

## **Senate Bill 2313**

**Presented by:** Julie Fedorchak, Chair  
Public Service Commission

**Before:** House Energy and Natural Resources Committee  
The Honorable Todd Porter, Chair

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### **TESTIMONY**

Mr. Chairman and committee members, I am Commissioner Julie Fedorchak of the Public Service Commission. You might recall me being here in the early days of the session to present House Bill 1067, an agency bill that allowed the Commission to assess a fee to complete an analysis into the integrated resource plans of public utilities serving North Dakota customers.

Today's amendments further define the Integrated Resource Planning (IRP) process, establish a minimum capacity requirement and planning reserve margin, and enhance the commission's penal provision for public utilities who fail to provide reliable service.

First I'll provide context for the creation of this amendment, and then I'll explain each of these three provisions.

As you well know, the utility industry is in the throes of a complete transformation. As a result, many states through their utility commissions are requiring regulated utilities to file their integrated resource plans for review by the commission. Just as a reminder an integrated resource plan spells out how much

power a utility's customers will need in 15-20 years and where the power will come from.

Because of our concerns about the speed and vigor with which many in this industry are pursuing a 100 percent carbon free vision and the resulting reliability and cost implications for North Dakota customers, last fall we worked with our utilities on HB 1067. This allows us to complete more in-depth reviews of the Integrated Resource Plans the utilities file with us.

Passage of HB 1067 is an important start and will facilitate a very productive advanced discussion of each utility's long-term plans.

Since the legislature started, lawmakers have proposed multiple bills to address concerns regarding the economic viability of baseload power and the reliability of North Dakota's grid. In response to these concerns, the PSC has been working with leadership, industry and lawmakers to craft reasonable and meaningful measures to strengthen our state's position on maintaining reliable electricity service in this rapidly changing environment. The amendment you have before you is the result of this work.

**49-05-04.5 Resource Planning.** The first two points are standard IRP language spelling out what needs to be included in the plans. Utilities have not raised any concerns about numbers 1 and 2 – they already follow these guidelines.

Number 3 further defines what the Commission can value in resource plans. It allows the Commission to consider the qualitative benefits and provide a specific value to a baseload, load-following generation resources and its proximity to load.

Number 4 allows us to hire an expert to establish that value, which can then be incorporated into the modeling of the generation resource mix in the Integrated Resource Plan.

Why do we think this is important? Currently electricity markets treat all generation resources the same. Wind, coal, gas, solar, nuclear are all paid the same price for the megawatts supplied to the grid. But these resources don't provide the same attributes to the grid. Think of MISO and SPP as big swimming pools. All of the utilities sell their megawatts of power into the pool and get paid the same price per megawatt. However, unlike a swimming pool where the water is uniform throughout, this pool of megawatts is very different. Each of the generation resources has different reliability characteristics and different technical impacts on the grid. Baseload resources provide stronger frequency signals and voltage support that variable or intermittent resources don't. Coal and nuclear generation have onsite fuel. This proved to be a distinguishing factor compared to gas during the Artic Event last month.

These are examples of qualitative benefits that are important to reliability that currently aren't rewarded in the market. So these resources struggle to be economic and, when modeled in an Integrated Resource Plan on cost per megawatt alone these resources often don't make the cut.

With this amendment, North Dakota policy makers would give us a tool to work with our utilities to establish a value for these qualitative benefits so they can be fairly weighed and considered in the overall planning process. This isn't putting our hand on the scale to give an advantage to one resource over another.

This is providing fair recognition of the reliability attributes of dispatchable generation resources that currently are ignored by the market.

Quite honestly, I've been surprised and disappointed by our utilities' objections to this measure. You'll hear from them, but I want to point out how these amendments attempt to address their concerns. First, they object to the cost of hiring an expert to establish this value to be used for modeling. The amendment sets a cap of \$250,000 (end of point 4) and states that the costs can be shared proportionally between all three electric utilities in 4b. This value, once established, will last indefinitely – a decade or more. It's not something that we anticipate setting often if ever again.

One final point on costs. Yes the cost of this lands on top of costs that could be assessed for evaluating the IRPs. However, we assure you the Commission is not going to levy new costs casually. In fact, we assert that no one except the customers themselves cares more about keeping costs low than we do. My colleagues and I hear about rate increases on radio shows, in letters to the editor, at parent teacher conferences, and even when selecting apples at Dans Supermarket. The fact that the rates we approve are on average 40 percent lower than the rate increases requested by utilities is pretty strong evidence about who cares most about costs.

The utilities also emphasize, quite accurately, that they have a solid record on reliability, that they always meet their capacity and reserve margins, and that MISO, of which all three investor-owned utilities are members, didn't have problems in the outages last month.

We agree. However, this initiative isn't reactive, it's proactive. The industry is rapidly changing at a pace that current technology, infrastructure and market structures aren't equipped to support. Power shortages and blackouts this past year prove that no region is immune from challenges. Other states are baking their energy policy preferences firmly into law and regulation. Renewable Portfolio Standards, state tax incentives for solar, wind and batteries, placing a value on local economic benefits or the social costs of carbon that must be incorporated into modelling ... These are just a few examples of state policies currently at play in our region.

All of these policies work their way up through regional transmission organizations of MISO and SPP in a variety of ways – impacting everything from models, the futures used for planning and the very resources offered every day to serve customers in these markets.

North Dakota needs to strengthen our tools to engage in and support the resource mix and policies we believe are best for our customers and our economy. This is a reasoned and reasonable step in that direction.

**49-05-04.6: Planning Reserve Margin – fines or penalties.**

This section establishes in law that the utilities must meet the minimum capacity requirement and reserve margin set by the RTO in which they belong. Our utilities already do this, it's a minimum standard and there isn't any disagreement over this language.

#### **49-05-04.7 Reliable Service Obligation:**

This section clarifies that the electric public utility is ultimately responsible for ensuring reliable service. It allows the Commission to assess penalties on a per customer basis for failing to provide reliable service. And it directs the Commission to develop policies for assessing these penalties that take into consideration the nature, circumstances, gravity, culpability, outage history, and good faith attempts of utilities to ensure reliability.

This provision more than the others is a direct result of the power outages last month in Texas and SPP and last summer in California. In all of these events, the first reaction of the players involved was to blame someone else. It reminds me of my house, where a mystery family member is somehow always responsible for putting a completely empty cereal box back in the cupboard.

The electricity business has many overlapping players – utilities, merchant generators, state regulators, state legislators, regional transmission organizations, FERC, NERC, Congress. On top of that, the electric grid is called the most complicated machine ever created. Considering all of this, it's far too easy for players involved to pass the blame when the lights go out. A recent conversation I heard between a utility rep and legislator illustrates the disconnect between industry and the public when it comes to reliability. The utility person suggested that meeting its reserve margin was a good measure of a utility's reliability. The legislator pushed back and said, "No, reliability is having the lights come on when you flick the switch."

We agree. Meeting a reserve margin set by the RTO helps support reliability. And it's certainly important for the RTO and the utility. But it's little comfort for a customer who doesn't have power on a cold day in February.

This provision recognizes that a lot of factors can cause service disruptions, including bad policies and practices by an RTO. But it establishes that the responsibility for providing reliable electric service, including holding RTOs accountable for their part, belongs to the utility. That's who the customer is paying for the service.

Thank you Mr. Chairman. That concludes my testimony. I'll stand for your questions.