

May 28, 2014

The Public Service Commission convened in the Commission Hearing Room, State Capitol, Bismarck, North Dakota, on May 28, 2014, 10:00 a.m. Present were Commissioners Kalk, Christmann, and Fedorchak.

Minutes

Mr. Kalk: I move the minutes of May 6, 2014 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 approve Minnkota Power Cooperative, Inc.'s Tree and Shrub Replacement Plan for its 345 kV electric transmission line from Center to Grand Forks, North Dakota, Case No. PU-09-670.

Mr. Christmann: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-12-820  
Total Call Mobile, Inc.  
Designated Eligible Carrier  
Application

Withdrawn

Case No. PU-13-51  
Telrite Corporation  
Designated Eligible Carrier  
Application

Withdrawn

Case No. PU-14-34  
Tempo Telecom, LLC  
Designated Eligible Carrier  
Application

Withdrawn

Case No. GS-14-123  
Aevenia, Inc.  
Damage Prevention Enforcement

Mr. Kalk: I move the Commission acknowledge the withdrawal by Whiting Oil & Gas of its ND One Call complaint in the Public Service Commission damage enforcement action concerning Aevenia, Inc., Case No. GS-14-123.

Mr. Christmann: I second the motion.

Roll Call: All voting "Aye."

Case No. AU-14-233  
Wayne Fonder  
Auctioneer  
License Application

Mr. Kalk: I move the Commission approve the auctioneer license application for Wayne Fonder, Sisseton, South Dakota.

Mr. Christmann: I second the motion.

Roll Call: All voting "Aye."

Case No. AU-14-234  
Wayne Fonder  
Auction Clerk  
License Application

Mr. Kalk: I move the Commission approve the auction clerk license application for Wayne Fonder, Sisseton, South Dakota.

Mr. Christmann: I second the motion.

Roll Call: All voting "Aye."

Case No. AU-14-235  
Brenda L. Fleisner  
Auctioneer  
License Application

Mr. Kalk: I move the Commission approve the auctioneer license application for Brenda L. Fleisner, Theresa, Wisconsin.

Mr. Christmann: I second the motion.

Roll Call: All voting "Aye."

Case No. AU-14-236  
Brenda L. Fleisner  
Auction Clerk  
License Application

Mr. Kalk: I move the Commission approve the auction clerk license application for Brenda L. Fleisner, Theresa, Wisconsin.

Mr. Christmann: I second the motion.

Roll Call: All voting "Aye."

Case No. AU-14-237  
Darren Getz  
Auctioneer  
License Application

Mr. Kalk: I move the Commission approve the auctioneer license application for Darren Getz, Delray Beach, Florida.

Mr. Christmann: I second the motion.

Roll Call: All voting "Aye."

Case No. AU-14-239  
Lucas J. Schneider  
Auctioneer License  
Revocation

Mr. Kalk: I move the Commission issue an order in Case No. AU-14-239 revoking auctioneer license number 998 issued to Lucas J. Schneider of Lincoln, Nebraska effective May 13, 2014 for failing to maintain an adequate bond filing.

Mr. Christmann: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-14-136  
Montana-Dakota Utilities Co.,  
a Division of MDU  
Scott Hoovestol- Morton County  
Public Convenience & Necessity

Mr. Kalk: I move the Commission adopt the Order and issue a Certificate of Public Convenience and Necessity authorizing Montana-Dakota Utilities Co., A division of MDU Resources Group, Inc. to extend electric service to Scott Hoovestol at a location in Morton County, North Dakota, Case No. PU-14-136.

Mr. Christmann: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-14-141  
Montana-Dakota Utilities Co.,  
a Division of MDU  
Des Lacs National Wildlife Refuge-  
Ward County  
Public Convenience & Necessity

Mr. Kalk: I move the Commission adopt the Order and issue a Certificate of Public Convenience and Necessity authorizing Montana-Dakota Utilities Co., A division of MDU Resources Group, Inc. to extend electric service to the Des Lacs National Wildlife Refuge at a location in Ward County, North Dakota, Case No. PU-14-141.

Mr. Christmann: I second the motion.

Roll Call: All voting "Aye."

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

Mr. Kalk: I move the Commission issue an application fee refund to Montana-Dakota Utilities Co., in the amount of \$170,159.51, Case No. PU-13-803.

