

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION  
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1454

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15

2003 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1454

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2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1454

House Industry, Business and Labor Committee

Conference Committee

Hearing Date February 5, 2003

Tape Number	Side A	Side B	Meter #
1	X	X	Both sides
2	X		0-5000
Committee Clerk Signature <i>Elizabeth R. Feier</i>			

Minutes: **Chair Keiser:** Opened hearing on HB 1454.

**FOR:**

**Rep. Carlson:** Served on interim committee for "Electric Utilities" and has looked at the territory integrity resolution. The committee has no recommendation and the bill did not come out of committee. Feels the bill is good because it shows we have growth in our cities. Without growth, this would not be a problem. This bill deserves action because the cities want it to be resolved by the Legislature.

**Rep. RaeAnn Kelsch:** Believes current law is unfair to Investor Owned Utilities (IOUs).

**Rep. Hawken:** Supports the bill. Regulations are unfair. Loans and interest rates are not the same and believes this is bordering on antitrust.

**Rep. Brusegaard:** This bill is a reasonable approach to growth. There is nothing evil about corporate structure. Need cooperation because this is a well reasoned approach to utility extension.

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House Industry, Business and Labor Committee

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**Sen. Tollefson**: Would like to see cooperation between the IOUs and Rural Electric

Cooperatives (RECs). The average person could care less where it comes from as long as it's reliable. We need to work together for the betterment of the state.

**Dennis Boyd (MDU)**: Refer to first page of written testimony.

**Bob Graveline (Utility Shareholders)**: Supports with written testimony and offered amendment.

**Rep. Ekstrom**: Concerning subsection 2, line 10, have you started talking about negotiating process with the RECs? Graveline said that they have not to his knowledge. There is no emergency clause and is sure they would get it done before the law took effect.

**Rep. Severson**: How many IOUs are in ND? Xcel and MDU for sure. Ottetail power supports some ND residents.

**Rep. Froseth**: RECs are not regulated by PSC. How will negotiations work if they are not under the PSC? Graveline said that the power plants and the transmission is regulated. They would bring the negotiations under the eye of a third party.

**Rep. Thorpe**: Asked if Xcel is in MN. Graveline said that the headquarters is in Minneapolis.

Rep. Thorpe then asked if MN has a law for equal growth. Graveline deferred to Kent Larson.

**Kent Larson (VP of Xcel Energy in ND, SD, and MN)**: Supports with written testimony.

**Rep. Ekstrom**: What investments could we expect to see from Xcel? Larson said they are looking at a 400 megawatt wind generator in the next few years and are also hoping to work with Ottetail for more transmissions.

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**Rep. Thorpe:** Does MN allow for equal growth in their cities. Larson said that ND is different from MN and SD. In 1965, ND drew lines around the cities. MN and SD serve rural customers because the RECs and IOUs share lines.

**Rep. Nottestad:** Page 2 of the testimony says the growth in Fargo has only been 1%. How does this compare to Bismarck and Grand Forks? Larson said that the 1% is just in Fargo. Not sure about the other cities, but he could get the information.

**Rep. Boe:** If the IOUs all want to get As, should the RECs get Fs? Larson said that this is a sharing proposal so both can be successful.

**Chuck McFarland (Ottetail Power):** Ottetail does not have a direct stake in this because they don't serve large cities; they serve the rural areas. They are not growing. In fact, they have fewer customers than in 1997. Eventually REC will get all new customers within the cities. MDU and Xcel are frustrated for not being able to grow. City boundaries are barriers to growth. A change in law would let providers focus on excellent service to customers. Ottetail has not raised rates since 1987. The Legislature should instill a sense of competition to keep the companies focused on customer service.

**Martin White (CEO MDU Resources):** Supports with written testimony.

**Rep. Thorpe:** Didn't MDU sign with Capital Electric? White said they had some time ago and built around city limits. Rep. Thorpe then asked if there are any benefits for Basin Electric in the bill. White said that Basin will to speak to that end, but the bill does allow for growth to both.

**Bob Graveline:** Supports with more written testimony.

**Rod Backman (Covenant Consulting Group):** Neutral with testimony.

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**AGAINST:**

**Rep. Wrangham:** Opposes with written testimony.

**Rep. Kasper:** They are asking for fairness. 100% of the land was given to the RECs. What was fair about that? Wrangham said he was not sure he understands.

**Rep. Ruby:** The agreements were renewed. What happens if they are not renewed? Wrangham said the renewal is up in 2013.

