

NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

ELECTRIC UTILITIES COMMITTEE

Tuesday, January 5, 1999
Brynhild Haugland Room, State Capitol
Bismarck, North Dakota

Representative Al Carlson, Chairman, called the meeting to order at 4:00 p.m.

Members present: Representatives Al Carlson, Robert Huether, Matthew M. Klein; Senators Randel Christmann, Pete Naaden, Larry J. Robinson

Others present: See Appendix A

It was moved by Representative Huether, seconded by Senator Robinson, and carried that the minutes of the September 23, 1998, meeting be approved as distributed.

At the request of Chairman Carlson, Mr. John Walstad, Code Revisor, Legislative Council, presented a bill draft relating to the taxation of transmission lines in lieu of ad valorem taxes. He said the term "carrying capacity" on lines 17, 19, 21, 23, 25, and 27 on page 2 of the bill draft should be changed to alternating current voltage or direct current voltage.

Chairman Carlson recognized Representative Klein. Representative Klein said the current transmission line tax is \$225 per mile and has not been revised for a number of years. He said the bill draft is an attempt to tax transmission lines based on capacity as well as mileage and also an attempt to bring the tax up to date in light of inflation since the tax was first enacted.

In response to a question from Senator Naaden, Mr. Walstad said the transmission line tax is in lieu of a property tax and the revenue generated by the tax is allocated to each county in which the transmission lines are located.

At the request of Chairman Carlson, Ms. Marcy Dickerson, Utility Tax Appraiser, State Tax Department, addressed the committee. She distributed a memorandum dated January 5, 1999, discussing the transmission tax bill draft and a memorandum dated April 7, 1998, concerning the taxation of transmission lines. Copies of the memorandums are attached as Appendices B and C, respectively. She said the current transmission line tax of \$225 per mile generates \$410,571 while if a tax at the proposed rates in the bill draft under discussion by the committee were enacted it would result in a tax of \$2,161,075 or an increase of \$1,755,504.

At the request of Chairman Carlson, Mr. Harlan Fuglesten, Communications and Government Relations Director, North Dakota Association of Rural Electric Cooperatives, Mandan, addressed the

committee. He said the transmission line tax was originally enacted in 1965 and the tax rate at that time was \$125. He said the tax was increased to \$225 per mile in 1977. He said the proposal is a substantial tax increase and in some cases an increase of more than 1,300 percent. Also, he said, it is a tax only on the state's rural electric cooperatives and does not affect the state's investor-owned utilities. He said the Association of Rural Electric Cooperatives is disappointed in the proposal in that it does nothing to move toward tax uniformity or toward creation of a fair and equitable tax system. He emphasized that the state's rural electric cooperatives pay 50 percent more than the state's investor-owned utilities in property and property replacement taxes, including transmission line taxes. He reminded the committee that the state's generation and transmission cooperatives pay a gross receipts tax which is in lieu of a property tax on transmission lines. For example, he said, Minnesota Power pays approximately \$400,000 per year in gross receipt taxes which is a property-related tax on its transmission facilities. He said this tax is in addition to the transmission line mile tax. He said the bill draft under consideration by the committee does nothing to address the "pancaking effect" which results from generation and transmission facilities paying a two percent gross receipts tax on their electricity which is taxed again at the distribution level. Until this "pancaking effect" is addressed, he said, there will be a disparity between the tax rates applicable to the state's rural electric cooperatives and the state's investor-owned utilities. Also, he said, the proposal only makes the disparity in taxes paid by investor-owned utilities and rural electric cooperatives worse. Finally, he said, the rural electric cooperatives are concerned with a tax increase of this magnitude on electricity that is exported from North Dakota. He said the proposed transmission line tax will have a detrimental impact on the state's power plants and electricity production in the state.

In response to a question from Representative Carlson, Mr. Fuglesten agreed that the cost-of-living index has increased since the line mile tax was first enacted in 1965. However, he said, he doubted that the value of electricity transported by the transmission lines has increased, and he said the value of the

transmission lines themselves may have actually decreased due to depreciation.

Representative Klein requested that the Legislative Council staff redraft the bill draft to insert a capacity range rather than a specific kilovoltage for each type of transmission line.

Chairman Carlson announced that the next meeting of the Electric Utilities Committee would be Thursday, January 14, 1999, at 4:00 p.m. in the Brynhild Haugland Room. He said any interested parties could contact the Legislative Council office for a copy of the revised bill draft.

No further business appearing, Chairman Carlson adjourned the meeting at 4:50 p.m.

Jeffrey N. Nelson
Counsel

ATTACH:3