

September 12, 2012

The Public Service Commission convened in the Commission Hearing Room, State Capitol, Bismarck, North Dakota, on September 12, 2012, 10:00 a.m. Present were Commissioners Kalk, Cramer, and Fetch.

Minutes

Mr. Cramer: I move the minutes of August 29, September 5, 2012 be approved.

Ms. Fetch: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-12-708
Dakota Central Telecommunications
Cooperative
Switched Access
Price Schedule

Case No. PU-12-709
Dakota Central Telecom I, Inc.
Switched Access
Price Schedule

Case No. PU-12-710
Dickey Rural Telephone Cooperative
Switched Access
Price Schedule

Case No. PU-12-711
Dickey Rural Access, Inc.
Switched Access
Price Schedule

Case No. PU-12-712
Griggs County Telephone Co.
Switched Access
Price Schedule

Case No. PU-12-713
Inter-Community Telephone Company,
L.L.C.
Switched Access
Price Schedule

Case No. PU-12-714
Moore and Liberty Telephone
Company
Switched Access
Price Schedule

Mr. Cramer: I move the Commission suspend the proposed switched access price schedules of Dakota Central Telecommunications Cooperative, Case No. PU-12-708, of Dakota Central Telecom I, Inc., Case No. PU-12-709, of Dickey Rural Telephone Cooperative, Case No. PU-12-710, of Dickey Rural Access, Inc., Case No. PU-12-711, of Griggs Country Telephone Co., Case No. PU-12-712, of Inter-Community Telephone Company, L.L.C., Case No. PU-12-713, of Moore and Liberty Telephone Company, Case No. PU-12-714, of Nemont Telephone Cooperative, Inc., Case No. PU-12-715, of North Dakota Telephone Company, Case No. PU-12-716, of Polar Communications Mutual Aid Corporation, Case No. PU-12-717, of Red River Rural Telephone Association, Case No. PU-12-718, of Reservation Telephone Cooperative, Case No. PU-12-719, of United Telephone Mutual Aid Corporation, Case No. PU-12-720, of West River Telecommunications Cooperative, Case No. PU-12-721, and of Wolverton Telephone Company, Case No. PU-12-722.

Ms. Fetch: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-12-715
Nemont Telephone Cooperative, Inc.
Switched Access
Price Schedule

Motion Continued

Case No. PU-12-716
North Dakota Telephone Company
Switched Access
Price Schedule

Case No. PU-12-717
Polar Communications Mutual Aid
Corporation
Switched Access
Price Schedule

Case No. PU-12-718
Red River Rural Telephone Association
Switched Access
Price Schedule

Case No. PU-12-719
Reservation Telephone Cooperative
Switched Access
Price Schedule

Case No. PU-12-720
United Telephone Mutual Aid
Corporation
Switched Access
Price Schedule

Case No. PU-12-721
West River Telecommunications
Cooperative
Switched Access
Price Schedule

Case No. PU-12-722
Wolverton Telephone Company
Switched Access
Price Schedule

Case No. PU-09-670
Minnkota Power Cooperative, Inc.
345 kV Transmission Line –
Center to Grand Forks
Siting Application

Mr. Cramer: I move the Commission acknowledge the September 10, 2012 staff approval of Minnkota Power Cooperative, Inc.'s request for three structure location changes on its 345 kV electric transmission line being constructed from Center to Grand Forks, North Dakota, Case No. PU-09-670.

Ms. Fetch: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-06-421
TransCanada Keystone Pipeline, LP
30-Inch Crude Oil Pipeline/
Cavalier to Sargent County
Siting Application

Mr. Cramer: I move the Commission adopt the Order Granting Trade Secret Protection as requested by TransCanada Keystone Pipeline, LP, Case No. PU-06-421.

Ms. Fetch: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-12-430
Otter Tail Power Company
Lance Meyer- Richland County
Public Convenience & Necessity

Mr. Cramer: I move the Commission adopt the Order and issue a Certificate of Public Convenience and Necessity authorizing Otter Tail Power Company to extend electric service to Lance Meyer at a location in Richland County, North Dakota, Case No. PU-12-430.

