



Kristie Fiegen, Chairperson
Gary Hanson, Vice Chairperson
Chris Nelson, Commissioner

South Dakota

PUBLIC UTILITIES COMMISSION

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October 12, 2017

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Rebecca Roob
President
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Town of Brandt
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Brandt SD 57218

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Deubrook School District 05-6
P.O. Box 346
White SD 57276

Brad Knutson
Mayor
Town of Toronto
PO Box 333
Toronto SD 57268

Debbe Koenecke
Chairperson
Deuel School District 19-4
410 5th St West
Clear Lake SD 57226

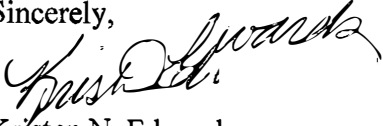
William Swanson
Astoria Station Project Manager
Otter Tail Power Company
215 S. Cascade St.
Fergus Falls MN 56538

RE: EL17-042 - In the Matter of the Application of Otter Tail Power Company for an Energy Conversion Facility Permit for the Construction of a Combustion Turbine Generator and Associated Infrastructure Including a Natural Gas Pipeline and Electric Transmission Line near Astoria, South Dakota

Please note that the President of City of Astoria is Rebecca Roob not Geoff Andrews. This would be the contact person for Local Review Committee.

Please do not hesitate to contact me should you have any questions or concerns.

Sincerely,

A handwritten signature in cursive script, appearing to read "Kristen Edwards".

Kristen N. Edwards
Staff Attorney

cc – Service list EL17-042

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA**

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| IN THE MATTER OF THE APPLICATION) OF OTTER TAIL POWER COMPANY FOR) AN ENERGY CONVERSION FACILITY) PERMIT FOR THE CONSTRUCTION OF) A COMBUSTION TURBINE GENERATOR) AND ASSOCIATED INFRASTRUCTURE) INCLUDING A NATURAL GAS PIPELINE) AND ELECTRIC TRANSMISSION LINE) NEAR ASTORIA, SOUTH DAKOTA) |) NOTICE OF APPLICATION; ORDER) FOR AND NOTICE OF PUBLIC) INPUT HEARING; NOTICE OF) OPPORTUNITY TO APPLY FOR) PARTY STATUS EL17-042 |
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On October 5, 2017, the South Dakota Public Utilities Commission (Commission) received a permit application for an energy conversion facility (Application) from Otter Tail Power Company (Otter Tail). Otter Tail proposes to develop, own, and operate an approximate 250 megawatt simple-cycle natural gas fired energy conversion facility and related components known as the Astoria Station Project (Project). Associated facilities include a short segment (less than 1,000 feet long) of approximately 10-inch diameter natural gas pipeline on Otter Tail property necessary to interconnect to the Northern Border Pipeline and a short segment (preliminarily estimated to be less than one-half mile long) of 345 kilovolt (kV) generation-tie electric transmission line necessary to interconnect to the Big Stone South-Brookings County 345 kV electric transmission line. Astoria Station is to be located in the N 1/2 of Section 22, Township 113N, Range 48W, Scandinavia Township, Deuel County, approximately one and one-half miles northwest of Astoria, South Dakota. The Project is expected to be in service by May 2021. Otter Tail estimates the total construction cost to be \$165 million.

Pursuant to SDCL 49-41B-15 and 49-41B-16, **the Commission will hold a public input hearing on the Application on Monday, November 27, 2017, at 6:30 p.m., CST, at the Deubrook Elementary School Gymnasium, 695 Palisades Avenue, Toronto, South Dakota.**

The purpose of the public input hearing will be to hear public comments regarding the Application and the Project. At the hearing, Otter Tail will present a brief description of the Project, after which interested persons may appear and present their views, comments, and questions regarding the Application. A copy of the Application is on file with the Brookings and Deuel County Auditors pursuant to SDCL 49-41B-15(5) and at the Commission's office in Pierre. The Application and all other documents in the case, including detailed maps of the Project, may be accessed on the Commission's web site at www.puc.sd.gov under Commission Actions, Commission Dockets, Electric Dockets, 2017 Electric Dockets, EL17-042 or by contacting the Commission in person at the Capitol Building, 500 E. Capitol Ave., Pierre, SD, or by phone at (605) 773-3201 or (800) 332-1782.

Pursuant to SDCL 49-41B-17 and ARSD 20:10:22:40, the parties to this proceeding are currently Otter Tail and the Commission. Any person residing in the area of the Project; each municipality, county, and governmental agency in the area where the Project is proposed to be sited; any non-profit organization formed in whole or in part to promote conservation or natural beauty, to protect the environment, personal health or other biological values, to preserve historical sites, to promote consumer interests, to represent commercial and industrial groups, or to promote the orderly development of the area in which the Project is to be sited; or any interested person, may be granted party status in this proceeding by making written application to the Commission. Applications for party status will be available at the public input hearing or may be obtained from the Commission's web site or by contacting the Commission.

