

December 1, 2004

The Public Service Commission convened in the Commission Hearing Room, State Capitol, Bismarck, North Dakota, on December 1, 2004, 10:00 a.m. Present were Commissioners Clark, Wefald, and Cramer.

Minutes

Mr. Cramer: I move the minutes of November 18, 2004, be approved.

Mr. Clark: I second the motion.

Roll Call: All voting "Aye."

Bills

Mr. Cramer: I move the following bills, as reviewed by the Commission, be approved and paid:

The Best Present Co.	542.85
Susan Wefald	539.98
Anthony T. Clark	856.82
Leo D. Praus	216.00
Jensen Travel	1,730.70
Richard Fillbrandt	144.10
Thiem Drilling, Inc.	70,821.29
FedEx	30.52
ND State Board of Law Examiners	730.00
LawProse, Inc.	310.00
Facilities Management - ups charges	22.31
DOT	16,027.08
Shawn Weishaar dba/Weishaar	5,845.64
Appraisal Service	
L. E. Peabody & Associates, Inc.	14,556.71

Mr. Clark: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-04-602
BullsEye Telecom, Inc.
Long Distance/Local Exchange
Reseller
Application

Mr. Cramer: I move the Commission issue Certificates of Registration to BullsEye Telecom, Inc. to resell interexchange and local exchange telecommunications services in North Dakota, Case No. PU-04-602.

Mr. Clark: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-04-610
Business Productivity Solutions, Inc.
Long Distance/Local Exchange
Reseller
Application

Mr. Cramer: I move the Commission issue Certificates of Registration to Business Productivity Solutions, Inc. to resell interexchange and local exchange telecommunications services in North Dakota, Case No. PU-04-610.

Mr. Clark: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-04-612
Nationwide Professional Teleservices,
LLC
Long Distance Reseller
Application

Mr. Cramer: I move the Commission issue a Certificate of Registration to Nationwide Professional Teleservices, LLC to resell interexchange telecommunications services in North Dakota, Case No. PU-04-612.

Mr. Clark: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-04-529
Otter Tail Corporation
Stephen Hovey, Hamberg, ND
Public Convenience & Necessity

Mr. Cramer: I move the Commission adopt the Order issuing a Certificate of Public Convenience and Necessity authorizing Otter Tail Corporation to extend electric service to Stephen Hovey for a shop, bin, and farm site near Hamberg, North Dakota, Case No. PU-04-529.

Mr. Clark: I second the motion.

Roll Call: All voting "Aye."

Case No. AU-04-615
Mitchell Lee Barthel - Auctioneer
License Application

Mr. Cramer: I move the Commission approve the auctioneer license application for Mitchell Lee Barthel, Perham, Minnesota.

Mr. Clark: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-04-402
MCImetro Access Transmission
Services LLC
Qwest Corporation
Service Agreement(s)
Notice of Hearing

Mr. Clark: I move the Commission issue a Notice of Hearing in MCImetro Access Transmission Services LLC/Qwest Corporation Service Agreement(s), Case No. PU-04-402.

Mr. Cramer: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-04-500
Qwest Corporation
Performance Indicator Definitions
Revision

Mr. Clark: I move the Commission adopt the Order in Case No. PU-04-500, Qwest Corporation's Performance Indicator Definitions.

Mr. Cramer: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-04-546
Midcontinent Communications
Local Exchange
Public Convenience & Necessity
Notice of Opportunity for Hearing

Mr. Clark: I move the Commission issue a Notice of Opportunity for Hearing in the captioned applications for certificates of public convenience and necessity to provide telecommunication services in North Dakota.

Mr. Cramer: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-04-603
BullsEye Telecom, Inc.
Local Exchange
Public Convenience & Necessity

Case No. PU-04-627
Trans National Communications
International, Inc.
Local Exchange
Public Convenience & Necessity

Mr. Clark: I move the Commission issue a Notice of Opportunity for Hearing in the captioned applications for certificates of public convenience and necessity to provide telecommunication services in North Dakota.

Mr. Cramer: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-04-526
Heartland Feed, Inc. vs.
Montana-Dakota Utilities Co.
Complaint
Notice of Hearing

Mrs. Wefald: I move the Commission issue a Notice of Hearing in Case No. PU-04-526, Heartland Feed, Inc. vs. Montana-Dakota Utilities Co.

Mr. Cramer: I second the motion.

Roll Call: All voting "Aye."

Case No. RC-04-486
BNI Coal, Ltd
Bond Release No. 10, Permit No. 24
Approval

Mrs. Wefald: I move the Commission approve Bond Release No. 10 for Surface Coal Mining Permit No. 24, held by BNI Coal, Ltd. for the Larson Mine, to release all reclamation liabilities on 7.23 acres located in a portion of the NW¹/₄ of Section 14, T162N, R94W, Burke County. The amount of the bond release is \$10,800, and it will become effective December 31, 2004, unless a formal hearing is requested.

Mr. Cramer: I second the motion.

Roll Call: All voting "Aye."

