

October 8, 2008

The Public Service Commission convened in the Commission Hearing Room, State Capitol, Bismarck, North Dakota, on October 8, 2008, 10:00 a.m. Present were Commissioners Wefald, Cramer and Clark.

Minutes

Mr. Cramer: I move the minutes of September 24, 2008, be approved.

Mr. Clark: I second the motion.

Roll Call: All voting "Aye."

Bills

Mr. Cramer: I move the following bills, as reviewed by the Commission, be approved and paid:

ND Newspaper Association	9,939.25
Presort Plus	12.21
Kadrmass, Lee & Jackson, Inc.	8,165.30
Charlene Magstadt	20.00
Kevin Hanson	677.42
JP Robbins	643.97
Phyllis G. Richter	969.82
Leo D. Praus	570.38
Michael Berg	114.00
Rick Fillbrandt	383.04
Dean Moos	64.63
Timothy Erdmann	281.00
Raymond Kelsch	1,233.43
Guy Welch	30.00
Tim Oswald	965.37
William E. Dodd	287.50
Stephan A. Schroeder	44.50
Bruce Johnson	15.00
Mark Knell	577.66
Bruce Beechie	57.50
Wayne Grangaard	808.74
B & C Concrete Pumping, Inc.	64,416.00
Gratech Company, Ltd.	177,977.28
Darrell Nitschke	1,481.00
Interiors by France	668.00
Office of State Auditor	703.00
Office of Administrative Hearings	792.98
OMB – 9/08 supplies	196.81
OMB – 9/08 postage	548.37

Mr. Clark: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-08-88  
 Otter Tail Corporation  
 Deferred Accounting and Energy Costs  
 Application

Mr. Cramer: I move the Commission acknowledge Otter Tail Corporation's withdrawal of its application for deferred accounting, Case No. PU-08-88.

Mr. Clark: I second the motion.

Roll Call: All voting "Aye."

Case No. GS-08-764  
 2009 Federal / State Gas  
 Pipeline Safety  
 Grant Application

Mr. Cramer: I move the Commission submit the 2009 Federal/State Gas Pipeline Safety Grant Application in the amount of \$120,326 to the U.S. Department of Transportation, Office of Pipeline Safety, Washington, D.C. for the operation and management of the 2009 North Dakota intrastate gas pipeline safety program.

Mr. Clark: I second the motion.

Roll Call: All voting "Aye."

Blaster Certification and  
 Re-Certification  
 Approval

Mr. Cramer: I move the Commission approve blaster certification and re-certification for the following applicants:

No.	Applicant	Affiliation	Certificate No.
1.	Bryce Eckholm	Falkirk Mine	08-09-306
2.	Rodney A. Zeien	Falkirk Mine	02-11-262-R(2)
3.	Burl L. Sorenson	Falkirk Mine	93-11-213-R(5)
4.	Steven Bernhardt	Falkirk Mine	02-11-259-R(2)
5.	Montie C. Galt	Falkirk Mine	02-11-260-R(2)
6.	Carvel W. Lick	Falkirk Mine	02-11-261-R(2)
7.	Jay R. Ohm	Beulah Mine	02-11-263-R(2)
8.	Rodney S. Enerson	Beulah Mine	93-10-205-R(5)
9.	Casey L. Voigt	Beulah Mine	93-11-215-R(5)

Mr. Clark: I second the motion.

Roll Call: All voting "Aye."

Case No. AU-08-802  
 Herschel D. Pruitt  
 Auctioneer License  
 Revocation

Mr. Cramer: I move the Commission issue an order in Case No. AU-08-802 revoking auctioneer license number 798 issued to Herschel D. Pruitt of Wheatland, Wyoming effective October 1, 2008, for failing to maintain an adequate bond filing.

Mr. Clark: I second the motion.

Roll Call: All voting "Aye."

Abandoned Mine Lands Program  
 2008 OSM Evaluation Report

Mrs. Wefald: I move the Commission accept the Office of Surface Mining's 2008 Annual Evaluation Summary Report for the Abandoned Mine Lands Program.

Mr. Cramer: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-08-241  
FPL Energy Oliver Wind, LLC and  
FPL Energy Oliver  
Transfer Corridor Cert 92 &  
Rte Permit 102  
Application

Mrs. Wefald: I move the Commission adopt the Order Granting Transfer of Corridor Certificate No. 92 and Route Permit No. 102 from FPL Energy Oliver County Wind, LLC to FPL Energy Oliver County Wind I, LLC, Case No. PU-08-241.

Mr. Cramer: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-08-292  
Otter Tail Corporation  
Holding Company Corporate Structure  
Application

Mrs. Wefald: I move the Commission adopt the Order approving the application of Otter Tail Corporation to form a Holding Company Corporate Structure, Case No. PU-08-292.

