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SFN 2053 (2/85) 5M

ROLL NUMBER

DESCRIPTION

1496

2007 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1496

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1496

House Industry, Business and Labor Committee

☐ Check here for Conference Committee

Hearing Date: January 24, 2007

Recorder Job Number: 1860

Committee Clerk Signature Stephanie N Thomas

Minutes:

Chair Keiser opened the hearing on HB 1496.

Rep. Mike Brandenburg, District 28: See written testimony #1.

Rep. Thorpe: With all the interstate compacts, can we do this?

Rep. Brandenburg: Last session we worked on the railroad case, putting money together to fight the railroads. We were suing them because of the issue of field surcharges and the higher rates they were charging. We didn't sue the railroad when we went to Washington, but we put $1 million together saying that we have money here to go to Washington to sue to be able to bring our case. What did happen is the railroad reduced their rates, and balanced their rates out, and the field surcharges were balanced out, so it became more fair option. Sometimes legislation like this, we can do it if we want.

Rep. Keiser: Do we want to be an exporter of power?

Rep. Brandenburg: Absolutely.

Rep. Keiser: If we want to export it, and we don't want our people to participate in requirements that the centers we would export to would require. The cost has to be recovered somewhat, so that means we are going to have try those places more, because we don't want to pass any of that to our local people in the state, which puts us in a noncompetitive position with another state that says no, we're going to spreads this cost over to everybody who has access to this power. Is that correct?

Rep. Brandenburg: What I'm trying to get out with this bill is to get Minnesota to put more generation in ND.

Rep. Keiser: If we are going to put this kind of restraint on it and say we're willing to build it according to your standards, but we're not going to help you pay for it, and we're not going to allow it to be spread except to your residents, because they have their own PSC that have to deal with the price of it coming online. Our company can't lose money so, we become more expensive, don't we?

Rep. Brandenburg: I know what you're saying, because we have to work together. We also need to share in the generation. We want to encourage it, and say hey, put generation in ND, just not in Minnesota. Right now, our consumers are going to be impacted by the mandates, which are being imposed upon Minnesota.

Rep. Keiser: Really, what we want to do is say you can build them over there, but if you deliver it across our border, you can't charge us for it. So, they say we won't deliver. Is that what you want?

Rep. Brandenburg: I don't think that'll happen. I think that more generation will be built in Minnesota, and they're just going to keep raising the rates in ND, because of the mandates that are being put on for the cost of putting new generation in, and it's an efficient power that's being built in Minnesota instead of being built in ND.

Rep. Ruby: So, it really wouldn't matter if the generation that we have we sold to them, and put restrictions on for regulations on how they generate this, or on the other hand if they generate it in Minnesota, and the companies that are purchasing this serve both ND and SD, you don't want any of the rate to recoup the cost of the entire energy that we use in ND. You want them to be the export, but put on their regulations?

Rep. Brandenburg: That's part of it, but what I was really hoping is that if we are going to have higher rates, because of the Minnesota mandates, we want to share in the development of new generation. We want to have generation, and encourage them to build generation in ND, as well as Minnesota, so it is shared by all customers, because the customers are not only in Minnesota, they are also in ND.

Rep. Keiser: If I were in Minnesota, and I'm the big dog, then I'd say OK we'll build them over there, but you have to move all of our standards when you go. So, now we'll let that electricity come into our state, as long as your production facilities in the state meet our requirements. That makes everybody else in ND have a much higher rate.

Rep. Brandenburg: I think we're going to get the higher rate anyway, because of the balance amongst ND and SD consumers, whether it's built in Minnesota or ND. As it stands now, we're building in Minnesota, and we're going to get higher rates because of those mandates.

Bob Graveline, Utility Shareholders of ND: Opposed to HB 1496. The PSC does believe that they have the discretionary authority right now, under other sections of the law to make these decisions. Should this law pass, the PSC no longer has a decision on the issue. We think this is just quite simply pitting one state against another state, and it puts the utility companies in the middle of a political debate that they really don't deserve to be in. Minnesota did except the application from Excel Energy to factor in their rates of the Minnesota customers for the wind farm that they have near Velva, and we think this bill could set up an absolutely unwarranted issue to investors. The companies building the plants serve multiple districts, so the total state approval for the recovery on the plant, let's say 80% of the cost of the plant, and the investors are sitting at risk for the balance, so what is their course of action? Their course of action is they can't receive those rates, because of some mandate from the Public Utilities Commission. Their option would then be to meet at the courthouse steps, and try to justify why they should receive the balance, as an investment that they made.

Rep. Ruby: If Minnesota put a requirement of a certain percentage of energy to be put on the grid, did this facilitate the wind farm up by Velva?

Bob: No, not that I'm aware of.

