

Testimony of Harlan Fuglesten
Before the Interim Taxation Committee
September 16, 2014

Mr. Chairman and members of the Committee, my name is Harlan Fuglesten with the North Dakota Association of Rural Electric Cooperatives. Our organization represents 16 distribution cooperatives and five generation and transmission cooperatives operating in North Dakota. Together, our member cooperatives pay millions of dollars in property -related taxes, mainly from in lieu property taxes on distribution, transmission, and generation facilities. Because electric cooperatives and investor-owned utilities (IOUs) operate in a competitive environment, we are concerned that when providing property tax relief to assessed property taxpayers such as the IOUs, the legislature be mindful of keeping electric cooperative in lieu property taxes at a comparable level.

While there is some differences in how IOUs and co-ops pay taxes on generation property, the significant difference is in how transmission and distribution property is taxed, with electric cooperatives paying different and substantially higher in lieu property taxes than the IOUs pay in assessed property taxes. That is because the IOUs have received the full benefit of state funded tax relief afforded assessed property taxpayers. While electric cooperatives have also received some tax adjustments, specifically in 2009 and 2013, we have received no state funded tax relief, so any relief we have received has been more limited and done at the expense of the political subdivisions. As a consequence, we have not been able to overcome the property tax disadvantage we have had with the IOUs since at least the 1990s when the legislature's Electric Industry Competition Committee first studied this issue. Since that time, electric cooperatives have consistently paid from 20 to 50 percent more than the IOUs in transmission and distribution property taxes when compared on a common measure such as retail revenue or megawatt hour sales.

We entered the 2013 legislative session with the belief that electric cooperatives paid on average at least 20 percent more than the IOUs on their in-state transmission and distribution property.

Attached are two spread sheets we developed near the end of the 2013 legislative session after we received property tax data voluntarily submitted to us by the IOUs. The first spread sheet shows that the average embedded cost of co-op in-state transmission and distribution taxes was \$1.23/megawatt hour of retail sales compared to an average IOU tax rate of \$1.01/megawatt hour. The second spread sheet shows that bridging that existing gap would have required a reduction of the co-op's megawatt hour tax by 22 percent just to get a rate comparable to what the IOUs paid before they received additional tax relief in 2013.

So what ended up happening on the last day or so of the legislative session is that electric cooperatives got a 20 percent reduction in the megawatt hour tax through a stand-alone bill, while the IOUs received tax reductions of about 25 percent. Thus, today we believe we are still paying roughly 25 to 30 percent more than the IOUs in property taxes.

This committee has already passed a bill draft to make the 12 percent tax credit for assessed property taxpayers permanent. To be treated fairly, we believe that electric cooperatives need a state-funded tax reduction of that and much more.

Let me be clear that we have never asked to pay less in property taxes than the IOUs or other property taxpayers. We have always presented fair and accurate data to support our requests for property tax relief. Electric cooperatives are interested in being treated fairly, no more no less. We believe that electric cooperative property tax rates should be similar to those actually paid by IOUs on their distribution and transmission property. Thus, when we sought a revision to our tax plan in 2009, we incorporated language in the bill that provided the IOUs with the ability to opt-in to our tax plan. In 2013, we again supported extending the opt-in period for another four years. Despite the opportunity to be taxed under our tax plan, none of the retail IOU electricity providers have chosen to join our tax plan. Frankly, we do not blame them as they clearly would be paying more taxes to do so.

We want our co-op tax rates to be determined by actual tax data. To this end, we would ask this committee to request MDU, Xcel Energy, and Otter Tail, to provide this committee and the legislature with their most recent year's property taxes paid on their in-state transmission and distribution property. We would be happy to work with the committee or Legislative Council staff to prepare such a request. We would also ask each of you as legislators to recognize that electric cooperatives are major property taxpayers in our state which deserve the same tax relief afforded other taxpayers, including the IOUs.

I would be happy to answer any questions you may have.

