

North Dakota[®]

Public Service Commission



Brian P. Kalk
Chairman



Julie Fedorchak
Commissioner



Randy Christmann
Commissioner

2011-2013

Biennial Report

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Introduction

The Public Service Commission (Commission) is a constitutional agency with varying degrees of statutory authority over electric and gas utilities, telecommunications companies, power plant, transmission line and pipeline siting, railroads, grain elevators, auctioneers and auction clerks, weighing and measuring devices, pipeline safety and coal mine reclamation.

The Commission typically meets in formal session every two weeks. Special meetings are held to handle special or emergency situations. The agendas for these special meetings are prepared and distributed in the same manner as those for regular meetings. These agendas are distributed to a mailing list of approximately 190 entities, either electronically or by direct mail. Agendas, meeting minutes, and copies of significant orders are also posted on the Commission's website www.nd.gov/psc.



1936 Public Service Commissioners

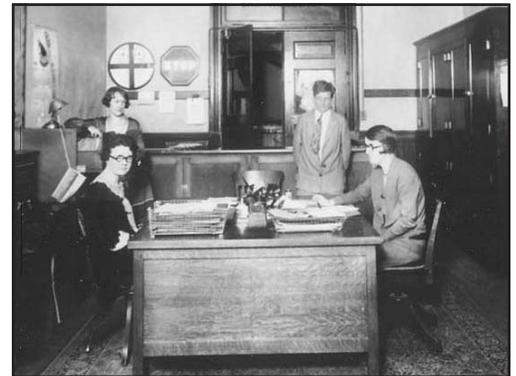
The Commission is comprised of three commissioners who are elected on a statewide basis to staggered six-year terms. The Commission had 41 authorized full time employees throughout the biennium.

History of the Public Service Commission

The Commission was established before North Dakota became a state. Lawmakers for Dakota Territory established a Board of Railroad Commissioners in 1885 to oversee railroads, sleeping car companies, express companies, and telephone companies. The North Dakota Constitution retained this board and entrusted it with powers and duties to be prescribed by law. In 1940, the board's name was changed to Public Service Commission.

As the preceding list indicates, the Legislature has broadened the Commission's duties since its early days. This trend has been reversed in some areas, however, as technology and a changing regulatory environment at both the federal and state levels have resulted in a greater dependence on competitive market forces to regulate services and rates of what were traditionally monopoly service providers.

We anticipate that some degree of regulatory oversight will remain in most of the Commission's traditional areas of responsibility. The public's needs and legislative policy makers will ultimately decide how much regulation is required in various industries.



1926 Commission Staff

This report outlines the Commission's functions, goals, accomplishments, legislation affecting the agency and future challenges. The following pages contain summary discussions from each of the commissions regulatory and support divisions. These reports will be presented following a brief biographical profile of each commissioner.

Commissioner Dr. Brian P. Kalk

Dr. Brian Kalk won the endorsement for the Public Service Commission after a spirited contest at the Republican State Convention in March of 2008. He was elected Public Service Commissioner in the November election.

Brian brings a wealth of education, experience, and expertise to the Public Service Commission. During the campaign, he focused on all aspects of the mission of the Commission. Dr. Kalk connected with the voters who agreed with the Fargo Forum when it endorsed his election by stating that he was the “Perfect Fit” for the PSC.

His educational background and experience is exceptional. He was born and raised in Bottineau, North Dakota and graduated from Bottineau High School in 1984. Brian enlisted in the Marine Corps in 1987. As an enlisted man, he served around the world as a communication non-commissioned officer. He deployed and served in both Desert Shield and Desert Storm resulting in the liberation of Kuwait.

While in the Marine Corps, he received his Bachelors’ Degree in Political Science from Campbell University, N.C., and was then selected to Officers Candidate School and commissioned in Quantico, VA. As a Logistics Officer he participated in numerous operations and exercises at home and abroad, to include the evacuations of the American Embassies in Liberia and the Central African Republic.

In June 1999, Major Kalk was selected to the Marine Corps Advanced Degree Program; returned to North Dakota and earned his Masters in Environmental Engineering from North Dakota State University. Brian was then assigned to Marine Corps Base Camp Pendleton as the Base Environmental Compliance Officer in 2001.

In February 2003, Major Kalk deployed as the Forward Operations Officer for Transportation Support Group One, providing critical logistics support to the 1st Marine Expeditionary Force in Kuwait and Iraq during Operations Enduring Freedom and Iraqi Freedom. During the summer of 2003 he returned to North Dakota and assumed command of the Fargo Military Entrance Processing Station until his retirement. During that time he received his Doctorate in Natural Resource Management from North Dakota State University.

Upon his retirement, he was hired by the Upper Great Plains Transportation Institute at NDSU. While at NDSU, he taught a variety of courses in Political Science, Transportation and Logistics, and Natural Resource Management.

Brian is a former member of the North Dakota State Soil Conservation Committee. He has remained very active in service organizations, such as the American Legion, the Marine Corps League, and the Veterans of Foreign Wars, and American Veterans. His Military Awards and Decorations are as follows:

Defense Meritorious Service Medal
The USMC Good Conduct Medal

Presidential Unit Citation
Global War on Terrorism Exped Medal



Volunteer Service Medal
Joint Meritorious Unit Citation
Global War on Terrorism Service Medal
Navy and USMC Achievement Medal
Armed Forces Expeditionary Medal
NATO Medal
Meritorious Unit Citation
Humanitarian Service Medal

Navy and USMC Commendation Medal
National Defense Service Medal
Sea Service Deployment Ribbons
Navy Unit Citation
Armed Forces Service Medal
The Combat Action Ribbon
Southwest Asia Service Medal
Kuwait Liberation Medals

Brian is passionate about North Dakota. He brings a lifelong commitment to our nation and our state. He knows, first hand, that energy independence is an absolute necessity in the world of the 21st Century. He believes that our state's plentiful natural resources should be utilized for the benefit of all our state and nation. He is committed to ensuring that everyone in North Dakota, consumers and producers alike, benefit from our abundant natural resources. Brian will use his experience and expertise to move North Dakota forward. Brian is married to Karen Nelson, formerly of Anamoose and Wyndmere; they have one college aged daughter Jordee Sue.



Public Service Commissioners

Commissioner Randy Christmann

Randy Christmann was elected to the North Dakota Public Service Commission in November of 2012. He brings to the Commission a background in agriculture, telecommunications, and 18 years in the North Dakota Senate representing energy country. Most of all, he brings what the Minot Daily News called a “let’s work together attitude.”

Outside of government service, Randy operated a 108-year-old third generation cattle ranch west of Hazen, North Dakota. His wife, Bethanie, is a mortgage loan underwriter at American Bank Center.

Before graduating from Hazen High School in 1978, Randy enlisted in the North Dakota Army National Guard. He also enrolled at North Dakota State University and graduated from there in 1982 with a bachelor’s degree in business administration.



Randy was elected to the North Dakota Senate in 1994 when he upset a long-time incumbent Democrat committee chairman, helping Republicans achieve majority status in the North Dakota Senate. He initially focused mostly on energy, taxation, and natural resources issues.

Governor Ed Schafer appointed Randy to serve as one of the two legislative appointees on the Lignite Research Council. He continued to serve in that position under Governor John Hoeven and Governor Jack Dalrymple.

Following the statewide general election in 2000, Senate Republicans chose Randy to serve as their Assistant Majority Leader. He was re-elected to that post every two years through 2012. He also served on the Senate Appropriations Committee.

In 1999, the members of West River Telecommunications Cooperative elected Randy to serve on its board of directors. From then through 2012 WRT nearly doubled in size, growing into a \$100 million company with more than 70 employees. They provide telephone and broadband service to part or all of 17 counties in North and South Dakota. West River is also a leader in the development of cellular service in North Dakota. During part of this time, Randy also served as the president of the North Dakota Association of Telecommunications Cooperatives.

Randy now brings his agriculture, telecommunications, and energy industry background to the Public Service Commission.

His portfolios include:

- Coal mining, reclamation, and abandoned mine lands
- Licensing (grain dealers and auctioneers)
- Weights and measures
- Railroads

Commissioner Julie Fedorchak



Julie Fedorchak was appointed to the Public Service Commission in December 2012 by Gov. Jack Dalrymple. She fills the position vacated by U.S. Congressman Kevin Cramer.

A fourth generation North Dakotan and the youngest of eight children, Julie was born in Williston and had the great fortune of growing up in several regions of the state. She completed elementary and junior high school in Fargo, spent many summers on her family's farm and ranch south of Stanley, N.D., and graduated from Bismarck Century High School in 1986.

Julie earned a bachelor's degree in journalism from the University of North Dakota in 1990, then launched her professional career with the University of North Dakota Alumni Association and Foundation where she was director of communications and editor of alumni publications.

Julie ventured to the East Coast for a couple years, living in Washington, D.C., and working at the University of Maryland College Park. In 1995, North Dakota Governor Ed Schafer invited her back home to serve as communications director. As a senior member of his team, Julie advised on all budget and policy decisions and was Governor Schafer's principal speech writer, spokesperson and media liaison. She held that position until he retired from office in 2000.

Following this period in government, Julie started her own business, Liffrig Communications, a small firm that provided marketing, communications, media relations and government relations services. Through a diverse base of public and private sector clients, Julie deepened her involvement in and understanding of state government, economic development and North Dakota's key industries including energy and agriculture. She also expanded her writing credentials, publishing a bi-weekly column in the Bismarck Tribune and collaborating with her mother on three books: *I'm Strong. I can Make It* and *Growing Up Rich in a Poor Family Volumes I and II*.

After 10 years in the private sector, John Hoeven's election to the U.S. Senate in 2010 called Julie back to public service, first as Deputy Director of Senator Hoeven's state operations. She was promoted to State Director in 2011. In that capacity, Julie managed statewide issues and staff including five state offices while advancing Senator Hoeven's top priorities including national energy policy.

Julie is married to Mike Fedorchak of Minot. They have three children and live in Bismarck where they are involved in a number of activities and organizations including youth soccer, football and baseball, the Bismarck Figure Skating Club, and Cathedral of the Holy Spirit school and parish. Julie also serves on the Board of Trustees for the University of Mary.

In her free time, Julie runs and swims and enjoys traveling, outdoor activities, entertaining, reading, family gatherings and escaping to their farm and ranch northwest of Bismarck.

Agency Overview Executive Secretary

The Legislature has given the Public Service Commission broad jurisdiction over several industries. In some cases the Commission functions like a court, in other instances it operates like a licensing board, and sometimes it serves as an environmental regulatory inspection agency.

This biennium there were 1,706 cases filed with the Commission to include industry filings, complaint proceedings, and rule making.

