

► [Commission Minutes](#) | [previous page](#)

### South Dakota Public Utilities Commission Meeting

December 22, 2015, at 9:30 A.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; 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, Brittany Mehlhaff, Joseph Rezac, and Lorena Reichert; Consumer Affairs Supervisor: Deb Gregg; and Staff: Katlyn Gustafson.

Also present were:

William Taylor, Taylor Law Firm, representing TransCanada Keystone Pipeline, LP; James Moore, Woods, Fuller, Shultz and Smith P.C., representing TransCanada Keystone Pipeline, LP; Travis Clark, Fredericks Peebles & Morgan LLP, representing Cheyenne River Sioux Tribe; Shirley Arrow, self; Joye Braun, self; Margo Northrup, Riter, Rogers, Wattier & Northrup LLP, representing South Dakota Rural Electric Association and South Dakota Telecommunications Association; Rich Coit, South Dakota Telecommunications Association; Serena Parnell, self; Paul Seamans, self; John Harter, self; Cheryl Angel, self; Tanya Nelson, self; Morgan Brings Plenty LeBeau, self; Julie Wright, self; Everdell Wright, self; James Nord, Associated Press; Faith Spotted Eagle, self; Kimberly Craven, attorney, representing Indigenous Environmental Network; Rachel Plenty Wolf, self; Dallas Goldtooth, Indigenous Environmental Network; Sabrina King, Dakota Rural Action; Paula Antoine, Rosebud Sioux Tribe Sicangu Oyate Land Office; Carolyn Smith, self; Bob Smith, self; Brett Koenecke, May, Adam, Gerdes and Thompson, LLP, representing Montana-Dakota Utilities Co., Northern States Power Company dba Xcel Energy, and Dakota Access, LLC; Art Tanderup, self; and Julie Black Moon, Yankton Sioux Tribe.

Joining the meeting by telephone were:

Commissioner: Gary Hanson; Michelle Nielsen, Sioux Valley Energy aka Southwestern Electric Cooperative Inc.; Tim Olson, NorthWestern Energy; Bob Johnson, Codington-Clark Electric Cooperative, Inc.; Russell Frisby, Stinson Leonard Street LLP, representing NextGen Communications, Inc.; Matt Rappold, Rappold Law Office, representing Rosebud Sioux Tribe; Robin Martinez, The Martinez Law Firm, LLC, representing Dakota Rural Action; Amy Koenig and Jon Thurber, Black Hills Power, Inc.; Thomasina Real Bird, Fredericks Peebles & Morgan LLP, representing Yankton Sioux Tribe; Jennifer Moore, Chuck Rea, Tina Yoder, Regan Kunzman, and Naomi Czachura, MidAmerican Energy Company; Eric Pauli, Jim Wilcox, and Jody Londo, Northern States Power Company dba Xcel Energy; Todd Chambers, Watertown Municipal Utilities; Bob Gough, Intertribal Council on Utility Policy; Tamie Aberle, Larry Oswald, and Kathy Baerlocher, Montana-Dakota Utilities Co.; Peter Capossela, Attorney, representing Standing Rock Sioux Tribe; Paul Blackburn, Attorney, representing Bold Nebraska; Dave Prazak, Otter Tail Power Company; Cindy Myers, self; Bruce Ellison, Attorney, representing Dakota Rural Action; and Gary Dorr, self.

#### Administration

#### 1. Approval of the minutes of the Commission meeting held on **December 8, 2015**, and the Ad Hoc meetings held on **November 30**, and **December 10, 2015**. (Staff: Joy Lashley)

Commissioner Fiegen moved to approve the minutes of the Commission meeting held on December 8, 2015, and the Ad Hoc meeting held on December 10, 2015. Motion carried 3-0.

Acting Commissioner Sattgast moved to approve the minutes of the Ad Hoc meeting held on November 30, 2015. Motion carried 3-0.

