

# NORTH DAKOTA LEGISLATIVE MANAGEMENT

Minutes of the

## ENERGY DEVELOPMENT AND TRANSMISSION COMMITTEE

Thursday, July 26, 2012  
Roughrider 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, Lonnie J. Laffen, Stanley W. Lyson, Ryan M. Taylor, John Warner; Representatives Michael D. Brandenburg, Scot Kelsh, Shirley Meyer, Todd Porter, Mike Schatz, Gary R. Sukut

**Member absent:** Senator John M. Andrist

**Others present:** See [Appendix A](#)

**It was moved by Senator Lyson, seconded by Senator Laffen, and carried on a voice vote that the minutes of the March 20, 2012, meeting be approved as distributed.**

**It was moved by Representative Sukut, seconded by Representative Schatz, and carried on a voice vote that the minutes of the May 30-31, 2012, meeting be approved as distributed.**

### ENERGY POLICY COMMISSION REPORT

Mr. Alan Anderson, Commissioner, Department of Commerce, as chairman of the Energy Policy Commission, also known as the EmPower Commission, reviewed the executive summary from the *EmPower North Dakota Report* ([Appendix B](#)). He said the report provides recommendations, but does not recommend any bill drafts, because of the bill last legislative session that said energy policy should be initiated by the legislative branch. He said there are four major issues--infrastructure, research and development, workforce, and regulatory environment. He said the goal of the EmPower Commission has been to double production of energy from 2007 and provide 25 percent of energy from renewable resources by 2025. He provided a graph ([Appendix C](#)) on North Dakota energy production by sector and the change in production from 2007 to 2010. He said if figures for 2012 were available, both goals most likely would have been met.

### Biodiesel

Mr. Mike Fladeland, Manager of Energy Business Development, Department of Commerce, gave a presentation on the biodiesel portion of the report. He said the biodiesel industry is represented by Mr. Eric Mack. He said the volatile United States biodiesel blenders credit has made it difficult for smaller plants to stay in business over the past few years. He said limited demand for biodiesel from within the state will

limit the possibility of any new production plants in this state. He said Minnesota and Canadian mandates are creating demand for biodiesel. He said research and development is important. He said the North Central Research Extension Center in Minot has been operating a tractor fueled by canola biodiesel for eight years with no mechanical issues. He said North Dakota State University (NDSU) and Monsanto are researching the ability to increase acreage and oil content of canola. He said investments in the renewable energy development fund have enabled the Energy and Environmental Research Center to develop a biobased diesel with traits identical to petroleum-based diesel. He said biodiesel has a symbiotic relationship with agriculture and energy. He said the biodiesel plant in Velva is 16 employees short, mainly because of competition with jobs in the oilfield.

In response to a question from Senator Wardner, Mr. Fladeland said there is only one biodiesel plant, and it is in Velva. He said there was one in York. He said a plant at Northwood has been considered.

In response to a question from Senator Wardner, Mr. Fladeland said the limited use of biodiesel in this state relates to the pricing difference with vegetable oil. He said the plant at Velva mostly makes vegetable oil.

### Biomass

Mr. John Weeda, Great River Energy, presented information on the biomass portion of the report. He said biomass as an energy sector in this state is mostly in the research and development stage. He said biomass is used mainly as a bridge between other sources of energy. He said NDSU continues to work actively toward finalizing a business plan in developing the first beet-to-ethanol commercial installation. He said Great River Energy continues development of Dakota Spirit Ag Energy at Spiritwood with the intent of adding cellulosic ethanol production. He said researchers at the university continue to research the development of hybridized biomass in pellet form for use in manufacturing processes.

In response to a question from Senator Taylor, Mr. Weeda said it is not economically feasible to build a cellulosic ethanol plant from scratch and be competitive. He said adding cellulosic ethanol to an existing corn-based plant is economically feasible.

In response to a question from Representative Schatz, Mr. Weeda said there does not appear to be duplication between research projects at NDSU and the University of North Dakota (UND). He said NDSU focuses on agriculture, and UND focuses on energy.

