energy policy. I will work on the amendments.

2017 SENATE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee Fort Lincoln Room, State Capitol

SB 2314
2/17/2017
Job #28500

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature

Pam Dever

Explanation or reason for introduction of bill/resolution: Relating to energy rates and resources and renewable energy production.

Minutes:

Committee work Attch#1-Sen Cook

Chairwoman Unruh: Look at SB2314.

Sen. Cook: As we have deliberated and debated these wind bills. I have struggles to get my arms around it. I think back to years ago. What is the right thing to do? This little chart I am passing around shows the number of turbines, location, and MW capacity. (see Attch#1) The bottom number really sticks out. 8,995.07 megawatt hours of electricity. Many may not get built, but I know there are a lot more talked about being built. When is enough, enough. We have wind turbines all over and will have more built. I talked to my friend a wind lobbyist. I asked him the question. ND policy to wind energy is out door are open for business. We have had tax incentives in place, low tax policy, no restrictions. That has been our policy. He said this session you are trying to change that policy. Have to say, I am. I am concerned as we look towards the future of what was the landscape of ND electrical generation industry going to look like. We have seen a coal fired plant shut down last summer. We have one in Underwood that is not running at full capacity. We have regulated the coal plants into zero emissions. We know that is very expensive. Will wind have supremacy? Cost of electrify comes into mind. We are 11th in commercial for electricity. We are a low coast state which allows a company like Bobcat, etc. to stay in ND, even though they have high shipping costs. It is offset by low electricity costs. I have an amendment that requires a study. And it puts a two-year moratorium on wind study for the next two years. He handed out his amendment and Christmas tree to look at. (.10-9.00)

Sen. Oban: I think it is safe to say that if the word coal or oil or gas or replacing the word 'wind' in everything, a member of this committee would be shoved out the door. It is insane if we say we are for all of the above, when we are not really for all of the above. All of the above includes wind. Yes, there are tax incentives in place. We have long supported research in coal and oil. I think it is a real disservice to our state and the local people who are making these decisions. When is enough wind, well, maybe when the local people say I don't want any more. It is one thing to be studying this, but when you add a moratorium, that is too far.

Sen. Roers: (7.31) It seems that we are not letting the free enterprise system work. The market place will tell us when enough is enough. I am amazed that you would want to put a moratorium on something that is working so well.

Sen. Armstrong: (8.21-9.26) One point is global and one very local. With the free market place regarding coal and oil, regulation only slows it down. A little difference between wind and coal at the global level. Wind is regulatory driven and not market place driven. No one has been able to convince me that is not the case. At the local level, I can tell you that I have 5 small communities in my district that have been torn apart by the wind industry. People do not talk to each other anymore. Both in the farm that was accepted, and also the one that was denied. These are small communities. They are not the same as they were before wind farms. I will support the amendment.

Vice Chair Kreun: Four years ago, people were lined up in IBL committee where I was at. They wanted us to slow down the permitting of oil wells. We did not do that at all. We let the development take place. I did not think it was right back then and I do not believe this is the right thing to do now. Corporations have invested lots of time and money. People have been compensated very well. Counties have worked out so all landowners are happy. Not just negative; there is positive, and we heard that at the hearing. (10.48) Not support the amendment.

Sen. Oban: The boom of the 80's was big. There have been growing pains in all the developments in ND. I grew up in a small town that was very much impacted by the oil activity in western ND. My parents moved because of it. This happened with any resource development. For us to shut down one development of a resource, is sticking our head in the ground.

Sen. Cook: I am a big free market individual as anybody. When you take a look at generation in ND, we have a responsibility here. That responsibility is to make sure we always have a supply of electricity available to the industry and to the citizens of ND, that is sustainable and affordable. Gave an e.g. of 45 below temperature couple years ago. (12.15-13.00) Every coal fired plant was at maximum capacity. There was zero wind that day. We need to have a plan and control what the landscape will look like. We have no plan. This will help us decide that policy and not find us in position to not recover from what we are doing now.

Sen. Cook: I move a do pass on .03002.

Sen. Armstrong: I second.

Chairwoman Unruh: Any discussion?

Vice Chair Kreun: (13.51) This is an opportunity for us to look at all of our energy producing programs and put that on the grid. That is a long term plan. I do not think doing this is going to promote the whole US program to product energy for the US. We can and should be doing that.

Sen. Cook: On page,3, subsection 3, it tells the commission that they may not approve any application for a certificate of site of wind farm. That does not mean that wind production will be zero for the next two years. They have already approved 272 already. 500-600 megawatts that will still be products. There will be plenty of wind production in ND. (15.53)

Sen. Roers: If you look at the chart and look at recent times. It is amazing. Strange that that is seen as is too much. Maybe we can figure out ways of storing wind energy. By stifling the process, we are slowing down what the free market would want. We are looking at solar coming back. Are we going to reject that is someone is willing to invest in that? We have sun.

Sen. Oban: At a time when ND is struggling with budgets, and so are local governments. We heard about the money impacts of wind farms developments to landowner, local school districts, etc. The state is tying the hands of people who are making these decisions. Bad idea. We heard MDU tell us they make decisions based on what makes sense for their

consumers. What is efficient and what is sustainable. I am surprised we are having this conversation.

Chairwoman Unruh: We have a motion for amendments in front of us.

Roll call was taken. YES 4 NO 3 -0- absent

Chairwoman Unruh: Amendment passed.

Chairwoman Unruh: We have SB 2314 as amended before us.

Sen. Cook: I move a do pass as amended. **Sen. Armstrong:** I second.

Sen. Cook: I am not doing this because I want pick on wind. I have friends in the wind industry. We should have done this a long time ago. (20.10)

Chairwoman Unruh: (20.20) I am supporting this because the state did take a position 10 years ago in wind development. We said bring it on. I think this atmosphere has changed. We have been very successful. As we have tried to address problems in this industry. All we have heard from the industry is no, no, no. It is frustrating. We try to pretend that everything is fair and equal between all the energy resource industries. It is not. Regulations on the books for other sources of energy are far exceed those that are on the books for wind right now. There is not a level playing field. You and look at federal and state level. I support this, because this is the only way that we will be able to make changes in ND positions, if we need to. We need to study this and I support the 2 years. I hope this passes and come to a conclusion during the interim and what the state's position is on future development on all energy sources. I truly believe in all the above policy. We need to protect ourselves on the Grid.

Vice Chair Kreun (22.49): You mentioned not having level playing fields as far as regulations go. Why are we not looking at the state regulation to make it more fair, rather than a moratorium?

Chairwoman Unruh: I introduced bills to do that this session. You saw with SB2313, today. We were told no, no, no. Last session we did some things in property taxes work in wind. We made good progress there. We have been told no, too much.

Roll call was taken. YES 4 NO 3 -0-absent

SB2314 Passed as amended. Sen. Cook will carry the bill.

2017 SENATE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee Fort Lincoln Room, State Capitol

SB 2314
2/21/2017
28526

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature

Pam Oliver

Explanation or reason for introduction of bill/resolution: Relating to energy rates and resources and renewable energy production.

Minutes:

Attch#1= Sen Cook

All committee members present:

Chairwoman Unruh: Call to order and discuss SB2314.

Sen. Cook: I passed out an amendment that I would like to add. Section 1. Replace section 3 with what you see before you. (see Attch#1) Changes the language on the moratorium to say 'until August 1, 2019, unless the commission determines additional generation is needed for consumers in this state'. (1.39.43)

Chairwoman Unruh: Any questions?

Sen. Cook: I move we reconsider SB2314. **Sen. Armstrong:** I second.

Chairwoman Unruh: Any discussion?

Sen. Roers: What does commission and who?

Sen. Armstrong: Yes, it is defined as PSC.

Chairwoman Unruh: Roll call was taken: YES 7 NO 0 -0-absent

Motion to reconsider has passed.

Chairwoman Unruh: We have before us an amendment. 17.0884.0300X

Sen. Cook: My intent has not changed. We need sustainable, affordable reliable electricity. I am trying to take some of the edge off of it. I agree with PSC control.

I move these amendments.

Sen. Armstrong: I second.

Chairwoman Unruh: I like this amendment because it pushes a broader discussion on the PSC being able to consider need when they are approving projects.

Sen. Oban: In my mind this amendment is still a moratorium without calling it a moratorium. ND does not operate in a vacuum. We had multiply companies tell us that. It is no better than when we first voted. (5.52)

Sen. Roers: I am looking at the language here, and it is not the same as on the Christmas Tree I am looking at.

Sen. Cook: Unless the PSC sees there is a need for it. Puts it in the hands of PSC.

Sen. Roers: No guidelines for them to determine need?

Sen. Cook: No, we don't.

Vice Chair Kreun: In the last portion of the sentence, unless the PSC determines additional generation is needed for customers in this state. We can only utilize that in ND and do not export extra energy in that point in time? I thought our state wanted to be an exporter of all kinds of energy. (7.30) After the headline today in the paper, it is sitting on the NextEra executive's desk, FPL's president's desk, and Excel Energy's president's desk. SD is already looking to build wind farms. Wrong attitude. (7.55)

Sen. Cook: We see a decline in coal production. We are responsible for the future lights of ND stay on for the citizens of ND. We do not want a blackout. We need a two-year study. We do not have an energy plan.

Sen. Oban: We can have that discussion, and have that study without placing a moratorium on this bill.

Chairwoman Unruh: More discussion? Call the roll.

Roll call was taken: YES 4 NO 3 -0-absent Amendment PASSED

Chairwoman Unruh: We have before us SB2314 as further amended.

Sen. Cook: I move a DO PASS

Sen. Armstrong: I SECOND

Roll call was taken: YES 4 NO 3 -0-absent

SB 2314 as further amended PASSED

Sen. Cook will carry the bill.

February 17, 2017

UN
2/17/17
1 of 2

PROPOSED AMENDMENTS TO SENATE BILL NO. 2314

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 49-22-07 of the North Dakota Century Code, relating to a temporary moratorium on the siting of new wind energy conversion facilities; to provide for a legislative management study; to provide an effective date; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 49-22-07 of the North Dakota Century Code is amended and reenacted as follows:

49-22-07. Certificate of site compatibility or route permit required.

1. A utility may not begin construction of an energy conversion facility or transmission facility in the state without first having obtained a certificate of site compatibility or a route permit from the commission pursuant to this chapter. The facility must be constructed, operated, and maintained in conformity with the certificate or permit and any terms, conditions, or modifications of the certificate or permit. A certificate or permit may be transferred, subject to the approval of the commission, to any person who agrees to comply with its terms, conditions, and modifications.
2. If a power emergency exists which necessitates the relocation of a portion of an electric transmission line and associated facilities from the designated route, the owner of the line shall give telephonic notice to the commission in advance of the relocation. The line may then be relocated to restore power as soon as practicable. After the line has been relocated, the owner shall file with the commission a request to approve the relocated route.
3. Notwithstanding any other provision of this chapter, the commission may not approve any application for a certificate of site compatibility for a wind energy conversion facility submitted between August 1, 2017, and August 1, 2019.

SECTION 2. LEGISLATIVE MANAGEMENT STUDY - STATE ENERGY PLAN.

During the 2017-19 interim, the legislative management shall consider studying the long-term energy plan for the state. The study must include consideration of multiple energy sources including coal, wind, and hydroelectric energy sources; analysis of the sustainability and reliability of various energy sources; an assessment of how the present tax environment affects the availability of energy from various sources; and the distribution of revenue from energy sources. The study must consider the needs of the state, political subdivisions, and industry when assessing various energy sources. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-sixth legislative assembly.

SECTION 3. EFFECTIVE DATE - EXPIRATION DATE. Section 1 of this Act is effective August 1, 2017, through August 1, 2019, and after that date is ineffective."

Renumber accordingly

OK
2/17/17
2 of 2

February 21, 2017

CN
2/21/17
1 of 2

PROPOSED AMENDMENTS TO SENATE BILL NO. 2314

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 49-22-07 of the North Dakota Century Code, relating to a temporary moratorium on the siting of new wind energy conversion facilities; to provide for a legislative management study; to provide an effective date; and to provide an expiration date.

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2. If a power emergency exists which necessitates the relocation of a portion of an electric transmission line and associated facilities from the designated route, the owner of the line shall give telephonic notice to the commission in advance of the relocation. The line may then be relocated to restore power as soon as practicable. After the line has been relocated, the owner shall file with the commission a request to approve the relocated route.
3. Notwithstanding any other provision of this chapter, the commission may not approve any application for a certificate of site compatibility for a wind energy conversion facility until August 1, 2019, unless the commission determines additional generation is needed for consumers in this state.

SECTION 2. LEGISLATIVE MANAGEMENT STUDY - STATE ENERGY PLAN.

During the 2017-19 interim, the legislative management shall consider studying the long-term energy plan for the state. The study must include consideration of multiple energy sources including coal, wind, and hydroelectric energy sources; analysis of the sustainability and reliability of various energy sources; an assessment of how the present tax environment affects the availability of energy from various sources; and the distribution of revenue from energy sources. The study must consider the needs of the state, political subdivisions, and industry when assessing various energy sources. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-sixth legislative assembly.