Mr. Christmann: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-13-793  
Basin Electric Power Cooperative  
Wind Turbine Decommissioning  
Investigation

Mr. Kalk: I move the Commission close its investigation in Basin Electric Power Cooperative, Wind Turbine Decommissioning, Investigation, Case No. PU-13-793 and consider the decommissioning plan and need for financial assurances for the two-turbine Minot Wind Project when the decommissioning plan and need for financial assurance is considered for Basin Electric's adjacent Prairie Winds project.

Ms. Fedorchak: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-13-796  
Minnkota Power Cooperative, Inc.  
Wind Turbine Decommissioning  
Investigation

Mr. Kalk: I move the Commission close Minnkota Power Cooperative, Inc., Wind Turbine Decommissioning, Investigation, Case No. PU-13-796.

Mr. Christmann: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-14-126  
Northern States Power Company  
230/115kV 336 MVA transformer -  
Prairie Substation  
Public Convenience & Necessity

Mr. Kalk: I move the Commission adopt the Order Granting Certificate of Public Convenience and Necessity No. 5831 to Northern States Power Company authorizing the extension of approximately 1,100 feet of 230 kV electric transmission line and associated facilities necessary to interconnect Northern States Power Company's Prairie Substation located within the city of Grand Forks with Minnkota Power Cooperative, Inc.'s Prairie Substation located in Brenna Township, Grand Forks County, North Dakota, Case No. PU-14-126.

Ms. Fedorchak: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-13-835  
Whiting Oil and Gas Corporation  
Robinson Lake Gas Plant Expansion -  
Mountrail County  
Siting Application

Mr. Kalk: I move the Commission adopt the Order granting a Certificate of Site Compatibility in the application of Whiting Oil and Gas Corporation, Case No. PU-13-835.

Mr. Christmann: I second the motion.

Roll Call: Kalk "Aye."

Christmann "Aye".

Fedorchak Recused.

Case No. RC-11-700  
BNI Coal, Ltd.  
Permit No. BNCR-1101  
Application

Mr. Christmann: I move the Commission conditionally issue Surface Coal Mining Permit No. BNCR-1101 to BNI Coal, Ltd. to permit 8,359.72 acres at the Center Mine.

Mr. Kalk: I second the motion.

Roll Call: All voting "Aye."

Case No. RC-13-70  
Dakota Westmoreland Corporation  
Revision No. 27, Permit KRSB-8603  
Approval

Mr. Christmann: I move the Commission conditionally approve Revision No. 27 to Surface Coal Mining Permit KRSB-8603 held by Dakota Westmoreland Corporation to add 892.2 acres to this permit for the Beulah Mine and to update the appropriate sections of the permit for mining in the added area.

Mr. Kalk: I second the motion.

Roll Call: All voting "Aye."

Case No. AM-14-42  
Scranton/Bowman Phase 2  
Construction  
Project

Mr. Christmann: I move the Commission execute Contract No. AM-697-14 with B & C Concrete Pumping, Inc. in the amount of \$751,175 for drilling and pressurized grouting at the 2014 Scranton/Bowman Phase 2 AML Project in Adams and Bowman Counties.

Mr. Kalk: I second the motion.

Roll Call: All voting "Aye."

Case No. AM-14-42  
Scranton/Bowman Phase 2  
Construction  
Project

Mr. Christmann: I move the Commission execute Contract No. 698-14 with Northeast Technical Services, Inc. in the amount of \$32,500 for material testing and other services for the 2014 Scranton/Bowman Phase 2 AML Project in Adams and Bowman Counties.

Ms. Fedorchak: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-13-901  
BakkenLink Pipeline, LLC  
Crude Oil Pipeline –  
Williams to Billings Counties  
Public Convenience & Necessity

Withdrawn

Case No. PU-13-909  
Midcontinent Comm. /  
Consolidated Communications  
Interconnection Agreement  
Amendment  
Application

Mr. Kalk: I move the Commission bill Midcontinent Communications & Consolidated Communications Network, Inc. for specific costs and expenses incurred in Case No. PU-13-909.

Ms. Fedorchak: I second the motion.

Roll Call: All voting "Aye."

