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### South Dakota Public Utilities Commission Meeting

March 2, 2015, at 1:30 P.M. CST

Room 413, Capitol Building

Pierre, South Dakota

#### MINUTES OF THE COMMISSION MEETING

Chairman Chris Nelson called the meeting to order. Present were: Commissioner: Kristie Fiegen; Acting Commissioner: Richard Sattgast; Commission Counsel: John Smith and Rolayne Wiest; Commission Advisor: Greg Rislov; Staff Attorneys: Karen Cremer and Kristen Edwards; Staff Analysts: Darren Kearney, Eric Paulson, Patrick Steffensen, Brian Rounds, and Joseph Rezac; and Staff: Katlyn Gustafson.

Also present were:

Court Reporter, Cheri Wittler; Jon Thurber, Amy Koenig, and Kyle White, Black Hills Power, Inc.; Kara Semmler and Brett Koenecke, May, Adam, Gerdes and Thompson, LLP, representing Dakota Access, LLC; Andrew Moratzka, Stoel Rives LLP, representing Black Hills Industrial Intervenors; and Mark Moreno, Schmidt, Schroyer, Moreno, Lee & Bachand, P.C., representing Black Hills Industrial Intervenors.

Joining the meeting by telephone were:

Commissioner: Gary Hanson; Bill Taylor, Woods, Fuller, Schultz, and Smith, representing TransCanada Keystone Pipeline, LP; Lorin Brass, 2012 Brass Family, LLLP; Jason Sutton, Boyce Law Firm, LLC, representing Toshiba America Business Solutions, Inc., Trail King Industries, Inc., and Redfield Energy, LLC; Lee Magnuson, Lindquist & Vennum, LLP; representing Black Hills Power, Inc.; Matt Dean, Telecom Professionals, Inc., representing NetFortris Acquisition Co., Inc.; Talbot Wieczorek, Gunderson Palmer Nelson & Ashmore, LLP, representing Wal-Mart Stores, Inc.; Carolyn Smith, self; Thomasina Real Bird, Fredericks Peebles & Morgan LLP, representing Yankton Sioux Tribe; Dave Peterson, PUC Staff, Chesapeake Regulatory Consultants, Inc.; Tamie Aberle, Larry Oswald, and Kathy Baerlocher, Montana-Dakota Utilities Co.; Al Brogan, NorthWestern Corporation dba NorthWestern Energy; Craig Walker, self; Dave Prazak, Otter Tail Power Company; and Kimberly Craven, Attorney, representing Indigenous Environmental Network.

#### Administration

##### 1. Approval of the Minutes of the Commission Meeting Held on **February 13, 2015** (Staff: Joy Lashley)

Commissioner Nelson moved to approve the minutes of the Commission meeting held on February 13, 2015. Motion carried 3-0.

#### Consumer Reports

##### 1. Status Report on Consumer Utility Inquiries and Complaints Received by the Commission (Consumer Affairs: Deb Gregg)

The Commission received a total of 94 contacts since the last report was prepared for the February 13, 2015 Commission meeting.

5 of the contacts involved telecommunication services, 30 of the contacts involved electrical services, 5 of the contacts involved natural gas service, 1 contact involved gas and electric services, 2 contacts involved cell phone service, 6 contacts were related to the Do Not Call Registry, 28 contacts were related to the Dakota Access Pipeline, 6 contacts were related to the Keystone XL Pipeline and 11 contacts were related to issues not regulated by the PUC.

1,914 of the 1,916 complaints received in 2014 have been resolved.

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363 of the 386 complaints received in 2015 have been resolved.

### **Hydrocarbon Pipeline**

**1. HP14-002 In the Matter of the Application of Dakota Access, LLC for an Energy Facility Permit to Construct the Dakota Access Pipeline (Staff Analysts: Brian Rounds, Darren Kearney; Staff Attorney: Kristen Edwards)**

Mr. Brett Koenecke, May, Adam, Gerdes and Thompson, LLP, representing Dakota Access, LLC (Dakota Access), stated Dakota Access has no objections to the interventions. Ms. Kristen Edwards, staff attorney, recommended that the Commission grant intervention.