Case No. AU-04-540
Jeremy J. Ferderer, Auction Clerk
License. No. 477
Complaint

Mrs. Wefald: I move the Commission approve the Interim Order in Case No. AU-04-540, Public Service Commission, Complainant, vs. Jeremy J. Ferderer, Auction Clerk, and Capitol Indemnity Corporation, Respondents.

Mr. Cramer: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-04-578
Northern States Power Company
Natural Gas Rate Increase
Application
Interim Rates

Mr. Cramer: I move the Commission adopt the Order on interim rates in Northern States Power Company's Natural Gas Rate Increase Application, Case No. PU-04-578.

Mr. Clark: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-04-594
Montana-Dakota Utilities Co., a
Division of MDU
December 2004
Cost of Gas Adjustment/Propane

Mr. Cramer: I move the Commission approve Montana-Dakota Utilities Co.'s propane Cost of Gas adjustment for December 2004, Case No. PU-04-594.

Mr. Clark: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-04-595
Montana-Dakota Utilities Co., a
Division of MDU
December 2004
Cost of Gas Adj./Natural Gas

Mr. Cramer: I move the Commission approve Montana-Dakota Utilities Co.'s Natural Gas Cost of Gas Adjustment for December 2004, Case No. PU-04-595.

Mr. Clark: I second the motion.

Roll Call: All voting "Aye."

Case No. AM-04-508
AML Coal Fire Suppression
Construction Services
Project
Intent to Award Contract

Mr. Cramer: I move the Commission issue an Intent to Award a contract to Hanson's Excavating, Inc. in the amount of \$18,500 for construction services on coal outcrop fires in western North Dakota.

Mrs. Wefald: I second the motion.

Roll Call: All voting "Aye."

Case No. AM-04-597
Leith Phase 1
2005 AML Construction
Project

Mr. Cramer: I move the Commission approve Beulah/Zap Phase 9, Garrison Phase 4, and Leith Phase 1 for reclamation in 2005.

Mr. Clark: I second the motion.

Roll Call: All voting "Aye."

Case No. AM-04-598
Beulah/Zap Phase 9
2005 AML Construction
Project

Case No. AM-04-599
Garrison Phase 4
2005 AML Construction
Project

Case No. AM-04-597
Leith Phase 1
2005 AML Construction
Project
Public Meeting

Mr. Cramer: I move the Commission authorize a public meeting in Grant County to discuss a planned reclamation project in 2005 and solicit input on abandoned mine land sites of concern. Formal advertising, public service announcements, and letters to county officials and landowners will be used to inform the public.

Mrs. Wefald: I second the motion.

Roll Call: All voting "Aye."

Case No. AM-04-597
Leith Phase 1
2005 AML Construction
Project
Abstract Services

Mr. Cramer: I recommend the Commission authorize procurement of abstract services from Grant County Abstract Company, 222 North Main, P.O. Box 228, Carson, North Dakota for title memoranda showing the current legal and equitable ownership interest, and date and manner ownership interest was acquired for Leith Phase 1 in Grant County using sole-source procurement methods.

Mr. Clark: I second the motion.

Roll Call: All voting "Aye."

Tuition Assistance Approval

Mr. Cramer: I move the Commission approve tuition assistance for Guy Welch in accordance with the Commission's education policy for AutoCAD course at Bismarck State College.

Mr. Clark: I second the motion.

Roll Call: All votint "Aye."

Commission Prefiled Bill Drafts

Mr. Cramer: I move the Commission submit the following to the Legislative Council as prefiled bill drafts for the Fifty-ninth Legislative Assembly of North Dakota:

Public Utilities: Amend section 49-22-22 relating to siting process expense recovery; to create a special fund; to provide for retroactive application; and to declare an emergency.

Amend section 49-21-25 relating to unauthorized telecommunications services.

Amend subsection 1 of section 49-21-04 relating to the filing of price schedules by a telecommunication company.

Amend subsection 13 of section 49-21-01.7 relating to the general powers of the public service commission regarding Lifeline and Link-up universal service offerings.

Amend section 49-21-31 relating to the effective date and amount of the performance assurance fund.

Prefiled Bills Continued

Licensing: Amend section 51-05.1-01.1 relating to license revocation without hearing when an auctioneer or clerk bond is cancelled.

Amend section 49-07-01.1 relating to civil penalties for persons violating any statute, commission order, or commission rule which applies to auctioneers or auction clerks.

Create a new section to chapter 60-02.1 relating to the licensing of roving grain buyers; amend sections 60-02.1-07 and 60-02.1-17 relating to licensing and monthly reports of grain buyers, and repeal section 60-02.1-24 relating to the notification to the commission of the destruction of a facility operated by a facility based grain buyer.

Amend sections 60-02-11, 60-02-16, 60-02-17, 60-02-24, 60-02-30, 60-02-31, 60-02-32, 60-02-32, and 60-02-40 relating to the conversion of scale tickets, termination of storage contracts, and filing of monthly reports; and repeal section 60-02-37 relating to notification to the public service commission of the destruction of a warehouse.

