

April 6, 2011

The Public Service Commission convened in the Commission Hearing Room, State Capitol, Bismarck, North Dakota, on April 6, 2011, 10:00 a.m. Present were Commissioners Clark, Kalk and Cramer.

Minutes

Mr. Cramer: I move the minutes of March 24, 2011 be approved.

Mr. Kalk: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-06-312  
FPL Energy Oliver Wind, LLC  
230kV Transmission Line –  
Oliver County  
Siting Application

Mr. Cramer: I move Commission approve Oliver County Wind, LLC's Tree Mitigation Plan for its 230 kV electric transmission line in Oliver County, North Dakota, Case No. PU-06-312.

Mr. Kalk: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-07-26  
Langdon Wind, LLC  
Wind Farm - Cavalier County  
Siting Application

Mr. Cramer: I move the Commission approve Langdon Wind, LLC's Tree Mitigation Plan for its 160 MW wind farm in Cavalier County, North Dakota, Case No. PU-07-26.

Mr. Kalk: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-08-32  
Ashtabula Wind LLC  
Electric Generation/Wind –  
Barnes County  
Siting Application

Mr. Cramer: I move the Commission approve Ashtabula Wind, LLC's Tree Mitigation Plan for its 148.5 MW Ashtabula Wind Energy Center, and 230 kV electric transmission line in Barnes County, North Dakota, Case No.'s PU-08-32 and PU-08-73.

Mr. Kalk: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-08-73  
Ashtabula Wind LLC  
230kv Electric Transmission Line  
Barnes County  
Siting Application

Case No. PU-10-147  
Ashtabula Wind III, LLC  
Ashtabula III Wind Energy Center -  
Barnes Cty  
Siting Application

Mr. Cramer: I move the Commission approve Ashtabula Wind III, LLC's Tree Mitigation Plan for its 69 MW wind energy conversion facility in Barnes County, North Dakota, Case No. PU-10-147.

Mr. Kalk: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-10-164  
Montana-Dakota Utilities Co.,  
a Division of MDU  
230kV Transmission Line –  
McIntosh & Dickey Cty  
Siting Application

Mr. Cramer: I move the Commission amend the siting application fee from \$72,500 to \$92,500 based upon Montana-Dakota Utilities Co.'s February 7, 2011 application to construct a 230 kV electric transmission line and associated facilities in Dickey and McIntosh Counties of North Dakota, Case No. PU-10-164.

Mr. Kalk: I second the motion.

Roll Call: All voting "Aye."

Case No. RR-11-81  
Cargill Incorporated  
Rail Clearance Variance –  
Cargill Inc. Wahpeton  
Application

Mr. Cramer: I move the Commission grant the request of Cargill Incorporated for a variance from the rail clearance standards prescribed by Section 49-10.1-13 of the North Dakota Century Code in Cargill Incorporated, Rail Clearance Variance, Wahpeton, application Case Number RR-11-81.

The variance will permit the modification of overhead doors at the company's Wahpeton, North Dakota facility. The corresponding rail will be equipped with reflectorized reduced clearance warning signs.

Mr. Kalk: I second the motion.

Roll Call: All voting "Aye."

Case No. AU-11-96  
Troy Lees  
Auctioneer  
License Application

Mr. Cramer: I move the Commission approve the auctioneer license application for Troy Lees, Buchanan, North Dakota.

Mr. Kalk: I second the motion.

Roll Call: All voting "Aye."

Case No. AU-11-97  
Jack Enterprises LLC dba Biddakota  
Online Auctions  
Auction Clerk  
License Application

Mr. Cramer: I move the Commission approve the auction clerk license application for Jack Enterprises LLC dba Biddakota Online Auctions, Buchanan, North Dakota.

Mr. Kalk: I second the motion.

Roll Call: All voting "Aye."

Case No. AU-11-98  
Lonnie Fosgate  
Auctioneer  
License Application

Mr. Cramer: I move the Commission approve the auctioneer license application for Lonnie Fosgate, Libby, Montana.

Mr. Kalk: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-11-37  
Montana-Dakota Utilities Co.,  
a Division of MDU  
City of Kenmare - Ward County  
Public Convenience & Necessity

Mr. Cramer: I move the Commission acknowledge the withdrawal by Montana-Dakota Utilities Co. of its application to extend electric service to the City of Kenmare at a location in Ward County, North Dakota, Case No. PU-11-37.

Mr. Kalk: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-11-48  
Montana-Dakota Utilities Co.,  
a Division of MDU  
Newfield Exploration, Williams County  
Public Convenience & Necessity

Mr. Cramer: I move the Commission adopt the Order and issue a Certificate of Public Convenience and Necessity authorizing Montana-Dakota Utilities Co. to extend electric service to Newfield Exploration at a location in Williams County, North Dakota, Case No. PU-11-48.