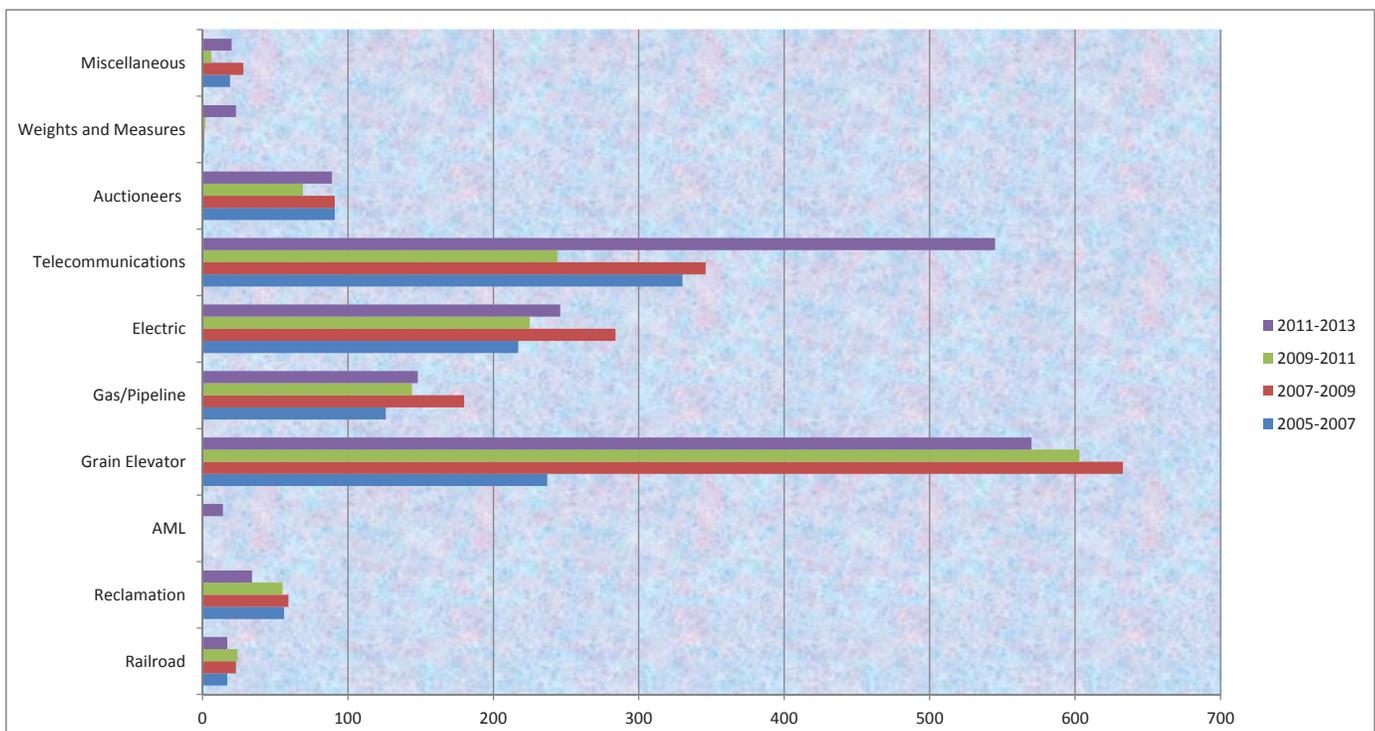
Formal hearings are held only when necessary and are used only in more complicated or contested cases, or when required by law. The vast majority of the cases that come before the Commission are handled without the need for a formal hearing. Some of these filings take effect with little more than staff review. More involved cases are typically discussed with the parties and the Commission at informal hearings.

The informal hearing process is used by the Commission to give parties an opportunity to meet publicly with the Commission, but without the expense and delay that would be associated with a formal hearing. During this biennium, the Commission held 56 formal hearings either in the Commission hearing room at the State Capitol or in the area directly affected.

- 96% of all formal cases were processed without the need for a formal hearing
- 27% of all formal cases were closed in less than thirty days
- 20% of all formal cases were closed in in sixty days or less

The following graph summarizes the number and types of cases that were processed by the Commission during the biennium.

Docketed Cases with the Public Service Commission



Docketed Cases				
	2005-2007	2007-2009	2009-2011	2011-2013
Railroad	17	23	24	17
Reclamation	56	59	55	34
AML	0	0	0	14
Grain Elevator	237	633	603	570
Gas/Pipeline	126	180	144	148
Electric	217	284	225	246
Telecommunications	330	346	244	545
Auctioneers	91	91	69	89
Weights and Measures	1	1	2	23
Miscellaneous	19	28	6	20

Changes in the Public Service Commission

Tony Clark, former chairman of the North Dakota Public Service Commission, was nominated by President Barack Obama to fill an opening on the Federal Energy Regulatory Commission. This federal regulatory board oversees natural gas pipelines, electric transmission lines and the reliability of the nation's power grid. Commissioner Clark resigned his position on the Commission on June 15, 2012. Governor Dalrymple appointed Bonny Fetch, Administrative Law Judge, to the Commission effective July 1, 2012 through December 31, 2012 to complete his term of office. Randy Christmann was elected in November 2012 to fill the next six-year term for this spot on the Commission starting January 1, 2013.

Commissioner Kevin Cramer, who was elected to U.S. House of Representatives, resigned his position on the Public Service Commission on January 1, 2013. Governor Dalrymple appointed Julie Fedorchak to complete his term of office effective January 2, 2013.

Executive Secretary

The Executive Secretary, appointed by the Public Service Commissioners, serves as the point of contact for companies and individuals who are seeking information or submitting formal filings.

The Executive Secretary is also responsible to certify, publish, and maintain all official Commission documents and case records, serve as the Commission's personnel and training officer, provide timely recommendations and report to the Commission on operational and policy matters, coordinate efforts with other agencies, and serve as the main informational liaison with other agencies on operational matters.

The Commission usually meets in formal session every two weeks. Special meetings are held to handle special or emergency situations.

The Executive Secretary is responsible to ensure all meetings are noticed, and agendas and minutes are prepared and distributed.

Mission Statement

The mission statement of the Public Service Commission is to fulfill its statutory mandates by protecting the public interest and regulating utilities, mining companies, and licensees in a fair, efficient, responsive, and cooperative manner. Regulatory initiatives ensure that:

- **Utility customers receive reliable and safe service at reasonable and just rates.**
- **Mined coal lands are reclaimed to provide a safe and productive environment now and in the future.**
- **License and permit holders and operators of commercial weighing and measuring devices operate in a safe and fair manner.**

Public Outreach

The Commission serves as a major resource for consumers who are having problems with the services provided by companies within the agency's areas of responsibility. Complaints or inquiries cover the gamut from utility billings to railroad lease rates and from grain protein tests to ground water near coal mines. In some cases, the commission has direct jurisdiction over the matters involved, while in other instances the agency has little or no authority to intervene in the matter. In either case, the commission attempts to provide assistance, either through direct intervention or by disseminating information that will help the parties resolve the problem.

The Commission recorded approximately 3,367 complaints and inquiries during the biennium. This is over a 10 percent increase over last biennium's total. The majority of incoming calls involved gas/electric utilities. These concerns have obviously left the consuming public with many questions, concerns, and problems; matters they look to the Commission for help resolving. This occurrence may be indicative of the role that regulatory agencies will be called to play as more industries move towards full or partial deregulation. The Commission also saw a large increase in LifeLine/Linkup inquiries because of new mandates stating that participants must fill out a complete application yearly instead of just a renewal form.

The Commission has had a website since 1995. The agency continues to update its site to keep it current and meaningful for users. The Commission continued to provide audio and video broadcasts of the meetings from the website. The website was given a major facelift over the last couple of years with updated photos and the opportunity to follow the Commission's activities on Twitter. The public can now follow the Commission at @NDPSC.

The Commission has developed, maintained, updated and made available a series of "You Should Know" brochures to help the public understand its rights. Topics covered by these brochures include information about the Commission, how to file a complaint, participation in major cases, protection from utility disconnections, federal telephone assistance plans, telephone slamming and cramming, selling grain, auctioneer/auction clerk licensing, pipeline safety, weights and measures, mine reclamation and more. Copies of these brochures are available at the Commission offices and on its website at www.psc.nd.gov

Financial Management

The Accounting Division has the responsibility to conduct or manage voucher payments, indirect cost rate preparation, payroll, procurement, purchasing cards, asset management, and budgeting for the Public Service Commission. The division establishes financial policies and procedures in compliance with the Office of Management & Budget policies along with generally accepted accounting principles and state and federal regulations.

2011-2013 Financials

Revenue	General	Federal	Special
Licensing	\$394,439		
Siting Fees			\$1,946,762
Federal Government		\$10,792,017	
Fines	\$22,500		
Interest on Investments			\$91,999
Coal Mining Fees	\$101,644		
Filing Fees	\$9,200		
Scale Inspection Fees	\$287,333		
Utility Valuation Reimb.			\$5,379
Prepaid Utility Valuation			\$1,304,646
Trsf to Perfor. Assurance	\$42,100		
Misc. Revenue	\$16,446		\$27,100
Total	\$873,661	\$10,792,017	\$3,375,885

Note: Information is based on the June 2013 4911AA and 4915AA PeopleSoft Reports.

Financial Data

2009-2011 Budget

Expenses by Line Item	Appropriated	Expended	Unexpended
Salaries and Wages	\$7,485,674	\$7,081,192	\$404,482
Operating Expenses	\$1,972,572	\$1,761,405	\$211,167
Capital Assets	\$53,000	\$49,701	\$3,299
Grants	\$16,000	\$8,094	\$7,906
AML Construction	\$8,000,000	\$7,509,495	\$490,505
Rail Fund	\$900,000	\$0	\$900,000
ARRA	\$658,217	\$113,060	\$545,157
Total	\$19,085,463	\$16,522,947	\$2,562,516
Funding Source	Appropriated	Expended	Unexpended
General	\$12,036,648	\$10,811,103	\$1,225,545
Federal	\$6,023,815	\$5,693,828	\$329,987
Special	\$1,025,000	\$18,016	\$1,006,984
Total	\$19,085,463	\$16,522,947	\$2,562,516

Note: The salaries and wages line includes a \$3,600 internship program appropriation from HRMS.

General Counsel

The mission of the Legal Division is to provide high quality legal representation, advice and counsel to the Commission and various divisions and to fulfill staff functions for division as situations warrant and time allows. Duties include rate case advocacy, appellate representation of the Commission, representation of the Commission before other state and federal agencies, representation of the Commission in civil proceedings, support for the Commission’s legislative activities, and enforcement of laws, rules, and Commission decisions. The Legal Division also functions as the Commission’s hearing administrator and maintains the Commission’s case docket system. Federal agencies in which the Legal Division represents the Commission include the Department of Energy, Environmental Protection Agency, Surface Transportation Board, Federal Communication Commission, Federal Energy Regulatory Commission, and the Department of Interior.

Section 49-01-09 of the North Dakota Century Code provides that the Attorney General be ex-officio attorney for the Commission and, personally or through commerce counsel, represents the Commission in any proceeding which the Commission deems proper and expedient. Section 54-12-08 of the North Dakota Century Code provides that the Public Service Commission may employ attorneys to represent the agency. Absent good cause, the Attorney General must appoint the attorneys employed by the Commission as special assistant attorneys general.