Applications for party status must be received by the Commission on or before 5:00 p.m., CST, December 4, 2017. The Commission will also be accepting comments in writing from anyone, either by mail, personal delivery, or e-mailing the Commission right up until the time of the decision. You only need to apply for party status if you want to participate formally in the case by putting on actual testimony or other factual evidence, conducting discovery, cross-examining witnesses, making legal arguments, and to preserve your right to appeal to the courts if you do not believe the Commission's decision is legally correct.

Following the public input hearing, the Commission may schedule a formal evidentiary hearing conforming to SDCL Chapter 1-26 to consider any issues raised by any intervening party, the Commission's staff, or the Commission itself. At such formal hearing, all parties will have the opportunity to appear, present evidence, and cross-examine the other parties' witnesses and exercise all other rights afforded by SDCL Chapters 1-26, 49-1, and 49-41B and ARSD Chapters 20:10:01 and 20:10:22, including rights of appeal to the courts. Absent a contested issue, the Commission will schedule the matter for decision at a regular or ad hoc meeting of the Commission.

For approval, Otter Tail must show that the proposed Project will comply with all applicable laws and rules, will not pose a threat of serious injury to the environment nor to the social and economic condition of inhabitants or expected inhabitants in the siting area, will not substantially impair the health, safety or welfare of the inhabitants, and will not unduly interfere with the orderly development of the region with due consideration having been given to the views of governing bodies of affected local units of government. Based upon these factors, the Commission will decide whether a permit to construct should be granted, denied, or granted upon such terms, conditions, or modifications of the construction, operation, or maintenance as the Commission finds appropriate. It is therefore

ORDERED, that the Commission will hold a public input hearing on the Application and Project on November 27, 2017, 6:30 p.m., CST, at the Deubrook Elementary School Gymnasium, 695 Palisades Avenue, Toronto, South Dakota. It is further

ORDERED, that **pursuant to SDCL 49-41B-17 and ARSD 20:10:22:40, applications for party status must be filed on or before 5:00 p.m., CST, on December 4, 2017.**

Pursuant to the Americans with Disabilities Act, these hearings will be held in physically accessible locations. Please contact the Public Utilities Commission at (605) 773-3201 or (800) 332-1782 at least 48 hours prior to the hearing if you have special needs so arrangements can be made to accommodate you.

Dated at Pierre, South Dakota, this 12th day of October, 2017.

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| CERTIFICATE OF SERVICE |
| The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, electronically or by mail. |
| By: <u>Karen E. Cremer</u> |
| Date: <u>10/12/17</u> |
| (OFFICIAL SEAL) |

BY ORDER OF THE COMMISSION:

Kristie Fiegen
KRISTIE FIEGEN, Chairman

Gary Hanson
GARY HANSON, Commissioner

Chris Nelson
CHRIS NELSON, Commissioner

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA**

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| IN THE MATTER OF THE) APPLICATION OF OTTER TAIL) POWER COMPANY FOR AN) ENERGY CONVERSION FACILITY) PERMIT FOR THE CONSTRUCTION) OF A COMBUSTION TURBINE) GENERATOR AND ASSOCIATED) INFRASTRUCTURE INCLUDING A) NATURAL GAS PIPELINE AND) ELECTRIC TRANSMISSION LINE) NEAR ASTORIA, SOUTH DAKOTA) | ORDER ASSESSING FILING) FEE; ORDER AUTHORIZING) EXECUTIVE DIRECTOR TO) ENTER INTO CONSULTING) CONTRACTS; ORDER) GRANTING LOCAL REVIEW) COMMITTEE'S REQUEST TO) HIRE CONSULTANT) |
| | EL17-042 |

On October 5, 2017, the South Dakota Public Utilities Commission (Commission) received a permit application for an energy conversion facility (Application) from Otter Tail Power Company (Otter Tail). Otter Tail proposes to develop, own, and operate an approximate 250 megawatt simple-cycle natural gas fired energy conversion facility and related components known as the Astoria Station Project (Project). Associated facilities include a short segment (less than 1,000 feet long) of approximately 10-inch diameter natural gas pipeline on Otter Tail property necessary to interconnect to the Northern Border Pipeline and a short segment (preliminarily estimated to be less than one-half mile long) of 345-kilovolt (kV) generation-tie electric transmission line necessary to interconnect to the Big Stone South-Brookings County 345-kV electric transmission line. The energy conversion facility, known as Astoria Station, is proposed to be located in the N 1/2 of Section 22, Township 113N, Range 48W, Scandinavia Township, Deuel County, approximately one and one-half miles northwest of Astoria, South Dakota. The Project is expected to be in service by May 2021. Otter Tail estimates the total construction cost to be \$165 million. Otter Tail previously filed its required Notice of Intent to Apply for a Permit for an Energy Conversion Facility in Docket EL17-017.

