

October 9, 2013

The Public Service Commission convened in the Commission Hearing Room, State Capitol, Bismarck, North Dakota, on October 9, 2013, 10:00 a.m. Present were Commissioners Kalk, Christmann, and Fedorchak.

Minutes

Mr. Kalk: I move the minutes of September 25, 2013 be approved.

Mr. Christmann: I second the motion.

Roll Call: All voting "Aye."

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

Mr. Kalk: I move the Commission acknowledge the October 1, 2013 staff approvals of three requests dated September 23 & 27, 2013 for transmission line structure relocations in Wells and Sheridan Counties in Case No. PU-09-670, Minnkota Power Cooperative, Inc.'s 345 kV electric transmission line being constructed from Center to Grand Forks, North Dakota,

Mr. Christmann: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-13-127  
Allete, Inc.  
210MW Bison 4 Wind Project –  
Oliver County  
Siting Application

Mr. Kalk: I move the Commission execute a contract with Houston Engineering, Inc. for construction inspection services concerning ALLETE, Inc.'s construction of the approximately 204.8 MW Bison 4 Wind Project in Oliver County, North Dakota, Case No. PU-13-127.

Mr. Christmann: I second the motion.

Roll Call: All voting "Aye."

Case No. AU-13-818  
Rodney Burgad dba  
Burgad Auction & Clerking Service  
Auction Clerk License  
Cancellation

Mr. Kalk: I move the Commission issue an order in Case No. AU-13-818 cancelling auction clerk license number 609 issued to Rodney Burgad dba Burgad Auction & Clerking Service, Wishek, North Dakota.

Mr. Christmann: I second the motion.

Roll Call: All voting "Aye."

Case No. AU-13-819  
Anthony G. Heins  
Auctioneer  
License Application

Mr. Kalk: I move the Commission approve the auctioneer license application for Anthony G. Heins, New Salem, North Dakota.

Mr. Christmann: I second the motion.

Roll Call: All voting "Aye."

Case No. AU-13-820  
Tamra Kaye Heins dba  
Rocking H Livestock  
Auction Clerk  
License Application

Mr. Kalk: I move the Commission approve the auction clerk license application for Tamra Kaye Heins dba Rocking H Livestock, New Salem, North Dakota.

Mr. Christmann: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-11-55  
Northern States Power Company  
2012 Electric Rate Increase  
Application

Mr. Kalk: I move the Commission rescind the motion from September 11, 2013 and re-issue an application fee refund to Northern States Power Company, in the amount of \$24,861.92, Case No. PU-11-55.

Mr. Christmann: I second the motion.  
Roll Call: All voting "Aye."

Case No. PU-11-109  
Vantage Pipeline US LP  
Natural Gas Liquids Pipeline –  
Williams and Divide Counties  
Siting Application

Mr. Kalk: I move the Commission acknowledge the September 24, 2013 staff approval for Vantage Pipeline US LP to proceed with construction in the vicinity of a report of damage to underground facilities during the construction of a natural gas liquids pipeline in Williams and Divide Counties, North Dakota, Case No. PU-11-109.

Mr. Christmann: I second the motion.  
Roll Call: All voting "Aye."

Case No. PU-12-702  
Otter Tail Power Company  
2013 Transmission Facility Cost  
Recovery  
Rates

Mr. Kalk: I move the Commission issue an application fee refund to Otter Tail Power Company, in the amount of \$9,649.59, Case No. PU-12-702.

Mr. Christmann: I second the motion.  
Roll Call: All voting "Aye."

Case No. PU-12-823  
Enbridge Pipelines (ND)/Enbridge  
Pipelines(Bakken)  
Transfer of Corridor Certificate and  
Route Permit  
Siting Application

Mr. Kalk: I move the Commission issue an application fee refund to Enbridge Pipelines (Bakken) L.P., in the amount of \$4,952.39, Case No. PU-12-823.

Mr. Christmann: I second the motion.  
Roll Call: All voting "Aye."

Case No. PU-13-153  
Enbridge Pipelines (ND)/Enbridge  
Pipelines(Bakken)  
Transfer of Corridor Certificate and  
Route Permit  
Siting Application

Mr. Kalk: I move the Commission issue an application fee refund to Enbridge Pipelines (Bakken) L.P., in the amount of \$4,955.15, Case No. PU-13-153.