Ms. Fetch: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-12-686
Montana-Dakota Utilities Co.,
a Division of MDU
Ryan and Denise Pfeifer-
Emmons County
Public Convenience & Necessity

Mr. Cramer: I move the Commission issue a Notice of Opportunity for Hearing in the application of Montana-Dakota Utilities Co. to extend electric service to Ryan and Denise Pfeifer at a location in Emmons County, North Dakota, Case No. PU-12-686.

Ms. Fetch: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-12-693
Otter Tail Power Company
Rural Tower Network- Barnes County
Public Convenience & Necessity

Mr. Cramer: I move the Commission issue a Notice of Opportunity for Hearing in the application of Otter Tail Power Company to extend electric service to Rural Tower Network at a location in Barnes County, North Dakota, Case No. PU-12-693.

Ms. Fetch: I second the motion.

Roll Call: All voting "Aye."

Case No. AU-12-724
Kirby James Brown
Auctioneer
License Application

Mr. Cramer: I move the Commission approve the auctioneer license application for Kirby James Brown, Williston, North Dakota.

Ms. Fetch: I second the motion.

Roll Call: All voting "Aye."

Case No. AU-12-725
Associated Auction Services LLC
dba Cat Auction Services
Auction Clerk
License Application

Mr. Cramer: I move the Commission approve the auction clerk license application for Associated Auction Services LLC dba Cat Auction Services, Eagan, Minnesota.

Ms. Fetch: I second the motion.

Roll Call: All voting "Aye."

Case No. AU-12-726
Johnson Auction and Realty, LLC
Auction Clerk
License Application

Mr. Cramer: I move the Commission approve the auction clerk license application for Johnson Auction and Realty, LLC, Fargo, North Dakota.

Ms. Fetch: I second the motion.

Roll Call: All voting "Aye."

Case No. GE-12-730
Legumex Walker Canada Inc
Roving Grain Buyer - Winnipeg, MB
License Application

Mr. Cramer: I move the Commission approve the roving grain buyer license application in Case No. GE-12-730 for Legumex Walker Canada, Inc., of Winnipeg, Manitoba, Canada.

Ms. Fetch: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-07-759
Northern States Power Company
Fargo - St. Cloud MN 345 KV CapX
Transmission Line
Siting Application

Mr. Kalk: I move the Commission adopt the Findings of Fact, Conclusions of Law and Order issuing Corridor Certificate No. 139 and Route Permit No. 152 to Northern States Power Company authorizing construction of the North Dakota portion of a new Fargo to St. Cloud MN 345 kV electric transmission line and associated facilities in Cass County, North Dakota, Case No. PU-07-759.

Ms. Fetch: I second the motion.

Roll Call: Mr. Kalk "Aye."

Mr. Cramer "Naye"

Ms. Fetch "Aye"

Dissenting Opinion

Dissenting Opinion
Commissioner Kevin Cramer
September 12, 2012

Northern States Power Company Case No. PU-07-759
Fargo-St. Cloud MN 345 kV CapX Transmission Line
Siting Application

We cannot lose sight of the affect our decision will have upon the property rights of our citizens. Although the benefit of this project will be socialized, the negatives are not. No one is more aware of the impacts of this facility than the people that will be expected to live with it. Because I feel the proposed river crossing is not in the best interest of our constituents, I respectfully dissent.

Dissenting Opinion Continued

The Energy Conversion and Transmission Facility Siting Act, the Administrative Practices Act, and our rules require of me, and my fellow Commissioners, siting approval which is in accordance with the law, and whose facts are supported by a preponderance (greater weight) of the evidence. The North Dakota Supreme Court recognizes that, with highly technical subject matter such as this, our decision will be afforded "appreciable deference" if appealed. It is critical that this Commission arrives at a correct decision now, as its outcome will carry with it significant, generational consequences.

Advocates of the proposed route and corridor have cited the following considerations in support of their position, namely: need, reliability, timing, cost, the Red River Diversion Project and the Minnesota approved route. I do not question the relevancy of these factors. Rather, when discussed in the context articulated below, I humbly feel that these issues give weight to my position.

