

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION  
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2410

2001 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2410

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2410

Senate Industry, Business and Labor Committee

Conference Committee

Hearing Date February 13, 2001.

Tape Number	Side A	Side B	Meter #
1	x		44.2 to end
1		x	0 to end
2	x		0 to 34.4
( Feb 20/01) 1	x		15.6 to 26.2

Committee Clerk Signature *Don E. Perez*

Minutes:

The meeting was called to order. All committee members, except Senator Mutch, present.

Hearing was opened on SB 2410 relating to jurisdiction of the public service commission over certain rural electric cooperatives and telecommunications companies.

SENATOR BEN TOLLEFSON: Cosponsor. Written testimony attached, including proposed amendment. We are asking for a return to common regulation in the interest of the consumer.

SENATOR D. MATHERN: Self governance would be affected, people would have to wait for PSC to decide. Now in rural areas they go to the directors.

REP. LARRY BELLEW, District 38, in favor. Placing RECs under PSC is consumer advocacy.

ART EKBLAD, past pres. Minot Chamber of Commerce, in favor.

BOB GRAVELINE, Utility Shareholders of ND, in support. Written testimony attached.

SENATOR DAVID O'CONNEL, District 6, in opposition. Written testimony attached.

DWIGHT WRANGHAM, District 8, in opposition. Written testimony attached.

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Senate Industry, Business and Labor Committee

Bill/Resolution Number SB 2410

Hearing Date February 13, 2001.

MICK GROSZ, Gral Mgr. West River Telecommunications Coop. Urge do not pass. Written testimony attached.

JAY JACOBSON, Gral Mgr. Dakota Valley Electric Coop, in opposition. Written testimony attached.

DAVE DUNNING, Gral Mgr. Polar Communications, opposing this bill as unnecessary. Rural coops offer superior customer service, community involvement, accessibility, jobs to rural areas, low rates, and capital distribution to subscribers.

GEORGE BERG, CEO Nodak Electric Coop., in opposition. Written testimony attached.

DAVID CROTHERS, ND Assn. of Telephone Coops, strongly opposes the bill. Written testimony attached.

RONALD HANSON, former legislator. In opposition. We don't need more regulations. We have a regulatory board: the board of directors. We did the coops ourselves, we regulate them ourselves.

SENATOR RANDEL CHRISTMANN, District 33, in opposition. There are dozens and dozens of coop directors representing the consumers, I don't see a need for further regulation.

Hearing closed.

February 20, 2001. Tape 1- A- 15.6 to 26.2

Committee reconvened. All members present. Discussion held.

SENATOR TOLLEFSON: Motion: adopt amendments. SENATOR KREBSBACH: Second.

Roll call votes: 4 yes; 3 no. Motion carried.

SENATOR KREBSBACH: Motion: do pass as amended. SENATOR TOLLEFSON: Second

Roll call vote: 3 yes; 4 no. Motion failed.

SENATOR EVERY: Motion: do not pass . SENATOR D. MATHERN: Second.

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Senate Industry, Business and Labor Committee

Bill/Resolution Number SB 2410

Hearing Date February 13, 2001.

Roll call vote: 4 yes; 3 no. Motion carried. Floor assignment SENATOR D. MATHERN

**FISCAL NOTE**  
 Requested by Legislative Council  
 01/30/2001

Bill/Resolution No.: SB 2410

Amendment to:

**1A. State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>	\$0	\$0	\$0	\$10,000	\$0	\$10,000
<b>Expenditures</b>	\$0	\$0	\$296,300	\$10,000	\$160,000	\$10,000
<b>Appropriations</b>	\$0	\$0	\$296,300	\$10,000	\$160,000	\$10,000

**1B. County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

**2. Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

The fiscal impact identified in this fiscal note is based on the Public Service Commission's understanding that the sponsor of the bill will request amendments to clarify that the intent of the bill is to bring telephone cooperatives and independent telephone companies with 2500 or more subscribers, and electric cooperatives with 2500 or more members served, under Commission jurisdiction. All information in this fiscal note is based on that assumption.

This bill causes fiscal impact by bringing additional utility companies under Public Service Commission jurisdiction. The Commission's new responsibility would be to ensure just, reasonable and nondiscriminatory rates for local telephone service from cooperative and small companies with 2500 or more subscribers, as well as for electric service from electric cooperatives with 2500 or more members served.

**3. State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

**A. Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

The only General Fund revenues expected from this bill are tariff filing fees, at \$50 per filing. The total amount expected is less than \$5000 and so is insufficient for indication on the fiscal note. The Other Fund revenue noted above is Valuation Fund revenue. The Valuation Fund can be used for expenses in electric rate increase applications and telephone cases. When expended, Valuation Fund amounts are billed back to each company involved in the proceeding. Consequently, any Valuation Fund expenditure has a

corresponding Valuation Fund revenue impact. As discussed below, we estimate that an increase in the Valuation Fund appropriation will be necessary, with a corresponding increase in expenditures, for the costs associated with notice publications and hearings on certain cases. Once expended, these amounts will be billed back to the companies involved, resulting in the expected revenue impact noted above.

**B. Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

**The Commission estimates the need for an additional one and one-half FTEs and associated expenses on a going forward basis to implement this bill, plus one additional FTE and associated expenses in the first biennium of implementation. The Commission also estimates some additional Valuation Fund and operating expenditures for notice publications and hearings.**

This bill would bring many new companies under Public Service Commission regulation. The bill would bring 11 of 17 electric cooperatives under regulation for the first time, and 14 of 19 cooperative and small independent telephone companies under additional regulation over and above that to which they are currently subject. Under the bill, the Commission would be responsible for local rate regulation of 17 telecommunications companies rather than the current three, and for rate regulation for 14 electric companies rather than the current three.

The current forms of regulation for telephone and electric companies are different, requiring different types of implementation. Consequently, implementation of the different components of the bill will have different fiscal impacts on the agency. In addition, the type of implementation, and the legislative intent, will affect the fiscal impact.

Electric cooperatives would be subject to traditional rate of return regulation, including rate setting, cost of service studies, rate design, tariff filing requirements, tariff suspension, analysis of terms and conditions in tariff provisions, disconnects, bill payments, deposits, allowable expenses, accounting methods, meter accuracy, meter disputes, cogeneration, fuel adjustments, reliability and resource planning, etc. The Commission would be responsible for handling consumer inquiries and complaints on these matters as well. Telephone companies affected by this bill would be subject to local rate regulation, either by rate of return regulation or price cap. In addition to rate regulation, the companies would be subject to regulation which includes the terms and conditions of service, discrimination and service quality. The Commission would be responsible for handling consumer inquiries and complaints on these matters as well. All telephone companies are currently subject to regulation regarding authority to operate, disconnects, competitor relationships, dialing parity, universal service, eligible carrier status, access service and implementation of the Federal Telecommunications Act of 1996.

