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South Dakota Public Utilities Commission Meeting
November 12, 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: Commissioners: Kristie Fiegen and Gary Hanson; Commission Counsel: Rolayne Wiest and Karen Cremer; Acting Commission Counsel: John Smith; Commission Advisor: Greg Rislov; Staff Attorneys: Kristen Edwards and Adam de Hueck; Staff Analysts: Brian Rounds, Darren Kearney, Eric Paulson, Patrick Steffensen, Joseph Rezac, and Lorena Reichert; Consumer Affairs Supervisor: Deb Gregg; and Staff: Katlyn Gustafson.

Also present were:

James Moore, Woods, Fuller, Shultz and Smith P.C., representing TransCanada Keystone Pipeline, LP; Margo Northrup, Riter, Rogers, Wattier & Northrup LLP, representing South Dakota Rural Electric Association; Paul Seamans, self; John Harter, self; John O'Meara and Patrick O'Meara, Wind Quarry Operations, LLC.

Joining the meeting by telephone were:

Mary Zanter, Pipeline Safety Manager, Carey Roesel, Technologies Management, Inc., representing Native American Telecom, LLC; Anne Sokolin, MCC Telephony of the Midwest, LLC; Bruce Ellison, Ellison Law Office, representing Dakota Rural Action; Matt Rappold, Rappold Law Office, representing Rosebud Sioux Tribe; Peter Capossela, Attorney, representing Standing Rock Sioux Tribe; Jennifer Baker, Fredericks Peebles & Morgan LLP, representing Yankton Sioux Tribe; Travis Clark, Fredericks Peebles & Morgan LLP, representing Cheyenne River Sioux Tribe; Alison Archer, Chuck Burdick, Eric Pauli, and Deb Paulson, Northern States Power Company dba Xcel Energy; Jake Quasney, Lloyd Companies; Jennifer Moore, MidAmerican Energy Company; Bob Sahr, East River Electric Power Cooperative, Inc.; and Bryce Haugen, Otter Tail Power Company.

Administration

1. Approval of the Minutes of the Commission meeting held on October 29, 2015 (Staff: Joy Lashley)

Commissioner Hanson moved to approve the minutes of the Commission meeting held on **October 29, 2015**, subject to the amendment proposed by Commissioner Fiegen. 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 77 contacts since the last report was prepared for the October 29, 2015 Commission meeting.

9 contacts involved telecommunications services, 9 contacts involved electrical services, 1 contact was related to natural gas service, 1 contact was related to wireless service, 22 contacts were related to the Do Not Call Registry, 2 contacts were related to Wind Energy, 22 contacts were related to the Dakota Access Pipeline, 7 contacts were related to the Keystone XL Pipeline and 4 contacts were related to issues not regulated by the PUC.

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

1,804 of the 1,830 complaints received in 2015 have been resolved.

Pipeline Safety

1. **PS13-001 In the Matter of the Filing by Commission Pipeline Safety Staff for Approval of a Penalty for a Pipeline Safety Violation by Humboldt Municipal Gas Utilities (Staff Analyst: Mary Zanter; Staff Attorney: Kristen Edwards)**

Ms. Kristen Edwards, staff attorney, recommended that the Commission dismiss the complaint and close the docket. Ms. Edwards explained that the complaint has been resolved through the resolution reached in Docket PS15-001.

Commissioner Fiegen moved to grant the Motion to Dismiss. Motion carried 3-0.

Telecommunications

1. **TC15-059 In the Matter of the Filing by Native American Telecom, LLC for Approval of Revisions to its Access Service Tariff No. 2 (Staff Analyst: Lorena Reichert; Staff Attorney: Adam de Hueck)**

The Commission deferred the docket until the November 24, 2015, Commission meeting.

2. **TC15-060 In the Matter of the Filing by MCC Telephony of the Midwest, LLC for Approval of Revisions to its Access Services Tariff No. 1 (Staff Analyst: Lorena Reichert; Staff Attorney: Adam de Hueck)**

Ms. Anne Sokolin, MCC Telephony of the Midwest, LLC (MCC Telephony), asked for Commission approval of revisions to its Access Services Tariff No. 1, with an effective date of August 30, 2015. Ms. Lorena Reichert, staff analyst, recommended that the Commission approve MCC Telephony's request.

Commissioner Hanson moved to approve MCC Telephony of the Midwest, LLC's revisions to its Access Services Tariff No. 1 with an effective date of August 30, 2015. Motion carried 3-0.

Hydrocarbon Pipeline

1. **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 Attorneys: Kristen Edwards, Karen Cremer)**

A lengthy discussion took place regarding docket HP14-001. An audio of the discussion can be found on the PUC website under Commission Actions, Commission Meeting Archives, 2015, November 12, 2015, recording located at:

<http://puc.sd.gov/commission/media/2015/puc11122015.mp3>

Commissioner Hanson moved for reconsideration of the October 29 Order granting Keystone's Motion to Strike. Motion carried 3-0.

Commissioner Hanson moved to bifurcate Exhibit 6001 from the other items in Keystone's Motion to Strike. Motion carried 3-0.

Commissioner Hanson moved to deny Keystone's request to exclude Exhibit 6001. Motion failed 1-2. Commissioner Nelson and Commissioner Fiegen dissented.

Commissioner Nelson moved to grant Keystone's request to exclude Exhibit 6001. Motion carried 2-1. Commissioner Hanson dissented.