Mr. Christmann: I second the motion.  
Roll Call: All voting "Aye."

Case No. PU-13-800  
Otter Tail Power Company  
Jim Kirkeide - Wells County  
Public Convenience & Necessity

Mr. Kalk: I move the Commission issue a Notice of Opportunity for Hearing in the application of Otter Tail Power Company to extend electric service to Jim Kirkeide at a location in Wells County, North Dakota, Case No. PU-13-800.

Mr. Christmann: I second the motion.  
Roll Call: All voting "Aye."

Case No. PU-13-807  
Otter Tail Power Company  
Scott Heley - Richland County  
Public Convenience & Necessity

Mr. Kalk: I move the Commission issue a Notice of Opportunity for Hearing in the application of Otter Tail Power Company to extend electric service to Scott Heley at a location in Richland County, North Dakota, Case No. PU-13-807.

Mr. Christmann: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-12-675  
Basin Transload, LLC  
10-Inch Crude Oil Pipeline –  
Mercer County  
Siting Application

Mr. Kalk: I move the Commission execute a contract with Houston Engineering, Inc. for construction inspection services concerning Basin Transload, LLC's construction of a 4 mile 10" diameter crude oil pipeline in Mercer County, North Dakota, Case No. PU-12-675.

Mr. Christmann: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-11-601  
Thunder Spirit Wind, LLC  
150 MW Wind Energy Project –  
Adams County  
Siting Application

Mr. Kalk: I move the Commission adopt the Findings of Fact, Conclusions of Law and Order issuing Certificate of Site Compatibility No. 35 to Thunder Spirit Wind, LLC authorizing construction of its proposed 150 MW Thunder Spirit Wind Energy Project in Adams County, North Dakota, Case No. PU-11-601.

Ms. Fedorchak: I second the motion.

Roll Call: Mr. Kalk "Aye".

Mr. Christmann "Nay".

Ms. Fedorchak "Aye".

Commissioner Randy Christmann  
Dissenting Opinion  
Case No. PU-11-601  
Thunder Spirit Wind, LLC  
150 MW Wind Energy Project –  
Adams County  
Siting Application

Dissenting Opinion  
Commissioner Randy Christmann  
October 9, 2013

The application of Thunder Spirit Wind for siting of a wind farm in Adams County should not be approved at this time.

Thunder Spirit's application tends to satisfy the 11 requirements (N.D.C.C. § 49-22-09) traditionally used by the PSC when making siting decisions. However, this section of law expressly points out that the PSC is not limited in its deliberations to these 11 requirements. N.D.C.C. § 49-22-02 also tasks the Commission with ensuring continuing system reliability and integrity.

The Commission previously addressed a case in the Matter of Application of the Nebraska Public Power District for a Certificate of Corridor Compatibility. PSC Case No. 9942, a 1981 decision regarding a transmission line to be constructed through North Dakota by the Nebraska Public Power District. At the time the Commission determined that it did not have the

Commissioner Randy Christmann  
Dissenting Opinion Continued

authority or duty to determine "need." The North Dakota Supreme Court ultimately affirmed that finding. See. In the Matter of the Application of Nebraska Public Power District. 330 N.W.2d 143 (N.D. 1983). In a separate concurring opinion, Justice VandeWalle lamented the statutory scheme of the time that did not require the PSC to look into the issue of need.

Admittedly, at first glance that case would appear to require approval of the Thunder Spirit Wind application. However, a deeper reading of the entire 49th Chapter of the North Dakota Century Code suggests the opposite. Since the Nebraska Public Power District case the Legislature has in fact provided clarification regarding its objectives for retail electric power within the state of North Dakota. N.D.C.C. § 49-02-28 sets an objective that ten percent of all electricity sold at retail within the state by the year 2015 be obtained from renewable energy and recycled energy sources. This objective applies to all retail providers of electricity in the state, regardless of ownership status.

The Legislature could have set a renewable objective higher than ten percent, or it could have set a renewable objective of at least ten percent. Clearly the ten percent objective, while not technically enforceable, was set with an objective that the other ninety percent should be obtained from traditional energy sources. Whether the objective that ninety percent of all electricity sold at retail within the state by the year 2015 be obtained from traditional energy sources is to assure dependability, long-term price stability, or for other reasons is of no concern in this decision.

