Testimony of Mark Bring
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Chairman Patten and members of the Committee, my name is Mark Bring and I serve as Director of Public Policy and Government Affairs for Otter Tail Power Company. I have been licensed as an attorney in North Dakota since 1992 and have been employed continuously in the electric industry since 1997.

During this time frame, I have continually been amazed and gratified by North Dakota's ability to attract capital investment with a favorable tax, regulatory, and business environment. Because the amendments to House Bill 1315 offered by Rep. Novak today counter this ability, I respectfully submit this testimony regarding our company's opposition to the amendments.

By way of background, Otter Tail Power Company is headquartered in Fergus Falls, Minnesota, and provides electricity to more than 133,000 customers spanning 70,000 square miles in western Minnesota, eastern North Dakota, and northeastern South Dakota. We own a diverse mix of electric generation resources fueled by subbituminous and lignite coal, oil, natural gas, wind, and soon, solar. Our coal generation includes a 53.9% ownership interest in the 500-megawatt subbituminous coal-fired Big Stone Plant near Big Stone City, South Dakota and a 35% ownership interest in the 427-megawatt lignite coal-fired Coyote Station near Beulah, North Dakota, both of which are co-owned with neighboring electric utilities but are operated by our company. Our oil-fired peaking generation facilities are located at Jamestown, North Dakota, and Lake Preston, South Dakota. Our wind generation assets are near Langdon, Ashtabula, Luverne, and Merricourt in North Dakota's Cavalier, Barnes, Griggs and Steele, and McIntosh and Dickey Counties, respectively. The 150-megawatt Merricourt Wind Energy Center in southeastern North Dakota, with a total cost of

approximately $260 million, is the largest singular investment our company has ever made. Finally, our most recently completed electric generation asset is a 245-megawatt natural gas-fired peaking generation unit near Astoria, South Dakota, which was placed into commercial operation in February 2021, with a total cost of approximately $160 million. Astoria Station obtains natural gas from the Northern Border Pipeline, which includes natural gas from North Dakota's Williston Basin and synthetic natural gas from Dakota Gasification Company's Great Plains Synfuels Plant near Beulah. Finally, we began construction on Hoot Lake Solar, a 49-megawatt solar farm near Fergus Falls, Minnesota, in May of 2022 and expect the solar farm to be fully operational by midyear 2023. Our company has invested hundreds of millions of dollars in North Dakota and it is here that we served our very first customer in Wahpeton in 1909. We could not be more grateful for our long-term relationship with North Dakota and for the state's hospitable business climate.

To be clear, our company was not opposed to the engrossed version of House Bill 1315 that passed the House 90-4. However, we are opposed to the amendments offered by Rep. Novak today. That said we appreciate Rep. Novak's willingness to have a dialogue on the legislation, and recognize it is well-intended and seeks to address concerns shared by constituents in her legislative district.

However, we believe these are issues to be addressed as a part of a broader regional discussion within the decision-making framework of the regional transmission organizations (i.e., the Southwest Power Pool, or SPP, and the Midcontinent Independent System Operator, or MISO), rather than in North Dakota's siting act. North Dakota is very well-served in those venues by Public Service Commission Chairman Randy Christmann on SPP's regional state committee, or RSC, and Commissioner Julie Fedorchak on MISO's Organization of MISO States, or OMS. Moreover, we have concerns about unintended consequences and practical application of the legislation. We respectfully submit these amendments are not the correct approach to Rep. Novak's concerns.

At page 2, lines 9-11 of the Christmas tree version of the proposed amendments to engrossed House Bill 1315, "transmission congestion" as a form of economic impact would be added to the list of considerations that the Public Service Commission must be guided by, pursuant to N.D. Century Code section 49-22-09, in evaluating and designating new electric energy conversion facility sites (i.e., power plants) and electric transmission corridors and routes (i.e., for high-voltage power lines) in siting applications submitted to the Commission. In addition, at page 2, lines 18-19 of the Christmas tree version, entities providing retail electric service would be able to identify problems for Public Service Commission consideration in siting act application dockets.

