

June 30, 2010

The Public Service Commission convened in the Commission Hearing Room, State Capitol, Bismarck, North Dakota, on June 30, 2010, 10:00 a.m. Present were Commissioners Cramer, Kalk. Commissioner Clark participated by telephone and authorized his Administrative Assistant to sign orders on his behalf.

Minutes

Mr. Cramer: I move the minutes of June 16, 2010 be approved.

Mr. Kalk: 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:

AGRO	100.00
Alltel	447.17
B & C Concrete Pumping, Inc.	81,163.15
Miller & Associates	1,325.00
ND Newspaper Association	533.28
Anderson Industrial Scales, Inc.	2,750.00
F-M Forklift Sales & Service, Inc.	373.80
Scott F. Sheldon	32.50
Leo D. Praus – 7/10 advance	491.00
Illona Jeffcoat-Sacco	1,333.94
Jerry Lein	506.89
Mercer County Soil Conservation District	16,847.29
Newman Outdoor Advertising	5,000.00
Brian P. Kalk	475.20
Attorney General's Office	105.32
OMB – 5/10 ups	16.84
JP Morgan Chase & Company	25,199.13

Mr. Kalk: I second the motion.

Roll Call: All voting "Aye."

Case No. AM-10-37
Buechler/Velva
2010 Construction
Project

Mr. Cramer: I move the Commission close out Contract No. AM-587-10 with Minot Guaranty and Escrow Company for title work associated with the 2010 Beuchler/Velva abandoned mine lands project.

Mr. Kalk: I second the motion.

Roll Call: All voting "Aye."

Case No. AM-10-39
Williams County Road 9
2010 Phase 5 Construction
Project

Mr. Cramer: I move the Commission close out Contract No. AM-586-10 with Northwest Abstract and Title, Inc. for title work associated with the Williams County Road 9, Phase 5, abandoned mine lands project.

Mr. Kalk: I second the motion.

Roll Call: All voting "Aye."

Case No. GE-10-267
Falkirk Merchandising, LLC
Roving Grain Buyer - Bismarck, ND
Discontinue Business

Mr. Cramer: I move the Commission issue an order in Case No. GE-10-267 cancelling roving grain buyer license number 3121 issued to Falkirk Merchandising, LLC and ordering that all North Dakota roving grain buyer activities be discontinued effective August 1, 2010.

Mr. Kalk: I second the motion.

Roll Call: All voting "Aye."

Case No. AU-10-290
E. R. Wagner
Auctioneer License
Revocation

Mr. Cramer: I move the Commission issue an order in Case No. AU-10-290 revoking auctioneer license number 376 issued to E. R. Wagner, Mandan, North Dakota.

Mr. Kalk: I second the motion.

Roll Call: All voting "Aye."

Case No. GE-10-148
J. Bruce and James R. Gibbens
dba Gibbens Grain
License Renewal Year 2010
Application

Mr. Cramer: I move the Commission approve the roving grain buyer license application in Case No. GE-10-148 for J. Bruce and James R. Gibbens doing business as Gibbens Grain, Cando, North Dakota, effective immediately.

Mr. Kalk: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-10-158
Otter Tail Power Company
Norman Wirtz - Richland County
Public Convenience & Necessity

Mr. Cramer: I move the Commission adopt the Order and issue a Certificate of Public Convenience and Necessity authorizing Otter Tail Power Company to extend electric service to Norman Wirtz at a location in Richland County, North Dakota, Case No. PU-10-158.

Mr. Kalk: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-10-203
Montana-Dakota Utilities Co.,
a Division of MDU
Cogeneration / Small Power Producer
Rates

Mr. Cramer: I move the Commission approve Montana-Dakota Utilities Co.'s updated Cogeneration/Small Power Producer rates, Case No. PU-10-203.

Mr. Kalk: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-10-218
Quintana Capital Group, L.P.
Crude Oil Pipeline - Mountrail to
Golden Valley
Siting Application

Mr. Cramer: I move the Commission acknowledge the Letter of Intent, shorten the one year waiting period between filing a letter of intent and a siting application to three months, and assess a filing fee of \$100,000 in Case No. PU-10-218, Quintana Capital Group, L.P.'s proposed crude oil pipeline from Mountrail County to Golden Valley County of North Dakota.

Mr. Kalk: I second the motion.

Roll Call: All voting "Aye."

Case No. GE-10-266
Fessenden Cooperative Association
License Numbers 309 & 310-
Manfred & Wellsburg
Discontinue Business

Mr. Cramer: I move the Commission issue an order in Case No. GE-10-266 cancelling warehouse license numbers 309 and 310, consecutively issued to Fessenden Cooperative Association at Manfred and Wellsburg, North Dakota and ordering that business at Manfred and Wellsburg, North Dakota is discontinued effective August 1, 2010.

Mr. Kalk: I second the motion.

Roll Call: All voting "Aye."

