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House Bill 1353 Testimony in Support, as amended

House Energy and Natural Resources Committee, Representative Porter, Chair

January 27, 2023

Chairman Porter, members of the committee, I am Carlee McLeod, president of the Utility Shareholders of North Dakota, here on behalf of USND utility members, including ALLETE, Montana-Dakota Utilities, Otter Tail Power, and Xcel Energy. We ask you to support HB 1353 with the attached amendments.

The intention behind this bill is good, and I commend the sponsor for bringing it to the attention of the legislative assembly. The utility industry provides critical infrastructure, and as such, there are nefarious people who seek to create chaos by attacking that infrastructure. For example, last session this committee assisted in implementing a reporting requirement for cybersecurity preparedness to ensure the PSC was aware of cyber threats and utility plans to thwart attacks. This bill is specific to the threat of electromagnetic pulse, a real threat against which utilities have created plans to harden infrastructure. This proposed study would seek information utilities cannot disclose publicly while maintaining the strength of their protective measures. However, we understand the need for a regulatory body with oversight over public utilities to be aware of emerging threats and utility plans to protect against them.

This amendment addresses the concern of the original bill while protecting sensitive information. By widening the reporting requirement from cyber threats to all emerging threats, utilities and the PSC can discuss threats and protective measures confidentially. We ask the committee to adopt the amendment and support passage of the amended bill.

Thank you.

PROPOSED AMENDMENTS TO HOUSE BILL NO 1353

Page 1, line 1, after "A BILL" replace remainder of the bill with "for an Act to amended and reenact Section 49-05-17 of the North Dakota Century Code, relating to resource planning.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 49-05-17 is amended and reenacted as follows:

49-05-17. Resource planning.

1. An integrated resource plan must include:

a. The electric public utility's forecast of demand for electric generation supply over the planning period with recommended plans for meeting the forecasted demand plus an additional planning reserve margin for ensuring adequate and sufficient reliability of service; and

b. Any additional information the commission requests related to how an electric public utility intends to provide sufficient electric generation service for use by retail customers within the state over the planning period.

2. An electric public utility shall include a least cost plan for providing adequate and reliable service to retail customers which is consistent with the provisions of this title and the rules and orders adopted and issued by the commission.

3. The commission may consider the qualitative benefits and provide value to a base-load generation and load-following generation resource and its proximity to load.

4. The commission may contract or consult with an expert to evaluate qualitative benefits of resources and to review reliability planning. The commission may require an electric public utility to pay a fee necessary for completion of an evaluation in an amount not to exceed two hundred fifty thousand dollars.

a. If additional funds are necessary for completion of the evaluation, upon approval of the emergency commission, the electric public utility shall pay the additional fees reasonably necessary for the completion.

b. If the evaluation applies to more than one electric public utility, the commission may assess each electric public utility the proportionate share of the fee.

5. An electric public utility shall report annually to the commission on ~~cybersecurity preparedness, including an assessment of~~ emerging threats and efforts taken by the electric public utility to implement ~~cybersecurity~~ security measures. The commission ~~may~~ shall limit access to records and portions of a meeting relating to ~~cybersecurity~~ security preparedness.