031554

### 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 43 contacts since the last report was prepared for the December 8, 2015, Commission meeting.

Eight contacts involved telecommunications services, nine contacts involved electrical services, five contacts were related to natural gas service, three contacts were related to wireless service, eight contacts were related to the Do Not Call Registry, one contact was related to the Dakota Access Pipeline, one contact was related to the Keystone XL Pipeline, and eight contacts were related to issues not regulated by the PUC.

Complaints received in 2014: 1,914 of 1,916 have been resolved.

Complaints received in 2015: 1,953 of 1,965 have been resolved.

### Electric

#### **1. EL15-004 In the Matter of the Request for Approval of an Electric Service Territory Boundary Agreement between Sioux Valley Energy fka Southwestern Electric Cooperative Inc. and Northern States Power Company dba Xcel Energy (Staff Analyst: Brian Rounds; Staff Attorney: Adam de Hueck)**

Mr. Brian Rounds, staff analyst, recommended that the Commission approve the electric service territory boundary agreement between Sioux Valley Energy aka Southwestern Electric Cooperative Inc. and Northern States Power Company dba Xcel Energy.

**Commissioner Nelson moved to approve the proposed electric service territory boundary agreement.** Motion carried 3-0.

#### **2. EL15-023 In the Matter of the Petition for Electrical Service by Dakota Access, LLC to have NorthWestern Energy Assigned as its Electric Provider in the Service Area of Northern Electric Cooperative, Inc. (Staff Analysts: Patrick Steffensen, Eric Paulson; Staff Attorney: Adam de Hueck)**

Mr. Tim Olson, NorthWestern Energy (NorthWestern), asked that the Commission grant intervention to NorthWestern. Mr. Adam de Hueck, staff attorney, recommended that the Commission grant intervention to NorthWestern.

**Commissioner Fiegen moved to grant intervention to NorthWestern Energy.** Motion carried 3-0.

#### **3. EL15-037 In the Matter of the Request for Approval of an Electric Service Territory Boundary Agreement between Watertown Municipal Utilities and Codington-Clark Electric Cooperative, Inc. (Staff Analyst: Brian Rounds; Staff Attorney: Adam de Hueck)**

Mr. Brian Rounds, staff analyst, recommended that the Commission approve the electric service territory boundary agreement between Watertown Municipal Utilities and Codington-Clark Electric Cooperative, Inc.

**Commissioner Hanson moved to approve the proposed electric service territory boundary agreement.** Motion carried 3-0.

#### **4. EL15-046 In the Matter of the Filing of Northern States Power Company dba Xcel Energy for Approval of Petition of Tariff Revisions to its Customer Data Privacy Tariff (Staff Analyst: Joseph Rezac; Staff Attorney: Adam de Hueck)**

A lengthy discussion took place regarding docket EL15-046. An audio of the discussion can be found on the PUC website under Commission Actions, Commission Meeting Archives, 2015, December 22, 2015, recording located at:  
<http://puc.sd.gov/commission/media/2015/puc12222015.mp3>.

**The docket was deferred.**

**5. EL15-048 In the Matter of the Filing by Otter Tail Power Company for Approval of Tariff Revisions and Revised Customer Information Booklet (Staff Analysts: Eric Paulson, Deb Gregg; Staff Attorney: Kristen Edwards)**

Mr. Dave Prazak, Otter Tail Power Company (Otter Tail), asked that the Commission approve its updated Customer Information Brochure, pursuant to ARSD 20:10:16:02, and tariff revisions. Mr. Eric Paulson, staff analyst, recommended that the Commission grant Otter Tail's request.

**Commissioner Fiegen moved to grant approval of Otter Tail Power Company's revised customer information booklet and tariff revisions. Motion carried 3-0.**

**6. EL15-050 In the Matter of the Application of Black Hills Power, Inc. for Approval to Extend the Filing Date of Its 2015 Vegetation Management Report Pertaining to the 2016-2018 Budget (Staff Analysts: Brittany Mehlhaff, Patrick Steffensen; Staff Attorney: Kristen Edwards)**

Mr. Jon Thurber, Black Hills Power, Inc. (BHP), asked that the Commission approve BHP's extension until March 31, 2016, to update the vegetation management budget for 2016 through 2018.