Case No. GE-10-291
Gavilon Grain, LLC
Facility-Based Grain Buyer
License Application

Mr. Cramer: I move the Commission issue an order in Case No. GE-10-291 granting the request of Gavilon Grain, LLC, Omaha, Nebraska, to operate as a facility-based grain buyer at New Rockford, North Dakota.

Mr. Kalk: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-09-370
CPV Ashley Renewable Energy
Company, LLC
Ashley Wind Power - Power Project -
McIntosh Cty
Siting Application

Mr. Cramer: I move the Commission deem the application complete, conditioned on receiving final turbine locations at least one week prior to hearing, and issue a Notice of Filing and Notice of Hearing in the application of CPV Ashley Renewable Energy Company, LLC for a certificate of site compatibility to authorize construction of a proposed 200.1 MW wind energy conversion facility in McIntosh County, North Dakota, Case No. PU-09-370,

Mr. Kalk: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-10-309
Midcontinent Comm / North Dakota
Telephone Co.
Interconnection Agreement
Amendment
Application

Mr. Kalk: I move the Commission issue a Notice of Opportunity for Comment in the application for approval of an interconnection agreement amendment negotiated between North Dakota Telephone Company and Midcontinent Communications, Case No. PU-10-309.

Mr. Cramer: I second the motion.

Roll Call: All voting "Aye."

Tuition Assistance

Mr. Cramer: I move the Commission accept Sheila Hibel's request for tuition reimbursement provided that she meets the guidelines in Policy No. 3-05-95 (1) of the Commission's Policy Manual.

Mr. Kalk: I second the motion.

Roll Call: All voting "Aye."

Budget Extension Request

Mr. Cramer: I move the Commission approve a request for extension be submitted to OMB to move the Public Service Commission's department budget due date from July 15, 2010 to August 15, 2010.

Mr. Kalk: I second the motion.

Roll Call: All voting "Aye."

Telecommuting Policy

Mr. Cramer: I move the Commission adopt Policy 3-17-01(0) on telecommuting.

PUBLIC SERVICE COMMISSION
TELECOMMUTING Policy 3-17-01(0)
June 30, 2010

A. PURPOSE

The purpose of this policy is to establish requirements for Telecommuting and to outline the guidelines and rules for Telecommuting.

B. POLICY

Telecommuting is an alternative work arrangement that allows or requires employees to work for all or part of the work week at a location other than the Commission offices. Participation in a telecommuting arrangement is discretionary on the part of the Commission and voluntary on the part of the employee, unless specifically stated as a condition of employment. Arrangements to telecommute must focus on the business needs of the Commission. Telecommuting does not change the terms, conditions, compensation, benefits or work status of the employee. Full-time telecommuting employees are treated as all other employees and all Commission policies and procedures apply to them.

An employee wishing to request a telecommuting arrangement shall submit a written request to the immediate supervisor. The request must contain evidence that the employee:

a. Possesses a demonstrated skill level in the work to be performed or has been employed by the Commission for a period of time to achieve a competency level.

b. Has demonstrated the ability to work independently and manage his or her time and workload

c. Has exhibited above average performance in accordance with the performance appraisal process.

If a telecommuting request is granted or telecommuting is required, the Commission, division director, any relevant supervisor, and employee shall enter into an agreement that provides for the conditions

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under which an employee will telecommute.

When requested, telecommuting may be considered as a reasonable accommodation under the Americans with Disabilities Act. Telecommuting will not be allowed as a reasonable accommodation if it prevents the employee from performing the essential function of the job or causes undue hardship to the Commission. The regular evaluation and approval process is followed in cases of accommodation.

The Commission is not responsible for operating costs, home maintenance, or any other incidental costs associated with the use of an employee's residence as a telecommute work site. The Commission will not be liable for damages to the employee's property resulting from participation in a telecommuting agreement.

Telecommuting is not to be used as a means by which employees also provide care for others. An employee may not provide primary care during agreed upon telecommuting hours for children, elders, dependents, or others who would otherwise require a provider's care. If at any time an employee is known to be providing dependent care, care for others, or otherwise not performing work-related duties during the employee's required work hours, the employee will be charged appropriate leave or the employee's pay must be reduced accordingly. An employee who has an ill dependent at home or must otherwise care for an ill dependent or other person on a scheduled telecommuting work day must use family sick leave or annual leave for that portion of the day spent caring for the dependent or other person, or the employee's pay must be reduced accordingly. Disciplinary action up to and including termination of the employee, as well as termination of the telecommuting agreement, may also occur.

An employee may provide care for an infant up to four months old at the telecommute work site under the Infant in the Workplace policy 3-16-05.

Telecommute work site arrangements must be evaluated based on the Risk Management Telecommuting Checklist. The Commission will approve or disapprove the telecommute work site.

ELIGIBILITY

Before entering into a telecommuting agreement with a current employee, the Commission, the division director and any relevant supervisor, and the employee shall evaluate the suitability of such an arrangement with regard to the following:

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1. Employee suitability – the employee and division director will assess the needs and work habits of the employee. Telecommuting is available for regular and temporary full-time and part-time employees who meet the requirements outlined on the Telecommuting Feasibility Worksheet, attached.

