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NORTH DAKOTA PREVAILS IN LAWSUIT AGAINST MINNESOTA'S ENERGY ACT

BISMARCK, ND – In a ruling issued earlier today, a federal judge struck down the restrictions imposed by Minnesota's Next Generation Energy Act (NGEA) because it violates the Commerce Clause of the US Constitution by attempting to regulate the generation of electricity that occurs outside Minnesota's borders. According to Judge Susan Richard Nelson's decision, the NGEA "is a classic example" of a state impermissibly attempting to regulate conduct that occurs in other states, which is what North Dakota and its co-plaintiffs alleged when they filed suit against Minnesota in 2011.

"This litigation was a last resort, coming only after repeated unfruitful meetings with Minnesota elected officials and regulators. The result of this litigation has been exactly what we predicted from the beginning. We insisted that the state of North Dakota should not have to seek permission from Minnesota regulators to provide electricity to residents of Minnesota and other states in the region," said Attorney General Wayne Stenehjem.

Stenehjem noted that North Dakota's power plants export the vast majority of the electricity they produce to consumers in other states, including Minnesota. "The Commerce Clause was adopted as a critical part of the US Constitution to prohibit one state from enacting restrictive laws that benefit one state at the expense of another state, which is precisely what this Minnesota statute did," he continued.

In her decision, the judge faulted the "overreaching" NGEA because it "requires out-of-state entities to seek regulatory approval in Minnesota before undertaking transactions in other states" and wrote that if the statute were allowed to stand, it could lead to "just the kind of competing and interlocking local economic regulation that the Commerce Clause was meant to preclude."

"I am pleased that the Court agreed with our position and declared the entire statute unconstitutional. This ruling will allow North Dakota to continue its role as a vital and essential source of affordable electricity for consumers in Minnesota and across the country," said Stenehjem.

"Although today's decision was a victory for the rule of law and the U.S. Constitution, the real winners are the residents of North Dakota, Minnesota and the entire Upper Midwest. The leadership, vision and tenacity of Attorney General Stenehjem has secured a more prosperous future for those who rely on affordable, reliable electricity to sustain this region's high quality of life," said Jason Bohrer, President and CEO, Lignite Energy Council.

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