

Sixty-fifth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2314

Introduced by

Senator Unruh

Representative Porter

1 A BILL ~~for an Act to amend and reenact sections 49-02-03, 49-02-28, and 49-02-34 of the North~~
2 ~~Dakota Century Code, relating to energy rates and resources and renewable energy~~
3 ~~production.~~ for an Act to amend and reenact section 49-22-07 of the North Dakota Century
4 Code, relating to a temporary moratorium on the siting of new wind energy conversion facilities;
5 to provide for a legislative management study; to provide an effective date; and to provide an
6 expiration date.

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

8 **SECTION 1. AMENDMENT.** ~~Section 49-02-03 of the North Dakota Century Code is~~
9 ~~amended and reenacted as follows:~~

10 ~~—~~ **49-02-03. Power of public service commission to establish rates.**

11 ~~—~~ ~~The commission shall supervise the rates of all public utilities. It shall have the power, after~~
12 ~~notice and hearing, to originate, establish, modify, adjust, promulgate, and enforce tariffs, rates,~~
13 ~~joint rates, and charges of all public utilities. Whenever the commission, after hearing, shall find~~
14 ~~any existing rates, tariffs, joint rates, or schedules unjust, unreasonable, insufficient, unjustly~~
15 ~~discriminatory, or otherwise in violation of any of the provisions of this title, the commission by~~
16 ~~order shall fix reasonable rates, joint rates, charges, or schedules to be followed in the future in~~
17 ~~lieu of those found to be unjust, unreasonable, insufficient, unjustly discriminatory, or otherwise~~
18 ~~in violation of any provision of law. The commission shall create rules prohibiting a utility from~~
19 ~~passing on a rate increase that is necessary solely to sell electricity to another state for the~~
20 ~~purpose of meeting or exceeding another state's renewable energy mandates.~~

21 ~~—~~ **SECTION 2. AMENDMENT.** ~~Section 49-02-28 of the North Dakota Century Code is~~
22 ~~amended and reenacted as follows:~~

1 ~~— **49-02-28. State renewable and recycled energy objective** dispatch policy.~~

2 ~~— The legislative assembly establishes a state renewable and recycled energy objective that~~
3 ~~ten percent of all electricity sold at retail within the state by the year 2015 be obtained from~~
4 ~~renewable energy and recycled energy sources. The objective must be measured by qualifying~~
5 ~~megawatt-hours delivered at retail or by certificates representing credits purchased and retired~~
6 ~~to offset nonqualifying retail sales. This objective is voluntary and there is no penalty or sanction~~
7 ~~for a retail provider of electricity that fails to meet this objective. The objective applies to all retail~~
8 ~~providers of electricity in the state, regardless of the ownership status of the electricity retailer.~~
9 ~~Municipal and cooperative utilities that receive wholesale electricity through a municipal power~~
10 ~~agency or generation and transmission cooperative may aggregate their renewable and~~
11 ~~recycled energy objective resources to meet this objective~~ policy to encourage electrical
12 distribution or dispatch be based first on market-based economic decisions, with all other things
13 being equal, lowest cost sources should be dispatched before higher variable operating cost
14 sources in sequential order as electricity demands increase.

15 ~~— **SECTION 3. AMENDMENT.** Section 49-02-34 of the North Dakota Century Code is~~
16 ~~amended and reenacted as follows:~~

17 ~~— **49-02-34. Public reporting on progress toward meeting the** energy resources and~~
18 ~~**renewable energy and recycled energy objective** production.~~

19 ~~— Commencing on June 30, 2009~~ 2017, retail providers shall report annually on the provider's
20 ~~previous calendar year's energy sales and direct employment.~~ This ~~The~~ report must include
21 ~~information regarding qualifying electricity delivered and renewable energy~~ delivered and
22 renewable and recycled energy certificates purchased and retired as a percentage of annual
23 retail sales and a brief narrative report that describes steps taken to meet the objective over
24 time and identifies any challenges or barriers encountered in meeting the objective. The last
25 annual report must be made on June 30, 2016. Retail providers shall report to the public service
26 commission, which shall make data and narrative reports publicly available and accessible
27 electronically on the internet., including a certification that out-of-state mandates are not
28 affecting rates in this state. The report must include the aggregate pretax cost per megawatt
29 hour of all energy resources and all direct employment figures for energy production.
30 ~~Distribution cooperatives may aggregate their reporting through generation and transmission~~
31 ~~cooperatives and municipal utilities may aggregate their reporting through a municipal power~~

1 ~~agency. All information reported under this section must be publicly available and accessible~~
2 ~~electronically.~~

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

5 **49-22-07. Certificate of site compatibility or route permit required.**

- 6 1. A utility may not begin construction of an energy conversion facility or transmission
7 facility in the state without first having obtained a certificate of site compatibility or a
8 route permit from the commission pursuant to this chapter. The facility must be
9 constructed, operated, and maintained in conformity with the certificate or permit and
10 any terms, conditions, or modifications of the certificate or permit. A certificate or
11 permit may be transferred, subject to the approval of the commission, to any person
12 who agrees to comply with its terms, conditions, and modifications.
- 13 2. If a power emergency exists which necessitates the relocation of a portion of an
14 electric transmission line and associated facilities from the designated route, the
15 owner of the line shall give telephonic notice to the commission in advance of the
16 relocation. The line may then be relocated to restore power as soon as practicable.
17 After the line has been relocated, the owner shall file with the commission a request to
18 approve the relocated route.
- 19 3. Notwithstanding any other provision of this chapter, the commission may not approve
20 any application for a certificate of site compatibility for a wind energy conversion
21 facility until August 1, 2019, unless the commission determines additional generation is
22 needed for consumers in this state.

23 **SECTION 2. LEGISLATIVE MANAGEMENT STUDY - STATE ENERGY PLAN.** During the
24 2017-19 interim, the legislative management shall consider studying the long-term energy plan
25 for the state. The study must include consideration of multiple energy sources including coal,
26 wind, and hydroelectric energy sources; analysis of the sustainability and reliability of various
27 energy sources; an assessment of how the present tax environment affects the availability of
28 energy from various sources; and the distribution of revenue from energy sources. The study
29 must consider the needs of the state, political subdivisions, and industry when assessing
30 various energy sources. The legislative management shall report its findings and

1 recommendations, together with any legislation required to implement the recommendations, to
2 the sixty-sixth legislative assembly.

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