SECTION 3. EFFECTIVE DATE - EXPIRATION DATE. Section 1 of this Act is effective August 1, 2017, through August 1, 2019, and after that date is ineffective."

CA
2/21/17
2 of 2

Renumber accordingly

Date: 2-17-17
Roll Call Vote #: /

2017 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2314

Senate Energy and Natural Resources Committee

☐ Subcommittee

Amendment LC# or Description: 17.0884.03002

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐

Motion Made By Sen. Cook Seconded By Sen. Armstrong

Senators	Yes	No	Senators	Yes	No
Chair Unruh	/		Sen. Oban		/
Vice Chair Kreun		/			
Sen. Armstrong	/				
Sen. Cook	/				
Sen. Koenig		/			
Sen. Schaible	/				

Total (Yes) 4 No 3

Absent 0

Floor Assignment

If the vote is on an amendment, briefly indicate intent:

Amendment passed

Date: 2-17-17
Roll Call Vote #: 2

2017 SENATE STANDING COMMITTEE
ROLL CALL VOTES SB 2314
BILL/RESOLUTION NO.

Senate Energy and Natural Resources Committee

☐ Subcommittee

Amendment LC# or Description: 17.0884.03002

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☒ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Sen. Cook Seconded By Sen. Armstrong

Senators	Yes	No	Senators	Yes	No
Chair Urruh	/		Sen. Urban		/
Vice Chair Kreun		/			
Sen. Armstrong	/				
Sen. Cook	/				
Sen. Roers		/			
Sen. Schaible	/				

Total (Yes) 4 No 3

Absent 0

Floor Assignment Sen. Cook

If the vote is on an amendment, briefly indicate intent:

Date: 2/21/17
Roll Call Vote #: 1

2017 SENATE STANDING COMMITTEE
ROLL CALL VOTES SB 2314
BILL/RESOLUTION NO.

Senate Energy and Natural Resources Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☒ Reconsider ☐ _____

Motion Made By Sen. Cook Seconded By Sen. Armstrong

Senators	Yes	No	Senators	Yes	No
Chair Jessica Unruh	<u>/</u>		Sen. Erin Oban	<u>/</u>	
Vice Chair Curt Kreun	<u>/</u>				
Sen. Kelly Armstrong	<u>/</u>				
Sen. Dwight Cook	<u>/</u>				
Sen. Jim Roers	<u>/</u>				
Sen. Don Schaible	<u>/</u>				

Total (Yes) 7 No 0

Absent 0

Floor Assignment reconsideration passed

If the vote is on an amendment, briefly indicate intent:

Date: 2/21/17
Roll Call Vote #: 2

2017 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2314

Senate Energy and Natural Resources Committee

☐ Subcommittee

Amendment LC# or Description: 17.0884.03004 new amendment

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Sen. Cook Seconded By Sen. Armstrong

Senators	Yes	No	Senators	Yes	No
Chair Jessica Unruh	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Sen. Erin Oban	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Vice Chair Curt Kreun	<input type="checkbox"/>	<input checked="" type="checkbox"/>			
Sen. Kelly Armstrong	<input checked="" type="checkbox"/>	<input type="checkbox"/>			
Sen. Dwight Cook	<input checked="" type="checkbox"/>	<input type="checkbox"/>			
Sen. Jim Roers	<input type="checkbox"/>	<input checked="" type="checkbox"/>			
Sen. Don Schaible	<input checked="" type="checkbox"/>	<input type="checkbox"/>			

Total (Yes) 4 No 3

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

new amendment
passes

Date: 1/21/17
Roll Call Vote #: 3

2017 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO SB 2314

Senate Energy and Natural Resources

Committee

☐ Subcommittee

as further amended

Amendment LC# or Description: 17.0884.03004

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☒ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐

Motion Made By Sen. Cook Seconded By Sen. Armstrong

Senators	Yes	No	Senators	Yes	No
Chair Jessica Unruh	/		Sen. Erin Oban		/
Vice Chair Curt Kreun		/			
Sen. Kelly Armstrong	/				
Sen. Dwight Cook	/				
Sen. Jim Roers		/			
Sen. Don Schaible	/				

Total (Yes) 4 No 3

Absent 0

Floor Assignment Sen. Cook

If the vote is on an amendment, briefly indicate intent:

SB 2314
passes
as further amended

REPORT OF STANDING COMMITTEE

SB 2314: Energy and Natural Resources Committee (Sen. Unruh, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (4 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). SB 2314 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 49-22-07 of the North Dakota Century Code, relating to a temporary moratorium on the siting of new wind energy conversion facilities; to provide for a legislative management study; to provide an effective date; and to provide an expiration date.

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3. Notwithstanding any other provision of this chapter, the commission may not approve any application for a certificate of site compatibility for a wind energy conversion facility until August 1, 2019, unless the commission determines additional generation is needed for consumers in this state.

SECTION 2. LEGISLATIVE MANAGEMENT STUDY - STATE ENERGY PLAN. During the 2017-19 interim, the legislative management shall consider studying the long-term energy plan for the state. The study must include consideration of multiple energy sources including coal, wind, and hydroelectric energy sources; analysis of the sustainability and reliability of various energy sources; an assessment of how the present tax environment affects the availability of energy from various sources; and the distribution of revenue from energy sources. The study must consider the needs of the state, political subdivisions, and industry when assessing various energy sources. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-sixth legislative assembly.

SECTION 3. EFFECTIVE DATE - EXPIRATION DATE. Section 1 of this Act is effective August 1, 2017, through August 1, 2019, and after that date is ineffective."

Renumber accordingly

2017 HOUSE ENERGY AND NATURAL RESOURCES

SB 2314

2017 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee

Coteau –A Room, State Capitol

SB 2314
3/16/2017
29325

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature

Kathleen Davis

Explanation or reason for introduction of bill/resolution:

To provide for a legislative management study of a long-term energy plan for the state

Minutes:

Attachments 1-3

Chairman Porter: Called the committee to order on SB 2314. The clerk read the short title.

Sen. Jessica Unruh: Dist. 33: Attachment #1

Rep. Mitskog: Would you be opposed to natural gas in this study? I'd like to see that included.

Sen. Unruh: Absolutely

Rep. Keiser: Solar is not included. Is there a reason?

Sen. Unruh: No, but that could be very appropriate.

Randy Christmann: chairman of the ND PSC, presented testimony as Attachment #2.

12:17

Rep. Anderson: Do you understand the wind subsidies, how they work? I was told once that you can get them issued before you even complete the wind tower project.

Christmann: Because it's federal laws, there's many details I don't understand but I do some of it. The last time when production tax credits were extended for wind energy, it was a phasing down, where the production tax credit, the 2.3c per kw was to be 2.3c for projects in 2016, and I can't remember if it was in 4 or 5 stages, if it went to 75% and 50% and on down or if it went 80-60-40%. It's to be phased down. One thing I've never understood but seems to be the reality, everything that keeps coming up even applications turned in as recent as the last couple weeks, that are only first applying now, they all seem to still qualify as 2016 projects for the full PTC's. Then the PTC pays the 2.3c per kw for the megawatt

hours they produce. That's how if you've ever heard of negative pricing on the grid, it can be that in times of very short demand and the market is very low, someone might actually pay someone to take their electricity, something less than 2.3c of course, but at least then they collect the 2.3c and end up with a net positive.

Chairman Porter: further questions? Testimony in support? Opposition? Closed the hearing.

Testimony received but no one presented:

- 1) Michael McEnroe, ND Wildlife Federation, Attachment #3

2017 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee Coteau –A Room, State Capitol

SB 2314
3/30/2017
29854

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature

Kathleen Davis

Explanation or reason for introduction of bill/resolution:

To provide for a legislative management study of a long-term energy plan for the state

Minutes:

Attachments 1

Chairman Porter: Called the committee to order on SB 2314. The clerk read the short title.

Rep. Al Carlson: Attachment 1.

Rep. Roers Jones: The such energy is needed to meet the load serving obligations. Before we saw language where it was needed in ND. Are you intending for this to be energy that's used in ND or is it needed to meet energy demand outside of ND?

Rep. Al Carlson: All energy obligations. We sell about 60% of our power to other states. We need to know what that requirement, what we need and have the capability of putting down the line. There's only so much you can send out. When I drive down interstate, and I see new Xcell towers and lines only on 1/2, I'm telling myself there's a 2nd half that can go on here, that would be ND Power. That's a good thing, but there has to be a need study. We need more power to fill that requirement is not only for ND but anyone that buys from us. Out west a couple years ago the oil industry was growing so fast they ran out of power. We had to work on transmission line sitings to get more power out west. I'm a base load guy. I want to make sure the reliability and the base load are protected. I think they need to take everything into account when they site projects. Reliability and affordability should not be ignored. Where our market would be and how much we can sell, because as you know, siting a transmission line or pipeline is a very difficult process. There's a lot of issues in the electric industry. On the news this morning they said there's nothing more vulnerable in the US to our security than to make sure we protect our grid, our system, and the reliability of our system. If you're going to attack it, we're all interconnected computer wise, we're at risk. We also need to keep our eye on that. Reliability and security are important. I think this gives a little more for the PSC to look at the whole picture; do we need the power, is there a reliability factor, is there a market for the power?

Mr. Jason Bohrer, president of the Lignite Energy Council. Followed the history of this concept. The diversity of our membership may yet come in to play but to take those competing priorities and come up with a common sense solution. The PSCs obligation is to represent the priorities of the state of ND on a grand scale. The utilities are in charge of representing their own priorities, and consumers are represented by their priority by trying to get a low cost, affordable, reliable source of power. The code lays out several ways, priorities, the PSC is in charge of evaluating, but deems to sometimes take those competing priority turn them into complimentary priorities so none trump each other so at the end of the day the picture of energy security or energy portfolio that is presented to the state of ND aligns with those priorities as articulated by Code. We asked what can we do that make the most sense for utilities, protects the interests of the consumers and state of ND, one of which is a stable source of tax revenue. There's 12-13 priorities. Need was not there. We thought need was one that makes sense for the state of ND and needed to be evaluate. We did look at the question of where is the power needed, are utilities operating in multi-state vast markets. We want to give them flexibility to say this can be a need that a corporate entity uncovers. So that could stretch beyond ND. That was a question the PSC didn't have the authority to address. Secondly, it never came into focus, the question of reliability. That was always the most important priority from a regulatory state, and assumed that would always be prioritized above all else by regulating entities. We've seen competing priorities introduced in other state legislatures such as the source, certain renewable power standards, and we thought it was time to add, will this negatively impact reliability. It's a way of balancing, preventing those complimentary priorities from becoming competing priorities. Let's strike the balance that gives us the ability to meet the needs of the state, the consumer, the utility, without introducing something that makes our system more unreliable. It's been an increasing federal priority. Our markets like the STP that aggregates power, has expressed this concern. We thought it was time the PSC and the state of ND to ask that question because it's extremely damaging economically for reliability to be compromised. It hurts the consumers, the utilities, and the state of ND if reliability suffers. It's been hard to get our industry to all agree on this. We have a diverse membership and ask them to make the same choices the state of ND is asked to make, which is, balance your many priorities. That balancing point is going to be different for a lot of different entities. We think this is the balancing point for ND as a whole, and it's the best balancing place for the industry.

Chairman Porter: Can you go into a little bit about the baseload capacity factor capable exceeding 90%?

Jason Boar: Essentially that's talking about a facility designed from day 1 to operate at the most efficient level above 90%. That's a baseload facility. It's our coal facilities, potentially a nuclear facility, potentially a combine cycle natural gas facility. It could potentially be a geothermal renewable facility. There's a few types of renewable power that also fall into that baseload calculation. This is saying if that's what it was designed to do, those priorities ought to be elevated. One of the challenges in the federal market place and elsewhere, we give a price preference to a lot of things but the preference for baseline reliability is nonexistent. This is taking something and say we all care the power comes on every single day every hour, let's make sure that's a priority as are some of the other things have been. It probably wouldn't apply to a peaking gas plant, which some of our members have gas peaker (?17:34) plants. This wouldn't apply to them. Sometimes they are being ran as a base load facility, this is a determination that's not in the best policy of the state of ND to rely on peaker plans

for base load. In ND you're talking about hydropower (? 17:53) power. That's the existing formula. Generation. There's opportunities for more in the future if they're geothermal some other combined cycle (? 18:03) but right now that's where it is.

Rep. Anderson: With all the wind energy being put up in the state, have you had to raise the rates of the coal fired plants to compensate for loss of sales?

Bohrer: Raising rates there's 2-3 factors going on. IOU's (18:34) are regulated by the PSC whereas our coops are not. Both approach that question from a different angle. I would say to answer that term broadly; 2 things have driven rate increases that you've seen over the last 15 years. (1) environmental upgrades on coal plants, required by federal regulations, and (2) forced integration or forced buildout of renewable power sources.

Rep. Keiser: I certainly support the concept. I would appreciate your reaction. By taking this position, will we drive wind development out of the state to other regions? It is subsidized like it or not. If they move out of ND but continues to grow and expand with the subsidy, that energy has to be placed on the grid. Are we shooting ourselves in the foot? The only impact of this proposal is we lose the development in the state of ND.

