

March 4, 2021

To: House Energy and Natural Resources Committee

RE: Support of Senate Bill 2091

From: Zac Smith, communications and government relations director, NDAREC

Chairman Porter and members of the House Energy and Natural Resources committee, my name is Zac Smith, and I am testifying on behalf of the North Dakota Association of Rural Electric Cooperatives in support of Senate Bill 2091. The North Dakota Association of Rural Electric Cooperatives (NDAREC) represents sixteen electric distribution cooperatives and five generation and transmission cooperatives that generate, transmit, and distribute electricity across the state of North Dakota. NDAREC and its members support policies to allow further development of charging infrastructure across North Dakota. Simply put, this bill will allow convenience stores, gas stations, or whomever else wishes to sell electricity for electric vehicle charging the clarity in law to do so.

Because EV charging infrastructure was not contemplated when Section 49-03-01.5 of the North Dakota Century Code was drafted, one could argue that, currently, by selling or reselling electricity, the owner or operator of an EV charging station could be considered an “electric public utility” subject to Public Service Commission jurisdiction under North Dakota law. Senate Bill 2091 clarifies the language in Century Code to allow the resale of electricity for charging electric vehicles specifically. Senate Bill 2091 makes clear that the reselling of electricity is permitted if “ the reseller has procured electricity from an electric service provider

that is authorized to engage in the retail sale of electricity within the service area.” This change will benefit the operators of electric vehicle charging stations, and the owners of electric vehicles who want to buy electricity rather than an amount of time at a charging station. Senate Bill 2091 removes a barrier to electric vehicle charging stations selling electricity (as opposed to time or a parking space) with a narrowly crafted exemption.

Early iterations of EV chargers in North Dakota appear to be charging for time parked rather than kilowatt hours sold because of current language in Century Code. However, electric vehicle models have different battery sizes and charging stations charge at different levels. Thus, electric vehicle owners prefer the ability for some portion of the rate charged to relate to the kilowatt hours charged. As a gas station sells by gallons of gasoline rather than time spent pumping, this bill allows for selling units of electricity rather than time spent charging.

It is important to note that Senate Bill 2091 does not allow reselling of electricity in any circumstance other than for the charging of an electric vehicle. So, for example, a landlord could not submeter to tenants. Senate Bill 2091 also respects the service territory laws of ND. All utilities invest in capital-intensive generation, transmission, and distribution systems to serve all of their customers, including EV charging stations, in their service territory. Senate Bill 2091 makes clear that the reselling of electricity is permitted if “the reseller has procured electricity from an electric service provider that is authorized to engage in the retail sale of electricity within the service area.”

Cooperative utilities see great promise in the electrification of the transportation sector and improvement of our nation’s energy sector, including electric vehicle adoption and

deployment. Cooperative utilities are ideally positioned to partner with our members, the auto industry, electric vehicle owners, municipal and private vehicle fleets, car sharing companies, and communities to offer products and services that encourage EV adoption and provide convenient and grid friendly vehicle charging options. Many North Dakota cooperative utilities are exploring investments in charging infrastructure, consumer and member education, and even designed rates and incentives to encourage EV adoption. NDAREC is very appreciative of the North Dakota Public Service Commission's efforts to clarify ND Century Code to remove a potential barrier to allowing charging stations to resell electricity. If Senate Bill 2091 is adopted, there should be clarity under which the state's rural electric cooperatives, electric public utilities, and existing and potential future charging station owners can all operate.

That concludes my testimony. I would be happy to try to answer any questions you may have.