

**South Dakota Public Utilities Commission Meeting  
September 17, 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; Staff Attorneys: Kristen Edwards and Amanda Reiss; Staff Analysts: Brittany Mehlhaff, Darren Kearney, Jon Thurber, Patrick Steffensen, Joseph Rezac, Eric Paulson and Lorena Reichert; Consumer Affairs Manager: Deb Gregg; and Staff: Kaitlyn Baucom.

Present were:

Kara Semmler, May, Adam, Gerdes & Thompson LLP, representing AF Pierre, Inc. dba Anytime Fitness; Adam Crowley, AF Pierre, Inc. dba Anytime Fitness; Eric Munz, self; Randy Phillips, self; Bob Mercer, KELO News; and Kyle Glodt, Anytime Fitness

Joining the meeting by telephone were:

Miles Schumacher, Lynn, Jackson, Shultz & Lebrun, P.C., representing Wind Quarry Operations, LLC and Crowned Ridge Wind II, LLC; Lisa Agrimonti, Fredrikson & Byron, P.A., representing Dakota Range III, LLC and Deuel Harvest Wind Energy LLC; Cary Stephensen, Pete Beithon and Lynn Wolters, Otter Tail Power Company; Christina White and Nick Knezevich, ENGIE North America, representing Dakota Range III, LLC; Jason Topp and Al Lubeck, Qwest Corporation dba CenturyLink QC; Diane Votino, Katelynn Lynch-Butcher and Kelly Orcutt, MidAmerican Energy Company; Jon Baker, Lincoln Clean Energy, LLC; Brian Murphy and Daryl Hart, NextEra Energy Resources, LLC; Kristi Mogen, intervenor; Laura Arredondo, Friend, Hudak & Harris, LLP, representing Time Warner Cable Business LLC; Jeff Decker, NorthWestern Corporation dba NorthWestern Energy; Eric Pauli, Northern States Power Company dba Xcel Energy.

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

### **Administration**

#### **1. Approval of minutes of the Commission meeting held on September 3, 2019. (Staff: Joy Lashley)**

**Commissioner Nelson moved to approve the minutes of the Commission meeting held on September 3, 2019. Motion carried 3-0.**

### **Consumer Reports**

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

The Commission received a total of 46 contacts since the last report was prepared for the September 3, 2019 Commission meeting.

Eleven contacts were related to telecommunication services, 11 contacts were related to electrical

services, three contacts were related to natural gas services, six contacts were related to wireless service, six contacts were related to the Do Not Call Registry and nine contacts were related to issues not regulated by the PUC.

Contacts received in 2019: 902 of the 912 have been resolved.

### **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: Darren Kearney, Jon Thurber; Staff Attorney: Amanda Reiss)**

Mr. Miles Schumacher, Lynn, Jackson, Shultz & Lebrun, P.C., representing Wind Quarry Operations, LLC (Windy Quarry), asked that the Commission grant the Joint Motion for Approval of the Settlement Stipulation and Adopt the Stipulation. Mr. Jon Baker, Lincoln Clean Energy, LLC, stated Lincoln Clean Energy, LLC did not object to the request and would maintain the bond for the life of the project. Ms. Amanda Reiss, staff attorney, recommended that the Commission approve Wind Quarry's request.

**Commissioner Nelson moved to grant the Joint Motion for Approval of the Stipulation and Adopt the Stipulation. Motion carried 3-0.**

**2. [EL18-046](#) In the Matter of the Application of Dakota Range III, LLC for a Permit of a Wind Energy Facility and a 345-kV Transmission Line in Grant and Roberts Counties (Staff Analysts: Darren Kearney, Jon Thurber; Staff Attorney: Amanda Reiss)**

Ms. Lisa Agrimonti, Fredrikson & Byron, P.A., representing Dakota Range III, LLC (Dakota Range III), asked that the Commission grant Dakota Range III's request for an Exemption from Condition 36 of the Permit. Ms. Amanda Reiss, staff attorney, recommended that the Commission approve Dakota Range III's request.