Bohrer: I hope I don't simplify the issue too much. Your concern is real; from the PSC's prospective to balance the need for the state of ND. The simple answer is if the wind is needed and doesn't impact the reliability, this doesn't impede its conception. It shouldn't drive out unless that wind is being built speculatively to take advantage of a situation, the tax code or elsewhere. Our utilities own a lot of wind. They have developed wind in ND but according to their own portfolio needs. I would hope it doesn't drive any wind power out that is genuinely needed by our utilities. I would express optimism that it would drive wind power out of the state that was built for no other reason than a speculative nature which isn't good for consumers or our utilities.

Rep. Keiser: I agree with the statement but the reality is that it's a subsidized industry that if they produce the energy that it goes on the grid. I don't think we've built a wind farm in the state in which they haven't had a contract to sell that power. They're going to go to other states, we're going to lose the business. The concepts great, but I don't see us winning on this proposal.

Shane Goettle, MDU Resources is here to say not all the membership is not coalesced around this approach. The other issue is repowering and the impact this would have when existing wind towers need to be refurbished with new technology to bring them up to par. MDU Resources did send a letter out that we will not support this particular effort.

Rep. Keiser: You understand the issue. You and I may not like this but do you have suggestions how to address the issue?

Goettle: I think this merits at least a review of the things that occurred with regard to wind policy. 2 years ago the legislature did away with the income and state income tax incentives and property tax incentive (? 24:39). This legislative session decided to not extend the sunset associated sales use tax. So the state tax incentives are gone. You're regulating more aggressively, the siting of wind facilities. There's a study in the PSC bill that will look at a

number of issues with regard to siting. There's another study in another bill that will look at the tax climate for all fuel sources. There's a lot of information that's going to be generated from the siting side of things as well as the tax side and will carry forward in this interim. Good prediction those topics will be picked and the PSC will be involved. I think both on the regulatory side and tax side already we've said we want wind to play on a neutral ground. We all admit the production tax credits still exist there. But even that is being phased out and will be gone by 2020. There's not much we can do to counteract that federal tax policy. You want wind to compete on an even playing field. The utilities make the best choices for their customers. Their customers are you and your businesses. Up to this point we favored wind, but no longer. MDU is not wind, it's a utility. We're arguing about the fuel mix and believe that a diverse fuel mix is credible at moving forward. We don't know what the federal policy will be in the future.

John Olson, Otter Tail Power and NexAir: Otter Tails official position is they're uncomfortable with this amendment. I think they tried to work with the Lignite Energy Council trying to come up with some language to address some of these concerns but certainly not in favor of this amendment. NexAir Energy, this will affect them. You need to understand this is adverse to wind development.

30:00

Ms. Carly McCloud, president of the Utility Shareholders of ND (MDU, Otter Tail, and Xcel), and cannot support this language although reliability is an important factor. The utilities responsibility have to supply all in their territory. They have to determine if that mix provides enough reliability to serve all of their customers. I understand impacts of various regulations against coal, acknowledge not a level playing field on the federal side with the PCC (?30:33). I don't hold it against the Lignite industry for wanting to come in with an amendment like this. Just within my utility mix we have hydroelectric, nuclear, solar, lot of coal and wind. If you pass this, it limits the ability of the utility to plan for what it needs. We have to go to the PSC and argue the case for why we need this and it depends on that PSC wants to determine what is the need and if they like the mix or not so. I can't support this. I also want to correct that this would only look at intermittent type of energy sources like wind. It doesn't say intermittent or baseload. You still have to go in front of the PSC and prove need and it falls to whether or not they determine that's appropriate or not.

Chairman Porter: Basically 3 things on this sheet adding #12-13 to the siting code and then the determination of need. Is there any one of the 3 that fits what the PSC should be looking at or none of the 3?

Ms. McCloud: If the PSC had to look at something, if you were forcing me to choose something that would fit, I could understand why they'd want to look at something like an intermitted (33:10??) source to see if it would fit. But if it's tied to need, we don't tell home builders, "I'm sorry we have enough open homes, you don't get to build anymore." We don't say you don't get to bring in a restaurant because it will compete with other restaurants because it will compete with other restaurants. Having the government assess what we need is concerting. When it comes to basic reliability, that's probably something could have a bit more responsibility for it if they felt it was more important and the utilities cover that before

they plan their portfolios. If you're holding a gun to my head I'd say reliability, but I would prefer none of these.

Kathy Aas, Xcel Energy. We just saw the amendment when it was handed out so we haven't been part of the conversation. To us it looks like a moratorium. Our mix is nuclear, hydro, coal, wind and solar, so we look at all generation sources. This would be eliminating that. We look at what would be a good fit for our customers.

Alana Jeffcoats Sacco, I'm here because a call came in to the PSC for Commission Christmann. He's on the road and called me and asked me if I would ask you to allow him to address your questions tomorrow.

Chairman Porter: recessed until Friday morning at 9:30 AM

2017 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee

Coteau –A Room, State Capitol

SB 2314

3/31/2017

29877

☐ Subcommittee

☐ Conference Committee

Committee Clerk Signature

Kathleen Davis

Explanation or reason for introduction of bill/resolution:

To provide for a legislative management study of a long-term energy plan for the state

Minutes:

Attachment 1

Chairman Porter: Called the committee to order on SB 2314. Attachment #1.

Randy Christmann, PSC: This is a very complex issue, this is not a commission position. Now the dilemma is going from the study to fixing it, and it's extraordinarily complex. This really isn't a good idea. Maybe siting isn't the right avenue. Much of the electric industry falls under regional transmission organizations (RTO) and their oversight. That was placed on them by the federal energy regulatory commission. In many instances we're hamstrung in what we can do but doesn't mean we stand by and do nothing. You could argue this should be in a different area of law where we regulate utilities however, we don't regulate the coops. Now I'll tell you what I see good about this. I've been with the commission for 4 years. I'm worried about the future of the electric industry because the federal government in their generosity of giving out tax dollars, are subsidizing intermittent sources of energy to such an extent they are flooding the zone and I fear two things; someday when these facilities are no longer useful, who's going to subsidize replacements, what's it going to cost to produce them? In the meantime, the base load competitors, the ones that are there on days when the wind isn't blowing, there's no sun shining, how do they make it to that point? More important than cost is the reliability. Because of the siting requirement, we continually acknowledge the fact that this is something MISO (Midwest Independent System Operator) should be doing, the company should be doing. These are things we don't regulate. Originally we were able to keep adding that the state was able to benefit from the huge additional electric demand in the NW part of the state. There comes a limit, there was discussion on another bill. There is only so much capacity to export. At some point we flood the zone to the point where someone else gets choked off. There's a wind farm that was supposed to be in operation in December, last I heard it was supposed to be March. If they're added, we've added 1000 megawatts of wind in 10 months. One of the things I see in this amendment, it's effective for applications after 2017. If we add another 1000 megawatts this year, then have applications before the end of this year for another 1000 in 2018, and there are 5000 that are sighted that could be built, I fear we are going to choke out more of our baseload power. It's mostly happening in

other states because our baseload coal power is probably the most efficient in the nation. The other places have to rail their coal there. Can we stand back and assume it will never happen here? I site the Stanton station and say it can happen here. That was not a cost inefficient power plant. It was an old plant and had some environmental updates needed, but a cost effective plant. That plant was bringing in coal from out of state for the most part. That had an impact on those operators, but not on ND coal miners. I've been told we'll have 50 fewer miners this year because of the wind that's already been added. There's probably better places these issues should be addressed. This is going to need additional work, as fresh as it is, it's a good start. In 10-15 years we need to make sure we still have base load power. Again this is not a commission position.

Rep. Heinert: Can you tell me, as electricity is produced from these sources and gets into the grid, how is it decided which electricity is taken?

Christmann: A lot of different ways and has to do with regional transmission organizations. In many cases of wind developers, it's a different business model than traditional electric providers. A good part of their revenue stream is the production tax credits, 2.3c per kWh they get paid to produce electricity. So I think in most cases, a developer will build and sell the power purchase agreement with the stipulation that when they're producing, their customer takes their power first. The energy retailer, you have a chance to buy energy cheap. To the retailer their idea of cheap is what they pay. What the taxpayers pay isn't in that equation. If they have the opportunity, we need to agree to take it first but fine, we get it for very little because it's heavily subsidized.

Rep. Heinert: Can you explain how the subsidies work for electric? For wind energy.

Christmann: 2.3c per kWh (\$23 per megawatt hour) they need to sell that power. If they sell the power, they get 2.3c. You may have heard talk of negative markets. When demand is extraordinarily low, a cool summer evening, electric markets on those regional transmission grids I talked about, the power is cheap at those moments. There are times they will pay someone to take their power. As long as it's less than 2.3c they at least they net out the rest of the production tax credit.

Vice Chairman Damschen: If they pass this amendment and rules are adopted, would it stop development of wind towers?

Christmann: Certainly not immediately, and probably not most of them. I can think of wind farms we've sited where I think for a particular company building it for their own needs, where although we didn't go into the question, because it's not in the list of things we look at. It was clear in the case the need was there. There are cases these standards would have been met. Whatever is going to be built this year and perhaps next year won't be affected. When it comes to subsidies, they've always been on the verge of ending. The current verge of ending is in the next few years, but they're always extended. Under this plan the surge will be to try to do it.

Rep. Lefor: you talk about base load power capacity? Could you put that into number? What is our capacity?

Christmann: no, I can't. We deal with regional transmission organizations. I don't have those statistics. Baseload power, that is there at any given moment to feed the system when intermittent sources are not available. There's a reason for intermittent sources. There's places it's ok, you want some intermittent sources. But we do need enough baseload for when the going gets tough, every minute of every day.

Rep. Seibel: Should we lose our baseload facilities, because they would get choked out, where do we get our power if the winds not blowing, the sun is not shining?

Christmann: I can't answer that except an analogy. That's what's made America so great for so long because we've had cheap dependable power. The little country of Moldova has no energy except what they get from Russia and when they irritate Russia, their source is cut off and they don't have heat or electricity. In much of the world it does happen.

Rep. Mitskog: The original language, I'm concerned that we're segwaying into two industries. What's absent in our discussion is natural gas in our state. The original language, to study long term energy for the state, do you believe that's a comprehensive discussion and worthy of discussion and study?

Christmann: It's worth studying if it's worth investing time, money, travel, research, it's very complex. No one has all the answers. You're right there's a lot of sources. When it comes to natural gas, ND has seen a fair amount of natural gas peaking plant built mostly by one company to back up some of their wind. Peaking plants are not all are the same. There's natural gas plants built to go on and off in a short amount of time. There's baseload plants more like a diesel engine, you start it up and go awhile and shut it off. We have added a significant amount of peaking power but no baseload.

Rep. Mitskog: Are we at a time in time where we need a comprehensive study?

Christmann: With the closing of one power plant, facing reductions in mining, perhaps we should have studied it last biennium, it's a late start now.

Rep. Keiser: You probably would have approved wind applications. Has there been discussion addressing the real issue, the imbalance of cost, and the state look at an incentive for those companies providing a reliable load, we either give them tax credits or some other kind of offset until the incentives on wind go away?

Christmann: Yes, probably another good thing to do; I would say when it comes to incentives for some intermittent sources but to counter the federal governments generosity with the state generosity, I don't know that you have the resources to do that, I don't have these numbers in front of me as a commission. What I've heard and believe, the average cost or providing a megawatt of electricity from our baseload coal plants in ND is \$22.00? A megawatt. The government is paying competitors \$23. It's interesting it's that close, but the fact is, out of the \$22+ I don't know how much is tax credits. This state's tax system is not going to solve the problem. I don't think it should be dismissed. Any help to keep our baseload system hanging on.

Rep. Roers Jones: The issue of determining need. How do you feel the PSC's role is in determining need for electric determination? It sounds like you're in favor of the PSC taking that role, as far as balancing the power sources coming into the market, how should the government get involved, left to the generation company themselves?

Christmann: I don't know exactly how we figure it out. There are other things that are not clear and get you to a yes or no answer. How do we evaluate the direct and indirect economic impact? How do we evaluate the adverse direct and indirect environmental effects? They are all complicated things. In my mind, there have been siting applications I voted for at the time, and under this I would continue to vote for. I didn't ask questions about need because it's not one of the things we look at. In hindsight and reflection, it seemed logical. We have applications that come in and say we need to start production in weeks or months, we don't know how we'll transport the power, we don't have a buyer, don't know how to market it yet. That would be one I'd have a lot more questions for then and want to know what is the need for this. If you don't have customers lined up or method of transportation, that's when I'd start to question it.

Rep. Roers Jones: Don't you think it's short sighted to tell energy producers you don't need facilities to generate more power than what we're consuming right now when we don't know the demand is in the future?

Christmann: Until the federal government decided to do the regional organizations and pull power to them, states did this for years, and still do to some extent. The horse is out of the barn; the electric industry is a regulated industry. We regulate investor owned utilities. We don't let the market dictate totally the things we allow them to build into their rate structure. We don't allow them to determine how much they going to charge each customer.