Public Utilities

Statutory and Constitutional Responsibilities

The Commission regulates investor-owned electric and gas utilities to ensure that consumers receive safe and reliable service at reasonable rates.

The Commission is responsible for siting facilities such as power plants, pipelines and electric transmission lines.

The Commission regulates essential services offered by investor-owned phone companies.

The Commission works with utility consumers to resolve billing disputes and service complaints.

The Commission enforces the state's minimum gas pipeline safety standards upon all of North Dakota's intrastate gas transmission and distribution system operators.

The Commission supervises the installation and accurate operation of commercial weighing and measuring devices in the state through inspection and tolerance testing. The Commission supervises the calibration of all working standards used to inspect the accurate operation of weighing and measuring devices.

Mission Statement and Goals

The mission statement of the division is to provide utility customers with reliable and safe service at reasonable and just rates.

Goals include:

- Establish and maintain a fair and reasonable regulatory environment in which utility services are provided.
- Provide information to consumers and the public to inform them of their rights and responsibilities.
- Protect North Dakota's environment and safety by maintaining effective oversight of the construction of energy conversion and transmission facilities.
- Enhance public safety by enforcing state and federal laws governing gas pipeline safety for intrastate natural gas transmission and distribution systems; and by maintaining liaison with and availability for special inspection assistance to the Pipeline and Hazardous Materials Safety Administration regarding interstate natural gas transmission systems and all hazardous liquids transmission systems.
- Promote fairness in the marketplace by implementing state law regarding the installation and operation of commercial weighing and measuring devices and ensuring the calibration of weights and measures standards are traceable to the federal standards promulgated by the National Institute of Standards and Technology.

Key 2013 Legislation

- HB 1008 which amended PSC Budget to include two positions for Public Utilities Division; newly authorized Gas Pipeline Safety Inspector and the repurposing of a Weights and Measures Inspector to a Public Utility Analyst.
- HB 1147 created and enacted a new section to chapter 49-22 of the North Dakota Century Code, relating to corridor and route adjustments for gas and liquid transmission lines after the Commission Order and before construction is complete.
- HB 1359 amended North Dakota Century Code to increase the civil penalty not to exceed \$25,000 relating to the one-call notice system.

Major Activities and Accomplishments

Telecommunications

Competition for telecommunications continues to evolve in the state and the Commission continues to receive filings of interconnection agreements negotiated by incumbent local exchange companies and competitive local exchange companies. Interconnection agreements make provisions for wireline and wireless competitors to interconnect to local exchange areas served by incumbent rural telephone companies, and provision of wholesale prices for services that may be resold by competitors. During the 2011-2013 biennium, the Commission received for approval 34 interconnection agreements and 38 interconnection agreement amendments.

On June 14, 2011, Midcontinent Communications requested from Missouri Valley Communications, Inc. interconnection and exchange of local traffic under § 251(a) and (b)(5) of the Telecommunications Act. After the matter was unable to be resolved in mediation, on November 14, 2011, Midcontinent filed with the Commission a petition for arbitration. On June 27, 2012, the Commission issued an order approving an interconnection agreement. The Commission's decision was appealed to United States District Court, District of North Dakota, Northwestern Division. On April 26, 2013, the Court denied Missouri Valley's motion for summary judgment and granted the Commission's and Midcontinent's motion for summary judgment.

The Commission takes a hands-on role in reclaiming telephone numbers that have been allocated to a company but have not been activated by that company within six months. The Commission also assists in the procurement of telephone numbers not otherwise available to a telecommunications company.

Each year the Commission provides to the Federal Communications (FCC) verification by the rural telephone companies that federal universal service funds are used only for those purposes specified by the FCC and therefore are eligible to receive such federal funding for the next calendar year.

Since 2007, telecommunications companies designated by the Commission as eligible to receive federal universal service funds began filing annual reports of the federal funds received; the use made of those federal funds for the provision of universal telephone services in the state, projections for future federal funds, and anticipated projects funded by those future dollars. Federal universal funds are to be used only for those purposes specified by the FCC. This information supports rural company certification to receive future universal service funds.

In September 2012, Bismarck MSA Limited Partnership (doing business as Verizon Wireless) relinquished its designation as a wireless telecommunications carrier eligible to receive federal universal service funding. Bismarck MSA Limited Partnership's universal service funding was eliminated effective January 1, 2013 under a condition of the FCC's *Alltel Acquisition Order*.

The Commission continues to provide a web-based electronic self-registration system for telecommunications companies other than incumbent local exchange telecommunications companies. The self-registration process is a streamlined process for non-incumbent telecommunications carriers to obtain the equivalent of a Certificate of Public Convenience and Necessity to provide telecommunications services in North Dakota. Approximately 439 telecommunications companies have self-registered.

Natural Gas

Natural gas is distributed to end use customers in North Dakota by Northern States Power Company (NSP) and Montana-Dakota Utilities Co. (MDU). The Commission received an application for advance determination from NSP for two combustion turbines to be located in the Hankinson, ND area. In addition, the Commission received a \$6.8 million rate increase application for MDU's natural gas operations using a 2014 test year. Both cases are pending.

Gas Pipeline Safety Program

In Case No. GS-10-602, Commission staff issued a notice alleging that the City of Granville had violated pipeline safety regulations in the operation of its liquified petroleum gas distribution facility in Granville, North Dakota. On May 5, 2011, the Commission adopted its order finding that the City of Granville had violated pipeline safety regulations and setting forth compliance actions. In Case No. GS-11-687, Commission staff issued a notice alleging that the City of Granville had violated pipeline safety regulations. On April 11, 2012, the Commission adopted its order finding that the City of Granville had violated pipeline safety regulations and setting forth compliance actions. As of this report, Granville completed its compliance actions and both proceedings were closed.

On September 20, 2011, the Commission amended North Dakota Administrative Code section 69-09-03-02 to adopt by reference changes the federal government had made in gas pipeline safety regulations, Title 49, Code of Federal Regulations Parts 190, 191, 192, and 199, as of June 22, 2011, Case No. GS-11-79.

For the 2011-2013 biennium, the gas pipeline safety inspector conducted inspections of 4 distribution operators and 5 transmission operators. The total number of inspections is as illustrated in the following table:

PIPELINE INSPECTIONS BY TYPE	Number
STANDARD INSPECTION – RECORDS AUDITS	76
COMPLIANCE FOLLOW-UP	5
DESIGN/TESTING AND CONSTRUCTION	26
INVESTIGATING GAS EXPLOSION INCIDENTS	2
ONSITE OPERATOR TRAINING (seminars)	0
OPERATOR QUALIFICATIONS	28
INTEGRITY MANAGEMENT INSPECTIONS	0
DAMAGE PREVENTION ACTIVITIES	14
TOTAL INSPECTIONS	151

Damage Prevention Program

During the 2011-2013 biennium, 20 third-party complaints were filed with the Commission alleging that excavators had violated North Dakota Century Code Chapter 49-23, the One-Call Excavation Notice System. In addition, the Commission staff filed 2 formal complaints with the Commission alleging operators had violated the One-Call Excavation Notice System. The Commission believes these cases have brought a greater industry awareness of the One-Call law.

In 2011 and 2012, the Commission participated in the U.S. Department of Transportation's One-Call Grant. Through the Grant, approximately 18 to 20 billboards have been placed in major markets throughout North Dakota each year to promote "Call Before You Dig" to reduce third-party damage to underground facilities in the state.

Energy Conversion and Transmission Facility Siting

The Commission adopted administrative rules during the biennium to update the process for processing siting applications and clarify what is required in each siting application. Items that were previously included in commission guidelines were incorporated into the rules. The rules also address issues specific to wind energy conversion facilities and the new lower jurisdictional threshold for wind energy conversion facilities.

Prior to beginning construction of an energy conversion or transmission facility, a certificate of site compatibility or route permit must be obtained from the Commission. It is the responsibility of the Commission to ensure that such facilities are sited in an orderly manner that energy needs are met and fulfilled in an efficient manner, continuing system reliability and integrity, while minimizing adverse human and environmental effects.

Energy Conversion and Transmission Facility Siting Activities

Case No.	Applicant	Description	Date of App.	Status	Estimated Investment
PU-04-109	Basin Electric Power Cooperative, Inc.	AVS Cooling Line Replacement	11/17/04	Post-construction inspections	12,000,000
PU-04-452	Montana-Dakota Utilities Co., a Division of MDU Resources Group, Inc.	175 MW Coal Plant at Gascoyne		Letter of Intent filed 9/1/04; Awaiting application	374,205,000
PU-05-184	Plains Pipeline, L.P.	Trenton Extension; oil pipeline; 10-inch; 9.6 mile/McKenzie & Williams Counties	6/20/05	Post-construction inspections	750,000
PU-05-185	Plains Pipeline, L.P.	Buford Loop; oil pipeline; 10-inch; 2.75 mile/McKenzie & Williams Counties	7/26/05	Post-construction inspections	1,500,000
PU-05-205	FPL Energy Burleigh County Wind, LLC	Electric transmission; 230 kV; 30-mile/Burleigh & Oliver Counties	4/21/05	Tree survival oversight	5,000,000
PU-05-274	Enbridge Pipelines (North Dakota) LLC	Crude oil pumping stations	5/3/05	Post-construction inspections	3,200,000
PU-05-305	PPM Energy, Inc.	Electric transmission; 230 kV; 8-mile/Pierce	6/16/05	Under construction	2,750,000

Case No.	Applicant	Description	Date of App.	Status	Estimated Investment
PU-06-312	FPL Energy Oliver County Wind, LLC	Electric transmission; 230 kV; 542-foot/Oliver County	7/25/06	Tree survival oversight	2,000,000
PU-06-317	Enbridge Pipelines (North Dakota) LLC	Pipeline; pump station upgrades/Alexander, Trenton, Beaver Lodge, Stanley	7/19/06	Post-construction inspections	16,450,000
PU-06-330	Enbridge Pipelines (North Dakota) LLC	Trenton to Beaver Lodge Crude Pipeline; 10-inch; 52-mile/Williams County	7/26/06	Post-construction inspections	25,122,200
PU-06-349	Enbridge Pipelines (North Dakota) LLC	Pipeline: oil; new pump stations/Blaisdell, Denbeigh, Penn, Larimore	8/4/06	Post-construction inspections	16,995,000
PU-06-421	TransCanada Keystone Pipeline, LP	Crude Oil Pipeline; 30-inch; 217-mile/Multiple ND Counties	4/11/07	Under construction	277,000,000
PU-06-443	Tatanka Wind Power, LLC	Electric transmission; 230 kV; 12-mile/Dickey & McIntosh Counties	10/13/06	Post-construction inspections	7,300,000
PU-07-108	Enbridge Energy, LP	LP Pipeline; 36-inch; 28-mile/Pembina Cty	7/16/07	Under construction	90,700,000
PU-07-169	Basin Electric Power Cooperative, Inc.	Electric transmission; 230 kV; 74-mile/Stark, Hettinger, Slope, Bowman Counties	4/18/08	Under construction	33,000,000
PU-07-184	Dakota Gasification Company	CO2 Pipeline Reroute; 14-inch; 11,400-foot/McKenzie & Williams Counties	5/11/07	Under construction	10,500,000
PU-07-26	FPL Langdon Wind, LLC	Wind-to-electricity; 160 MW/Cavalier County	3/21/07	Post-construction inspections	250,000
PU-07-516	Westmoreland Power, Inc.	500 MW Coal Plant at Gascoyne		Letter of Intent filed 7/20/07; Awaiting application	900,000,000

