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South Dakota Public Utilities Commission Meeting

June 11, 2015, at 9:30 A.M. CDT

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, and Joseph Rezac; Consumer Affairs Manager: Deb Gregg; and Staff: Joy Lashley.

Also present were:

Cheri Wittler, Court Reporter; James Moore and Bill Taylor, Woods, Fuller, Shultz and Smith P.C. representing TransCanada Keystone Pipeline, LP; Margo Northrup, Riter, Rogers, Wattier & Northrup, LLP, representing Clarity Telecom, LLC dba Vast Broadband; Matt Rappold, Rappold Law Office, representing Rosebud Sioux Tribe Sicangu Oyate Land Office and Sicangu Lakota Treaty Office; Gary Dorr, self; Kimberly Craven, Attorney, representing Indigenous Environmental Network; Paula Antoine, Sicangu Oyate Land Office Coordinator; Sheena Fortner, self; Robert Pille, Oglala Sioux Tribe; Bruce Ellison, Ellison Law Office, representing Dakota Rural Action; Peter Capossela, Attorney, representing Standing Rock Sioux Tribe; Doug Crow Ghost, Standing Rock Sioux Tribe; and Brett Koenecke, May, Adam, Gerdes and Thompson, LLP, representing Dakota Access, LLC.

Joining the meeting by telephone were:

Commissioner: Gary Hanson; Brian Bultje, Central Electric Cooperative, Inc.; Ron Gogolin, NorthWestern Corporation dba NorthWestern Energy; Jennifer Baker, Fredericks Peebles & Morgan LLP, representing Yankton Sioux Tribe; John O'Meara, Wind Quarry, LLC; Brad Howard and Suzan Stewart, MidAmerican Energy Company; Tracey Zephier, Fredericks Peebles & Morgan LLP, representing Cheyenne River Sioux Tribe; and Paul Blackburn, Attorney, representing Bold Nebraska; Bob Gough, Intertribal Council on Utility Policy.

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 57 contacts since the last report was prepared for the May 26, 2015 Commission meeting.

8 contacts involved telecommunication services, 25 contacts involved electrical services, 1 contact involved natural gas service, 3 contacts were related to wireless service, 8 contacts were related to the Do Not Call Registry, 1 contact was related to the Dakota Access Pipeline, 1 contact was related to the Keystone XL Pipeline and 10 contacts were related to issues not regulated by the PUC.

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

893 of the 910 complaints received in 2015 have been resolved.

Electric

1. EL15-018 In the Matter of the Joint Request for Service Rights Exception between NorthWestern Corporation dba NorthWestern Energy and Central Electric Cooperative, Inc. (Staff Analyst: Eric Paulson; Staff Attorney: Kristen Edwards)

Mr. Brian Bultje, Central Electric Cooperative, Inc. (Central Electric), asked that the Commission

grant approval for Central Electric to provide single phase electrical service to a 10 HP motor for a drain tile pump system located within NorthWestern's territory. Mr. Eric Paulson, staff analyst, recommended that the Commission grant approval of the service rights exception.

Commissioner Hanson moved to approve the requested service rights exception between NorthWestern and Central Electric. Motion carried 3-0.

2. 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 Attorney: Kristen Edwards)

Ms. Kristen Edwards, staff attorney, recommended that the Commission assess a filing fee not to exceed \$305,000 with an initial deposit of \$8,000, and authorize the Executive Director to enter into necessary consulting contracts. Mr. John O'Meara, Wind Quarry Operations, LLC (Wind Quarry), stated Wind Quarry had no objection to the filing fee.

Commissioner Fiegen moved to assess a filing fee not to exceed \$305,000 with an initial deposit of \$8,000 and authorize the Executive Director to enter into necessary consulting contracts. 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 Attorney: Kristen Edwards)

A lengthy discussion took place regarding docket HP14-001. A transcript of the discussion can be accessed on the PUC website: <http://puc.sd.gov/commission/minutes/2015/061115transcripthp14-001.pdf>

Commissioner Fiegen moved to deny Yankton Sioux Tribe's and Indigenous Environmental Network's Motion to Preclude Improper Relief or, in the Alternative, to Amend Findings of Fact (Motion to Preclude or Amend). Motion carried 3-0.

Commissioner Nelson moved to grant Keystone's motion to Exclude testimony of Richard Kuperwicz to the extent that the testimony deals with the issue of rerouting the pipeline and deny the entirety of the rest of the motion. Motion carried 3-0.

Commissioner Nelson moved to grant Keystone's Motion to Preclude Consideration of Aboriginal Title or Usufructuary Rights. Motion carried 3-0.

Commissioner Nelson moved to grant Keystone's Motion to Preclude Testimony Regarding Mni Wiconi Pipeline Easements. Motion carried 3-0

Natural Gas

1. NG15-003 In the Matter of the Filing by MidAmerican Energy Company for Approval of Its 2014 Economic Development Activities and 2015 Proposed Budget (Staff Analyst: Darren Kearney; Staff Attorney: Karen Cremer)

Ms. Suzan Stewart, MidAmerican Energy Company (MidAmerican), asked that the Commission approve its 2014 Economic Development Activities and 2015 Proposed Budget for Commission approval. Mr. Darren Kearney, staff analyst, recommended that the Commission grant approval to MidAmerican's request.

Commissioner Nelson moved to approve MidAmerican's 2014 Economic Development Activities and 2015 Proposed Budget. Motion carried 3-0.

Telecommunications

1. **TC15-007 In the Matter of the Filing by Clarity Telecom, LLC dba Vast Broadband for Approval of its Access Service Tariff No. 1 (Staff Analyst: Joseph Rezac; Staff Attorney: Karen Cremer)**
2. **TC15-008 In the Matter of the Filing by Clarity Telecom, LLC dba Vast Broadband, Rapid City, South Dakota, for Approval of its Access Service Tariff No. 2 (Staff Analyst: Joseph Rezac; Staff Attorney: Karen Cremer)**
3. **TC15-009 In the Matter of the Filing by Clarity Telecom, LLC dba Vast Broadband for Approval of its Access Service Tariff No. 3 (Staff Analyst: Joseph Rezac; Staff Attorney: Karen Cremer)**

Ms. Margo Northrup, Riter, Rogers, Wattier & Northrup, LLP, representing Clarity Telecom, LLC d/b/a Vast Broadband (Clarity), asked for Commission approval of its South Dakota Access Tariffs No. 1, No. 2, and No. 3. Mr. Joseph Rezac, staff analyst, recommended that the Commission grant approval to Clarity's request with an effective date of October 1, 2014.

In dockets TC15-007, TC15-008, and TC15-009, Commissioner Fiegen moved to approve Clarity Telecom, LLC's South Dakota Access Tariffs No. 1, No. 2, and No. 3, effective October 1, 2014. Motion carried 3-0.

There being no further business, at the hour of 1:03 p.m. the South Dakota Public Utilities Commission meeting adjourned.

/s/Joy Lashley

Joy Lashley

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