

June 6, 2008

The Public Service Commission convened in the Commission Hearing Room, State Capitol, Bismarck, North Dakota, on June 6, 2008, 09:30 a.m. Present were Commissioners Wefald, Cramer and Clark.

Case No. PU-08-48
Minnkota Power Coop., Inc.
Pillsbury-Fargo 230 kV
Transmission Line
Siting Application

Mrs. Wefald: I move the Commission adopt the Findings of Fact, Conclusions of Law and Order issuing a corridor certificate and route permit, but declining to supersede a condition of Reed Township's conditional use permit requiring double circuiting of Minnkota Power Cooperative, Inc.'s proposed 230 kV electric transmission line routed in Barnes, Cass and Steele Counties of North Dakota, Case No. PU-08-48.

Mr. Clark: I second the motion.

Roll Call: Mrs. Wefald votes "Aye".

Mr. Cramer votes "Nay".

Mr. Clark votes "Nay".

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Mr. Clark: I move the Commission adopt the Findings of Fact, Conclusions of Law and Order issuing a corridor certificate and route permit and superseding a condition of Reed Township's conditional use permit requiring double circuiting of Minnkota Power Cooperative, Inc.'s proposed 230 kV electric transmission line routed in Barnes, Cass and Steele Counties of North Dakota, Case No. PU-08-48.

Mrs. Wefald: I second the motion.

Roll Call: All voting "Aye."

Commissioner Cramer's
Concurring Opinion in Part

Electricity generated by renewable fuels is in high demand in our region and nation and North Dakota has what the market wants. The challenge is getting our product to the market and this transmission line is one of many new and proposed vehicles to do just that.

Unfortunately we all find ourselves forced into making major decisions within a very short time frame. The Federal Production Tax Credit (PTC) which creates the incentive for wind development in North Dakota and across the country is scheduled to expire this year. In order to receive the tax credit wind farms must be commissioned this year. That is, they must be generating and transmitting electricity by December 31, 2008 or lose the tax credit.

Congress has failed to renew the PTC which would give companies as well as vendors and suppliers the time to adequately plan for major investment and construction. This government imposed deadline also distorts natural markets, artificially tightening the supply-demand curve resulting in inflated construction costs

Commissioner's Cramer
Concurring Opinion in Part
Continued

which must be passed on to consumers.

What America really needs is a long term energy policy that sends signals that will inspire investment. Instead our congress passes short term legislation enhancing uncertainty in the future of energy development in our country.

Today the North Dakota Public Service Commission is voting to certify a corridor and permit a nearly 60 mile route for a 230kv transmission line from Pillsbury to a substation near Fargo. This line is designed to carry electricity generated in Barnes, Griggs and Steele Counties resulting in hundreds of millions of dollars of investment and thousands of dollars of local and state tax revenues.

Wind farms and transmission lines don't get built in a weekend so the clock is ticking while congress does nothing, creating the short timeline we find ourselves in today. In order for the projects to get built the planning and review processes must be shortened. We have done all we can to expedite the regulatory process while not compromising the integrity of our charge to protect the environment, cultural resources and people. We are also charged with continuing service reliability and integrity while ensuring energy needs are met in an orderly and timely fashion.

While I will vote for this order, two issues cause me some apprehension. One is the nagging question; is the line big enough? The applicant provided a thorough analysis comparing a 230kv line and a 345kv line. It is compelling testimony as the cost of a 345kv upgrade is high. Another developer, Peak Wind, testified that they'd be willing to pay the additional costs, but the short time frame seems to make it impossible to change the plans now and still meet congress' deadline for the PTC. Furthermore, although the argument presented by Peak is compelling, I don't see where the PSC has the authority to order a 345kv capacity to an application for 230kv, especially if such a condition would likely kill the project altogether.

The other issue causing me to pause is the fact that this order supersedes a condition placed on the conditional use permit by a Township Board. Reed Township has conditioned their permit requiring the proposed 230kv line be double circuited with an existing 345kv line through one section. The existing line runs parallel to the proposed route for eight miles. At the request of a single landowner in Reed Township, the zoning board has placed the double circuit condition on the use permit. No other zoning board along the eight

Commissioner's Cramer
Concurring Opinion in Part
Continued

miles of parallel routes has imposed such a condition.

The PSC has the authority to issue a permit which supersedes and preempts local zoning conditions upon a finding that such conditions are unreasonably restrictive in view of existing technology, factors of cost or economics, or needs of consumers.

While it would appear this is a reasonable and easy condition to meet, there are complications.

I disagree with the finding in the order that double circuiting in Reed Township would result in "somewhat less reliability." The fact the lines are double circuited to cross the Sheyenne River already exposes the two lines to the consequences of a single catastrophic event. Expanding the double circuited portion by another mile would have a negligible impact on reliability. Clearly the technology is readily available to meet the township's demands.

The only issue that meets the legal standard for superseding local authority is cost. Double circuiting a mile of line requires the existing line be taken out of service during construction. This is a major outage that has not been planned for. It would require a purchase to replace the power unavailable during the outage at an estimated cost of \$24 million to be paid by consumers. The purchase cost of power during the outage combined with the additional costs of equipment and materials for the construction makes the township board's condition unreasonably restrictive in my view.

