

## **NEWS RELEASE**

*Contact: Liz Brocker  
(701) 328-2213*

October 20, 2015

### **NORTH DAKOTA'S CHALLENGE TO MINNESOTA ENERGY LAW CONTINUES**

BISMARCK, ND – Arguments in Minnesota's appeal of a ruling that its Next Generation Energy Act is unconstitutional will be heard tomorrow in the Eighth Circuit Court of Appeals in St. Paul. North Dakota Attorney General Wayne Stenehjem sued the state of Minnesota in 2011, alleging that the Minnesota law violates the Commerce Clause of the US Constitution by restricting transmission of electricity generated in North Dakota and consumed in Minnesota unless it meets that state's carbon dioxide emission requirements.

In April 2014, a Minnesota federal district court agreed with North Dakota and ruled the Minnesota law unconstitutional, faulting the law as "overreaching" 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."

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 itself at the expense of another state, which is precisely what this Minnesota statute did," he continued.

Minnesota appealed the ruling, and that appeal will be heard before a panel of three appellate judges. Stenehjem will travel to St. Paul for the argument. It is expected that following the arguments, the panel will take the matter under advisement and issue a written opinion later.

###