Chairman Porter: You talked about regional networks and power going in at a different cost, the utility grabbing power at a different cost yet their rates are at a set cost. They grab the 2.3c off the grid, and they're still charging me 10c. When you look at their rate case, and what they can charge me, does that go into a factor or do they get to use their baseload as their main rate and say we just buy whatever we can competitively?

Christmann: In many cases you have a power producer selling their power into the grid, the electric distribution company buys it, we look at the cost they pay for it. When a company has their own, the fact they're getting tax credits, it lowers their costs so it does come back. For the electric provider it does allow them to have some very low cost electricity because it is subsidized.

Chairman Porter: The consumer cost across the board is up 20% for electricity. If were getting all this subsidized cheap power onto the grid how do our consumers costs keep going up?

Christmann: They will be assessed for transmission costs and that cost is spread out to the companies in that area or region. An RTO approves those projects, we end up with it. Another factor, those increases aren't just because of renewables going in. There have been a lot of environmental improvements over the years. Those additional costs have added in to the cost of providing power. New cities grow, your distribution company has to build out lines

and it's not as cheap as it used to be and that cost is spread out over all customers not just the new customers.

Chairman Porter: You talk about regional costs. MISO is a regional transmission organization. If they authorize a power line to go from IL to IN and it's authorized inside of MISO, do all members of MISO help pay for that transmission or just the areas it's serving?

Christmann: They have their formulas. Our companies shouldn't have to pay for that. There are questionable projects. They're out of our reach. We don't have the resources to be at MISO meetings continuously and evaluate their decisions. If not completely fair, somewhat fair.

Rep. Devlin: Under the present scenario, if someone is thinking of putting in a coal, wind, they bring it to the PSC to see if it's viable, because investors aren't going to put money into something that can't pay themselves back. There has to be a way for them to recover their costs. You're looking at viability or need now, aren't you?

Christmann: Economic rate setting is a separate section. Many wind farms are either individual companies that aren't distribution companies, or they're coops, so we touch with them on siting but never again on anything else. In the case of an investor owned utility, where we have economic regulation, there the siting would be under the siting law. When they want to build that into rates that would be a separate discussion.

Rep. Devlin: So if an investor owned utility brings in a plan for whatever project they want; you don't look at if it's viable in the network at all? Whether they can recover their rates at all, you only want to do it at the siting point? Why don't you do that up front right now?

Christmann: Because there's 11 things we look at in siting and that's not in the law.

Rep. Devlin: Before you get to where it's actually going to be sited, whether you look at that or not, do you look at if that project is reliable?

Christmann: In their rate recovery we would. If they come in for an advance determination of prudence, we would look at it then. If not then, when they seek recovery.

Rep. Devlin: In most cases, they're going to need to know they can recover their rates up front, long before they get to the siting part.

Christmann: You would think most would come in for an ADV, they're not required too (except one because of a commission order). They're not necessarily required to. It's conceivable they could build it and come to us if we didn't give them rate recovery.

Rep. Devlin: I know what SD has done with their tax structure trying to attack wind. If we drive them out of ND and they go to SD, it still goes into the same RTO, what have we gained besides losing a viable industry in ND that has a lot of employees? The power is still going to be there, what are we going to gain?

Christmann: Maybe nothing. If they go somewhere else, those transmission lines, to move power where needed and not take up capacity on ND lines. If in fact they set up somewhere else, it may not be the total game changer.

Rep. Keiser: When you have a rate hearing for the utilities you regulate on rates and they can't come forward, they currently are purchasing to put together their package of delivering power. Do you allow their rate change, base rates or the overall combined rate they are purchasing power for? If wind is less expensive and they're purchasing it as part of their mix, do they get an extra benefit because they're buying power at a lower rate or is it factored into the overall rate cost and you make the adjustment from that?

Christmann: We always try to think of keeping the rates low. We want them to be profitable and healthy and fair. We will examine what they're able to apply power for and when applied cheaper, it allows us and them to benefit passing on lower costs to the consumers. It can be the same power; the cost of the power the distribution company buys from whoever is producing it or are you adding in the part of the equation that is the subsidy that caused that particular source of power to be cheaper?

Rep. Mitskog: I hail from eastern part of state, and observed MN energy policies. It appears they're more reliant on other states than to their power companies for diversification. With moratoriums and limitations, telling industry what they can and can't do, is there a chance power rates could be adversely affected?

Christmann: I've lost all faith in my ability in foretelling what MN is going to do. They're caught in a firestorm sometimes between different demands from different states. What you're asking about is a very moving target.

Rep. Mitskog: They're a glaring example. It hasn't been real successful and I wonder if we should learn from that. We have a successful energy industry in our state. I'm wondering if we need to be involved in putting constraints on that.

Christmann: For many decades, we've looked at the electric industry as something that's regulated so there is not duplication of services. We think successful oversight in ND which explains the successful power we've had these decades, and at a low cost.

Rep. Roers Jones: Related to MN attempts to regulate coal power coming from ND. This is almost the exact opposite whether it's wind power sources. If we are giving preferential treatment in the other direction, don't you think we could have the same issues as the ND vs Hettinger case where the courts struck down the regulations or requirements that MN was placing on the energy coming out of ND? Don't you think we'd have a problem here because it would favor disproportionately regional electricity coming out of ND?

Christmann: I'm not familiar with the case you site. I do think there's a big difference between what MN has done and what this amendment seeks to do. I think it's different when you're talking about legislation having to do with system reliability. That's a better reason for state and regulatory intervention social tinkering.

Chairman Porter: Inside of your siting law 49.22-09, factors to be considered, in evaluation applications where this language would go, #7 reads, the direct and indirect impacts of the proposed facility. Do you think that language, what we're talking about already exists as one of your duties to the reliability of electricity in the state of ND? Everything we're talking about here you already have the authority to do.

Christmann: I've argued for years that need should be a consideration. One of the first things presented was a siting case, transmission line, where the Supreme Court said we can't take need into consideration. Based on that, I have read that #7, direct and indirect economic impacts as things like these wind farms, don't have necessarily many employees that are going to impact a school system. This is for all generations. So let's say it was for a big coal plant with a mine and a bunch of workers, we would use this to look at the economic impact. Is the school system capable of this? Are those communities capable of handling it? #7 is the economic impact of that area.

Chairman Porter: In looking at the language, it also talks about indirect impacts of the proposed facility. In your earlier example, someone siting a wind farm without a hook up, without an onramp to the system, just for the tax credits. Wouldn't that have an indirect economic impact on other facilities looked at under #7? You don't think it ties in to your duties and responsibilities in siting something that's just making electrons for no one?

Christmann: To get the production tax revenue, they ultimately have to get them into the grid to sell them to get the TPCs. All the legal advice I've gotten does not include need. I don't think we can make the case.

Rep. Keiser: I circled #7 as well. Instead of new language, why don't we say, the direct and indirect economic impact and need of the proposed facility? Are we making this more difficult than we need to?

Christmann: I think you have a room full of people who already think it's very difficult and any change will be very difficult. This is very difficult. I want to say again, this is not a commission position.

Julie Fedorchak, PSC: I would offer a slightly different answer on questions you asked Christmann. I regret I haven't had a chance to talk to the Lignite industry on this. I wasn't aware of this concept so I don't fully understand how the Lignite Council feels this helps them. I'm going to provide the prospective on the impact of the PSC work in siting. I share concerns about the immediate and long term viability of our coal industry. They're struggling. I'd like to focus on improving economics of the coal industry. On planning, the utilities we regulate, investor owned utilities, they go through an annual planning process, estimate their peak demand and have reserve above that. The same goes on with the coops. The regional transmission organizations review those plans and require a certain planning reserve margin. Every utility has to have enough generating capacity or purchases in the market plan to cover expected peak demand on the year, plus a reserve margin. They have to have that every year. When it comes to actually dispatching electricity, they control the grid. Every generator bids into the market, buys the lowest available to serve the demand. They give a bill to the utilities who use that electricity, here's how much your customers use. Understanding that you understand the price you bid into the market is the key. Wind is subsidized. They have

a very low price. Coal facilities are not subsidized. They bid in for a price. They have a must run. They can't wrap up and down. Their cost, depending on the market prices, might actually be operating and getting paid less than their costs. They take whatever, if they're must run, they take whatever the price is going for. If it's selling at a lower price than what their costs are, they eat that. That's the problem of our coal facilities today. Too often they have to run at a price they aren't recovering costs. If the state wants to help the coal industry be more economic in the market place by reducing their costs. I realize this is not the session to be looking at tax cuts. That's how you help the coal industry. That provides a direct impact immediately so their operating at less of a loss. They need a window of time. Given 5 -8 years can the coal innovate and come up with their next generation to meet the needs. Right now they're in crunch time and struggling. We don't them to go away.

The second area, through the MISO market, is where I think we can make a difference. MISO is the RTO, regional transmission organization that operates most of our market in ND. Basin Electric works through SPP, Southwest Power Pool, so we have 2 RTOs that served ND. MISO has some policies that can be looked at in terms of how they dispatch. There should be more credit given to coal for being a baseload facility. Nuclear is having the same trouble, as is combined cycled gas. So there's some economic dispatch policies looked at. That's where I think you can make the biggest difference because it will impact their price and competitiveness in the market place. This might affect the wind generation in but it might find a different place to go. It's still going on the market competing with coal, driving the price down and doesn't make coal more competitive. Traditionally permitting areas, whether or not they're needed, but whether they fit in the location where they're being proposed to be built. Some states don't do siting, but we do. I have concerns how we would deal with #13. (referring to Attachment 1 in 3/31/17 minutes) The need for who? I'm not in a position to evaluate the need of electricity in MN or SD and some of these are built for outside customers. It would be a challenge for us to evaluate need. Someone else has a need and they have a customer. In general, electricity has been a product in ND that we produce. We haven't said you can't produce it if you can find a market. We have a wide variety of energy resources. I'm not sure in siting where we permit them, that we should say you can't build it.

Rep. Keiser: I cannot express how frustrated I am near the end of the session and no way to address this problem in the manner I think we should be. I think the base load issue is a critical issue for our state and country. This is a financial decision. There's no way to address this now this late in the session. You and Commissioner Christmann articulated this extremely well. So we knew about it, the industry knew about it, how come we didn't get any proposals who's engaged in this, addressing this more directly? This is a legitimate issue for our state. Where was everybody coming up with a real solution?

Fedorchek: I agree. There wasn't enough conversation on a solution which in my opinion would be a tax break for the coal industry early on. I first started talking to them about a month and half ago. I haven't found that much support.

Dale Nieswag, Basin Electric Power Coop: We're in support of the amendment. Wind contracts, how does this work? Our basic process, when we need power, we do a 10-year load forecast, contract all member distribution coops, give us your best guess what you're going to need for power. We assemble those from 140 coops, develop a generation plan for that. We issue a request for proposals and say we need X megawatts and the proposals

come in. Wind developers, they'll know the average wind speed and hours and if they have a project there, it will generate X kWh over 25-year period, know their production. They factor in their production tax credit and give us a price, a price at the beginning with escalation as time goes on. They say here's our contract. When the wind's blowing it generates. Then what we will do as a utility, we tell the SPP, it's a project and must run. It will depend on the price. If we get to a situation at 2 AM and get a lot of wind and not a lot of load, that price will drive down so other generators will shut their generators down and pay them to take wind power. This is on rare occasions. That's how the prices work. Other generators shut down. If we say we're not going to do that, we're going to see them shut this wind project down. If that happens, then we're responsible to pay the developer the kWh hours they would have produced, we're responsible to pay them for production tax credits they would have received. If the market price was at 2c, and the tax credit is 2.3c, that means the market can go negative 4.3c and we still break even. When we're working with an RTO, there's 2 separate transactions. It used to be in the old days, we had our own generation serving our own members. With the new market we bid in our generation. Our coal plants operate at this price, wind projects at this price, gas at this price, all goes into this market. The market comes in over a 14 state area, they look, here's the load, bring on the cheapest generation first. They decide what runs. SPP will call us and say you need to ramp up. How much is too much? The SPP said last week they believe the SE power can handle 60% of intermittent generation or wind into their total portfolio. December last year, they hit 52%. Low loads, high wind, they hit 52%. Last month 54%. They said they hit 60% and we are concerned this could be a reliability of the grid. We are concerned with what's in the queue, this will get to be a reliability problem. Utilities are in a tough spot. You're asking us which generation plan we love the most. We are supports of coal. We put a lot of money in coal and think that's an important domestic resource to use and foolish as a county not to use that. Last presentation I saw, by 2028 every coal plant in MN will be gone. Last 3-4 sessions, legislators have hammered us on the utility side saying, what can we do about this. We've always said, it's a production a production tax credit, it's the RTOs and then they say, what can the state do? So we've come to the point with a lot of pressure. The siting act is the best chance to ask some questions about what's going on. If you look at the legislation it puts those questions in there for the PSC to answer when a project comes up. It doesn't say we're going to shut down everyone that comes through. It's another issue for them to consider as they do this. In SPP they have we call a highway byway system. A (345-line transmission) highway system, everybody pays a share of that. Our line from Antelope Valley Station up through Williston into Tioga, every member of SPP in the 14 states helps pays for that. The byway system is if there's a smaller line, say 110 line, there's a percentage. I think there's 100% of that, other places there's an 80/20 split. There are years of meetings on how that percentage comes to that. ND has the cheapest tax method of the surrounding states. So why do they come here? Because we have a great wind source and great tax policy.

