

October 26, 2011

The Public Service Commission convened in the Commission Hearing Room, State Capitol, Bismarck, North Dakota, on October 26, 2011, 10:30 a.m. Present were Commissioners Clark, Kalk and Cramer.

Minutes

Mr. Cramer: I move the minutes of October 12, 17, 19, 2011 be approved.

Mr. Kalk: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-11-395  
Montana-Dakota Utilities Co.,  
a Division of MDU  
Advance Determination of Prudence -  
88 MW Turbine  
Application

Mr. Cramer: Believing that there will be no prejudice to the rights of the parties or the public interest, and finding the cases involve similar questions of law and fact, I move the Commission consolidate for hearing Montana-Dakota Utilities Co., Advance Determination of Prudence, 88 MW Turbine, Application, Case No. PU-11-395 and Montana-Dakota Utilities Co., 88 MW Combustion Turbine, Public Convenience and Necessity, Case No. PU-11-396, under North Dakota Administrative Code section 69-02-04-04.

Mr. Kalk: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-11-396  
Montana-Dakota Utilities Co.,  
a Division of MDU  
88 MW Combustion Turbine  
Public Convenience & Necessity

Case No. PU-11-378  
Otter Tail Power Company  
Mark Ames - Barnes County  
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 Mark Ames at a location in Barnes County, North Dakota, Case No. PU-11-378.

Mr. Kalk: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-11-542  
Otter Tail Power Company  
East Devils Lake Outlet Pumping  
Station  
Public Convenience & Necessity

Mr. Cramer: I move the Commission acknowledge the withdrawal by Otter Tail Power Company of its application for a certificate of public convenience and necessity to extend electric service to the East Devils Lake Outlet Pumping Station in Benson County, North Dakota, Case No. PU-11-542.

Mr. Kalk: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-11-630  
Montana-Dakota Utilities Co.,  
a Division of MDU  
Rough Rider Transportation –  
Morton County  
Public Convenience & Necessity

Mr. Cramer: I move the Commission issue a Notice of Opportunity for Hearing in the application of Montana-Dakota Utilities Co. to extend electric service to Rough Rider Transportation at a location in Morton County, North Dakota, Case No. PU-11-630.

Mr. Kalk: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-11-654  
Nodak Electric Cooperative, Inc.  
vs. Otter Tail Power Company  
Complaint

Mr. Cramer: I move the Commission find the October 10, 2011 complaint filed by Nodak Electric Cooperative, Inc. states a prima facie case, and serve the complaint on the Respondent, Otter Tail Power Company, in Case No. PU-11-654.

Mr. Kalk: I second the motion.

Roll Call: All voting "Aye."

Case No. RC-11-236  
Reclamation  
Rulemaking

Mr. Cramer: Having discovered an omission in the October 12, 2011 Order Submitting Rules to Attorney General, I move the Commission rescind its October 12, 2011 Motion adopting that order.

I further move the Commission adopt the October 26, 2011 Order Submitting Rules to Attorney General in Case No. RC-11-236, submitting the proposed rules amending North Dakota Administrative Code Section 69-05.2-12-04 to the Attorney General for an opinion as to legality.

Mr. Kalk: I second the motion.

Roll Call: All voting "Aye."

Case No. GE-11-655  
Demeter (1993) Inc. dba Viterra  
License No. 1236 - Cando, ND  
Discontinue Business

Mr. Clark: I move the Commission issue an order in Case No. GE-11-655 cancelling warehouse license number 1236 issued to Demeter (1993) Inc. dba Viterra, Regina, Saskatchewan, Canada, at Cando, North Dakota and ordering that business at Cando is discontinued effective immediately.

Mr. Cramer: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-11-395  
Montana-Dakota Utilities Co.,  
a Division of MDU  
Advance Determination of Prudence -  
88 MW Turbine  
Application

Mr. Clark: I move the Commission issue a Notice of Consolidated Hearing in Montana-Dakota Utilities Co.'s combined application for advance determination of prudence and application for certificate of public convenience and necessity for an 88 MW simple cycle combustion turbine project, Case No. PU-11-395 and PU-11-396.

Mr. Cramer: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-11-396  
Montana-Dakota Utilities Co.,  
a Division of MDU  
88 MW Combustion Turbine  
Public Convenience & Necessity

Coal Regulatory and AML Programs  
2011 OSM Evaluation Reports

Mr. Cramer: I move the Commission accept the federal Office of Surface Mining's 2011 Evaluation Reports for the Coal Regulatory and AML Programs.

Mr. Kalk: I second the motion.

Roll Call: All voting "Aye."

Case No. GS-11-664  
vs. Aevenia, Inc.  
Complaint

Mr. Cramer: I move the Commission appoint Illona Jeffcoat-Sacco, Bob Bachmeier and Patrick Fahn as advocacy staff, effective October 4, 2011, in the complaint of the Public Service Commission vs Aevenia, Inc. Case No. PU-11-664.

Mr. Kalk: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-11-396  
Montana-Dakota Utilities Co.,  
a Division of MDU  
88 MW Combustion Turbine  
Public Convenience & Necessity

Mr. Cramer: I move the Commission appoint Mike Diller, Mark Gruman and Christopher Marohl as advocacy staff, effective August 24, 2011, in Montana-Dakota Utilities Company's application for certificate of public convenience and necessity concerning its 88 MW simple cycle combustion turbine project, Case No. PU-11-396.

Mr. Kalk: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-11-561  
Oliver Wind III, LLC  
48 MW Wind Energy Center –  
Morton County  
Siting Application

Mr. Cramer: I move the Commission retain Mitchell D. Armstrong to provide legal services to assist the Commission in processing Case No. PU-11-561, Oliver Wind III, LLC - 48 MW Wind Energy Center, Morton County, Siting Application.

Mr. Kalk: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-11-646  
Wilton Wind IV, LLC  
99 MW Wind Energy Center –  
Burleigh County  
Siting Application

Mr. Cramer: I move the Commission retain Mitchell D. Armstrong to provide legal services to assist the Commission in processing Case No. PU-11-646, Wilton Wind IV, LLC - 99 MW Wind Energy Center, Burleigh County, Siting Application.

Mr. Kalk: I second the motion.

Roll Call: All voting "Aye."

ATTEST

THE COMMISSION ADJOURNED AT 11:37 A.M.

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Executive Secretary

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TONY CLARK, CHAIRMAN