

NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

ENERGY DEVELOPMENT AND TRANSMISSION COMMITTEE

Tuesday, July 31, 2007
Harvest Room, State Capitol
Bismarck, North Dakota

Senator Rich Wardner, Chairman, called the meeting to order at 9:00 a.m.

Members present: Senators Rich Wardner, John M. Andrist, Ryan M. Taylor; Representatives Wesley R. Belter, Scot Kelsh, Matthew M. Klein, Shirley Meyer, Todd Porter, Dave Weiler

Members absent: Senators Robert M. Horne, Ben Tollefson, Herbert Urlacher

Others present: See attached [appendix](#)

Representative Bob Skarphol and Senator Tim Flakoll, members of the Legislative Council, were also in attendance.

At the request of Chairman Wardner, committee counsel reviewed the [Supplementary Rules of Operation and Procedure of the North Dakota Legislative Council](#).

ENERGY STUDY

Chairman Wardner said the committee will focus on being educated about all the energy resources in this state. He said although this state has great resources, there are great challenges. He said the committee will look at all resources because an energy policy requires the state to develop all resources.

At the request of Chairman Wardner, committee counsel presented a memorandum entitled [Comprehensive Energy Policy Study](#).

Mr. Lynn D. Helms, Director, Department of Mineral Resources, Industrial Commission, gave a presentation on energy use in the world. He said there are eight major forms of energy--oil and gas, coal, nuclear, geothermal, ethanol, wind, hydro, and solar. He said of these eight forms of energy, North Dakota has significant resources in all but solar.

Mr. Shane C. Goettle, Commissioner, Department of Commerce, gave a presentation on *Energy: Powering North Dakota's Future*. A copy of his presentation is on file in the Legislative Council office. He provided a handout of the Governor's comprehensive energy policy--*Empower North Dakota*. A copy of this handout is on file in the Legislative Council office.

Transmission

Ms. Sandi Tabor, Acting Director, North Dakota Transmission Authority, gave a presentation on transmission. She said the export constraint for transporting electricity is approximately

1,950 megawatts, which is about what the state exports. She said a major issue with the North Dakota Transmission Authority is to have federal tax exemption for bonds issued by the authority so that the bonds are competitive with other bonds. She said the CapX 2020 plan for Minnesota is a 15-year plan that will relieve reliability problems in Minnesota. She said cost allocation issues within the Midwest independent transmission system operator (MISO) footprint is a major issue. She said the issue is who pays for the transmission line if there is an energy generation plant built in North Dakota and a transmission line is built to Minnesota. She said another major issue is when electricity moves across different transmission systems. She said if energy moves from the Western Area Power Association (WAPA) to MISO, the tariff is added on or "pancaking" takes place. She said an energy policy needs to be reviewed on a regional basis, including Minnesota and South Dakota. A copy of her presentation is on file in the Legislative Council office.

In response to a question from Representative Klein, Ms. Tabor said a national interest transmission bottleneck allows backstop siting authority by the Federal Energy Regulatory Commission. She said backstop authority has not been invoked in North Dakota or Minnesota, nor in Minnesota or Wisconsin.

In response to a question from Senator Andrist, Ms. Tabor said there are fairly significant constraints on the system because of growth in Minnesota. She said the CapX 2020 plan relieves these constraints and reliability is increased. She said the CapX 2020 plan does provide some increased export capabilities.

In response to a question from Senator Andrist, Ms. Tabor said Powder River Basin coal is shipped to Minnesota for energy generation. She said this may be done for environmental reasons.

In response to a question from Representative Skarphol, Ms. Tabor said if there is a tax-exempt status for North Dakota Transmission Authority lines, that status would not apply to any private entity. She said the Transmission Authority can work within that requirement.

Senator Wardner said to his understanding Minnesota and South Dakota would be agreeable to working with North Dakota for a regional energy plan.

Coal

Ms. Tabor, Lignite Energy Council, gave a presentation on lignite energy. A copy of her presentation is on file in the Legislative Council office. She said a rule of thumb is that each person uses two kilowatts of energy per year. She said this state has reached the maximum electrical load that can be transmitted to Minnesota.

In response to a question from Representative Belter, Ms. Tabor said the last energy generation plant built in North Dakota was in 1986.

Mr. Dale Niezwaag, Basin Electric Power Cooperative, answered questions for the committee. In response to a question from Representative Belter, Mr. Niezwaag said technology has provided an increase in energy generation for current plants. He said turbine rewinds can provide an increase of 5 to 15 megawatts per turbine.

