NORTH DAKOTA LEGISLATIVE MANAGEMENT

Minutes of the

ENERGY DEVELOPMENT AND TRANSMISSION COMMITTEE

Wednesday, October 10, 2018
Harvest Room, State Capitol
Bismarck, North Dakota

Senator Rich Wardner, Chairman, called the meeting to order at 2:00 p.m.

Members present: Senators Rich Wardner, Brad Bekkedahl, Jim Dotzenrod, Merrill Piepkorn, David S. Rust, Jessica Unruh; Representatives Tracy Boe, Mike Brandenburg, Ben Koppelman, Todd Porter, Gary R. Sukut

Member absent: Representative Corey Mock

Others present: See Appendix A

It was moved by Senator Rust, seconded by Representative Porter, and carried on a voice vote that the minutes of the August 14, 2018, meeting be approved as distributed.

ELECTRICAL GENERATION UPDATES

Mr. Dale Niezwaag, Vice President, Government Relations, Basin Electric Power Cooperative, presented information (Appendix B) regarding tax credits related to carbon dioxide capturing and an overview of Senate Bill No. 2133 (2017). He said Basin Electric Power Cooperative owns the only gasification plant in the state, which is located near Beulah. He said the plant converts coal into synthetic natural gas, fertilizer, and other byproducts and is capable of capturing approximately 50 percent of the carbon dioxide produced during the conversion process. He said the carbon dioxide is transported to Canada for sequestration. He said the plant received $17 million of tax credits between 2010 and 2017 pursuant to North Dakota Century Code Section 57-60-02.1. He said the Legislative Assembly approved Senate Bill No. 2133 at the request of Basin Electric Power Cooperative to end the tax credit in June 2017 and to simplify the tax structure for the gasification plant. He said the plant has had financial losses since 2015 due to low natural gas prices. He said Basin Electric Power Cooperative invested approximately $800 million to increase the plant's production of fertilizer while decreasing production of synthetic natural gas. He said the the tax structure was changed to reflect the changes in the plant's operations and to reduce the future tax burden. He said future taxes under the new structure are projected to increase at a lower rate compared to the increases under the previous structure.

Ms. Carlee McLeod, President, Utility Shareholders of North Dakota, and Mr. Zachary Smith, Legal Counsel and Director of Communications and Government Relations, North Dakota Association of Rural Electric Cooperatives, presented information (Appendix C) regarding a summary of electrical generation utilities' perspectives on energy policies. Ms. McLeod said each utility company has its challenges and perspectives, which may be influenced by differences in the two regional transmission organizations operating in the state. She said the utilities formed a working group to identify areas of agreement regarding energy policies.

Mr. Smith said the utilities collectively oppose new or increased taxes on electricity but support efforts to fund research for new technologies. He said the utilities acknowledge the payments in lieu of property taxes for all electric generation fuel types are comparable.

Mr. Lynn Helms, Director, Department of Mineral Resources, Industrial Commission, presented information (Appendix D) regarding the status of the carbon dioxide facility trust fund pursuant to Section 38-22-15. He said the purpose of the fund is pay the expenses associated with the long-term monitoring and management of underground carbon dioxide storage projects. He said North Dakota received Class VI Primacy from the federal Environmental Protection Agency on April 24, 2018. He said Class VI Primacy gives the state the authority to regulate and manage the underground storage of carbon dioxide. He said the balance of the carbon dioxide facility trust fund is $0 as of September 30, 2018. He said the Industrial Commission established a fee of $.07 per ton of carbon dioxide injected underground for storage. He said the fee is anticipated to be sufficient to pay the expenses associated with the long-term monitoring and management of the carbon dioxide storage projects. He said no projects have been completed, but some projects are in the planning stages with estimated completion dates in the early 2020s.

OIL AND GAS UPDATES

Mr. Justin Kringstad, Director, North Dakota Pipeline Authority, presented information (Appendix E) regarding the status of oil well refracturing. He said the most productive oil well refractures have been completed in Dunn, McKenzie, and Mountrail Counties. He said estimates of the total incremental oil production after refracturing vary significantly by oil well, ranging from no incremental production to over 250,000 barrels of incremental production. He said the total incremental oil production is estimated based on the average daily production after the refracturing is completed. He said because refracturing is a relatively new process, additional analysis is needed to determine the long-term performance of the oil wells. He said refracturing poses risks for oil companies due to technical challenges and the uncertainty of the well's performance after the refracturing. He said refracturing may be feasible if oil prices average at least $40 per barrel and the well produces at least 200,000 barrels of incremental oil. He said oil companies are refracturing some oil wells, but primarily are focused on drilling and completing new oil wells, which have a better return on investment.

Mr. Helms presented information (Appendix F) regarding the results of the brine pond and soil remediation studies conducted pursuant to Section 2 of House Bill No. 1347 (2017). He said the study included an analysis of the number of brine ponds that need remediation, the number of brine pond sites for which landowners received compensation due to contamination, and an evaluation of the best techniques for remediating salt and contaminants from soils. He said 114 brine pond sites need remediation based on the results of the study, including 9 sites for which landowners received compensation due to contamination. He said the estimated cost to remediate the sites is $11 million. He said North Dakota State University conducted tests with additives, including gypsum and hay, which demonstrated some contaminated soil can be restored to agricultural productivity. He said additional testing is needed to determine if this remediation technique provides a long-term benefit.