Case No.	Applicant	Description	Date of App.	Status	Estimated Investment
PU-07-596	Belle Fourche Pipeline Company	Oil pipeline; 8-inch; 31.3-mile/McKenzie County	9/18/07	Under construction	10,200,000
PU-07-600	Enbridge Pipelines (North Dakota) LLC	Oil pipeline reroute; 8-inch; 2100-feet/Williams County	8/9/07	Tree survival oversight	500,000
PU-07-671	Basin Electric Power Cooperative, Inc.	Electric transmission; 230 kV; 50-mile; Williston to Tioga /Williams County	8/10/09	Tree survival oversight	25,500,000
PU-07-722	Langdon Wind, LLC	Wind farm expansion; 40 MW/Cavalier County	2/5/08	Under construction	73,000,000
PU-07-75	Enbridge Pipeline (Southern Lights) LLC	LP Pipeline; 20-inch; 28-mile/Pembina Cty	4/16/07	Under construction	31,528,800
PU-07-759	Northern States Power Company	Electric transmission; 345 kV; 250-mile; CapX/Cass & Richland Counties		Letter of Intent filed 11/14/07; Awaiting application	390,000,000
PU-07-766	Otter Tail Power Company	Electric transmission; 230 kV; 83.8-mile; Hankinson-Ellendale reroute/Richland County	12/14/07	Post-construction inspections	260,000
PU-07-791	Enbridge Pipelines (North Dakota) LLC	Pipeline: oil, pump station upgrades; Alexander, Trenton, Beaver Lodge, Stanley, Blaisdell, Denbigh, Penn, Larimore, Minot, Pleasant Lake, Bartlett	2/20/08	Under construction	119,700,000
PU-08-107	M-Power, LLC	Electric transmission, 230 kV; 13-mile/Barnes & Steele Counties	5/21/08	Order issued 10/30/08	4,550,000
PU-08-32	Ashtabula Wind, LLC	Wind-to-electricity; 200 MW Ashtabula Wind Farm/Barnes County	3/24/08	Under construction	350,000,000

Case No.	Applicant	Description	Date of App.	Status	Estimated Investment
PU-08-424	Plains All American Pipeline LP	6-inch, 33-mile, crude oil pipeline/Stark County		Letter of Intent filed 6/30/08; Awaiting application	16,000,000
PU-08-46	Crown Butte Wind Power, LLC	Wind-to-electricity; 200 MW/Adams & Bowman Counties		Letter of Intent filed 2/4/08; Awaiting application	350,000,000
PU-08-48	Minnkota Power Coop., Inc.	Electric transmission; 230 kV; 61.6-mile/Barnes, Cass, & Steele Counties	3/18/08	Order issued 6/6/08; Appealed to District Court.	29,000,000
PU-08-52	South Heart Coal, LLC (Great Northern Power Development)	Coal-to-gas; South Heart/Stark County		Letter of Intent filed 1/23/08; Awaiting application	1,400,000,000
PU-08-597	Hartland Wind Farm, LLC	Wind-to-electricity; 2000 MW/Ward, Burke & Mountrail Counties		Letter of Intent filed 7/21/08; Awaiting application	4,000,000,000
PU-08-73	Ashtabula Wind, LLC	Electric transmission; 230 kV; 9.5-mile; Barnes County	3/24/08	Order issued 5/30/08	3,000,000
PU-08-75	Prairie Winds ND1	Wind-to-electricity; 115.5 MW Prairie Winds Wind Farm/Ward County	3/13/09	Under construction	240,000,000
PU-08-797	Sequoia Energy US, Inc.	Wind-to-electricity; 150 MW Border Winds Wind Energy Project/Rolette & Towner Counties	10/24/08	Order issued 5/5/11	300,000,000
PU-08-812	Enbridge Pipelines (North Dakota) LLC	Pipeline; oil, pump station upgrade, Stanley	10/13/08	Under construction	6,000,000
PU-08-843	Whiting Oil and Gas Corporation	6-inch, 16.5-mile, natural gas pipeline/Mountrail County	11/17/08	Under construction	3,300,000
PU-08-844	Whiting Oil and Gas Corporation	8-inch, 17-mile, crude oil pipeline/ Mountrail County	11/17/08	Under construction	6,100,000

Case No.	Applicant	Description	Date of App.	Status	Estimated Investment
PU-08-848	Allete, Inc.	Wind-to-electricity; 125 MW/Oliver County		Letter of Intent filed 10/24/08; Awaiting application	270,000,000
PU-08-931	Just Wind, LLC	Wind-to-electricity; 900 MW Emmons County Wind Project/Emmons County		Letter of Intent filed 12/12/08; Awaiting application	2,300,000,000
PU-08-932	Enxco Service Corporation	Wind-to-electricity; 150 MW Merricourt Wind Power Project/McIntosh & Dickey Counties		Letter of Intent filed 12/11/08; Awaiting application	400,000,000
PU-09-84	Rough Rider Wind 1, LLC	Wind-to-electricity; 175 MW Rough Rider Wind 1 Energy Center/Dickey County	2/19/09	Order issued 8/12/09	310,000,000
PU-09-151	Allete, Inc.	Wind-to-electricity; 75.9 MW Bison 1 Wind Project/Oliver & Morton Counties	5/12/09	Under construction	170,000,000
PU-09-153	Hawthorn Oil Transportation (North Dakota) Inc.	8-inch; 6-mile; crude oil pipeline/Mountrail County	9/28/09	Under construction	2,500,000
PU-09-370	CPV Ashley Renewable Energy Company, LLC	Wind-to-electricity; 487.6 MW Ashley Wind Power Project/McIntosh County		Closed	1,013,000,000
PU-09-587	Allete, Inc.	Electric transmission; 230 kV; 22-mile/Oliver & Morton Counties	12/14/09	Under construction	13,000,000
PU-09-663	Hawthorn Oil Transportation (North Dakota) Inc.	Condensate pipeline; 4.5-inch; 11- mile/Mountrail County		Letter of Intent filed 9/30/09; Application pending	3,000,000
PU-09-668	NextEra Energy Resources, LLC	Wind-to-electricity; 99 MW Baldwin Wind Energy Center/Burleigh County	4/9/10	Tree and Shrub Survival Report	200,000,000

Case No.	Applicant	Description	Date of App.	Status	Estimated Investment
PU-09-670	Minnkota Power Coop., Inc.	Electric transmission; 345 kV; 260-mile/Center to Grand Forks		Order issued 9/7/11 Under construction	310,000,000
PU-09-674	Otter Tail Power Company	Electric Transmission; 230 kV; Sargent County	1/2/10	Order issued 2/24/10; Construction Completed	260,000
PU-09-724	Oliver Wind III, LLC	Electric Transmission; 230 kV; Morton and Oliver Counties	3/19/10	Order issued 4/20/11	3,500,000
PU-09-750	Bridger Pipeline LLC	Pipeline; crude oil; 10-inch; McKenzie, Dunn, Billings, Richland Counties	7/23/10	Order issued 9/22/10; Construction Completed	25,000,000
PU-10-130	Enbridge Pipelines (North Dakota) LLC	Pipeline; crude oil; Ward County	5/7/10	Order issued 8/4/10; Construction Completed	8,900,000
PU-10-147	Ashtabula Wind III, LLC	Wind-to-electricity; 70 MW Ashtabula III Wind Energy Center; Barnes County	5/18/10	Order issued 8/4/10; Construction Completed	140,000,000
PU-10-164	Montana-Dakota Utilities Co.	Electric Transmission; 230 kV; McIntosh and Dickey Counties	2/7/11	Order issued 7/13/11; Construction Completed	14,500,000
PU-10-218	Bakken Link Pipeline, GGC	Pipeline; crude oil; 10,12, and 16 inch Mountrail, McKenzie, Williams, Billings, Stark and Golden Valley Counties	6/21/11	Order issued 2/29/12; Under construction	250,000,000
PU-10-554	Hiland Operating, LLC	Pipeline; 6 inch Natural Gas; Williams and McKenzie Counties	7/12/11	Order issued 9/5/12; Construction Completed	4,000,000

Case No.	Applicant	Description	Date of App.	Status	Estimated Investment
PU-10-555	Hiland Operating, LLC	Pipeline; 8-inch Natural Gas; McKenzie County	10/13/10	Order issued 12/30/10; Construction Completed	3,400,000
PU-10-612	Enbridge Pipelines (North Dakota) LLC	Pipeline; crude oil; Ward & Burke Counties	11/5/10	Order issued 5/5/11; Under construction	73,100,000
PU-10-613	Enbridge Pipelines (North Dakota) LLC	Pipeline; crude oil; Williams, Mountrail & Ward Counties	11/17/10	Order issued 2/1/12; Under construction	132,600,000
PU-10-630	Plains Pipeline, LP.	Pipeline; crude oil; Williams County	8/12/11	Order issued 5/18/11; Under construction	200,000,000
PU-10-632	M-Power One, LLC	Wind-to-electricity; 145.5 MW; Steele County		Letter of Intent filed 11/23/10; Awaiting application	262,000,000
PU-10-637	Rangeland Energy, LLC	Pipeline; 8 inch; Williams County	2/11/11	Order issued 9/29/11; Under construction	15,000,000
PU-11-57	Allete, Inc.	Wind-to-electricity; 105 MW Bison 2 Wind Project; Oliver and Morton Counties	4/6/11	Order issued 8/10/11; Under construction	160,000,000
PU-11-66	Bear Paw Energy, LLC	Pipeline; Natural Gas; McKenzie County	6/27/11	Order issued 9/7/11; Construction Completed	24,000,000
PU-11-69	Meadowlark Wind I, LLC	Wind-to-electricity; 99 MW; McHenry County	8/22/11	Order issued 4/25/12;	180,000,000
PU-11-99	Arrow Field Services, LLC	Pipeline; Crude Oil; McKenzie County	6/22/11	Order issued 11/2/11; Construction Completed	2,000,000