**Commissioner Hanson moved to approve Black Hills Power, Inc.'s request for an extension until March 31, 2016, to update the vegetation management budget for 2016 through 2018. Motion carried 3-0.**

**Gas and Electric**

**1. GE15-004 In the Matter of the Filing by MidAmerican Energy Company for the Approval of Its Proposed Energy Efficiency Plan for 2016 (Staff Analyst: Darren Kearney; Staff Attorney: Adam de Hueck)**

A lengthy discussion took place regarding docket GE15-004. An audio of the discussion can be found on the PUC website under Commission Actions, Commission Meeting Archives, 2015, December 22, 2015, recording located at:  
<http://puc.sd.gov/commission/media/2015/puc12222015.mp3>.

**Commissioner Nelson moved to approve the requested modifications to MidAmerican Energy Company's 2016 Energy Efficiency Plan. Motion carried 3-0.**

**Natural Gas**

**1. NG15-007 In the Matter of the Filing by Montana-Dakota Utilities Co. for Approval of Modifications to its Conservation Portfolio Plan for 2016 and 2017 (Staff Analysts: Darren Kearney, Joseph Rezac; Staff Attorney: Adam de Hueck)**

Ms. Tamie Aberle, Montana-Dakota Utilities Co. (MDU), asked that the Commission approve the addition of an Energy Audit Program to its Natural Gas Conservation Portfolio for 2016 and 2017, beginning on January 1, 2016. Mr. Darren Kearney, staff analyst, recommended that the Commission approve MDU's modified 2016-2017 Natural Gas Conservation Portfolio Plan.

**Commissioner Hanson moved to approve the requested modifications to Montana-Dakota Utilities Co. Natural Gas Conservation Portfolio Plan for 2016 and 2017. Motion carried 3-0.**

**Telecommunications****1. TC13-026 In the Matter of Study Area Boundaries for Incumbent Local Exchange Carriers (Staff Analyst: Brian Rounds; Staff Attorney: Karen Cremer)**

Mr. Brian Rounds, staff analyst, recommended that the Commission approve the current study area boundaries as described by staff.

**Commissioner Nelson moved to approve the current study area boundaries, as described by Staff. Motion carried 3-0.**

**2. TC15-062 In the Matter of the Application of NextGen Communications, Inc. for a Certificate of Authority to Provide Local Exchange Services and Interexchange Long Distance Services in South Dakota (Staff Analyst: Lorena Reichert; Staff Attorney: Kristen Edwards)**

A lengthy discussion took place regarding docket TC15-062. An audio of the discussion can be found on the PUC website under Commission Actions, Commission Meeting Archives, 2015, December 22, 2015, recording located at:

<http://puc.sd.gov/commission/media/2015/puc12222015.mp3>.

**Commissioner Fiegen moved to grant any waivers requested by NextGen Communications, Inc., approve the Joint Stipulation, and grant a Certificate of Authority to NextGen Communications, Inc, subject to the stipulation. Motion carried 2-1. Commission Hanson dissenting.**

**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, December 22, 2015, recording located at:

<http://puc.sd.gov/commission/media/2015/puc12222015.mp3>.

**Commissioner Nelson moved that the Commission take administrative notice of the Notice of Probable Violation issued by PHMSA on November 20, 2015, and that the administrative record be supplemented with the Notice of Probable Violation issued by PHMSA on November 20, 2015. Motion carried 3-0.**

**Commissioner Hanson moved that the Joint Motion to Dismiss be denied and the Motion to Revoke be denied. Motion carried 3-0.**

There being no further business, at the hour of 12:50 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)  
December 22, 2015