LMFS-9 (RFP-92-5)
BUSINESS INCENTIVES FOR LIGNITE GENERATION

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CONTRACT AMOUNT: $17,328

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Project Deliverables
Draft Final Report – 12/10/92 ✔
Final Report – 4/27/93 ✔

OBJECTIVE / STATEMENT OF WORK

The objective of this study is to provide a quantitative comparison of the effectiveness of business development incentives available in North Dakota and surrounding states for new and expanded electrical power generation. The statement of work called for a comparative evaluation of business incentives available in North Dakota, surrounding states, and major coal producing states. The evaluation included a comparison of grants, taxes, regulatory and financial incentives. The states surveyed were North Dakota, South Dakota, Montana, Wyoming, Ohio, Indiana, Illinois, Kentucky, Nebraska, Iowa, Minnesota, Wisconsin, Pennsylvania, Texas, Virginia, and West Virginia. The survey included identification of business incentives which would apply to new electrical power plants, a means of ranking the incentives of the various states, and recommendations for North Dakota to maintain a competitive business development climate.

STATUS

The Sinor study identified the following twelve areas of business development incentives that could be enhanced in North Dakota:

- Sales Tax
- Income Tax
- CAA Financial Impact
- CWIP (Construction Work in Progress)
- Economic Development Tax Credits
- Research, Development and Demonstration
- Grants, Loans and Industrial Revenue Bonds
- State Pollution Standards
- Permitting
- Preservation of Class I PSD Increments
- Conversion and Severance Taxes
- Environmental Externalities

The Sinor study identified challenges to the North Dakota lignite industry and potentially attractive business incentives to meet these challenges as a means to preserve and enhance the industry. The energy policy act of 1992 will increase the intensity of competition between future producers of electricity. This act will make it possible for buyers of electricity to search far and wide for the lowest cost resources. Any state incentives for the construction and/or operation of such plants and/or transmission lines will be more likely than before to have a decisive influence.

The North Dakota regulatory climate for investor-owned utilities appears unfavorable in comparison to other states. If utilities can not earn a rate of return equal to their investment choices elsewhere, they will choose to minimize their investments in the state. The average rate of return on equity for investor-owned utilities in North Dakota is 9.4%. The average rate of return earned by utilities in the region are: South Dakota 17.2%; Wisconsin 13.8%; Minnesota 13.4%; and Montana 11.5%.

A poll of all utilities in the state shows that tax relief is the most favored form of incentive. Investor-owned utilities rank financial regulatory relief as being equal value to tax relief.

The study identified three areas where the competitive position of the lignite industry could be enhanced by providing incentives. The three areas and the most effective actions in each area are:

- Rate Incentives
  - Unqualified acceptance of Construction Work in Progress,
  - Allowing utilities to earn the same return on equity they achieve in other states,
  - Allowing direct pass-through of environmental compliance costs

- Tax Incentives
  - Increasing the range of sales tax and income tax exemptions,
  - Decreasing the severance tax

- Regulator Incentives
  - A prohibition against monetizing environmental externalities,
  - Realignment of state pollution standards to not exceed federal standards.

Three business development incentives in the areas identified by the Sinor study were adopted by the Fifty-third Legislative Assembly and enacted into law as Senate Bill 2513, which was signed by Governor Schafer on March 25, 1993. SB 2513 grants an unqualified acceptance of CWIP, allows a public utility to recover its research and development costs to develop lignite, and allows a public utility to recover incremental costs for complying with federal environmental laws.

Senate Concurrent Resolution 4056 was passed during the Fifty-third Legislative Assembly. SCR 4056 directs the Legislative Council to study tax, regulatory, marketing, and other business incentives that can be enacted by the state to maintain and encourage development of the state's lignite resource.