I agree that this project is necessary, as demonstrated by my respective approvals for advance prudence and certificate of need. Likewise, I accept this project's termination point, and its proposed placement west of the Fargo-Moorhead metropolitan area. It is because of the line's high voltage (345 kV), and type of current (AC rather than DC), that I feel reliability will be economically met; not its southern placement relative to the metro area. To advocate reliability on placement near the metro area advocates placement through the city; yet, such reasoning would dictate a route entirely devoid of the human element. If the route's proposed southern placement can be so influenced by our State's assumed growth, then at least equal weight should be afforded to the established communities of Oxbow and Hickson.

The companies advocate that deviations carry with it the potential for expanded costs and an extended building schedule. Inflation and its affect upon families, seniors and businesses is a primary consideration in all my decisions; both presently in my role as an economic regulator, as well as during my past tenure as state economic development director. It is precisely because of this experience that I am not persuaded by the companies' assessment. When properly adjusted (e.g. over a 50 year life expectancy and the MISO allocation process), the eventual costs are not so significant to override the concerns I articulate in this opinion. I extend this same logic to project delay. Considering the long term consequences overwhelmingly borne by those citizens who realize little or no benefit, I am not

Dissenting Opinion Continued

sufficiently convinced to accept the companies' proposals.

The record includes discussion pertaining to the Red River Diversion Project and its affect upon the proposed river crossing. It is my belief that there are other routes that both further insures this project's placement on the "wet" side of the diversion channel as well as affords appropriate weight to growing and established communities.

The United States Government has bestowed upon North Dakota the decision to site this 130 to 175 foot high electric transmission line with a 150 to 180 foot right of way. Our rules allow the Commission to consider whether such a structure is minimally evasive to the visual effect on an adjacent, North Dakota landowner or landowners (in contrast to, for example, a pipeline). In my opinion the border crossing, predetermined by the State of Minnesota, constitutes as an abrogation of our sovereignty. This is especially disconcerting in light of this project's construction in Minnesota prior to our approval. Because multijurisdictional route reconciliation is neither a new, nor uncommon, issue, this agency's denial of the present applications should not be fatal. I am fully confident that the companies can produce to this Commission more acceptable submissions for our approval.

Kevin Cramer, Commissioner

Case No. GS-12-31
Shores Companies, Inc.
Damage Prevention Enforcement

Mr. Kalk: I move the Commission issue a Notice of Hearing in the Complaint of Public Service Commission Advocacy Staff v. Shores Companies, Inc., in Public Service Commission, Shores Companies, Inc., Damage Prevention Enforcement, Case No. GS-12-31.

Mr. Cramer: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-12-708
Dakota Central Telecommunications
Cooperative
Switched Access
Price Schedule

Case No. PU-12-709
Dakota Central Telecom I, Inc.
Switched Access
Price Schedule

Case No. PU-12-710
Dickey Rural Telephone Cooperative
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Case No. PU-12-711
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Case No. PU-12-713
Inter-Community Telephone Company,
L.L.C.
Switched Access
Price Schedule

Case No. PU-12-714
Moore and Liberty Telephone
Company
Switched Access
Price Schedule

Case No. PU-12-715
Nemont Telephone Cooperative, Inc.
Switched Access
Price Schedule

Case No. PU-12-716
North Dakota Telephone Company
Switched Access
Price Schedule

Mr. Kalk: I move the Commission issue a Notice of Opportunity for Hearing concerning the proposed switched access price schedules of Dakota Central Telecommunications Cooperative, Case No. PU-12-708, of Dakota Central Telecom I, Inc., Case No. PU-12-709, of Dickey Rural Telephone Cooperative, Case No. PU-12-710, of Dickey Rural Access, Inc., Case No. PU-12-711, of Griggs County Telephone Co., Case No. PU-12-712, of Inter-Community Telephone Company, L.L.C., Case No. PU-12-713, of Moore and Liberty Telephone Company, Case No. PU-12-714, of Nemont Telephone Cooperative, Inc., Case No. PU-12-715, of North Dakota Telephone Company, Case No. PU-12-716, of Polar Communications Mutual Aid Corporation, Case No. PU-12-717, of Red River Rural Telephone Association, Case No. PU-12-718, of Reservation Telephone Cooperative, Case No. PU-12-719, of United Telephone Mutual Aid Corporation, Case No. PU-12-720, of West River Telecommunications Cooperative, Case No. PU-12-721, and of Wolverton Telephone Company, Case No. PU-12-722.