The expenditure impact figures represent one new analyst position at an estimated cost of \$100,000 and an additional one-half position at the administrative assistant level at an estimated cost of \$37,500, for a total of \$137,500 in the salaries line item, plus associated expenses in the operating line item. These positions would be required to regulate this number of utilities for the 2001-03 biennium and continuing into the future.

In addition to the 1.5 FTEs noted above, the Commission would have additional implementation expenses in the 2001-03 biennium due to the need for another analyst, probably at a higher pay grade than the above. This could require outside consulting services or an additional FTE. We estimate that outside consulting services would be more expensive than an additional FTE, even at a higher pay grade. Consequently, we

estimate an additional \$125,000 in salaries plus associated expenses in operating.

The above results in total estimated expenditures of \$262,500 in salaries for the 2001-03 biennium and \$137,500 in salaries for the 2003-05 biennium. Also included in the estimate and related to the FTEs is \$23,800 in associated operating expenses for the 2001-03 biennium and \$12,500 in associated operating expenses for the 2003-05 biennium.

Additional operating expenses would be required, not associated with the FTEs, for the publication of notices and the payment of hearing costs. Certain of these additional operating expenses, those relating to applications for increases in electric rates or relating to telephone cases, can be charged to the Valuation Fund, and an amount of \$10,000 for this expense for each biennium is noted under the Other Fund heading, above. For other types of cases, including electric tariff filings and rate reduction cases, an estimated amount of \$10,000 each biennium would be required in the Commission's general fund operating line item. An amount of \$10,000 for this expense is included in the total General Fund amount, above.

This results in a total General Fund expenditure impact for the 2001-03 biennium of \$296,300 and for the 2003-05 biennium of \$160,000.

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

The explanations from the Revenue and Expenditure sections apply here. An appropriation would be required for the additional FTEs, the additional operating expense needs and the additional Valuation fund needs.

<b>Name:</b>	Ilona A. Jeffcoat-Sacco	<b>Agency:</b>	PSC
<b>Phone Number:</b>	328-2407	<b>Date Prepared:</b>	02/08/2001



PROPOSED AMENDMENTS TO SENATE BILL NO. 2410

Page 2, line 7, overstrike "or any public utility, that is not operated for profit, that is"

Page 2, line 8, overstrike "operated as a nonprofit, cooperative, or mutual telecommunications company" and overstrike "is"

Page 2, line 10, remove "is"

Page 2, line 11, remove the overstrike over "is"

Page 2, line 12, overstrike "has fewer than" and remove "two"

Page 2, line 13, overstrike "thousand", remove "five hundred", and overstrike "local exchange subscriber" and insert immediately thereafter "not subject to a commission order affecting rates, contracts, services rendered, adequacy, or sufficiency of facilities"

Page 2, line 23, remove ", telecommunications companies that have two"

Page 2, line 24, remove "thousand five hundred or more local exchange subscribers,"

Page 2, line 27, remove ", telecommunications"

Page 2, line 28, remove "companies that have two thousand five hundred or more local exchange subscribers,"

Renumber accordingly

PROPOSED AMENDMENTS TO SENATE BILL NO. 2410

Page 1, line 3, remove "and telecommunications companies"

Page 2, line 8, after "cooperative" insert "except a rural electric cooperative having two thousand five hundred or more members served"

Page 2, line 9, remove the overstrike over "eight", remove "two", and remove "five hundred"

Page 2, line 10, remove "or is a rural electric cooperative having fewer than two thousand five"

Page 2, line 11, remove "hundred members served", remove the overstrike over "utility", remove "company", and remove the overstrike over "is operated"

Page 2, line 12, remove the overstrike over "~~as a nonprofit, cooperative, or mutual telecommunications company or~~", remove the overstrike over "eight", and remove "two"

Page 2, line 13, remove "five hundred"

Page 2, line 23, remove "telecommunications companies that have two"

Page 2, line 24, remove "thousand five hundred or more local exchange subscribers,"

Page 2, line 27, remove "telecommunications"

Page 2, line 28, remove "companies that have two thousand five hundred or more local exchange subscribers,"

Re-number accordingly

① Use yes or no

REMOVE  
TELEPHONE

Date: Feb 20/01  
Roll Call Vote #: 1

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2410

Senate Industry, Business and Labor Committee

Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Accept Amendment

Motion Made By Sen Tollefson Seconded By Sen Krebsbach

Senators	Yes	No	Senators	Yes	No
Senator Mutch - Chairman	✓		Senator Every		✓
Senator Klein - Vice Chairman		✓	Senator Mathern		✓
Senator Espegard	✓				
Senator Krebsbach	✓				
Senator Tollefson	✓				

Total (Yes) 4 No 3

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

Date: Feb 20/01  
Roll Call Vote #: 2

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2410

Senate Industry, Business and Labor Committee

Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken DPA

Motion Made By Sen Krebsbach Seconded By Sen Tollefson

Senators	Yes	No	Senators	Yes	No
Senator Mutch - Chairman	✓		Senator Every		✓
Senator Klein - Vice Chairman		✓	Senator Mathern		✓
Senator Espegard		✓			
Senator Krebsbach	✓				
Senator Tollefson	✓				

Total (Yes) 3 No 4

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

Date: Feb 20/01  
Roll Call Vote #: 3

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2410

Senate Industry, Business and Labor Committee

Subcommittee on \_\_\_\_\_

or

Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken DNP

Motion Made By Sen Every Seconded By Sen Mathern

Senators	Yes	No	Senators	Yes	No
Senator Mutch - Chairman		✓	Senator Every	✓	
Senator Klein - Vice Chairman	✓		Senator Mathern	✓	
Senator Espegard	✓				
Senator Krebsbach		✓			
Senator Tollefson		✓			

Total (Yes) 4 No 3

Absent \_\_\_\_\_

Floor Assignment Sen Mathern

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**SB 2410: Industry, Business and Labor Committee (Sen. Mutch, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (4 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). SB 2410 was placed on the Sixth order on the calendar.