Since North Dakota's renewable and recycled energy objective was codified in 2007, producers in the state have added well over 1000 megawatts of wind generation. North Dakota's cumulative capacity for wind power production currently stands at over 1600 megawatts. Clearly, the objective set forth by the Legislature for renewable and recycled energy production has been met and surpassed.

This application appears primarily focused on gaining local support in the Adams County area for obvious and substantial economic development reasons and on hurrying along a starting date in order to qualify for the federal Production Tax Credit. While additional economic activity in this rural area of the state is an important and worthy undertaking, it is not a compelling reason for this Commission to allow imposition of this significant additional generation cost on the rate payers or the tax payers. Since Thunder Spirit Wind's

Commissioner Randy Christmann  
Dissenting Opinion Continued

application is silent regarding where the electricity will be marketed, the Commission must entertain the possibility that it will be marketed to North Dakota consumers

Thunder Spirit Wind needs to show how this project fits into North Dakota's electric energy production objective before this application should be approved.

Randy Christmann, Commissioner

Case No. PU-13-103  
Allete, Inc.  
250kV DC Trans. Line Reroute -  
Kidder and Stutsman Counties  
Siting Application

Mr. Kalk: I move the Commission adopt the Order issuing Corridor Certificate No. 147 and Route Permit No. 158 to ALLETE, Inc. for its proposed 250 kV DC transmission line reroute in Stutsman County, North Dakota, Case No. PU-13-103.

Mr. Christmann: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-13-194  
Northern States Power Company  
Advance Determination of Prudence -  
NG Generators  
Application

Mr. Kalk: Believing that there will be no prejudice to the rights of the parties or the public interest, and finding the cases involve similar questions of law and fact, I move the Commission consolidate under North Dakota Administrative Code section 69-02-04-04, Northern States Power Company's application for Advance Determination of Prudence - NG Generators, Case No. PU-13-194, and Northern States Power Company's application for Public Convenience and Necessity, Red River Valley NG Units 1 & 2 – Hankinson, ND, Case No. PU-13-195, and issue a Notice of Consolidated Hearing.

Ms. Fedorchak: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-13-332  
Montana-Dakota Utilities Co.,  
a Division of MDU Resources  
Advance Determination of Prudence -  
Lewis & Clark Generating Station  
Application

Mr. Kalk: I move the Commission approve the order in Montana-Dakota Utilities Company's Application for Advance Determination of Prudence – Lewis and Clark Generating Station, Case No. PU 13 332.

Ms. Fedorchak: I second the motion.

Roll Call: All voting "Aye."

Case No. GS-13-812  
2014 Federal/State Gas Pipeline  
Safety  
Grants and Contracts

Mr. Kalk: I move the Commission acknowledge the September 25, 2013 electronic submittal of the 2014 Federal/State Gas Pipeline Safety Grant Application in the amount of \$292,670 to the U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration, Washington, D.C. for the operation and management of the 2014 North Dakota intrastate gas pipeline safety program.

Mr. Christmann: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-13-98  
Nexus Communications, Inc.  
Designated Eligible Carrier  
Application

Mr. Kalk: I move the Commission adopt the Order on Eligible Telecommunications Carrier Designation to designate Nexus Communications, Inc. as an eligible telecommunications carrier for the purpose of receiving federal universal service support for low-income consumers, Case No. PU-13-98.

Ms. Fedorchak: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-13-203  
Boomerang Wireless, LLC  
Designated Eligible Carrier  
Application

Mr. Kalk: I move the Commission adopt the Order on Eligible Telecommunications Carrier Designation to designate Boomerang Wireless, LLC as an eligible telecommunications carrier for the purpose of receiving federal universal service support for low-income consumers, Case No. PU-13-203.

Mr. Christmann: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-11-601  
Thunder Spirit Wind, LLC  
150 MW Wind Energy Project –  
Adams County  
Siting Application

Mr. Kalk: I move the Commission execute a contract with Houston Engineering, Inc. for construction inspection services concerning Thunder Spirit Wind, LLC's construction of the approximately 150 MW Thunder Spirit Wind Energy Project in Adams County, North Dakota, Case No. PU-11-601.

Ms. Fedorchak: I second the motion.

