

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2418

2001 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2418

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2418

Senate Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date February 7, 2001.

Tape Number	Side A	Side R	Meter #
1	x		24.4 to end
1		x	0 to end
2	x		0 to 46.4
(Feb 20/01) 1	x		27 to 32
Committee Clerk Signature <i>Dario E. Priez</i>			

Minutes:

The meeting was called to order. All committee members present. Hearing was opened on SB 2418 relating to exclusions from limitations on electric distribution line extension and service.

SENATOR KREBSBACH: Sponsor of the bill. Reason: present law unfairly restricts growth opportunities for the investor owned companies inside city limits. This bill is a reasonable compromise. Written testimony attached.

SENATOR JUDY LEE, District 13, in favor. Rural cooperatives pay no state or federal income tax, retain dividends until ready and are not regulated by the public service commission. It doesn't make sense that a law restricts one business in favor of another. This is a compromise on who will provide electricity to new areas. It is in the public interest to have companies pay corporate income taxes and be regulated by the public service commission.

SENATOR BOB STENEHJEM, District 30, in favor. Written testimony attached.

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REPRESENTATIVE KATHY HAWKEN, District 46. In favor, the issue is fairness. The current law has outlived its usefulness, a lot of changes have taken place since then and it restricts the growth of one entity: investor owned utilities.

REPRESENTATIVE GEORGE KEISER, District 47, in favor.

DENNIS BOYD, MDU Resources, supports this bill on behalf of all three IOUs of ND named FIX TIA COALITION. Written testimony attached. Introduced:

DAN SHARP, MDU Utilities, in favor. Written testimony attached. Legislative clarification is needed on the meaning of TIA. This bill is fair: allows coops to keep all current customers and exchange of service areas.

DENNIS BOYD, explained bill line by line. Important: provided all participants agree, PSC will be the arbiter for complaints outside of city limits. Nobody will lose a single customer without a mutual agreement.

BRUCE J KOPP, Xcel Energy, in favor. Written testimony attached.

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

AL GOLDEN, Bismarck farmer, on his own behalf, in favor. Written testimony attached.

JOHN STUMPF, Xcel Energy, lineman, in favor. Written testimony attached.

DENNIS BOYD, distributed copies of ads sponsored by RECs.

SENATOR EVERY: Who paid for the initial infrastructure?

B J KOPP: Taxpayers in terms of low interest loans.

SENATOR KLEIN: Looking at the maps, who will serve new areas, who decides?

B KOPP, as city grows new areas will be served by IOUs, rest by the coops.

SENATOR D MATHERN: Did MDU sign any type of agreement as part of franchise?

D BOYD: Yes. TIA passed in '65, in '67 there was an attempt to repeal it which ended up as a study resolution. Their report: unable to solve this issue. Problem with the service area agreement: negotiated from a position of weakness. Areas within those agreement are 90% served so there is no place for growth and no incentive for RECs to negotiate with us.

SENATOR D. MATHERN: When you agreed to interim study, what proposal did you bring?

D BOYD: They spent three years focused on taxes. It's an emotional issue, committee dealt with the edges and didn't come up with any recommendations.

SENATOR EVERY: I am confused by your investment in ND as a company and question your commitment.

B KOPP: Our investment funded by shareholders. We have been in ND in one form or another for 85 plus yrs. We need to grow.

SENATOR EVERY: Tell me about your investment in infrastructure.

B KOPP: Every dollar, all revenues from consumer are invested in our infrastructure.

SENATOR LARRY ROBINSON, District 24, opposed. IOUs never offered anything to interim committee. We made no recommendation, were told the current situation is working well. There are a lot more things wrong with the electric industry in ND. This bill is not the answer and this is not the type of setting to solve this issue. Local communities decide where they will get their power. Every city has right to choose supplier of electricity, this is not an issue to be mandated.

SENATOR ESPEGARD: How does this compare with the situation in California?

SENATOR ROBINSON: With deregulation there is instability, lack of reliability. In ND we have abundant, affordable and reliable electricity, let us proceed with caution and not make mistakes.

SENATOR MUTCH: You consider this a deregulation issue?

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SENATOR ROBINSON: Yes.

SENATOR KREBSBACH: Aren't we living under a mandate now?

SENATOR ROBINSON: No. Refer back to electric utilities committee minutes.

SENATOR ESPEGARD: Cities endorse TIA?

SENATOR ROBINSON: Have accepted it as written.

SENATOR RUSSELL THANE, District 25, in opposition. Written testimony attached.

REPRESENTATIVE GENE NICHOLAS, District 15, in opposition. Written testimony attached.

REPRESENTATIVE CAROL NIEMEIER, District 20, in opposition. Written testimony attached.

HARLAN FUGLESTEN, Government relations director ND RECs, in opposition. Written testimony attached.

DENNIS HILL, exec. VP ND Assn. RECs, in opposition. Written testimony attached.

BRAD SCHLOSSMAN, CEO, West Acres Development, LLP, in opposition. Written testimony attached.

DAVE LOER, Minnkota Power Coop, in opposition. Written testimony attached.

ERIC ASMUNDSTAD, Pres ND Farm Bureau, in opposition. Written testimony attached.

SENATOR KREBSBACH: Regarding transfers: the situation in West Acres; does not this bill allow for transfer between IOUs and RECs?

B KOPP: Yes.

Hearing closed.

Persons who did not testify but submitted written statements in opposition.

RICHARD SCHLOSSER, ND Farmers Union; BRUCE CARLSON, Gral Mgr. Verendrye Electric Coop; SCOTT HANDY, Cass County Electric Cooperative Inc.; JAMES JENSEN;

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DAVE KOLAND, Exec. Dir. ND Rural Water System; RON HARPER, CEO, Basin Electric

Power Coop.; CHARLES M REICHERT, BNI Coal

February 20, 2001. Tape 1-A- 27 to 32

Committee reconvened. All members present. Discussion held.

SENATOR KREBSBACH: Motion : do pass. SENATOR TOLLEFSON: Seconded.

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

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

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

FISCAL NOTE

Requested by Legislative Council
01/30/2001

Bill/Resolution No.: SB 2418

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
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

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.*

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.*

0

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.*

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.*

Name:	Ilona Jeffcoat-Sacco	Agency:	PSC
Phone Number:	328-2407	Date Prepared:	02/05/2001

Date: 2/20/01

Roll Call Vote #:

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2418

Senate Industry, Business and Labor

Committee

☐ Subcommittee on _____

or

☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Sen Krebsbach Seconded By Sen Tellefsen

[illegible]

Total (Yes) 3 No 4

Absent 0

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. 24/8

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 0

Floor Assignment Sen Every

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

REPORT OF STANDING COMMITTEE (410)
February 20, 2001 9:51 a.m.

Module No: SR-31-3958
Carrier: Every
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2418: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends
DO NOT PASS (4 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). SB 2418 was
placed on the Eleventh order on the calendar.

2001 TESTIMONY

SB 2418

Order of Witnesses in Opposition to SB 2418

Sen. Larry Robinson

• **Sen. Russell Thane**

• **Rep. Gene Nicholas**

• **Rep. Carol Niemeier**

• **Harlan Fuglesten**

• **Dennis Hill**

• **Brad Schlossman**

• **Dave Loer**

• **Eric Asmundstad**

• **Richard Schlosser**

• **Bruce Carlson**

Scott Handy

NORTH DAKOTA SENATE

STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505-0360



COMMITTEES:
Industry, Business
and Labor
Government and
Veterans Affairs,
Chairman

Senator Karen K. Krebsbach
District 40
P.O. Box 1767
Minot, ND 58702-1767

TESTIMONY - SB2418
INDUSTRY BUSINESS AND LABOR COMMITTEE
SENATOR MUTCH, CHAIRMAN
FEBRUARY 7, 2001

Good morning, Mr. Chairman and fellow members of the Senate Industry Business and Labor Committee. For the record my name is Karen Krebsbach, Senator from District 40, Minot.

I have introduced SB2418 at the request of the state's investor owned electric utilities - Montana-Dakota Utilities Co., Xcel Energy (formerly Northern States Power Co.) and Ottertail Power Company. I agreed to co-sponsor this bill because I feel the present law unfairly restricts growth opportunities for the investor owned companies inside city limits.

North Dakota laws do not restrict any other business and their growth to the extent the current TIA law restricts public utilities and their growth. The bill we are offering this morning is a reasonable compromise to the current law.

Mr. Chairman, there are others here this morning who will comment on the technicalities of the bill and the need for change. I look forward to their presentations.

**COMPARISON OF TYPICAL RESIDENTIAL BILLS
ELECTRIC UTILITY - NORTH DAKOTA
SUMMARY
JANUARY 2001**

	January B#	Average Realization
<u>Bismarck</u>		
Montana-Dakota	\$59.58	\$0.0689
Capital Electric - Urban	62.66	0.0724
Capital Electric - Rural	73.83	0.0854
 <u>Fargo</u>		
Northern States Power	52.84	0.0611
Cass County Electric - Urban	69.45	0.0803
Cass County Electric - Rural	84.77	0.0980
 <u>Grand Forks</u>		
Northern States Power	52.84	0.0689
NoDak Electric - Urban	57.63	0.0666
NoDak Electric - Rural	76.74	0.0887
 <u>Mandan</u>		
Montana-Dakota	59.58	0.0689
Mor-Gran-Sou Electric - Urban	69.17	0.0800
Mor-Gran-Sou Electric - Rural	78.67	0.0909
 <u>Minot</u>		
Northern States Power	52.84	0.0611
Verendrye Electric -Urban 1/	51.52	0.0596
Verendrye Electric -Rural	73.82	0.0853

1/ Verendrye rural base rate for two or more services per transformer installation.

SENATE BILL 2418

GOOD MORNING, MR. CHAIRMAN AND MEMBERS OF THE SENATE INDUSTRY, BUSINESS, AND LABOR COMMITTEE. FOR THE RECORD I AM SENATOR BOB STENEHJEM, REPRESENTING DISTRICT 30 IN BISMARCK.

I WANT TO SAY I AM NOT DISSATISFIED WITH THE JOB RURAL ELECTRIC COOPERATIVES HAVE DONE IN RURAL NORTH DAKOTA. IN FACT, I AM AN REC CUSTOMER MYSELF. I AM, HOWEVER, BOTHERED THAT THE CURRENT LAW SEVERELY RESTRICTS GROWTH OPPORTUNITIES FOR INVESTOR-OWNED UTILITIES INSIDE CITY LIMITS, WHILE THE RECS HAVE A VIRTUAL MONOPOLY ON ALL GROWTH OUTSIDE CITY LIMITS. IN NORTHWEST BISMARCK, FOR INSTANCE, CAPITAL ELECTRIC HAS APPROXIMATELY 700 ELECTRIC METERS INSIDE THE CITY LIMITS.

IN THE AREA NORTH OF I-94 AND EAST OF HIGHWAY 83, CAPITAL ELECTRIC HAS APPROXIMATELY 1250 ELECTRIC METERS INSIDE THE CITY LIMITS. IN MY OWN LEGISLATIVE DISTRICT, CAPITAL ELECTRIC HAS ROUGHLY 650 ELECTRIC METERS. IF ALL OF THE AREAS SERVED BY CAPITAL ELECTRIC INSIDE BISMARCK'S CITY LIMITS WERE ONE CITY, IT WOULD BE THE 8TH LARGEST CITY SERVED ELECTRICITY BY MDU IN FOUR STATES!!! ALL WITHIN THE CITY LIMITS OF BISMARCK.

SIMILAR EXAMPLES OF RURAL ELECTRIC COOPERATIVES SERVING AREAS INSIDE CITY LIMITS EXIST IN ALL OF THE STATES LARGER CITIES AND TOWNS. I THINK THIS IS IN CONFLICT WITH THE ORIGINAL MISSION OF THE RECS, AND I THINK IT IS UNFAIR FOR THE CURRENT LAW TO CONTINUE TO ALLOW THIS TO HAPPEN.

I WANT TO EMPHASIZE NOTHING IN THIS BILL WILL FORCE THE RECS TO GIVE UP OR LOSE ONE CUSTOMER THEY ARE CURRENTLY SERVING. THE BILL WILL, HOWEVER, ALLOW THE INVESTOR-OWNED COMPANIES TO SERVE NEW CUSTOMER LOCATIONS IN NEWLY ANNEXED AREAS, AND THE RECS WILL CONTINUE TO SERVE ALL AREAS OUTSIDE CITY LIMITS. I THINK THIS IS A FAIR COMPROMISE.

**Testimony of Dennis Boyd
MDU Resources Group, Inc.
SB 2418
February 7, 2001**

Good Morning Mr. Chairman and members of the committee. For the record my name is Dennis Boyd, appearing on behalf of MDU Resources Group, Inc. and our utility division Montana-Dakota Utilities Co. The testimony I and others will be presenting this morning in support of SB 2418 is on behalf of all three investor-owned electric utilities - Montana-Dakota Utilities, Otter Tail Power Company, and Xcel Energy (formerly NSP) who have united under the name of the FixTia Coalition. Perhaps you have heard of us and visited our website at fixtia.com, or perhaps you have seen our newspaper ads.

This morning we will present several individuals who will give testimony illustrating the difficulties the present law is, and has been, causing for our companies, a layman's explanation of the changes to the law we are asking you to approve, and an explanation of what this bill does not do.

In addition there are other individuals who will present a more personal perspective of the current law. As always, we invite your questions, but in the interest of time and in keeping within our allotted one hour, perhaps it would be beneficial to hold those questions until we have finished our presentation.

TESTIMONY OF : Dan Sharp - MDU Resources Group, Inc.

TESTIMONY OF : Dennis Boyd - MDU Resources Group, Inc.

Mr. Chairman and members of the committee. Once again for the record, my name is Dennis Boyd. I would like to quickly present a simple explanation of SB 2418.

Section 1, page 1, lines 12 - 15 : One of the difficulties our companies are having with the current law authorizing us to serve customers within city limits is this provision which says we can serve new customers within

the city limits as long as we don't interfere with existing REC facilities. Line 15 establishes the Public Service Commission as the arbiter of disputes. These provisions are removed from the law.

Section 1, page 1, lines 15 - 19: This section establishes a population floor for cities with more than 2500 residents and authorizes the public utility with a franchise with the city to serve all NEW customer locations within the city.

Section 1, page 1, lines 19 - 24: This section allows any rural electric cooperative to continue to provide electric service to any EXISTING customer location it was serving provided the rural electric cooperative has a franchise to serve those existing customers. Additionally, a rural electric cooperative would be ineligible to apply for a franchise to serve any NEW customer locations within the city limits.

Section 1, page 1, lines 24 - page 2, lines 1 - 5: This section establishes a trade or sale procedure of customer locations and facilities provided ALL PARTIES, INCLUDING THE GOVERNING BODY OF THE CITY, MUTUALLY AGREE TO THE SALE OR TRADE.

Section 2, page 2, lines 21 - page 3, line 5: This section establishes the Public Service Commission as the arbiter for all complaints OUTSIDE city limits.

That, Mr. Chairman and members of the committee, is the bill. It is a pretty simple concept. Rural electric cooperatives serve all new customer locations in rural areas which are outside city limits. In addition after a formerly rural area is annexed to a city of more than 2500 population, the REC continues to serve all the customer locations they were serving prior to annexation. After annexation, the investor-owned utility which has a franchise to serve the city will be allowed to serve any NEW customer locations INSIDE city limits. NOBODY WILL LOSE ONE CUSTOMER WITHOUT A MUTUAL

**AGREEMENT APPROVED BY THE GOVERNING
BODY OF A CITY OR TOWN.**

TESTIMONY OF: Bruce Kopp

TESTIMONY OF Bob Graveline

TESTIMONY OF Al Golden

TESTIMONY OF: John Stumpf

That concludes our formal presentation, Mr. Chairman and members of the committee. If there are any questions you would like to direct to any of us, we would be happy to answer them.

Mr. Chairman and members of the committee. I began our presentation with a reference to our newspaper ads, suggesting you may have seen them. I am certain you have seen them, as well as the ads being run by the North Dakota Association of RURAL Electric Cooperatives. If you have looked at their ads closely, you have no doubt noticed the word "rural" doesn't appear anywhere in their ads - not even the sponsorship of the ads mentions the word

rural. Apparently they, too, recognize they have departed from their original mission of electrifying RURAL North Dakota.

