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South Dakota Public Utilities Commission Meeting
July 9, 2019, at 9:30 A.M. CDT
Room 413, Capitol Building
Pierre, South Dakota

MINUTES OF THE COMMISSION MEETING

Commissioner Gary Hanson called the meeting to order. Commissioners: Chris Nelson and Kristie Fiegen; Commission Attorneys: Karen Cremer and Adam de Hueck; Commission Advisor: Greg Rislov; Staff Attorneys: Kristen Edwards and Mikal Hanson; Staff Analysts: Brittany Mehlhaff, Patrick Steffensen, Eric Paulson, Jon Thurber, Joseph Rezac and Lorena Reichert; Consumer Affairs Manager: Deb Gregg; and Staff: Kaitlyn Baucom.

Present were:

Darla Rogers, Riter, Rogers, Wattier & Northrup LLP, representing Venture Communications Cooperative and RT Communications, Inc.; Rich Coit, South Dakota Telecommunications Association; Theresa Lichty, self; Kristi Mogen, self; Amber Christenson, self; Allen Robish, self; Brian Murphy, Sam Massey and Daryl Hart, NextEra Energy Resources, LLC; Miles Schumacher, Lynn, Jackson, Shultz and Lebrun, PC, representing Crowned Ridge Wind, LLC; Bob Mercer, KELO reporter; and Brett Koenecke, May, Adam, Gerdes & Thompson LLP, representing Triple H Wind Project, LLC.

Joining the meeting by telephone were:

Staff Analyst: Darren Kearney; Margo Northrup, Riter, Rogers, Wattier & Northrup LLP, representing Venture Communications Cooperative; Fay Jandreau, Venture Communications Cooperative; Hilary Meyer, SD Game, Fish & Parks, representing PUC; Jason Topp, Qwest Corporation dba CenturyLink QC; Jason Hendricks, RT Communications, Inc.; Pete Beithon and Cary Stephenson, Otter Tail Power Company; Tracy Bandemer and Bryan Roth, Interstate Telecommunications Cooperative, Inc.; Scott Bohler, Citizens Telecommunications Company of Minnesota, LLC; Sarah Sappington, Kim Wells and Jillian Still, NextEra Energy Resources, LLC; David Ganje, Ganje Law Offices, representing Intervenors; Mollie Smith, Fredrikson & Byron, P.A., representing Sweetland Wind Farm, LLC; Mark Wengierski, Sweetland Wind Farm, LLC; Tyler Wilhelm, Crowned Ridge Wind, LLC; Casey Willis, Triple H Wind Project, LLC; Kely Mertz, SWCA; and Fay Jandreau, Venture Communications Cooperative.

(NOTE: For the purpose of continuity, these minutes are not necessarily in chronological order.)

Administration

1. Approval of minutes of the Commission meetings held on June 11 and 25, 2019. (Staff: Joy Lashley)

Commissioner Nelson moved to approve the minutes of the Commission meetings held on June 11 and 25, 2019. Motion carried 3-0.

Consumer Reports

1. Status Report on Consumer Utility Inquiries (Consumer Affairs: Deb Gregg)

The Commission received a total of 39 contacts since the last report was prepared for the June 25, 2019 Commission meeting.

Ten contacts were related to telecommunication services, 11 contacts were related to electrical services, two contacts were related to natural gas service, four contacts were related to wireless service, one contact was related to the Do Not Call Registry, one contact was related to the Dakota Access Pipeline, one contact was related to One Call and nine contacts were related to issues not regulated by the PUC.

Contacts received in 2019: 652 of the 669 have been resolved.

Electric

1. EL18-048 In the Matter of the Petition of Otter Tail Power Company for Approval of the Transmission Cost Recovery Rider Rate (Staff Analysts: Patrick Steffensen, Joseph Rezac; Staff Attorney: Kristen Edwards)

A lengthy discussion took place for docket EL18-048. An audio of the discussion can be found on the PUC website under Commission Actions, Commission Meeting Archives, 2019, July 9, 2019, recording located at: <https://puc.sd.gov/commission/media/2019/puc07092019.mp3>.

Commissioner Hanson moved to grant the Joint Motion for Approval of Stipulation. Motion carried 3-0.