Chairman Porter: The budget status report; the coal conversion tax was budgeted by us for the 2017-19 biennium to be \$40,909,000. We changed that to a -\$1,345,000 during the course of the biennium for where we sit today at \$39,564,000 is what our coal conversion tax is. The numbers talking about a decreased number of coal being mine are factually presented as we look at our coal conversion tax.

David Straley, North American Coal: There's a coal company that talked to him about laying off or not rehiring 50 positions, that is me. We've made a decision at one of our mines, there

will be 50 less employees as of this spring. Those positions will not be filled and we are down 10% at that coal mine, next year a million tons in aggregate, and we're not sure how far the future will hold. I think it's our duty here, the state has been a great partner of the lignite industry. No one is trying to come here and ask too much. We think it's our duty to report to you, it's having a direct impact on our company's bottom line. We feel once we go away, we don't return easily.

1:21:54 came back into session

Chairman Porter: Rep. Keiser touched on the complexity of this issue. Sitting here on day 60, looking at one of the most complex issues to face this entire committee and legislative assembly inside of our electrical generation system. When you look at economic impacts and where we're at the generation of electricity from coal to wind, this is one of the backbones of our economy. It's like a family feud, all the friends of energy and nobody agreeing. It makes for difficult testimony and situation inside of what we have to do in our short 80 days. I appreciate the testimony and complexity of the issues. One thing for certain in my mind, as we do the work on this bill, it's our deadline. When you look at Section 1 of the bill, and the study language, we need to add a Section 2 that tells our Empower Commission to mirror the same study the energy and transmission committee would be tasked at doing so we have the industry working through the Empower Commission, and the legislative energy and transmission committee working at the same time.

Rep. Keiser: We could simplify and say during the 2017-19 interim, the interim committee shall study the long term energy plan. Give it to the interim committee. We want them to study and report to legislative management versus 2 studies.

Chairman Porter: We need a separate discussion on amendments, on study language. Let's talk about the committee's thoughts, the amendments, on what was presented.

1:25:50

Rep. Keiser: I thought item 7 already achieved what we needed. But I would suggest we take the 2 pages of amendments as proposed and on Item 7, make the following changes: the direct and indirect economic impact, striking the s, insert and need for, strike of, the proposed facility. So we're giving them the authority in the siting section to consider need, and if we do that, I think we can eliminate new items 12-13 and also the 2nd page of amendments which I don't think we can get through. I would so move that adjustment to the amendments as proposed.

Rep. Roers Jones: second

Chairman Porter: so we're clear, we're look at the proposed amendments. We're amending Sub 7, so it would read the direct and indirect economic impact and need for the proposed facility.

Rep. Devlin: In #13, it talks about the baseload facility. In your amendment does it also include that?

Rep. Keiser: I think by stating it as it is, would be stated if adopted in 7. It has no limits and setting baseload intermittent, all factors relative to need rather than specifying specific elements.

Rep. Seibel: Do you feel that amendment would cover the impact on system reliability?

Rep. Keiser: To study the need gives the commission a great deal of flexibility on what is relevant. Each case is unique. We need to allow them flexibility.

Rep. Devlin: I'm going to resist this. I don't think it's needed. I come at this from a different angle. I think it's a private enterprise thing. Investors make a decision, bring it to the PSC, they look at it. I don't think it should be in the siting at all. I think it gives them regulatory authority I'm very uncomfortable with. I think the end result is we will drive jobs out of ND and not gained a thing. We should have been having a debate over the tax structure on the coal industry of ND and having that discussion from the 1st day of the session. I'm incensed we're dealing with this issue at this time in the session when the problem is somewhere else. I understand we talked about the 50 jobs and was going to ask about Rep. Mock about the economic impact of wind energy. How many jobs do you have today in the wind industry in Grand Forks?

Rep. Mock: LM Wind Power, currently is in negotiations of being acquired by General Electric. They are a wind turbine manufacturer in Grand Forks. They currently have 1000 jobs approximately.

Rep. Roers Jones: withdraw second

Rep. Seibel: second. I'm also concerned about jobs and in coal county. I think we also need to worry about the jobs we currently have. 50 at \$85k year. The income tax will be felt. My fight is to keep the jobs we have and grow some of those.

Vice Chairman Damschen: This really comes at an inopportune time. If we eliminate 12 and 13 on page 2, is probably a compromise I can live with. I like both the industries. I think we should have all the power generated we can sell and use but don't want to endanger our most reliable source which is coal. Also wind we have a good supply of it. I can live with compromise of 7 if 12 and 13 go away.

Rep. Anderson: We've been talking about the loss of jobs in the coal industry. The end result is the lowest price to the consumer for buying electrical energy. That's where the job market is. A lot of industry that use a lot of electricity. If they have low energy costs, it's a lot easier to stay in business.

Rep. Mock: I couldn't agree more with Rep. Devlin. I appreciate Rep. Devlin comments and removing 12 and 13 and the second page of the amendment regarding the moratorium. I understand where you're going with subsection 7. Regarding factors in what they're approving or not approving, I don't know that the amendment to 7 is necessary. That would or could include the need if interpreted that way. This is a conversation that needs to happen on the other side. We need to do what we can for the coal industry and not limit energy production in other sectors to make another one more competitive. I will resist this. Some of

your districts may have more of a financial impact with wind development. Last week I discovered we have 17 school districts that have a decrease in land evaluations. A potential unintended consequence if we are putting a moratorium or stopping wind development in ND, shifting it to other states, that it may actually hurt some of our communities as well. Make coal more competitive but not at the expense of other industries.

Rep. Keiser: Perhaps I misunderstood Commissioner Christmann. I thought he specifically stated say need, that the courts had ruled they do not have the authority because we haven't set it. They don't interpret it as implied subsection 7.

Chairman Porter: Discussion? Roll call vote on Sec. 2 of the bill, that will amend Sec. 49-22-09 Sub 7 to read, "the direct and indirect economic impact and need for the proposed facility."

8 yes 6 no 0 absent Motion carries.

I would propose adopting the amendment and change in Sec.1 in the study, that it would read, "during the 17-19 interim the energy and transmission committee in conjunction with the Empower Commission shall study the long term energy plan for the state" and on Line 7, after the word wind, insert "natural gas, solar" and continue reading hydroelectric sources.

Rep. Keiser: so moved

Rep. Anderson: second

Chairman Porter: We have a motion from Rep. Keiser, second from Rep. Anderson. Discussion.

Rep. Mock: so the list of energy sources would read "coal, wind, solar, and hydroelectric"?

Chairman Porter: the list would read multiple energy sources, so that's our overall umbrella without a limiter, including coal, wind, natural gas, solar, and hydroelectric energy sources.

Rep. Mock: without that language, would it be proper if the study had evaluated those energy sources as well. This wasn't an exclusive list but an inclusive and we would have the purview without adding those fuels, we'd have the authority to include those in the study?

Chairman Porter: I would read it that way. I included them because I thought Rep. Mitskog thought for sure natural gas was important and didn't want to exclude solar as people are getting inundated with requests to put solar electric panels on their land.

Rep. Mock: I don't have any issues and wanted to clarify if there's other considerations to include.

Chairman Porter: correct. Multiple energy sources make it the fully inclusive list. The individual listing makes those the important ones. Discussion?

Rep. Devlin: I just want to say that everything you just mentioned is already in there. You don't need to put it back in.

Chairman Porter: roll call vote. 12 yes 2 no 0 absent Motion carries.

Rep. Keiser: I move a do pass as amended on SB 2314

Rep. Anderson: second

Chairman Porter: I have a motion from Rep. Keiser, second from Rep. Anderson for a Do Pass as Amended engrossed SB 2314. Discussion?

Rep. Roers Jones: I'm going to opposed the recommendation. I'm not opposed to the study itself but the changes to #7 itself, adding the term "need" is not the right direction for what we're doing with the PSC, putting the PSC in charge of picking winners and losers amongst our energy generating companies. For that reason, I will oppose this.

Chairman Porter: Discussion? Roll call vote. 10 yes, 4 no, 0 absent. Motion carries. Rep. Keiser is carrier.

3/31/17 DO

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2314

Page 1, line 1, after "Act" insert "to amend and reenact subsection 7 of section 49-22-09 of the North Dakota Century Code, relating to factors to be considered in evaluating applications and designations of sites, corridors, and routes; and"

Page 1, after line 3, insert:

"SECTION 1. AMENDMENT. Subsection 7 of section 49-22-09 of the North Dakota Century Code is amended and reenacted as follows:

7. The direct and indirect economic ~~impacts of~~impact and need for the proposed facility."

Page 1, line 5, replace "legislative management" with "energy development and transmission committee, in conjunction with the empower commission,"

Page 1, line 5, replace "consider studying" with "study"

Page 1, line 7, after the comma insert "natural gas, solar,"

Page 1, line 11, replace "legislative management" with "energy development and transmission committee"

Renumber accordingly

Date: 3-31-17

Roll Call Vote #: 1

2017 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2314

House Energy & Natural Resources Committee

☐ Subcommittee

Amendment LC# or Description: see below

Recommendation

- ☐ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
☐ Reconsider

Other Actions

☒ adopt changes to proposed amendment

Motion Made By Rep. Keiser Seconded By Rep. Seibel
~~Rep. Roers Jones~~

Representatives	Yes	No	Representatives	Yes	No
Chairman Porter	✓		Rep. Lefor	✓	
Vice Chairman Damschen	✓		Rep. Marschall		✓
Rep. Anderson	✓		Rep. Roers Jones		✓
Rep. Bosch	✓		Rep. Ruby		✓
Rep. Devlin		✓	Rep. Seibel	✓	
Rep. Heinert	✓				
Rep. Keiser	✓		Rep. Mitskog		✓
			Rep. Mock		✓

Total (Yes) 8 No 6

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

on Item 7 change the direct and indirect economic impact, strike the 5; insert- and need for; strike - of the proposed facility, so it would read "the direct and indirect economic impact and need for the proposed facility;

Date: 3-31-17Roll Call Vote #: 2

2017 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2314

House Energy & Natural Resources Committee☐ SubcommitteeAmendment LC# or
Description:17e0884.06004 see below

Recommendation

- ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions

☐ Reconsider ☒ amend furtherMotion Made By Rep Keiser Seconded By Rep Anderson

Representatives	Yes	No	Representatives	Yes	No
Chairman Porter	✓		Rep. Lefor	✓	
Vice Chairman Damschen	✓		Rep. Marschall	✓	
Rep. Anderson	✓		Rep. Roers Jones		✓
Rep. Bosch	✓		Rep. Ruby	✓	
Rep. Devlin		✓	Rep. Seibel	✓	
Rep. Heinert	✓				
Rep. Keiser	✓		Rep. Mitskog	✓	
			Rep. Mock	✓	

Total (Yes) 12 No 2

Absent _____

Floor
Assignment _____

If the vote is on an amendment, briefly indicate intent:

Section 1. in the study would read, "during the 17-19 interim the Energy and transmission committee in conjunction with the Empower Commission shall study the long term energy plan for the state" and on line 7 after the word wind, insert "natural gas, solar" and continue reading hydroelectric sources.

Date: 3-31-17Roll Call Vote #: 3

**2017 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2314**

House Energy & Natural Resources Committee☐ SubcommitteeAmendment LC# or
Description:17,0884,06004

Recommendation

☐ Adopt Amendment☒ Do Pass ☐ Do Not Pass☐ Without Committee Recommendation☒ As Amended☐ Rerefer to Appropriations☐ Place on Consent Calendar

Other Actions

☐ Reconsider☐

Motion Made By

Rep Keiser

Seconded By

Rep Anderson

Representatives	Yes	No	Representatives	Yes	No
Chairman Porter	✓		Rep. Lefor	✓	
Vice Chairman Damschen	✓		Rep. Marschall	✓	
Rep. Anderson	✓		Rep. Roers Jones		✓
Rep. Bosch	✓		Rep. Ruby		✓
Rep. Devlin		✓	Rep. Seibel	✓	
Rep. Heinert	✓				
Rep. Keiser	✓		Rep. Mitskog	✓	
			Rep. Mock		✓

Total (Yes) 10 No 4

Absent _____

Floor
AssignmentRep Keiser

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2314, as engrossed: Energy and Natural Resources Committee (Rep. Porter, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (10 YEAS, 4 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2314 was placed on the Sixth order on the calendar.