**Testimony of Daniel W. Sharp
Montana-Dakota Utilities Co.
Senate Bill 2418**

Mr. Chairman and members of the committee, my name is Dan Sharp. I am a senior public information representative with MDU Resources Group, Inc. here in Bismarck. I will present my company's position on SB 2418.

The 1965 North Dakota Legislature passed the Territorial Integrity Act (TIA) to protect rural electric cooperatives (RECs) in their mission of providing electrical service to rural North Dakota. Specifically, the TIA prohibits electric public utilities from interfering with cooperatives or duplicating their facilities in rural areas. Most states have a territorial law to meet the same need.

However, in contrast to the territorial laws of other states, the North Dakota TIA also has an urban aspect, which prohibits public utilities from serving any customer in a municipal area where the RECs have facilities – even long after condos and shopping malls have replaced grain fields and pastures. Let me explain.

Unlike public utilities, electric cooperatives are not regulated by the North Dakota Public Service Commission – they can and do site facilities in rural areas without oversight. So, upon municipal annexation, the cooperative is likely to have at least some minimum facility in the annexed area. Thus, in clear violation of the intent of the Rural Electrification Act of 1936, the TIA assures the growth of the cooperative inside town while denying the public utility any opportunity to grow in the newly annexed area. It protects the cooperative

on the taxpayer's nickel. In this respect, the TIA is truly a fairness issue.

For the past four years, I have spent a great deal of time researching the subject of rural electrification and the federal subsidy programs that are available to cooperatives. Nowhere in my research have I found evidence that Congress or the North Dakota Legislature intended for cooperatives to replace public utilities in providing electric service inside municipal areas with the use of federal subsidies intended for rural customers. In fact, my research of the Congressional Record shows just the opposite.

The cooperatives will tell you the TIA is working well – a statement that conveys the same degree of accuracy as terms like: "virtual reality," "friendly takeover," and "childproof." They will also tell you

public utilities did not want to help electrify rural North Dakota. Let me describe how well the TIA is working for everyone concerned.

In a 1995 study, the Washington, D.C. accounting firm of Putnam, Hayes and Bartlett, Inc. -- using United States Energy Information Administration data and confirmed by other United States government agencies -- examined four subsidies available to electric cooperatives: low-interest loans, loan guarantees, preference access to federal power and exemption from state and federal income taxes. The study concluded that those subsidies provide cooperatives across the United States with about \$3.7 billion each year -- about \$250 annually for each cooperative member in the country. The research did not examine other subsidies

such as FEMA assistance and the cost to the taxpayer of the massive federal bureaucracy in place to serve RECs.

If we assume North Dakota's electric cooperatives are "average," then the taxpayer is anteing up about \$250 each year to keep an urban REC member electrified. We believe federal subsidies are still needed in truly rural areas. Regardless of the magnitude of federal subsidies available to cooperatives, does it make sense for the TIA to allow tax dollars to be used for this purpose, especially when there is an electric public utility serving the community and capable of providing the same service at virtually the same price and paying taxes on the income it derives from its electricity sales? Aren't there hundreds of better ways to spend the taxpayer's buck?

Coupled with all of its other subsidies, including exemption from paying income taxes, the urban REC continues to "milk Uncle Sam's cow but never feeds her." Or, as an NBC Nightly News "Fleecing of America" segment put it, a situation that should "shock every taxpayer."

Those cooperatives serving urban areas are growing at what we believe to be between 4 and 6 percent per year. We've developed this estimate from surveys and other data we've collected including cooperative reports. We know, for example, that Capital Electric Cooperative now serves approximately 3,500 consumers inside the city of Bismarck – about 15 percent of the city and growing. Cass County Electric Cooperative is growing even more rapidly each year inside Fargo and West Fargo. Cooperatives also serve a substantial and

growing number of customers in Minot and Grand Forks.

While we will not hook up the last customer in those communities this summer or next, the day we set the last meter is approaching. I have prepared handout maps of Fargo and Bismarck to illustrate the stranglehold the TIA needlessly places on Xcel and Montana-Dakota service areas in those two communities. As you can see, we have no place to go and no place to grow. (EXPLAIN HANDOUTS)

Without the ability to grow, our prices for consumers in town are sure to rise. It is not a question of "if," rather "when." Isn't it ironic that the TIA allows part of our customers' income tax payments to be used by a cooperative to help drive up our prices? Is this sound public policy? In the case of Montana-

Dakota Utilities Co., our profitability is not based on customer growth. It is due primarily to power sales to other companies and to our becoming more efficient wherever possible. But, as most business people know, there is an end to the efficiencies available to a company. In order to stay healthy, a business must continue to grow.

Finally, the TIA is not working well for the members of the urban cooperative. Each new cooperative member hooked up in town is one more urban consumer denied the benefits of third party rate and service regulation by the North Dakota Public Service Commission. If third party rate scrutiny is good for the public utility customer, why not for the urban cooperative member too, who, in many cases, lives just across the street from our service area?

Furthermore, each urban electric cooperative now has a "rural" and an "urban" residential rate. Guess who pays more – the rural member, of course. Compared to cooperative members in town, rural members pay between 14 and 44 percent more for electricity on the Capital, Cass, NoDak, Mor-Gran-Sou and Verendrye systems. The irony here is that the truly rural resident is the very person the RECs are organized, chartered and subsidized to serve. Were it not for the TIA and the cooperative's need to keep prices lower for urban consumers, the price of electricity to the farmer could be much more reasonable.

I have prepared a handout showing January 2001 residential electric rates for those five cooperatives I mentioned earlier. The handout illustrates the

rural/urban differences. By the way, MDU has one residential rate regardless of where a customer lives -- city, town or on the farm.

When you drive through the newer areas of North Dakota's largest cities -- areas mostly served by cooperatives -- you only need to answer one series of questions to determine how well the TIA is working:

- "Is this area rural?"**
- "Are property taxes here assessed at rural rates?"**
- "Do homeowners and businesses here have rural fire protection and rural law enforcement?"**
- "Do they have other rural services like water and waste removal?"**

If you answer "Yes," then the TIA is working well -- it is providing taxpayer subsidies for a legitimate service for rural homes and businesses. However, if you answer

"No," then the TIA is not working and needs to be fixed.

Following a 1995 court case involving the TIA, Chief Justice Gerald Vande Walle expressed this opinion on how well the TIA is working: "there must be a better way to resolve the meaning of the (TIA) statutes. A legislative clarification might be one."

We believe the present situation created by the TIA is an unintended result of the 1965 legislation. We do not believe the Legislature intended for electric public utilities, who currently pay about \$2.5 million a year in North Dakota State income taxes on electric operations, to be so curtailed in their ability to grow. We believe the Legislature wants us to grow and to continually add to the tax base.

In fact, we do not believe the present situation was contemplated by cooperatives themselves in 1965. Two years after the passage of the TIA, the Legislature requested a statement from the cooperatives and public utilities concerning the impact of the TIA. The following is part of the cooperatives' position -- a matter of public record -- on how the TIA was working: "The law has created two territorial jurisdictions . . . franchised areas within municipalities which are to be served by the public utilities and nonfranchise areas outside of municipalities which are to be served by the cooperatives." The present situation, vividly illustrated by the Bismarck and Fargo maps, is clearly not the one the Legislature or the cooperatives envisioned.

In conclusion, we believe Senate Bill 2418 is fair and reasonable for both the cooperative and the public

utility. It preserves the mission of both suppliers. Senate Bill 2418 will allow the cooperative to keep all of its current customers and will allow the cooperative to continue to grow on the urban fringe. Furthermore, the bill allows public utilities and cooperatives to exchange service areas to ensure efficient service to the customer.

Mr. Chairman and members of the committee, Dennis Boyd, senior public affairs representative with MDU Resources, will explain Senate Bill 2418 in more detail. However, I would be pleased to answer any questions you might have regarding my testimony.

**Comments to the North Dakota
Senate Industry, Business & Labor Committee**

57th Legislative Assembly

**Prepared by Bruce J. Kopp
Xcel Energy, Inc.
February 7, 2001**

Mr. Chairman and members of the committee. For the record, my name is Bruce Kopp, and I represent Xcel Energy, Inc. In addition to my company, my comments today reflect the views of the two other investor owned utilities operating in this state, Montana Dakota Utilities and Otter Tail Power Company.

We strongly support passage of SB 2418 and encourage a "do pass" recommendation from your committee. I believe both Mr. Boyd and Mr. Sharp have done a very good job of explaining this bill. Both in terms of the problems that are evident with the current law and how this proposal fixes those problems. I would like to briefly discuss what this bill does not do. I will also cover the reasons why I believe the opposition to this bill is flawed.

As many of you may recall, during the last legislative session, opposition to a proposal similar to this included advertising inaccuracies and emotional hype. As you've already heard from the previous speakers, this proposal is somewhat similar to that bill. The major difference being the population cap for communities of 2,500. You may also remember during the last session that there were even reports of threats to sponsors, their families and supporters of the bill. All in an attempt to detract from the process and effectively stop the legislation. To minimize these tactics and present factual information to this committee, the issues important to this committee today include a discussion of what this bill does not do as well.

1. This bill does not "kick the cooperatives out" of the communities they serve. In their press release, dated January 29, 2001, the heading suggested that the IOU's were asking the Legislature to help us "Take customers away from ND REC's." On the contrary, they are not required to give up or sell any of their investments or customers accounts. In fact the infrastructure that they have in place to serve these customers will continue to be serviced and provided by them. At issue is the areas that are not being served at present. The areas that are going to be developed and in need of electric service.
2. Passing this bill will not cause the sky to fall and the lights to go out across the state either. Through the press release Mr. Dennis Hill goes on to state that "This bill is dangerous to the stability of electrical service in North Dakota." This is another attempt to infuse an emotional response. Both the IOU's in this state, and the cooperatives have built a stable and reliable network that has and will continue

to serve the consumers in this state well. To suggest that the lights will go out across the state is ludicrous.

3. Mr. Hill adds, "this is unfair. It takes future customers from the REC's and tells them they have to get their service from IOU's." The opposite of this scenario is why we are here today. Virtually all of the new customer additions both inside and outside of city limits are now required to be served by REC's. The proposal in front of you today provides for both IOU's and REC's with growth based on their individual missions and mandates. For the REC's, it will require them to focus on serving the "Rural" consumers they were created to serve. Contrary to what you may hear from them, there is substantial growth in the areas surrounding these communities prior to annexation. For the IOU's it will allow us to grow along with the communities we have served for the majority of the 20th century.
4. The bill has nothing whatsoever to do with the electric industry problems that are occurring in California. These comments made to date by the opposition attempt to add confusion to the territorial issue. The electric industry problems in California are supply issues. It is unconscionable to attempt to tie these two issues together. This is a North Dakota issue that deals with the distribution (poles and wires) part of the business.
5. And finally, the press release states that "the bill would prevent many North Dakotans from enjoying the benefit of a "low cost, reliable and plentiful power supply generated right here in North Dakota." This statement is just not true. MDU and Otter Tail Power are owners of power plants, transmission and distribution across the state and provide customers with some of the lowest cost, reliable electricity in the region. My company, purchases power from lignite based generation in the state (thru Minnkota) and also provides some of the lowest cost, reliable electric energy to consumers in this state.

The cooperatives will argue against any and all change regarding this topic. They will tell you the law has worked well for thirty five plus years. They will tell you they have been serving these "rural areas" for years when the IOU's did not find them profitable. They will argue that they need to serve some of the more densely populated growth areas to keep rates low for their rural members. And yet these same rural members are presently paying much higher rates than the same customers in the urban areas. For these reasons, and others, they will tell you they should be allowed to continue to serve all of this new growth around and into these communities. I don't blame them. For the most part, they had a large role in authoring the law in 1965 that has given them legislative and regulatory carte blanche to grow into these urban areas. They currently enjoy virtually all of the growth opportunities as they exist within the state. Continuation of this flawed public policy is detrimental to rural consumers, urban consumers, taxpayers, the State of North Dakota and companies serving this state for most of the last century. We are confident this committee and this legislature will be able to sift through the rhetoric, get to the facts, and in the end agree that SB 2418 is a long-term solution to this problem.

From our perspective, SB 2418 is the answer to the problem. We have been working in North Dakota communities large and small to provide low cost, reliable electric service

for over eighty five years. Investor owned utilities have invested millions of dollars of capital in the state. And each of our companies bring tremendous resources to the communities we serve. In times of disaster, we mobilize resources from around our entire system to rebuild and return customers to service. And unlike municipals or cooperative electric service providers, we do so without reimbursement from federal, state or local governments. In addition, we provide revenues to the same federal, state and local government entities in the form of property, income, and various other taxes. We don't mind paying these taxes that go, in part to help subsidize the truly rural areas of the State with low cost electricity. As has already been stated, these subsidies are both necessary and appropriate in these areas. They are not however, needed within the city limits where franchised public utilities are ready, willing and able to serve.

In summary, we do not expect the legislature to provide our company with anything other than they would provide any other business. We only expect a fair opportunity, by law to grow our business, and continue to provide low cost, reliable energy services to North Dakota consumers. For these reasons, Mr. Chairman, we respectfully encourage a "do pass" recommendation on SB 2418.

Mr. Chairman and members of the committee, that concludes my prepared remarks. Thank you for the opportunity to share these thoughts today.

Bruce J. Kopp
Legislative Affairs Manager
Xcel Energy, Inc.



Utility Shareholders of North Dakota

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Comments before the Senate Industry, Business, and Labor Committee, 2/7/2001
RE: SB-2418

Mr. Chairman, members of the committee, my name is Bob Graveline of the Utility Shareholders of North Dakota. 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-2418

More than 6,000 North Dakotans have invested their money in the three-investor owned utility companies serving our state because they believe in the American way of doing business. The basis of business in our great nation is one of risk and reward – regulated, but unfettered by government.

When a person invests their hard earned money with a company, they expect nothing more than the opportunity of earning a reward for that risk. But they expect the marketplace and not the government to determine the outcome of the profit or loss of the company.

Senate Bill-2418 is a compromise position to help remove state government influence from the good workings of the state's utility industry. The bill will allow the rural electric cooperatives to continue to grow without competition or third party oversight in the rural areas outside of the limits of the state's towns and cities. Then, once property is annexed into a town or city, the investor owned utility will be able to enjoy growth with new customers that move into the newly annexed area.

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Members of the Utility Shareholders of North Dakota pay their own utility bills, and they pay their due share of taxes on any income they may earn during the year. The members that I have visited with accept these realities as a part of being a responsible citizen.

But these same members feel it is completely wrong to pay taxes to help subsidize the electric utility bills of people who live across the street, or down the block from them. They feel it is wrong to pay taxes to help subsidize the electric bills of the West Acres Mall in Fargo, or K-mart in Bismarck, or the Dakota Square Mall in Minot, or the Super Target in Grand Forks, or any one of hundreds of other businesses located within North Dakota city boundaries that are currently being served by tax subsidized rural electric cooperatives.

SB-2418 being debated before you today will not solve those concerns. But it will be welcomed by the more than 6,000 North Dakotans who have invested in utility stock because they believe in the American business model of risk and reward in a free market without government imposed preferences.

Passage of SB-2418 will allow investor owned utility companies to grow as towns and cities grow.

I encourage you to forward a DO PASS recommendation on SB-2418 to help restore fairness to North Dakota's marketplace for electricity.

Senator Mutch, members of the Senate Industry, Business, and Labor Committee.

I'm Al Golden from Bismarck, and I appear on my own behalf in support of SB-2418.

I live several miles south of Bismarck and have made my living in the oil and gas industry and, until recently, in ranching since the 1960's. I have been a customer of Capital Rural Electric Cooperative since I moved to Bismarck in 1953. I appreciate the rural electric system we have in North Dakota and in the nation, because it has made the rural lifestyle much more comfortable and helped make our work a little easier out in the country.

I also own shares of stock in one of North Dakota's investor owned utilities, and I think they are being shortchanged as they attempt to gain new service territory when a city grows. Rural electric cooperatives can build right up to, and around, a city without any third-party oversight of their actions, thus foreclosing an investor owned utility's growth opportunity upon city annexation.

And I think this is wrong. The current Territorial Integrity Act works like legislative induced and sanctioned restraint of trade. A non-regulated, taxpayer supported monopoly is allowed to grow at the expense of a regulated, investor owned, tax paying, monopoly.