Mr. Cramer: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-12-717
Polar Communications Mutual Aid
Corporation
Switched Access
Price Schedule

Motion Continued

Case No. PU-12-718
Red River Rural Telephone Association
Switched Access
Price Schedule

Case No. PU-12-719
Reservation Telephone Cooperative
Switched Access
Price Schedule

Case No. PU-12-720
United Telephone Mutual Aid
Corporation
Switched Access
Price Schedule

Case No. PU-12-721
West River Telecommunications
Cooperative
Switched Access
Price Schedule

Case No. PU-12-722
Wolverton Telephone Company
Switched Access
Price Schedule

Case No. PU-12-707
Budget PrePay, Inc.
Designated Eligible Carrier
Application

Mr. Kalk: I move the Commission issue a Notice of Opportunity for Hearing concerning Budget PrePay, Inc.'s application to be designated as an eligible carrier for the purpose of receiving federal universal service support, Case No. PU-12-707.

Mr. Cramer: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-12-723
Midcontinent Communications/
North Dakota Telephone
Interconnection Agreement
Amendment
Application

Mr. Kalk: I move the Commission issue a Notice of Opportunity for Comment in the application for approval of an interconnection agreement amendment negotiated between Midcontinent Communications and North Dakota Telephone Company, Case No. PU-12-723.

Mr. Cramer: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-12-675
Basin Transload, LLC
8-Inch Crude Oil Pipeline
Siting Application

Mr. Cramer: I move the Commission acknowledge the Letter of Intent, shorten the one year waiting period between filing a letter of intent and a siting application to two weeks, and assess a filing fee of \$12,500 due upon filing an application in Case No. PU-12-675, Basin Transload LLC's proposed crude oil pipeline in Mercer County, North Dakota.

Ms. Fetch: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-12-683
Hess Corporation
14" Crude Oil Pipeline –
Williams County
Siting Application

Mr. Cramer: I move the Commission acknowledge the Letter of Intent, shorten the one year waiting period between filing a letter of intent and a siting application to 30 days, and assess a filing fee of \$5,000 due upon filing an application in Case No. PU-12-683, Hess Corporation's proposed crude oil pipeline in Williams County, North Dakota.

Mr. Kalk: I second the motion.

Roll Call: All voting "Aye."

Case No. GE-12-679
Falkirk Farmers Elevator Co
License No. 128 - Falkirk, ND
Suspension

Ms. Fetch: I move the Commission adopt the order in Case No. GE-12-679 revoking warehouse license number 128 of Falkirk Farmers Elevator Co. at Falkirk, North Dakota and ordering that Falkirk Farmers Elevator Co. return grain elevator warehouse license number 128 to the Commission.

Mr. Kalk: I second the motion.

Roll Call: All voting "Aye."

Case No. GE-12-700
SRS Commodities Limited
Grain Warehouse - Falkirk, ND
License Application

Ms. Fetch: I move the Commission adopt an order in Case No. GE-12-700 granting the request of SRS Commodities Limited of Mayville, North Dakota to operate a 440,000-bushel grain warehouse at Falkirk, North Dakota effective immediately.

Mr. Kalk: I second the motion.

Roll Call: All voting "Aye."

Case No. GE-12-705
United Pulse Trading Inc.
Grain Warehouse - Minot, ND
License Application

Ms. Fetch: I move the Commission adopt an order in Case No. GE-12-705 granting the request of United Pulse Trading Inc. to operate a 122,000-bushel grain warehouse at Minot, North Dakota, effective immediately.

Mr. Kalk: I second the motion.