Page 1, line 1, after "Act" insert "to amend and reenact subsection 7 of section 49-22-09 of the North Dakota Century Code, relating to factors to be considered in evaluating applications and designations of sites, corridors, and routes; and"

Page 1, after line 3, insert:

"SECTION 1. AMENDMENT. Subsection 7 of section 49-22-09 of the North Dakota Century Code is amended and reenacted as follows:

7. The direct and indirect economic ~~impacts of~~impact and need for the proposed facility."

Page 1, line 5, replace "legislative management" with "energy development and transmission committee, in conjunction with the empower commission,"

Page 1, line 5, replace "consider studying" with "study"

Page 1, line 7, after the comma insert "natural gas, solar,"

Page 1, line 11, replace "legislative management" with "energy development and transmission committee"

Renumber accordingly

2017 TESTIMONY

SB 2314

Senator Jessica Unruh
District 33
SB 2314

SB 2314
2-9-17
Attach #1
pg 1

Senate Energy and Natural Resources Committee

SB 2314 proposes a change to part of our state's energy policy to better reflect our long-term goals regarding energy production in our state. As you all know, we produce large amounts of electricity here in North Dakota that is utilized in other states. As we look to the future, it should be our goal to ensure continued responsible development of these resources. This bill helps us do just that.

Section 1 of the bill requires the Public Service Commission to establish rules prohibiting a utility from passing along a rate increase that is necessary solely to sell electricity to another state for the purpose of meeting or exceeding another state's renewable energy mandates. This section attempts to prohibit something none of us want, and that is unfairly tasking North Dakota ratepayers to bear the burden of other state's mandates.

Section 2 of the bill replaces our renewable energy objective of ten percent by 2015 with a new approach - a state dispatch policy. North Dakota has far exceeded our renewable objective, producing nearly 20 percent of renewables in North Dakota. This new dispatch policy would get us closer to having a state energy policy that reflects our values by stating that the economics of supply and demand should drive the production and sale of electricity, not mandates based on the source. We need to start measuring the bar differently, and I think this change in approach takes us a step in that direction.

Section 3 changes the reporting objectives to reflect the new dispatch policy. Instead of a report declaring just annual renewable production, the new report would require companies to certify that they are indeed not affecting in state rates by attempting to meet out of state mandates, the percentage of renewable retail sales, the cost per mega-watt hour for all types of energy, and the direct employment numbers for all types of energy.

When I filed this bill, there were some very legitimate concerns raised by some of the utilities that engaged me on this bill regarding some of the reporting requirements in Section 3. I hope the committee will work with them to make this report more manageable while still including information important for us as lawmakers to have. As you can see, the last required report in this section was filed in 2016. I think this information is valuable to us as policy makers, and would like to see at least parts of the previously required report continue in the future.

Committee - I think this bill is a step in the right direction. It is important for us as policy makers to continue to promote responsible energy policy that includes both renewable and fossil fuel energy. While the industry and state are still trying to figure out what this balance looks like, I think we can all agree that we want to do our best to provide a level playing field at the state level. In order for us to find our best path forward without picking winners and losers, we need to be cautious of creating unbalanced policy such as state mandates, renewable subsidies and targeted regulations that only result in an oversupplied market, stranded assets and higher rates for consumers.

Continued investments in research and technology along with accurate data and information from the industry will help us get there. I'm confident this is something we can all do together. This is something we can do here, in this committee and in the North Dakota legislature, with the questions we ask of those involved and the decisions we make on issues such as this and so many others.

and continuing to
encourage investment
in our state

original

Xcel Energy Testimony
Senate Energy & Natural Resources
February 9, 2017 – Opposition to Senate Bill 2314

SB 2314
2/9/17
Attch # 2
pg 1

Chairman Unruh and members of the Committee, my name is Mark Nisbet, ND Principal Manager for Xcel Energy.

I am here today on behalf of Xcel Energy to oppose Senate Bill 2314. Simply stated, we believe this bill is not necessary, for three reasons:

- 1) it does not add anything to the already existing practice and functions of the North Dakota Public Service Commission;
- 2) it reflects the way that energy is currently dispatched
- 3) it adds unnecessary regulatory burdens and may force utilities to disclose confidential economic information.

Section 1 of Senate Bill 2314 requires the Commission to create “rules prohibiting a utility from passing on a rate increase that is necessary solely to sell electricity to another state for the purpose of meeting or exceeding another state’s renewable energy mandates.” There is no need for more regulation. The North Dakota Public Service Commission, which regulates our rates and services here in North Dakota, already disallows costs that they determine should not be included in customer rates in North Dakota. It is unnecessary and time consuming for the Commission to create rules to enact what is already the Commission’s current practice.

Section 2 of Senate Bill 2314 creates a policy to “encourage electrical distribution or dispatch be based first on market-based economic decisions . . .”. This is how wholesale energy markets work today, under the responsibility of the Midcontinent Independent System Operator and in accordance with requirements of the Federal Energy Regulatory Commission. Generally speaking, low costs energy resources are dispatched before higher cost resources. So, this change to Section 2 is unnecessary and could create confusion.

SA 2314
2/9/17 #2
Atch #2
pg 2

Finally, Section 3 of Senate Bill 2314 creates a new reporting requirement about a “provider’s previous calendar year’s energy sales and direct employment” including “the aggregate pretax cost per megawatt hour of all energy resources and all direct employment figures for energy production.” Further the bill requires a “certification that out-of-state mandates are not affecting rates in this state.” While we can provide such information, we have a few concerns. First, we already report annual energy sales to the Commission. Collecting this information and putting it together in another report is simply unnecessary. The requirement that utilities provide a certification that out-of-state mandates are not affecting rates in North Dakota is problematic. One reason is that it’s not clear this is even feasible, given the complexity of rate making and the variety of costs that are reflected in rates in accordance with Commission decisions over the past 25 years. Perhaps more important, and as I stated previously, the Commission already disallows costs that they determine should not be included in customer rates in North Dakota. It’s not necessary, and would not enhance customer protection, to require the Commission and utilities to spend time and resources to develop a new, complicated, and unclear certification process.

Finally, much of the resource cost information requested in this section is confidential. We strongly oppose releasing it publicly because this information could be used by competitors and suppliers to try increase the costs of the energy they may provide to us in the future – and that would mean higher prices for our customers. All such information is available to and reviewed by the PSC as part of its authority to set rates that are just and reasonable for our North Dakota customers.

Thank you for your time, and we appreciate the opportunity to explain our concerns with this bill. Chairman Unruh and members of the Committee, on behalf of Xcel Energy, I ask you for a Do Not Pass recommendation on SB 2314. This concludes my testimony and I am happy to answer questions.

SB 2314
2/9/17
Att # 3
pg 1

Testimony of Jeremy Rham
Otter Tail Power Company
Before the Senate Energy & Natural Resources Committee
February 9, 2017

Madam Chair and members of the Committee, for the record my name is Jeremy Rham. I serve as Area Manager for Otter Tail Power Company at our Jamestown Customer Service Center. I respectfully submit the following comments regarding our company's opposition to Senate Bill 2314.

Otter Tail Power is a public utility operating in Minnesota, North Dakota, and South Dakota. Our company is the largest subsidiary of Otter Tail Corporation, whose corporate offices are in Fargo and Fergus Falls. Otter Tail Corporation is a diversified public utility holding company with electric and manufacturing segments. The manufacturing segment includes Fargo-based Northern Pipe Products, a PVC pipe manufacturer, and Detroit Lakes-based BTD Manufacturing, a metal fabricator.

Otter Tail Power Company currently operates three coal-fired plants—including Coyote Station near Beulah. We and our Coyote Station co-owners, Montana-Dakota Utilities, NorthWestern Energy, and Northern Municipal Power Agency (which provides power to Grafton and Park River) recently entered a 25-year lignite supply agreement with a subsidiary of the North American Coal Corporation—making a long-term commitment to the North Dakota lignite industry. In addition, we own or purchase the energy output of 248MW of wind generation in North Dakota. This wind generation is near Edgeley, Langdon, Ashtabula, and Luverne. Our resource plan calls for an additional 200-300MW of wind—and approximately 250 MW of simple-cycle natural gas generation to meet our customers' upcoming needs. We hope to add 150MW of wind generation in McIntosh and Dickey Counties.

Section 1 of SB 2314 directs the North Dakota Public Service Commission to create rules "prohibiting a utility from passing on a rate increase that is necessary solely to sell electricity to another state for the purpose of meeting or exceeding another state's renewable energy mandates." There are several problems with this directive.

SB 2314
2/9/17
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First, the Public Service Commission already has jurisdiction over our customers' rates. As such, the Commission may disallow any costs in electric rates that are not "used and useful" for our customers in North Dakota. As the Commission has recognized, our customers in three states benefit from planning generation resources that can serve ALL of our customers on an integrated system basis. Were it otherwise, we would be planning generation resources for each individual state in a balkanized and inefficient fashion. The customers in each of our three states would have higher rates, because they would no longer benefit from the economies of scale afforded by generation planning on a system-wide basis and the construction of generation assets on a larger scale.

Second, our company conducts least cost planning on a system-wide basis. We are not adding wind, solar or any other form of generation or seeking to pass on rate increases solely, or even partly, to sell electricity to another state for the purpose of meeting or exceeding another state's renewable energy mandates. Instead, we are planning least cost generation resource additions for customers in three states.

Section 2 of SB 2314 suggests the state of North Dakota should encourage that electrical distribution or dispatch be based first on market-based economic decisions. While we are not necessarily opposed to the Legislature encouraging this policy, it implies that dispatch decisions are currently made on some basis other than market-based economic criteria. That is not the case. As a member of an independent system operator, the Midcontinent Independent System Operator or MISO, Otter Tail Power's electric system is already dispatched this way. MISO independently determines how the generation units in the MISO system, which spans fifteen U.S. states and the Canadian province of Manitoba, are dispatched.

Section 3 of the bill directs the creation of a new report to the PSC by all electric retail providers in the state, detailing information that, in some cases, is likely proprietary and trade secret. We also believe section 3 imposes unclear requirements for reporting on energy costs and direct employment. Finally, section 3 requires a certification that out-of-state mandates are not affecting rates in this state. Again, Otter Tail Power does not generate or purchase power from wind energy facilities in North Dakota to meet renewable mandates in another state. As our customers' needs for energy grow, we implement a

least-cost resource strategy to meet the needs of all of our customers - - wherever they reside in our three-state footprint.

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In conclusion, Madam Chair and members of the committee, Otter Tail Power opposes SB 2314 because it implies our company is deploying wind generation solely to comply with an out-of-state energy mandate, because it directs a system of economic dispatch which is already in place through an independent system operator (MISO), and it creates a new report to be filed by all retail electric providers on unclear measures of cost and employment. Otter Tail Power Company urges a DO NOT PASS.

Thank you and I am happy to take any questions you may have.

Dale Niezwaag - Basin Electric Power Cooperative, February 9, 2017
Senate Energy & Natural Resources Committee
Oppose HB 2314

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Chairman Unruh and members of the Senate Energy & Natural Resources committee, for the record my name is Dale Niezwaag, Representing Basin Electric Power Cooperative.

Basin Electric is opposed to SB 2314. From Basin Electric's perspective removing the renewable energy objective language in Section 2 does not help the state. Even with the change in administration in our nation's capital there is still a strong push by people in the state to move toward lower emission generation. Keeping the renewable objective language in statute allows the state to show its commitment to that path. It also allows utilities to show that they have met and in almost every case exceeded the objective the state set. Secondly, the proposed language to develop a state policy on market dispatch is very difficult to do when those rules are governed by the Federal Energy Regulatory Commission and the Regional Transmission Organizations of which all generators in the state belong.

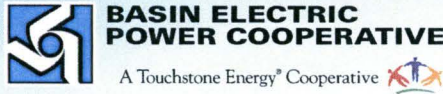
Section 3 creates several problems in the form of contract and market confidentiality and administrative work. On Line 21 of page 2 the bill calls for a certification that out-of-state mandates are not affecting rates. Basin Electric allocates the Renewable Energy Credits it produces to its members based on the amount of energy they purchase during the year. If those credits are not enough to meet the mandates in their state they must purchase more to meet their requirements. If the allocation is more than they need they are free to do what they want with them. Under this method we cannot certify that credits one member receives in one state have absolutely no effect on the costs incurred by members in this state.

Lines 22 & 23 on page 2 also call us to report the aggregate pretax cost per megawatt hour of all energy resources and all direct employment figures for energy production. In almost all cases our cost per megawatt hour is highly confidential information either by contract or by the rules governing the Regional Transmission Operator, which in our case is the Southwest Power Pool. These rules are in place to prevent market manipulation by generators or transmission organizations. These rules are so strict that employees in our marketing department are physically located in a security card access area within our headquarters building. Every time someone enters that area a log is kept that is available for audit by the FERC.