SB-2418 breaks down a legislative barrier and allows both the rural electric cooperatives and investor owned utility companies to grow. The REC obtains growth near a city until the city annexes the property. The IOU then obtains growth in the undeveloped part of the newly annexed development. And the REC keeps all the customers they had at the time of annexation, and will continue to enjoy growth in other areas surrounding a city as the city continues to grow.

This looks to me like a reasonable compromise to a tough question, and I encourage a DO PASS vote from your committee. Thank you.

**Testimony of John Stumpf, Xcel Energy to the
Senate Industry Business and Labor Committee
February 7, 2001**

Good morning Mr. Chairman and members of the Committee. My name is John Stumpf. I am currently director of construction, operations and maintenance for Xcel Energy. I am originally from Bismarck and began my career in 1971 working for Unruh Construction in Bismarck building power lines. In March of 1977 I saw and acted on an opportunity to work for Cass County Electric in West Fargo as a lineman. I worked there until 1980 when I had the opportunity to join Northern States Power as a journeyman lineman. I worked on the line crew from 1980 through January 1995 and then accepted a supervisory position and recently was named director.

My story is not unlike many others who are currently line workers throughout ND working for Xcel Energy. Approximately 40% of our existing linemen came from regional cooperatives who felt their career opportunities would be enhanced and grow with Xcel. Nearly all our linemen come from ND communities such as Bottineau, Carrington, Dunseith, Page, Edgeley, Enderlin, Fargo, Grand Forks, Hague, Hatton, Kempton, Kindred, Langdon, Mayville, Minot, Orrin, Park River, Tolna and Valley City. They are North Dakotans who want to stay in North Dakota.

The impact of the current TIA law has had a dramatic effect on the amount of work for our line crews. It not only affects new business construction but any infrastructure projects that would come as a result of planned future growth. Since 1996, they have seen their workforce reduced by 16%. Their total hours have been reduced by 21%. Unless changes are made to the TIA, this trend is likely to continue. We have on numerous occasions, sent Fargo crews to Sioux Falls South Dakota to work because they are growing and we are not. When these line workers came to Xcel, they hadn't intended to leave their home and family for a weeks work in Minnesota or South Dakota.

Our line workers are customer focused. They are motivated and come highly skilled. They are innovative, results driven and extremely efficient. For example in Minot, we have 7 line workers responsible for the needs of 17,000 customers. In the Grand Forks area 7 line workers are responsible for 24,000 customers and in Fargo we have 13 line workers responsible for 46,000 customers. Less than 1% of all work done in 2000 was completed by any contractors or other service providers. Our line workers do basically all our work in their respective areas.

I have never seen finer examples of hard working, caring individuals and I am proud to represent them. Some of them chose to take vacation so they could come here today and show their support for this bill. It doesn't seem right that state law can prevent us from growing. My hope is that with legislative change, these line workers will be given the opportunity to do what they do best, to work in North Dakota, and continue to serve the existing and future customers of North Dakota.

Testimony of Sen. Russell Thane, District 25
Before the Senate Industry Business and Labor Committee
Regarding SB 2814
2418

Mr. Chairman and members of the committee: For the record, I'm Sen. Russell Thane, from Wahpeton, representing District 25 in Richland County.

I rise to seek a Do Not Pass recommendation from this committee on SB 2418.

Mr. Chairman and members of the committee, I hate to give away any hints about my age. But I am one who remembers the day the lights came on in rural North Dakota.

It was 1948 in our part of the world. My father had previously gone to Otter Tail Power and asked them to string electric line to our farmstead. But we were told it was just too expensive for that to happen. So instead, my father and family signed up with the new cooperative in the region, RSR Electric, to bring us power. Through some rough conditions in the winter of 1947, the crews finally got the lines to our farm and the lights came on in 1948. What a joy that was. And what a boom it was to the economy in the local area when all the rural people started buying appliances and electric motors to make their lives easier.

Well, you say, that was then; this is now. What's this got to do with SB 2418?

My answer is that electric cooperatives have grown from those humble beginnings to being important, powerful partners in our state's economy.

I look around District 25 and see that the RECs have helped power the farms, ranches and rural businesses. The RECs helped form and provide power to ProGold. The RECs provide dependable, affordable power to the sugar beet industry that's so important to our region. I just look around District 25 and see that this consumer-owned power supplier is a vitally important player in our future growth.

Now I have good friends at Otter Tail Power Company, too. They are a good company. Otter Tail and the local cooperative operate facilities together, they work together on certain projects, and whatever differences they've had over territory have been resolved under the current Territorial Integrity law. I just don't see the need for this legislature to step in and put a strict limitation on where electric cooperatives can serve when they bring so much to the table in terms of power supply and jobs creation.

Mr. Chairman and members of the committee, I urge a Do Not Pass on SB 2418.

TESTIMONY ON SB 2418
PREPARED BY SENATOR THANE

Mr. Chairman, members of the committee, for the record, I'm Senator Thane representing District 25, which includes Wahpeton and part of Richland County.

I am appearing before your committee, Mr. Chairman, in opposition to Senate Bill 2418. I am one of the few from the rural area who is old enough to well remember when the "lights came on" for us. February of 1948 was when the switch was thrown and history made on our farm and dozens of others in my community. The winter of 1947 and 1948 was extremely severe with deep snow and intense cold. Working with army surplus 4WD vehicles and tracked weasels they set poles and strung the wire. The minimum monthly bill was \$4.80 for 40 kilowatts. For the first two months that is all we paid!

Electricity made it possible for us to enjoy all of the benefits that our city cousins took for granted. We tried before 1948. My dad and a neighbor went to Ottertail Power Company to see if they could string

lines and install transformers from a established line about 1 1/2 miles away. Yes, they could for a price neither of us could afford.

You are probably thinking - times have changed and what connection does this have with Senate Bill 2148? My answer is this - rural electric cooperatives have grown from those humble beginnings to being a successful and important partners in our state's growing economy. In my corner of the state, the rural electric cooperatives have supplied the growing need for power for the farms that remain, the value added industries such as ProGold and Minn Dak Beet Cooperative, implement dealers, farm machinery, manufacturers, and others. Consumer owned power is an accepted fact, now and for the future.

I hold Ottertail Power Company in high regard. They pioneered the power for the small cities and towns. They are an important player in economic development and have done a great deal to help start new enterprises.

I believe that, in our area, the investor owned and the cooperative power companies work together within the existing law. Why should we,

through this bill, substitute what has worked for a untried concept. Mr.

Chairman, members of the committee, I urge a "Do Not Pass" on Senate

Bill 2418.

Testimony of Representative Eugene Nicholas
In Opposition to SB 2418
Senate Industry, Business and Labor Committee
February 7, 2001

Mr. Chairman and committee members. I am District 15 Representative Gene Nicholas. I appear before you as a farmer and agribusinessman from Cando, a stockholder and member of the board of directors of Country Bank USA, a member of the board of directors of Dakota Growers Pasta Company, a member of the board of directors of the Towner County Medical Center, and a lifelong member of Northern Plains Electric Cooperative. I appear before you to encourage a "DO NOT PASS" vote on SB 2418.

~~For example,~~ the ongoing efforts of the state's investor owned utilities to confine our rural electric cooperatives to only the most rural, sparsely populated, unprofitable regions of our state. It seems that some of our private utilities would have you believe that cooperatives are second class citizens that don't deserve any better. The members of this committee need to understand that rural electric cooperatives are made up of North Dakota citizens just like myself. We are the "grass roots" of North Dakota. Without my neighbors having the ability to organize a cooperative and pool our resources, my farm near Perth, in Towner County, would still be without electric service today. So, when you talk about limiting the power and authority of rural electric cooperatives, you are talking about limiting the ability of the private citizens in rural North Dakota to control their own fate.

Everyone in business today understands the concept of economies of scale. Economies of scale are particularly important in farming, where even the largest of farms survive on the slimmest of margins. We all know what has happened to our family sized farms – they are disappearing. The same thing will happen to our rural electric cooperatives as the number of farms continue to decrease. Cooperatives are like all other businesses – they need a chance to grow. If the RECs are not allowed a chance to share in the growth of our cities, where it appears the only real growth is occurring, you are in effect sentencing those RECs to die. What happens to the rest of us who depend on the REC's ability to deliver reasonably priced electricity for our economic survival?

Most of you know that I have worked my entire adult life championing the cause of rural development in North Dakota. In that effort I have worked hand-in-hand with the rural electric cooperatives - particularly my own cooperative, Northern Plains Electric. I want to share with you some of the projects and investments Northern Plains has made for the betterment of the consumers within its service area and the people of North Dakota: Dakota Growers Pasta, which Northern Plains helped to create; Integra Castings, which gives full credit for its location in North Dakota to the cooperative; Farmers Choice; Noodles by Leonardo; and the North American Bison Cooperative. In total, over two million dollars in direct investment, creating over 600 jobs and leveraging close to one hundred million dollars in new investment in North Dakota. And in return for that effort, the IOUs are suggesting that you pass SB 2418 and keep the cooperatives from sharing in any of the rewards.

This bill will stop most of the REC's development efforts. With very, very few exceptions, any new significant business development is built on property eventually annexed into a city due to the need for all the services a city provides - sewer, water, roads, police and fire protection, and access to financing. Taking the REC's ability to provide electric service out of the equation will greatly diminish their ability to accept the risk of investing in new facilities, to say nothing of the time and expense the RECs commit to creating and organizing those new ventures. What will happen if the RECs are not able to continue their very active role in the development of rural North Dakota?

SB 2418 is an attempt to limit REC service to only the most underdeveloped areas. In the process of doing so, the bill takes away the REC's incentive and the financial means to develop rural North Dakota. If the REC's don't, and the IOUs won't, who will?

Mr. Chairman and members of this committee, I urge a "DO NOT PASS" vote on SB 2418.

Thank you.

Testimony of Rep. Carol Niemeier, District 20
To the Senate Industry Business and Labor Committee
RE: SB 2418
Wednesday, Feb. 7, 2001

Mr. Chairman and members of the committee,

For the record, I'm Rep. Carol Niemeier, from Buxton, representing District 20, which encompasses parts of Cass and Grand Forks Counties and Traill County.

I'm here today to register my opposition to SB 2418.

I also serve on the board of directors of Nodak Electric Cooperative, in Grand Forks, which I think gives me a unique perspective about this bill.

Let me speak first as a director. I hear from time to time in the debate about this bill that electric cooperatives are unregulated. That's just not true. There are 151 directors who regulate and oversee the operations of the state's 17 distribution cooperatives.

I consider myself a good director, a good regulator, for the people I represent. I stand before those consumers every three years. If I'm doing a good job, those consumers will re-elect me. If I'm not, then someone else will get elected to the job. The same is true for the other 150 directors in the state as well.

In my job as a director, I have a fiduciary responsibility to approve rates and govern the utility business in the best interest of the consumer members who own us. Every operating policy of the cooperative is also approved by the board of directors, and we are available to hear directly from our consumers on how we can improve our cooperative. Contrary to the belief of some, we believe this process of locally-elected directors provides far more scrutiny over the utility than the state's investor-owned

utilities receive. In addition, we have to make sure that our utility complies with all federal and state regulations.

As a legislator, I oppose SB 2418 because of the negative effect it would have on the rural customers in District 22, and on the customers in other counties served by Nodak Electric. Six of the counties served by Nodak Electric--Nelson, Pembina, Ramsey, Steele, Traill and Walsh--have experienced population decline over the past decade. Grand Forks County, because of some growth in the city of Grand Forks, has seen a small population gain.

The negative impact on Nodak Electric and its rural customers if SB 2418 passed would be dramatic. Our cooperative would transform from a moderate growth electric utility into a negative growth electric utility. Our cooperative would lose its opportunity to add sales to help cover the millions of dollars of distribution investment in and around the city of Grand Forks. Without question, passage of this bill would result in higher retail rates for our remaining customers in the future.

We have served the northeastern corner of North Dakota for more than 60 years. This bill is unfair and unnecessary. Please vote to oppose SB 2418.

Testimony of Harlan Fuglesten
Senate Bill 2418
February 7, 2001
Senate Industry, Business & Labor Committee

Mr. Chairman and committee members. My name is Harlan Fuglesten, Government Relations Director for the North Dakota RECs. This morning I want to talk about how this bill would affect our co-ops, how it attacks local government control, why it violates North Dakota's Constitution, and why it is unnecessary and harmful.

To separate fact from fiction, let's begin by looking at what the bill actually does.

Beginning on page 1, line 12, the bill removes the law's prohibition against "interference" with or "unreasonable duplication" of existing electric facilities. You should be aware that long before the adoption of the Territorial Integrity Act in 1965, North Dakota law prohibited unreasonable interference with the service of another utility. So this bill represents a major departure from the state's historic concern about avoiding the wasteful duplication of expensive electric infrastructure.

Section 2 on page 2, starting on line 21, also amends current provisions of the Territorial Integrity Act to eliminate any right to seek injunctive relief from the Public Service Commission for interference with the system or service of an IOU or REC within any city.

By prohibiting co-ops from serving any new customer locations in cities over 2,500, these cities would have one of two choices. Either kick the co-ops out of town completely, or allow the IOUs to overbuild and crisscross existing REC facilities to serve new customer locations. The bill provides for the sale or trade of facilities by the IOUs and RECs, but with the law giving all new service rights to the IOUs, the RECs would

have nothing with which to bargain. The most likely scenario would be a forced sale at closeout prices.

The heart of this bill is found on page 1, lines 15-24 which contains all new language. One should understand that this language has nothing to do with the current Territorial Integrity Act, but rather it is intended to limit local control by cities in order to guarantee IOU electric growth at the expense of the RECs. Specifically, the IOUs would get the right to serve all new customer locations in cities over 2,500 that were not being served by an REC on July 31, 2001.

Let's look at the legal and practical problems this bill creates. As noted, the bill restricts the franchise options of cities over 2,500 people. Stated plainly, this bill is unconstitutional. The North Dakota Constitution, Article VII, section 11 states this clearly:

"The power of the governing board of a city to franchise the construction and operation of any public utility or similar service within the city shall not be abridged by the legislative assembly."

Not only would SB 2418 abridge the right of cities to franchise their public utilities, it would revoke several existing franchises cities have with electric cooperatives that are in conflict with the terms of the bill. While the cities themselves can revoke these franchises, the state cannot constitutionally break these agreements.

Not only is SB 2418 unconstitutional, it seeks to solve a legal problem that doesn't exist. Contrary to claims that the Territorial Integrity Act stymies IOU growth in and around cities, there is nothing in the present law that even requires a city to grant franchise rights to an REC. Jamestown, Wahpeton and Williston are just a few of the

many cities that have not yet franchised REC electric service. In these cities and many others, as the city grows, the IOU may serve customers in areas previously served by the local electric cooperative.

A number of cities, however, have recognized that it is advantageous to have more than one electric supplier. This bill would directly challenge these local decisions. Let me use two examples to illustrate my point. The City of Bismarck first granted a limited franchise to Capital Electric Cooperative in 1973. The agreement specified the areas in which Capital Electric and MDU would serve as the city expanded. MDU and Capital determined these areas through negotiations that resulted in a Service Area Agreement between the parties. This agreement included large areas for MDU to serve as the city expanded. Capital's franchise was renewed in 1993 for another 20 years. Also in 1993, the parties agreed that should the Service Area Agreement be cancelled, all the rights and obligations of that agreement would continue during the term of either MDU's or Capital's franchise with the city. Under its franchise with the City of Bismarck, MDU has enjoyed and continues to enjoy substantial growth in customers and electric sales. Now, however, MDU wants to deny Capital any right to grow with the city, even though Capital has waited patiently for almost 30 years for major development to reach its service area, meanwhile investing in these areas to prepare for growth.

The next example is the City of Minot where Verendrye Electric Cooperative received a franchise in 1972 which was renewed in 1992. Under this franchise, Verendrye and NSP (Xcel Energy) were each granted rights to grow into areas of future annexation. In fact, since 1972, about 60 percent of all areas annexed to the City of Minot have become part of NSP's service territory.

In many instances, the IOUs have not wanted to serve areas that are now on the fringes of our state's largest cities until such time as these areas became profitable to do so. Now that that time has come, they want to literally kick the co-ops out and take away their customers.

Under the bill, in cities with both IOU and REC electric service, the REC might continue to serve its present customer locations for a time. However, as new properties and customer locations are developed, the bill requires the IOUs to build in new facilities to serve them -- even when it interferes with orderly development and results in costly duplication of facilities already built by an REC.

