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Sixty-seventh
Legislative Assembly
of North Dakota

SENATE BILL NO. 2313

Introduced by

Senator Wardner

Representative Pollert

A BILL for an Act to create and enact a new chapter to title 49 of the North Dakota Century Code, relating to electric power reliability and price transparency; and to repeal chapter 17-01 of the North Dakota Century Code, relating to the 25x'25 initiative.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new chapter to title 49 of the North Dakota Century Code is created and enacted as follows:

Definitions.

As used in this chapter:

1. "Dispatchable energy" means a source of electricity generally available for use on demand, can be dispatched to increase electric generation upon request of a power grid operator or can have its power output adjusted according to market need. The term includes energy storage, hydroelectric energy, or electric generation from the utilization of coal, natural gas, biomass, or nuclear energy.
2. "Dispatchable energy reliability factor" means the average capacity factor of all dispatchable energy resources in the state during the five peak electric demand hours in a year as calculated by taking the nameplate capacity of the entire dispatchable fleet in the state and subtracting the forced outage rate of that fleet during the five peak electric demand hours in that year.
3. "Firming" means the act of constructing or acquiring through a power purchase agreement sufficient dispatchable electric generation to mitigate by half the reliability penalty imposed on the electric system by nondispatchable generation.
4. "Reliability penalty" means the difference between a nondispatchable energy facility's average capacity factor during the five peak electric demand hours in a year and the dispatchable energy reliability factor.

5. "Resilience" means the ability to withstand and reduce the magnitude or duration of events disruptive to electric supply, including the capability to anticipate, absorb, adapt to, or rapidly recover from such an event.

6. "Nondispatchable energy" means a source of electricity not generally available for use on demand, cannot be dispatched to increase electric generation upon request of a power grid operator, and cannot have its power output adjusted according to market need.

Reliability standard.

All electricity generated within the state must be dispatchable energy or demonstrate backup capacity through the use of firming.

1. To ensure compliance with this chapter, the commission shall:

   a. Adopt rules to require an entity responsible for the generation of nondispatchable energy to demonstrate to the commission by December 1, 2022, and on an annual basis thereafter, the entity has secured sufficient firming capacity to meet the reliability standard. An entity found to be noncompliant is ineligible for siting authorization under chapter 49-22 and may not receive grants, loans, or any other financial assistance from the state or any political subdivision of the state, including lignite research funds, oil and gas research funds, renewable research funds, or any funds derived from the legacy fund. The commission shall ensure the rules governing the demonstration required by this section require an entity to include the firming necessitated by the use of nondispatchable energy.

   b. Report and coordinate with the appropriate independent system and regional transmission operators the implementation of the rules adopted under this chapter, as necessary, to ensure local resilience of generation resources within the state and region.

   c. Advocate policies at independent system and regional transmission operator boards on which representatives from the state serve to ensure market rules and protocols are implemented at those organizations to accommodate implementation of this section.

d. Encourage research institutes, the transmission authority, and the state's research universities to partner with the energy industry on commercialization of wide-scale implementation of carbon capture utilization and storage technology.

2. The transmission authority shall collect publicly available information and request to receive plans by September 1, 2022, from all generation facilities connected to an independent system or regional transmission operator in excess of an aggregate of twenty-five megawatts, a range of forecasts covering the next five years as requested by the transmission authority.

3. The plans received under subsection 2 must be updated and received by the transmission authority every two years subsequent to the September 1, 2022, initial plan.

SECTION 2. REPEAL. Chapter 17-01 of the North Dakota Century Code is repealed.