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**House Bill 1455—Testimony in Support, if amended as attached**

House Energy and Natural Resources, Chairman Porter

February 4, 2021

Chairman Porter, members of the committee, I am Carlee McLeod, President of the Utility Shareholders of North Dakota (USND), and I come before you to testify in support of HB 1455, as amended, on behalf of my members, including ALLETE, Montana Dakota Utilities, Otter Tail Power Company, and Xcel Energy.

Along with our cooperative utility colleagues, our Utility Working Group has worked with the prime sponsor to address our concerns with the bill language as introduced. It is our understanding that the prime sponsor will offer the attached amendments. Though the sponsors and the utilities have worked to address our original concerns of the bill with this amendment, we know the amendment needs tweaking as it pertains to the appropriate method of notice to the county. If this amendment and subsequent bill is approved by this committee and the House, we will work with the sponsor as it crosses to the Senate to find the best solution.

The amendment adds to existing public reporting as listed in NDCC 49-22. Under chapter 49-22, 10-year plans are required to be filed every 2 years with the PSC. These are public documents and require information regarding any facilities, including retirement plans.

These amendments separate the requirements for these plans. Under these amendments, language regarding the retirements would be 49-22-04 (1)(a).

After the existing language required under 10-yr plans, these amendments provide the following under a new section 49-22-04 (2):

- If any operator intends to retire a facility (remove from service is the existing language of 49-22-04, so our amendment mirrors that term rather than creating a new, unnecessary definition) outside of what was previously anticipated in the most recent 10-yr plan (updated on a 2-year basis), they must:
  - Provide notice to the PSC;
  - Provide notice to the auditor of the county in which the facility is located;
  - Answer any requests/requirements of the PSC, including:
    - Providing any reliability study conducted with or by the corresponding regional transmission organization. This information is required by each RTO before any retirement is allowed within the

system. Providing this information to the PSC would not create any new costs to the operator.

- At that point, the PSC may take public comment in whatever format they determine appropriate—written, public hearing, etc.
- We believe this provides transparency without adding costs to operators/customers by using the existing framework and expanding it to establish a process for public hearings that the bill sponsors are seeking.
- Ten-year plans are public and filed every 2 years with any updates. Anyone can become well-versed in a utility's plans. However, when something happens to cause deviation from those plans, the PSC, the county in which the facility resides, and the public, will get notice and can react.
- This amendment takes out specific processes that may prove costly while still allowing the PSC a lot of discretion in how to provide the public information and opportunity to be heard.

Thank you for your consideration of this amendment. We support passage of the bill if this amendment is adopted.

#### PROPOSED AMENDMENTS TO HOUSE BILL NO. 1455

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 49-22-04 of the North Dakota Century Code, relating to ten-year plans.

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

**SECTION 1. AMENDMENT.** Section 49-22-04 of the North Dakota Century Code is amended and reenacted as follows:

#### **49-22-04. Ten-year plans - Contents.**

1. Each utility that owns or operates, or plans within the next ten years to own, operate, or start construction on any facility shall develop a ten-year plan as specified in this section and submit the plan to the commission. Each utility shall file an updated plan on or before July first of each even-numbered year after the year of its initial submission. The ten-year plan may be appropriate portions of a single regional plan or may be jointly prepared and submitted by two or more utilities and must contain the following information:
  1. a. A description of the general location, size, and type of all facilities to be owned or operated by the utility during the ensuing ten years, as well as those facilities to be removed from service during the ten-year period.
  2. b. An identification of the location of the tentative preferred site for all electric energy conversion facilities and the tentative location of all electric transmission facilities on which construction is intended to be commenced within the ensuing

five years and such other information as may be required by the commission. The site and corridor identification shall be made in compliance with the criteria published by the commission pursuant to section 49-22-05.1.

3. c. A description of the efforts by the utility to coordinate the plan with other utilities so as to provide a coordinated regional plan for meeting the utility needs of the region.
4. d. A description of the efforts to involve environmental protection and land-use planning agencies in the planning process, as well as other efforts to identify and minimize environmental problems at the earliest possible stage in the planning process.
5. e. A statement of the projected demand for the service rendered by the utility for the ensuing ten years and the underlying assumptions for the projection, with that information being as geographically specific as possible, and a description of the manner and extent to which the utility will meet the projected demands.
6. f. Any other relevant information as may be requested by the commission. Upon receipt of the ten-year plans the commission shall proceed to assess the impact of the development proposed within the state to ensure that energy conversion facilities and transmission facilities will be sited in an orderly manner compatible with environmental preservation and efficient use of resources.

2. If not previously disclosed in a ten-year plan filing pursuant to subdivision a of subsection 1, the utility owner or operator of an electric energy conversion facility shall notify the commission and the auditor of the county in which the facility is located if it intends to remove an electric energy conversion facility from service. Upon notice of the removal from service, the commission may request the owner or operator of the electric energy conversion facility provide the commission with any applicable reliability study developed with a regional transmission organization in conjunction with the intended removal from service and may accept public comment in a format prescribed by the commission.