The term "customer location" used in the bill would almost certainly lead to legal disputes as properties are developed and redeveloped. For example, West Acres Mall is currently undergoing expansion. Would new businesses in an expanded mall constitute new customer locations? What if a small business is replaced by a different, larger business? Is this a new customer location?

Other uncertainties arise under this bill. What happens when a city's population grows to over 2,500? Does the law affect that city immediately or only after an official census confirms the growth? When it happens, how long does the co-op have to cease serving its customers? Who pays for the co-op's lost investment?

Some proponents of SB 2418 have suggested that co-ops would be entitled to serve all existing customers they were serving at the time of future city annexations. The plain language of the bill, however, does not support this claim. Under SB 2418, a city can franchise an electric cooperative only to serve "existing customer locations it was serving

within the municipality on July 31, 2001". To quote MDU's president, this bill "will make REC's ineligible to serve an area annexed by the city with 2,500 or more."

In short, this bill would force co-ops to give up customers they may have served for decades, and would discourage co-ops from making investments to serve any areas that could potentially be annexed in the future. By default, these areas, too, would go to the IOUs. But would the IOUs want to serve these areas for five or ten or twenty years before annexation? And how far out would they be willing to go to serve new customer locations? A half mile? A mile? Five miles? This bill could create the real possibility that no one would be available to provide new electric service in areas surrounding these cities without the customers having to make the full investment upfront.

While SB 2418 would take away customers and territory from the RECs, the IOUs would remain free to serve in cities of every size and to compete for new customers in rural areas under procedures established by the Territorial Integrity Act.

The proponents of SB 2418 have said we need to put the R back in REC. But this argument arises from either ignorance or deception. The truth is that in North Dakota, cooperatives have always been allowed to serve in the areas that were rural when they first began serving the area. See NDCC 10-13-04 ("No change thereafter in the population of a rural area, as defined herein, changes its status as a rural area for the purposes of this chapter . . ."). To show my age, when I moved to Fargo in the mid-1950s there was still a barn located on 12th avenue and 11th street south where a church stands today. Interstate 94 had not yet been built, and city development stopped around 17th avenue to the south and about 15th street to the west. At that time, however, Cass County Electric Cooperative had already been serving the rural areas adjacent to Fargo for almost

twenty years. NSP could have served those areas if it had made the commitment and investment to do so. But they didn't because they couldn't see the profit in it. So it was left to the electric cooperatives to make the investment to grow these areas. Now that these areas are growing, don't let the investor-owned utilities take these areas away from the co-ops.

On behalf of the nearly 100,000 member-owners of the state's electric cooperatives, we urge a DO NOT PASS on SB 2418.

Testimony of Dennis Hill
Executive vice president and general manager
North Dakota Association of Rural Electric Cooperatives
Before the Senate Industry Business and Labor Committee on SB 2418
Wednesday, Feb. 7, 2001

Chairman Mutch and members of the committee: For the record, my name is Dennis Hill, and I serve as the executive vice president for the North Dakota Association of Rural Electric Cooperatives, in Mandan. On behalf of the 17 distribution cooperatives and 5 generation and transmission cooperatives who are members of our association, I rise to seek a "Do Not Pass" recommendation from this committee on SB 2418.

Before I provide additional reasons to oppose SB 2418, let me first explain the electric cooperative network in our state, which will give the committee a better understanding of why we oppose SB 2418.

North Dakota's electric cooperatives are powerful partners in the state's economy and energy industry. Through our network, we provide dependable, plentiful and affordable electric power to nearly 100,000 member-consumers, through some 115,000 meters, and have invested nearly \$700 million to do so. That's roughly a third of the state's population.

But we do more than sell power in this state. We make it here too. In fact, our G&T members have built, own and operate power plants here that can produce about 3,500 MW of electric energy. This \$3.5 billion investment in plants and coal mines on the prairies of Oliver, Mercer and McLean counties represents about 90% of the state's coal-

based generation. By contrast, Xcel Energy has not invested one dime in generation in this state to serve its customer base.

We believe the foundation on which our network rests is strong, stable and makes a lot of sense. Our consumers own the local co-op, the local co-op owns the G&T, and the G&T provides the financing and the market for the coal that's being delivered.

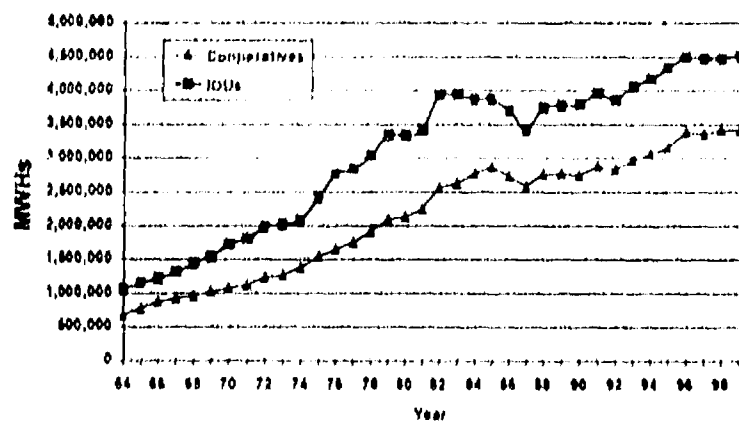
Through this network, we can assure our cooperative consumers that they are linked to an electric supply and delivery system that's home-grown, and insulates them from wild energy price swings we're seeing here and across the country.

On the other hand, the economic and philosophical foundation upon which the investor-owned utilities tried to build SB 2418 is weak. Here's why:

First, there is no evidence that the Territorial Integrity Act is causing economic injury, as shown by the next few graphs in my testimony.

#1. MWHs of electricity sold: Electric cooperatives versus IOUs, 1964 to 1999

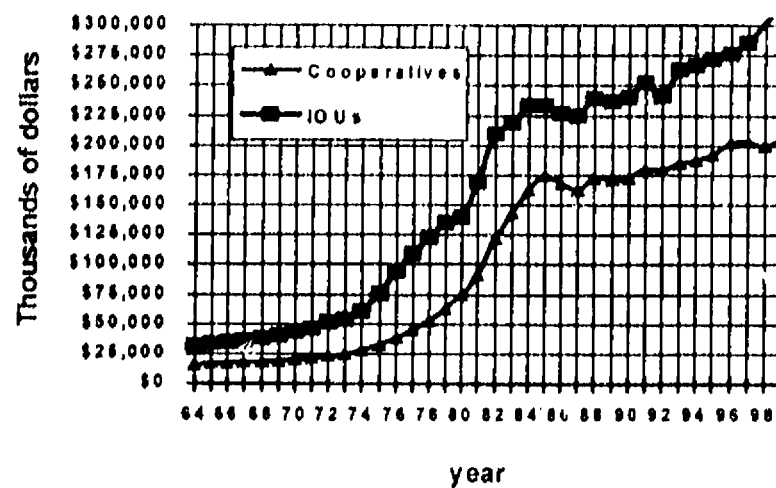
MWHs of electricity sold 1964 to 1999



#2. Electric revenues collected in North Dakota: Electric cooperatives compared to IOUs,
1964 to 1999.

Electric Revenues Collected in ND

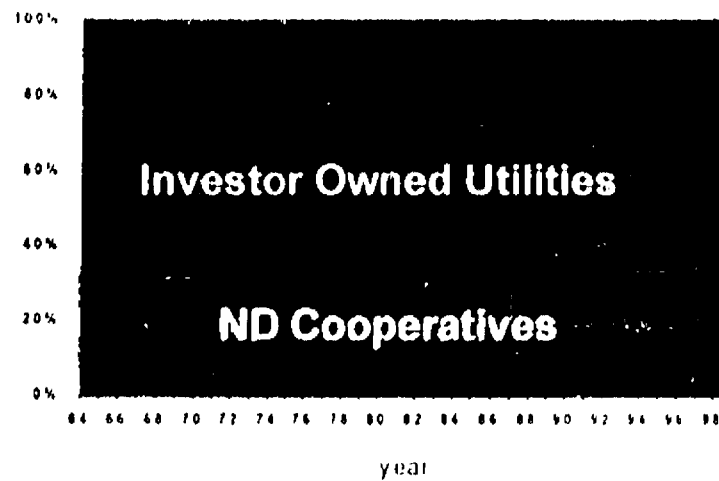
Cooperatives Compared to IOUs
1964 to 1999



#3. Market share of North Dakota customers

Electric cooperatives to Investor-owned utilities (1964 to 1999)

Market Share of ND Customers Total Cooperatives to Total IOUs 1964 to 1999

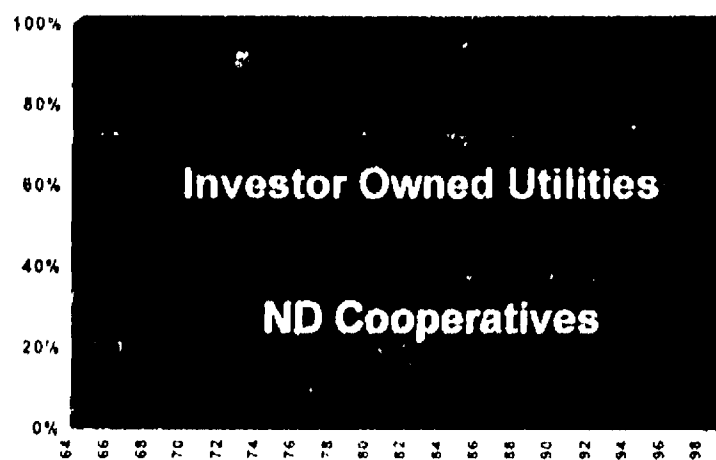


#4. Market share of electricity sold

Electric cooperatives compared to IOUs (1964 to 1999)

Market Share of Electricity Sold

Cooperatives Compared to IOUs
1964 to 1999

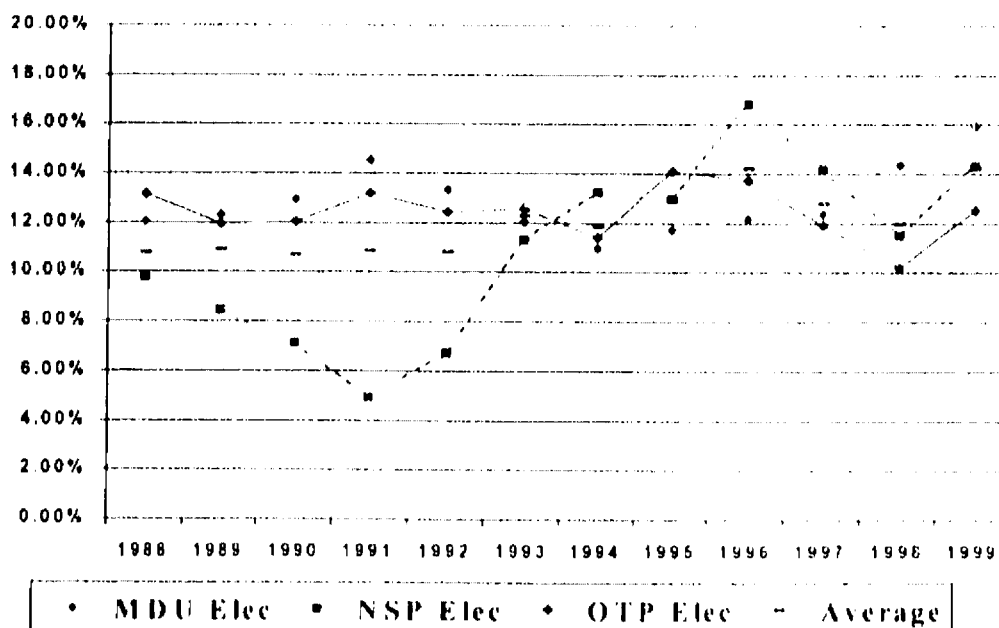


In each of these categories, there is no evidence of injury. I ask the committee to notice how the growth of both of our utility systems since 1965 when the Territorial Integrity Act was approved, tracks with the overall growth of the electric industry in North Dakota — nearly a parallel path.

Return on investment is another measure of economic success. Here again, there's no evidence of injury. In reports on file with the Public Service Commission, the investor-owned electric utilities show solid rates of return that average more than 12% over the past decade, and more than 14% in 1999.

#5. Reported earnings on equity

North Dakota
Investor-Owned Electric Utilities
reported returns on equity



But let's get more current. The investor-owned utilities, as stock-held corporations, provide financial reports to their stockholders and to the public. These reports for the year 2000 have just been released and the results are spectacular.

MDU Resources Group announced financial results for 2000, showing consolidated earnings of \$110.3 million, compared to \$83.3 million, for 1999. Revenues totaled nearly \$1.9 billion, a 46 percent increase over those of a year ago. The press release also noted: "Electric earnings increased 11 percent to \$17.7 million largely due to increased retail sales demand and continued strong wholesale electric sales at higher margins."

Xcel Energy told investors during a recent conference call that it hooked up 100,000 new customers last year, and expects to hook up another 87,000 new customers in 2001. That's more customers than Xcel has in all of North Dakota, and nearly as many as all of North Dakota's electric cooperatives combined. The company said year-end electric utility revenues for the year 2000 were about \$5.6 billion, compared to \$4.9 billion in 1999.

In its year-end press release, Otter Tail Power Company told investors and analysts that their company enjoyed "Record 2000 Results." The company's revenues topped a half billion dollars for the first time in 2000, setting records in electric utility and diversified revenues and operating income.

This picture of prosperity is not what the IOUs portray when they call for change to the Territorial Integrity Act. But again, little evidence here of injury.

Next, the IOUs attempt to build the foundation for SB 2418 on the notion that electric cooperatives must only serve farms and ranches. Again, not so.

Electric cooperatives were formed to serve people. Originally, they served people in rural areas that the very utilities in this room refused to serve. But as time passed, never did federal law, state law nor the courts ever say that electric cooperatives had to be kicked back out in the country when a city expanded into areas that used to be farm fields and pastures.

The IOU arguments on this point are not new. In a 1963 article entitled, "The Legal Bases for REA Loans," a USDA lawyer addressed the same claims being made now by investor-owned power companies. He wrote:

"We are confronted by the bare doctrine that the cooperatives may not serve what the power company desires to serve. This doctrine would deny existing cooperative consumers the usual advantages of area development and diversity, doom them to higher rates, and pave the way for eventual destruction of the cooperative in the electric field."

This lawyer went on to note that it was not the electric cooperatives who were deviating from the purpose of the REA Act, but rather it was the investor-owned power companies that misinterpret the law. The lawyer concluded:

"The act was clearly intended to provide for area coverage, including the good and the poor loads... There have been definitive rejections in Congress of the strange concept that a major purpose of the REA program is to ensure power company cream-skimming in perpetuity."

It is our view that SB 2418 has "power company cream-skimming in perpetuity" as its intended consequence.

Before leaving this point, I must also note that electric cooperatives in North Dakota are the most rural of electric cooperatives in the nation. We serve, on average, less than two persons per mile of line. Nationally, electric cooperatives serve about six customers per mile of line. Yet, the IOUs pick North Dakota, of all places, to wage this fight that REC's should be kicked out of towns above a certain size.

Finally, the IOUs try to build the need for SB 2418 on the basis that electric cooperatives are heavily subsidized. Mr. Chairman, members of the committee, we don't have time today to discuss what role public policy plays in providing dependable electric service in America. But I have included in my testimony a report that's produced by our National Rural Electric Cooperative Association that shows each segment of the electric utility

industry--IOUs, municipal electric utilities and electric cooperatives--have been provided incentives from the federal government to provide dependable electric service. In this report, you'll see that investor-owned utilities receive more subsidy from public policy choices than electric cooperatives.

Let me speak just momentarily about the Rural Utilities Service---formerly REA. The financing provided through RUS is important to us. But in terms of subsidy, the impact on the taxpayers of this country has largely disappeared.

That's because today's RUS program is an interest buy-down program. It operates almost like the popular PACE program here in our own state. The government provides a few million dollars each year to RUS to buy-down the interest rate for loans to the most needy electric cooperatives in the country. Most of the other loans are provided at a rate that's comparable to what municipal electric utilities pay when they sell tax-exempt bonds or as a loan guarantee to a private lender.

I think we all understand there's continuing public policy debate in this legislature about the appropriate level of tax incentives, tax breaks, grants and other programs to jump start business investment. Let me just say that we are unashamedly proud of the way we put incentives to use to create an investment of nearly \$5 billion in this state to assure customers an affordable, plentiful supply of electric power that runs all the way from the meter to the mouth of the lignite mine.