**Commissioner Nelson moved to grant Dakota Range III's Request for an Exemption from Condition 36 of the Permit with the understanding that Dakota Range III will include contact information of Consumer Affairs Division in landowner notice and will identify a primary contact within its organization to coordinate with Consumer Affairs. Motion carried 3-0.**

**3. [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)**

Ms. Lynn Wolters, Otter Tail Power Company (OTP), asked that the Commission approve OTP's TCR rate factors and revised tariff sheets with an effective date of October 1, 2019. Mr. Patrick Steffensen, staff analyst, recommended that the Commission approve OTP's request.

**Commissioner Hanson moved to approve Otter Tail Power Company's TCR rate factors and revised tariff sheets with an effective date of October 1, 2019. Motion carried 3-0.**

**4. [EL18-053](#) In the Matter of the Application of Deuel Harvest Wind Energy LLC for a**

**Permit of a Wind Energy Facility and a 345-kV Transmission Line in Deuel County (Staff Analysts: Darren Kearney, Jon Thurber; Staff Attorneys: Kristen Edwards, Amanda Reiss)**

Ms. Lisa Agrimonti, Fredrikson & Byron, P.A., representing Deuel Harvest Wind Energy LLC (Deuel Harvest), asked that the Commission grant Deuel Harvest's proposal for the public liaison officer. Ms. Kristen Edwards, staff attorney, recommended that the Commission approve the request.

**Commissioner Fiegen moved to grant Deuel Harvest's proposal for the public liaison officer.** Motion carried 3-0.

**5. [EL19-027](#) In the Matter of the Application by Crowned Ridge Wind II, LLC for a Permit of a Wind Energy Facility in Deuel, 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 EL19-027. An audio of the discussion can be found on the PUC website under Commission Actions, Commission Meeting Archives, 2019, September 17, 2019, recording located at: <http://puc.sd.gov/commission/media/2019/puc09172019.mp3>.

**Commissioner Nelson moved to issue a procedural schedule as recommended by staff and deny CRW II's request to designate Section 11.10 as found in the August 6 Application for Party Status as confidential.** Motion carried 3-0.

*\* Chairman Hanson requested to hear dockets EL19-029 and NG19-007 together.*

**6. [EL19-029](#) In the Matter of the Filing by MidAmerican Energy Company for Approval of Tariff Revisions to Update the Disconnect Notice (Staff Analyst: Joseph Rezac; Staff Attorney: Amanda Reiss)**

Ms. Katelyn Lynch-Butcher, MidAmerican Energy Company (MidAmerican), asked that the Commission approve the proposed tariff revisions with an effective date of September 20, 2019. Mr. Joseph Rezac, staff analyst, recommended that the Commission approve MidAmerican's request.

**7. [EL19-030](#) In the Matter of the Filing by NorthWestern Corporation dba NorthWestern Energy for Approval of Tariff Revisions to Its LED Light Rates (Rates 19 and 56) (Staff Analysts: Brittany Mehlhaff, Patrick Steffensen; Staff Attorney: Amanda Reiss)**

Mr. Jeff Decker, NorthWestern Corporation dba NorthWestern Energy (NorthWestern), asked that the Commission approve the proposed tariff revisions effective October 1, 2019. Ms. Brittany Mehlhaff, staff analyst, recommended that the Commission approve NorthWestern's request.

**Commissioner Nelson moved to approve NorthWestern's tariff revisions with an effective October 1, 2019.** Motion carried 3-0.

**8. [EL19-032](#) In the Matter of the Petition of Northern States Power Company dba Xcel Energy for Approval of Its 2020 Transmission Cost Recovery Eligibility and Rate Adjustment (Staff Analysts: Brittany Mehlhaff, Patrick Steffensen; Staff Attorney: Kristen Edwards)**

Ms. Kristen Edwards, staff attorney, requested that the Commission assess Northern States Power Company dba Xcel Energy (Xcel), 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. Eric Pauli, Xcel, stated Xcel does not object to the request.