Page 1, line 3, remove "and telecommunications companies"

Page 2, line 8, after "cooperative" insert "except a rural electric cooperative having two thousand five hundred or more members served"

Page 2, line 9, remove the overstrike over "~~eight~~", remove "two", and remove "five hundred"

Page 2, line 10, remove "or is a rural electric cooperative having fewer than two thousand five"

Page 2, line 11, remove "hundred members served", remove the overstrike over "~~utility~~", remove "company", and remove the overstrike over "~~is operated~~"

Page 2, line 12, remove the overstrike over "~~as a nonprofit, cooperative, or mutual telecommunications company or~~", remove the overstrike over "~~eight~~", and remove "two"

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Page 2, line 27, remove ", telecommunications"

Page 2, line 28, remove "companies that have two thousand five hundred or more local exchange subscribers,"

Renumber accordingly

2001 TESTIMONY

SB 2410

**TESTIMONY ON SENATE BILL 2410  
SENATOR BEN TOLLEFSON  
FEBRUARY 13, 2001**

**Senate Industry, Business and Labor Committee  
Senator Mutch, Chairman**

Good morning. I want to title this presentation "Return to Common Regulation."

In the beginning, our forefathers established a commission to oversee essential utility services for the people of North Dakota. As early as 1919, there was a growing demand particularly for electric service. The cost of bringing electric service to farms and ranches throughout the countryside was extremely expensive, capital intensive. Without subsidy or additional help, it was impossible for those private companies to fulfill the demand even though it was there, and keep it in a profitable situation. It was then that small groups of farmers and other rural people gathered together and mutually formed rural electric cooperatives, and later telephone cooperatives, to gain access to telephone and electric service that they desired and needed. The first of these coops were started as early as 1919.

Early on, the North Dakota Legislature decided that small, rural cooperatives supplying electric and telephone service needed no regulation by the Public Service Commission, since they were very small, and as friends and neighbors, they could mutually establish easy rates together. They could mechanically keep things working.

Little or no thought was given to terms like "essential service" or "monopoly." It was an unencumbered way of life, to say the least.

Since World War II, the number of rural electric cooperatives and rural telephone associations and their number of patrons has grown immensely (see Exhibit A). Yes, the rural electrification plan and the rural telephone association organizations have done a great job in rural North Dakota, bringing a better way of life to all of the rural people in the state.

The North Dakota Public Service Commission was provided for in the state constitution to offer artificial competition when "essential services" were provided without the benefit of competition. Rate justification and uniformity, as well as quality of service, is a prime concern of the North Dakota Public Service Commission (the FCC classifies "essential telephone service" to be basic service including dial tone and connection to central exchange, where you may call literally anywhere in the world today, for reasons including health and safety).



Today, most rural electric cooperatives and rural telephone association are not "rural" anymore. They have grown up, indeed! Those REC's and RTA's over 2500 patrons are serving within the city limits of both large and small communities in our state. Their customers are both large and small, with complex telephone and electric requirements.

Senate Bill 2410 offers to North Dakota an oversight on monopolistic electric and telephone services. This is extremely important for the sake of uniformity and continuity of service. It is indeed a consumer bill, where the citizens of North Dakota may look for assistance, and expect their grievances to be aired, as well as help them with fair and uniform rate oversight and assistance when no other jurisdiction really exists.

All electric and telephone utilities, investor-owned and cooperative, are "quasi-public" entities. Their exclusive position in offering essential services to North Dakota citizens, and the use of publicly owned rights-of-way, places them all in a position to be dependent upon the Public Service Commission for clarity of rate, design, and quality of service, which affects all North Dakotans.

The entire cooperative movement will benefit from the advice, counsel, and unbiased services of the Public Service Commission. They are obligated to help all groups of utilities, and their position is not dictatorial, but one of consumer advocacy and common ground.

Opposition to this bill will say that local control of the cooperative will be lost if this bill passes. This objection is not true. The Public Service Commission does not make rates or establish policy. They only offer the oversight that is so important to us North Dakotans. Investor-owned utilities are now under Public Service Commission jurisdiction, and should be.

"Return to Common Regulation" means better times for all of us, and a common ground for the electric and telephone industry in the state of North Dakota.

We ask the Senate Industry, Business and Labor Committee for a "Do Pass" recommendation.

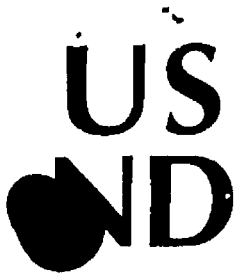
Thank you.

## North Dakota Association of Rural Electric Cooperatives

17 member-cooperatives' statistics based on Year 2000 submissions

<b>Cooperative</b>	<b>Buried cable</b>	<b>Total miles of line</b>	<b>Meters served</b>	<b>Members served</b>
Burke-Divide	134	2,104	2,343	1,390
Capital	613	2,344	10,038	8,545
Cass	1,687	5,280	17,374	21,000
Cavalier	515	1,452	1,471	1,181
Dakota Valley		4,784	5,757	4,374
KEM	441	2,990	3,311	2,210
McKenzie	546	2,393	4,960	2,321
McLean	178	1,716	2,926	2,350
Mor-Gran-Sou	552	3,835	6,008	4,499
Mountrail-Williams	326	3,206	7,668	4,486
Nodak	2,938	7,985	12,573	12,396
North Central	728	3,125	6,913	4,635
Northern Plains	1,777	6,908	10,628	8,534
Oliver-Mercer	462	1,790	3,775	2,700
Slope	433	2,962	3,103	1,857
Verendrye	1,250	4,117	9,869	7,872
West Plains	882	3,213	5,742	3,383
<b>Totals:</b>	<b>13,462</b>	<b>60,204</b>	<b>114,459</b>	<b>93,733</b>

NORTH DAKOTA ASSOCIATION OF TELEPHONE COOPERATIVES				
COMPANY	ND LINES			
BEK	7,213			
CTC	8,440			
DAKOTA	5,211			
DICKEY	8,810			
GRIGGS	2,118			
INTER	2,712			
MTC	2,877			
MOORE	978			
NEMONT	251			
NDTC	18,791			
NW	5,292			
POLAR	8,971			
POLAR TELC	1,618			
RED	2,673			
RTC	7,777			
SRT	45,820			
UNITED	12,760			
WRT	16,350			
TOTALS	158,462			



# Utility Shareholders of North Dakota

## BOARD OF DIRECTORS

Bob Pile  
*Fargo*

Harold Bruschwein  
*Wahpeton*

Clarence Storseth  
*Dickinson*

Gary Hovdestad  
*Minot*

Larry Hanson  
*Williston*

John M. Olson  
*Bismarck*

Moine Gates  
*Grand Forks*

Richard Kunkel  
*Wahpeton*

Charles Axtman  
*Jamestown*

Bob Graveline, President  
*Bismarck*

Comments before the Senate Industry, Business and Labor Committee, 2/13/01  
RE: SB-2410

Mr. Chairman, members of the Committee, I'm Bob Graveline of the Utility Shareholders of North Dakota (USND). Our association represents the interests of nearly 1,200 North Dakota members who own shares of stock in Otter Tail Power Company, Xcel Energy Company, or MDU Resources, the three investor owned utility companies providing service to North Dakota consumers.

