



INDUSTRIAL COMMISSION OF NORTH DAKOTA

Doug Burgum
Governor

Drew H. Wrigley
Attorney General

Doug Goehring
Agriculture Commissioner

The Honorable Governor Tim Walz
The Honorable Attorney General Keith Ellison
The Honorable Commissioner of Agriculture Thom Petersen

Re: H.F. 7 and S.F. 4 introduced in the 93rd Legislature of Minnesota

Dear Governor Walz, Attorney General Ellison and Commissioner Petersen,

The North Dakota Industrial Commission ("Commission")¹ respectfully provides the following comments on H.F. 7 and S.F. 4, both recently introduced in the 93rd Minnesota Legislature. These two companion bills, in pertinent part, would require Minnesota utilities to procure all electricity from carbon-free sources by 2040. We respectfully request that minor amendments to these two bills be considered which would ensure this requirement would only apply to electricity generated within Minnesota.

Clean power generation for our neighbors

North Dakota ranks 7th nationally in total energy production, while ranking 40th nationally in energy consumption and 3rd in the nation in air and water quality according to U.S. News and World Report. North Dakotans pride ourselves on feeding and powering our nation while maintaining a high standard of environmental quality. North Dakota exports most of the energy we produce, with exported power generation exceeding 20,000 gigawatt hours in 2022. Much of this reliable power is exported into the Midcontinent Independent System Operator (MISO) territory, of which both Minnesota and North Dakota are members.

The Commission acknowledges that markets are demanding clean energy, which North Dakota remains well-positioned to provide. We strive to foster an environment that spurs innovation and provides certainty for utilities and companies seeking to develop clean energy in our state. Our geology is unique in its potential for carbon sequestration, with abundant pore space to safely and permanently store over 252 billion tons of carbon dioxide, which represents over 50 years of our entire nation's carbon footprint.

Combined with the Commission's primacy over our Class VI injection well program and well-established tax, regulatory and liability protection frameworks, North Dakota is confidently committed to providing carbon-neutral energy generated by our existing or future feedstocks.

¹ The Industrial Commission of North Dakota consists of the Governor, Attorney General, and Agriculture Commissioner and is tasked with managing industries on behalf of the State.

Our resolute commitment also extends to cooperative opportunities with our neighbors, examples of which include ongoing partnering with Minnesota on applications for hydrogen hub funding as well as our shared Grid Resilience and Innovation Partnerships (GRIP) program.

Diverse energy portfolio essential for ensuring our constituents' grid reliability

North Dakota's diverse energy portfolio includes not only traditional thermal generation, but also a growing portfolio of renewables and hydroelectric power. North Dakota's generation of wind power continues to increase, exceeding 15,000 gigawatt hours in 2022. Our approach to energy policy has been described as "all-of-the-above"; acknowledging that while growing new renewable energy sources is needed to meet consumer demands, preserving dispatchable sources is also necessary to maintain affordability and grid reliability.

According to MISO, while installed electric generating capacity is expected to rise to over 30 gigawatts by 2040, accredited capacity will actually decrease by over 15 gigawatts during this same period. Strikingly, over 100 gigawatts of dispatchable generation will be retired across North America during this time, with less than 10% of that capacity scheduled to be replaced.

Considering these stark realities, we remain fully engaged about the outlook of our shared grid. At a time of increasing demands, electrification of our transportation sector, continually worsening grid congestion, and ever-increasing challenges regarding the construction of new infrastructure, we cannot afford to lose any of our existing reliable and safe electric generation. Any net decrease in electric power production would inevitably and disproportionately burden our most vulnerable and economically disadvantaged residents with rising energy costs and reduced economic security.

The carbon-free standard as currently drafted in the two bills could jeopardize North Dakota's clean energy goals

One of the Commission's highest priorities is continually investing in the research and development of new and emerging technologies to decarbonize our energy sources. To accomplish this, North Dakota re-invests a significant portion of our energy production and extraction taxes into grant and loan programs.

The Commission has cumulatively invested over \$268 million in providing grants to develop clean energy technologies. And through our new Clean Sustainable Energy Authority, the Commission has further pledged more than \$250 million in long-term, low-interest loans to commercialize highly promising enterprises, such as the world's largest carbon capture project, a hydrogen hub under co-development in partnership with Minnesota, and carbon-negative manufacturing.

During its first three rounds, the Clean Sustainable Energy Authority has funded projects that would collectively reduce or capture over one-third of North Dakota's annual carbon dioxide production. The Commission is currently seeking an appropriation from the North Dakota Legislature that would double the program's previous budget. The continuing success of this effective program remains dependent on its revenue stream coming from future North Dakota energy extraction and production taxes.

It follows that the Commission is concerned that H.F. 7 and S.F. 4 as currently drafted could negatively impact North Dakota's ongoing efforts to decarbonize our energy sources and would result in devastating effects on our region's electric grid. Specifically, the Commission is very concerned about the proposed addition of subdivision 2g to Minnesota Statutes 2022, section

216B.1691², which would consequently require utilities selling power to retail customers in Minnesota to entirely generate from “carbon-free energy technologies” by 2040.

Because our electric grid is fully integrated and does not stop at our state boundaries, these two recently introduced bills as written would subsequently hinder North Dakota utilities from effectively implementing carbon capture technologies and would also prohibit utilities from operating dispatchable and accredited resources.

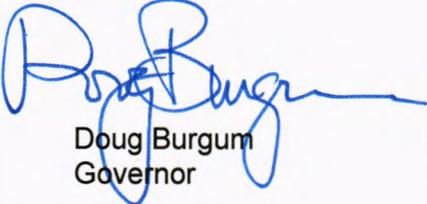
Moreover, these bills would unfortunately again raise some of the same issues regarding interstate commerce constitutional violations that federal courts have already decided and settled in North Dakota v. Heydinger et al. Of most significant note, the Commission is highly concerned that the two bills, if enacted, would foment likely unintended consequences of severely constraining current and future development of local clean energy and thereby threaten our region’s shared economic future.

Proposed amendment would address concerns without changing the spirit of the bill

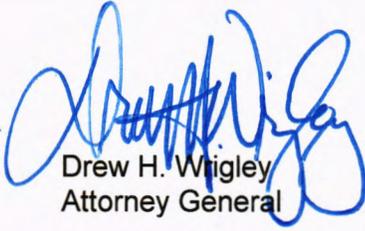
The Commission is committed to fostering the growth of clean energy production and to an enduring and stalwart partnership with our Minnesota neighbor. In this vein, we respectfully request your consideration that H.F. 7 and S.F. 4 both be slightly amended to clarify that these bills only relate to energy generation within the State of Minnesota and do not apply to electric generation outside of the state.

The Commission stands committed, in a steadfast spirit of neighborly collaboration, to provide clean energy to all consumers – those within North Dakota and those beyond our borders. Correspondingly, we propose in good faith this balanced cooperative approach within which our two states may continue to partner effectively in the robust development and implementation of successful solutions to our shared energy issues.

Sincerely,



Doug Burgum
Governor



Drew H. Wigley
Attorney General



Doug Goehring
Agriculture Commissioner

² H.F. 7, 1st Engrossment – Section 10 “Carbon-free Standard”
S.F. 4, as introduced – Section 8 “Carbon-free Standard”