**Acting Commissioner Sattgast moved to grant intervention to John Wellnitz, John Stratmeyer, Lorin Brass, Indigenous Environmental Network, Rosebud Sioux Tribe-Sicangu Oyate Land Office, Rosebud Sioux Tribe-Sicangu Lakota Treaty Office, Yankton Sioux Tribe, KKKP Property, LLLP, Calvin Schreiver, DLK&M, LLC, Pederson Ag, LLC, Jean Osthus, Daniel & Marcia Hoiland, and Mavis Parry.** Motion carried 3-0.

**2. HP14-001 In the Matter of the Petition of TransCanada Keystone Pipeline, LP for Order Accepting Certification of Permit Issued in Docket HP09-001 to Construct the Keystone XL Pipeline (Staff Analysts: Brian Rounds, Darren Kearney; Staff Attorney: Kristen Edwards)**

Ms. Kristen Edwards, staff attorney, recommended that the Commission grant withdrawal to the Sierra Club and the South Dakota Wildlife Federation. Mr. Bill Taylor, Woods, Fuller, Schultz, and Smith, representing TransCanada Keystone Pipeline, LP (Keystone), stated Keystone had no objections to the requests.

**Commissioner Fiegen moved to grant the requests for withdrawal of party status to the Sierra Club and the South Dakota Wildlife Federation.** Motion carried 3-0.

### **Natural Gas**

**1. NG15-001 In the Matter of the Filing by Montana-Dakota Utilities Co. for Approval of its Revised Conservation Tracking Adjustment (Staff Analyst: Darren Kearney; Staff Attorney: Karen Cremer)**

Ms. Tami Aberle, Montana-Dakota Utilities Co. (MDU), asked for Commission approval of MDU's Revised Conservation Program Tracking Mechanism Rate 90 Tariff effective March 3, 2015. Mr. Darren Kearney, staff analyst, recommended that the Commission approve MDU's proposed CTA rate of \$0.028 per dk with an effective date of March 3, 2015 and require MDU to submit a compliance filing of the updated tariff page titled "Section No. 3, 10th Revised Sheet No. 31, Canceling 9th Revised Sheet No. 31" that includes the new CTA rate, effective date, and corrections identified in Staff Data Request No. 2-4.

**Commissioner Hanson moved to grant Montana-Dakota Utilities Co.'s request for approval of the Revised Conservation Program Tracking Mechanism Rate 90 Tariff effective March 3, 2015, and require MDU to file a revised tariff sheet conforming to staff's recommendations.** Motion carried 3-0.

### **Telecommunications**

**1. TC15-001 In the Matter of the Application of NetFortris Acquisition Co., Inc. for a Certificate of Authority to Provide Local Exchange Services in South Dakota (Staff Analyst: Joe Rezac; Staff Attorney: Karen Cremer)**

Mr. Matt Dean, Telecom Professionals, Inc., representing NetFortris Acquisition Co., Inc. (NetFortris), asked that the Commission grant NetFortris Certificate of Authority to provide local exchange services in South Dakota. Mr. Joseph Rezac, staff analyst, recommended that the

Commission grant approval to NetFortris with the conditions that, for retail purposes, NetFortris not offer any prepaid services, including prepaid calling cards, and not accept or require any deposits or advance payments without prior approval of the Commission, and that the applicant be subject to rural safeguards.

**Commissioner Nelson moved to grant NetFortris' request for a Certificate of Authority to Provide Local Exchange Services in South Dakota, subject to staff's recommendations.**

Motion carried 3-0.

**Electric**

**1. EL14-106 In the Matter of the Application of NorthWestern Corporation dba NorthWestern Energy for Authority to Increase Its Electric Rates (Staff Analysts: Brittany Mehlhaff, Patrick Steffensen, Eric Paulson, Joe Rezac; Staff Attorney: Karen Cremer)**

Mr. Jason Sutton, Boyce Law Firm, LLC, representing Toshiba America Business Solutions, Inc., Trail King Industries, Inc., and Redfield Energy, LLC (Industrial Intervenors) and Mr. Talbot Wiczorek, Gunderson Palmer Nelson & Ashmore, LLP, representing Wal-Mart Stores, Inc., requested approval of their Petitions to Intervene. Mr. Al Brogan, NorthWestern Corporation dba NorthWestern Energy (NorthWestern), stated NorthWestern did not object to the interventions. Ms. Karen Cremer, staff attorney, recommended that the Commission grant intervention to the Industrial Intervenors and Wal-Mart Stores, Inc.