In response to a question from Senator Wardner, Mr. Weeda said a conventional corn-based ethanol plant is planned for Spiritwood. He said the contractors have been selected, and the project is waiting for Environmental Protection Agency (EPA) approval. He said the timeframe to start construction is by the end of the year. He said the plan is to add cellulosic ethanol to the corn-based plant.

In response to a question from Senator Wardner, Mr. Weeda said the partnership with Cargill on malting barley has created one of the largest facilities in the industry.

### **Energy Efficiency and Solar, Geothermal, Hydrogen, and Hydroelectric Energy**

Mr. Zac Weis, State Energy Engineer, Department of Commerce, presented information on the energy efficiency portion of the report and the solar, geothermal, hydrogen, and hydroelectric power portion of the report. He said energy efficiency is a high priority. He said over 11,000 energy efficiency and renewable energy rebates were given out in this state, resulting in \$3.4 million in energy cost-savings. He said a Department of Commerce program has weatherized almost 3,500 low-income homes. He said approximately 164 local government buildings have been retrofitted through the energy efficiency and conservation block grant saving over \$1.1 million annually. He said energy-saving measures at state facilities will save over \$900,000 annually. He said the State Building Code now encompasses the 2009 International Energy Conservation Code. He said over 1,130 ground source heat pump systems have been installed in this state.

As to the solar, geothermal, hydrogen, and hydroelectric power portion of the report, Mr. Weis said the state has invested \$2.5 million for a project at the Energy and Environmental Research Center on hydrogen which is attracting hydrogen-based business to this state. He said several electric cooperatives have installed solar-powered stock pond watering pumps in rural areas. He said the geothermal laboratory at UND is conducting a geothermal power demonstration project to demonstrate and test the technical and economic feasibility of generating electricity from nonconventional, low-temperature geothermal resources using organic Rankine cycle technology. He said the Garrison Dam has the capacity of producing 583 megawatts.

### **Ethanol**

Mr. Randy Schneider, North Dakota Ethanol Producers Association, presented information on the ethanol portion of the report. He said the ethanol industry in North Dakota is the envy of the nation. He

said there are four steps in the supply chain. He said the first step is to produce corn. He said the second step is production. He said the third step is the wholesale supply chain. He said blending facilities in this state provide for a quality product. He said the fourth step is retail, and there has been a growth in consumption. He said 24 million gallons of ethanol are consumed in this state. He said 400 million gallons of ethanol are produced in this state. He said this state is a national leader in the establishment of flex-fuel pumps. He said the production of ethanol produces ethanol, dried distiller grains, and carbon dioxide. He said dried distiller grains are used as a feedstock, and most are shipped out of state. He said if these distiller grains were used within the state, it would be value-added. He said it would save money to use the distiller grains in this state because there would be less drying needed. He said the main challenges to the ethanol industry in this state are geography and the expiration of the 2011 tax credits.

In response to a question from Senator Wardner, Mr. Schneider said most dried distiller grains go to Canada or the West. He said most ethanol goes to Canada and Brazil if going to other countries, and ethanol is shipped equally within the United States.

In response to a question from Senator Wardner, Mr. Schneider said the Progold corn fructose plant is still operating.

In response to a question from Representative Porter, Mr. Schneider said there are two pipelines being used at the Tharaldson plant in Fargo--one to process the water and one for waste.

In response to a question from Representative Porter, Mr. Schneider said there has been discussion about building pipelines to carry ethanol. He said the technology exists for ethanol pipelines. He said existing oil pipelines do not have capacity for ethanol, and it may be technically unworkable to use the pipelines. He said ethanol is transported by rail or truck.

In response to a question from Representative Porter, Mr. Schneider said blender pumps have increased the use of ethanol. Before blender pumps, he said, the use was closer to 1 to 2 percent of the total and now is closer to 6 percent.