Because of these reasons we are opposed to the SB 2314. I will be happy to answer any questions.

original

fr. Dale



Wind Energy, Contracts, Markets

How Wind Developers Market Projects

1. Utilities issue Requests for Proposal for generation.
2. Developers calculate costs for RFP
 - a) Cost of Equipment and Operation
 - b) Total Production Capability Over Contract Period (20-25 yrs.)
 - c) Minus Production Tax Credits (10 yrs.)
 - d) Include Must-Run Provisions to insure return
3. Utilities Evaluate and Accept Best Contract Price and Terms



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Market Pricing of Wind

1. Utilities price their generating capacity and costs into the Market (SPP or MISO)
2. Market brings lowest priced generation online to meet load.
 - Lowest cost of operation closest to the load
3. As load grows more higher priced generation brought online.
4. Utilities can designate generation as “must run”



Market Pricing of Wind

- If utility were to shut down a wind generator when it could be running it has to pay the developer:
 1. The cost of the wind power it would have supplied to the market.
 2. The cost of the PTC's the wind power would have qualified for
 3. The cost of the generation sold to the market



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Generation Cost Ranges By Fuel

- Wind production costs \$.04-\$.05/kWh
- PTC credit \$.023/kWh
- Utility contracted cost of wind is the production cost minus the PTC. \$.017-\$.027/kWh
- Coal plant production costs \$.015-\$.025/kWh



Wind Market Pricing Example Market Clearing Price @ \$.02kWh

- Wind kWh's \$.045/kWh
- Minus the PTC \$.023/kWh
- Utility Contracted Wind cost \$.022/kWh
- Coal Production cost \$.02/KWH



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Wind Market Pricing Example Market Clearing Price @ \$.02kWh

- If Utility chose to shut down wind and run coal its obligations would be:

– Cost of Wind	\$.022
– Plus Cost of PTC	\$.023
– <u>Plus Cost of Coal or Market</u>	<u>\$.020</u>
– Total Cost	\$.065/kWh



Summary

- If the Energy Market price is at \$.02/kWh
- Cost to not run wind gen. \$.065/kWh
- It can pay others up to \$.045/kWh to take the wind energy and still break even
 - Difference between \$.065 and \$.02





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Testimony in opposition to HB 2314

Stacey Dahl

Manager of External Affairs, Minnkota Power Cooperative, Inc.

North Dakota Senate Energy and Natural Resources Committee

February 9, 2017

Chairman Unruh and members of the Senate Energy and Natural Resources Committee, thank you for the opportunity to testify on this matter. Minnkota Power Cooperative, based in Grand Forks, North Dakota is a non-profit electricity generation and transmission cooperative and is the sole supplier of electricity for eleven non-profit cooperative distribution companies and the operating agent for Northern Municipal Power Agency which serves twelve small cities in eastern North Dakota and northwest Minnesota. The Minnkota system serves approximately 147,000 customers over a 35,000 square mile area.

Our opposition to the bill relates to sections 2 and 3, which invoke a number of concerns:

- Section 2 - Minnkota has met each benchmark in the state's existing renewable energy objective. Accordingly, we have entered into long term wind contracts to meet not only North Dakota's objective, but the renewable energy mandate in Minnesota. Minnkota's members have already made the long term investment to meet both the objective and the mandate, and repealing it does not substantially relieve our members of costs or assist our fossil fuel assets.
- Section 3 – this section provides particular concern:
 - First, the provision on page 2, line 21, requiring a cooperative to certify that out of state mandates are not affecting rates in this state is a substantial departure from North Dakota policy and law. Cooperatives are democratically governed by their membership, and are not rate-regulated like investor-owned utilities. Minnkota could not make this certification as outlined in this bill, because we have compliance obligations in Minnesota that are ultimately spread among our broader membership in North Dakota and Minnesota which is an important attribute of our business model. Ratemaking decisions made by our member-owned board that is chosen through a democratic process is a right that is fiercely defended by electric cooperatives. There are many unintended consequences of this section, but principally, a cooperative cannot efficiently or effectively meet the needs of its members if rates are divided as proposed.
 - Next, on page 2, lines 22 & 23, we are concerned with requiring the reporting of aggregate pretax cost per megawatt hour of all energy resources. Minnkota's cost information related to certain of our coal and wind assets contain strict

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confidential and proprietary information that we cannot disclose. Our long term wind contracts prohibit the disclosure of pricing information, including costs. Furthermore, for reasons of competitiveness and confidentiality with respect to our participation in the Midcontinent Independent System Operator (MISO) wholesale energy market, we are prohibited from disclosing certain cost information on a specific resource.

- Finally, if the bill seeks to gain information related to energy production jobs, it would be clearer to ask for jobs assigned to a particular production facility rather than “direct employment figures for energy production.” It becomes very difficult to divide out positions within the company based on the bill.
 - One additional note, the only entities that are required to report under this statute are retail providers. Minnkota is not a retail provider, but we report on behalf of our North Dakota retail member-providers. Because we only purchase the output from wind facilities, we don’t own or operate them, we couldn’t provide information related to employment. Furthermore, under this bill draft, wind companies would not be obligated to report their employment numbers because they don’t operate at retail level.

Thank you for the opportunity to testify on this bill, I am happy to answer any questions the committee may have.

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Testimony in opposition to SB 2314

Senate Energy and Natural Resources Committee

February 9, 2017

Good morning, Senator Unruh, Members of the Senate Energy and Natural Resources Committee, my name is Deb Birgen. I serve as the Director of Legislative and Government Relations for Missouri River Energy Services (MRES). Unfortunately I am unable to attend the hearing in person and have asked our lobbyist, Todd D Kranda, of Kelsch Kelsch Ruff & Kranda Law Firm of Mandan, to appear and present my testimony. I am speaking to you on behalf of MRES which is a municipal power agency that provides wholesale electricity to six member communities in this state, including Cavalier, Hillsboro, Lakota, Northwood, Riverdale and Valley City. MRES appears before you today to voice opposition to SB 2314.

MRES has concerns over both sections 2 and 3 of SB 2314. Section 2 repeals the current Renewable Energy Objective and in its place establishes a state "policy to encourage electrical distribution or dispatch [to] be based first on market-based economic decisions, with all other things being equal, lowest cost sources should be dispatched before higher variable operating cost sources in sequential order as electricity demands increase." Page 2 lines 5-8. First of all, how resources are dispatched are largely a function of capacity needs and reliability, and of transmission access and cost. These determinations are now done largely at the regional market level with the Regional Transmission Organizations (RTOs) or the Independent System Operator (ISO) level. The member communities of MRES are currently in two different regional markets, the Midcontinent Independent Operator (MISO) and the Southwest Power Pool (SPP).

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These two regional markets coordinate, control and monitor the operation of the regional bulk electric system, including how wholesale power is bid into the bulk electric system and how it is dispatched. These RTOs are overseen by the Federal Energy Regulatory Commission (FERC). As an independent agency at the federal level, FERC regulates the transmission and wholesale sales of electricity, monitors and investigates the RTOs, and protects the reliability of the high voltage interstate transmission system through mandatory reliability standards. As a result, MRES is concerned that the language in section 2 of SB 2314 makes it appear that the state is adding yet another layer of rulemaking or statutory mandates to the regulations that are already at the federal RTO/ISO and FERC levels as to how resources are dispatched.

Additionally, MRES is concerned with section 3 of SB 2314. It requires all utilities to report how the cost of renewables are directed among ratepayers. MRES is opposed to this language. As you may know, municipals and cooperatives, as well as Generation and Transmission Cooperatives and Municipal Power Agencies are not rate-regulated by the state. Their rates, in all aspects, are set by their customer-owners only. By requiring a reporting of rate-setting principals to the state Public Service Commission, it opens the door to PSC oversight of cooperative and municipal rates and takes the rate-setting power away from the customer-owner. Municipals and Cooperatives have had a long-standing practice of being locally-controlled, locally-regulated, which is why they are exempt from state rate-making authority or state review of the rates. As a result, MRES must oppose the language change in section 3 of SB 2314.

In conclusion, I would request that this committee give **SB 2314** a **Do Not Pass** recommendation, or in the alternative, amend the bill to delete the language in sections 2 and 3.

North Dakota Active Wind Projects

Updated 1/12/2017

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Project Name	Owner	Location	Turbines	Capacity (MW)	Manufacturer	Notes
Minot Wind Project	Basin Electric Power Cooperative	S. of Minot	2	2.6	Nordex N60	In Service Jan 2002
Edgeley/Kulm Wind Project	FPLE / BEPC	Edgeley	27	40	GE 1.5 MW	In Service Oct 2003
Edgeley/Kulm Wind Project	FPLE / Otter Tail	Edgeley	14	21	GE 1.5 MW	In Service Oct 2003
Valley City Wind Project	Minnkota Power Cooperative	Valley City	1	0.9	NEG Micon NM52/900	In Service Jan 2002
Petersberg Wind Project	Minnkota Power Cooperative	Petersberg	1	0.9	NEG Micon NM52/901	In Service July 2002
	Sacred Heart Monastery	Richardton	2	0.13	Silver Eagle	In Service
Fort Totten Wind Project	Spirit Lake Sioux Nation	Fort Totten	1	0.1	Micon 108	In Service
Belcourt Wind Project	Turtle Mountain Chippewa Tribe	Belcourt	1	0.1	Micon 108	In Service
	North Valley Carreer and Technology C	Grafton	1	0.065		In Service
	3 Affiliated Tribes	New Town	1	0.065		In Service
Velva Wind Project	Acciona/ Xcel Energy	Velva	18	12	Vestas V80	In Service 2005
	Turtle Mountain Community College	Belcourt	1	0.66	Vestas V47	In Service
	FPL Burleigh County Wind LLC	Wilton	33	49.5	GE 1.5 MW	In Service Jan 2006
Wilton II	FPL Burleigh County Wind LLC	Wilton	33	49.5	GE 1.5 MW	In Service Nov 09
Oliver County Wind	FPL - Oliver County Wind I, LLC	Center	22	50.6	2.3 MW Turbines	In Service Dec 06
Oliver County Wind II	FPL - Oliver County Wind II, LLC	Center	32	48	GE 1.5 MW	In Service DEC 07
Langdon Project	FPL- Langdon Wind, LLC	Cavalier County	79	118.5	GE 1.5 MW	In Service Dec 07
Langdon Project	Otter Tail Corporation	Cavalier County	27	40.5	GE 1.5 MW	In Service Dec 07
Langdon Expansion	FPL- Langdon Wind, LLC	Cavalier County	26	40	GE 1.5 MW	In Service Sept 08
	Tatanka Wind Power, LLC	Dickey/McIntosh County	60	90	Acciona AW 1500	In Service 2008
Ashtabula Wind Project	FPL - Ashtabula Wind, LLC	Barnes County	133	200	GE 1.5 MW	In Service Dec 2008
Prairie Winds Project	BEPC - PrairieWinds ND 1, Inc.	Ward County	77	115.5	GE 1.5 MW	In Service Dec 2009
Minot Wind 2	Basin Electric Power Cooperative	Ward County	3	4.5	GE 1.5 MW	In Service 2009
Luverne Wind Farm	Ashtabula Wind II, LLC/Otter Tail	Griggs/Steele Counties	105	157	GE 1.5 MW	In Service Oct 2009
Rugby Wind Farm	Iberdrola, Inc. f/k/a PPM Energy	Rugby	71	149.1	Suzlon 2.1 MW S88	In Service Dec 2009
Montana-Dakota Utilities	Cedar Hills Project	Rhame	13	19.5	GE 1.5 MW	In Service June 2010
Baldwin Wind Energy Center	NextEra Energy Resources, LLC	Burleigh County	64	102.4	GE 1.6 MW	In Service Nov 2010
Ashtabula III	Ashtabula Wind III, LLC	Barnes County	43	70.0	GE 1.6 MW	In Service Dec 2010
Bison 1 Wind Project	Allete, Inc. (MN Power)	Oliver @ Morton Counties	33	81.8	Siemens 2.3/3.0 MW	In Service February 2012
Bison 2 Wind Project	Allete, Inc. (MN Power)	Oliver/Morton Counties	35	105.0	Simons 3.0MW	In Service Jan 2013
Bison 3 Wind Project	Allete, Inc. (MN Power)	Oliver/Morton Counties	35	105.0	Simons 3.0MW	In Service Jan 2013
Bison 4 Wind Project	Allete, Inc. (MN Power)	Oliver/Morton/Mercer	64	204.8	Simons 3.0MW	In Service Jan 2015
	Lake Region State College	Ramsey County	1	1.6	GE 1.6 MW	In Service Jan 2013
Thunder Spirit Project	Thunder Spirit Wind, LLC	Adams County	43	107.5	Nordex N100 2.5 MW	In Service Dec 2015
Border Winds	Border Winds Energy, LLC	Rolette and Towner Cts	75	150	Vestas V100 2.0 MW	In Service May 2016
Courtenay Wind Farm	Xcel Energy	Stutsman County	100	200.5	Vestas V100 2.0 MW	In Service Nov 2016
Brady Wind, LLC	Brady Wind Energy Center	Stark County	87	150.0	GE 1.715 & 1.79 MW	In Saervice Nov 2016
Brady Wind II, LLC	Brady II Wind Energy Center	Hettinger/Stark County	72	150.0	GE 1.79 & 2.1 MW	In Service Dec 2016
Sunflower Wind Project	SunflowerWindProjectLLC (Infinity)	Stark/Morton	52	104.0	Vestas V-100 2MW	In service Dec 2016
Oliver Wind III	Oliver Wind III, LLC	Oliver/Morton Counties	48	100.0	GE 2.1MW & 1.79 MW	In Service Jan 2017
Total in Service			1536	2843.32		
	CROWN BUTTE WIND POWER LLC	Adams/Bowman Counties	133	200	GE 1.5 MW	Letter of Intent Filed February 2008
	Just Wind, LLC	Logan County	160	368	Mitsubishi 2.4 MW	Permit Issued 4/29/09
Dickey County Wind Farm	Rough Rider Wind 1, LLC	15 miles NW of Ellendale	100	150	GE 1.5 MW	Permit Issued 8/12/09
Oliver County Expansion	FPL Energy, LLC	6 miles NW of Center	667	1,000		Letter of Intent Filed June 2008
Hartland Wind Farm	Hartland Wind Farm, LLC	Ward, Burke, Mountrail Cts		2,000		Letter of Intent Filed July 2008
Allete, Inc. (MN Power)	Bison Wind Project	Oliver County		125		Letter of Intent Filed October, 2008
Merricourt Project	EDF Renewable Development, Inc.	McIntosh/Dickey cts		150		Permit Issued June 2011, Amended May 2015
	Just Wind, LLC	Emmons County		900		Letter of Intent Filed Dec 2008
Ashley Wind Power Project	CPV Ashley Renewable Energy Compan	McIntosh County				Project Cancelled
Radiance Wind Farm	North Dakota Winds, LLC	Burleigh County		99.0		Request Jurisdictional Determination Oct 09
Oliver Wind III	Oliver Wind III, LLC	Oliver County		51.0		Permit relinquished March 2016
M-Power One, LLC	Luverne North Field Extension	Steele County		75.2		Letter of Intent Filed 11/2010, Amended 3/2013
New Frontier Project	Meadowlark Wind 1, LLC	McHenry County		99.0		Permit Issued April 2012
Wilton Wind IV	Wilton Wind IV, LLC	Burleigh County		112.0		Permit Issued Feb 2012, Amended Nov 2012
Clean Energy #1	ALLETE Clean Energy	Mercer & Morton Counties		100.0		Permit Issued August 2012
Dickinson Wind Project	Dickinson Wind, LLC	Stark County				Application withdrawn
Rolette Wind Project	Rolette Power Development, LLC	Rolette County		100.4		Permit issued November 2015
Antelope Hills Project	Antelope Hills Wind Project, LLC (Infini	Mercer County		172.0		Permit Issued Dec 2014, Construction Holding
Lindahl Wind Project, LLC	Lindahl Wind Project	Williams County		150.0		Permit Issued Dec 2015, under construction
Glacier Ridge Wind Farm, LLC	Glacier Ridge Wind Farm	Barnes County	87	300.2		Permit issued Dec 2016
Total (Proposed and In Service)				8,995.07		