Mr. Clark: I second the motion:

Roll Call: All voting "Aye."

Case No. PU-2829-03-83
ITC Group/DCN/Illuminet
vs Qwest Corporation
Complaint
Valuation Billing

Mr. Cramer: I move the Commission bill the parties for costs incurred to date in Case No. PU-2829-03-83, ITC Group/DCN/Illuminet vs Qwest Corporation, Complaint.

Mr. Clark: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-439-03-295
Local Competition
Investigation
Valuation Billing

Mr. Cramer: I move the Commission bill the parties for costs incurred to date in Case No. PU-439-03-295, Public Service Commission, Local Competition, Investigation.

Mr. Clark: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-2342-03-362
Qwest Corporation
Section 272 Biennial Audit
Investigation
Valuation Billing

Mr. Cramer: I move the Commission bill Qwest Corporation for costs incurred to date in Case No. PU-2342-03-362, Qwest Corporation, Section 272 Biennial Audit, Investigation.

Mr. Clark: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-04-83
Southwestern Bell Communications
Services, Inc.
Local Exchange
Public Convenience & Necessity
Valuation Billing

Mr. Cramer: I move the Commission bill Southwestern Bell Communications Services, Inc. for costs incurred to date in Case No. PU-04-83, Southwestern Bell Communications Services, Inc., Local Exchange, Public Convenience and Necessity.

Mr. Clark: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-04-98
ACN Communication Services, Inc
Local Exchange
Public Convenience & Necessity
Valuation Billing

Mr. Cramer: I move the Commission bill ACN Communication Services, Inc. for costs incurred to date in Case No. PU-04-98, ACN Communication Services, Inc., Local Exchange, Public Convenience and Necessity.

Mr. Clark: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-04-107
Comtech 21, LLC
Local Exchange
Public Convenience & Necessity
Valuation Billing

Mr. Cramer: I move the Commission bill Comtech 21, LLC for costs incurred to date in Case No. PU-04-107, Comtech 21, LLC, Local Exchange, Public Convenience and Necessity.

Mr. Clark: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-04-237
Midcontinent Communications vs.
Polar Telecom, Inc./HTC Services, Inc.
Complaint
Valuation Billing

Mr. Cramer: I move the Commission bill Midcontinent Communications, Polar Telecom, Inc., and HTC Services, Inc. for costs incurred to date in Case No. PU-04-237, Midcontinent Communications vs. Polar Telecom, Inc./HTC Services, Inc., Complaint.

Mr. Clark: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-04-402
MCImetro Access Transmission
Services LLC
Qwest Corporation
Service Agreement(s)
Valuation Billing

Mr. Cramer: I move the Commission bill MCI and Qwest for costs incurred to date in Case No. PU-04-402, MCImetro Access Transmission Services LLC, Qwest Corporation, Service Agreement(s).

Mr. Clark: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-04-423
New Access Communications LLC
Local Exchange
Public Convenience & Necessity
Valuation Billing

Mr. Cramer: I move the Commission bill New Access Communications LLC for costs incurred to date in Case No. PU-04-423, New Access Communications LLC, Local Exchange, Public Convenience and Necessity.

Mr. Clark: I second the motion.
Roll Call: All voting "Aye."

Case No. PU-04-454
XO Communications Services, Inc.
Local Exchange
Public Convenience & Necessity
Valuation Billing

Mr. Cramer: I move the Commission bill XO Communications Services, Inc. for costs incurred to date in Case No. PU-04-454, XO Communications Services, Inc., Local Exchange, Public Convenience and Necessity.

Mr. Clark: I second the motion.
Roll Call: All voting "Aye."

Case No. PU-04-465
VCI Company
Local Exchange/Interexchange
Public Convenience & Necessity
Valuation Billing

Mr. Cramer: I move the Commission bill VCI Company for costs incurred to date in Case No. PU-04-465, VCI Company, Local Exchange/Interexchange, Public Convenience and Necessity.

Mr. Clark: I second the motion.
Roll Call: All voting "Aye."

Case No. PU-04-97
Montana-Dakota Utilities Co., a
Division of MDU Re
Natural Gas Rate Increase
Application
Valuation Billing

Mr. Cramer: I move the Commission bill Montana-Dakota Utilities Co. for costs incurred to date in Case No. PU-04-97, Montana-Dakota Utilities Co., Natural Gas Rate Increase, Application.

Mr. Clark: I second the motion.
Roll Call: All voting "Aye."

Change to Standard Specifications for
AML Reclamation Projects

Mr. Cramer: I move that the Commission approve the elimination of retention of funds on construction and professional services contracts, Section 110.7 of the "Standard Specifications for AML Reclamation Projects."

Mr. Clark: I second the motion.
Roll Call: All voting "Aye."

ATTEST

THE COMMISSION ADJOURNED AT 11:55 A.M.

Executive Secretary

TONY T. CLARK, PRESIDENT