### **Lignite**

Mr. David Straley, North American Coal Corporation, presented information on the lignite portion of the report. He said the EmPower Commission has built trust among the industry. He said coal energy production is down by over 4,000 megawatts because of lower demand due to a warmer winter, cooler summer, and excess hydroelectric power. He said North Dakota is the lowest-cost state for energy. He said most issues concerning lignite are at the federal level. He said the Dakota Gasification Company is the only commercial-scale coal gasification plant in the United States manufacturing natural gas. He said more than 2,200 acres of mined land in North Dakota have gone

through final bond release. He said the Glenharold Mine received its final bond release in 2012. He said the mine won three national awards for its reclamation work. He said currently the Lignite Research Council is participating in 15 research and development projects worth approximately \$170 million. He said many of these projects focus on the reduction, capture, and storage of carbon dioxide.

In response to a question from Senator Warner, Mr. Straley said coal may be used to make nanofibers and activated carbon. He said the work on coal to liquids has stopped due to uncertainty as to federal regulation. He said the uncertainty for coal is with carbon capture regulation. He said the issue with fly ash relates to some individuals thinking it is hazardous waste and some thinking it is a safe byproduct. He said fly ash is used in products worldwide, and there is a strong demand for fly ash.

In response to a question from Representative Meyer, Mr. Straley said his company reseeds topsoil within two years of mining and must show 10 years of productivity. He said then his company applies for a bond release from the Public Service Commission. He said if the Public Service Commission releases, the land is returned to the market. He said his company is not required to sell the land that his company owns.

In response to a question from Senator Wardner, Mr. Straley said his company purchases the surface and leases the mineral acres.

### **Oil, Natural Gas, and Refining**

Mr. Ron Ness, North Dakota Petroleum Council, presented information on oil, natural gas, and refining portions of the report. As to natural gas, he said, the BENTEK study showed that as oil production declines in the Bakken, natural gas production will increase. He said the potential for natural gas is three times more than previously estimated. He said there will need to be approximately \$15 billion of infrastructure by 2020 to handle the natural gas. He said the EmPower Commission focused on the liquids in the natural gas stream. He said Bakken gas is high in liquids at 30 percent. He said this state is 18<sup>th</sup> in natural producing state and would never be in the top 10. He said gas is a byproduct of oil development.

In response to a question from Senator Laffen, Mr. Ness said the BENTEK study showed that as the oil is removed it creates gaps that are filled in with natural gas. He said the chemical industry in this state would be able to use the natural gas liquids.

As to oil, Mr. Ness said there has been a 233 percent increase in oil production since 2007. He said the rig count will flatten or will go down as oil development goes from exploration to development. He said companies need to hold the lease by production in the fields, and then the fields are filled in. He said oil production is becoming more efficient with three wells on each site. He said more wells with fewer rigs lower costs. He said there is an \$11.5 million break-even point for some companies. He said

lowering the cost to \$6 million to \$8 million through efficiency is the goal. He said the increase in oil production has been done with 4,000 wells since 2007.

In response to a question from Senator Wardner, Mr. Ness said a new pad needs 8 acres to 12 acres instead of 5 acres to 6 acres.

In response to a question from Senator Wardner, Mr. Ness said the intent is to get the costs down and pipelines bring down costs. He said a side benefit of pipelines is that roads are damaged less.

In response to a question from Senator Laffen, Mr. Ness said 3 to 5 percent of the oil is recoverable in the Bakken.

Senator Laffen said technology will increase the percentage of recoverable oil. He said the Norwegians have found that three quarters of energy will always be oil, natural gas, and coal. He said because coal use is not growing, most growth will be with oil and gas.

In response to a question from Senator Laffen, Mr. Ness said the Petroleum Council and the Energy and Environmental Research Council are conducting studies that will increase the amount of recoverable oil. He said using natural gas for electricity is a bad idea. He said this will deplete the natural resources quickly. He said coal is needed to produce electricity.

In response to a question from Representative Meyer, Mr. Ness said there is a day-to-day struggle for the industry in operating on reservations. He said the reservations create new fees all of the time. He said operators are paying dearly for new costs incurred on reservations.

