

Senate Bill 2404

Presented by: **Randy Christmann, Chair**
Public Service Commission

Before: **Joint Appropriations**
Senator Brad Bekkedahl, Chairman
Representative Don Vigesaa, Chairman

Date: **January 21, 2026**

TESTIMONY

Mr. Chair and members of the committee, I'm Commissioner Randy Christmann, Chair of the Public Service Commission, and I am here in support of Senate Bill 2404.

The Commission continues to increase engagement on rulemaking and litigation with federal agencies to ensure reliable, safe, secure, and low-cost energy for consumers. We need to ensure the agency has adequate resources to review and identify the critical issues negatively impacting North Dakota and actively engage in protecting North Dakota from federal agency overreach. This requires early and aggressive intervention, comments, and sometimes litigation under extremely short time constraints. State Utility Commissions have a special standing during Federal Energy Regulatory Commission (FERC) proceedings.

It is essential the Commission intervene on federal litigation to ensure North Dakota's interests and voices are heard in the discussions on energy generation mix, resource planning and pricing, and grid reliability.

The impact of the regional transmission organizations (RTO's) that operate in North Dakota (Southwest Power Pool (SPP) and Midcontinent Independent System Operator (MISO)) have grown dramatically over the course of the last couple decades. Our transmission utilities have no good alternative but to join in one or the other, and in doing so they turn over operational control of their own transmission systems.

With that control, the RTO's make many of the decisions regarding buildout of electric transmission lines, many of which are built to interconnect remote renewable generation projects. It is the RTO's that decide how the costs for these projects will be allocated.

Right now, well in excess of \$100 billion of transmission lines are being planned for the next few years, and much of it is being built to meet renewable energy goals of other states or individual utilities. The problem is that the RTO's can assign a share of those costs to ND utilities, at which point the PSC has no choice but to allow the utility to recover those costs from ND consumers.

The ND PSC has filed a complaint case against MISO with the FERC over MISO's transmission buildout called Tranche 2.1. Tranche 2.1 will cost in excess of \$20 billion. (Tranche 1 was > \$10 billion. At least 3 more tranches will be developed.) In order to make a convincing legal case, we need to work with consultants and legal contractors with subject matter expertise.

The costs for this intervention are mounting much faster than anticipated. It takes a legal firm who specializes in this type of FERC litigation to do so effectively. Those firms are hard to find and are costly, as are their advising consultants. This

case has already used up the PSC's entire intervention funding for this biennium, and it has not yet even had a hearing which the FERC may or may not require.

FERC could render a decision on our case any day, or their decision could remain pending for a long time. Another possibility is that they may schedule an oral hearing. If they schedule a hearing, we need to ramp up preparation with the legal team we have retained in a hurry. If FERC renders a decision without a hearing, it is reasonable to be prepared for an appeal, regardless of which side prevails. The first step in the appeal process of a FERC decision is a request for rehearing before FERC, and that must take place within 30 days. Obviously, whenever an initial decision is released there will be a lot of expensive action in a very short time frame, and North Dakota's case will be disadvantaged if we are spending some of those days working through the Emergency Commission process.

Looking to the specific language of the bill, I feel the need to highlight a small technical error on line 20 of the first page. I believe that should read June 30, 2027, not 2025 as it currently reads.

The funding and authority provided to the PSC in this bill provides the resources we anticipate needing to continue pursuing the best interests of our North Dakota consumers. I appreciate your support in this endeavor and will stand for any questions you may have.