Rep. Keiser: You said the PSC already has the authority. I guess Excel came in for a rate hearing, aren't they going to use for their rate adjustment the fact that they have these additional costs? Where's the discretion for them to say no, we can't count those?

Bob: I'm going to have to let the PSC answer that. They look at the prudence of the investment.

Dennis Boyd, MDU Resources Group & Utility Division of Montana-Dakota Utilities: Opposed to HB 1496. This bill seems to be aimed at Excel Energy, and the operations in Minnesota. My company Montana-Dakota Utilities does not have any electric in Minnesota; however we do operate an intercreative interstate electric system with operation in Montana, SD, and ND. It is theoretically possible that the Montana regulation or mandated environmental expense that would be imposed on a proposed expansion that our client in Sydney, Montana, for instance, could still leave that as a lease cost option. If we were not able to recover those costs that would be allocated to our customers in ND, we'd probably consider going to someplace else, building onto a different plant, expanding a different plant at a higher cost. In the interest of good public policy, perhaps the sponsor would agree to amending this bill to include the Rural Electric Cooperative Boards of Directors, and prevent them from collecting the same kinds of costs.

John Olson, Ottertail Power Company: Opposed to HB 1496.

Kathy Aas, Excel Energy: Opposed to HB 1496.

Rep. Kasper: I move a do not pass.

Rep. Clark: Second.

Roll call vote was taken. 13 Yeas, 0 Nays, 1 Absent, Carrier: Rep. Amerman

Hearing closed.

Date: 1-24-07

Roll Call Vote #:

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1496

House **Industry Business & Labor** Committee

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Legislative Council Amendment Number

Action Taken Do Not Pass

Motion Made By Rep Kasper Seconded By Rep Clark

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	X		Rep. Amerman	X	
Vice Chairman Johnson	X		Rep. Boe	X	
Rep. Clark	X		Rep. Gruchalla	X	
Rep. Dietrich	X		Rep. Thorpe	X	
Rep. Dosch	X		Rep. Zaiser		
Rep. Kasper	X				
Rep. Nottestad	X				
Rep. Ruby	X				
Rep. Vigesaa	X				

Total Yes 13 No 0

Absent 1

Floor Assignment Rep. Amerman

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

REPORT OF STANDING COMMITTEE

HB 1496: Industry, Business and Labor Committee (Rep. Keiser, Chairman) recommends **DO NOT PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1496 was placed on the Eleventh order on the calendar.

2007 TESTIMONY

HB 1496

#1

Regulatory Background

Each state has its own utility commission charged with the duty of ensuring fair and reasonable electric rates for its residents. In the case of multi-state utility companies, it is necessary to allocate any common costs (those that benefit the entire multi-state service territory) to each state served for the purpose of determining rates in each state. These types of allocations include generation facilities and backbone transmission lines that are built to serve the entire region. Regional planning and building is economically preferred to planning on a state-by-state. However, regional planning and constructing of assets does not work if one state decides to demand or extract a ransom for doing business in its state. Unfortunately, the state of Minnesota has chosen this path.

The Minnesota Malaise

The Minnesota legislature assessed fees for nuclear-waste dry-storage casks on Xcel Energy's property (currently costing $16 million per year) for purposes of developing a renewable development fund in Minnesota. As part of a Minnesota emissions reduction bill passed in 2001, Xcel Energy is allowed to automatically pass through any commission approved emission reduction projects built in Minnesota. Even though the projects are not required to comply with new state or federal air quality standards, Xcel has committed to spend nearly $2 billion in MERP investments in the state of Minnesota. In 2005, the Minnesota legislature attempted to mandate the building of a coal gasification plant in the Iron Range Mountains of Minnesota for purposes of stimulating the local economy. The statute requires that Xcel Energy buy 450 megawatts of base load capacity and energy under a long-term contract. Xcel is trying to oppose the Minnesota statute on the basis that it is simply too expensive. If Xcel loses the argument, a new plant of this nature will likely cost more than $2 billion. In 2006, Governor Pawlenty signed a mercury reductions bill requiring that coal-fired power plants cut mercury emissions by 90 percent by 2015 compared to the federal standard of 70 percent by 2018. Under existing mandates, Xcel Energy must sell energy from about 1,745 MW of wind energy projects to its Minnesota customers by 2010. Xcel's generation facility in North Dakota includes 12 megawatts of wind generated power.

Regulatory Analysis

The percentage of Xcel Energy's electric business in North Dakota is about 5%. Therefore, if Xcel Energy invests just $1 billion in MERP project costs, North Dakota's share would be about $50 million resulting in capital carrying costs in year one of $7.5 million—not to mention depreciation and operating expenses. As you can see, what is mandated or encouraged in Minnesota has a profound impact on its North Dakota customers under the traditional regulatory approach of allocating common costs.