Mr. Ness said in May 2012 there were 8,000 wells producing 639,000 barrels of oil per day. He said in 2007 there were 3,800 wells. He said oil production on the Three Affiliated Tribes Reservation has grown from virtually zero production in 2007 to nearly 108,000 barrels of oil per day in 2012; in April 2012 there were 616 wells producing oil which represents 20 percent of the state's daily oil production.

As to refining, Mr. Ness said this state is the only state to be discussing new refineries. He said three refineries are being discussed. He said the refineries are diesel topping facilities. He said one is being considered near Trenton, one near Dickinson, and one near Makoti. He said the Tesoro Mandan Refinery has increased its crude processing capabilities by approximately 20 percent from 60,000 barrels per day to 70,000 barrels per day.

### **Petroleum Marketing**

Mr. Mike Rud, North Dakota Petroleum Marketers Association, gave a presentation on the petroleum marketing portion of the report. He said in 2011 retail petroleum dealers sold about 750 million gallons of taxable gasoline as well as close to 1 billion gallons of taxable diesel fuel. He said the taxable sales have increased 30 to 40 percent on diesel in the last five years. He said there is an adequate supply of diesel. He said an oil rig uses approximately 2,500 gallons to

3,000 gallons of diesel fuel per day. He said the gasoline supply is tight. He said the Chicago basis price went up so gasoline in Minneapolis went east instead of going west. He said this created a shortage in this area. He said there is the potential for growth in petroleum marketing in western North Dakota, but there is not a workforce or housing for the workforce.

In response to a question from Senator Wardner, Mr. Rud said he has heard if the MDU plant is built, there are customers for the diesel. He said nationally, gasoline is on the decline or flat, but diesel usage has increased.

### Transmission

Ms. Sandi Tabor, Lignite Energy Council, gave a presentation on the transmission portion of the report. She said the North Dakota Transmission Authority conducted a study of the impact of oil and gas development in Williston Basin on electric load growth and transmission infrastructure. She said the study will be completed at the end of September and will be useful for legislators because the study looks at housing as part of the results.

In response to a question from Senator Wardner, Ms. Tabor said as to CapX 2020, the lines are being energized and making their way to North Dakota through the Fargo-Monticello line. She said the state may not need to export as much energy as previously thought because of the demand in western North Dakota. She said queue reform has moved real projects to the head of the line in MISO.

In response to a question from Senator Warner, Ms. Tabor said as to capitalization of transmission, there is some resistance to huge investments. She said 17 MISO multivalue lines move power to the East, and MISO has developed a method for payment in which everybody will pay. Because there is a way to recoup the investment, she said, there is more of a willingness to be involved in a transmission project.

In response to a question from Senator Warner, Ms. Tabor said there is a national organization that works on reliability standards and there are bills in Congress to address cybersecurity. She said on a local level there are practical reliability issues that need to be addressed as well.

Ms. Andrea Stomberg, Montana-Dakota Utilities Company, answered questions for the committee. In response to a question from Senator Warner, Ms. Stomberg said the National Energy Reliability Council creates very technical standards for reliability. She said the Midwest Reliability Organization has suggested removing some resources from the web.

Mr. Dale Niezwaag, Basin Electric Power Cooperative, answered questions for the committee. In response to a question from Senator Warner, Mr. Niezwaag said the bill in Congress causes concern because it allows expansion beyond the National Energy Reliability Council.

### Wind

Mr. Dave Schmitz, ALLETE/Minnesota Power, presented information on the wind portion of the report. He said wind is in a very young stage of development. He said wind development has slowed. He said the recession has caused some of the slowing of development because demand has softened. He said renewable portfolio standards in states have been met so there is no growth in that area. He said production tax credits expire at the end of the year, and it is unknown as to whether the credits will be renewed. He said this creates uncertainty and less development. He said wind turbines are getting larger, more efficient, and more reliable.

In response to a question from Senator Laffen, Mr. Schmitz said although 2,900 megawatts of wind power are permitted, only 1,400 megawatts are produced each year.