**Sen. Robinson:** Served on interim committee. Sees few problems with TIA. IOUs have concerns with no growth, but feels that is not a problem unique to them. Passing this legislation would be irresponsible. Risk is involved with the change. The real problem is that there is no growth in ND and everyone is struggling to get a piece of what growth we do have.

**Harlan Fugelston (GC and Gov't Relations Dir. of ND Assoc. of RECs):** Opposes with written testimony. In addition, said that they pay 2% gross receipts tax, which is actually more in property tax than the IOUs. Taxes should not be the reason to pass the bill.

**Rep. Klein:** Page four of the testimony mentions turning facilities over. Thought you would just continue to use what you have. RECs would be grandfathered in and not lose existing customers. Fugelston said that is correct, but when planning, you do not want to do it "piecemeal." This leads to a situation of under utilization.

**Rep. Kasper:** Can you explain the unconstitutional comment? Fugelston said that the Constitution was approved by the people in 1981 or 1982 and reviewed by the Supreme Court. Issues of unconstitutionality have been raised, but no actions have been taken.

**Scott Handy (Pres./CEO of Cass Co. Electric Coop, Kindred):** Opposes with written testimony.

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**Rep. Ekstrom:** What have you done for economic development in Fargo? Handy said that they give about \$37,500/yr to the Econ Development in Fargo. They also give manpower to the organization.

**Rep. Severson:** Has your growth of 5% come from the extraterritorial area? Handy said that the bulk of their growth has.

**Rep. Keiser:** If it is passed and you negotiate, do you anticipate staying in the area or would you sell the infrastructure you have? Handy said this is a decision they would have to contemplate. It would be expensive to continue creating infrastructure that they would not use.

**Lars Nygren (Gen. Mgr. of Capital Electric, Bismarck):** Opposed with written testimony.

**Rep. Klein:** What is the difference in rates you charge in Bismarck and Sheridan? Nygren said there is an 8% differential.

**Pam Geiger (Dir. of Mor-Gran-Sou Electric):** Opposes with written testimony.

**Rep. Klein:** Asked for clarification on the map. The light pink is the area for growth through the agreement.

**George Berg (Pres/CEO of NoDak Electric Coop, Grand Forks):** Opposes with written testimony.

**Rep. Keiser:** Do you have data on NoDak growth in comparison? Berg said there was no data, but most likely comparable. Not sure.

**David Loer (Minnkota Power):** Opposes with written testimony.

**REBUTTAL:**

**Dennis Boyd:** Summary with written testimony.

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**Rep. Severson:** After the TIA Act, when did growth stop? Boyd said that he can not say it has stopped. It has slowed like everyone else. The 1970s service agreements came from constitutional issues.

**Rep. Severson:** RECs also struggle with out-migration and decline in business. If RECs lose local area, would the IOUs serve the rural areas? Boyd reminded the committee that the IOUs were first in the state in the 1930s.

**Rep. Keiser:** Are you not currently managed through local service agreements? Boyd said they were forced into the agreements in the 1970s and have worked reasonably well. They want to be allowed to enter into agreements further out.

**Dennis Hill (Exec. VP of ND Assoc. of RECs):** Opposes and summarizes with written testimony.

**Rep. Ruby:** Can you respond to the differences in rates that Mr. Boyd has presented? Hill said that the rates are subject to debate. Higher costs come with serving the rural area. They use a methodology to get the rates by using many factors.

**Rep. Zaiser:** What is your reaction to the IOUs when they say they were forced into the service agreements. Hill said he wouldn't use the word "forced." They were willing parties and signed the agreements. Agreements let the IOUs push boundary out. It is a win-win.

**Rep. Klein:** Can you explain the dip in consumption in 1986-87? Drought years.

**Rep. Keiser:** Is it possible to generate charts with just the areas addressed by the bill? Hill is not sure if the IOUs break out by territory in order for those charts to be done.



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**Rep. Severson:** Were the agreements an answer to the local residents? What is their reaction or the perspective of the cities? Hill said he can not speak for the cities, but no one has said there is a problem.

**Kent Tweaton (Nodak REC user):** TIA has worked. This bill would be a win-lose situation in favor of IOUs. Concerned his rates would go up. Xcel is huge. It would not hurt them if they have to sacrifice growth.

**Mark Sitz (Farmers Union):** Opposes with written testimony for Richard Schlosser. Advances in agriculture have come through as a result of RECs work. Important to keep TIA because it minimizes disputes and limits wasteful duplication of facilities. This is not in the consumers' interest. Coop facilities would be underutilized. Bill is only for IOUs.

**Brian Kramer (ND Farm Bureau):** Opposes with written testimony

**Chair Kelsner:** Closed hearing on HB 1454

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