Case No.	Applicant	Description	Date of App.	Status	Estimated Investment
PU-11-102	Whiting Oil and Gas Corporation	Pipeline; Crude Oil; Billings County	7/11/11	Order issued 10/19/11; Construction Completed	3,360,000
PU-11-104	Hess Corporation	Pipeline; LPG pipeline; Williams County	3/8/12	Order issued 7/17/12	5,000,000
PU-11-109	Vantage Pipeline US LP	Pipeline; Natural Gas; Williams and Divide Counties	2/13/12	Order Issued 6/20/12; Under construction	60,000,000
PU-11-162	Allete, Inc. Bison 3 Wind Project	Wind-to-electricity; 105 MW; Oliver and Morton Counties	7/7/11	Order issued 10/12/11	160,000,000
PU-11-232	Enbridge Pipelines (North Dakota) LLC	Expansion and phased-in construction of certain upgrades to Enbridge Pipelines (North Dakota) Berthold Station	12/21/11	Order Issued 5/30/12; Under construction	102,500,000
PU-11-561	Oliver Wind III, LLC	Wind-to-electricity; 48 MW; Morton County	10/31/11	Under construction	81,000,000
PU-11-601	Thunder Spirit Wind, LLC	Wind-to-electricity; 150 MW; Adams County	6/4/13	Order Issued 10/9/13	300,000,000
PU-11-605	Enbridge Pipelines (North Dakota) LLC	Grenora Pump Station, upgraded by the redesign and reconfiguration of its facilities. Installation of a new 40,000 barrel tank	10/21/11	Order Issued 3/21/12; Construction Completed	35,000,000
PU-11-606	Enbridge Pipelines (North Dakota) LLC	Little Muddy Station Connection Project-Williams County	11/14/11	Order Issued 3/21/12; Construction Completed	34,000,000

Case No.	Applicant	Description	Date of App.	Status	Estimated Investment
PU-11-620	Allete, Inc.	Electric Transmission; 230 kV; Oliver County		Order Issued 5/30/12; Under construction	10,000,000
PU-11-631	Montana-Dakota Utilities Co.	Wind-to-electricity; 88 MW; Simple Cycle Combustion Turbine		Order Issued 12/21/12; Under construction	56,600,000
PU-11-646	Wilton Wind IV, LLC	Wind-to-electricity; 99 MW; Burleigh County		Order Issued 11/28/13	165,000,000
PU-11-662	Allete, Inc.	Wind-to-electricity; 100 MW; Mercer & Morton Counties		Order Issued 8/29/12	200,000,000
PU-11-680	Montana-Dakota Utilities Co.	10-inch Natural Gas Pipeline; Morton County	2/13/13	Order Issued 8/21/13; Under construction	18,400,000
PU-11-683	OneOk Rockies Midstream, LLC	Stateline to Riverview NGL Pipeline- Williams County	12/22/11	Order Issued 4/11/12; Construction Completed	6,000,399
PU-11-686	Lake Region State College	Wind-to-electricity; 1.6 MW- Ramsey County	7/11/11	Order issued 3/6/12; Construction Completed	4,300,000
PU-11-692	Basin Electric Power Cooperative, Inc.	Electric Transmission; 345 kV; Williams County	1/20/12	Order Issued 5/16/12; Construction Completed	3,000,000
PU-11-696	Basin Electric Power Cooperative, Inc.	Electric Transmission; 345 kV; Mercer, Dunn, McKenzie Counties	3/15/13	Hearings Held on 9/4, 9/5, and 9/12/13	300,000,000

Case No.	Applicant	Description	Date of App.	Status	Estimated Investment
PU-12-40	Plains Pipeline, LP	Crude Oil Pipeline, Nelson to Ross Pipeline, Mountrail County	2/6/12	Order Issued 4/25/12; Under Construction	13,600,000
PU-12-42	Magellan Midstream Partners, LP	Fargo Relocation Project; Cass County	2/8/12	Order Issued 4/19/12; Construction Completed	1,342,500
PU-12-43	Enbridge Pipelines (North Dakota) LLC	Crude Oil Pipeline; Sanish Pipeline Project- McKenzie & Williams County		Letter of Intent Issued 1/20/12; Awaiting application	135,600,000
PU-12-190	Hiland Operating, LLC	Natural Gas Pipeline- 6 inch Divide & Burke Counties	1/31/13	Hearing Held 10/8/13	1,500,000
PU-12-398	Great River Energy	Electric Transmission; 230 kV; Grand Forks- Devils Lake	10/3/12	Order Issued 12/12/12; Construction Completed	2,891,000
PU-12-486	Willow Grove: Halliday, LLC	CO2 Pipeline Project- Dunn County		Letter of Intent 7/11/12; Awaiting application.	3,000,000
PU-12-656	OneOk Rockies Midstream, LLC	Natural Gas Pipeline- McKenzie County	9/17/12	Order Issued 12/21/12; Under Construction	160,000,000
PU-12-675	Basin Transload, LLC	Crude Oil Pipeline- Mercer County	5/10/13	Order Issued 9/25/13	2,500,000
PU-12-683	Hess Corporation	Crude Oil Pipeline- Williams County	11/26/12	Order Issued 11/13/13	1,000,000

Case No.	Applicant	Description	Date of App.	Status	Estimated Investment
PU-12-768	New Frontier Midstream, LLC	Natural Gas Pipeline- Stark, Billings, Golden Counties		Letter of Intent Received 10/12/12; Awaiting application	28,415,000
PU-12-775	Basin Transload, LLC	Crude Oil Pipeline- 10 inch- Burke County	11/9/12	Order Issued 1/16/13; Under construction	4,500,000
PU-13-22	Basin Electric Power Cooperative	Natural Gas Pipeline- Mercer County	2/28/13	Order Issued 7/10/13	9,000,000
PU-13-64	Courtenay Wind Farm, LLC	Wind-to-electricity; 200.5 MW; Stutsman County	4/12/13	Order Issued 11/13/13	170,000,000
PU-13-88	Rolette Power Development, LLC	Wind-to-electricity; 50MW; Rolette County		Letter of Intent received 2/15/13; Awaiting application	90,000,000
PU-13-103	Allete, Inc.	Electric Transmission; 250 kV Line reroute; Kidder & Stutsman Counties	6/17/13	Order Issued 10/9/13	1,800,000
PU-13-127	Allete, Inc.	Wind-to-electricity; Bison 4; Mercer, Morton, Oliver Counties	5/6/13	Order Issued 9/25/13; Under construction	400,000,000
PU-13-136	Hiland Crude, LLC	Crude Oil Pipeline- McKenzie, Williams, Mountrail Counties		Letter of Intent Filed 3/26/13; Awaiting application	56,960,000

Electricity

Throughout the biennium the Commission continued to participate as a member of the Organization of MISO States, Inc. (OMS). The OMS is a nonprofit membership corporation consisting of regulatory agencies (one provincial, 16 state, and one city) having jurisdiction within the region served by the Midcontinent ISO. The Midcontinent ISO, which is headquartered in Carmel, Indiana, is an independent, nonprofit organization responsible for reliable operation of the regional electric grid owned by member utilities in 16 states and the Canadian province of Manitoba. The OMS provides a means for these regulatory agencies to share resources and to act in concert when deemed to be in their common interest.

The Commission participates in regional electric transmission development efforts including the Eastern Interconnection States Planning Council (EISPC), an ARRA funded interstate transmission planning effort with representation from the governors and utility regulatory agencies of 39 states plus the District of Columbia and the City of New Orleans.

In addition to its MISO activities, the Commission granted an advance determination of prudence for MDU's 88 MW gas combustion turbine and its filterable particulate matter pollution control equipment related to its 50 MW lignite-fired generating station near Sidney, MT to comply with the Mercury and Air Toxics Standards Rule. Similarly, the Commission granted advance determination of prudence to NSP for its Manitoba Hydro purchase power agreement and its Unit 2 steam generator to help extend the life of its Prairie Island nuclear generation facility located in Minnesota.

As of this report, the Commission has received 750 MW of proposed wind energy seeking advance determination of prudence from NSP for its wind farms and purchase power agreements located in North Dakota and Minnesota.

In 2012, the Commission granted a final electric rate increase of 9.6% to NSP based on 2011 and 2012 test years. NSP filed for another 9.25% electric rate increase in 2012 using a 2013 test year. The case has been heard and no decision has been made yet.

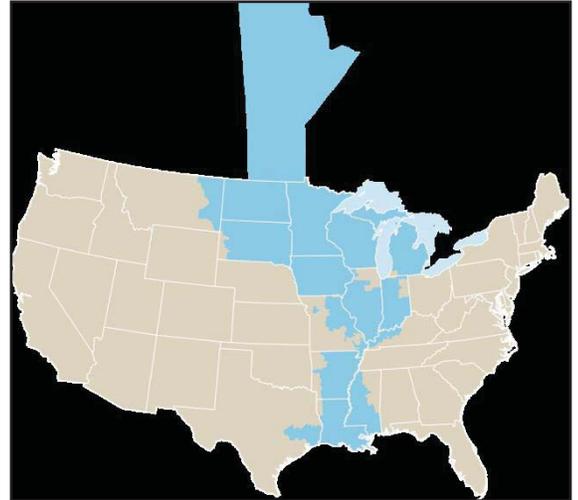
Major Challenges

Telecommunications

At the national level, the Commission will continue to present the challenges unique to a rural state concerning the deployment of broadband and wireless services.

The Commission will voice North Dakota concerns as the Federal Communications Commission determines the appropriate monetary compensation to owners of telecommunications networks used by other companies originating or terminating communications on those networks.

As the number of telecommunications consumers and competition in the state increases, and as types of telecommunications services provided to those consumers expands, the supply of telephone numbers for the 701 area code will dwindle. As noted earlier, the Commission takes a hands-on role in reclaiming telephone numbers that have been allocated to a company but have not been activated by that company within six months. In early 2010, it was projected that the 701 area code would exhaust in the 1st quarter of 2015. The projection as of April



Midcontinent ISO Footprint

2013 is that the 701 area code will exhaust in the 2nd quarter of 2021. Based on that estimate, proceedings to determine a resolution are likely to begin the 2nd quarter of 2018.

Energy Conversion and Transmission Facility Siting

Robust activity in the energy industry continues to spur increased siting applications and requests to determine the application of siting laws and rules. During the biennium, the Commission received siting applications for 16 pipelines, 1 gas processing plant, 8 wind farms, 6 electric transmission lines and 3 electric power plants. The Commission received 8 filings under the abbreviated siting process defined in North Dakota Century Code section 49-22-03 for construction of facilities wholly within the geographic area for which the utility had previously obtained a certificate or permit or on which a facility was constructed before April 9, 1975. The Commission also received 2 formal requests for jurisdictional determination from Great River Energy and one from Montana-Dakota Utilities Co. During the first 4 months of the new biennium (2013-2015), the Commission has already received siting applications for 2 pipelines, 1 gas processing plant expansion, and 1 electric transmission line.

Midcontinent ISO

The Midcontinent Independent System Operator began operating a regional energy market in 2005 that continues to serve the loads of all Midcontinent ISO participants, including the three jurisdictional investor-owned electric utilities providing service in North Dakota. A centralized generating unit dispatch procedure that co-optimizes the energy and ancillary services markets was implemented to ensure that the lowest cost generators are always being used throughout the region regardless of utility control area boundaries. The Midcontinent ISO energy market establishes Locational Marginal Prices (LMP's) for electric energy that is updated every five minutes at local pricing nodes throughout the Midcontinent ISO footprint. All energy must be provided through the market. Producers are paid the LMP for their energy at the time and node where it enters the market. The load pays the LMP at the time and node where the energy is delivered.