2. EL19-003 In the Matter of the Application by Crowned Ridge Wind, LLC for a Permit of a Wind Energy Facility in Grant and Codington Counties (Staff Analysts: Darren Kearney, Jon Thurber, Eric Paulson; Staff Attorneys: Kristen Edwards, Amanda Reiss, Mikal Hanson)

A lengthy discussion took place for docket EL19-003. An audio of the discussion can be found on the PUC website under Commission Actions, Commission Meeting Archives, 2019, July 9, 2019, recording located at: <https://puc.sd.gov/commission/media/2019/puc07092019.mp3>.

Commissioner Nelson moved to grant the permit subject to the conditions set forth in Nelson's Proposed Condition Amendments, as well as the addition of the language "prior to commencement of construction" to condition 12 in Exhibit A61.

Commissioner Hanson moved to amend A63 (b) to strike "ground level wind speed is low" and replace with "ground level wind speed is less than or equal to 5 meters per second." Amended motion carried 3-0.

Commissioner Hanson moved to incorporate the proposed lek condition from Exhibit S7, with the caveat that the study be an independent study, that it be on the ground, and that it be approved by the commission; and the Applicant and Staff shall work together to develop a mitigation plan within 90 days of the issuance of the final order. Amended motion carried 2-1. Commissioner Nelson dissenting.

Commissioner Fiegen moved to amend to include Staff's recommended condition on page 10 of Staff's post-hearing brief regarding shadow flicker at Receptor #10. Motion to amend carried 3-0.

Main motion as amended carried 3-0.

3. EL19-007 In the Matter of the Application by Triple H Wind Project, LLC for a Permit of a Wind Energy Facility in Hyde County, South Dakota (Staff Analysts: Darren Kearney, Jon Thurber, Joseph Rezac; Staff Attorneys: Kristen Edwards, Amanda Reiss, Mikal Hanson)

A lengthy discussion took place for docket EL19-007. An audio of the discussion can be found on the PUC website under Commission Actions, Commission Meeting Archives, 2019, July 9, 2019, recording located at: <https://puc.sd.gov/commission/media/2019/puc07092019.mp3>.

Commissioner Nelson moved to grant a permit for the construction of a wind energy facility to Triple H Wind Project, LLC pursuant to SDCL 49-41B-25 subject to the conditions previously approved as part of the settlement stipulation, adopt whooping crane and ice detection conditions agreed upon between Applicant and Staff, and to require an escrow account to fund the decommissioning of the Project. Motion carried 3-0.

4. EL19-012 In the Matter of the Application by Sweetland Wind Farm, LLC for Facility Permits for a Wind Energy Facility and a 230-kV Transmission Facility in Hand County, South Dakota for the Sweetland Wind Farm Project (Staff Analysts: Darren Kearney, Jon Thurber, Eric Paulson; Staff Attorneys: Kristen Edwards, Mikal Hanson)

Ms. Mollie Smith, Fredrikson & Byron, P.A., representing Sweetland Wind Farm, LLC (Sweetland), asked that the Commission grant the joint motion for approval of the settlement stipulation between Sweetland and Theresa Lichty. Ms. Smith stated Sweetland does not object to the withdrawal of Theresa Lichty. Ms. Kristen Edwards, staff attorney, stated staff took no position on the Joint Motion.

Commissioner Nelson moved to grant the Joint Motion for Approval of Settlement Stipulation between the Applicant and Theresa Lichty, including Ms. Lichty's withdrawal of party status, with the understanding that any conditions included within the Settlement Stipulation will be included in the final permit conditions if a permit is granted. Motion carried 3-0.

Telecommunications

1. TC19-012 In the Matter of the Approval of an Intercarrier Compensation Bill and Keep Amendment to an Interconnection Agreement between Qwest Corporation dba CenturyLink QC and XO Communications Services, LLC (Staff Analyst: Patrick Steffensen; Staff Attorney: Amanda Reiss)

Mr. Jason Topp, Qwest Corporation dba CenturyLink QC (CenturyLink), asked that the Commission approve the Interconnection Agreement between CenturyLink and XO Communications Services, LLC. Mr. Patrick Steffensen, staff analyst, stated that the agreement was properly filed, properly executed, and does not appear to contain discriminatory provisions, and no comments were filed. Mr. Steffensen recommended that the Commission grant approval.