2012 PROPERTY TAXES - TRANSMISSION/DISTRIBUTION

	<u>MWH Sales</u> <u>2011</u>	1.00 Based on <u>\$1.00/MWH</u>	<u>Transmission</u> <u>Tax</u>	<u>Assessed</u> <u>Taxes - est.</u>	2012 <u>Tax</u> <u>Total</u>	<u>Tax/MWH</u> <u>of sales</u>
Distribution Co-ops:						
Burke Divide	\$86,028	\$86,028		\$389	\$86,417	
Capital	285,900	285,900	8.601	30,475	324,976	
Cass	1,020,488	1,020,488		49,579	1,070,067	
Cavalier	34,973	34,973		200	35,173	
Dakota Valley	551,121	551,121		2,108	553,229	
KEM	70,690	70,690	6,078	490	77,258	
McKenzie	512,694	512,694	18,098	1,565	532,357	
McLean	106,319	106,319		124	106,443	
Mor-Gran-Sou	141,912	141,912	29,750	20,863	192,525	
Mountrail - Williams	681,751	681,751	14,931	32,413	729,095	
Nodak	975,148	975,148		23,000	998,148	
North Central	230,302	230,302		1,482	231,784	
Northern Plains	405,550	405,550		5,228	410,778	
Roughrider	523,124	523,124	23,539	11,135	557,798	
Slope	360,359	360,359	10,936	7,954	379,249	
Verendrye	486,313	486,313		2,200	488,513	
Other	44,589	44,589	4,928	0	49,517	
Subtotal	<u>6,517,261</u>	<u>\$6,517,261</u>	<u>\$116,861</u>	<u>\$189,205</u>	<u>\$6,823,327</u>	
G & T Co-ops:						
Basin			434,357	190,610	624,967	
Minnkota			340,904	93,500	434,404	
Central			85,464	32,400	117,864	
Upper Mo.			10,938	294	11,232	
Subtotal	<u>-</u>	<u>-</u>	<u>871,663</u>	<u>316,804</u>	<u>1,188,467</u>	
Total Co-ops	<u>6,517,261</u>	<u>\$ 6,517,261</u>	<u>\$ 988,524</u>	<u>\$ 506,009</u>	<u>\$ 8,011,794</u>	1.23
	<u>MWH Sales</u> <u>2011</u>		<u>Transmission</u> <u>Tax</u>	<u>Assessed</u> <u>Taxes</u>	2012 <u>Tax</u> <u>Total</u>	
MDU	1,718,125			1,974,963	1,974,963	1.15
Xcel	2,242,500		15,450	2,250,000	2,265,450	1.01
OTP	1,795,855		12,108	1,566,608	1,578,716	0.88
Total IOUs	<u>5,756,480</u>		<u>\$ 27,558</u>	<u>\$ 5,791,571</u>	<u>\$ 5,819,129</u>	1.01

2012 PROPERTY TAXES - TRANSMISSION/DISTRIBUTION (Adjusted for fairness-without 2013 additional tax relief)

	MWH Sales <u>2011</u>	0.78 Based on <u>\$1.00/MWH</u>	Transmission <u>Tax</u>	Assessed <u>Taxes - est.</u>	2012 Tax <u>Total</u>	Tax/MWH <u>of sales</u>
Distribution Co-ops:						
Burke Divide	\$86,028	\$67,102		\$389	\$67,491	
Capital	285,900	223,002	8,601	30,475	262,078	
Cass	1,020,488	795,981		49,579	845,560	
Cavalier	34,973	27,279		200	27,479	
Dakota Valley	551,121	429,874		2,108	431,982	
KEM	70,690	55,138	6,078	490	61,706	
McKenzie	512,694	399,901	18,098	1,565	419,564	
McLean	106,319	82,929		124	83,053	
Mor-Gran-Sou	141,912	110,691	29,750	20,863	161,304	
Mountrail - Williams	681,751	531,766	14,931	32,413	579,110	
Nodak	975,148	760,615		23,000	783,615	
North Central	230,302	179,636		1,482	181,118	
Northern Plains	405,550	316,329		5,228	321,557	
Roughrider	523,124	408,037	23,539	11,135	442,711	
Slope	360,359	281,080	10,936	7,954	299,970	
Verendrye	486,313	379,324		2,200	381,524	
Other	44,589	34,779	4,928	0	39,707	
Subtotal	<u>6,517,261</u>	<u>\$5,083,464</u>	<u>\$116,861</u>	<u>\$189,205</u>	<u>\$5,389,530</u>	
G & T Co-ops:						
Basin			434,357	190,610	624,967	
Minnkota			340,904	93,500	434,404	
Central			85,464	32,400	117,864	
Upper Mo.			10,938	294	11,232	
Subtotal	<u>-</u>	<u>-</u>	<u>871,663</u>	<u>316,804</u>	<u>1,188,467</u>	
Total Co-ops	<u>6,517,261</u>	<u>\$ 5,083,464</u>	<u>\$ 988,524</u>	<u>\$ 506,009</u>	<u>\$ 6,577,997</u>	1.01
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	MWH Sales <u>2011</u>		Transmission <u>Tax</u>	Assessed <u>Taxes</u>	2012 Tax <u>Total</u>	
MDU	1,718,125			1,974,963	1,974,963	1.15
Xcel	2,242,500		15,450	2,250,000	2,265,450	1.01
OTF	1,795,855		12,108	1,566,608	1,578,716	0.88
Total IOUs	<u>5,756,480</u>		<u>\$ 27,558</u>	<u>\$ 5,791,571</u>	<u>\$ 5,819,129</u>	1.01