

July 28, 2010

The Public Service Commission convened in the Commission Hearing Room, State Capitol, Bismarck, North Dakota, on July 28, 2010, 10:00 a.m. Present were Commissioners Cramer, Clark and Kalk.

Minutes

Mr. Cramer: I move the minutes of July 14, 23, 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:

ESRI	7,169.86
ND Newspaper Association	458.43
Newman Outdoor Advertising	2,000.00
Fessenden Cooperative Association	750.00
Alltel	552.35
NDSU	367.00
Mathai & Associates Regulatory Consultants	13,965.00
Sheryl Horner	1,337.00
Guy Welch	1,520.50
Scott Sheldon	32.50
Cara DeSaye	91.40
Leo Praus – 8/10 adv.	617.00
Dakota Sound Systems, Inc.	1,900.00
Fedex	8.16
ND Newspaper Association	706.30
Lone Prairie Grain	75.00
West Publishing	311.85
OAH – 6/10	872.38
Office of the State Auditor	738.00
JP Morgan Chase and Company	4,875.04

Mr. Kalk: I second the motion.

Roll Call: All voting "Aye."

Case No. WM-10-63
Weights and Measures
Rulemaking

Mr. Cramer: I move the Commission adopt the Order in Case No. WM-10-63 and Case No. PU-10-159, submitting the proposed rules to the Attorney General for an opinion as to legality.

Case No. PU-10-159
Public Utilities - Decommissioning
Rulemaking

Mr. Kalk: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-07-671
Basin Electric Power Coop Inc.
230 kV Transmission Line /
Williams & Mountrail Co
Siting Application

Mr. Cramer: I move the Commission issue a siting application fee interim refund to Basin Electric Power Cooperative, Inc. in the amount of \$88,825.13, Case No. PU-07-671.

Mr. Kalk: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-09-587
Allete, Inc.
230 kV Transmission Line –
Morton/Oliver Counties
Siting Application

Mr. Cramer: I move the Commission issue a siting application fee interim refund to Allete, Inc. in the amount of \$56,800.26, Case No. PU-09-587.

Mr. Kalk: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-09-659
Northern States Power Company
Advance Determination of Prudence –
Bay Front
Application

Mr. Cramer: I move the Commission grant Northern States Power Company's request to withdraw its request for an advance determination of prudence concerning its Bay Front Project and issue a refund of the remaining balance of the application fee, Case No. PU-09-659.

Mr. Kalk: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-09-731
Montana-Dakota Utilities Co.,
a Division of MDU
Discontinue Prudence Big Stone II
Application

Mr. Cramer: I move the Commission approve Montana-Dakota Utilities Co.'s bill insert regarding the recovery of Big Stone II generation costs to be included with customer bills every third month for the 36 month recovery period, Case No. PU-09-731.

Mr. Kalk: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-10-30
Otter Tail Power Company
Discontinue Prudence Big Stone II
Application

Mr. Cramer: I move the Commission approve Otter Tail Power Company's bill insert regarding the recovery of Big Stone II generation costs to be included with customer bills every third month for the 36 month recovery period, Case No. PU-10-30.

Mr. Kalk: I second the motion.

Roll Call: All voting "Aye."

Case No. GE-10-43
Parent Seed Farms Ltd
Roving Grain Buyer –
St. Joseph, MB, Canada
Discontinue Business

Mr. Cramer: I move the Commission issue an order in Case No. GE-10-43 cancelling roving grain buyer license number 3033 issued to Parent Seed Farms Ltd. 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-10-483
Gerald Alfred Vangsness
Auctioneer
License Application

Mr. Cramer: I move the Commission approve the auctioneer license application for Gerald Alfred Vangsness, Walcott, North Dakota.

Mr. Kalk: I second the motion.

Roll Call: All voting "Aye."

Case No. AU-10-486
Michael Ostrem
Auctioneer
License Application

Mr. Cramer: I move the Commission approve the auctioneer license application for Michael Ostrem, Rugby, North Dakota.

Mr. Kalk: I second the motion.

Roll Call: All voting "Aye."

Case No. AU-10-499
Jason Rominski
Auctioneer
License Application

Mr. Cramer: I move the Commission approve the auctioneer license application for Jason Rominski, Strandquist, Minnesota.

Mr. Kalk: I second the motion.

Roll Call: All voting "Aye."

Case No. AU-10-500
Jason Rominski
Auction Clerk
License Application

Mr. Cramer: I move the Commission approve the auction clerk license application for Jason Rominski, Strandquist, Minnesota.

Mr. Kalk: I second the motion.

Roll Call: All voting "Aye."

Case No. RC-10-80
BNI Coal, Ltd.
Revision 32 to Permit BNCR - 9702
Approval

Mr. Cramer: I move the Commission approve Revision No. 32 to Surface Coal Mining Permit No. BNCR-9702, held by BNI Coal, Ltd. for the Center Mine, to identify the next five-year coal removal subareas and to update other information and plans for the next permit term.

Mr. Kalk: I second the motion.

Roll Call: All voting "Aye."

Case No. RC-10-81
BNI Coal, Ltd.
Renewal 2 to Permit BNCR - 9702
Approval

Mr. Cramer: I move the Commission approve Renewal No. 2 to Surface Coal Mining Permit No. BNCR-9702, held by BNI Coal, Ltd. for the Center Mine, to extend the permit term for another five years, until August 2, 2015.