I APPEAR THIS MORNING IN SUPPORT OF SB-2410

The USND supports the concept of fair and equitable treatment of all utility companies that do business in the same market areas. You can drive through residential and business neighborhoods in North Dakota cities and towns where people and businesses on one side of the street are served by an investor owned utility while those on the other side of the street are served by a cooperative.

All investor owned electric utility companies operating within the state are subject to oversight by the North Dakota Public Service Commission while the Rural Electric Cooperatives are not. The USND supports the concept of this legislation to bring all players in the same marketplace under the same rules and regulations.

If the IOU must apply for rate oversight to the PSC, then the cooperative providing service in the same market should be subjected to the same PSC oversight. If one utility must apply to the PSC for a Public Convenience and Necessity ruling before beginning service to a prospective new customer, then any competitor in the same marketplace should also be required to follow the same application procedure. The same rules and regulations should apply to all utilities providing service in the same market.

P.O. Box 1856  
Bismarck, ND 58502  
701-258-8864  
Fax 701-258-8865  
1-800-981-5132  
E-mail [usnd@usnd.org](mailto:usnd@usnd.org)  
[www.usnd.org](http://www.usnd.org)

I presume you will hear from opponents of this bill that their many different boards of directors all across the state provide more than adequate oversight of their operations, and therefore PSC oversight would be redundant. I suggest, however, there is a great deal of difference between a utility board of directors making business decisions and a utility company having their every action reviewed by the Public Service Commission.

Mr. Chairman, members of the committee, I urge you to help bring fairness to the utility market in North Dakota and forward a DO PASS RECOMMENDATION ON SB-2410.



Minot Area  
Chamber of Commerce

1020 20th Avenue SW  
P.O. Box 940  
Minot, North Dakota 58702-0940

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Facsimile 701 838 2488  
e-mail [chamber@minotchamber.org](mailto:chamber@minotchamber.org)  
www site [minotchamber.org](http://minotchamber.org)

February 13, 2001

Senator Duane Mutch, Chairman  
Senate IBL Committee  
North Dakota State Senate

Dear Senator Mutch:

I am writing to you on behalf of the Minot Area Chamber of Commerce to express opposition to SB 2410. This is an unnecessary piece of legislation.

In regards to the RTC's, the federal government has fully deregulated the telecommunications industry and it makes no sense to begin trying to reregulate that industry. In regard to the RTC's and the REC's, the business structure of both has a board of locally elected directors. You would be hard pressed to find a better model for local control and also for a board that would be responsive to its customers, folks who also happen to be their neighbors and elect them to board on which they serve.

Thanks for the opportunity to express opposition to SB 2410.

Respectfully,



L. John MacMartin  
President

(Lobbyist #404)



Testimony of Sen. David O'Connell  
RE: SB 2410, on Tuesday, Feb. 13, 2001  
Senate Industry Business and Labor Committee

Chairman Mutch and members of the committee,

For the record, I'm Sen. David O'Connell from District 6 in north central North Dakota. I'm appearing today to register my opposition to SB 2410.

As a legislator, I oppose this measure because it would add a duplicate, costly and unnecessary layer of regulation on two forms of business enterprise in our state: telephone and electric cooperatives.

Cooperatives are consumer-owned and controlled business enterprises. The members elect directors to regulate the cooperative, set board policies and listen to the voice of the consumers who own the cooperative.

I know the current system works well because I also serve as a director of North Central Electric Cooperative in Bottineau. I'm one of 151 electric cooperative directors who regulate the state's 17 distribution cooperatives. I know first-hand that this model of regulation works because I take part in it every month. As a director, I also have to stand before our members every three years and ask to be returned to serve on the board. If I'm doing a good job, I'll get re-elected. If not, the members will replace me. But I can assure you, directors like myself know board decisions are evaluated by the members. The current system forces us to be responsive to the needs of the member-owners.

So as legislator and as a director with first-hand experience in regulating a cooperative, I find SB 2410 takes away local control and adds another level of regulation and cost that's unnecessary. I urge a DO NOT PASS on SB 2410.

TESTIMONY ON SB 2410  
REPRESENTATIVE DWIGHT WRANGHAM  
DO NOT PASS

Chairman Mutch and distinguished members of the IBL committee. Good Morning. I am Representative Dwight Wrangham from District 8.

My residence is about one mile east of Bismarck. I am testifying, in opposition to SB 2410, as a member of the Board of Directors at Capital Electric Cooperative in Bismarck.

I am one of 151 Electric Cooperative board members in North Dakota.

We are elected from--and elected to represent -- the members of our cooperative. I see no reason to add another level of jurisdiction over the state's electric and telephone cooperatives.

For well over 50 years the consumer-owners of North Dakota's electric cooperatives have governed themselves through a fundamental principle of governance by owner members. This is truly governance by consumer representation. Much the same principle as our legislative process. Consumer members elect representatives to serve on their board of directors.

Electric cooperative directors run for re-election every three years. Accordingly, the members of each cooperative have the opportunity to speak with their vote when they elect one-third of their directors every year.

In my case, I took an interest in my local cooperative, ran for the board of directors, and was elected. I understood I would have many responsibilities as a director, and that has certainly been the case. One of those responsibilities is fiduciary; the board is ultimately responsible for the fiscal well-being of the cooperative. The cooperative members are my neighbors. Your neighbors are the last people you would want to let down.

In addition, I've must meet specific financial criteria established by Our Bankers, The Rural Utilities Service, and the National Rural Utilities Cooperative Finance Corporation. In addition, our rates are subject to review by the Rural Utilities Service.

In Capital Electric's case, you may be interested to note the last rate increase was in March of 1985, and we have had several decreases since then. This past December, the co-ops board of Directors voted to return \$400,000 to the membership. This was done as a credit on the consumer's electric bill.

Members have an opportunity to meet with the Board of Directors at each month's board meeting and each year at our annual meeting. Last year, over 700 people attended our Annual Meeting.

Many of you are familiar with the North Dakota REC/RTC Magazine, which is sent monthly to member consumers. The name of each of our directors is published in the magazine so our consumers can reach us if they want to provide input.

I know of no cooperative membership bringing in resolutions calling for electric cooperatives to come under another regulatory obligation. No membership is looking for increased costs, which this bill will certainly does not only for the cooperatives, but for the State of North Dakota as well.

Governor Schafer, in a recent interview in Prairie Business, perhaps said it best: "We've shown the people of North Dakota that Republican leadership is pro business, which is less government, less cost, less intrusion." This bill is more cost, more government, more intrusion.

Thank You and please vote a do not pass on Senate Bill 2410.