Roll Call: All voting "Aye."

Case No. GE-13-815  
NTC, Inc.  
Grain Warehouse - Northwood, ND  
License Application

Mr. Christmann: I move the Commission adopt an order in Case No. GE-13-815 granting the request of NTC, Inc. of Savage, Minnesota, to operate a 104,000-bushel grain warehouse at Northwood, North Dakota.

Mr. Kalk: I second the motion.

Roll Call: All voting "Aye."

Case No. GE-13-816  
Technology Crops LLC dba  
Technology Crops Internat  
License Nos. 1250 and 1251-  
Wimbledon and Pingree  
Discontinue Business

Mr. Christmann: I move the Commission adopt an order in Case No. GE-13-816 cancelling warehouse license numbers 1250 and 1251 respectively issued to Technology Crops LLC dba Technology Crops International at Wimbledon and Pingree, North Dakota and ordering that business at Wimbledon and Pingree is discontinued effective October 1, 2013.

Mr. Kalk: I second the motion.

Roll Call: All voting "Aye."

Case No. GE-13-823  
American Bean, LLC  
Grain Warehouse –  
Cummings and Sharon, ND  
License Application

Mr. Christmann: I move the Commission adopt an order in Case No. GE-13-823 granting the request of American Bean, LLC of Petersburg, North Dakota, to operate a 45,000-bushel grain warehouse at Cummings, North Dakota, and a 69,000-bushel grain warehouse at Sharon, North Dakota.

I further move the Commission grant the request of American Bean, LLC to operate its grain warehouses at Cummings and Sharon, full time through dry edible bean harvest and on an as needed basis by appointment only for the remainder of the year.

Mr. Kalk: I second the motion.

Roll Call: All voting "Aye."

Case No. GE-13-804  
Healthy Food Ingredients, LLC  
Roving Grain Buyer - Fargo, ND  
License Application

Mr. Christmann: I move the Commission adopt an order in Case No. GE-13-804 granting the request of Healthy Food Ingredients, LLC of Fargo, North Dakota to operate as a roving grain buyer in North Dakota, effective immediately.

Mr. Kalk: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-13-551  
Great Plains Natural Gas Co.  
Hwy 13 Extension Surcharge and  
Dekatherm Billing  
Tariff

Ms. Fedorchak: I move the Commission approve the tariff and rate changes filed by Great Plains Natural Gas Co., Case No. PU-13-551.

Mr. Kalk: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-13-803  
Montana-Dakota Utilities Co.,  
a Division of MDU Resources  
Natural Gas Service Rate Increase  
Application

Ms. Fedorchak: I move the Commission issue a Notice of Filing and Notice of Intervention Deadline concerning Montana-Dakota Utilities Co.'s, a Division of MDU Resources, natural gas service rate increase filing, Case No. PU-13-803.

Mr. Christmann: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-13-803  
Montana-Dakota Utilities Co.,  
a Division of MDU Resources  
Natural Gas Service Rate Increase  
Application

Ms. Fedorchak: I move the Commission adopt the Order on Interim Rates in Montana-Dakota Utilities Co.'s, a Division of MDU Resources Natural Gas Service Rate Increase application in Case No. PU-13-803.

Mr. Kalk: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-13-803  
Montana-Dakota Utilities Co.,  
a Division of MDU Resources  
Natural Gas Service Rate Increase  
Application

Mr. Kalk: I move the Commission appoint Mike Diller, Sara Cardwell and Ryan Norrell as advocacy staff in Montana-Dakota Utilities Co.'s, a Division of MDU Resources Natural Gas Service Rate Increase Application, Case No. PU-13-803. This appointment is effective as of the date of the Company's filing, September 18, 2013.

Mr. Christmann: I second the motion.

Roll Call: All voting "Aye."

New Hire - Public Utility Analyst

Mr. Kalk: I move the Commission acknowledge the offer to and acceptance of Julie S. Prescott to fill Position No. 5009, Public Utility Analyst effective October 14, 2013, under the terms specified in the September 24, 2013 written offer of employment.

Mr. Christmann: I second the motion.

Roll Call: All voting "Aye."

ATTEST

THE COMMISSION ADJOURNED AT 12:30 P.M.

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Executive Secretary

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BRIAN P. KALK, CHAIRMAN