In response to a question from Representative Brandenburg, Ms. Stomberg said the MISO queue has emptied from thousands of projects to hundreds of projects.

In response to a question from Representative Kelsh, Mr. Schmitz said the high number on the rated capacity for wind turbines is now three megawatts. He said many of the wind turbines in this state are 1.5 megawatts or 2.3 megawatts.

### Recommendations

Mr. Anderson reviewed the 19 recommendations in the report. The 19 recommendations are divided into infrastructure, research and development, workforce, and regulatory environment. There are 10 recommendations as to infrastructure:

1. Develop a new formula to provide adequate funding for local government investment in infrastructure for roads, wastewater treatment facilities, water supply facilities, and other infrastructure.
2. Provide oil impact grant funds for regional or local community development and infrastructure planning.
3. Remove the sunset on the housing incentive fund, expand program funding, and consider broadening the application to provide an alternate or direct funding source.
4. Provide funding to the Housing Finance Agency for the downpayment assistance and construction loan guarantee programs and provide guarantees to local lenders for incentives to borrowers who have participated in financial counseling programs.
5. Promote the importance of temporary workforce housing.
6. Promote long-term benefits and reduced impacts for providing easements on property for energy infrastructure.
7. Study existing water systems throughout the state and take action to provide expansion of capacity to meet needs.

8. Coordinate with the Corps of Engineers to increase access to Lake Sakakawea for industry and community needs.
9. Maintain a comprehensive long-range forecast for energy production and supply across all sectors and review needed infrastructure to support growth.
10. Monitor the railroad capacity within this state to ensure there is adequate ability to export commodities to market.

As to workforce, there were three recommendations:

1. Increase efforts to educate this state's youth about natural resources by developing a curriculum to encourage interest in energy careers.
2. Encourage and enable the energy industry to collaborate with the North Dakota University System, the Governor's Workforce Development Council, Job Service North Dakota, and other agencies to:

Fund enhancements to Job Service North Dakota systems and data collection processes to provide analytical data related to workforce skills and employment to better identify energy industry needs.

Develop and enhance core curriculum related to high-demand energy industry careers.

Encourage industry interaction with teachers and guidance counselors to grow youth knowledge and interest in energy careers.

Provide greater accessibility to career and technical education programs.

3. Support legislation that recognizes the role that distance-learning will play in the future of education and improve access to technology for students using distance-learning programs.

As to research and development, there were three recommendations:

1. Allocate a portion of the resources trust fund and set a target funding level for the renewable research and development program at \$3 million to enable planning for the future and to encourage the development of renewable resources.
2. Continue to support existing research and development programs.
3. Coordinate with private industry to identify the steps necessary to create a viable chemical industry related to energy resources. These efforts may include:

Funding a study to evaluate value-added market opportunities for energy resources.

Increasing funding to oil and gas research programs by \$1 million to explore opportunities related to value-added processing of natural gas.

As to the regulatory environment, there were three recommendations, all related to federal regulation:

1. Encourage federal agencies to recognize environmental issues unique to this state and work with these agencies to develop regulations by establishing new venues for state and federal regulatory agencies to collaborate on federal rulemaking.
2. Use the EmPower Commission to better understand the economic impact of federal regulations, to comment on proposed regulations, and to work with the Congressional Delegation.
3. Recognize the additional burdens new energy developments are placing on state regulatory agencies and provide adequate funding and staffing levels for the State Department of Health, Department of Mineral Resources, Public Service Commission, and State Water Commission.

As to infrastructure recommendation No. 2, in response to a question from Senator Warner, Mr. Anderson said the majority of funding should be used to develop regional plans. He said there needs to be strategic plans that include infrastructure needs, and there needs to be a sharing of information as to what kind of ordinances to adopt. He said the sharing of best practices is encouraged.

As to infrastructure recommendation No. 3, Mr. Anderson said the \$15 million in the housing incentive fund has been obligated. He said it was a challenge to get the fund funded.

In response to a question from Representative Meyer, Mr. Anderson said the funding may be helped with communication efforts with the public and through alternative funding.