## NORTH DAKOTA ASSOCIATION OF TELEPHONE COOPERATIVES

Box 1144 · Mandan, ND 58554  
Phone 701-663-1099 · FAX 701-663-0707

SENATE BILL 2410

SENATE INDUSTRY, BUSINESS AND LABOR COMMITTEE

FEBRUARY 13, 2001

DAVID CROTHERS  
NORTH DAKOTA ASSOCIATION OF  
TELEPHONE COOPERATIVES

My name is David Crothers from the North Dakota Association of Telephone Cooperatives. The Association represents all of the cooperative and independent telephone companies in the State. Those companies serve over 160,000 homes and small businesses and 90 percent of the geographic territory of North Dakota.

Members of the Association strongly oppose SB 2410.

The legislation gives the Public Service Commission the authority to originate create or discard the rates for local telephone service that member-owned telephone companies, and small commercial companies, set for themselves. Eighteen years ago the North Dakota legislature recognized that degree of regulation was no longer necessary and discarded it as inappropriate.

In the intervening years, the wisdom of that decision by the North Dakota Legislature in 1983 has only been affirmed. Members of the independent telephone industry in North Dakota have become the leaders in introducing and deploying new technologies and investing in telecommunications infrastructure to better serve the needs of our State's residents, all while maintaining among the least expensive rates for local service in North Dakota.

One of the reasons for those low rates is because we do not pay for expensive rate cases before the Public Service Commission, which are costly in terms of dollars and staff time. A rate case is a complex proceeding that involves the small telephone company hiring economists, consultants, attorneys and other specialists to prepare information for a Public Service Commission proceeding. Our members would rather spend that money on affordable rates and bringing new services to rural North Dakota.

Also, as you have noted in the Fiscal Note, the agency anticipates a cost of approximately \$300,000 for additional staff if SB 2410 is adopted. Members of the Association believe that the figure is extremely conservative and the actual expense will be much higher. We base this statement on the belief that the number of full time employees (FTEs) is not sufficient to do the work contemplated by the legislation. The other alternative is to hire consultants to assist the new agency employees. The cost for those consultants will be passed on to the respective telephone companies affected by SB 2410 and, ultimately, paid by the member-owners and customers at the end of the line.

The State of North Dakota does not need to hobble these companies with further regulation. Without being mandated by the Public Service Commission, rural telephone companies are bringing 21st century technology to every corner of the State and, in the words of the Mobridge, South Dakota Tribune, "actually puts our community ahead of many of the largest cities in America." West River Telecommunications of Hazen serves the town and has those same facilities today in Beulah and Hazen. By the first of September they will be offering them in 15 more towns within their service territory.

Consolidated Telcom is providing that same high-speed, high-capacity service in Dickinson, Bowman, Hettinger and Mott right now. It will soon offer the same service in Killdeer and Richardton. Northwest Communications in Ray is also offering DSL, but is also implementing wireless high-speed internet to reach the most remote areas of its service territory where limitations in DSL technology do not allow it to reach. Virtually every independent telephone company in North Dakota is doing the same. Our commitment is to the customer, the quality of life and the economic vitality of rural North Dakotans.

I previously noted that rate cases are expensive and that no good purpose is served by adding that cost to the member-owners at the end of the line, nor does adding an extra layer of bureaucracy serve any function when the decisions regarding the operation of the company are made at the grass-roots level. Telephone cooperatives are run by the members they serve.

The members meet at exchange caucuses throughout the year and at each company's annual meeting. Those members elect directors to represent their interests and, just like other elected officials, if the company is run poorly or if directors are not responsive to the customers or if the rates are too high, those directors are replaced. It is a powerful incentive and has worked very well during the last 18 years of regulatory forbearance.

The small commercial companies are not regulated because of their closeness to the subscribers they serve. The owners, manager and staff typically live in the same communities as the subscribers. It has traditionally been called "coffee shop" regulation. History bears out the effectiveness of this type of regulation: small commercial companies in the State have comparable rates, degree of investment and service offerings as the telephone cooperatives.

Finally, our members do not need protection from themselves. Additional regulation will not bring one new service or one more dollar of investment or any more technology or any more commitment to the economic prosperity of rural North Dakotans. It will just bring them higher costs.

The Association strongly urges a Do Not Pass recommendation.

Saturday, February 10, 2001

# OPINION

## Minot Daily News

Jim Eykyn, Publisher  
Bryan L. Obenchain, Editor  
Jay Johnson, Opinion Editor

### OUR OPINION

# Co-ops do not need PSC oversight

The theory goes like this: Rural telephone cooperatives and rural electric cooperatives do not need to fall under the jurisdiction of the state's Public Service Commission. Why? Because co-op boards, wouldn't make decisions that harm themselves. So goes the theory.

Sen. Ben Tollefson, R-Minot, has a problem with that notion. He says co-ops have outgrown the law and he wants to rein in the RTCs and RECs.

Co-op boards are elected by members and because these co-op decision-makers are members themselves, decisions such as rate hikes, for example, will always be in the best interest of the members at large. Essentially, one person, one vote inoculates co-ops from rate gouging.

Tollefson thinks co-ops may have acted this way at one time, but now he believes co-op members are more customers than members and need the protection of the PSC. How did Tollefson arrive at this position? In a word - SRT.

When SRT expanded its telephone co-op last year by turning Minot customers into members, it expanded its board of directors where members elect board members from each district. The rural SRT members feared the larger numbers of the new Minot members and thought rural members would lose control if they allowed the new urban members a majority on the expanded board.

To avoid this, SRT's board of directors continues to be made up of three members from each of its districts. The Minot district has three board members - the same

number as the other three districts. PSC commissioner Wefald believed this board structure was a problem, that it didn't give the Minot majority enough say, and wanted it changed before the PSC approved SRT's expansion. However, state law said co-ops were exempt from PSC control and the expansion was approved.

Tollefson also fought the board structure, but unlike Wefald, he never moved on. Now, he has sponsored a bill that would put all co-ops under PSC control. He denies that he is motivated by the SRT case, but his position and motives are transparent - there is one reason and one reason only for this bill - to put SRT under PSC control.

However, Tollefson's dragnet will capture every other co-op in the state, including Verendrye Electric Cooperative.

Reasonable people can disagree over whether the structure of SRT's board is fair - but it works and the proof is in the prices. Minot enjoys the best basic phone rates of any major city in the state. Why? Mainly because SRT is a co-op and isn't driven by a desire to turn higher rates into higher profits.

We've all heard the saying, if it isn't broke, don't fix it. This is the situation with Minot phone rates. Tollefson's bill is aimed at SRT, but there isn't a problem that needs fixing.