Roll Call: All voting "Aye."

Case No. GE-12-706
Central Valley Bean Cooperative
Grain Warehouse - Fairdale, ND
License Application

Ms. Fetch: I move the Commission adopt an order in Case No. GE-12-706 granting the request of Central Valley Bean Cooperative to operate a 20,000-bushel grain warehouse at Fairdale, North Dakota, effective immediately.

I further move the Commission grant the request of Central Valley Bean Cooperative to operate its grain warehouse at Fairdale full time through dry edible bean harvest and on an as needed basis by appointment only for the remainder of the year.

Mr. Cramer: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-12-696
Otter Tail Power Co. /
Cass County Electric Coop.
Cass and Richland Counties
Service Area Agreement

Ms. Fetch: I move the Commission issue a Notice of Filing, Notice of Informal Hearing and Notice of Opportunity For Hearing in the joint application of Otter Tail Power Company and Cass County Electric Cooperative, Inc. for approval of an electric service area agreement and resulting issuance of a certificate of public convenience and necessity to establish and designate service locations to be served by Otter Tail and Cass Electric within and around the cities of Abercrombie, Amenia, Christine, Walcott, Davenport, and Mapleton in Cass and Richland Counties of North Dakota, Case Nos. PU-12-696 and PU-12-697.

Mr. Kalk: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-12-697
Otter Tail Power Company
Cass and Richland Counties –
Service Area Agreement
Public Convenience & Necessity

Ms. Fetch: I move the Commission issue a Notice of Filing, Notice of Informal Hearing and Notice of Opportunity For Hearing in the joint application of Otter Tail Power Company and Cass County Electric Cooperative, Inc. for approval of an electric service area agreement and resulting issuance of a certificate of public convenience and necessity to establish and designate service locations to be served by Otter Tail and Cass Electric within and around the cities of Abercrombie, Amenia, Christine, Walcott, Davenport, and Mapleton in Cass and Richland Counties of North Dakota, Case Nos. PU-12-696 and PU-12-697.

Mr. Kalk: I second the motion.

Roll Call: All voting "Aye."

Case No. GE-12-643
ADM-Benson Quinn, a division of
Archer Daniels Midland Co.
Grain Warehouse - Hebron, ND
License Application

Ms. Fetch: I move the Commission adopt an order in Case No. GE-12-643 granting the request of ADM-Benson Quinn, a division of Archer Daniels Midland Company to operate a 2,833,000-bushel grain warehouse at Hebron, North Dakota, effective October 1, 2012.

Mr. Kalk: I second the motion.

Roll Call: All voting "Aye."

Case No. GE-12-663
Trinidad Benham Corp.
Facility-Based Grain Buyer –
Finley, ND
License Application

Ms. Fetch: I move the Commission adopt an order in Case No. GE-12-663 granting the request of Trinidad Benham Corp. of Denver, Colorado, to operate as a facility-based grain buyer at Finley, North Dakota, effective immediately.

Mr. Kalk: I second the motion.

Roll Call: All voting "Aye."

Agency Report Ranking

Mr. Kalk: I move the Commission approve the agency selection committees written reports ranking the interviewed firms for requests for qualification numbers 408.05.12.017, 408.06.12.020, 408.06.12.021, 408.06.12.022, 408.06.12.023, and 408.06.12.024.

Mr. Cramer: I second the motion.

Roll Call: All voting "Aye."

Case No. AM-10-37
Buechler/Velva
2010 Construction
Project

Mr. Kalk: I move the Commission convene an executive session for attorney consultation in Case No. AM-10-37, Buechler/Velva 2010 Construction Project.

Mr. Cramer: I second the motion.

Roll Call: All voting "Aye."

Civil No. 08-2011-CV-01887
Smith Contracting, Inc. vs. ND PSC
Burleigh County Dist. Court

The Commission convened into Executive Session at 11:35 a.m. and reconvened the Administrative Matters meeting at 12:00 p.m.

ATTEST

THE COMMISSION ADJOURNED AT 12:00 P.M.

Executive Secretary

BRIAN P. KALK, CHAIRMAN