As to infrastructure recommendation No. 8, in response to a question from Representative Brandenburg, Mr. Anderson said rather than litigation with the Corps of Engineers, the state should hold summits and work with the corps before rules are made.

As to workforce recommendation No. 1, Mr. Weeda said he has worked with the education sector, and the sector is receptive in working together and coming up with a proposal for legislation.

Representative Meyer said the infrastructure recommendations seem to lack addressing the problem of limited day care. She said this seems to be the top issue. She said there needs to be 4,655 day care spots to meet 50 percent of the need. She said day care is needed for there to be a workforce.

In response to a question from Representative Meyer, Mr. Anderson said the EmPower Commission spoke a lot about the day care issue.

As to research and development recommendation No. 3, Mr. Schneider said the specialty chemical industry is a \$14 trillion per year industry. He said there is a great potential for development in this area and many opportunities. He said there is a shortage

of propylene now. He said the natural gas in this state could be used for chemicals. He said changing the natural gas into propylene would add value. He said if the propylene were then turned into parts, it would create even more value within this state.

As to the regulatory environment recommendations, Mr. Anderson said agencies in this state need the best-qualified and most-educated to look out for the state. He said industry in this state wants to work together with regulators and not litigate.

Ms. Tabor said funding state regulatory agencies is a serious matter because if our state regulatory agencies are not doing well, the feds may take over the area of regulation.

### **CARBON DIOXIDE CAPTURE CREDIT REPORT**

Mr. Niezwaag gave a presentation ([Appendix D](#)) on the carbon dioxide capture credit for new coal conversion facilities. He said two events keep the need for this incentive relevant. He said one is the ruling by the Washington, D. C., Court of Appeals to uphold the EPA's finding that carbon dioxide is an endangerment to public health and, therefore, ensuring that the EPA will push forward with more carbon dioxide regulations on coal-based power plants. He said the second event is the EPA's proposed new source performance standard for new coal plants.

### **TRANSPORTATION**

Mr. Francis Ziegler, Director, Department of Transportation, gave a presentation ([Appendix E](#)) on construction projects, motor vehicle and commercial driver's licenses, federal funding, and cost of construction. As of July 24, he said, approximately 22 percent of this year's state construction work was completed. He said a temporary bypass is being constructed northwest of Williston. He said on June 29 Congress passed a new two-year \$105 billion surface transportation reauthorization bill called Moving Ahead for Progress in the 21<sup>st</sup> Century. The bill provides this state an apportionment of \$240.5 million in 2012 and 2013 and \$242.5 million in 2014. He said inflation is averaging approximately 11 percent per year since 2001. He said an undivided four-lane has a 16-foot lane in the middle that acts as a continuous left turn lane. He said an undivided four-lane will be built between Williston and Watford City.

In response to a question from Senator Wardner, Mr. Ziegler said funding is relatively flat, but this is good news because the state receives \$2 for every \$1 paid to the federal government. He said the money in the federal highway trust fund is going down as miles per gallon go up.

In response to a question from Senator Wardner, Mr. Ziegler said the state fuel tax is up considerably. He said motor vehicle registrations are increasing. He said registrations have brought in \$3 million.

In response to a question from Representative Schatz, Mr. Ziegler said the grade separation in Dickinson will be addressed with the bypass.

In response to a question from Senator Taylor, Mr. Ziegler said the department will mill out and replace Highway 2.

In response to a question from Senator Taylor, Mr. Ziegler said whether there will be a four-lane or a super two is determined by traffic. He said the traffic count is used to make a projection. He said the Upper Great Plains Transportation Institute is doing a study on projections, and the study should be finished by August. He said the next phase for Highway 85 is to turn it into a four-lane.

In response to a question from Senator Wardner, Mr. Ziegler said the money the department receives from the federal government goes into 13 different funds. He said Highway 85 is on the national highway system and is prioritized.

In response to a question from Representative Brandenburg, Mr. Ziegler said whether field stones in recently sprayed fields may be used by a contractor is not a determination by the department.