2. Position responsibilities – the employee, division director and any other relevant supervisor will discuss the position responsibilities and determine if the position is appropriate for a telecommuting arrangement based on the Telecommuting Feasibility Worksheet, attached. If permit documents, files and other records necessary to carry out some or all the job duties of a position are not accessible in an electronic format, telecommuting will not be allowed for that position.

3. Costs and benefits of the potential telecommuting arrangement using the Cost Benefit Analysis Worksheet, attached.

The Commission and relevant management will use the same assessment to determine if telecommuting should be a condition of employment for a vacant position.

DIRECTOR RESPONSIBILITIES

The division director shall:

1. Assess the impact of the telecommuting arrangement on the productivity of the division, the assigned work, other employees, and customer service.

2. Coordinate and maintain regular contact with the employee.

3. Monitor, evaluate, and document cost and effectiveness of the telecommuting agreement.

4. Develop, implement, and document performance standards and measurements for work performed.

5. Monitor, evaluate, manage, and document employee's work performance.

6. Determine and provide the appropriate property needs for each telecommuting arrangement.

7. Monitor for and document abuses of the telecommuting policy.

8. Contact the employee if the Commission offices are closed due to an emergency or inclement weather and determine if the employee may continue to work at their alternative work site.

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EMPLOYEE RESPONSIBILITIES

The employee shall:

1. Adhere to all Commission policies and procedures, work behavior, and expectations as required of any employee of the Commission. Use state-owned property for official purposes only and in accordance with Commission policy, specifically Equipment, Property, and Supplies Use Policy 3-07-96(1) and Computer Use Policy 1-08-89(2).
2. Maintain proper management, retention, and confidentiality of information and records. Disclose information and records only to those authorized to have knowledge or access to information and apply safeguards that are approved by the Commission to protect records from unauthorized disclosure or damage.
3. Maintain safe conditions in the work area and practice the same safety habits at the telecommute site as the employee would in the employee's office on Commission premises.
4. Comply with agreed-upon work schedule.
5. Maintain a monthly time sheet that reflects hours worked and leave taken.
6. Assist in the identification of training needs and participate in training.
7. Provide proof of current homeowners, renters, or commercial general liability insurance to the Commission indicating the limits of coverage as required by North Dakota Risk Management.
8. Protect state-owned property and use it only for official purposes and in accordance with Commission policy. Use by family members and others is prohibited.
9. Be responsible for lost, stolen, or damaged state-owned property.
10. Return any state-owned property to the Commission at termination of the telecommuting arrangement.
11. Sign an inventory of all state-owned property issued to the employee.
12. Allow the supervisor and Commission IT staff access to the state-owned property located at the home or other location.
13. Be accessible by telephone and email during regular work hours.
14. Follow Commission procedures for requesting and obtaining approval of leave time.
15. Be responsible for tax and other legal implications for the business use of the employee's home based on Internal Revenue Service, state, and

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local government restrictions.

16. Be responsible for conformance to any local zoning regulations.

17. Ensure that a high level of public service is maintained, and that abuses of the telecommuting policy do not occur.

18. Hold the Commission harmless against any and all claims, excluding workforce safety claims.

19. Agree to work at the Commission offices or telecommuting location and not from another unapproved work site.

20. Not have meetings with industry representatives or co-workers at the telecommuting work site.

21. Notify the supervisor or division director as soon as possible of inclement weather, disruption, or emergency, such as a power outage, at the telecommute work site that would prohibit the employee from performing work at that site.

22. Travel to the Commission offices as necessary and required.

COMMISSION RESPONSIBILITIES

The Commission will:

1. Install, service, and maintain any state-owned property issued to the telecommuting employee.

2. Supply necessary materials to complete work at the telecommute work site.

3. Provide Workforce Safety coverage for the employee while in the telecommuting arrangement when injuries are sustained in conjunction with the employee's regular work duties. The Commission does not assume liability for injuries occurring at the work site outside of the agreed-upon work schedule or when injuries sustained are not in conjunction with the performance of assigned work duties.

4. Provide adequate space for the telecommuting employee to have meetings with industry representatives or co-workers as necessary.

5. Reimburse business travel at travel and per diem rates set forth in policy.

AGREEMENT

A telecommuting agreement may be entered into for a trial period. If a trial period is agreed upon, evaluation of employee performance during the trial period must include regular interaction by phone or email or both between the employee and the supervisor and weekly face-to-face meetings to discuss work progress and problems. At the conclusion of the trial period, the employee, division director, and any other relevant

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supervisor, shall complete an evaluation of the arrangement and make recommendations regarding continuance or modifications.

Telecommuting is authorized and conducted only under this policy. A written acknowledgement of this policy, which constitutes the telecommuting agreement, must be signed by the employee, the division director, and the Commission prior to the start of telecommuting.

Mr. Kalk: I second the motion.

Roll Call: All voting "Aye."

ATTEST

THE COMMISSION ADJOURNED AT 11:14 A.M.

Executive Secretary

KEVIN CRAMER, CHAIRMAN