Environmental Regulation

Beginning in 2010 the U.S. Environmental Protection Agency (EPA) started issuing several rules that will impact the electric power industry. These regulations are designed to tighten controls on NO_x, ozone, SO₂, particulates, mercury, cooling water intake and discharge, and fly ash. These EPA rules will require some existing coal units to either be retrofit with environmental control equipment or retired. There has also been progress made by the EPA towards regulating greenhouse gases, for instance CO₂. The total magnitude of the effects on reliability and costs from these rules has yet to be completely analyzed.

Montana-Dakota Utilities Co. and Otter Tail Power Company filed an advance determination of prudence case, PU-11-163 and PU-11-165 respectively, with the Commission in May 2011 to install an air quality control system (AQCS) on their jointly owned Big Stone coal plant to comply with EPA's Regional Haze Program. The Regional Haze Program is in place to improve visibility in specific "Class I" areas, in particular to the Big Stone plant are the Badlands National Park, Theodore Roosevelt National Park, Isle Royale National Park, Voyageurs National Park, and Boundary Waters Canoe Area. The estimated capital cost for the AQCS is approximately \$405 million with both MDU and Otter Tail North Dakota customers seeing an approximately 16 percent increase in rates as a result.

Uncertainty

Utility companies and the Commission are tasked with determining the prudence of resource additions prior to construction and currently all resource options are surrounded with large uncertainties. Coal faces the above rules and the potential for greenhouse gas regulation. Natural gas faces fracking concerns, historically volatile fuel prices, and the potential for greenhouse gas regulation. Nuclear faces unanswered waste storage, permitting concerns, and high cost. Renewable resources face their intermittent nature and high cost. With hundreds of millions of ratepayer dollars at stake, making an advance determination of prudence is a major challenge.

Weights and Measures Program

For the 2011-2013 biennium, the Weights and Measures Program inspected and tested 16,903 weighing or measuring devices as illustrated by the following table:

TYPE OF DEVICE	NUMBER
GAS PUMP	10,274
COUNTER/PLATFORM SCALE	5,053
BULK DELIVERY METER	30
MOTOR TRUCK SCALE	660
HOPPER SCALE	304
DECK/DORMANT SCALE	334
AUXILIARY BEAM	20
LIVESTOCK SCALE	104
TRACK/HANGING SCALE	124
ONBOARD WEIGH SYSTEM	0
TOTAL:	16,903

For the 2011-2013 biennium, the Weights and Measures Program monitored the documentation of 21,946 weighing or measuring devices installed or serviced by 174 registered service persons employed by 58 registered service companies that operate in North Dakota.

For the 2011-2013 biennium, the Weights and Measures Program conducted 31 complaint investigations as illustrated by the following table:

TYPE OF DEVICE	NUMBER
LARGE SCALES	0
SMALL SCALES	0
LPG DEVICES	0
RETAIL FUEL DISPENSERS	9
DELINQUENT TEST FEES	22
TOTAL:	31

For the 2011-2013 biennium, the Commission deposited a total of \$287,333 to the general fund generated from weights and measures inspection fees through June 30, 2013.

Major Challenges

In the 2013 Legislative session, the Weights and Measures Program was reduced from 4 to 3 full time employees. In the 2013-2015 biennium, the Commission will continue its small scale and liquid pump testing program, will discontinue its large scale testing program, and will implement a quality assurance program for monitoring large scale testing services provided by the private sector.

Since most of the work done by the division is in the field, a major challenge in the future, considering the high cost of fuel, is to keep travel expenses as low as possible while fulfilling the Commission mandate.

Licensing Division

Statutory and Constitutional Responsibilities

- Oversee the licensing and bonding of all grain elevators, facility-based grain buyers, roving grain buyers, and hay buyers. These entities serve as the initial market for much of the grain produced by North Dakota farmers. Regulation of these entities is intended to protect the people who sell grain to or store grain in the warehouses and is enforced within a framework that minimizes negative economic impacts on related industries and individual entities.
- Conduct grain elevator and grain buyer examinations to ensure licensees are adhering to generally accepted business practices, adequately bonded, and have sufficient grain inventories on hand to cover their cash and grain storage obligations.
- Process all grain elevator, grain buyer, and hay buyer insolvencies. A licensee is insolvent when the licensee is unable to make payment for grain or hay purchased or marketed by the licensee or is unable to make redelivery or payment for grain stored or purchased.
- Oversee the collection of credit-sale contract indemnity fund assessments and the disbursement of monies from the fund in grain warehouse and grain buyer insolvencies.
- Oversee the licensing and bonding of all auctioneers and auction clerks.

Mission Statement and Goals

The mission of the Licensing Division is to fulfill statutory mandates by protecting the public interests of North Dakota patrons while regulating grain warehouses, grain buyers, hay buyers, auctioneer and auction clerk licensees in a fair, efficient, responsive, cooperative, and timely manner. The goals of the division are:

- Provide education to producers on the importance of selling grain to licensed and bonded grain warehouses and grain buyers and signing credit-sale contracts and to help producers understand the bond and credit-sale contract indemnity fund protections available in insolvency.
- Provide education to other agencies and commodity groups on the license, bond, and compliance requirements of grain warehousemen and grain buyers.
- Stay apprised of issues on the federal level that affect the state's grain industry and provide assistance in reaching resolution.
- Work with industry and legislators on issues facing the industry.
- Enhance the grain warehouse examination program by conducting examinations with bordering states, scheduling to accommodate joint examinations, and sharing examination results with federal examiners and others.
- Establish a compatible electronic data interchange (EDI) with licensees in an effort to streamline the inspection program.

Key 2013 Legislation

- House Bill 1008 amended the Commission's budget to include funding for litigation costs for grain warehouse, grain buyer and hay buyer insolvencies (North Dakota Century Code chapters 60-02, 60-02.1, 60-03, 60-04, and 60-10).

Major Accomplishments and Activities (and Trends)

- The Licensing Division completed 375 grain warehouse examinations and 18 roving grain buyer examinations.
- The Licensing Division approved 231 capacity increase requests and 150 capacity decrease requests. The Licensing Division also granted 49 requests to discontinue business and issued 39 new licenses. At the start of the biennium, there were 290 licensed grain warehouses and 111 licensed facility-based grain buyers with a combined licensed capacity of 369.8 million bushels. The trend towards fewer and larger grain warehouses continued during the biennium ending with 282 licensed grain warehouses and 111 licensed facility-based grain buyers with a combined licensed capacity of 400.8 million bushels.
- There were 82 roving grain buyers licensed at the start of the biennium and 81 roving grain buyers licensed at the end of the biennium.
- At the start of the biennium there were 373 licensed auctioneers and 201 auction clerks and at the end of the biennium there were 370 licensed auctioneers and 201 licensed auction clerks.

Major Challenges

- The number of grain warehouse and grain buyer insolvencies occurring simultaneously and legal issues associated with the insolvencies caused delays in the distribution of trust fund and credit-sale contract indemnity fund proceeds.
- The Licensing Division continued its efforts to provide education and awareness on the importance of conducting business with only licensed and bonded grain buyers and the importance of signing credit-sale contracts.

Trends (included in D above)

Major Cases - Seven Insolvencies

- The agency was involved in seven grain warehouse or grain buyer insolvencies during the biennium. The first insolvency was filed in March 2009 and involved VeraSun Hankinson, LLC (VeraSun) of Hankinson, North Dakota. VeraSun operated a grain warehouse at Hankinson for the purpose of processing corn into ethanol. VeraSun, an affiliate of VeraSun Energy Corporation, filed a Petition for Reorganization under Chapter 11 of the United States Bankruptcy for the District of Delaware. In March 2009, the Commission filed a motion for relief from the automatic stay with the U.S. Bankruptcy Court and in September 2009, the Commission was granted partial relief. Two cash claims totaling \$132,784.85 were filed with the Commission. In May 2011, letters withdrawing claims were received from each claimant. The Commission was reimbursed for its expenses and discharged as trustee. The case was closed in September 2011.
- The second insolvency was filed in June 2010 and involved Organic Grain and Milling, Inc. of Clyde, North Dakota. Organic Grain and Milling, Inc. dealt primarily in organic grain. One cash claim totaling \$17,276.88 and four credit-sale contract claims totaling \$160,829.65 were filed with Commission. There were no grain assets available for the Commission to liquidate, however, the Commission collected \$28,148.74 for outstanding accounts receivable. In August 2011 a check representing 100% payment, plus interest since date of insolvency, was mailed to the valid cash claimant and checks totaling \$128,663.71 were mailed to the valid credit-sale contract claimants, with valid credit-sale contract claimants receiving 80% of the amounts owed. The Commission was reimbursed for its expenses and discharged as trustee. The case was closed in September 2011.
- The third insolvency was filed in July 2010 and involved Grabanski Grain, LLC of Grafton, North Dakota. Grabanski Grain, LLC filed for bankruptcy under Chapter 11 in July 2010. In January 2011, the Commission filed a motion for relief from the automatic stay with the U.S. Bankruptcy Court for the District of North Dakota and on January 24, 2011, relief from stay was granted. There were no grain assets to liquidate. In December 2012, checks totaling \$184,964.03 were mailed to seven valid cash claimants representing 100% payment, plus interest since date of insolvency and checks totaling \$409,002.41 were mailed to the valid credit-sale contract claimants, with each claimant receiving 80% of the amounts owed. Claims totaling \$266,329.68 were determined to be invalid. The Commission was reimbursed for its expenses and discharged as trustee. The case was closed in May 2013.
- The fourth insolvency was filed in February 2011 and involved Mitchell Feeds, Inc. Mitchell Feeds, Inc. was licensed as a roving grain buyer in North Dakota. The issue surrounding the grain inventories being transported to a facility in Hendrum, Minnesota caused significant delays in this process. The insolvency was pending at the end of the biennium.
- The fifth insolvency was filed in February 2012 and involved Anderson Seed Co., Inc. of Mentor, Minnesota who operated grain warehouses at Durbin and Selz, North Dakota. In January 2012, Anderson Seed Co., Inc. entered into a Purchase Order and Security Agreement to sell a significant amount of sunflower seeds to a grain buyer. North Dakota statute provides that grain contained in a warehouse is subject to a first priority lien in favor of the outstanding receipt holders and that the lien is discharged as to grain sold by the warehouseman to a buyer in the ordinary course of business. The issue of whether the January 2012 grain sale was in the ordinary course of business is ongoing and this insolvency was pending at the end of the biennium.
- The sixth insolvency was filed in October 2012 and involved Falkirk Farmers Elevator Co., Falkirk, North Dakota. A lawsuit pending in federal court against Falkirk Farmers Elevator Co. has delayed this insolvency and at the end of the biennium the insolvency was pending.