Before I close, I must say one more thing about the relevance of the co-op business model in today's business climate. For example, in California and Montana, where the electric system is in a state of turmoil because of deregulation and other factors, policy makers are encouraging the development of consumer-owned electric cooperatives as one of the solutions. And in New York City, a new electric cooperative has been formed to bring consumers in downtown Manhattan an affordable supply of power. It's ironic that our state would consider limitations on the electric cooperative model when other states in the nation are encouraging electric cooperative development.

Mr. Chairman and members of the committee, I trust you'll see from this testimony that the economic and philosophical arguments used by the IOUs to bring SB 2418 to this chamber just don't work. Again, we seek your opposition to SB 2418. I would be happy to answer any questions you might have regarding my testimony.

The Electric Cooperative Network **FOUNDATIONS:**



Member/
owners


Distribution
Cooperative

Generation &
Transmission
Cooperative

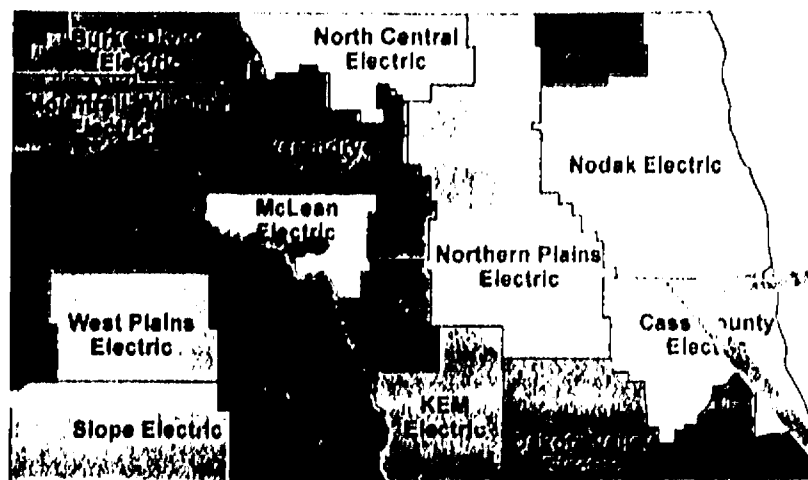
Lignite
Mine

**Presented to the Senate Industry,
Business & Labor Committee**

 North Dakota Association of
Rural Electric Cooperatives

North Dakota's Energy Future 

Members & Distribution Co-ops

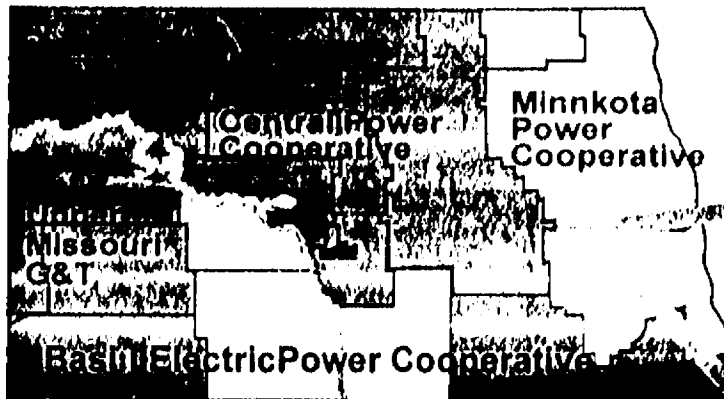


- 17 member-owned distribution cooperatives
- Serve 230,000 North Dakotans through 115,000 meters
- \$210 million annual revenues
- 42 percent of all electric retail sales in North Dakota
- \$700 million investment in distribution facilities
- 74,000 miles of distribution power lines
- Average line density of 1.5 meters per mile
- Employ nearly 700 people
- All operate as non-profit, member-owned enterprises, governed and regulated by a member board of directors
- Pay about \$6.6 million in gross receipts tax and property-related taxes.



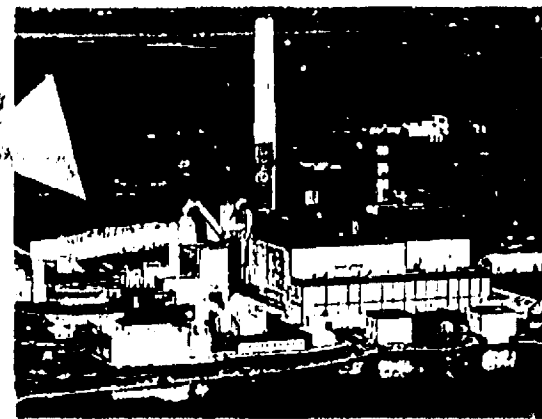
Customers regulate the co-op through directors elected to serve on their distribution co-op's board of directors.

Members & Generation and Transmission Co-ops



Great River Energy owns and operates the Coal Creek Station and the Stanton plant.

- Five generation and transmission cooperatives
- Invested billions in 3,500 MW of installed generation capacity
- Represents 90 percent of all coal-fired generation
- Own 4,200 miles of transmission line
- Directly employ more than 2,000 people in North Dakota
- All operate as non-profit, member-owned enterprises, governed and regulated by a member board of directors
- Pay approximately \$27 million in coal severance and coal conversion taxes



Distribution co-op boards formed generation and transmission co-ops to ensure the long-term power supply of present and future customers.

Each distribution co-op elects a member of its board to represent their needs on the G&T board of directors.

Members & long-term power supply



1. Distribution cooperatives are bound by contract to purchase all the power they need from the G&Ts they own, and the G&Ts have a utility responsibility to provide the power.

Basin Electric contracts with North Dakota members expire in December 2039.
Minnkota Power contracts with North Dakota members expire December 2020.

2. The decision to build the plants was based on market research that showed a need for the plants, and financing was secured based on assumptions that distribution co-ops would be allowed to develop investments in local territories on an orderly basis.

Summary of 1996 Electric Utility Taxes

Electric cooperatives pay nearly 75 percent of all taxes paid by electric utilities operating in North Dakota.

1996 State and Local Taxes on Electric Operations in North Dakota

Type of Tax	RECs	IOUs
Gross Receipts	\$6,084,681	0
City Privilege	4,093	0
Transmission Line	410,301	0
Property/Real Estate	430,002	5,861,576
Coal Conversion	10,546,865	868,957
Coal Severance	16,595,575	1,490,691
Sales and Use	2,823,000	1,635,088
State Income	33,865	3,378,971
Total Taxes:	\$36,928,382	\$13,235,283

Comparisons of Federal Assistance to Electric Utilities

All electric utilities in the United States receive federal assistance, or subsidies. This was the conclusion of Nobel Laureate economics professor Lawrence R. Klein of the University of Pennsylvania and has been further substantiated by numerous studies by federal agencies and others.

Congressional Research Service Studies: Two new reports by CRS specialists confirm federal assistance to investor-owned and municipal utilities. One dated Nov. 30, 1999 states the following:

"Other utilities also receive various subsidies. Municipalities are able to issue tax-exempt bonds to finance generation or transmission facilities. Investor-owned utilities (IOUs) have benefited in the past from investment tax credits and accelerated depreciation."¹

An extensive CRS study characterizes tax-exempt bonds of municipal utilities as a taxpayer subsidy. "Tax-exempt bonds reduce public power's interest cost on debt and enable it to lower the price of electricity."²

Investor-Owned Electric Utilities (IOUs), which on average serve 33 customers per mile of line, charge electric rates that also include amounts for presumed federal tax liabilities. Prior to 1987, IOUs collected taxes based on the 46 percent corporate tax rate. But due to available tax breaks — such as investment tax credits and accelerated depreciation — IOUs were permitted to retain much of the funds they collected for federal taxes.

The amount of these retained tax dollars is substantial: \$73 billion according to the U.S. Department of Energy based on official reports filed by investor-owned utilities. Federal studies have referred to this amount as an "interest-free loan." The annual value of this major federal assistance to investor-owned utilities is estimated at \$4 billion for 1998, making the subsidy to IOUs \$44 per customer. (See Table 1)

Municipal (City-Owned) Electric Utilities, which on average serve 43 customers per mile of line, issue tax-exempt bonds. The federal government loses revenue because the interest income to owners of these tax-exempt bonds is not taxed. The federal subsidy to city-owned utilities in 1998 was \$69 per customer, the largest utility assistance.

Rural Electric Cooperatives (RECs), which on average serve six customers per mile of line, receive reduced-interest loans from the Rural Utilities Service (RUS.) The federal assistance is the interest subsidy (federal borrowing rate minus the RUS rate) on outstanding RUS loans. The federal subsidy to rural electric cooperatives amounted to \$10 per customer in 1998.

Conclusion — All electric utilities receive federal subsidies in one form or another, as recently confirmed by the Congressional Research Service. Calculations based on federal government financial reports show that rural electric cooperatives receive the *least* amount of subsidy per customer: \$10 compared to \$44 for IOUs and \$69 for city-owned utilities. The difference in federal subsidies for each type of utility becomes even sharper after considering that because rural electric cooperatives serve sparsely populated areas across the vast countryside, they have only six customers per mile compared to 33 for IOUs and 43 for city-owned utilities. In addition, the appropriation to finance RUS electric loans has declined 90 percent since 1993. Although the RUS subsidy is being reduced, the assistance to the investor-owned and city-owned utilities continues at higher levels.

Table 1: Federal Assistance to Electric Utilities

Investor-Owned Electric Utilities³

1. Number of systems	239
2. Total retained taxes	\$72,626,614,000
3. Annual cost to gov't	\$4,051,355,000
4. Total customers	91,972,000
5. Assistance per customer	\$44.05

Municipal (City-Owned) Electric Utilities⁴

1. Number of systems	487*
2. Tax-exempt bonds outstanding	\$72,026,913,000
3. Total interest paid	\$4,087,711,000
4. Annual cost to gov't	\$981,051,000
5. Total customers	14,176,000
6. Assistance per customer	\$69.21

Rural Electric Cooperatives⁵

1. Number of systems	750
2. Total RUS loans outstanding	\$11,314,336,000
3. Annual cost to gov't	\$111,823,000
4. Total customers	10,881,000
5. Assistance per customer	\$10.28

Sources of information and data for Federal Assistance to Electric Utilities:

Federal Sources

¹Cong. Research Service, "Sale of propane by rural electric cooperatives, Nov. 30, 1999.

²Cong. Research Service, "Electricity Restructuring and Tax-Exempt Bonds: Economic Analysis of Legislative Proposals," Jan. 20, 2000.

³U.S. Dept. of Energy (DOE/EIA) 1998 data.

⁴U.S. Dept. of Energy (DOE/EIA), *Financial Statistics of Selected Publicly Owned Electric Utilities 1998*. December 1999.

*487 municipal systems out of a total of 2,009 reported statistics to DOE

⁵U.S. Dept. of Agriculture (USDA), *1998 Statistical Report, Rural Electric Borrowers*, IP 201-1. September 1999

Congressional Research Service (CRS), The Library of Congress, *Investor-Owned Electric Utilities versus Rural Electric Cooperatives: A Comparison of Tax and Financial Subsidies*. November 1982.

U.S. General Accounting Office (GAO), *Public Utilities: Disposition of Excess Deferred Taxes*. September 1991

Note: IOU data provided by DOE reflect changes from the implementation of FASB no. 109. The analysis includes "Accumulated Deferred Investment Tax Credits", "Accumulated Deferred Income Taxes", and appropriate data included in "Other Regulatory Liabilities."

Testimony of Brad Schlossman

Senate Bill 2418

Senate IBL Committee, 2/7/01

Mr. Chairman, Members of the Committee, my name is Brad Schlossman and I serve as the CEO of West Acres Development, LLP. Our company owns and operates the West Acres Shopping Center and is the developer for the West Acres Business Park, both in Fargo.

I am here today to urge a "do not pass" recommendation on Senate Bill 2418. I am not speaking out of any malice or ill will toward Xcel Energy in particular or investor owned utilities in general. We have been a customer of NSP for nearly a century through related commercial properties. However, I am here in opposition to the Senate Bill 2418 because of the problems it creates to us as customers and the interference with the orderly development of existing projects.

I just have two points to discuss today.

First of all, Cass Electric has been an exemplary utility to us over the 30 years that we have received their service. They have been innovative in finding win-win solutions that benefit their customers. As the result of their proactive efforts, we have saved substantial sums for our stores and ourselves by using their off-peak dual fuel program. While it may seem like business as usual to have load control practices today, Cass Electric was a leader in providing low cost electricity to North Dakota customers through the implementation of its dual fuel program, way before its time. Moreover, the level of customer service that Cass Electric provides is second to none. Jim Ross moved to Fargo in 1993 to manage West Acres after learning the trade by managing 9 different malls in 9 different communities across the nation. He was amazed by the outstanding level of service provided by Cass Electric. Jim has often said that we are uniquely

blessed to be served by a utility that actually cares about the well being of its customers. I am here to repeat that to you, without reservation.

Second, I want to discuss the significant adverse consequences of this bill on us and other urban landowners served by cooperatives. Although the intent of the bill is to allow existing customers to retain cooperatives as their provider, in practice, it's not that simple. Take the West Acres Business Park for example. The park is now over 75% sold. The infrastructure is in place for electrical service to be provided by Cass Electric. We used the quality of electrical service and the price for load-controlled service as selling points in the business park, which attracted job-creating entities such as Cargill, US Bank Operations, Banner Health Systems, Community First Operations and now the Lexus Tower. Under SB 2418, Cass Electric would be prohibited from serving occupants of the remaining 25% of our land. We will be required to wait until Xcel brings service to the area before our land can be further developed. We are extremely concerned that there will be substantial delays before Xcel acquires the easements and installs the infrastructure necessary to provide electric service to the remaining sites. In the meantime, without guaranteed electrical service we will be unable to market the remaining land. This serious problem will be repeated in all other partially-completed commercial and residential developments throughout the state. It also seems an incredible waste of resources to construct a completely new infrastructure to serve the last 25% of our development, when the necessary infrastructure is already in place. Who may I ask, is ultimately going to pay for this unnecessary duplicative expense?

The bill will also have a negative impact on our mall operations. Newly developed outparcels adjacent to the shopping center will be required to use Xcel, despite the existing infrastructure. We just entered into a long-term land lease on one outparcel. Will our tenant be required to use Xcel when it opens and obtains service next fall? If so, how can it be assured that Xcel will

spend the money necessary to acquire easements and extend its line to one customer in time for its scheduled opening?

We are also currently expanding our mall to add new stores. Each of these stores will obtain their own electrical service. Since these tenants will be new customers in a new location, SB 2418 will require them to use Xcel. This will necessitate that we grant additional easements within and to the mall building. We would much prefer to have a single service provider for the mall. Based on the outstanding service we have received, we want that provider to be Cass Electric.

I want to remind everyone that when West Acres first opened, it was surrounded by wheat fields, and was well outside the city limits of Fargo and West Fargo. Customers had to travel on a gravel road for nearly a mile to reach the Shopping Center from south Fargo. Nearly all utilities made no effort to serve the West Acres area at the time. Cass Electric stepped up to the plate and made a huge investment necessary to serve West Acres and its surrounding areas. Now, after these areas have been largely developed, Xcel wants you to adopt an Act prohibiting Cass Electric from obtaining any new customers in the area it has served so well for decades. SB 2418 does nothing other than change the rules in the 4th quarter of what appears to be an overall tie game, to guarantee that our cooperatives and customers like us will lose.

Thank you for the opportunity to testify before you today.