On October 12, 2017, the Commission electronically transmitted notice of the filing and the intervention deadline of December 4, 2017, to interested individuals and entities on the Commission's PUC Weekly Filings electronic listserv. On October 12, 2017, the Commission issued a Notice of Application; Order for and Notice of Public Input Hearing; Notice of Opportunity to Apply for Party Status. On October 17, 2017, the Local Review Committee filed a letter requesting \$17,600 to hire a consultant.

SDCL 49-41B-12 authorizes the Commission to assess a maximum fee not to exceed one-quarter of one percent of the first one hundred million dollars of estimated construction costs of the facility plus one-twentieth of one percent of all additional estimated construction costs of the facility. However, the minimum total fee chargeable may not be less than \$8,000. The fee shall be deposited in a subfund in the Commission's regulatory assessment fee fund to defray Commission expenses incident to analyzing and ruling upon the Application.

The Commission has jurisdiction over this matter pursuant to SDCL Chapter 49-41B and ARSD Chapter 20:10:22.

At its regularly scheduled meeting on October 24, 2017, the Commission considered these matters. Commission staff requested that the Commission assess a filing fee not to exceed \$282,500 with an initial deposit of \$8,000 and to authorize the executive director to enter into consulting contracts needed for review of the Application. Otter Tail stated it did not object to the filing fee assessment. The Commission voted unanimously to assess Otter Tail a filing fee in an amount not to exceed \$282,500, with a minimum filing fee of \$8,000 to account for actual expenses incurred in review of this filing commencing from the filing date. The Commission further voted unanimously to authorize the executive director to enter into necessary consulting contracts. The Commission further voted unanimously to approve the Local Review Committee's request for \$17,600 to hire a consultant. It is therefore

ORDERED, that Otter Tail shall be assessed a filing fee not to exceed \$282,500. It is further

ORDERED, that Otter Tail shall make an initial deposit with the Commission in the amount of the minimum filing fee of \$8,000 and shall from time to time make such additional deposits up to the total amount of the assessment as requested by the Commission's Finance Manager. It is further

ORDERED, that the executive director is authorized to enter into necessary consulting contracts. It is further

ORDERED, the Local Review Committee's request to hire a consultant for \$17,600.00 is hereby granted.

Dated at Pierre, South Dakota, this 30th day of October, 2017.

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| CERTIFICATE OF SERVICE |
| The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, electronically or by mail. |
| By: <u>Adam deHueck</u> |
| Date: <u>10/30/17</u> |
| (OFFICIAL SEAL) |

BY ORDER OF THE COMMISSION:

Kristie Fiegen

KRISTIE FIEGEN, Chairperson

Gary Hanson

GARY HANSON, Commissioner

Chris Nelson

CHRIS NELSON, Commissioner

South Dakota Public Utilities Commission Information Guide to Siting Energy Conversion & Electric Transmission Facilities

This guide is intended to offer a simple overview of the Public Utilities Commission's process in making a decision to approve or deny the construction of an energy conversion facility, AC/DC conversion facility, wind energy facility, or electric transmission facility in South Dakota. This guide is informational and does not address all situations, variations and exceptions in the siting process and proceedings of the PUC. For additional information, see South Dakota Codified Laws Chapter 49-41B (www.legis.sd.gov/Statutes/Codified_Laws) and South Dakota Administrative Rules Chapter 20:10:22 (www.legis.sd.gov/rules).

PUC Authority

The South Dakota Legislature gave the PUC authority to issue permits for energy conversion, AC/DC conversion, wind energy and electric transmission facilities. An energy conversion facility is a generation facility, other than a wind generation facility, capable of generating 100 megawatts or more of electricity. In considering applications, the commission's primary duty is to ensure the location, construction and operation of the facilities will produce minimal adverse effects on the environment and the citizens. The commission determines these factors based on definitions, standards and references specified in South Dakota Codified Laws and Administrative Rules. For energy conversion facilities, AC/DC conversion facilities and transmission facilities, the PUC has one year from the date of application to make a decision; six months for wind energy facilities.

The commission strives to issue a reasoned decision and conditions where appropriate that uphold the law and discourage a potentially expensive and lengthy appeal process.

In rendering its decision, the commission may grant the permit, deny the permit, or grant the permit with terms, conditions or modifications of the construction, operation or maintenance as the commission finds appropriate and legally within its jurisdiction. The commission does not have authority to change the route or location of a project. The decision of the commission can be appealed to the circuit court and, ultimately, to the South Dakota Supreme Court.

