

House Bill 1315

Presented by: Julie Fedorchak, Commissioner
Public Service Commission

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

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TESTIMONY

Mister Chairman and committee members, I am Julie Fedorchak, Commissioner on the Public Service Commission, and I'm here to testify in opposition to HB 1315.

First, some background on my experience with siting and grid reliability. I've been serving on the PSC for 10 years and won my third statewide election for another 6-year term in November. I have managed the Commission's siting portfolio during my entire tenure.

Additionally, I am Vice President of the National Association of Utility Regulatory Commissioners (NARUC) and will become president of this, our national industry group, in November. For the last 6 years I have been the Commission's, and therefore North Dakota's, main liaison to the Midcontinent Independent System Operator, otherwise known as MISO. This is the regional transmission organization to which all of our state's investor owned utilities -- Xcel Energy, Otter Tail Power and MDU -- belong. State regulators from the 15 MISO states have our own independent group for engaging with MISO called the Organization of MISO states. I am past president of that group and served on the

executive committee for five years. For the last two years, I have been the lead regulator for OMS covering the markets and reliability workgroups. I sought this role in order to have the largest possible impact on policies to improve grid reliability. I hope this background underscores my passion for the issues of reliability and my involvement nearly every day in work being done to address it.

I appreciate the legislature's concerns about the reliability of our electric system and I share these concerns. The pace of thermal generation retirements in the MISO region is significantly faster than the availability of replacement resources capable of serving the same need. This is a threat to our regional grid.

I spend at least half of my time if not more advocating through various MISO processes for meaningful market changes to properly compensate capacity resources like our coal fired power plants that ensure reliability. They are threatened by many forces, but economics is a crippling one. The market must appropriately reward these vital units for their reliability contributions to the grid. Make no mistake about it, that is the real solution. I would welcome an opportunity to talk to you about measures underway right now in MISO to protect the reliability of the Bulk Power System. And I urge you to support the Commission's budget request to help us better engage with these RTOs.

I also share your concerns about challenges facing our state's lignite industry and the need to secure their position in our nation's power generation fleet longterm.

And I acknowledge the undeniable issues North Dakota has with congestion on our transmission grid.

So if I care about reliability, congestion and the future of our state's lignite industry, why do I oppose this bill? Because this bill doesn't address those things and it stands to add confusion and chaos to our siting process.

I have three concerns with this bill. First, as I mentioned I have a lot of experience with our state's siting law. I've also seen how other states approach siting. Experience tells me that North Dakota's fair, open and predictable process is a model for the nation. We need to be very careful not to add broad language that can be used to confuse or complicate the permitting of energy infrastructure that will pave the way for legal challenges.

This bill opens the door for people to use the siting process as a tool to regulate grid reliability. Many testified to this very thing today. This is exactly the kind of confusion we should NOT add to the siting law. There is no end to the worthwhile causes that could be considered in siting. We could use siting as a tool to mitigate global warming, regional impacts on air quality, or to refuse electricity from carbon emitting generation. All of these have been suggestions in the past. These exercises add uncertainty and create more avenues for siting to become a tool for activists on any side of an issue to stop projects.

Grid reliability is a shared responsibility between utilities, state regulators and MISO and it is a major focus of all three of these entities. The North Dakota siting law, on the other hand, establishes a process to examine the location or route of proposed energy infrastructure and to mitigate impacts to environmental and cultural resources and the people living near that infrastructure. I urge this legislative body to resist measures to use siting to accomplish goals beyond that.

Some have suggested this bill is an answer to congestion on our electric grid. When roads get too crowded we add more lanes rather than shut down development. Transmission lines are the roads for electricity. To the extent that this bill will prevent new generation from being developed it will control congestion. It will prevent additional traffic on the busy roads. It will also decrease energy production, decrease investment in areas of the state that want it, and decrease North Dakota's growth as an electricity exporter.

This bill could also make congestion worse. MISO is working to "widen the roads" so to speak. They are in the throes of modeling where future generation resources are likely to be developed so they can decide where to build the next wave of transmission lines. This bill will send a signal to MISO that North Dakota is leary of permitting new generation, therefore, building additional transmission infrastructure to alleviate existing congestion or to serve future new North Dakota generation would not be a wise investment. Rest assured, the messages this legislature sends about North Dakota's appetite for new electric generation will be heard loud and clear and factored into MISO's long range transmission plans. And this impacts the future of all North Dakota generation – wind, natural gas, coal and any new technologies on the horizon.

Finally, evaluating the impact of any new generation facility on the reliability and resilience of the grid is the purpose of the generation interconnection process run by regional transmission operators. Prior to connecting to the grid, new generation projects must have a signed Generation Interconnection Agreement, called a GIA. In MISO, that process involves three phases of study whereby the

impacts of new resources are evaluated while maintaining the rights of existing network resources like Coyote Station. Any upgrades needed to maintain system reliability and protect the rights of existing network resources are charged to the new generator and included in the GIA.

This bill requires the Commission to determine what is “sufficient evidence establishing the impact [of a new generation project] on the reliability, integrity or resilience of the *existing electric supply* and distribution system.” In evaluating this what would the commission consider that the grid operators aren’t already looking at in their multi-year studies? Are we suppose to evaluate the potential economic impact the new resource could have on existing resources and how that might play into future retirement decisions? Are we expected to model future curtailments of resources based on different capacity factors, weather patterns and real time energy prices? Are we to estimate the cost impact of that on existing generators and project how that impacts their longevity? How far are we suppose to go in the siting process to find “sufficient evidence” about the potential impacts of one project on another and then relate that to grid reliability? These complicated studies could take months if not years to complete. This legislative body has directed the agency to make a permitting decision within six months.

We have four-people in our public utilities division and they are tasked with regulating six multi-state natural gas and electric monopoly utilities, two Regional Transmission Organizations and permitting billions of dollars of

investments in energy infrastructure. We do not have the capacity on staff to do this additional work.

However, as I said a minute ago, the multi-state Regional Transmission Organizations already appropriately have teams of electrical engineers who evaluate generation interconnections every day. Perhaps the the legislature wants to address this issue by requiring companies to have a signed GIA prior to coming to us for a permit. That could be a workable compromise.

North Dakota's legal and regulatory framework for energy development has been a strength for our state for many decades and has helped support the responsible development of hundreds of billions of dollars in investment and economic impact. The energy infrastructure siting act has been an integral part of this. It is a thorough, fair, open process that is relatively predictable and encourages investment in North Dakota while minimizing impacts to people and the environment.

I urge you to reject this measure. It is well intentioned but misplaced. We have incredible opportunities to grow our power generating resources, both renewable and fossil fuels with carbon capture and storage, bio fuels, hydrogen and other new technologies. Our nation is hungry for our power. Now more than ever we should follow the example of Rainbow Energy and work together to leverage all of our resources to advance North Dakota's energy industry and help fulfill our nation's energy needs.

Mister Chairman, this concludes our testimony. I will be happy to answer any questions.