Power Companies OF NORTH DAKOTA

Chairmen Klein and Ruby and members of the Special Ad Hoc Policy Committee,

The Power Companies of North Dakota ("PCND") urges a "Do Not Pass" recommendation on SB 2406.

PCND is a coalition of the state's leading shareholder-owned gas and electric utilities. Our members include MDU Resources Group, Xcel Energy, Otter Tail Power Company, and ALLETE. Together, PCND members serve over 427,000 North Dakota customers, employ over 1,200 North Dakotans, and manage significant power generation and transmission infrastructure across our state.

PCND supports transparency and North Dakota's strong open-records laws. Our concern with SB 2406 is the breadth of its definition of a "nondisclosure agreement."

The bill is not limited to traditional NDAs. It applies to any contractual term that has the "purpose or effect" of restricting disclosure or designating information as confidential. The definition specifically includes information concerning energy demand, utility interconnection, siting, construction, and expansion.

PCND members routinely work with state agencies and local governments on projects involving sensitive infrastructure, interconnection, rate, and other information. Existing law protects some of that information from public disclosure. Contractual confidentiality protections provide additional certainty before sensitive information is exchanged by allowing the parties to agree in advance on how that information will be treated.

SB 2406 leaves North Dakota's existing public-records exemptions in place. But it separately prohibits many contractual confidentiality protections. As a result, utilities may have to rely solely on whether particular information qualifies for protection under existing law, without the additional certainty of a confidentiality agreement.

PCND is concerned this uncertainty could make utilities less willing to share sensitive information with governmental entities and unnecessarily complicate the exchange of information needed to evaluate and develop projects.

For these reasons, PCND respectfully urges a "Do Not Pass" recommendation on SB 2406.

Thank you, Chairmen Klein and Ruby and members of the committee.