Commissioner Nelson moved to approve the amendment to the Interconnection Agreement. Motion carried 3-0.

2. TC19-013 In the Matter of the Request of Citizens Telecommunications Company of Minnesota, LLC for Certification Regarding its Use of Federal Universal Service Support (Study Area 361123) (Staff Analyst: Patrick Steffensen; Commission Attorney: Karen Cremer)

Mr. Scott Bohler, Citizens Telecommunications Company of Minnesota, LLC (Company) asked that the Commission grant the waiver and provide a certification to the Federal Communications Commission and to the Universal Service Administration Company regarding the use of Federal Universal Service Support. Mr. Patrick Steffensen, staff analyst, recommended that the Commission approve a one-year waiver and grant certification.

Commissioner Nelson moved to grant the one-year waiver and certify Citizens Telecommunications Company of Minnesota, LLC. Motion carried 3-0.

3. In the Matter of Request for Certification Regarding the Use of Federal Universal Service Support in Dockets TC19-014, TC19-015, TC19-016 and TC19-017.

TC19-014 In the Matter of the Request of Venture Communications Cooperative for Certification Regarding Its Use of Federal Universal Service Support (Study Areas: Venture Communications Cooperative 391680 and Western Telephone Co. 391688) (Staff Analyst: Lorena Reichert; Commission Attorney: Adam de Hueck)

Ms. Darla Rogers, Riter, Rogers, Wattier & Northrup LLP, representing Venture Communications Cooperative (Company), asked that the Commission provide certification to the Federal Communications Commission and to the USAC regarding the proper use of federal universal service support. Ms. Lorena Reichert, staff analyst, recommended that the Commission grant the Company's request.

TC19-015 In the Matter of the Request of RT Communications, Inc. for Certification Regarding its Use of Federal Universal Service Support (Study Area 512251) (Staff Analyst: Patrick Steffensen; Commission Attorney: Karen Cremer)

Darla Rogers, Riter, Rogers, Wattier & Northrup LLP, representing RT Communications, Inc. (Company), asked that the Commission provide certification to the Federal Communications Commission and to the USAC regarding the proper use of federal universal service support. Mr. Patrick Steffensen, staff analyst, recommended that the Commission grant the Company's request.

TC19-016 In the Matter of the Request of Interstate Telecommunications Cooperative, Inc. for Certification Regarding Its Use of Federal Universal Service Support (Study Areas: Interstate Telecommunications Cooperative-391654 and Stockholm Strandburg-391679) (Staff Analyst: Lorena Reichert; Commission Attorney: Adam de Hueck)

Mr. Bryan Roth, Interstate Telecommunications Cooperative, Inc. (Company), asked that the Commission provide certification to the Federal Communications Commission and to the USAC regarding the proper use of federal universal service support. Ms. Lorena Reichert, staff analyst, recommended that the Commission grant the Company's request.

TC19-017 In the Matter of the Request of Interstate Telecommunications Cooperative, Inc., fka SSTELECOM, Inc. for Certification Regarding Its Use of Federal Universal Service Support (Study Area: 399013) (Staff Analyst: Lorena Reichert; Commission Attorney: Karen Cremer)

Mr. Bryan Roth, Interstate Telecommunications Cooperative, Inc., fka SSTELECOM, Inc. (Company), asked that the Commission provide certification to the Federal Communications Commission and to the USAC regarding the proper use of federal universal service support. Ms. Lorena Reichert, staff analyst, recommended that the Commission grant the Company's request.

In dockets TC19-014, TC19-015, TC19-016 and TC19-017, Commissioner Fiegen moved to provide a certification to the Federal Communications Commission and to the Universal Service Administration Company regarding the use of Federal Universal Service Support in each of the above dockets. Motion carried 3-0.

There being no further business, at the hour of 1:10 p.m., the South Dakota Public Utilities Commission meeting adjourned.

/s/Joy Lashley

Joy Lashley
Administrative Specialist
[PUC Email](#)
July 9, 2019