Tollefson should pull this bill because it has every appearance of being a personal vendetta - although he denies this. "No, I'm not picking a fight with SRT, although that might be fun," said Tollefson.

If Tollefson doesn't pull this bill, the Senate Industry, Business and Labor Committee needs to send it to the floor with a do not pass recommendation.

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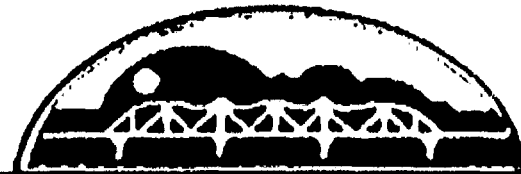
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MOBRIDGE, SOUTH DAKOTA

# TRIBUNE *Online*



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## OPINION

### EDITORIAL: WRT Co-op kept its word

by Larry Atkinson

The Issue:

West River Telecommunications' performance

My Comment:

Co-op kept its promises to Mobridge

When it was announced in 1997 that U.S. West would sell the Mobridge telephone exchange to West River Telecommunications Cooperative of Hazen, N.D., many people worried that the small North Dakota co-op wouldn't be capable of ushering Mobridge into the world of 21st Century telecommunications.

A 15-member task force was even named to look into the city starting its own telephone exchange in competition against WRT

Boy, were we all wrong!

West River Telecommunications has more than proven itself capable of not only providing for all the telecommunications needs of Mobridge now and in the future, but the company has actually put our community ahead of many of the largest cities in America.

America's economy today is fueled by the exchange of information and commerce on the Information Super Highway - or Internet, as it is known by most of us. If this area is to survive, we must have the telecommunications infrastructure in place to take advantage of the emerging technologies in the Information Age. We must be able to attract the highly-paid information technologist who can conduct his or her work over a high-speed access line to the Internet from anyplace on earth that offers that service.

As of last week, Mobridge can now offer just such an environment. The first high-speed digital subscriber lines, or DSL, were installed into a dozen homes in the city. The new DSL service offers anyone living within 2.5 miles of WRT's downtown main switch office to have speeds up to 768K on the Internet. The fastest speed available on normal phone lines before was just 56K - and it's all being offered at a very reasonable price, compared to what the service would cost anyplace else in America.

But, that's the real clincher on this deal - most of America doesn't even have access to this kind of service in private homes yet.

West River Telecommunications has given our community an edge, one that the Mobridge Industrial Development Committee hopes to capitalize on by concentrating its efforts on the high-tech companies that need this kind of high-speed Internet access.

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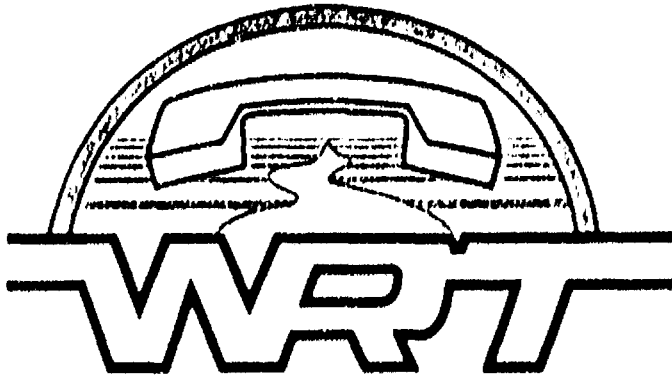
We can now also tout that the Internet/Information Age professional can now find a safe place to live, with good schools, good medical facilities, quality shopping, friendly people and a great lake on which to enjoy recreation. Many of the high-tech Information Age workers are now trapped in large cities with huge housing costs, schools that must deal with discipline more than education, overcrowded medical facilities, unsafe neighborhoods and huge crowds to contend with when trying to enjoy one's leisure time. If we can get the word out about Mobridge and what we have to offer here, some of those families will move here to work and raise children.

The people at West River Telecommunications have made all this possible for us. They proved many of us in this town to be totally wrong. The company made a huge financial commitment to Mobridge. It upgraded the switches and other equipment, installed fiber optics lines in Mobridge and did it all on schedule. WRT's board also promised to make Mobridge's telephone customers full members in the cooperative, and they kept that promise too - right when they said they would.

Overall, WRT has been a great asset to Mobridge. The cooperative has been a good neighbor as well, opening a local office to make it easier for local people to get assistance, taking part in community activities and donating to local charities and needs.

WRT has proven to be a flexible, innovative company that can not only usher our community into 21st Century communications, but also keep us on the leading edge of those technologies

Thanks, WRT, for the commitment you have made to Mobridge!



WEST RIVER  
TELECOMMUNICATIONS COOPERATIVE

P.O. BOX 467 HAZEN, NORTH DAKOTA 58545  
TELEPHONE: (701) 748-2211  
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SENATE IBL COMMITTEE

February 13, 2001

Mr. Chairman, Member of the Senate Industry, Business and Labor Committee.

For the record my name is Mick Grosz. I am the General Manager of West River Telecommunications Cooperative. West River is headquartered in Hazen, ND. WRT is run by an eight member Board of Directors. These Directors are elected by the member owners to three year terms of office. The Board of Directors sets company policy, local service rates and determine the extent and quality of service. Directors actions and performance, just as Legislators, are judged by their electors at the ballot box. They are judged on how well they have run the Company. If local service rates are high and service quality is low they would not get reelected. The local service rates they, themselves, pay and the quality of service they receive depend on their actions. While the PSC has well meaning, conscientious people I do not believe that they can better determine the needs of a company than the elected Board.

In my former life I was a member of the North Dakota House of Representatives representing District 8 from 1990-2000. During the past two interims I was a member of the Regulatory Reform Review Commission and served as Chairman both interims. During that period no one came to me or to the RRRC asking that Telephone Coops be regulated by the PSC. No private citizens, not the PSC nor anyone from the telecommunications industry. No one in those four years came to the RRRC to complain about the local service rates or the quality of service provided by companies that are covered by this bill. In fact, this past interim the RRRC could not pass out a Universal Service Fund bill because some Legislators would not vote for the bill. These Legislators demanded that the bill mandate rural Telecos could not receive funds from the proposed program unless their local service rates were at least 115% of Qwest local service rates.

If this Bill was introduced to right a wrong or solve a problem, I am wondering what the problem is that this Bill is intended to solve. If the fear is that local service rates will be raised unreasonably, we do not need this Bill. Locally elected Boards are very reluctant to raise local service rates. Rural Telecos have low local service rates because locally elected Board members are very prudent with the members money and they must answer to the member owners at the next election.