**Commissioner Fiegen 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.**

### **Natural Gas**

**1. [NG19-007](#) In the Matter of the Filing by MidAmerican Energy Company for Approval of Tariff Revisions to Update the Disconnect Notice (Staff Analyst: Joseph Rezac; Staff Attorney: Amanda Reiss)**

Ms. Katelyn Lynch-Butcher, MidAmerican Energy Company (MidAmerican), asked that the Commission approve the proposed tariff revisions with an effective date of September 20, 2019. Mr. Joseph Rezac, staff analyst, recommended that the Commission approve MidAmerican's request.

**In dockets EL19-029 and NG19-007, Commissioner Fiegen moved to approve the proposed tariff revisions with an effective date of September 20, 2019. Motion carried 3-0.**

**2. [NG19-008](#) In the Matter of the Filing by NorthWestern Corporation dba NorthWestern Energy for Approval of its Gas Transportation Tariff Revisions Regarding Fuel Retention Percentage (Staff Analyst: Eric Paulson; Staff Attorney: Amanda Reiss)**

Mr. Jeff Decker, NorthWestern Corporation dba NorthWestern Energy (NorthWestern), asked that the Commission approve the proposed tariff revisions effective October 1, 2019. Mr. Eric Paulson, staff analyst, recommended that the Commission approve NorthWestern's request.

**Commissioner Hanson moved to approve the proposed tariff revisions effective October 1, 2019. Motion carried 3-0.**

### **Telecommunications**

**1. [TC19-039](#) In the Matter of the Request of Qwest Corporation dba CenturyLink QC for Certification Regarding Its Use of Federal Universal Service Support (Study Area: 395145) (Staff Analyst: Lorena Reichert; Commission Attorney: Karen Cremer)**

A lengthy discussion took place for docket TC19-039. An audio of the discussion can be found on the PUC website under Commission Actions, Commission Meeting Archives, 2019, September 17, 2019, recording located at: <http://puc.sd.gov/commission/media/2019/puc09172019.mp3>.

**Commissioner Nelson 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. Motion carried 3-0.**

**2. [TC19-041](#) In the Matter of AF Pierre, Inc. dba Anytime Fitness' Petition for a Declaratory Ruling Regarding Alleged Do Not Call Violations (Consumer Affairs Manager: Deb**

**Gregg; Staff Attorneys: Kristen Edwards and Mikal Hanson)**

A lengthy discussion took place for docket TC19-041. An audio of the discussion can be found on the PUC website under Commission Actions, Commission Meeting Archives, 2019, September 17, 2019, recording located at: <http://puc.sd.gov/commission/media/2019/puc09172019.mp3>.

**Commissioner Hanson moved to find that the phone calls made by AF Pierre, Inc. dba Anytime Fitness do constitute telephone solicitation as defined by SDCL 49-31-1(30). Motion carried 3-0.**

**3. [TC19-042](#) In the Matter of the Application of Time Warner Cable Business LLC for a Certificate of Authority to Provide Interexchange Long Distance Services in South Dakota (Staff Analyst: Joseph Rezac; Staff Attorney: Amanda Reiss)**

Ms. Laura Arredondo, Friend, Hudak & Harris, LLP, representing Time Warner Cable Business LLC (Time Warner), asked that the Commission grant a Certificate of Authority to provide interexchange telecommunication services in South Dakota. Mr. Joseph Rezac, staff analyst, recommended that the Commission approve Time Warner's request for a certificate of authority to provide Interexchange Long Distance Services in South Dakota, with the restrictions that, for retail purposes, Time Warner Solutions not offer any prepaid services, including prepaid calling cards, and does not accept or require any deposits or advance payments, without prior approval of the Commission.

**Commissioner Nelson moved to grant Time Warner Cable Business LLC request for a Certificate of Authority to provide interexchange telecommunication services in South Dakota with staff's provisions. Motion carried 3-0.**

There being no further business, at the hour of 12:05 p.m., the South Dakota Public Utilities Commission meeting adjourned.

/s/Joy Lashley \_\_\_\_\_  
Joy Lashley  
Administrative Specialist  
[puc@state.sd.us](mailto:puc@state.sd.us)  
September 17, 2019