OUTLINE
TESTIMONY OF DAVID LOER
MINNKOTA POWER COOPERATIVE, INC.
SB 2418
SENATE INDUSTRY, BUSINESS AND LABOR COMMITTEE
FEBRUARY 7, 2001

- Minnkota is a G&T cooperative - and also has been cooperative in its operations
 - With other cooperatives
 - With municipals - NMPA
 - With Investor Owned Utilities
 - Xcel - Summer capacity sale
 - Summer/winter swap
 - Fixed quantity
 - OTPC - Integrated trans. system
 - Control area
 - MN Power - Partnership - Young #2
 - MDU/OTPC/NWPS - Joint ownership of Coyote
 - We are friends with these organizations
 - Good people
 - They are very successful
 - On this issue we part
- I am here today to express Minnkota's opposition to SB 2418

- On behalf of the 100,000 meters(300,000 customers) who pay our bills
- Minnkota is owned by our customers
 - We are accountable to them
 - We are controlled by them (Board of Directors)
 - We have an obligation to serve current and new customers
 - Adequately
 - Reliably
- Minnkota has invested millions of dollars to serve current and new customers in our service territories
 - Approximately \$800 million
 - Generation
 - Transmission
 - Distribution Substations
 - When we put in new facilities we build them bigger than currently necessary
 - Anticipation of growth
 - Grand Forks/Fargo \$7.3 million in facilities
 - 60% utilized
- If SB 2418 is approved, a substantial portion of our growth would be stopped
 - Fargo
 - Grand Forks

- Would result in non-utilized (stranded) investment
- Stranded investment costs
 - Would not be covered by new customers
 - Must be covered by remaining rural and urban customers
 - Ag customers cannot afford added costs
- Planning horizon for G&Ts and other utilities is long term
 - Up to 10 years for generation, 2-3 years for transmission
 - We plan and build these facilities to serve current, growing and new loads in our current service territories
 - We do not believe it's fair to take our service territory away and leave the stranded investment as the responsibility of the remaining rural and urban customers
- Closing
 - SB 2389 (1999) vs. SB 2418 (2001)
 - February 5, 1999 vs. February 7, 2001
 - This is a repeat question - answer was "no" in 1999
 - We should ask IOUs "What part of **NO** don't you understand?"



Charles M. Reichert
President & General Manager

February 6, 2001

Committee Members
Senate Industry, Business and Labor Committee
North Dakota Senate
State Capitol Building
Bismarck, ND 58505

Dear Committee Member Senators:

This letter is to communicate BNI Coal's opposition to SB 2418 and to encourage a "Do Not Pass" vote by your committee.

BNI Coal is the exclusive coal supplier for the Minnkota Power Cooperative Young Station, which generates electric energy for electric customers in Minnkota's service area. The sale of coal by BNI to Minnkota depends on the cooperatives growing their customer base

SB 2418 would take away a majority of the growth areas available for the cooperatives which own Minnkota, leaving only a declining customer base, thereby jeopardizing the current level of coal sales to Minnkota.

BNI Coal has invested substantial money in mining facilities and provides many well paying jobs for people in the Bismarck, Mandan and Center, North Dakota areas. Continued growth in the electric customers of our coal customer is critical to this positive influence on our regional and state economy.

Please vote no on SB 2418.

Sincerely,

BNI COAL, LTD.

A handwritten signature in black ink, appearing to read "C. Reichert", with a large, sweeping flourish extending to the right.

Charles M. Reichert

Bismarck Office

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Phone (701) 222-8828 • Fax (701) 222-1547

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North Dakota Farm Bureau

www.ndfb.org

**Testimony of North Dakota Farm Bureau
Senate Bill 2418**

Chairman Mutch, members of the Industry, Business, and Labor Committee, my name is Eric Aasmundstad. I am a farmer from the Devils Lake area, and President of North Dakota Farm Bureau. I am here today representing the 26,000 member families of North Dakota Farm Bureau in opposition to Senate Bill 2418.

The Rural Electric Cooperatives have been an integral player in the development of North Dakota. The REC's have, through the years built an electrical generation and distribution system throughout this great state that has been a reliable, stable source of electricity, for customers that the IOU,s deemed unprofitable. Now as cities expand and the demand for electricity grows, those same companies that chose not serve the rural areas and the small towns are trying to restrict the area served by the REC's.

North Dakota Farm Bureau believes this bill will leave the REC's with an ever-declining customer base as the rural population dwindles. Taking away the few growth areas available to the REC's could place a substantial burden on our rural population, a population already struggling. Dramatic increases in rates will be passed on to the rural population to cover fixed costs incurred by these co-ops, in serving their members. Agriculture and all of rural North Dakota would face a damaging competitive disadvantage if this were allowed to happen. This legislation will also put at risk the

One future. One voice.

billions of dollars the REC's have invested in North Dakota to build a power distribution network, and the plants that generate the power delivered to their customers.

If economic development is to be a reality in rural North Dakota, a stable, affordable power supply has to be preserved. The REC's provide this service and must not be placed at a disadvantage to the IOU's. The IOU's chose where they wanted to serve, and they still serve the best growth areas in the state, with the lowest cost of doing business. It would be unfair to take away the REC's right serve new customers in cities with populations over 2500, while allowing IOU's to serve in cities under 2500 as well as new rural customers. Rural North Dakota must be preserved for our state to prosper, and the defeat of Senate Bill 2418 will aid in this effort.

**Testimony of Richard Schlosser, North Dakota Farmers Union, on
SB 2418 - Senate Industry, Business and Labor**

February 7, 2001

Mr. Chairman and members of the committee, my name is Richard Schlosser and I am here representing the nearly 33,000 members of North Dakota Farmers Union, of which 23,000 are North Dakota farm families. We are opposed to SB 2418. More specifically, as cited in our policy statement, we support the Territorial Integrity Act of 1965, which minimizes conflicts among suppliers of electricity, allows orderly development of the state's electric utility infrastructure by minimizing disputes over extensions of distribution lines and avoids wasteful duplication of costly capital investment in utility facilities. In resolving disputes that arise, the Public Service Commission considers customer choice, service reliability and avoidance of unnecessary duplication of services or investment. Regardless of whether or how the electric industry may be deregulated or restructured in the future, the Territorial Integrity Act serves the best interests of both rural and urban consumers. Accordingly, North Dakota Farmers Union strongly opposes any legislation such as SB 2418 that abolishes or weakens the present Territorial Integrity Act. Thank you.

SB2418

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

February 7, 2001

Mr. Chairman and members of the committee, name is Scott Handy, and I represent Cass County Electric Cooperative, headquartered in Kindred, North Dakota. I am filing this testimony in opposition to Senate Bill 2418 and respectfully request your **DO NOT PASS** recommendation on it.

You are all familiar with the general arguments on this bill. I would like to provide some specific information with regard to utility growth to illustrate that SB2418 is not necessary to ensure a sharing of growth. I will also comment on a couple of relevant franchise issues you need to be aware of.

Cass County Electric Cooperative is in the bull's eye of SB2418. Much of the discussion by the investor owned utilities and their supporters hinges on areas such as the West Acres shopping center in Fargo. You might find it interesting that the West Acres area is territory that was voluntarily ceded by NSP to be in Cass County Electric Cooperative's service area in the early 1970s. What's even more interesting is that ceding the service area south of 13th Avenue South to Cass County Electric Cooperative service area was NSP's idea. As a consequence Cass County Electric Cooperative made a substantial investment in infrastructure to provide service to these areas, and did not object to NSP's expansion into the unincorporated territory north of 13th Avenue South and near Hector international Airport, as well as the Fargo Industrial Park area. We find it curious that the IOUs would choose in their efforts to promote SB2418 to highlight an area that one of them voluntarily gave up. Now they want the North Dakota Legislature to bail them out and fix a business judgment they themselves initiated.

Representatives of Xcel Energy (formerly NSP) have said that they are getting very little growth in electric customers in the Fargo - West Fargo area compared to Cass County

Electric Cooperative. Specifically, Mr. Kopp of Xcel Energy today testified that "initially all new customers are required to be hooked up to the REC." He also said the cooperatives "enjoy nearly all new electric customer growth." Mr. Chairman and members of the committee, I have a market share analysis indicating that is simply not the case.

Attached to this testimony is a ten-year comparison of market share of new electric customers in the Fargo - West Fargo area. You can see that over the past ten years both electric power suppliers have shared in the growth of this area. In fact, you will notice that in two of the past three years, Xcel Energy's market share has exceeded Cass County Electric Cooperative's.

The advertising and promotion of SB2418 by the IOUs consistently mentions their desire to share in the growth, and not exclude the cooperatives from a portion of it. SB2418 would have the opposite effect from what the IOUs claim is their goal. It would convert a situation where growth is now shared to one in which they would have an exclusive lock on all future electric customers in annexed areas. The second part of the attached market share analysis shows that if SB2418 had been in place over the past ten years, Xcel Energy would have added over 20 times the number of customers in Fargo - West Fargo alone than would have been added on Cass County Electric Cooperative's entire 8 county service area.

The second issue I'd like to raise is the history of the franchise agreements that Cass County Electric Cooperative holds with the cities of Fargo and West Fargo. Both these franchises were renewed within the past nine years. Our franchise with West Fargo was renewed in 1992, at the same time that NSP's franchise was renewed. In fact, I recall a representative from NSP being present as the franchise discussions were carried on with the City. They certainly had no objections to the renewal of our franchise with West Fargo at the time, even to the extent that we pursued franchise renewal together.

Cass County Electric Cooperative's renewal of its franchise with the City of Fargo is even more recent. The process was initiated in the spring of 1995. NSP was duly notified of our intent to seek renewal of our franchise agreement, and had every opportunity to comment and object. There was not even a comment made by NSP during this process, and the franchise agreement was unanimously approved by the Fargo City Commission on August 3, 1995.

Mr. Chairman and members of the committee, there are many more issues and facts that show that SB2418 is legislation that should not pass. This testimony discusses two of them: 1) the IOU is already receiving an ample share of new electric customers in the Fargo - West Fargo area, and SB2418 would shift the sharing of new customers to an exclusive lock on Xcel Energy's part; and 2) Xcel Energy, formerly NSP, had ample and recent opportunity to intervene and object to the renewal of Cass County Electric Cooperative's franchise agreements with West Fargo and Fargo and chose to remain silent.

These facts, coupled with the fact that the current location of electric service areas in the Fargo area was not only accepted but initiated by NSP originally show that SB2418 should not be passed.

Cass County Electric Cooperative respectfully urges your **DO NOT PASS** recommendation on SB2418, and asks that you allow the electric utilities in North Dakota to continue sharing in the very few growth areas that now exist in our state.

Thank you for your time today.

Exhibit attached: ten-year market share study

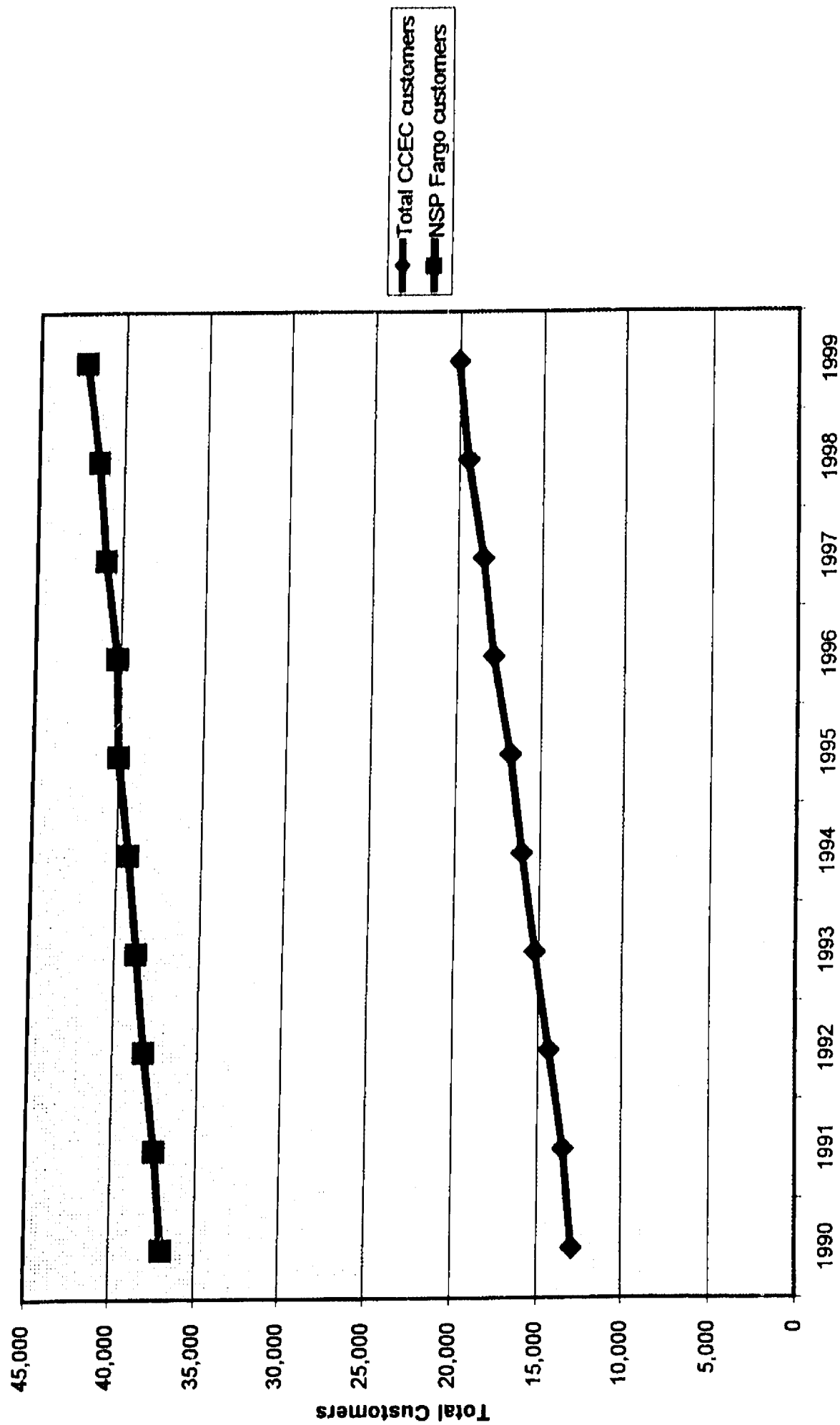
Market share analysis
New electric customers
Actual history

Year	CCEC customers	net change	metro-only change	non-metro change	Xcel/NSP customers	Fargo customers	net change	Total metro area new customers	CCEC market share	Xcel/NSP Fargo market share
1990	12,903				36,896					
1991	13,453	550	472	78	37,430		534	1,006	47%	53%
1992	14,326	873	785	88	38,138		708	1,493	53%	47%
1993	15,205	879	763	116	38,700		562	1,325	58%	42%
1994	16,055	850	841	9	39,307		607	1,448	58%	42%
1995	16,780	725	720	5	40,002		695	1,415	51%	49%
1996	17,860	1,080	968	112	40,194		192	1,160	83%	17%
1997	18,517	657	604	53	40,936		742	1,346	45%	55%
1998	19,467	950	868	82	41,456		520	1,388	63%	37%
1999	20,059	592	543	49	42,269		813	1,356	40%	60%
		7,156	6,564	592			5,373	11,937	55%	45%

Sources: * CCEC data from annual RUS Form 7 and accounting records

* NSP data from a report presented to the ND Legislature's Electric Industry Competition Committee by Bruce Kopp, NSP lobbyist, on June 7, 2000.