Commissioner Nelson moved to grant Keystone's motion to strike with respect to the remaining testimony and exhibits in Keystone's Motion to Strike. Motion carried 3-0.

Commissioner Fiegen moved to deny the Joint Motion to Strike Proposed Findings of Fact and Conclusions of Law. Motion carried 3-0.

Electric

1. EL15-020 In the Matter of the Application by Wind Quarry Operations, LLC, for a Wind Energy Facility Permit for the Willow Creek Wind Energy Facility and Associated Facilities (Staff Analysts: Brian Rounds, Darren Kearney; Staff Attorneys: Adam de Hueck, Kristen Edwards)

A lengthy discussion took place regarding docket [EL15-020](#). An audio of the discussion can be found on the PUC website under Commission Actions, Commission Meeting Archives, 2015, November 12, 2015, recording located at:

<http://puc.sd.gov/commission/media/2015/puc11122015.mp3>. The Commission voted to grant the Settlement Stipulation as amended, which effectively issued the permit subject to the conditions.

Commissioner Hanson moved to grant the Joint Motion for Approval of Settlement Stipulation with staff's amendments. Motion carried 3-0.

2. EL15-030 In the Matter of the Petition of Northern States Power Company dba Xcel Energy for Approval of its 2016 Transmission Cost Recovery Eligibility and Rate Adjustment (Staff Analysts: Patrick Steffensen, Eric Paulson; Staff Attorney: Kristen Edwards)

Ms. Alison Archer, Northern States Power Company dba Xcel Energy (Xcel), asked for Commission approval of Xcel's 2016 Transmission Cost Recovery (TCR) Rider, TCR rate factor, and tracker account report. Mr. Patrick Steffensen, staff analyst, recommended that the Commission approve Xcel's revised TCR rate factor and revised tariff sheet with an effective date of January 1, 2016.

Commissioner Fiegen moved to approve the revised TCR rate factor and revised tariff sheet with an effective date of January 1, 2016. Motion carried 3-0.

3. EL15-034 In the Matter of the Filing by Northern States Power Company dba Xcel Energy for Approval of Tariff Revisions to its Rates for Small Power Production and Cogeneration (Staff Analyst: Eric Paulson; Staff Attorney: Adam de Hueck)

Ms. Deb Paulson, Northern States Power dba Xcel Energy (Xcel), asked that the Commission approve Xcel's application for tariff revisions. Mr. Eric Paulson, staff analyst, recommended that the Commission grant approval to Xcel's request with an effective date of November 12, 2015.

Commissioner Nelson moved to grant Xcel's application for tariff revisions with an effective date of November 12, 2015. Motion carried 3-0.

4. EL15-039 In the Matter of the Request by Trinity Point, LLC for a Variance to the Separate Metering Requirement in ARSD 20:10:26:03(4) for a 48 Unit Multi-Family Housing Structure in Sioux Falls, South Dakota. (Staff Analyst: Darren Kearney; Staff Attorney: Adam de Hueck)

5. EL15-040 In the Matter of the Request by Aberdeen Housing Authority for a Variance to the Separate Metering Requirement in ARSD 20:10:26:03(4) for a 40 Unit Multi-Family Housing Structure in Aberdeen, South Dakota (Staff Analyst: Darren Kearney; Staff Attorney: Adam de Hueck)

6. EL15-041 In the Matter of the Request by SF Housing Ministry, LLC for a Variance to the Separate Metering Requirement in ARSD 20:10:26:03(4) for a 39 Unit Multi-Family

Housing Structure in Sioux Falls, South Dakota (Staff Analyst: Darren Kearney; Staff Attorney: Adam de Hueck)

A lengthy discussion took place regarding dockets EL15-039, EL15-040, and EL15-041. An audio of the discussion can be found on the PUC website under Commission Actions, Commission Meeting Archives, 2015, November 12, 2015, recording located at:
<http://puc.sd.gov/commission/media/2015/puc11122015.mp3>

The Commission deferred dockets EL15-039, EL15-040, and EL15-041, to research the Administrative Rule to see if the buildings will qualify for the variance.

7. EL15-045 In the Matter of the Petition of Otter Tail Power Company for Approval of its 2016 Transmission Cost Recovery Eligibility And Rate Adjustment (Staff Analysts: Patrick Steffensen, Joseph Rezac; Staff Attorney: Adam de Hueck)

Mr. Adam de Hueck, staff attorney, recommended that the Commission assess Otter Tail Power Company (OTP), 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. Mr. Bryce Haugen, OTP, stated OTP had no objections to staff's request.

Commissioner Nelson 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.

1. RM15-001 In the Matter of the Consideration of Rules Regarding Stray Electrical Current and Voltage Remediation (Commission Counsel: Rolayne Ailts Wiest)

Ms. Rolayne Wiest, Commission Counsel, recommended that the Commission open a rulemaking docket to consider the adoption of stray voltage rules. Ms. Wiest explained that staff included a draft of proposed stray voltage rules and requested that the Commission allow comments to be received from interested persons or entities on the draft rules. She stated that following the comment period, the Commission would then consider the comments and decide whether to make any changes to the draft rules.

Commissioner Hanson moved to open a rulemaking docket for the purpose of receiving comments on the draft rules, and required initial comments to be filed by December 11, 2015, and responsive comments by December 24, 2015. Motion carried 3-0.

There being no further business, at the hour of 2:47 p.m. the South Dakota Public Utilities Commission meeting adjourned.

/s/Joy Lashley
Joy Lashley
Administrative Assistant
puc@state.sd.us
November 12, 2015