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Sixty-fifth
Legislative Assembly
of North Dakota

*Sen. Cook
amendment.*

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INTERN DRAFT AMEDNMENT TO LC AMENDMENT 03002 FOR SB 2314

SECTION 1. AMENDMENT replace section 3 with:

"Notwithstanding any other provision of this chapter, the commission may not approve any application for a certificate of site compatibility for a wind energy conversion facility *until August 1, 2019, unless the commission determines additional generation is needed for consumers in this state.*"

Senator Jessica Unruh

District 33

SB 2314

House Energy and Natural Resources Committee

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Unruh

SB 2314 proposes to study our state's energy policy to better reflect our long-term goals regarding energy production in our state. As you all know, we produce large amounts of electricity here in North Dakota that is utilized in other states. As we look to the future, it should be our goal to ensure continued responsible development of these resources and the continued electrical reliability and affordability we have all become accustomed to. This study will help us get our hands around that issue and what the state's role and policies should look like to help shape our energy landscape.

Our energy development landscape has changed and we are entering a new energy era. Instead of the coal and power plant development we saw 35 years ago, we are seeing new wind development. As a state over the last 15 years, we chose to incentivize this construction. That resulted in the development you see on the chart I handed out - about 3,000 megawatts in production now, with 1,000 of those megawatts coming online within the last 10 months. Also within the last 10 months, Great River Energy announced they would be closing their Stanton Station, reducing our coal-fired electrical production by 200 megawatts from 4,000 megawatts to 3,800.

It is important for us as policy makers to continue to promote responsible energy policy that includes both renewable and fossil fuel energy. I truly believe in an all-of-the-above energy policy, both here in our state and nationwide. In order for us to find our best path forward without picking winners and losers, we need to be cautious of creating unbalanced policy such as state mandates, renewable subsidies and targeted regulations that only result in an oversupplied market, stranded assets and higher rates for consumers. Our number one priority should be energy security. On a cold winter day with no wind, citizens shouldn't be afraid that their heaters won't work.

Continued investments in research and technology along with accurate data and information from the energy industry help us get our hands wrapped around this issue. I'm confident this is something we can all do together, with the questions we ask of those involved and the decisions we make on issues such as this and so many others.

This study is a step that will get us closer to more fully understanding our comprehensive energy landscape. It's not like a lot of other bills that get hoghoused and turned into a study when it leaves committee before crossover. The Senate has legitimate questions and concerns regarding what our energy future is going to look like and what our state policies should be to shape that. We don't have the answers to a lot of these questions, and now the time has come for us to take a good, hard look. And that's the importance of this study. It is time for us to analyze this issue.

North Dakota Active Wind Projects

Updated 1/12/2017

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	Just Wind, LLC	Logan County	160	368	Mitsubishi 2.4 MW	Permit Issued 4/29/09
Dickey County Wind Farm	Rough Rider Wind 1, LLC	15 miles NW of Ellendale	100	150	GE 1.5 MW	Permit Issued 8/12/09
Oliver County Expansion	FPL Energy, LLC	6 miles NW of Center	667	1,000		Letter of Intent Filed June 2008
Hartland Wind Farm	Hartland Wind Farm, LLC	Ward, Burke, Mountrail Cts		2,000		Letter of Intent Filed July 2008
Allete, Inc. (MN Power)	Bison Wind Project	Oliver County		125		Letter of Intent Filed October, 2008
Merricourt Project	EDF Renewable Development, Inc.	McIntosh/Dickey cts		150		Permit Issued June 2011, Amended May 2015
	Just Wind, LLC	Emmons County		900		Letter of Intent Filed Dec 2008
Ashley Wind Power Project	CPV Ashley Renewable Energy Compan	McIntosh County				Project Cancelled
Radiance Wind Farm	North Dakota Winds, LLC	Burleigh County		99.0		Request Jurisdictional Determination Oct 09
Oliver Wind III	Oliver Wind III, LLC	Oliver County		51.0		Permit relinquished March 2016
M-Power One, LLC	Luverne North Field Extension	Steele County		75.2		Letter of Intent Filed 11/2010, Amended 3/2013
New Frontier Project	Meadowlark Wind 1, LLC	McHenry County		99.0		Permit Issued April 2012
Wilton Wind IV	Wilton Wind IV, LLC	Burleigh County		112.0		Permit Issued Feb 2012, Amended Nov 2012
Clean Energy #1	ALLETE Clean Energy	Mercer & Morton Counties		100.0		Permit Issued August 2012
Dickinson Wind Project	Dickinson Wind, LLC	Stark County				Application withdrawn
Rolette Wind Project	Rolette Power Development, LLC	Rolette County		100.4		Permit issued November 2015
Antelope Hills Project	Antelope Hills Wind Project, LLC (Infinity)	Mercer County		172.0		Permit Issued Dec 2014, Construction Holding
Lindahl Wind Project, LLC	Lindahl Wind Project	Williams County		150.0		Permit Issued Dec 2015, under construction
Glacier Ridge Wind Farm, LLC	Glacier Ridge Wind Farm	Barnes County	87	300.2		Permit issued Dec 2016
Total (Proposed and In Service)				8,995.07		

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SB2314
3-16-17
Christmann

Senate Bill 2314

Presented by: Randy Christmann
Chairman, Public Service Commission

Before: House Energy and Natural Resources Committee
The Honorable Todd Porter, Chairman

Date: March 16, 2017

TESTIMONY

Mister Chairman and committee members, I am Randy Christmann, Chairman of the Public Service Commission testifying today regarding Senate Bill 2314. There are few things more important to our long term future than dependable and affordable electricity. Because of changing consumer tastes, market destabilizing subsidies for some participants, and demands from the federal government and other state governments I believe that both the dependability and affordability of our electric system is facing a perilous future.

You should know that studying this subject seriously is going to require a commitment of a significant amount of time. There are many things in play, so be prepared. Only if that commitment is there would I say that this would be a worthy study.

I came today in case you have questions and to answer a question I have been asked several times regarding another wind energy study which House Appropriations attached to the PSC budget. To be clear, the two studies are completely different. The other study deals with the impact of wind energy on the environment, property values, and agriculture, as well as the concepts of unitization of resources and decommissioning of facilities.

This concludes my testimony and I will answer any questions you may have.

North Dakota Wildlife Federation

Ensuring abundant wildlife, wildlife habitat, and access to wildlife recreational opportunities



TESTIMONY OF MICHAEL McENROE NORTH DAKOTA WILDLIFE FEDERATION SENATE BILL 2314 ENERGY AND NATURAL RESOURCES COMMITTEE MARCH 17, 2017

Chairman Porter and Members of the House Energy and Natural Resources Committee:

For the record, I am Mike McEnroe and I am representing the North Dakota Wildlife Federation. The Federation has 1,400 members in nineteen affiliated clubs and organizations across the State of North Dakota. The Federation is the largest sportsmen's club in the State.

The Federation supports SB 2314 calling for a long-term energy plan for the State of North Dakota. However, we would suggest that the scope of the long-term energy plan be increased to include the oil and gas sectors of the State's energy industry. This seems to be appropriate in light of the energy industry interest in developing natural gas generated electricity.

In addition, we believe the study must consider not only the needs of the state, political subdivisions, and industry, but be expanded to consider the needs of the general public and the agricultural and environmental sectors. We look forward to participating in this interim legislative study.

Thank you. I would stand for any questions the Committee may have.



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3-30-17
Carlson
SB 2314

Proposed Amendments to SB 2314

49-22-09. Factors to be considered in evaluating applications and designation of sites, corridors, and routes.

The commission shall be guided by, but is not limited to, the following considerations, where applicable, to aid the evaluation and designation of sites, corridors, and routes:

1. Available research and investigations relating to the effects of the location, construction, and operation of the proposed facility on public health and welfare, natural resources, and the environment.
2. The effects of new energy conversion and transmission technologies and systems designed to minimize adverse environmental effects.
3. The potential for beneficial uses of waste energy from a proposed energy conversion facility.
4. Adverse direct and indirect environmental effects which cannot be avoided should the proposed site or route be designated.
5. Alternatives to the proposed site, corridor, or route which are developed during the hearing process and which minimize adverse effects.
6. Irreversible and irretrievable commitments of natural resources should the proposed site, corridor, or route be designated.
7. The direct and indirect economic impacts of the proposed facility.
8. Existing plans of the state, local government, and private entities for other developments at or in the vicinity of the proposed site, corridor, or route.
9. The effect of the proposed site or route on existing scenic areas, historic sites and structures, and paleontological or archaeological sites.
10. The effect of the proposed site or route on areas which are unique because of biological wealth or because they are habitats for rare and endangered species.
11. Problems raised by federal agencies, other state agencies, and local entities.
12. Need for electric generation from the proposed energy conversion facility.
13. The market and reliability impacts of the proposed energy conversion facility on other energy conversion facilities in the state, particularly baseload facilities with a capacity factor capable of exceeding 90 percent.

49-22-09.2. Determination of need for wind energy conversion facilities.

The commission shall not approve any new application for a wind energy conversion facility submitted after December 31, 2017 unless finding that such energy is needed to meet load servicing obligations, or the facility will not have a detrimental impact on system reliability and baseload generation in the state.

Amendments to ND Siting Act to take into account need and impacts on baseload generation:

1) 49-22-09 is amended by inserting at the end a new paragraph:

“12. Need for electric generation from the proposed energy conversion facility.

13. The market and reliability impacts of the proposed energy conversion facility on other energy conversion facilities in the state, particularly baseload facilities with a capacity factor capable of exceeding 90 percent.”

2) Insert new subsection 49-22-09.2:

“49-22-09.2. Determination of Need for Wind Energy Conversion Facilities.

The commission shall not approve any new application for a wind energy conversion facility submitted after December 31, 2017 unless finding that: 1) such energy is needed to meet load serving obligations, or 2) the facility will not have a detrimental impact on system reliability and baseload generation in the state.”

March 31, 2017

3-31-17
SB 2314
1

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2314

Page 1, line 1, after "Act" insert "to amend and reenact subsection 7 of section 49-22-09 of the North Dakota Century Code, relating to factors to be considered in evaluating applications and designations of sites, corridors, and routes; and"

Page 1, after line 4, insert:

"SECTION 1. AMENDMENT. Subsection 7 of section 49-22-09 of the North Dakota Century Code is amended and reenacted as follows:

7. The direct and indirect economic ~~impacts of~~ impact and need for the proposed facility."

Page 1, line 5, replace "legislative management" with "energy and transmission committee, in conjunction with the empower commission,"

Page 1, line 5, replace "consider studying" with "study"

Page 1, line 7, after the comma insert "natural gas, solar,"

Page 1, line 11, replace "legislative management" with "energy and transmission committee"

Renumber accordingly