Mr. Helms said the Industrial Commission contracted with Terracon to test techniques involving a capillary break and a saltwater wetland. He said this technique significantly reduced the salt and contaminant concentrations allowing the soil to be restored to agricultural productivity. He said the capillary break, which is buried three feet underground, captures the salt as it leaches into the soil with rain and as it percolates up from deeper soil. He said the saltwater drains from the capillary break into a wetland area where salt tolerant plants extract the salt and contaminants from the water. He said he anticipates approximately $1 million will be requested in the 2019 legislative session to conduct a full-scale test of the remediation technique involving a capillary break and a saltwater wetland.

In response to a question from Representative Koppelman, Mr. Helms said the study did not compare the remediation costs to the value of the land. He said additional analysis would be needed to determine the value of the land and to identify alternate uses for the land. He said alternate uses of the land could include the creation of wetlands for use in the Department of Transportation's wetland banking program.

OTHER

Chairman Wardner distributed a copy of a bill draft (Appendix G) and reviewed information (Appendix H) regarding proposed changes to the oil and gas tax revenue allocation formulas. He said the proposed changes are primarily the same as the concepts discussed at the previous meeting. He said the proposed changes to provide allocations to newly created school infrastructure funds were removed from the proposal due to concerns about equity between the school districts in oil-producing counties and the school districts in non-oil-producing counties. He said the bill draft reflects the proposed changes, but it may be updated with some minor adjustments prior to being introduced in the 2019 legislative session.

It was moved by Senator Rust, seconded by Senator Piepkorn, and carried on a roll call vote that the Energy Development and Transmission Committee recommends continuing the concept of hub cities in the oil and gas tax allocation formulas. Senators Wardner, Bekkedahl, Dotzenrod, Piepkorn, Rust, and Unruh and Representatives Boe, Brandenburg, Koppelman, Porter, and Sukut voted "aye." No negative votes were cast.

Representative Brandenburg reviewed a copy of a bill draft (Appendix I), which was previously distributed to the committee, regarding proposed changes to the allocation of wind generation tax revenue. He said the proposed changes allocate a portion of the wind generation tax revenue collected from new wind turbines to the state. He said the proposed changes do not affect the taxes paid by wind turbine operators. He said the tax rate is competitive with other states, which encourages wind turbine development within the state. He said wind turbine development provides other economic benefits to the state and local political subdivisions, including new jobs.

Representative Boe said some local political subdivisions are concerned about the loss of future revenue due to the proposed changes associated with the allocation of tax revenue.

Representative Porter said the allocation of tax revenues from natural gas-powered electrical generation also may need to be changed to maintain consistency with the allocation of other energy-related tax revenue.

It was moved by Representative Brandenburg, seconded by Representative Porter, and carried on a roll call vote that the Energy Development and Transmission Committee recommends changing the allocation of wind generation tax collections to distribute a portion of the revenue collections to the state. Senators Wardner, Bekkedahl, Dotzenrod, Piepkorn, Rust, and Unruh and Representatives Boe, Brandenburg, Koppelman, Porter, and Sukut voted "aye." No negative votes were cast.

Representative Porter distributed a copy of a letter (Appendix J), which provides a summary of the changes approved by the Legislative Assembly in House Bill No. 1144 (2017) and Senate Bill No. 2313 (2017). He said House Bill No. 1144 separated the siting requirements for electrical energy facilities and for gas and liquid facilities into two chapters in Century Code. He said Senate Bill No. 2313 created a wind energy reclamation program and amended the requirements for exclusion areas related to the development of energy projects. He said the siting process has required consideration of both direct and indirect environmental impacts since the siting process was enacted into law in 1975.

Representative Brandenburg said Senate Bill No. 2313 authorized the Public Service Commission to consider additional policies when identifying exclusion areas during the siting process. He said the Legislative Assembly may need to clarify what types of policies should be considered by the Public Service Commission.

The Legislative Council staff distributed information (Appendix K) regarding the results of a pipeline leak detection study. Pursuant to Section 3 of House Bill No. 1347 (2017), the Industrial Commission contracted with the Energy and Environmental Research Center to study leak detection technology for use in gathering pipelines. According to the report, new technology is emerging to prevent and detect pipeline leaks, including specialized fiber optic cables and miniaturized in-line inspection equipment. The Energy and Environmental Research Center analyzed risk management techniques and concluded that multiple layers of risk management can ensure pipeline safety and integrity.

It was moved by Senator Rust, seconded by Senator Unruh, and carried on a voice vote that the Chairman and the Legislative Council staff be requested to prepare a report and to present the report to the legislative management.

No further business appearing, Chairman Wardner adjourned the meeting at 5:00 p.m.

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Adam Mathiak
Senior Fiscal Analyst

ATTACH:11