Mr. Kalk: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-11-83  
Otter Tail Power Company  
South Dakota Department of  
Transportation  
Public Convenience & Necessity

Mr. Cramer: I move the Commission issue a Notice of Opportunity for Hearing in the application of Otter Tail Power Company to extend electric service to South Dakota Department of Transportation at a location in Richland County, North Dakota, Case No. PU-11-83.

Mr. Kalk: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-09-724  
Oliver Wind III, LLC  
230 kV Transmission Line –  
Oliver & Morton  
Siting Application

WITHDRAWN

Case No. GE-11-103  
Mitchell Feeds, Inc.  
Ex Parte Cease & Desist

WITHDRAWN

Case No. GE-10-327  
Organic Grain and Milling, Inc.  
Grain Warehouse  
Insolvency

Mr. Clark: Having discovered an error in the March 24, 2011 Report and Recommendation of Trustee, I move the Commission rescind its March 24, 2011 Motion to file the Report and Recommendation of Trustee with District Court.

I further move the Commission file the revised Report and Recommendation of Trustee with District Court, recommending that the trust fund proceeds in this case be distributed to the claimant based upon his valid cash sale claim, that proceeds from the credit-sale contract indemnity be distributed among the claimants based upon their valid credit-sale contract claims, that the Commission's expenses be paid as provided by state law, and that once court approval is obtained, claimants be paid as soon as possible in Organic Grain and Milling, Inc., Grain Warehouse, Insolvency, Case No. GE-10-327.

Mr. Cramer: I second the motion.

Roll Call: All voting "Aye."

Case No. GS-10-585  
Montana-Dakota Utilities Co.,  
a Division of MDU  
Waiver of the Federal Pipeline  
Safety Regulations  
Application

Mr. Kalk: I move the Commission adopt the Order granting the request of Montana-Dakota Utilities Co. for a waiver of 49 CFR Part 192.285(c) regarding requalification of a person making a plastic pipe joint, Case No. GS-10-585.

Mr. Cramer: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-10-657  
Northern States Power Company  
2011 Electric Rate Increase  
Application

Mr. Kalk: I move the Commission issue a contract for consulting services to Blue Ridge Consulting Services, Inc. in Northern States Power Company's electric rate increase applications, Case No.'s PU-10-657 and PU-11-55.

Mr. Cramer: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-11-55  
Northern States Power Company  
2012 Electric Rate Increase  
Application

Case No. RC-10-77  
South Heart Coal LLC  
Permit No. SHSH - 1001  
Application

Mr. Cramer: I move the Commission schedule an informal conference on Surface Coal Mining Permit Application SHSH-1001 filed by South Heart Coal, LLC.

Mr. Kalk: I second the motion.

Roll Call: All voting "Aye."

Case No. RC-10-636  
Falkirk Mining Company  
Revision No. 21, Permit NAFK-9503  
Approval

Mr. Cramer: I move the Commission approve Revision No. 21 to Surface Coal Mining Permit NAFK-9503, held by the Falkirk Mining Company, to identify the next five-year coal removal subareas and to update mining and reclamation plans and other information for the next permit term.

Mr. Kalk: I second the motion.

Roll Call: All voting "Aye."

Case No. RC-10-635  
Falkirk Mining Company  
Renewal No. 3, Permit NAFK-9503  
Approval

Mr. Cramer: I move the Commission approve Renewal No. 3 to Surface Coal Mining Permit No. NAFK-9503, held by the Falkirk Mining Company, to extend the permit term another five years, until April 17, 2016.

Mr. Kalk: I second the motion.

Roll Call: All voting "Aye."

Case No. RC-10-654  
Falkirk Mining Company  
Revision No. 27, Permit NAFK-8405  
Approval

Mr. Cramer: I move the Commission approve Revision No. 27 to Surface Coal Mining Permit No. NAFK-8405, held by the Falkirk Mining Company, to identify the next five-year coal removal subareas and to update other information and mining and reclamation plans for the next five-year permit term.

Mr. Kalk: I second the motion.

Roll Call: All voting "Aye."

Case No. RC-10-655  
Falkirk Mining Company  
Renewal No. 5, Permit NAFK-8405  
Approval

Mr. Cramer: I move the Commission approve Renewal No. 5 to Surface Coal Mining Permit No. NAFK-8405, held by the Falkirk Mining Company, to extend the permit term on the existing permit area for another five years, until April 15, 2016.

Mr. Kalk: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-07-759  
Northern States Power Company  
Fargo-Monticello MN 345 kV Cap-X  
Transmission Line  
Siting Application

Mr. Cramer: I move the Commission acknowledge the retention of Mitchell D. Armstrong to provide legal services to the Commission in Case No. PU-07-759, Northern States Power Company's proposed 345 kV electric transmission line from Fargo, ND to Monticello, MN.

Mr. Kalk: I second the motion.

Roll Call: All voting "Aye."

ATTEST

THE COMMISSION ADJOURNED AT 11:27 A.M.

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Executive Secretary

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TONY CLARK, CHAIRMAN