I believe the big challenges to sighting this and future transmission infrastructure would be met with little to no public opposition if time allowed for more and better planning.

If North Dakota is to realize the potential of being the "Saudi Arabia of Wind" we must facilitate the building of the infrastructure to do it. State officials are doing our part. The companies are doing their part. It would be nice to have a little help from the Washington politicians who seem more enamored with sticking it to baseball players on steroids than finding solutions to America's energy needs.

Commissioner Wefald's
Concurring Opinion, Dissent in Part

I concur with all of the Commission's June 6 order except for paragraphs 12 and 13 in the Findings of Fact, paragraph 10 of the Conclusions of Law, and paragraph 4 of the Order. All of these sections relate to the Reed Township Conditional Use Permit. My fellow commissioners voted to supersede the Reed Township Conditional Use Permit. I disagree. Superseding of local land use planning authority should be reserved only

Commissioner Wefald's
Concurring Opinion, Dissent in Part
Continued

for extraordinary circumstances.

Also, I recommend that the North Dakota Transmission Authority work with the North Dakota Public Service Commission on identifying renewable energy zones in our state, so that more effective and efficient transmission planning for energy development can occur in the coming years. It is unfortunate that the Pillsbury to Fargo 230 kV transmission line will only meet immediate needs, and will not meet the transmission needs that have been identified in the Valley City area even 5 years in the future.

Minnkota first brought the issue of the Reed Township Conditional Use Permit to the Commission's attention at the May 22, 2008 hearing in Casselton. The Commission had no information on this matter prior to the hearing.

At the hearing Minnkota provided testimony on the facts of this matter, which are contained in this order in Findings of Fact, paragraphs 9 and 10.

At the hearing, Minnkota provided testimony, but no specific figures about costs. So the Commission asked that a late filed exhibit be filed stating incremental costs for double circuiting the line in Reed Township, which is adjacent to the double circuited portion of the line crossing the Sheyenne River.

Late filed Exhibit 1 indicated that Reed Township's requirement for double circuiting across section 7 could cost up to \$2.9 million in construction costs, plus up to \$24 million for replacement power purchases depending in part on how long the 345 kV line would be out of service for construction. The Commission had no opportunity to cross-examine Minnkota about the \$24 million figure. Minnkota clarified in a supplement to Late Filed Exhibit 1, that \$24 million for replacement power represents a full four weeks of downtime with full loss of Coyote generating station availability and payment of peak market energy prices for replacement energy throughout the entire four weeks. It appears that Minnkota's cost estimates are at least worse case and that actual costs of double circuiting are likely to be significantly less.

Minnkota raised concerns that double circuiting across the entire section 7 would degrade system reliability largely because of the increased probability that a catastrophic failure event such as weather, etc. could take out both lines if they were on the same structures. This is highly unlikely. The effect the double circuiting would have on reliability would likely be minimal. The proposed 230 kV line would be a radial

Commissioner Wefald's
Concurring Opinion, Dissent in Part
Continued

line with the only purpose being to interconnect an intermittent wind generating resource to the power grid. The loss of that interconnection would have the same effect on system reliability as the wind not blowing.

Also, Minnkota's proposed parallel route across section 7 would significantly increase the amount of land use for transmission right of way in Reed Township. Reed Township made a reasonable condition when it required double circuiting of the lines in its township.

Although I am pleased that Minnkota is building this 230kV transmission line in North Dakota, this project needed more planning time and public input. This line will carry energy from two planned wind developments in the Valley City area; however, there are three planned wind developments in the Valley City area, and we already know that in a few years more transmission capacity may be needed. Developers need to deliver power to market by December 31, 2008 in order to be assured of receiving the Federal Production Tax Credit. Minnkota also announced in the past month that they plan to build a new 345 kV line from Center, North Dakota to the eastern part of the state.

There are ways to accommodate more electric capacity on transmission systems. These include double circuiting (placing two lines on an existing transmission system); building a new transmission system which includes not only the presently needed line, but room for an additional line in the future on the same system; using new technology to create more capacity on existing transmission lines; etc. At the hearing Minnkota testified that they already had ordered materials needed for the proposed 230 kV line, and had timetables in place for its construction. Therefore, although these options were brought up at the hearing, it was really too late in the process for significant changes to be made in the project.

Texas has a system in place where it designates renewable energy zones, and then plans transmission enhancements to these zones. This is working well for Texas - they are the state with the most wind development in the country. In North Dakota the Transmission Authority could work with the Commission on identifying several wind energy zones in North Dakota, and start planning now to make thorough, thoughtful transmission planning a reality in our state as well.

Case No. PU-08-48
Minnkota Power Coop., Inc.
Pillsbury-Fargo 230 kV
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Siting Application

Mrs. Wefald: I move the Commission issue a Notice of Supplemental Hearing in Case No. PU-08-48, Minnkota Power Cooperative, Inc.'s proposed 230 kV electric transmission line routed in Barnes, Cass and Steele Counties of North Dakota.

Mr. Cramer: I second the motion.

Roll Call: All voting "Aye."

ATTEST

THE COMMISSION ADJOURNED AT 10:32 A.M.

Executive Director

SUSAN E. WEFALD, PRESIDENT