

Fifty-fifth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1237

Introduced by

Representative Dorso

Senator G. Nelson

1 A BILL for an Act to establish an electric industry competition committee; to provide an
2 expiration date; and to declare an emergency.

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

4 **SECTION 1. Electric industry competition - Need for study.** The legislative council
5 shall study the impact of competition on the generation, transmission, and distribution of electric
6 energy within this state. The legislative assembly finds that the economy of this state depends
7 on the availability of reliable, low cost, electric energy. There is a national trend toward
8 competition in the generation, transmission, and distribution of electric energy and the
9 legislative assembly acknowledges that this competition has both potential benefits and
10 adverse impacts on this state's electric suppliers as well as on their shareholders and
11 customers and the citizens of this state. The legislative assembly determines that it is in the
12 best interests of the citizens of this state to study the effects of competition on the generation,
13 transmission, and distribution of electric energy.

14 **SECTION 2. Electric industry competition committee - Composition.**

- 15 1. The legislative council shall appoint a committee to study electric industry
16 competition.
- 17 2. The committee shall study the impact of competition on the generation,
18 transmission, and distribution of electric energy within this state and on the state's
19 electric suppliers.
- 20 3. As used in this Act, "electric suppliers" means public utilities regulated under
21 title 49, rural electric cooperatives organized under chapter 10-13, municipal
22 electric utilities organized under chapters 40-33 and 40-33.2, and power
23 marketers.
- 24 4. The committee consists of:

1 a. Three or four members of the house of representatives, no more than two of
2 whom may be from the same political party.

3 b. Three or four members of the senate, no more than two of whom may be from
4 the same political party.

5 5. The chairman of the legislative council shall name one of the members as
6 chairman.

7 **SECTION 3. Electric industry competition committee - Study areas.** The electric
8 industry competition committee shall study this state's electric industry competition and electric
9 suppliers and shall report to the legislative council in the same manner as do other interim
10 legislative council committees, concerning the following issues:

11 1. Financial issues, including:

12 a. The interests of residential customers, including:

13 (1) Fairness of rates, terms, and conditions of service for services chosen.

14 (2) Affordability of rates, bills, and services.

15 (3) Stability and predictability of rates and bills.

16 (4) Reliability and quality of power supply.

17 (5) Assurance that rates, terms, and conditions are nondiscriminatory.

18 (6) Ability of customers to understand potential energy choices.

19 (7) Importance of a fair dispute resolution process.

20 (8) Potential for rates to reflect the customer's desired level of energy
21 reliability and availability.

22 b. The interests of small business customers, large business customers,
23 shareholders, and other stakeholders, including:

24 (1) Fairness of rates, terms, and conditions of service for the services
25 chosen by customers.

26 (2) Affordability of rates, bills, and services for customers.

27 (3) Stability and predictability of customers' rates and bills.

28 (4) Assurance that rates, terms, and conditions are nondiscriminatory for
29 all customers.

30 (5) Ability of customers to understand potential energy choices and the
31 implications of these choices.

- 1 (6) Importance of a fair dispute resolution process for customers.
- 2 (7) Potential for rates to reflect the customer's desired level of energy
- 3 reliability and availability.
- 4 c. Financial integrity of and cost of capital to electric power suppliers.
- 5 d. Taxes paid by electric suppliers, including franchise taxes, excise taxes,
- 6 income taxes, ad valorem taxes, in lieu taxes, and real and personal property
- 7 taxes.
- 8 e. Tax implications to local governments.
- 9 f. Quantification and recovery of stranded investments by electric power
- 10 suppliers, including those resulting from:
- 11 (1) Customers who have a legal obligation to bear certain costs, who find a
- 12 way to avoid those obligations, and who leave without paying costs
- 13 incurred on the customer's behalf; and
- 14 (2) The costs of investments that exceed their value in the competitive
- 15 market.
- 16 g. Pricing of transmission and distribution services.
- 17 h. Pricing and rate subsidies for all classes of customers.
- 18 i. Unbundling of costs of services.
- 19 2. Legal issues, including:
- 20 a. State, tribal, and federal jurisdiction.
- 21 b. State statutory and regulatory constraints and oversight of the electric
- 22 industry.
- 23 c. Those related to the federal energy regulatory commission.
- 24 d. Commerce clause constraints.
- 25 e. Review of existing state laws, rules, and constitutional provisions that affect
- 26 the generation, transmission, and distribution of electric energy, including the
- 27 need and appropriateness of regulatory reforms for services that will continue
- 28 to be provided by a regulated utility.
- 29 f. Interstate reciprocity and the regional nature of the industry.
- 30 g. Continuing obligations of an electric supplier to serve customers.
- 31 h. Use and protection of proprietary information in a competitive market.

- 1 3. Social issues, including:
 - 2 a. Planning and operation of electric suppliers, including integrated resource
 - 3 planning.
 - 4 b. Efficiency and sufficiency of an aggregate supply of energy.
 - 5 c. Environmental impacts.
 - 6 d. Impact on the development and use of renewable resources.
 - 7 e. Appropriate and proper method of recovery of the cost of social, low income,
 - 8 and noneconomic renewable energy programs in order to ensure that costs
 - 9 are fairly and equitably shared among all customers of electric energy.
- 10 4. Issues related to system planning, operation, and reliability, including:
 - 11 a. Electric system reliability.
 - 12 b. Provisions by which customers would be permitted to have a choice of
 - 13 generation providers.
 - 14 c. Applicability of regulatory reliability criteria to nonutility market participants.
 - 15 d. Form and requirements of contracts for the sale and purchase of electric
 - 16 energy.
 - 17 e. Requirements for metering energy usage at the customer's location.
 - 18 f. Designation and regulation of ancillary services.
- 19 5. Identification and review of potential market structures, including:
 - 20 a. Possible market structures for a deregulated generation market and
 - 21 transmission market and whether these structures should be mandated or
 - 22 allowed to form voluntarily.
 - 23 b. Formation of market segments in response to customer requirements.
 - 24 c. Impact on the investment stability of the electric utility industry.
 - 25 d. Impact on multipurpose entities.
 - 26 e. Potential to improve economic efficiency.
 - 27 f. Size of the market and the extent to which its size impacts the level of
 - 28 benefits for customers or groups of customers.
 - 29 g. Ability of participants with control over the electricity generation and
 - 30 transmission system to exercise market power over pricing or the need for
 - 31 controls to prevent the exercise of market power.

- h. Controls or bans on corporate relationships between regulated utilities and emerging competitive sectors.
- i. Barriers to achieving nondiscriminatory competition among electric suppliers, including review of federal and state tax issues, availability of federal subsidies to certain energy suppliers, application of federal laws that impose regulatory requirements on the electric utility industry, and jurisdiction of the federal energy regulatory commission over competitors.
- j. Viability of all customers to participate in and benefit from a competitive electricity market, including:
 - (1) Risks and responsibilities that customers or classes of customers incur by participating in a competitive market.
 - (2) Costs of gathering, processing, and managing information on the price and quality of electricity.
 - (3) Benefits to customers or classes of customers from participation in a competitive electricity market.
6. Whether and to what extent power produced by the Garrison dam should be taxed by the state.
7. The source and cost of power supplied to the state's Indian reservations.
8. Other issues related to the generation, transmission, and distribution of electric energy.

SECTION 4. EXPIRATION DATE. This Act is effective through August 1, 2003, and after that date is ineffective.

SECTION 5. EMERGENCY. This Act is declared to be an emergency measure.