

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**Public Service Commission
Resource Plans and Cyber Security
Rulemaking**

Case No. PU-22-163

**Public Service Commission Testimony
December 5, 2022**

Chair Pyle and members of the Administrative Rules Committee. My name is Sheri Haugen-Hoffart. I am a Commissioner with the Public Service Commission. The purpose of my testimony is to explain and provide support for a new Chapter to North Dakota Administrative Code 69-09-12 regarding resource plans and cybersecurity. The purpose of this new chapter is to guide the process of resource planning and annual cybersecurity reporting for investor-owned utilities in the state.

As requested by the committee, I will address the issues in the requested order.

1. The proposed rules provide further clarification for the implementation of SB 2313 enacted during the most recent legislative session.
2. The rules are not related to a federal statute or regulation.
3. The rulemaking procedure was extensively discussed in the order provided to the administrative rules committee. However, I will provide a brief synopsis. After extensive discussion with stakeholders, the PSC followed the administrative rules procedure by issuing a notice of intent to adopt and amend administrative rules and notice of public hearing on April 13, 2022. The Commission forwarded the notices for publication 30 days in advance of the hearing and sent copies of the notices and proposed rules to the legislative

council and bill sponsors. On May 26, 2022, the PSC held a public hearing. The PSC extended the allowed comment period through June 16, 2022, to mitigate the impact of a failed newspaper publication. Upon issuing an order, the PSC received an opinion from the Attorney General's Office of substantial compliance.

4. The comments received are discussed in the provided order. No objections were received from the stakeholders. One commenter did request consideration of additional auditing requirements and be extended to all reporting utilities in the future. The commenter also recommended that cooperatives be subject to reporting to the commission.
5. The approximate cost of publishing and holding the hearing was \$4,619.64.
6. The resource planning rules include a requirement that an investor-owned utility must file a resource plan on a three-year cycle that would identify the resources to meet its forecasted capacity and energy needs over a horizon of at least fifteen years. Such a requirement would provide a forward-looking and proactive opportunity for the Commission to assess and influence a utility's plan for power plant additions and retirements and a utility's plan for providing reliable and resilient electric service. The resource planning rules will allow the Commission to determine the benefits and costs a resource plan offers ratepayers over several years, to participate in a utility's resource planning efforts that operate across several state jurisdictions, and to engage each utility in development of investment and retirement plans that are made years in advance.

The rules also require each utility to meet with the PSC annually to report on their cybersecurity preparedness. The report would detail information related to processes and procedures used to inform management of cybersecurity risks, activities to monitor, detect and analyze cybersecurity threats, protections in place to secure informational and operational systems, and plans to limit potential damage while maintaining business continuity. The utility would deliver the report to the Commission in a closed meeting, unless the Commission orders otherwise.

7. A regulatory analysis was required and has been provided to the committee.
8. No small businesses, organizations, or political subdivisions were impacted by the proposed rules and no adverse impacts are expected for small entities, consumers or private persons, or state revenues.
9. The rules should have no fiscal impact.
10. The proposed rules should have no constitutional takings implications or limit the use of private property.
11. They were not adopted as part of emergency interim rules.

This concludes my testimony. I would be happy to answer any questions at this time. Thank you.