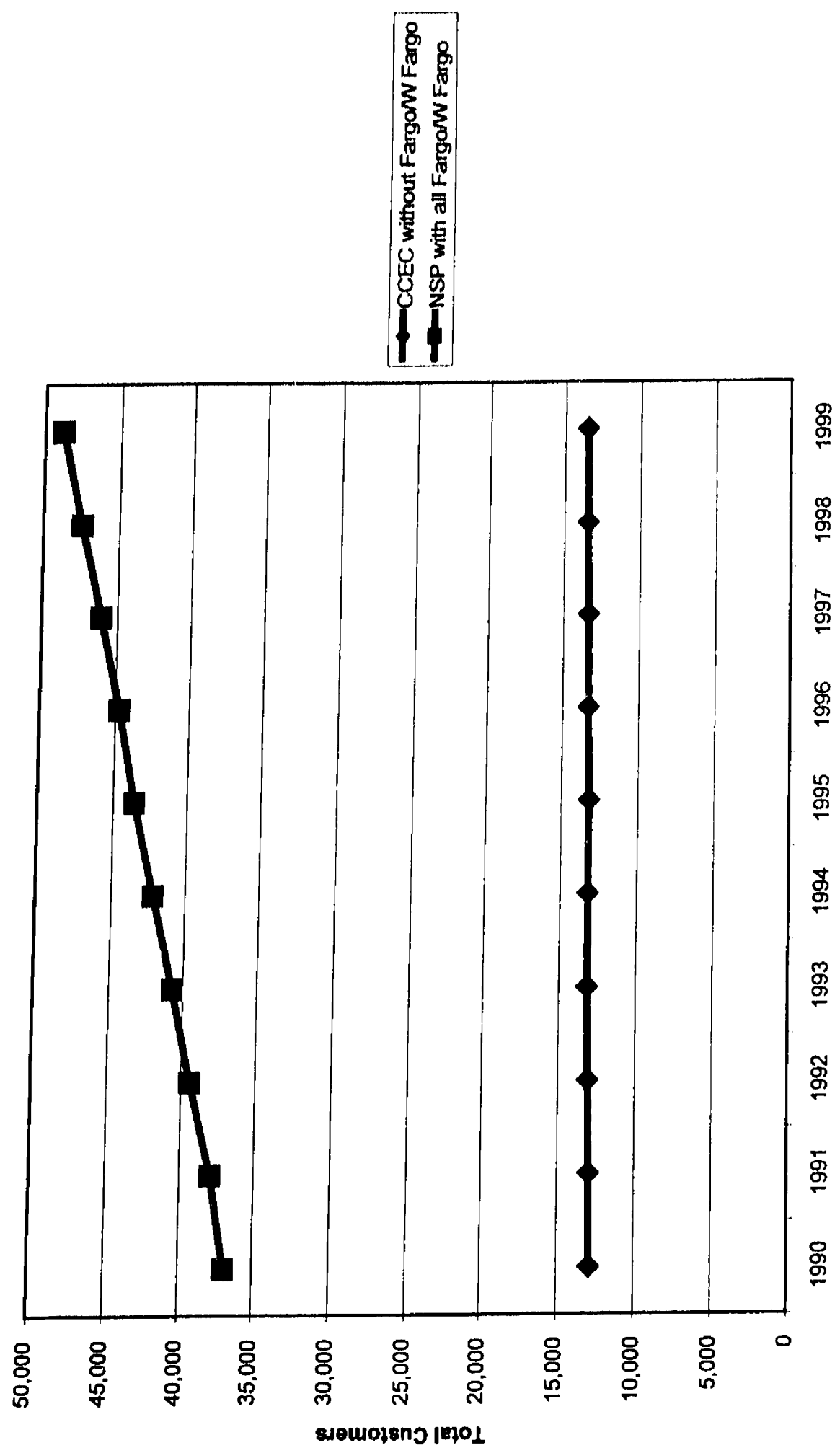
Electric Customers
Actual



Market share analysis
New electric customers
SB2418 scenario (all growth in annexed areas to Xcel/NSP)

Year	CCEC customers with no metro	Total CCEC net change with no metro	actual CCEC metro area change	Xcel/NSP Fargo customers	actual net change	SB2418 Xcel/NSP Fargo customers	SB2418 Xcel/NSP net change
1990	12,903			36,896		36,896	
1991	12,981	78	472	37,430	534	37,902	1,006
1992	13,069	88	785	38,138	708	39,395	1,493
1993	13,185	116	763	38,700	562	40,720	1,325
1994	13,194	9	841	39,307	607	42,168	1,448
1995	13,199	5	720	40,002	695	43,583	1,415
1996	13,311	112	968	40,194	192	44,743	1,160
1997	13,364	53	604	40,936	742	46,089	1,346
1998	13,446	82	868	41,456	520	47,477	1,388
1999	13,495	49	543	42,269	813	48,833	1,356
		592	6,564		5,373		11,937

Electric Customer Growth
SB2418 Scenario



**TESTIMONY OF BRUCE R. CARLSON
MANAGER OF VERENDRYE ELECTRIC COOPERATIVE
TO THE SENATE INDUSTRY, BUSINESS AND LABOR COMMITTEE
SENATE BILL 2418
February 7, 2001**

Mr. Chairman and members of the committee, my name is Bruce Carlson, General Manager of Verendrye Electric Cooperative, Velva, North Dakota. Verendrye is a "member owned" electric cooperative, which serves 9,900 meters in six counties over 4,100 miles of power line surrounding Minot.

I offer this written testimony in strong opposition to SB 2418. It would destroy the North Dakota Territorial Law, which has worked well since enacted in 1965. Verendrye, Xcel Energy, and the city of Minot, have had mutual service area agreements since 1973. A map defines these service areas and is a part of the City of Minot franchise document with Verendrye. This document was last renewed for another 20 years in 1992. I would like to refer you to the attached exhibits.

This ill-conceived bill will refuse Verendrye Electric service to all new customer locations in the city limits of Minot. This is unacceptable and very unfair. For over 60 years Verendrye has served the rural areas around Minot when NSP, now Xcel Energy, refused. Now that the city has grown out into our service area, Xcel wants the legislature to kick us out and "skim the cream" to benefit the stockholders of a major Minneapolis/Denver utility and to the detriment of our remaining members.

This would seriously impact the Verendrye membership. Currently, Verendrye has over 40% of our meters and our "non-air force base" kilowatt-hour sales in or adjacent to Minot. SB 2418 requires all future new customers within the city limits and all future annexations be served by an IOU (Xcel). This would result in much confusion, costly duplication of services and a potential safety hazard. The city and its citizens would soon become weary of this mess and expel Verendrye completely.

The loss of our only growth area, coupled with a declining farm population and the need to continue paying debts on our North Dakota power plants and infrastructure, ultimately could force significant rate

increases on all our members. The staggering rural economy can ill afford to suffer any increased cost of operations. Also, as areas are transferred, the potential of VEC recovering the full value of our electrical distribution lines during a forced sale to a single buyer is remote.

Xcel will claim they are "boxed in" with no room to grow within the existing franchised area in Minot. The facts do not support this. Service area maps show that Xcel has over 8,000 acres outside the Minot city limits and within their mutually agreed service area. Note that Xcel's total service area is 24.5 square miles in and around the Minot/Burlington area. Of that amount, 12.3 square miles is outside of the Minot city limits. Let me assure you that there is plenty of available space in Minot and in their existing "surrounding service area" for growth.

Over the last twenty-five years, the Minot city limits have grown by 6.1 square miles. Xcel has enjoyed 3.6 square miles, or 59%, of this growth area. Note that VEC only serves 2.5 square miles, or 41%, of the expanded city limits. This is our entire service area in the City of Minot as compared to a present city size totaling 14.6 square miles. Of this total 14.6 square mile area in the City of Minot, we only serve 2.5 square miles, or 17%, which took 27 years to realize.

It's obvious to all of us that the population of North Dakota as a whole is not growing. The "growth" around the cities that we are fighting about is, for the most part, a transfer of rural population to the urban areas. We are simply trying to recoup part of our "rural account" losses as the City of Minot expands into our service area. This is our only growth area. How can anyone be opposed to that effort?

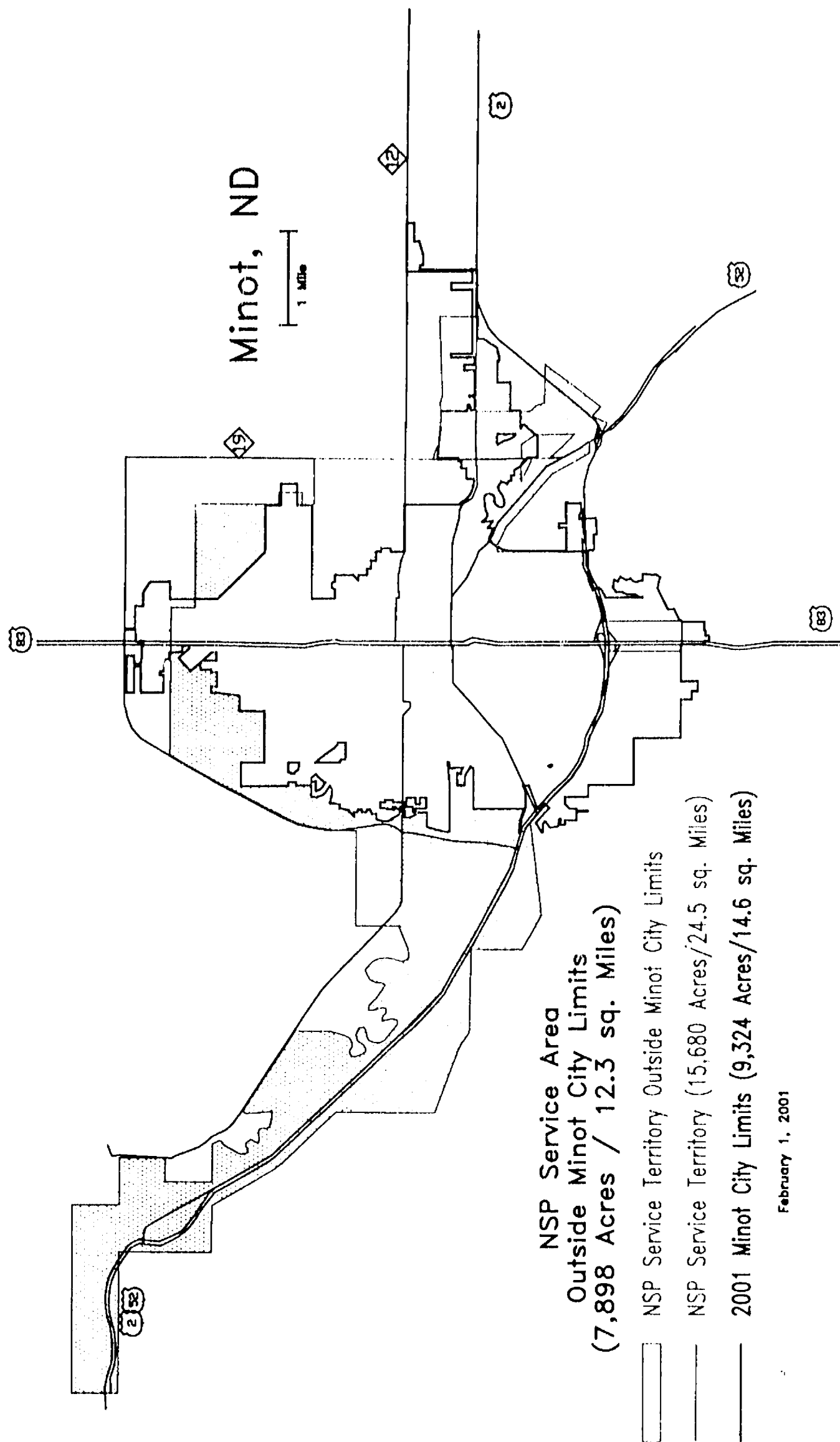
Some will claim major rate differentials to be a problem. Again, the facts show otherwise. Many of Verendrye's rates are lower than Xcel, Ottertail and MDU. All of Verendrye's commercial and industrial customers enjoy rates that are comparable or less than Xcel's. Verendrye's urban residential rate is lower than Xcel's underground residential rate. We do not deny that our "rural" customers are currently paying higher electrical rates than the IOUs. This is simply a fact of demographics since we only serve slightly

over one meter per mile of line in the rural area. The reality is that this proposed legislation will drive up the rates for all our remaining customers, especially our rural members.

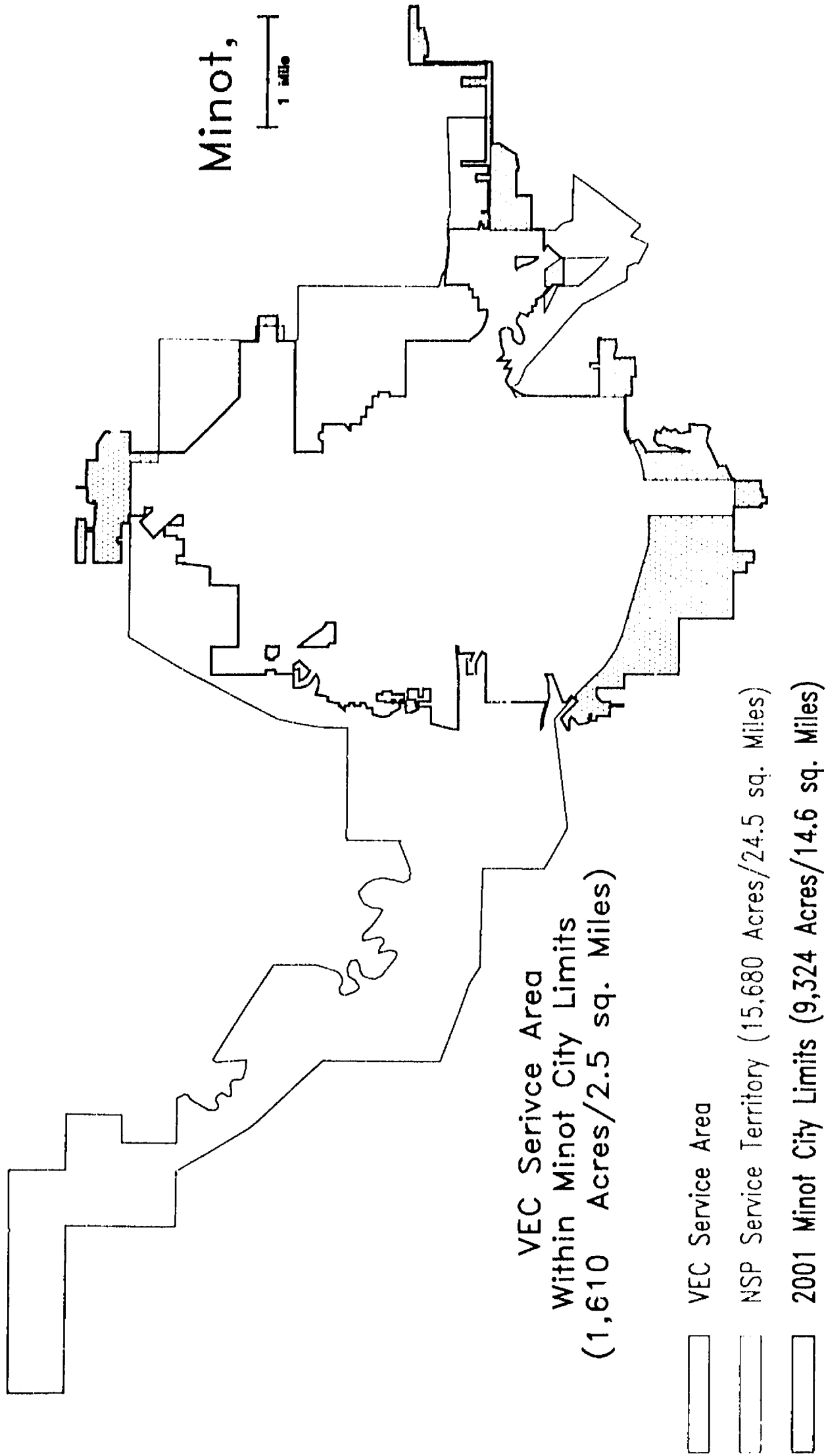
VEC has already made the investment in infrastructure close to Minot. Any new facilities as installed by Xcel will be a duplication and "waste" our existing investment of millions of dollars in distribution facilities. This does not include the billions invested in cooperative transmission and generation by Basin Electric Cooperative. This legislation will force us to vigorously oppose annexations for that very reason, causing friction within city planning.

This bill would be a major setback to rural-urban relations, which Minot has worked so hard to improve for over 20 years. The good will created by the MAGIC Fund, as an example, will soon deteriorate into animosity.

