Testimony of Mark Bring
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Otter Tail Power Company

Before the House Energy & Natural Resources Committee
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Chairman Porter and members of the Committee, my name is Mark Bring and I serve as Director of Public Policy and Government Affairs for Otter Tail Power Company. I have been licensed as an attorney in North Dakota since 1992 and have been employed continuously in the electric industry since 1997. I respectfully submit this testimony regarding our company's opposition to House Bill 1512.

Otter Tail Power Company is one of the smallest investor-owned utilities in the nation and is a subsidiary of Otter Tail Corporation, which is traded on the NASDAQ as OTTR. Otter Tail Corporation also owns several manufacturing companies engaged in metal fabricating, custom plastic parts manufacturing, and PVC pipe manufacturing. These non-energy businesses include Northern Pipe Products in Fargo.

Otter Tail Power Company is headquartered in Fergus Falls, Minnesota, and provides electricity and energy services to more than 133,000 customers spanning 70,000 square miles in western Minnesota, eastern North Dakota, and northeastern South Dakota. Our service area is predominantly rural and agricultural. By way of example, a median-sized community we serve in North Dakota is Michigan in Nelson County. According to the most recent U.S. Census Bureau statistics, Michigan has a population of 263 people. We serve many towns that are smaller yet, including my hometown of Galesburg in Traill County. The largest North Dakota communities served by our company are Devils Lake, Jamestown, and Wahpeton. Following its incorporation in 1907, our company began serving its very first customer in Wahpeton in 1909.

There are a host of reasons that HB 1512 is either unnecessary or imprudent. Sections 1 and 2 of HB 1512 appear to be premised upon a misapprehension that counties do not presently have jurisdiction over commercial development within their boundaries. That is simply not the case. It is certainly not uncommon for counties to have adopted zoning ordinances on a variety of issues, including wind farm development.

While Section 3 of HB 1512 is confusing, it appears that the intention of this section is that a site certificate may be issued by the Public Service Commission only in circumstances where 60% or greater of the landowners are residents of the county. The Legislature should not be picking winners and losers when it comes to the landowner benefits associated with wind farm development or any other energy-related development. Moreover, it should certainly not be discriminating against landowners based upon their residency.

Finally, section 4 of HB 1512 appears to foreclose Public Service Commission issuance of an energy conversion facility site certificate unless and until a county holds a public hearing. However, as previously stated there is nothing in state law that prohibits a county from adopting and enforcing its own zoning requirements for commercial development, including requirements related to wind energy development. Indeed, most counties require conditional use permits for commercial development and both Mercer and McLean Counties have previously engaged in the adoption and enforcement of zoning authority specific to wind farm development.

Most problematic of all, section 4 of HB 1512 appears to hinder a surface landowner's rights and to stymie energy conversion facility development (of all fuel-types) if the development is proposed on land where there are lignite reserves. The former is contrary to the Surface Owner Protection Act found in Chapter 38-18 of the N.D. Century Code. The latter is contrary to the state's interest in energy development of all kinds.

For the foregoing reasons, we urge a DO NOT PASS on HB 1512.