



Photo illustration JENNIFER WEISGERBER

Since Sept. 11, 2001, Americans have been rethinking security. The kinds of attacks that terrorist might employ against the United States suggest a need to be more

circumspect about travel, government and personal information. That's in Washington and in Bismarck. Information that fits the definition of public record for the

North Dakota Public Service Commission might be used by terrorists. Such a possibility didn't really worry officials when the public came into the Capitol building to

access the public record. But what happens when that information goes online? Such was the dilemma for North Dakota's Public Service Commission.

## Convenience without compromising safety

By KEVIN CRAMER  
Chairman  
North Dakota  
Public Service Commission

In the wake of WikiLeaks and airport pat downs, the North Dakota Public Service Commission has decided to stick with transparency, which is embedded in our laws as well as our culture. Transparency is always important when doing the people's business, and is a responsibility celebrated by the PSC. The issue of transparency in our post-9-11 society has been challenged. That is why a recent decision to include energy-conversion and transmission-facility siting applications on the PSC website was the result of a deliberate process of study and collaboration.

This decade has been one of the most active in the PSC's history. North Dakota's vast energy resources are being developed at a fast pace. Oil and gas pipelines, electric transmission lines, petroleum processing plants, electric generation facilities and more are being developed in historic proportions.

The development of projects subject to the price risk and political uncertainty, which defines the energy industry, often requires expediency. Expediency does not, however, trump the responsibility of companies and regulators to ensure the location, construction and operation of our energy infrastructure will produce minimal adverse effects on the environment and upon the welfare of the citizens of our state. This charge comes from the Energy Conversion and Transmission Facility Siting Act or Chapter

**Transparency is always important when doing the people's business.**



MIKE McCLEARY/Tribune  
Kevin Cramer stands by his wife, Kris, as he announced his candidacy for the U.S. House of Representatives at the state Republican headquarters in Bismarck on Jan. 14, 2010.

49-22 of the North Dakota Century Code.

While the fundamental purpose of sunshine laws is to ensure public officials are accountable to the people we serve, it has an additional purpose to regulators charged with environmental and cultural protection. The public provides assistance in determining where infrastructure is constructed.

While documents filed with state government are subject to open records laws and can be viewed by

anyone interested in seeing them, the extra convenience of access afforded by modern technology causes some concern. A detailed description of a power plant, the proposed location of a natural gas pipeline or specific placement of a compressor station could be valuable informa-

tion to someone wishing to harm our nation's critical energy infrastructure.

Disrupting the nation's electric grid is the stuff of movies once thought to be purely fictional. Yet, while fighting the war on terror has made a television hero of Jack Bauer, we all find ourselves being a little more diligent in observing our surroundings. Increased security at airports is both personally intrusive and inconvenient. Yet, air travel is a privilege, not a right.

But the right to know how major energy developments may affect you is fundamental to our liberty as citizens and especially as landowners. So the siting of energy infrastructure is done in plain view. Not only do the siting laws that govern PSC oversight guarantee access to documents including maps and data, but we hold hearings in communities where projects are constructed in order to facilitate maximum public participation.

Yet, the prospect of putting such specific details on the World Wide Web caused some to wonder what the Homeland Security ramifications might be. Federal officials told us while there is no regulation prohibiting us from putting information on our website, they'd prefer we don't.

We appreciate the concern of security officials, but find it hard to imagine competent terrorists do not know how to get information other ways. Besides, it is the public's understanding of an area that assists in ensuring safe energy development. Reconciling the public's right to know with our responsibility to public safety is no small matter. And while we are only required to make information available as opposed to convenient, in the end, it was convenient transparency that won out, and I believe without compromising security.

## Not just the law, the spirit

By JACK MCDONALD  
Bismarck

Kudos to the North Dakota Public Service Commission for its decision to follow not only the letter of North Dakota's open records law, but also its spirit, and keep the records and plans of energy companies filed with it open and available to the public online. I especially like the use of the words "transparency" and "convenience."

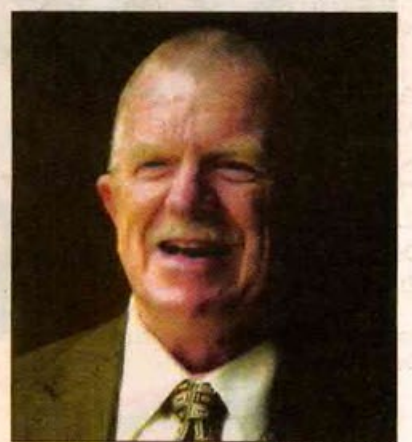
There are two main purposes of the state's open meetings and open records laws. One is the transparency the PSC has opted for in dealing with its energy applications. This lets the public know what its governmental representatives are doing and how well they are doing it. This is important.

But just as important, I believe, is the second purpose; that of providing the public with information. The public has a right to know what its government is doing and why to the fullest extent possible so it can make well-reasoned and

considered judgments on the subjects at hand. How can the public let the PSC know its feelings and concerns about certain projects if it can't find complete information, including all the details?

North Dakota's open meetings and open records laws, since their enactment in 1957, and really going back to territorial days, basically are access laws; i.e. the public has a right of access to the information. How this information is stored has certainly changed over the years, from handwritten, typed and word-processed paper documents to computer disks and drives and now to data files and online postings. But the one constant is that the public needs to

**Kudos to the PSC for its decision to support open records.**



MIKE McCLEARY/Tribune  
Jack McDonald at the end of the 60th legislative session on April 25, 2007.

have a way to access this information.

The public should be able to access this information in the same and convenient fashion as its public representatives do. If the PSC and its staff can use their computers to access this information via the Internet, then the general public, within reason, should have the same ability.

With the means of storing and accessing information changing literally daily, the public should be able to take advantage of the same modern technology to exercise its rights of

access to this information. In this instance, for example, there's no reason to require the public to go to the PSC office in the Capitol to see a copy of the paper documents when they could get the same information over the Internet.

So congratulations again to the PSC for taking the position it has regarding this data.

(Jack McDonald is former journalist and a Bismarck attorney with long experience in North Dakota's "open meetings, open records" law.)