Mr. Al Christianson, Great River Energy, answered questions for the committee. In response to a question from Representative Belter, Mr. Christianson said there has been an increase in efficiency since Coal Creek Station was built in 1985. He said in 1985 Coal Creek Station produced approximately 560 megawatts and in the near future it will produce around 630 megawatts due to increased efficiency.

In response to a question from Representative Belter, Mr. Niezwaag said it is not cost-effective to ship lignite coal because of lignite coal's high water content. He said it is not economical to ship Powder River Basin coal because of the limited, high-cost railcar situation. He said lignite is competitive in cost to Powder River Basin coal.

In response to a question from Senator Andrist, Mr. Niezwaag said future incentives for the energy industry will most likely be for moving energy, not producing it.

In response to a question from Senator Andrist, Ms. Tabor said one-third of the energy generated in this state is used in this state and one-half of the energy generated in this state is used in Minnesota. She said the remainder of the energy generated in this state is used by other states.

In response to a question from Senator Wardner, Ms. Tabor said Basin Electric is a member of WAPA.

In response to a question from Senator Wardner, Ms. Tabor said North Dakota is one of the 12 clean air states.

In response to a question from Representative Belter, Ms. Tabor said Minnesota legislation has provided that greenhouse gas emissions be reduced by 15 percent by 2015, 30 percent by 2025, and 80 percent by 2050. She said North Dakota could not prohibit North Dakota energy from being shipped to Minnesota because once the energy is on the grid, it is controlled by MISO, and not the companies that produced the energy.

Ms. Susan Wefald, Commissioner, Public Service Commission, answered questions for the committee. She said the 80 percent reduction in greenhouse gases for energy used in Minnesota assumes that by

2050 there will be sequestration programs, and the cost of that sequestration will be incorporated into the price of coal.

In response to a question from Representative Porter, Ms. Tabor said North Dakotans will pay more for electricity due to the greenhouse gas reduction goals of Minnesota. She said the economic impact of carbon sequestration will be included in power costs. She said this will affect the cost of groceries, gasoline, and other items. She said electricity is a key component of our daily lives.

In response to a question from Representative Porter, Ms. Tabor said the Clean Air Act does not preempt state laws that are more restrictive.

In response to a question from Representative Skarphol, Ms. Tabor said the greenhouse gas reduction requirements in Minnesota will not result in Minnesota shutting off the power if those requirements are not met. She said the requirements assume that electric companies will meet the reductions so that a response, if the reductions are not met, will not be an issue.

In response to a question from Representative Belter, Ms. Tabor said she does not know if there is a way to raise the rates for customers demanding green energy and not for those that do not, even on a statewide basis. She said electric companies look at the rate of return and add environmental controls to the price of electricity.

In response to a question from Representative Belter, Ms. Wefald said a bill last session allows for expedited cost recovery for environmental costs added by federal regulation.

Oil and Gas

Mr. Ron Ness, North Dakota Petroleum Council, gave a presentation on challenges facing North Dakota's oil and gas industry. He provided a handout of jobs available through Job Service North Dakota in the Williston and Dickinson area. He said most professional jobs are not listed through Job Service. A copy of the handout is on file in the Legislative Council office. In addition, he provided a copy of the most recent *Oil and Gas Tidbits* and a brochure entitled *North Dakota Oil and Gas Industry Fax and Figures* which are on file in the Legislative Council office. A copy of his presentation is on file in the Legislative Council office.

In response to a question from Representative Porter, Mr. Ness said the Bakken formation tax exemption bill--Senate Bill No. 2397--provides a one-year tax incentive that is encouraging operators. He said this state may see 10 new rigs this year. He said each rig provides approximately 120 jobs. He said this will result in about \$400 million in direct economic impact, \$600 million in indirect economic impact, and \$110 million in taxes collected by this state.

In response to a question from Representative Porter, Mr. Ness said the sales tax exemption for natural gas facilities was meant to reduce the flaring of natural gas, and it has had an immediate effect. He

said there are plans to have a gas plant by Parshall and Ray, and there will be expansions of existing plants.

In response to a question from Representative Meyer, Mr. Ness said there will be continuation of drilling on fee land within the reservation regardless of an agreement between the Governor and tribal officials. He said the companies will pay 100 percent of the tax to the state if there is not an agreement.