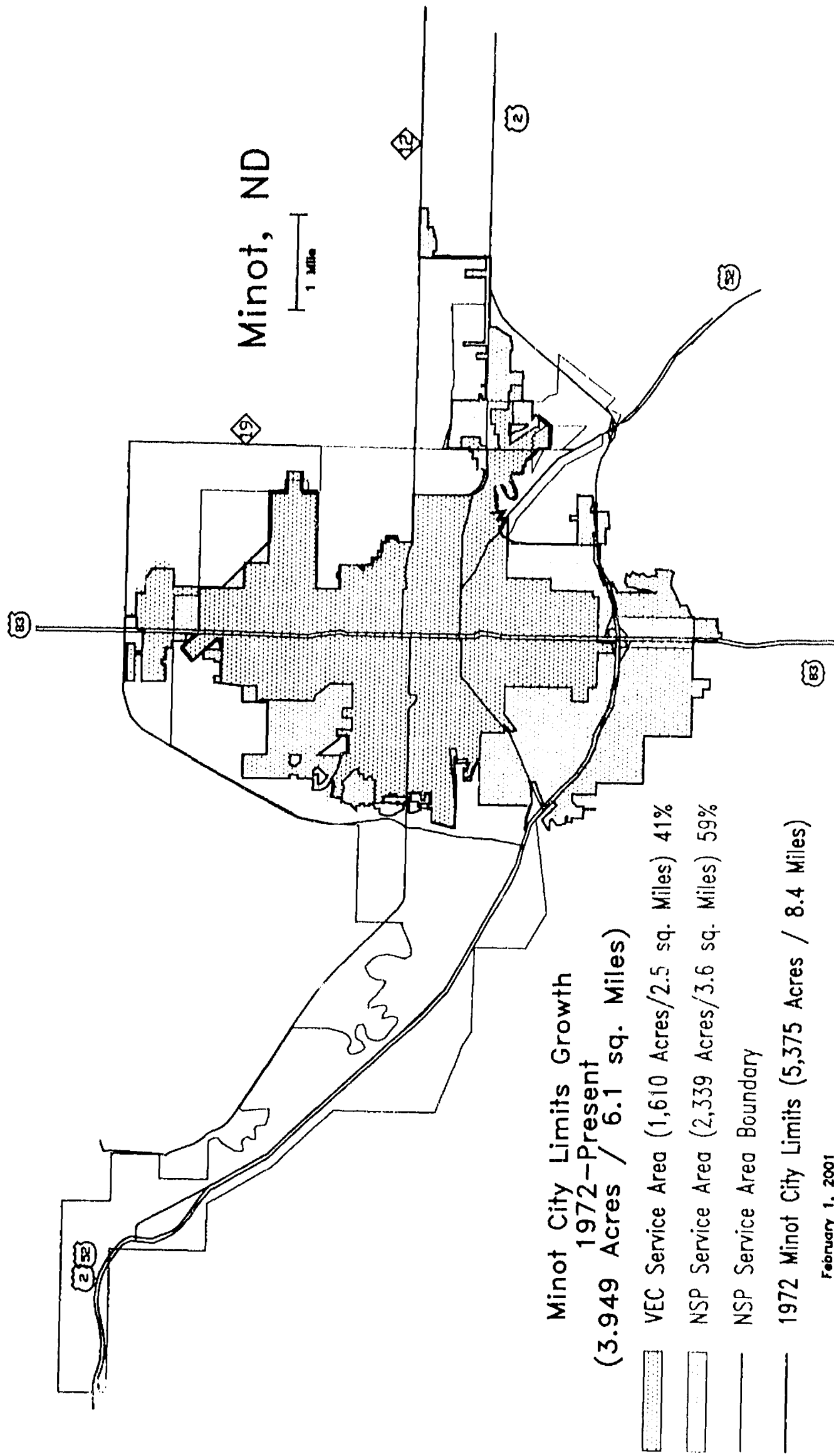
In conclusion, SB 2418 is a bill designed to benefit a large "out of state" corporation at the expense of a local, member-owned company and its consumers. The bill is self-serving and unfair. We didn't initiate this conflict, nor did we ask to penetrate the IOU's service territory. In fact, Verendrye has voluntarily transferred several key accounts to Xcel to clean up the territorial line. Verendrye and our members are simply protecting our investment and our future. The same can be said for every other rural electric in North Dakota. Therefore, we strongly urge a "do not pass" vote on SB 2418.



February 1, 2001



February 1, 2001



Dear Chairman Mutch,

Regarding Senate Bill 2418:

This bill appears to be a fence building bill, which would hamper development of North Dakota communities in a time when we need growth and development. The RECs have been instrumental in development. The RECs have been instrumental in development in and around our communities when the investor owned utilities have not been willing.

My personal experience is with Verendry Electric and Northern States Power Company of Minneapolis. In developing Edison addition in Southwest Minot I worked with Northern States Power. They were unwilling to put in underground utilities, which is much more appealing, however more expensive. Verendry Electric paid the extra expense in both Green Acres and Prairie Green developments. This is much better for both of these communities.

In the process of building a housing development adjacent to Southwest Minot, I was unable to persuade Northern States Power to bring power to the area. I turned to Verendry Electric and they worked with me in the development process and agreed to install underground utilities for the entire area. This addition (Green Acres), to the community with it's 15 acre park, tennis courts and other amenities, is seen as one of the most attractive in the city of Minot.

I continues to work with Verendry as we developed the Prairie Green Addition which now encompasses the Dakota Square Mall Shopping Center (Minot's Largest) and several stand alone businesses and many single and multi-family housing units. Walmart ultimately located nearby as well. For most businesses to succeed there is a window of opportunity. The time was right for this to happen and without Verendry Electric's forward thinking and interest in seeing our area grow, it would not have happened.

I believe it is vital to our state to keep every opportunity, every door open to encourage future growth and development. This bill does just the opposite. I urge you to kill this bill.

Sincerely,



James C. Jensen

Senate Industry, Business and Labor Committee
Senator Duane Mutch, Chairman
North Dakota Legislature
February 7, 2001

Mr. Chairman, members of the Committee: For the record my name is Dave Koland, Executive Director, North Dakota Rural Water Systems Association.

The 31 rural water systems in North Dakota treat and distribute safe clean water to our rural members and 242 small communities and 14 rural subdivisions in rural North Dakota.

The major operating cost in providing water to our customers is the cost of electricity. The pumping cost is a major component in determining the rate we must charge our customers for water. Consequently increasing the cost of electricity will have a major impact on the rates we must charge our customers.

North Dakota is searching for answers to solve the declining rural population and promote economic growth in small towns. This bill will do just the opposite by increasing the cost of living and doing business in rural North Dakota.

**Testimony of Ron Harper
CEO and General Manager
Basin Electric Power Cooperative
Before the Senate Industry, Business and Labor Committee
on SB 2418
Wednesday, February 6, 2001**

Mr. Chairman and members of the committee, for the record, I am Ron Harper, Chief Executive Officer and General Manager of Basin Electric Power Cooperative. I regret that I cannot be present with you today due to a prior commitment, but would like to submit written testimony for the Committee's consideration. On behalf of Basin Electric's member cooperatives in North Dakota, I rise to seek a "**Do Not Pass**" recommendation from this committee and a "**No**" vote on **SB 2418** when it reaches the Senate floor.

Basin Electric is a consumer-owned regional energy cooperative, founded in 1961 and headquartered in Bismarck, North Dakota. We employ about 1,400 people in the state. We operate two coal-based power plants in the state – the Leland Olds Station near Stanton, and the Antelope Valley Station near Beulah. By the way, Antelope Valley is North Dakota's newest power plant. We also operate two other plants, one near Wheatland, WY, and the other near Vermillion, SD. In total, we have 3,320 megawatts of generating capacity available for our 118 member systems in nine states, including North Dakota. Almost half of that generating capacity is located in North Dakota. In fact, RECs are responsible for nearly 90 percent of all coal-based generation in the state.

Basin Electric is part of a member-owned, consumer-driven electric utility network, providing electric energy for nearly 1.5 million people in the Upper Missouri River Basin region.

We provide electricity on a wholesale basis to 14 of North Dakota's 17 electric cooperatives and more than one hundred others in the Missouri Basin region. These systems own Basin Electric. Like many of the systems represented here today, we are also consumer owned and controlled.

In the early 1960s, when Basin Electric's then eight-state membership decided to form Basin Electric and build a first power plant and headquarters in North Dakota, it did so primarily based on two factors: 1) the abundance of coal and water; and, 2) the legally and politically friendly climate for rural electric cooperatives in North Dakota. For the past 40 years, Basin Electric and its subsidiaries have invested more than \$4.3 billion in the State of North Dakota. These investments were made to meet a growing demand for electricity not only in North Dakota, but other states as well.

In addition to direct investments in our own property and businesses, many times we have been called upon and have responded to requests for economic development assistance in North Dakota's rural and urban areas. We have always done so as a full participant in the benefit of the economic life of North Dakota.

Senate Bill 2418 would have a distinctly negative effect on Basin Electric's capacity and desire to contribute economic growth to the state. This bill would effectively "pull the rug" out from under our feet. It would be one more blow to a struggling rural economy by substantially raising electric rates to the state's farmers – cutting any hope of survival. North Dakota's farmers depend on affordable energy to produce food for this nation. The last thing they need is higher electricity prices so they can do their job.

Basin Electric is a North Dakota cooperative; we have North Dakota employees; we have North Dakota power plants; and we have North Dakota roots. I'm proud of that fact.

I'd like to think there's hope for us and our member systems in the future for more expansion. Expansion is good for us, all utilities and North Dakota. SB 2418 would not allow our member systems in North Dakota to expand thus raising their rates. We have affordable rates...in fact many of our member systems were able to give rebates to their consumers last month. Our member systems depend on growth in fringe areas of North Dakota's towns to help keep rates affordable to do their job. And from what I've seen, investor-owned utilities are not being hampered by the current TIA law. A recent MDU news release reported an 11 percent growth in electricity sales last year. The TIA law doesn't appear to hamper their growth.

The message of SB 2418 is that rural electric cooperatives are good as long as they are in their rightful place, and that place would be only to provide power to consumers the investor-owned utilities have decided are not profitable to serve. Where would North Dakota be today if this type of mindset had been pervasive when Basin Electric, Minnkota, and Great River Energy had started developing the lignite fields of North Dakota? We have provided a stable power supply to the state of North Dakota and the surrounding region when deregulation in other states such as California has proven to be a fiasco with skyrocketing electric prices and brown-outs and black-outs. Senate Bill 2389, a prior version of SB 2418, was proposed in the 1999 North Dakota Legislative Session, and the Interim Electric Industry Competition Committee was given the assignment of studying the issue and drafting a bill which would be fair and uncompromising to all. Do we need to start all over again and ignore all the work they've done by accepting the language in SB 2418?

Basin Electric has made tremendous investments in the State of North Dakota and is in the process of planning for future investments and future growth, depending on whether we feel they would be wise investments and whether making those investments will provide a return of

benefits to our member-cooperatives. If this bill is allowed even to proceed with this Committee's positive recommendation, you will be sending some very disappointing signals about the State's view toward the contributions and perseverance of several generations of rural electric members – individuals who represent the backbone of the State of North Dakota.

In conclusion, Basin Electric Power Cooperative is opposed to Senate Bill 2418. The mechanisms that have been in place for shared growth and opportunity have been working very well for many years. I find it hard to believe that the North Dakota legislature would consider tampering with a law that has worked so well for so long.

Thank you for your time and attention. If you need any further information or clarification please feel free to contact me at Basin Electric Power Cooperative.

Don't Let Greedy Investor-Owned Utilities Steal Customers from North Dakota's Electric Cooperatives

The Truth About Senate Bill 2418

The investor-owned utilities have proposed radical changes to North Dakota's Territorial Integrity Act, which relates to electric service areas. Senate Bill 2418 would force all new customers in the fringe areas of our larger cities, now served by your locally owned electric cooperatives, to become customers of investor-owned utilities.

The investor-owned utilities say the issue is fairness, but what is fair about using the legislature to force North Dakota electric cooperatives to give up future customers?

Years ago, when the investor-owned utilities ignored the areas surrounding our larger cities, your electric cooperatives made the investment to bring electricity to these territories. Now, as these areas are becoming profitable, the investor-owned utilities want to steal these future electric customers from the electric cooperatives.

The investor-owned utilities say they can't grow, yet investor-owned utility electricity sales have grown over 400% since 1965 when the Territorial Integrity Act was adopted.

The truth is, Senate Bill 2418 is about money. For years, the investor-owned utilities companies have been profiting millions from electric sales to North Dakotans. In fact, investor-owned utilities are reporting huge profits again this year. But now, all that money is not enough. They want more and the investor-owned utilities want to take it from our electric cooperatives.

Electric Cooperatives are North Dakota's Best Bet

- Your electric cooperatives are North Dakota's locally owned electric utilities.
- Your electric cooperatives have invested billions of dollars in North Dakota to build a low cost, reliable and plentiful power supply.
- Your electric cooperatives are not-for-profit, member-owned corporations.
- Your electric cooperatives pay nearly 300% more in state and local taxes than the investor-owned electric utilities.
- Your electric cooperatives employ thousands of North Dakotans with some of the state's best paying jobs.

Tell Your Legislators To Vote NO on Senate Bill 2418

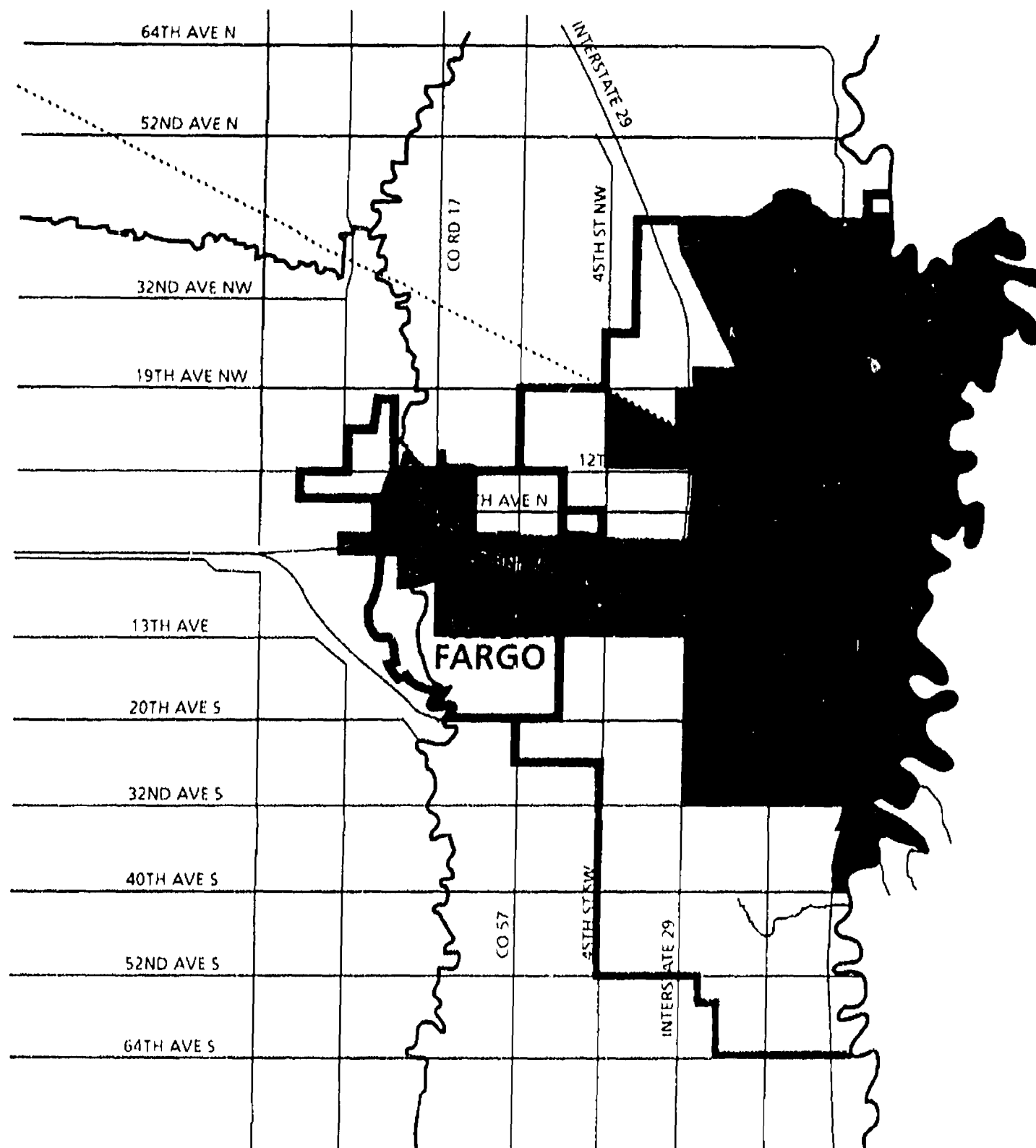
You can help. Tell your legislator to just say NO to the investor-owned utilities that want to raid customers from North Dakota's own electric cooperatives.

Here's how to contact your legislator:

E-mail: Go to www.ndarec.com for a complete list of all legislators
Telephone: 701-328-3373 or toll-free 1-888-635-3447
Write: North Dakota Legislature
(Your legislator's name)
600 East Boulevard
Bismarck ND 58505

For more information, visit our web site at www.ndarec.com.

NORTH DAKOTA ELECTRIC COOPERATIVES



- Areas served by Xcel Energy
 - Undeveloped areas left for Xcel Energy to serve
 - Current city limits
- All area beyond blue shading is served by Cass Co. Elec.*