More substantively, at page 2, lines 23-26 of the Christmas tree version, the Public Service Commission would be authorized to "condition the issuance of a certificate or permit for a new electric energy conversion facility on having a power purchase agreement with an entity that directly, or through its members, provides retail electric service."

Rep. Novak's concerns appear to have their genesis in the proposed Badger Wind project in Logan and McIntosh Counties of North Dakota. The proposed approximately 250-megawatt, $390 million wind farm project, which is sponsored by an affiliate of Ørsted (a large Danish corporation listed on the Nasdaq Copenhagen), received a certificate of site compatibility by a 2-1 vote of the Public Service Commission on November 30, 2022, in Case No. PU-22-86. Badger Wind does not appear to have a power purchase agreement for the energy output to be generated by the proposed facility. Whether or not the facility is ever constructed remains to be seen.

In any event, our company does not think it wise to create obstacles or create uncertainty about capital investment in the state. That is precisely what Rep. Novak's amendments would do.

First, by adding "transmission congestion" as a form of economic impact by which the Public Service Commission must be guided, the legislation would allow the Commission to weigh topics that heretofore have been the province of regional transmission organizations. With all due respect, the technical issues associated with the impact of a new generation or transmission asset to the existing electric grid is not a subject matter for which the Public Service Commission and its staff has robust expertise. This would likely contribute to a need to engage a costly consultant. In addition, enabling entities providing retail electric service to identify problems for Public Service Commission consideration in siting act application dockets could result in warring between North Dakota's electric utilities on the alleged impacts of proposed large energy facilities, whether they be generation or transmission. This counterproductive approach is fraught with regulatory uncertainty and potential delay and, therefore, is harmful to new electric energy-related development.

MISO already has a process and technical requirements for interconnecting new electric generation to the grid and the interconnecting entity's obligations associated with doing so, including identifying the transmission network upgrades necessary to interconnect new generation and ensuring the upgrade costs are correctly allocated. In the case of Badger Wind, it appears that MISO has evaluated the impact of the proposed project on the grid and has assigned the project $18 million in transmission upgrades to interconnect the proposed generation. Requiring burdensome and duplicative considerations in the North Dakota siting act, which was designed to minimize adverse human and environmental impact, could lead to delay and uncertainty, neither of which is helpful for capital-intensive projects.

Moreover, authorizing the Public Service Commission to condition issuance of a certificate for a new electric energy conversion facility on having a power purchase agreement, or PPA, could limit the range of options available to a

project proponent. Electric generation unit developers/owners have a range of options available to them. First, the electric generation output of an electric generation unit, regardless of its fuel source, can be sold into the regional transmission organization on a merchant basis, whereby the revenue for energy is derived by the developer/owner. Secondly, generation unit developers/owners can develop and construct electric generation and then sell the assets (or their stock interest) on a turnkey basis to a load serving entity like our company, thereby earning a return on the asset or stock sale. Finally, generation unit developers/owners can develop and construct electric generation and sell the energy output under a PPA to a load serving entity like our company. Limiting this range of options inhibits capital deployment and could strand capital that has already been invested. Both phenomena are anathema to a favorable regulatory and business climate.

Incidentally, MISO also has processes and technical considerations associated with the retirement of existing electric generation assets, which appears to be a longer-term concern of Rep. Novak. These processes and technical considerations, along with important market signals and reforms, are continually undergoing evaluation and revision in a way that is designed to ensure the reliability, integrity, and resilience of the electric grid. Chairman Christmann and Commissioner Fedorchak are playing a key role in this dialogue at SPP and MISO, respectively.

For the foregoing reasons, we urge you to oppose Rep. Novak's proposed amendments to HB 1315 and to recommend a DO PASS on the engrossed version of HB 1315.