Mr. Cramer: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-08-766  
Otter Tail Corporation  
49.5mw Wind Farm - Luverne -  
Barnes/Steele Cntys  
Public Convenience & Necessity

Mrs. Wefald: I move the Commission issue a Notice of Opportunity for Hearing in the application of Otter Tail Corporation for a certificate of public convenience and necessity to construct and own a 49.5 MW portion of the 157 MW Luverne Wind Farm and 13 miles of 230 kV transmission line proposed in Barnes and Steele Counties of North Dakota, Case No. PU-08-766.

Mr. Cramer: I second the motion.

Roll Call: All voting "Aye."

Case No. AM-08-11  
AML Maintenance  
2008 Construction  
Project

Mrs. Wefald: I move the Commission issue an intent to award a contract to Hanson's Excavating, Inc. for the 2008 Maintenance Sinkholes 4 AML Project that involves sinkhole filling at several abandoned underground mines in Burleigh, McLean and Ward Counties.

Mr. Clark: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-08-793  
Montana-Dakota Utilities Co.,  
a Division of MDU  
October 2008  
Fuel Cost Adjustment

Discussion Only

Case No. PU-08-796  
Otter Tail Corporation  
October 2008  
Fuel Cost Adjustment

Case No. PU-08-803  
Northern States Power Company  
October 2008  
Fuel Cost Adjustment

Discussion Only

Coal Mining Regulatory Program  
2008 OSM Evaluation Report

Mr. Cramer: I move the Commission accept the Office of Surface Mining's 2008 Evaluation Report for the Coal Mining and Reclamation Regulatory Program.

Mr. Clark: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-08-757  
Montana-Dakota Utilities Co.,  
a Division of MDU  
October 2008  
Cost of Gas / Natural Gas

Discussion Only

Case No. PU-08-800  
Great Plains Natural Gas Co.  
October 2008  
Cost of Gas

Case No. PU-08-61  
Midcontinent Communications/  
Missouri Valley Comm  
Rural Exemption  
Investigation

Mr. Clark: I move the Commission adopt the Administrative Law Judge's July 14, 2008 Recommended Consolidated Order Denying Motion, denying Missouri Valley Communications, Inc.'s request to dismiss this proceeding, Case No. PU-08-61.

Mr. Cramer: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-08-61  
Midcontinent Communications/  
Missouri Valley Comm  
Rural Exemption  
Investigation

Mr. Clark: I move the Commission adopt the Findings of Fact, Conclusions of Law, and Order that Missouri Valley Communications, Inc.'s rural exemption not be terminated, Case Nos. PU-08-61 and PU-08-176.

Mr. Cramer: I second the motion.

Roll Call: Mrs. Wefald votes "Nay".

Mr. Cramer votes "Aye".

Mr. Clark votes "Aye".

Case No. PU-08-176  
Missouri Valley Communications, Inc.  
Suspend/Modify Interconnection  
Requirements  
Application

Commissioner Susan Wefald's  
Dissenting Opinion

I do not agree with Conclusion of Law #2 in this Order which states that "Midcontinent failed to prove that the request of Midcontinent to Missouri Valley for interconnection in the Williston exchange is not unduly economically burdensome."

The Findings of Fact in this Order, #s 14, 15, 17, 19, 23, demonstrate that Midcontinent put forth strong factual arguments on the potential economic impact to Missouri Valley if the rural exemption is lifted. For example, in Finding of Fact #15, the order notes that Midcontinent witness Lundquist based his Migration Timing adjustment of \$154,300 on an assumption that Midcontinent would take six months, from January 1, 2009 through June 2009, to migrate its existing resale-based customers to Midcontinent's facilities. Missouri Valley's analysis assumes Midcontinent would complete the migration by January 1, 2009. I agree with Midcontinent on this matter, since Missouri Valley has a limited ability to handle new orders, and some 1570 customers need to be migrated. Midcontinent's testimony stated that in similar situations in South Dakota, it has taken five to seven months to migrate its embedded customer bases from resold service to Midcontinent's own facilities.

Also, the Commission's Findings of Fact in this Order do not reflect any of the information that was presented by Midcontinent regarding depreciation expenses, and that Missouri Valley did not invest all, most, or even one-third of their cash flow in 2007 (\$2.75 million) in its plant and network. (pages 7 and 8, Reply Brief of Midcontinent Communications dated August 11, 2008.)

My preference in this case, based on the facts, would have been to terminate Missouri Valley's rural exemption and then require a suspension of that termination until Midcontinent met the requirements in 47 USC Section 214 E 1 to be a designated eligible communication carrier. This would require Midcontinent to serve the entire service area (not just the City of Williston) as an eligible communication carrier, just as Missouri Valley does now.

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Geographic Information System  
Specialist III Position

Mrs. Wefald: I move the Commission acknowledge the offer to and acceptance by Bruce Johnson to fill Position No. 5025, Geographic Information System Specialist III, effective October 1, 2008 under the terms set forth in the September 10, 2008 written offer.

Mr. Cramer: I second the motion.

Roll Call: All Voting "Aye".

ATTEST

THE COMMISSION ADJOURNED AT 11:43 A.M.

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Executive Secretary

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SUSAN E. WEFALD, PRESIDENT