Ms. Linda Butts, Deputy Director, Driver and Vehicle Services, Department of Transportation, answered questions for the committee. In response to a question from Representative Meyer, Ms. Butts said temporary registration is for a 6-month or 12-month period. She said it is cheaper to plate in this state after the expiration of a temporary registration than to purchase another temporary registration.

In response to a question from Representative Brandenburg, Mr. Ziegler said permitting is a Highway Patrol issue. He said the department routes permitted traffic. He said there was a contract signed for new software for permit and routing. He said the Highway Patrol has electronic permitting, but it is not used as much as the Highway Patrol would like because most truckdrivers do not have computer access from their trucks. He said the Highway Patrol's electronic permitting does not have routing.

### **UPDATE BY PUBLIC SERVICE COMMISSION**

Mr. Brian P. Kalk, Chairman, Public Service Commission, presented written testimony ([Appendix F](#)) on recent activities of the commission. He said the commission will be requesting three additional positions. He said the positions are gas pipeline inspector, public utility analyst, and legal clerk. He reviewed transmission development, gas pipeline safety, coal mine reclamation, economic regulation, the Territorial Integrity Act, and key projects.

In response to a question from Senator Wardner, Mr. Kalk said the MDU gas plant is for base load and peaking. He said it is being used for base load because of the uncertainty as to coal.

In response to a question from Representative Porter, Mr. Kalk said the lower costs per megawatt for

certain gas-to-electricity plants being considered is that there is an existing plant at the Heskitt location which makes it cheaper than the Basin Electric plant near Williston.

In response to a question from Representative Porter, Mr. Kalk said nothing in the rules requires escalating penalties for violation of one-call rules. He said the commission looks at multiple violations in determining the fine. He said the commission may impose the most severe fine if the violation is severe. He said the reason for the fine is for compliance.

In response to a question from Senator Lyson, Mr. Kalk said any enforcement tool is appreciated, including the ability to take a contractor's license. He said the maximum fine is \$5,000.

In response to a question from Representative Kelsh, Mr. Kalk said if there is a complaint, the commission will act on the complaint.

Mr. Jerry Lein, Public Service Commission, answered questions for the committee. In response to a question from Representative Brandenburg, Mr. Lein said other power lines need to be built before the Ellendale to Big Stone line.

In response to a question from Representative Porter, Mr. Niezwaag said the higher cost of generation through gas plants at Williston and Watford City is the result of selective catalytic converters and synchronous clutches. He said a synchronous clutch makes the generator a large motor to stabilize the system. He said the 435-kilovolt line from Antelope to Tioga needs an environmental impact statement. He said there is a three-year wait time for this statement. He said these plants are needed to meet the loads until the line is built.

In response to a question from Representative Porter, Mr. Niezwaag said there is nothing the state can do to help with the environmental impact statement. He said the statement is needed because the line is hooked into the Western Area Power Authority, which is a federal entity requiring the environmental impact statement.

## ONE-CALL EXCAVATION NOTICE SYSTEM

Mr. Chad Olson, Director of Education and Public Relations, North Dakota One Call, gave a presentation ([Appendix G](#)) on the one-call system. He said there had been no fatalities for seven years until there was a fatality in 2010 and 2011.

In response to a question from Representative Porter, Mr. Olson said that placing fiber optic 12 inches or more underground needs to have a one-call ticket. He said if a utility places a line less than 12 inches deep, the utility is responsible for damages if a line is damaged through digging. He said planting or cultivating agricultural ground 18 inches or more deep requires a one-call ticket. He said if a person is doing landscaping at least 12 inches deep, a one-call ticket is required.

In response to a question from Representative Meyer, Mr. Olson said the One Call Board has not taken any action as to locating old gas-gathering pipelines. He said there is a lot of poly line, and it is not locatable. He said there is no system of recording the line when it is hit.

In response to a question from Senator Warner, Committee Counsel said the Advisory Commission on Intergovernmental Relations is studying overweight truck permits and fines.

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

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Timothy J. Dawson  
Committee Counsel

ATTACH:7