- The seventh insolvency was filed in April 2013 and involved Earth Harvest Mills, Inc. doing business as Dakota Prairie Organic Flour Company. The Commission was appointed trustee in state district court and this insolvency was pending at the end of the biennium.

Financial Data

- During this biennium, payments totaling \$547,666 were paid from the credit-sale contract indemnity fund. At the end of the biennium, the credit-sale contract indemnity fund balance was approximately \$6.5 million.
- Revenues generated for the general fund for grain warehouse, grain buyer, hay buyer, auctioneer, and auction clerk license fees received during this same period of time total \$397,140.

NORTH DAKOTA PUBLIC SERVICE COMMISSION
Active Grain Warehouse & Grain Buyer Insolvencies During Biennium

Licensee Location(s) License Type Case Filed Case Closed	Total Claims Filed	Valid Cash Claims Filed	Valid CSC I-Fund Claims Filed	Invalid Claims Filed	Grain Proceeds	Bond on File & Bond Proceeds Used	Interest Earned on Trust Account	Valid Cash Claim Payments (% Payment)	Interest Paid To Cash Claimants ¹	CSC I-Fund Claim Payments (80%)	Total Claims Paid & Expenses Reimbursed ²
VeraSun Hankinson, LLC, Hankinson, ND (GW) March 2009 September 2011	\$132,784.85	\$132,784.85 2 Claims	\$0	\$0	\$0	\$380,000 \$3,908.83 ³	\$0	N/A	N/A	\$0	N/A \$3,908.83
Organic Grain & Milling, Inc., Clyde, ND (GW) June 2010 September 2011	\$193,467.24	\$17,276.88 1 Claim	\$160,829.65 4 Claims	\$8,276.62 1 Claim	\$28,148.74 ⁴	\$62,500 \$0	\$41.43	\$17,276.88 100%	\$531.05	\$128,663.72	\$147,607.24 \$1,135.60
Grabanski Grain, LLC, Grafton, ND (GW) July 2010 May 2013	\$848,296.08	\$184,964.03 7 Claims	\$409,002.41 7 Claims	\$266,329.68	0	\$340,000 \$201,376.20		\$184,964.03 100% + interest	\$12,984.47	\$327,201.92 + ½ expenses = (\$330,629.62)	\$532,005.82 \$6,855.40 ⁵
Mitchell Feeds, Inc., Fargo, ND (RGB) February 2011						\$70,000					
Anderson Seed Co., Inc., Durbin & Selz, ND (GW) February 2012						\$280,000					
Falkirk Farmers Elevator Co, Falkirk, ND (GW) October 2012						\$380,000					
Earth Harvest Mills, Inc., Harvey, ND (GW) February 2013						\$50,000					

GW – Grain Warehouse RGB – Roving Grain Buyer CSC – I Fund – Credit-Sale Contract Indemnity Fund - provides maximum payment of 80% not to exceed \$280,000 per insolvency.

¹ If funds are available, cash claimants can be paid interest at the weighted average prime rate charged by the Bank of North Dakota since the date of insolvency.
² Statute provides for the reimbursement of expenses incurred by the Commission in the administration of the insolvency.

³ Two claims were filed and eventually withdrawn by the claimants. The Commission was reimbursed for its insolvency expenses from the bond proceeds.

⁴ The unused proceeds totaling \$9,246.64 were returned to Organic Grain & Milling, Inc.

⁵ Insolvency expenses totaled \$6,855.40 with ½ paid from the trust fund and ½ paid from the CSC I-Fund.

Reclamation Division

Statutory and Constitutional Responsibilities

The Reclamation Division administers and enforces North Dakota's law and rules governing surface coal mining and reclamation operations under North Dakota Century Code Chapter 38-14.1.

North Dakota's reclamation law is based on the federal Surface Mining Control and Reclamation Act of 1977 (P.L. 95-87) and the federal Office of Surface Mining Reclamation and Enforcement (OSM) provided sixty-four percent of the funding needed to run this regulatory program during the 2011-13 biennium.

Prior to issuing a mining permit, the Commission also ensures certain requirements of the Surface Owner's Protection Act, North Dakota Century Code Chapter 38-18, are met.

Mission Statement and Goals (from the strategic plan)

The mission of the Reclamation Division is to administer the surface coal mining and reclamation program mandated by state and federal law to achieve optimum results in a cost effective and fair manner; and to ensure that mining operations subject to this program are conducted in such a way that they:

- 1) Are environmentally sound and minimize adverse effects;
- 2) Protect public interests and the rights of property owners;
- 3) Return mined lands to beneficial uses; and,
- 4) Restore the productivity of mined lands having agricultural uses to premine levels.

Related goals are to:

- Continually carry out the mine permitting, inspection and bond release activities in a manner that provides the required protection to the environment and property owners while being responsive to needs of the mining industry;
- Continually evaluate and adjust the regulatory program to achieve the optimum balance among environmental protection, least-cost industry operations and landowner pursuit of agricultural interests;
- Continue to explore the scientific, engineering and statistical underpinnings of the regulatory program and make every effort to see that improvements resulting from that exploration are made at both the state and federal level;
- Promote public awareness of the regulatory program through increased contact with relevant organizations and potentially affected landowners; and,
- Maintain maximum staff effectiveness by providing training and other opportunities for professional growth.

Key 2013 Legislation

No legislation was passed during the 2013 session that affected the coal regulatory program.

Major Accomplishments and Activities

Significant coal mine permitting activities during the 2011-13 biennium:

- 1) Five significant permit revisions were approved and one of those added another 16,924 acres to an existing permit area. Significant revisions are subject to the same provisions for public notice and comment as new permit applications.
- 2) Fifty-seven insignificant permit revisions were approved.

- 3) Seven permit renewals were approved.
- 4) As of June 30, 2013, there were 117,266 acres under permit for surface coal mining and reclamation operations.
- 5) At the end of the biennium, permits were held by seven companies for seven mines. Of the seven mines, six are active and the other one was inactive and under reclamation. the active lignite mining companies are: BNI Coal, Ltd. which owns and operates the Center Mine, the Coteau Properties Company which owns and operates the Freedom Mine, Dakota Westmoreland Corporation which owns and operates the Beulah Mine, and the Falkirk Mining Company which owns and operates the Falkirk Mine. Two small mines that produce Leonardite, an oxidized lignite, are also active. These are American Colloid Company's Page/Perkins Mine and the Stony Creek Mine owned by Leonardite Products, LLC. Reclaimed acreage was also still under permit at the former Gascoyne Mine that was owned and operated by the Knife River Corporation.

Routine mine inspections are conducted and reported based on inspectable units. Each permit is considered an inspectable unit and a single mine may have more than one mining permit. The following inspections were conducted during the 2011-13 biennium:

- 1) 1,324 inspections on 28 inspectable units were conducted.
- 2) 211 complete inspections were conducted (complete inspections cover all aspects of the mining and reclamation operations being conducted).
- 3) 1,113 were considered partial inspections.

Two Notices of Violation (NOV) were issued to mining companies during the 2011-13 biennium and \$3,000 in civil penalties were assessed and collected for these violations.

Six final bond release applications were approved during the 2011-13 biennium whereby the commission terminated its jurisdiction on 4,410 acres that had been under permit for surface coal mining. All remaining permitted lands at the former Glenharold Mine received final bond release during the biennium.

Two new permit applications were received during the 2011-13 biennium and staff continued work on two others that were filed earlier. The following is the list of pending permit applications as of June 30, 2013:

- 1) The Coyote Creek Mining Company, a subsidiary of the North American Coal Corporation, filed an application in May 2013 to permit 84 acres for the proposed shop/office area and dragline erection site for a new mine southwest of Beulah. The Reclamation Division was starting its technical review of this application when the biennium ended.
- 2) BNI Coal, Ltd. filed an application in late 2011 to permit 8,360 acres for a new mine area at its mine south of Center. The Reclamation Division was reviewing BNI's response to staff's technical deficiency letter on this application as the 2011-13 biennium ended.
- 3) An application from South Heart Coal, LLC, to permit 4,581 acres for a proposed mine southwest of South Heart was filed in March 2010. The Reclamation Division was waiting for the applicant to respond to its second technical deficiency letter, dated July 9, 2012, as the biennium ended. An informal conference was also held on this application on June 28, 2011. This conference needs to be re-convened after the applicant addresses all of the technical deficiencies that have been noted by Reclamation Division staff.
- 4) The Otter Creek Mining Company, a subsidiary of the North American Coal Corporation, filed an application in December 2008 to permit 5,490 acres for a proposed mine northwest of Center. The Reclamation Division sent its second technical deficiency letter to the applicant in April 2012 and was awaiting a response to that letter when the 2011-13 biennium ended.

Reclamation Division staff also worked with the Coyote Creek Mining Company and its consultants on the baseline environmental studies for the larger permit area they plan to permit during the 2013-15 biennium. Coyote Creek plans to file that application in late 2013 for the areas which will actually be mined beginning in early 2016. Also, in July 2011, the Commission approved a significant permit revision for the Falkirk Mining Company which added 16,924 acres to one of its permits for the Falkirk Mine.

Additional information was added to the Reclamation Division's Geographic Information System (GIS) for storing and managing much of the data received from mining companies. The GIS has become an important tool for tracking mining and reclamation activities and for the technical analysis of permit applications. Information entered into the GIS includes recent high altitude air photos, permit boundaries, roads, stockpile locations, ponds and related features. Information from annual mine maps and bond releases are also entered. GIS data is then loaded onto tablet computers and iPads equipped with Global Positioning System (GPS) receivers that inspectors use when carrying out mine inspections. This allows for accurate tracking and recording of activities during mine inspections.

The Commission continued to receive excellent evaluation reports from OSM's Casper Field Office during the biennium on its implementation of North Dakota's coal regulatory program.

Staff attended numerous OSM sponsored training classes, local training courses and technical conferences during the biennium.

Major Challenges

An ongoing concern is the amount of federal funding that the commission will receive to cover the federal share of the coal regulatory program costs. OSM currently covers 64% of the program costs and the other 36% is paid with State general funds. As part of OSM budget requests for the past several years, the administration has proposed reducing the amount of federal dollars nationwide for states to administer their coal regulatory programs. While the proposed reductions have not been enacted by Congress, the adequacy of future federal funding continues to be a concern due to the large federal deficit.



Falkirk Reclaimed Tillage

The Reclamation Division has seen a significant increase in the permitting workload in the past several years due to the applications that propose permitting additional lands for surface coal mining activities. Staff spent a lot of time reviewing BNI Coal's permit application covering 8,360 acres for a new mine area at the Center Mine and a related revision that adds 180 acres to another permit. Staff also reviewed responses to the initial technical deficiency letters on the permit application for two new mines, the Otter Creek and South Heart Mines. The higher than normal permitting workload is expected to continue into the 2013-15 biennium. The pending and anticipated applications from the Coyote Creek Mining Company will involve significant staff review time. Also, the inspection workload will increase once mining operations begin at the new mines.