The PUC is not involved in the easement acquisition process that occurs between applicants and landowners. Likewise, the PUC does not have a role in the eminent domain process, which is handled in the circuit court system. Landowners with concerns

about these issues should seek advice from their personal attorney.

Applicant Responsibility

The applicant that seeks the PUC's approval must show its proposed project:

- will comply with all applicable laws and rules;
- will not pose a threat of serious injury to the environment nor to the social or economic condition of inhabitants or expected inhabitants in the siting area;
- will not substantially impair the health, safety or welfare of the inhabitants; and
- will not unduly interfere with the orderly development of the region with due consideration having been given to the views of the governing bodies of affected local units of government.

PUC Staff Role

PUC staff members assigned to work on a siting case typically include one attorney and multiple analysts. Staff attorneys have educational and practical experience in administrative law, trial procedure and business management principles. Staff analysts have expertise in engineering, research and economics. Some of the work the staff does involves reviewing data and evidence submitted by the applicant and intervenors, requesting and analyzing opinions from experts, and questioning the parties. The staff considers the information relative to state laws and rules and presents recommendations to the Public Utilities Commissioners.

Public Involvement

South Dakotans, as well as anyone else with an interest in a siting case, have a variety of ways to stay informed and involved. Read more on back.

Review the electronic docket. A docket is the continually updated collection of documents filed with the commission for a particular case. Dockets are accessible under the Commission Actions tab on the PUC website, www.puc.sd.gov. Dockets are labeled to correspond with their type and filing date. For example, the Astoria Station docket is EL17-042; EL for electric, 17 for the year 2017 and 042 to indicate it was the 42nd electric docket filed with the commission in 2017.

Attend a public input hearing. The PUC will hold a public input hearing on a siting case, with 30 days notice, as physically close as practical to the proposed facility site. At the hearing, the applicant describes its project and the public may ask questions and offer comment. PUC commissioners and staff attend this hearing. The discussion is documented and becomes part of the record.

Submit comments. Members of the public are encouraged to submit written comments about an active siting case to the PUC. These **informal** public comments are reviewed and considered by the PUC commissioners and staff. Comments should include the docket number or siting project name, commenter's full name, mailing address, e-mail address and phone number. These comments should be emailed to puc@state.sd.us or mailed or hand-delivered to PUC, 500 E. Capitol Ave., Pierre, SD 57501. Comments are posted in the "Comments" section of the docket within a reasonable time after having been received. The commenter's name, city and state will be posted along with their comment. Comments received from businesses, organizations or other commercial entities (on letterhead, for example) will include the full contact information for such.

Please follow these guidelines when submitting written comments to the PUC:

- For comments sent by email, the maximum file size is 10 MB. If you have questions, please contact South Dakota PUC staff at 605-773-3201 (Monday – Friday, 8 a.m. – 5 p.m. Central Time).
- For comments sent by U.S. mail or hand delivered, no more than twenty (20) 8.5" x 11" pages, including attachments and support materials, should be submitted with a comment. Sheets with printing on both sides are counted as two pages.
- A reference document, article or other attachment not written by the person commenting should clearly identify the source of

the content. The inclusion of any copyrighted material without accompanying proof of the commenter's explicit right to redistribute that material will result in the material being rejected.

- In instances where individual comments are deemed to be a duplicate or near duplicate copies of a mass message campaign, the PUC will post only a representative sample and list the name, city and state of the commenter.
- Comments containing threatening language or profanity will be rejected.
- Multimedia submissions such as audio and video files will not be accepted as written comments.
- Electronic links will not be accepted.

Become an intervenor. Individuals who wish to be formal parties in a siting case may apply to the PUC for intervenor status. The intervention deadline is clearly indicated within the docket. Intervention is appropriate for people who intend to actively participate in the case through legal motions, discovery (requests for facts or documents), the written preparation and presentation of actual evidence, and in-person participation in a formal hearing. Intervenors are legally obligated to respond to discovery from other parties and to submit to cross-examination at a formal hearing. Individuals seeking only to follow the progress of a siting case or to offer comments for the PUC's consideration need not become intervenors.

Communicate on record. Verbal communication between a commissioner and a person with an interest in a matter before the commission that does not occur in a public forum or as part of the official record should be avoided. Those who communicate in writing with a commissioner about an open or imminent docket matter should understand that their comments will become part of the official record and subject to review by all parties and the public. Likewise, comments made at a PUC public proceeding or submitted to the commission relative to a docket matter become part of the record, open to review by all parties and the public. Because commissioners have a decision-making role in docket matters, any discussion with a commissioner about an open or imminent docket must take place in an open forum, such as a public meeting, with notice given to all parties.

South Dakota Public Utilities Commission

500 E. Capitol Ave., Pierre, SD 57501

1-800-332-1782; 605-773-3201

www.puc.sd.gov; puc@state.sd.us