**Commissioner Fiegen moved to grant intervention to Toshiba America Business Solutions, Inc., Trail King Industries, Inc., Redfield Energy, LLC (Industrial Intervenors), and Wal-Mart Stores, Inc.** Motion carried 3-0.

**2. EL15-001 In the Matter of the Filing by Otter Tail Power Company for Approval of Revised Customer Information Booklet (Staff Analysts: Deb Gregg, Joe Rezac; Staff Attorney: Karen Cremer)**

Mr. Dave Prazak, Otter Tail Power Company (Otter Tail), asked for Commission approval of its updated Customer Information Brochure. Mr. Joseph Rezac, staff analyst, recommended that the Commission grant approval to Otter Tail's request with the revisions outlined in staff's data requests.

**Commissioner Nelson moved to grant approval of Otter Tail Power Company's revised customer information booklet as revised to conform to staff's recommendations.** Motion carried 3-0.

**3. EL15-007 In the Matter of the Application of Black Hills Power, Inc. for Approval of 2015 Transmission Facility Adjustment (Staff Analysts: Patrick Steffensen, Eric Paulson, Joe Rezac; Staff Attorney: Karen Cremer)**

Ms. Karen Cremer, staff attorney, recommended that the Commission assess Black Hills Power, Inc. (BHP) a filing fee in the amount of up to \$50,000. Ms. Amy Koenig, BHP, stated BHP had no objection to the filing fee.

**Commissioner Hanson moved to assess a filing fee in the amount of up to \$50,000 to account for actual expenses incurred in review of this filing commencing from the filing date.** Motion carried 3-0.

**4. EL15-008 In the Matter of the Application of Black Hills Power, Inc. for Approval of its 2015 Environmental Improvement Adjustment (Staff Analysts: Brittany Mehlhaff, Patrick Steffensen, Eric Paulson; Staff Attorney: Karen Cremer)**

Ms. Karen Cremer, staff attorney, recommended that the Commission assess Black Hills Power, Inc. (BHP) a filing fee in the amount of up to \$50,000. Ms. Amy Koenig, BHP, stated BHP had no objection to the filing fee.

Commissioner Fiegen moved to assess a filing fee up to the amount of \$50,000 to account for actual expenses incurred in review of this filing commencing from the filing date. Motion carried 3-0.

**5. EL14-026 In the Matter of the Application of Black Hills Power, Inc. for Authority to Increase its Electric Rates (Staff Analysts: Brittany Mehlhaff, Patrick Steffensen, Eric Paulson; Staff Attorney: Karen Cremer)**

A lengthy discussion took place regarding docket EL14-026. An audio of the discussion can be found on the PUC website under Commission Actions, Commission Meeting Archives, 2015, March 2, 2015, recording located at: <http://puc.sd.gov/commission/media/2015/puc03022015.mp3>. A transcript of the discussion can be accessed on the PUC website at: <http://puc.sd.gov/commission/minutes/2015/030215transcriptel14-026.pdf>

Commissioner Fiegen moved to grant the Joint Motion for Approval of the Amended Settlement Stipulation and approve the terms and conditions stipulated therein effective April 1, 2015, moved to approve the interim rate refund plan, moved to approve the Contract with Deviations between BHP and the South Dakota Science and Technology Authority, and moved to approve the effective period for carrying out the refund of interim rate over-collections as May, 2015. Motions carried 3-0.

There being no further business, at the hour of 2:42 p.m. the South Dakota Public Utilities Commission meeting adjourned.

/s/Joy Lashley

Joy Lashley

Administrative Assistant

[puc@state.sd.us](mailto:puc@state.sd.us)

March 2, 2015