In response to a question from Senator Andrist, Mr. Ness said to address workforce problems, the petroleum industry has had targeted advertising and has partnered with Job Service. He said there is more training being provided in this state for oilfield work.

In response to a question from Representative Meyer, Mr. Ness said the rig training program at Williston State College begins August 15, 2007, and can accommodate nine people per an eight-day session. He said Williston State College provides a two-week safety training course and a two-week hazardous materials training course.

In response to a question from Senator Andrist, Mr. Helms said a shallow gas well is shallower than 5,000 feet.

In response to a question from Senator Andrist, Mr. Helms said there are serious constraints for oil and gas because there are not enough pipelines.

In response to a question from Senator Taylor, Mr. Helms said all Bakken wells find oil, the issue is the mechanics of fracturing the rock to provide enough oil for the well to be profitable. He said the profitable wells are where the rock has already been fractured.

In response to a question from Senator Wardner, Mr. Helms said Leonardite is a form of liquid lignite that is used for drilling oil.

In response to a question from Representative Meyer, Mr. Helms said 22 of the 41 oil rigs in this state are drilling in the Bakken formation. He said by the end of the year, nearly 40 rigs will be in this state and 30 to 35 will be in the Bakken formation. He said 50 to 60 percent of the wells make money and there are no dry holes.

In response to a question from Representative Kelsh, Mr. Helms said if there is a shock to the oil and gas delivery system, the United States needs to look to Canada which has a 1 trillion barrel oilfield. He said the United States needs to encourage export infrastructure from Canada to the oil refineries in the southern United States.

In response to a question from Senator Wardner, Mr. Helms said the product demand for refined oil is not growing. He said exporting refined product from this state would be better than exporting oil and gas.

In response to a question from Senator Andrist, Mr. Helms said there are 124 wind towers in this state, and that number will double soon.

Representative Belter said there is a perception that renewables will solve energy problems, but coal and gas will remain most significant in creating electricity.

Wind

At the request of Chairman Wardner, committee counsel presented a memorandum entitled [Siting and Decommissioning of Commercial Wind Farms - Background Memorandum](#).

Ms. Wefald gave a presentation entitled *PSC Wind Siting and Decommissioning Activities*. She said the decommissioning rules required by House Bill No. 1317 will take about nine months. A copy of her presentation is on file in the Legislative Council office. She provided a handout on North Dakota wind energy development with a focus on wind energy projects. In this handout, she said, the announced utility-scale project in Cavalier County is now under construction. A copy of the handout is on file in the Legislative Council office.

In response to a question from Representative Klein, Ms. Wefald said balancing services are usually offered by WAPA for a project like Tatanka Wind Power Project in Dickey and McIntosh Counties. She said Tatanka Wind is being delayed because of the need for control area balancing services. She said this issue is before the Federal Energy Regulatory Commission.

In response to a question from Representative Meyer, Ms. Wefald said the issue arose because Tatanka Wind is in WAPA's control area and connected to a Montana Dakota Utilities (MDU) line. She said MDU is a member of MISO. She said WAPA is not providing balancing because the transmission line is not WAPA's and the customers are not in the WAPA control area.

In response to a question from Senator Taylor, Ms. Wefald said the 100-megawatt threshold for Public Service Commission authority does not apply to decommissioning, only siting. She said the decommissioning rules will apply to any commercial wind project as defined by the commission.

In response to a question from Senator Wardner, Ms. Wefald said the Langdon wind project in Cavalier County has not produced any siting complaints brought to the attention of the Public Service Commission. She said the commission was involved because of a 12-mile transmission line that needed a siting certificate from the Public Service Commission.

Mr. Mike McEnroe, Wildlife Society, provided testimony on regulation on the siting of wind towers. He provided a handout on *State Siting and Permitting of Wind Energy Facilities* by the National Conference of State Legislatures and *Siting Guidelines for Wind Power Projects in South Dakota*. He said siting regulation has been adopted in other states and the committee may desire to review other states' regulation. A copy of each of these handouts is on file in the Legislative Council office.

In response to a question from Senator Wardner, Mr. McEnroe said he used to work for the United States Fish and Wildlife Service and wind tower developers have been very responsive to concerns if the concerns are brought to the developers before they start building.

No further business appearing, Chairman Wardner adjourned the meeting at 2:35 p.m.

Timothy J. Dawson
Counsel

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