Case No. GS-14-242  
Diamond Resources, Inc.  
Damage Prevention Enforcement

Mr. Kalk: I move the Commission appoint Aaron Morman and Patrick Fahn as advocacy staff effective May 13, 2014, in the Public Service Commission damage enforcement action concerning Diamond Resources, Inc., Case No. GS-14-242.

Ms. Fedorchak: I second the motion.

Roll Call: All voting "Aye."

New Hire - AML Project Inspector

Mr. Kalk: I move the Commission offer Michael Mahoney seasonal part-time employment as a Project Inspector for the AML Division for a period of employment starting on or after June 2, 2014, and ending no later than November 26, 2014, at a salary of \$20.00 per hour plus time and a half for hours in excess of the standard 40 hour work week.

Ms. Fedorchak: I second the motion.

Roll Call: All voting "Aye."

New Hire - Legal Intern

Mr. Kalk: I move the Commission acknowledge the offer to and acceptance of Austin Lafferty to fill the summer legal intern position under the terms specified in the May 13, 2014 written offer of employment.

Ms. Fedorchak: I second the motion.

Roll Call: All voting "Aye."

New Hire - Weights and Measures  
Inspector

Mr. Kalk: I move the Commission acknowledge the offer to and acceptance of Brandon H. Wahlfeldt to fill Position No. 5007, Weights and Measures Inspector, effective June 2, 2014, under the terms specified in the May 9, 2014 written offer of employment.

Ms. Fedorchak: I second the motion.

Roll Call: All voting "Aye."

Policy Acknowledgement Forms

Mr. Kalk: I move the Commission adopt the May 28, 2014 acknowledgement forms for use with and incorporation into the Commission's Policy Manual effective May 28, 2014.

Ms. Fedorchak: I second the motion.

Roll Call: All voting "Aye."

## Code of Conduct Policy Revision

Mr. Kalk: I move the Commission adopt revised Policy 6-11-14, Code of Conduct. I further move that Policy 6-11-14 (1) be incorporated into the revised policy manual conditioned on and effective when the revised policy manual is formally adopted by the Commission.

CODE OF CONDUCT  
POLICY 6-11-14

A. PURPOSE

The North Dakota Public Service Commission (PSC) is committed to adhering to the highest ethical standards. Employees are expected to act with integrity and professionalism. They must also, at a minimum, understand and abide by all policies, laws, and regulations. Their actions reflect upon the Commission and the great state of North Dakota.

B. DEFINITIONS (see specific policies)

C. POLICY

The PSC has a fiduciary responsibility to efficiently use resources while providing effective regulation to its stakeholders. Employees shall abide by Commission policies, including the following:

- Fraud Prevention (1-27)
- Conflicts, Gifts, and Gratuities ( 1-21)
- Substance Abuse (1-18)
- Sexual/Unlawful Harassment (3-15)
- Drug and Alcohol Misuse Prevention

(5-03)

Specific reporting requirements may vary by policy; however, the following protocols apply in most cases. Employees who suspect violations under one of the above policies should inform their immediate supervisor or director. If the supervisor or director is the one suspected, the next higher level of authority within the Commission should be informed up to and including a Commissioner. If a Commissioner is suspected then the other Commissioner(s) should be notified. This policy does not prohibit prompt notification to appropriate authorities when an immediate threat to personal safety exists.

Employees and Commissioners are required to annually read and sign an acknowledgement form concerning code of conduct. A copy of each executed acknowledgement form will be kept in each employee's respective personnel file.

Code of Conduct Policy Revision

D. GUIDANCE: Through applicable standards and conduct of law, rules and commission policy.

E. APPLICABILITY: All employees.

F. EFFECTIVE DATE: March 1, 2014

G. NON-COMPLIANCE: Disciplinary actions up to and including termination, referral for criminal prosecution, and restitution.

H. EXPLANATORY NOTE: None.

I. REVISION DATES: May 28, 2014.  
REFERENCES

(0) PSC Minutes February 26, 2014

(1) PSC Minutes May 28, 2014

Ms. Fedorchak: I second the motion.

Roll Call: All voting "Aye."

