



North Dakota Association of Rural Electric Cooperatives  
201 Nygren Drive NW • P.O. Box 727 • Mandan, ND 58554-0727



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Phone: 701.663.6501 or 800.234.0518  
Fax: 701.663.3745 [www.ndarec.com](http://www.ndarec.com)

February 3, 2021

To: Senate Industry, Business and Labor Committee – Senator Jerry Klein, chairman

RE: Opposition of SB 2295


From: Zac Smith, communications and government relations director, NDAREC

Chairman Klein and members of the Senate Industry, Business and Labor committee, my name is Zac Smith, and I am testifying on behalf of the North Dakota Association of Rural Electric Cooperatives in opposition to SB 2295. We oppose this bill for two primary reasons. The first is philosophical and the second is economic.

The philosophical reason is that we believe that local, democratically elected co-op boards of directors are better equipped than the Public Service Commission (PSC) to make decisions on electrical rate issues, such as net metering. While our electric co-ops are subject to some limited PSC jurisdiction to settle territorial complaints and approve siting of high voltage transmission lines, for example, co-op boards have always had the right and responsibility to set rates and terms of service for their customers. See NDCC 49-02-01.1. The reason for this is simple. Our customers are the owners of our cooperatives. These member-owners democratically elect directors to manage their cooperative. In fact, our 16-member distribution cooperatives together elect a total of 136 directors, almost as many legislators who serve in this Legislative Assembly. These directors, who are themselves electric co-op customers, understand the needs and wishes of the cooperative membership. If they don't, like legislators, they don't get re-elected.

Since our cooperatives operate on a not-for-profit basis, electric rates are set just to cover costs and provide a small margin for operating capital. These margins are later returned to members as the financial condition of the cooperative permits. Not only are co-op boards close to the membership, but they are knowledgeable about ratemaking principles. If the board or membership thinks it is a good idea to provide net metering, members can influence the

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management of the cooperative at a local level. Senate Bill 2295, however, seemingly would put the ratemaking, specifically as it relates to net metering, under the jurisdiction of the Public Service Commission. Rather than allowing the local board to tailor policy to the needs of their specific cooperative, SB 2295 would throw 16 North Dakota electric distribution cooperatives under the ratemaking authority of the Public Service Commission. A commission which, up to this point, has never played any role in designing the rates of any one of these cooperatives.

In fact, many of our member cooperatives already have policies related to net metering. After my testimony, you will hear Paul Matthys, Vice President of Member & Energy Services for Cass County Electric Cooperative, provide testimony about what his electric cooperative is doing to address net metering without a state mandate. Our cooperatives developed policies, not only because of customer requests for net metering, but because of amendments to the Public Utility Regulatory Policy Act (PURPA), passed as part of the Energy Policy Act of 2005, which required state public utility commissions and large non-jurisdictional cooperatives, to consider whether net metering would advance certain goals of PURPA. These goals include: 1) conservation of energy supplied by utilities, 2) optimal efficiency of electric utility facilities, and 3) equitable rates for electric consumers. The point I want to make is simply this: each local co-op board is in the best position to determine what is efficient, fair and equitable for all of its members. SB 2295 seeks to have the Legislature determine just what may be financially advantageous to a select group of members; specifically, those members who have the financial ability to install large distributed generation units that will likely far exceed their own energy requirements.

That brings me to the second reason we oppose SB 2295, which is economics. What this bill proposes to do is establish an obligation for utilities to pay for excess distributed generation, such as solar or wind energy. This is being requested without regard to whether or not this makes any economic sense in a given situation. Electricity is used at the same time it is generated. Net metering assumes electricity can be stored and used later, but without battery storage, this is not true. Basically, the bill encourages the development of alternate energy resources that could potentially supply a large amount of energy our electric cooperatives may

not need, dump it into the electrical grid when it may not be needed, and compensate for that energy at prices well above market rates. The wholesale market produces hour-by-hour prices that provide generators, renewable and non-renewable alike, and consumers with important price signals that reflect real-time values. Energy produced and compensated through net metering, by contrast, is compensated on a basis that lacks foundation in either market or cost. Whatever compensation the Public Service Commission would set via SB 2295 would be out of market because it is a flat price, regardless of when it is produced or, for that matter, fails to reflect that the sources listed in SB 2295 may produce absolutely nothing many hours of the day. Thus, not only are net metering customers not paying their fair share of fixed costs, they are, by the operation of net metering, actually taking revenues away from the entity that provides the service. This sets up a situation where most electric customers would pay more for electricity, so a few favored customers could receive an unjustified benefit. Net metering customers have their electricity costs cross-subsidized by their neighbors who completely rely on the grid. Such a result is socially regressive, as it effectively transfers wealth from the less affluent cooperative member to the more affluent cooperative member who can afford to install their own generation.

I should point out that SB 2295 would have its greatest impact on electric cooperatives, as we serve most of the rural geography of the state, where larger distributed wind, solar, and other types of generation units allowed by SB 2295 would likely be located and where the distribution infrastructure is further spread out. Mandated net metering, which does not value the distribution system and infrastructure used to deliver power, further undervalues and underfunds the distribution system of a cooperative that must travel further and greater distances between meters.

In conclusion, it is our belief that our co-op boards of directors, which are charged by law with the responsibility to manage the business and financial affairs of their co-ops, should continue to be responsible for establishing policies that are fair and serve the best interests of their members. We believe that an individual co-op board, in its discretion, may choose to allow net metering under certain terms and conditions, or choose not to allow net metering.

That decision, like all other rate and service decisions, should be left to the elected board members of each co-op to determine based on local conditions, needs and the laws of economics.

NDAREC and its members urge a DO NOT PASS on SB 2295. That concludes my testimony. I would be happy to try to answer any questions you may have.