Staff also spends considerable time reviewing final bond release applications as these reviews must ensure all reclamation requirements have been met since the commission's jurisdiction over the reclaimed lands ends once final bond release becomes effective. A number of bond release applications are expected during 2013-15 biennium for reclaimed lands at the four large active mines and at the former Gascoyne Mine.

Trends

The Reclamation Division plans to continue to add more data to the GIS to manage data and carry out its permit review and inspections more efficiently and effectively.

Final bond release activity is expected to increase as additional reclaimed lands become eligible for release, especially at the four large active mines.

Major Cases

The Dakota Resource Council (DRC) and Sierra Club filed two lawsuits in federal district court in late May 2012 that involve the coal regulatory program. DRC filed a lawsuit against the commission for failure to obtain OSM approval of Policy Memos to Mine Operators that have been issued by the commission over the past thirty-five years. DRC claims that these guidance documents need to be approved by OSM as a formal amendment to the federally approved program. The other lawsuit was filed against the Department of the Interior by the DRC and Sierra Club over past campaign contributions that were received by elected commissioners. As part of this lawsuit, the plaintiffs want the Department of the Interior to withdraw its approval of North Dakota's coal regulatory program. The Commission intervened in this lawsuit and the Department of the Interior/OSM intervened in the policy memo case. At the close of the 2011-13 biennium, the cases were scheduled for oral argument before the judge in mid-August. In early September, the court had ruled in the policy memo case finding that the policy memos do not need OSM approval. In the other case, the Court dismissed the claims made by the DRC and Sierra Club.

In mid-2010, the Dakota Resource Council requested a formal hearing on the commission's decision to approve a significant revision for the Falkirk Mine, Case No. RC-08-640, which changed the approved post-mining land use on 84 acres from cropland to recreation. The commission then adopted an order that affirmed the decision to approve the revision. The DRC appealed that decision to District Court and, on June 2, 2011, the District Court affirmed the commission's formal hearing order. The DRC then appealed the District Court decision to the North Dakota Supreme Court. On April 10, 2012, the Supreme Court affirmed the commission's decision to approve the land use change.

A public hearing was held on August 9, 2011 for some minor collateral bond rule changes proposed in Case No. RC-11-236. The proposed changes pertain to letters of credit that serve as the collateral for the bonds. These changes were awaiting OSM approval as a State Program Amendment as the 2011-13 biennium ended. A second rulemaking hearing was held on July 12, 2012 for a number of rule changes proposed in Case No. RC-12-166. These proposed changes primarily relate to the commission's use of OSM's Applicant Violator System prior to the approval of mining permits, renewals and certain revisions. The Applicant Violator System is used to block the approval of an application if the applicant is linked to an entity with unabated violations or unpaid penalties at other coal mines in the United States. These rule changes were also awaiting federal approval by OSM as the biennium ended.

No informal conferences or formal hearings were held on permit applications or notices of violation during the 2011-13 biennium.

AML Division

Statutory and Constitutional Responsibilities

The Abandoned Mine Lands Division is responsible for administering North Dakota's abandoned mine land reclamation law, North Dakota Century Code Chapter 38-14.2, for eliminating hazards associated with abandoned surface and underground coal mines.

This program covers lands that were mined prior to the enactment of the federal Surface Mining Control and Reclamation Act (P.L. 95-87) in 1977.

The program is totally funded by the federal Office of Surface Mining Reclamation and Enforcement (OSM) within the Department of the Interior through its collection of a special reclamation fee on coal mines since 1977.

Mission Statement and Goals

The Abandoned Mine Lands (AML) Division seeks to enhance the public's safety by using available funds in an efficient and effective manner to prioritize and reclaim abandoned coal mine sites that pose health, safety, and general welfare hazards. Projects are selected based on public input and an analytical review of all known abandoned mine sites and are completed using the most cost-effective manner possible to insure maximum returns for the monies expended.

Related goals are:

- 1) Reclaim abandoned mine land sites found on the North Dakota AML Inventory;
- 2) Reclaim hazardous abandoned mine sites not on the AML Inventory but discovered through investigation, exploratory drilling, or reports from the public;
- 3) Ensure rapid response to AML Emergencies and prompt reclamation of emergency sites to eliminate imminent mine-related hazards as the AML Division's highest work priority;
- 4) Use AML funds as efficiently as possible, seek additional funding sources, engage in partnerships, increase public awareness, and maintain professional contacts through continued membership in organizations such as the National Association of Abandoned Mine Lands, Interstate Mining Compact Commission, and the Interstate Group on Abandoned Underground Mines.
- 5) Maintain funds in our State reclamation set-aside account so that when the federal program is over, the State will have financial resources to address abandoned mine lands hazards.

Key 2013 Legislation

No legislation was passed during the 2013 session that affected the abandoned mine land program.

Major Accomplishments and Activities

The Commission received between 3.5 and 4 million dollars per year during the 2011-13 biennium for North Dakota's AML program. Provisions in a federal law enacted by Congress in late 2006 amended the Surface Mining Control and Reclamation Act of 1977 to re-authorize the AML program and extend the federal reclamation fee that is used to fund the program until 2022. This legislation resulted in a significant increase in the amount of federal funding that North Dakota receives for its AML program. Prior to that, the Commission was receiving about 1.6 million dollars per year. The commission received just under 4 million dollars in 2012 and should have received a similar amount in 2013. However, the 2013 amount was reduced by approximately 5%, or about \$200,000, due to the sequestration of federal funds. The commission's regular allocation for 2014 should again be just under 4 million dollars, but that is likely to be reduced due to sequestration. Starting in 2015, the commission is scheduled to receive minimum program funding, or 3 million dollars per year, for the remaining life of the program.

During the 2011-13 biennium, major drilling and grouting projects were conducted to inject cementitious grout into underground mine voids beneath residential areas and public roads near Beulah and Zap in Mercer County in order to stabilize them and prevent mine collapse that could endanger people and damage property. Major construction projects to backfill dangerous surface mine highwalls and eliminate spoil piles were carried out south of Columbus in Burke County and southwest of Velva in Ward County. An exploratory drilling project was also conducted at several underground mines in western North Dakota.

Maintenance projects to fill approximately 250 hazardous sinkholes caused by underground mine collapse at numerous sites in western North Dakota. Emergency projects to fill extremely hazardous sinkholes caused by underground mine collapse near homes and public roads were conducted at sites near Niobe and Scranton. Maintenance work, such as tree planting and erosion control, was carried out at previously reclaimed sites.

A project was completed in December 2012 to extinguish four dangerous coal outcrop fires mainly on U.S. Forest Service properties, in Slope and McKenzie Counties in western North Dakota.

Funds are being held in a set-aside account that will be available for use when the State no longer

receives any AML funding from OSM. The balance in this interest bearing account was \$2,708,223 on June 30, 2013. (States are no longer allowed to place additional federal grant funds into the set-aside account as the result of the federal legislation enacted in December 2006 that re-authorized and extended the AML program.)

Progress was made on adding available abandoned mine data to the division's Geographic Information System (GIS) for all known abandoned mine sites in North Dakota. Much of this information will be posted on the Commission's website so it is readily available to the public.

The AML Division continued to receive excellent evaluation reports from OSM's Casper Field Office during the 2011-13 biennium.



Abandoned surface mine before reclamation

Staff attended several OSM sponsored training classes and technical conferences during the biennium. One AML staff member also serves as a co-instructor for the AML drilling and grouting course that is included in the OSM suite of training classes.

Major Challenges

As work at the larger AML sites is completed, the number of projects will certainly increase and project managers will need to design and manage more projects.

Work will continue on the development of the GIS containing abandoned mine information and to post detailed mine information on the commission's website.



Land at the Havelock AML site after reclamation

Trends

With re-authorization and the increased federal funding, many construction projects to eliminate mine hazards should be completed much sooner. As construction work is completed at the larger AML sites, staff will need to design and manage more reclamation projects each year to use the available funds.

Major Cases

The most significant case involved the Buechler/Velva project south of Sawyer where the contractor only completed about one-third of the work before abandoning it. The AML Division then made a claim on the contractor's performance bond and the bonding company arranged for a completion contractor to finish the project during the 2011 construction season. While the construction work was being completed, the original contractor sued the commission for damages over the terms in the original contract. The Commission approved a settlement agreement to end the lawsuit in early 2013.

Railroad

Statutory and Constitutional Responsibilities

State law provides that the Public Service Commission is the state agency charged with representing North Dakota's rail interests before federal agencies and in direct negotiations with rail carriers. The Commission, to the extent consistent with federal law, may regulate railroads within the state in activities that constitute intrastate commerce. The Commission also has jurisdiction over some specific safety and landowner rights matters.



Former Commissioners

1. Bartlett, David.....	1889-1890
2. Underhill, T.S.....	1889-1890
3. Walsh, Geo. H.....	1891-1892
4. Sletten, Andrew.....	1891-1892
5. Stevens, Ben.....	1893-1894
6. Cameron, Peter.....	1893-1894
7. Rasmussen, Nels P.....	1893-1894
8. Keyes, Geo. H.....	1895-1898
9. Wamberg, John.....	1895-1896
10. Currie, John W.....	1895-1896
11. Gibson, J.R.....	1897-1898
12. Erickson, Henry.....	1899-1900
13. Simons, John.....	1899-1900
14. Walton, L.L.....	1897-1900
15. Youngblood, J.....	1901-1902
16. Shea, J.F.....	1901-1904
17. Schatz, A.....	1903-1904
18. Lord, O.J.....	1901-1904
19. Christianson, John.....	1905-1906
20. Diesem, C.S.....	1905-1908
21. Stafne, Erick.....	1905-1908
22. Westby, Simon.....	1907-1908
23. Mann, William H.....	1909-1916
24. Anderson, O.P.N.....	1909-1916
25. Stutsman, W.H.....	1909-1916 & 1921-1922
26. Johnson, N.P.....	1917-1918
27. Bleick, Chas.....	1917-1918
28. Aandahl, S.J.....	1917-1920
29. Dupuis, C,F.....	1919-1920
30. Milhollan, Frank.....	1919-1932
31. Harding, Fay.....	1923-1934
32. McDonnell, G.W.....	1921-1936 & 1940-1950
33. McDonald, S.S.....	1937-1948
34. Larkin, Ben G.....	1928-1949
35. Cart, Elmer W.....	1935-1940 & 1949-1954
36. Brant, E.H.....	1951-1954
37. Anderson, Anson J.....	1955-1960
38. Nelson, Ernest D.....	1949-1961
39. Vaaler, Martin.....	1954-1962
40. Thompson, Richard J.....	1961-1966
41. Wolf, Ben J.....	1963-1980
42. Elkin, Richard.....	1967-1983
43. Sandstorm, Dale.....	1983-1992
44. Hagen, Bruce E.....	1961-2000
45. Reinbold, Leo M.....	1981-2003
46. Wefald, Susan E.....	1993-2008
47. Clark, Tony.....	2001-2012
48. Cramer, Kevin.....	2003-2012
49. Fetch, Bonny (temporary appointment).....	2012