NORTH DAKOTA



**SERVING THE AREA OF NORTH DAKOTA AND SOUTH DAKOTA ...**



Senate IBL Committee  
February 12, 2001  
Page 2

It would seem ironic to me that during the last session, we in the Legislature voted to take rate setting authority away from the PSC and vote an increase for Qwest local service and then this session would vote to take rate setting authority away from locally elected Directors and give that authority to the PSC.

It would be an affront to the hardworking, locally elected Directors of rural Telecoms to pass this Bill. You would, in effect tell your fellow North Dakotans, elected to these Boards, that they cannot be trusted to set local service rates but that an out of State headquartered company can be.

Mr. Chairman, members of the Senate IBL Committee, I would ask that you give SB2410 a do not pass recommendation. Thank you for allowing me to testify before your committee.

Mick Grosz

## **SB 2410**

### **Testimony before the Senate Industry, Business and Labor Committee Jay Jacobson, General Manager, Dakota Valley Electric Cooperative February 13, 2001**

Mr. Chairman and members of the committee, good morning. My name is Jay Jacobson. I am the general manager of Dakota Valley Electric Cooperative, with headquarters in Edgeley and Milnor, North Dakota.

Dakota Valley opposes Senate Bill 2410 as an unnecessary cost upon our membership. Our present rate making arrangement provides for local control, opportunity for member participation and fair allocation of cooperative costs. I would like to illustrate these points with a description of our cooperative's recent rate setting activity.

Our electric cooperative was recently formed through the consolidation of two other cooperatives, James Valley and RSR. As the two cooperatives had differing rates and policies, it was necessary for all of the rates and policies to be re-established for the new cooperative. Our board of directors has this responsibility, and we are nearing the end of a year of work on these activities.

Our board has, in the past, communicated with the membership on rate setting activity in a number of ways ranging from member advisory committees to district meeting discussions. In our recent rate work, we announced in the monthly REC magazine the start of the rate committee, and updated the membership monthly, encouraging contacts with the directors on rate issues. Each member call or suggestion was brought in to the rate committee discussion. As our rates were developed, we sent out notices to each member on the changes. We went out to

visit with a number of our industrial class customers, and we are presently in the middle of holding rate discussion meetings for all our irrigation customers before establishing their rates.

Our board has set the dates for our district meetings in March and April. There will be nine meetings held all across the service area. Rates and service policies will be on the agenda for each of these meetings to solicit member comments. These district meetings also serve as nominating meetings for director positions. Any member in good standing can run for election as a director. This year, all nine board positions at the cooperative are open for election.

Members that are not satisfied with rates or service at the cooperative can and do organize to elect a director more understanding to their position. Several of our present directors were elected in just such a manner.

In addition to having a voice and knowing that they are represented at the cooperative, our members insist that our costs are fairly allocated among all the rate categories. Of all the questions our directors field from members—whether industrial, irrigators, farmers or small business—the most common concern is whether that member is subsidizing the rates of some other member. Our board has rightfully decided to base rate allocations as closely as possible on the technical determinations of a cost of service study performed by an independent engineering firm.

This is what was done in our recent rate work. We use the costs of service studies, just as the Public Service Commission does, to insure that each consumer pays for those costs, and only those costs, that the consumer imposes on the system.

In summary, we do not believe that removing cooperative regulation from a locally elected board and giving it to the PSC would improve electric cooperatives. Instead, this proposal would make member communication with the cooperative more difficult by moving the

forum to Bismarek, and add more regulatory expense to the cooperative without adding any value

Dakota Valley urges a Do Not Pass recommendation on Senate Bill 2410.

Thank you.

Testimony provided to the Senate Industry Business and Labor Committee by George Berg,  
Nodak Electric Cooperative on February 13, 2001

Good morning. My name is George Berg, and I am the President and Chief Executive Officer of Nodak Electric Cooperative, headquartered in Grand Forks, North Dakota. I am speaking today in opposition to Senate Bill 2410. If passed, this bill will result in review and oversight, which will be redundant to that already being provided by the elected boards of directors of the electric cooperatives in North Dakota.

I would like to share with you this morning the story of a merger that recently occurred between Nodak Electric Cooperative and Sheyenne Valley Electric Cooperative formerly headquartered in Finley, North Dakota. As I describe this merger, it is important to understand that this type of activity can and generally does have opposition from both internal and external special interest groups. Employees whose jobs are at stake don't like to see a merger; communities like Finley that lose residents don't like to see a merger; board members who may lose a position they proudly hold don't necessarily like to see a merger; and finally, management teams who add tremendously to their workload and stress certainly don't look forward to a merger. The only winners in a merger of two electric cooperative are the member/owners, but of course the board of directors understands they are elected by the members of the cooperative, and it is their mandate to act in the best interest of the member/owners at all times.

The separate boards of directors of Nodak Electric Cooperative and Sheyenne Valley Electric Cooperative voted to study the possible merger of the two systems in September, 1999. The matters that were studied over the next several months were detailed and sometimes complex. The objective, however, was relatively simple. Both boards of directors needed to be convinced that the merger would be financially beneficial to both systems, and would not degrade the level of service that was presently being provided. When the merger study was

completed, both objectives were clearly met, and a merger proposal was unanimously approved by both boards.

One of the issues addressed in the merger proposal was the structure of director governance of the merged system. It was decided that the merged system would be divided into three districts of roughly equal number of customers. Each district would be represented by three directors elected for three-year staggered terms, such that all members would be entitled to essentially equal representation on the board of directors.

Another issue that needed to be addressed was electric rates. Prior to the merger, the electric rates were different between the two systems for similar rate classes. It was the decision of the board that all consumers in a like rate class should be served by a single rate within a reasonable time period following the merger. Since it was determined that it would take approximately three years to achieve all of the cost savings from the merger, that was also the timeframe established to merge the rate classifications between the two systems.

The Bylaws of both cooperatives required that the merger proposal be voted on by the respective cooperative memberships for final approval. After providing information about the merger in our monthly magazine and through special mailings to the members, a series of 18 information meetings were held throughout the region. These meetings were advertised in local newspapers and on local radio stations. During these meetings, the basic merger plan was presented and ample time was given for questions and answers.

The merger plan was put to a vote at the annual meetings of each cooperative in July, 2000. The Nodak members approved the merger by nearly a two to one margin, and the Sheyenne Valley Electric Cooperative members approved the plan with a ninety-four percent approval.

During our merger study, a question was posed to the North Dakota Public Service Commission as to whether or not they had jurisdiction over the merger of two electric

cooperatives. The North Dakota Attorney General reviewed the state statutes regarding the issue and determined that electric cooperative mergers did not require review by the PSC. We were very pleased with this ruling because we feared that PSC review would add unnecessary cost to the merger process and possibly delay the effective date of the merger. We have no reason to believe that the PSC would not provide a thorough and fair review of the merger plan; however, we do not believe a PSC review would be nearly as thorough as one performed by our elected board of directors who live in the region and are ratepayers themselves to this cooperative.