Mr. Kalk: I second the motion.

Roll Call: All voting "Aye."

Case No. RC-10-143
BNI Coal, Ltd.
Notice of Violation No. 1001
Violation

Mr. Cramer: I move the Commission adopt the order to affirm Notice of Violation No. 1001 issued to BNI Coal, Ltd. at the Center Mine, acknowledge cancellation of the informal conference that was scheduled in the matter, and close the case.

Mr. Kalk: I second the motion.

Roll Call: All voting "Aye."

Case No. RC-10-276
Dakota Westmoreland Corporation
Notice of Violation No. 1002
Violation

Mr. Cramer: I move the Commission adopt an order in Case No. RC-10-276, Notice of Violation No. 1002 issued to Dakota Westmoreland Corporation at the Beulah Mine, to affirm the violation, assess a civil penalty, and close the case upon payment of the penalty.

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

Case No. PU-10-58
Just Wind, LLC / Logan County
Wind Farm, LLC
Transfer of Site Certificate
Siting Application

Mr. Clark: I move the Commission adopt the Order Reissuing Certificate in the joint application of Just Wind, LLC and Logan County Wind Farm, LLC to transfer Certificate of Site Compatibility for Energy Conversion Facility No. 11 from Just Wind LLC to Logan County Wind Farm, LLC, Case No. PU-10-58.

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

Case No. GE-10-373
Dean Steichen and Gloria Steichen
dba Steichen
License No. 1224 - Goodrich, ND
Discontinue Business

Mr. Clark: I move the Commission issue an order in Case No. GE-10-373 cancelling warehouse license number 1224 issued to Dean Steichen and Gloria Steichen dba Steichen Farms East Elevator at Goodrich, North Dakota and ordering that business at Goodrich, North Dakota, under warehouse license number 1224 is discontinued effective immediately.

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

Case No. GE-10-301
Steichen Farms East Elevator, Inc.,
dba Steichen
Grain Warehouse - Goodrich, ND
License Application

Mr. Clark: I move the Commission issue an order in Case No. GE-10-301 granting the request of Steichen Farms East Elevator, Inc. dba Steichen Farms East Elevator to operate a 389,000-bushel grain warehouse at Goodrich, North Dakota, effective immediately.

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

Case No. GE-10-447
Farmers Cooperative Elevator Co
License No. 42 - Cavalier, ND
Discontinue Business

Mr. Clark: I move the Commission issue an order in Case No. GE-10-447 cancelling warehouse license number 42 issued to Farmers Cooperative Elevator Company of Cavalier at Cavalier, North Dakota and ordering that business at Cavalier, North Dakota is discontinued effective August 1, 2010.

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

Case No. GE-10-488
CHS, Inc.
Facility-Based Grain Buyer –
Cavalier, ND
License Application

Mr. Clark: I move the Commission issue an order in Case No. GE-10-488 granting the request of CHS, Inc., St. Paul, Minnesota, to operate as a facility-based grain buyer at Cavalier, North Dakota, effective August 1, 2010.

Mr. Kalk: I second the motion.

Roll Call: All voting "Aye."

Telecommuting Policy (Corrected
Policy Number)

Mr. Cramer: I move the Commission adopt Policy 3-18-10 on telecommuting.

PUBLIC SERVICE COMMISSION

TELECOMMUTING

Policy 3-18-10 (1)

July 28, 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.

Telecommuting Policy (Corrected
Policy Number)

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 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.

Telecommuting Policy (Corrected
Policy Number)

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:

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.

Telecommuting Policy (Corrected
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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.

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.

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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 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.

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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 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. Clark: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-09-723
United Telephone / Midcontinent Communications
Interconnection Agreement
Application

Mr. Cramer: I move the Commission bill United Telephone and Midcontinent Communications for specific costs and expenses incurred in Case No. PU-09-723, United Telephone/Midcontinent Communications Interconnection Agreement, Application.

Mr. Clark: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-10-20
Turtle Mountain Communications/
Midcontinent Comm
Interconnection Agreement
Application

Mr. Cramer: I move the Commission bill Turtle Mountain Communications and Midcontinent Communications for specific costs and expenses incurred in Case No. PU-10-20, Turtle Mountain Communications/Midcontinent Communications Interconnection Agreement, Application.

Mr. Clark: I second the motion.

Roll Call: All voting "Aye."

Case No. GE-10-325
North Dakota Oilseed Mills, LLC
Grain Warehouse - Northwood, ND
License Application

Mr. Cramer: I move the Commission request legal assistance from the Office of the Attorney General in North Dakota Oilseed Mills, LLC, Grain Warehouse, Northwood, North Dakota, License Application, Case No. GE-10-325.

Mr. Clark: I second the motion.

Roll Call: All voting "Aye."

New Hire - Temporary Gas Pipeline
Safety Inspector

Mr. Cramer: I move the Commission approve the temporary hire of Alan G. Moch to fill Position No. 408-27732, Gas Pipeline Safety Inspector, effective August 2, 2010, under the terms specified in the July 23, 2010 written offer of employment.

Mr. Clark: I second the motion.

Roll Call: All voting "Aye."

ATTEST

THE COMMISSION ADJOURNED AT 11:34 A.M.

Executive Secretary

KEVIN CRAMER, CHAIRMAN