Performance, Recruitment, and  
Retention Bonus Policy

Mr. Kalk: I move the Commission adopt Policy 6-12-14 (0), Performance, Recruitment, and Retention Bonus and rescind Policy 3-14-02 (0) Performance Bonus. I further move that 6-12-14 (0) be incorporated into the revised policy manual conditioned on and effective when the revised policy manual is formally adopted by the Commission.

PUBLIC SERVICE COMMISSION

PERFORMANCE, RECRUITMENT,  
AND RETENTION BONUS POLICY

POLICY 6-12-14(0) May 27, 2014

A. PURPOSE

To implement a performance, recruitment, and retention bonus program for classified employees as provided for by state law.

B. DEFINITIONS

Performance Bonus: A lump-sum payment not to exceed \$1,000 per fiscal year, which is not part of an employee's base salary, to recognize outstanding performance or work achievement beyond the normal work expectations.

Performance, Recruitment, and  
Retention Bonus Policy

**Recruitment Bonus:** A lump-sum or incremental payment, which is not part of an employee's base salary, paid to recruit a new classified employee into a hard-to-fill or highly-skilled position.

**Retention Bonus:** A lump-sum or incremental payment, which is not part of an employee's base salary, paid to retain an existing classified employee in a hard-to-fill or highly-skilled position.

**Classified Employee:** An employee who fills a full-time position classified by HRMS and is funded in the Commission's budget.

C. POLICY

Bonuses under this policy are awarded at the Commission's discretion and in accordance with Chapter 54-06 of the North Dakota Century Code.

Eligibility – Performance Bonuses

In order to be considered, an employee must meet the following:

- Be a full-time, classified employee;
- Have at least one year of service in state government;
- Have satisfactory or better performance in each section of the employee's annual performance evaluation, and
- Complete a project or duty that is significantly over and above the employee's normal workload, or significantly contribute to a process improvement that leads to internal efficiencies or budget savings.

An employee may not receive more than one performance bonus per fiscal year. Performance bonuses may be granted at any time but are normally considered at the end of each fiscal year. Supervisor input will be solicited to identify potential candidates and provide specific, quantifiable information on each candidate's accomplishments.

Eligibility – Recruitment and Retention Bonuses

Recruitment and retention bonuses are intended to recruit or retain employees in positions that are hard-to-fill or highly-skilled.

Recruitment and retention bonuses will only be paid pursuant to a written agreement, signed by both the Chairman of the Public Service Commission and the employee who will receive the bonus, specifying the form and timing of payment and that the employee agrees to continued full-time employment with the Commission for the specified period of time. Bonuses may be paid in increments (ex. half up front, half after successful completion of probation).



Performance, Recruitment, and  
Retention Bonus Policy

The following independent factors are used to determine eligibility:

- Recent efforts have resulted in a low number of qualified applicants;
- Declined job offers due to inadequate wage;
- High turnover history;
- Higher current rate of pay by the private sector or other state agencies;
- Special qualifications that make the position hard-to-fill.

An employee must repay the recruitment/retention bonus if the terms of the written agreement are not fulfilled due to voluntary separation, retirement, termination for cause, failure to maintain adequate certificates or licenses necessary to perform duties, or accepts a position with a lower level classification within the agency.

D. GUIDANCE:

E. APPLICABILITY: All eligible employees

F. EFFECTIVE DATE: June 1, 2014

G. NON-COMPLIANCE:

H. EXPLANATORY NOTE: N.D.C.C.  
54-06-31; N.D.A.C. Article 4-07

I. REVISION DATES:

Ms. Fedorchak: I second the motion.

Roll Call: All voting "Aye."

Employee Equity Adjustments

Mr. Kalk: I move the Commission grant an equity adjustment effective May 1, 2014 for the employees occupying positions 5006 and 5010 as specified in the Accounting Manager's memorandum dated May 16, 2014.

Ms. Fedorchak: I second the motion.

Roll Call: All voting "Aye."

Resignation - Temporary Office  
Assistant

Mr. Kalk: I move the Commission accept, with regret, the resignation of Jennifer J. Lein effective May 21, 2014.

Ms. Fedorchak: I second the motion.

Roll Call: All voting "Aye."

ATTEST

THE COMMISSION ADJOURNED AT 10:59 A.M.

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Executive Secretary

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BRIAN P. KALK, CHAIRMAN