In summary, I believe a local board of directors who answers daily to the cooperative consumer provides the most effective form of review and regulation. I believe SB2410 would not strengthen this review, but would only add cost to the cooperative and ultimately to the consumer. I ask that you oppose SB2410. Thank you.

**ESTIMONY OF DONALD LARSON  
MINOT, ND  
TO THE SENATE INDUSTRY, BUSINESS & LABOR  
COMMITTEE  
SENATE BILL 2410**

**February 13, 2001**

Mr. Chairman and members of the committee, my name is Don Larson of Minot, ND. I appear to speak against SB 2410 as vice president of the Verendrye Electric Cooperative Board of Directors and our 8,900 members.

This bill would place electric and telephone cooperatives with over 2,500 members under the control of the PSC, something that is neither necessary nor useful. In the case of Verendrye Electric Co-op, we are governed by a nine-member board, which is elected by our consumers, our member/owners. There are three board members elected from each of three districts. They are known by their neighbors and readily accessible. Any one of our 8,900 members is eligible to run for the board. In fact, it is easier to get nominated and run for our board than it is to be a candidate for the State Legislature. They simply need to be nominated at their district caucus meeting in April and their name is placed on the ballot. Another option is to be nominated from the floor at our annual membership meeting.

Let me site a few examples of why this bill is unnecessary. In July 2000, our mostly rural board reduced rates to Verendrye city members below Xcel's rate - - hardly an abuse of power. At our June annual meeting Verendrye handed out over \$200,000 in dividend checks/to rural and city members - - hardly an abuse of power. And in December the



board returned \$450,000 in refunds to all rural and city members. Where's the harm in that? Also, this bill would create more state bureaucracy and mean a loss of local control. What's the harm in local control by the "owners" of their electric business that they have directed successfully for over 60 years?

We have very open elections. In my case, another candidate and I had a tie vote for the central district board seat. After the third recount and still a tie vote, we agreed to flip a coin. I won the toss and have represented the central district since 1989. The point is that our elections are open, fair and a wonderful example of democracy in action at the grass roots.

All members may attend our annual meeting, which was held in Minot last year for the first time. Over 3,300 family members ate supper, heard the two candidates for governor speak and conducted the co-op's business. In other words, Verendrye is not like a utility whose headquarters is thousands of miles away and whose board doesn't have to operate in public. Verendrye, like other co-ops, is locally owned and locally controlled, and therefore should not be under PSC control. The system has worked for over 60 years; why change it now.

I urge a do not pass vote on SB 2410.

**SB2410**

**Testimony before the Senate Industry Business and Labor Committee  
Scott Handy, Chief Operating Officer, Cass County Electric  
Cooperative**

**February 13, 2001**

Mr. Chairman and members of the committee, good morning. My name is Scott Handy, and I serve as chief operating officer for Cass County Electric Cooperative, headquartered in Kindred, North Dakota. I am here today in opposition to Senate Bill 2410.

Cass County Electric Cooperative takes a firm stand against such legislation, for several reasons. The first is the general and long-standing principle that electric cooperatives are, and of right should be, locally regulated. Each cooperative has an elected board of directors whose duty is to ensure the fairness and appropriateness of each rate class. Local regulation has worked well and is a fair, democratic and low-cost rate setting principle that should remain in place.

The second reason to leave electric cooperative rates under local regulation is cost. Regulation by a state agency is costly, and requires expensive consultants. Many cooperatives would be additionally burdened to employ in-house expertise to work with these regulatory issues. All these additional costs of state agency regulation would need to be added to the electric rates, which would only serve to make them more expensive.

The third, and perhaps the most compelling reason to leave cooperative electric rates under local regulation is that these rates are already as low as they can be. Rates are set based on cost of service studies performed by financial experts such as the Eide Bailly accounting firm to ensure minimal cross subsidies exist.

An examination of Cass County Electric Cooperative's selling prices illustrates that there is no problem in search of a solution here. Following is a table showing our average selling price per kilowatt hour (kwh) for each member rate class, compared to the comparable rate class for the investor owned utilities in our area.

**Comparison of Average Selling Price/kwh**

<u>rate class</u>	<u>2000 CCEC</u>	<u>1999 Xcel/NSP</u>	<u>1999 Otter Tail Power Co.</u>
rural residential	\$ 0.0569	n/a (1)	n/a (2)
urban residential	\$ 0.0564	\$ 0.0611	\$ 0.0598
apartment	\$ 0.0613	n/a (3)	n/a (3)
small commercial (4)	\$ 0.0470	\$ 0.0603	\$ 0.0656
large commercial (4)	\$ 0.0338	\$ 0.0449	\$ 0.0449
company average (5)	\$ 0.0523	\$ 0.0541	\$ 0.0543

**notes:**

general 2000 figures not available for Xcel/NSP or Otter Tail Power.  
 general CCEC figures from RUS Form 7 and accounting reports.  
 general Xcel/NSP and Otter Tail Power figures from annual reports to the ND PSC.

- 1) Xcel/NSP does not have a rural residential rate class.
- 2) Otter Tail Power does have a rural residential rate class, but does not report on it separately in their annual report to the ND PSC.
- 3) Neither Xcel/NSP nor Otter Tail Power have a rate class for apartments.
- 4) It is not known how Xcel/NSP define the distinction between small and large commercial rate classes. In CCEC's case small commercial is defined as under 1,000 kva, large commercial is over 1,000 kva.
- 5) The company average numbers do not include "other electric revenue" for any of the companies. If they did, CCEC's average would be \$0.0528, Xcel/NSP's would be \$0.0673, and Otter Tail Power's would be \$0.0639.

Keep in mind that CCEC's average selling price is lower than the investor owned competition even though we have a fraction of the number of electric accounts per mile of line compared to them.

The State of Minnesota, in the 1970s, brought the rates for electric cooperatives under state jurisdiction, similar to what is proposed in SB2410. A provision of the Minnesota bill allowed the cooperative members to vote to remove the cooperative from state jurisdiction. It is instructive to note that in every single cooperative except one the members did vote to remove themselves from state jurisdiction. The one that did not has over 83,000 members in the southern area of the Twin Cities.

The plain truth is that a new regulatory method is not needed. The good old-fashioned cooperative principle of working together with our member-owners to set fair and appropriate rates is working well. We rarely receive complaints about our rates. In fact, we've recently received many compliments for our ability to hold the line on rates while costs for natural gas and other fossil fuels are sky rocketing.

In summary, Cass County Electric Cooperative urges your **DO NOT PASS** recommendation for Senate Bill 2410.