

October 27, 2022

The Public Service Commission convened in the Commission Hearing Room, State Capitol, Bismarck, North Dakota, on October 27, 2022, 10:00 a.m. Present were Commissioners Fedorchak, Christmann and Haugen-Hoffart.

Minutes

Ms. Fedorchak: I move the minutes of October 5 and 12, 2022, be approved.

Mr. Christmann: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-17-48
Arrow Field Services, LLC
10-Inch & 8-Inch NGL Pipeline Project -
McKenzie
Siting Application

Ms. Fedorchak: I move the Commission rescind the approved motion of September 21, 2022, and issue a siting application fee final refund in the corrected amount of \$4,725.00 in Arrow Field Services, LLC, 10-Inch & 8-Inch NGL Pipeline Project – McKenzie, Siting Application, Case No. PU-17-48.

Mr. Christmann: I second the motion.

Roll Call: All voting "Aye."

2022 Coal Regulatory and AML
Programs Evaluation Reports

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Case No. AU-22-389
Dennis Klein
Auctioneer License
Cancellation

Ms. Fedorchak: I move the Commission adopt the Order Cancelling Auctioneer License in Dennis Klein, Auctioneer License, Cancellation, Case No. AU-22-389.

Mr. Christmann: I second the motion.

Roll Call: All voting "Aye."

Case No. AU-22-390
Dennis Klein
Auction Clerk License
Cancellation

Ms. Fedorchak: I move the Commission adopt the Order Cancelling Auction Clerk License in Dennis Klein, Auction Clerk License, Cancellation, Case No. AU-22-390.

Mr. Christmann: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-22-361
Montana-Dakota Utilities Co.
Ulrich Manufacturing - Grant County
Public Convenience & Necessity

Ms. Fedorchak: I move the Commission issue a Notice of Opportunity for Hearing in Montana-Dakota Utilities Co., Ulrich Manufacturing – Grant County, Public Convenience & Necessity, Case No. PU-22-361.

Mr. Christmann: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-22-365
Otter Tail Power Company
Wes Knudsen - LaMoure County
Public Convenience & Necessity

Ms. Fedorchak: I move the Commission issue a Notice of Opportunity for Hearing in Otter Tail Power Company, Wes Knudsen – LaMoure County, Public Convenience & Necessity, Case No. PU-22-365.

Mr. Christmann: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-21-381
Northern States Power Company
2021 Natural Gas Rate Increase
Application

Ms. Fedorchak: I move the Commission adopt the Findings of Fact, Conclusions of Law and Order in Northern States Power Company, 2021 Natural Gas Rate Increase, Case No. PU-21-381.

Mr. Christmann: I second the motion.

Roll Call: Ms. Fedorchak votes "Aye".

Mr. Christmann votes "Nay".

Ms. Haugen-Hoffart votes "Nay".

Case No. PU-22-384
Northwest Dakota Cellular of North
Dakota Limited Partnership
Designated Eligible Carrier
Application

Mr. Christmann: 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 these cases for hearing under North Dakota Administrative Code Section 69-02-04-04 and issue a Notice of Opportunity for Consolidated Hearing in Northwest Dakota Cellular of North Dakota Limited Partnership, Designated Eligible Carrier, Application, Case No. PU-22-384, North Central RSA 2 of North Dakota Limited Partnership, Designated Eligible Carrier, Application, Case No. PU-22-385, North Dakota RSA No. 3 Limited Partnership, Designated Eligible Carrier, Application, Case No. PU-22-386, Badlands Cellular of North Dakota Limited Partnership, Designated Eligible Carrier, Application, Case No. PU-22-387, and North Dakota 5 – Kidder Limited Partnership, Designated Eligible Carrier, Application, Case No. PU-22-388.

Case No. PU-22-385
North Central RSA 2 of North Dakota
Limited Partnership
Designated Eligible Carrier
Application

Ms. Haugen-Hoffart: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-22-386
North Dakota RSA No. 3 Limited
Partnership
Designated Eligible Carrier
Application

Case No. PU-22-387
Badlands Cellular of North Dakota
Limited Partnership
Designated Eligible Carrier
Application

Case No. PU-22-388
North Dakota 5 - Kidder Limited
Partnership
Designated Eligible Carrier
Application

2022 Coal Regulatory and AML
Programs Evaluation Reports

Mr. Christmann: I move the Commission accept the federal Office of Surface Mining's 2022 Evaluation Reports for the Coal Regulatory and Abandoned Mine Lands Programs.

Ms. Haugen-Hoffart: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-21-381
Northern States Power Company
2021 Natural Gas Rate Increase
Application

Ms. Haugen-Hoffart: I move the Commission adopt the Findings of Fact, Conclusions of Law and Order in Northern States Power Company, 2021 Natural Gas Rate Increase, Case No. PU-21-381.

Mr. Christmann: I second the motion.

Roll Call: Ms. Fedorchak votes "Nay".

Mr. Christmann votes "Aye".

Ms. Haugen-Hoffart votes "Aye".

Dissenting Opinion

Case No. PU-21-381
Northern States Power Company
2021 Natural Gas Rate Increase
Application

DISSENT **Commissioner Julie Fedorchak, Chair** **October 27, 2022**

Northern States Power Company (NSP) filed with the Commission an application to increase rates for North Dakota natural gas customers by \$7 million, a 10.5 percent rate increase. In the settlement agreement between the company and advocacy staff, the revenue increase was reduced to \$5 million, a 7.5 percent increase. I support the revenue requirement settlement as well as the class cost of service study and class revenue apportionment, which attempts to move the residential class closer to its cost of service thereby reducing the subsidization of that class by the Commercial Firm and Interruptible classes. Moving the rate classes closer to their cost of service is an important goal and helps ensure rates that are just and reasonable without undue discrimination. This proposal does so in a gradual way that improves parity while avoiding rate shock.

Where I depart from the settlement agreement is in its proposed rate design. I acknowledge and, in some respects, agree with the rationale of straight fixed variable (SFV) rate design in theory. In practice, however, the rate design has shortcomings.

NSP has made significant investments in its natural gas system since their last rate case in 2007. In fact, had it not been for the Tax Cuts and Jobs Act of 2017, NSP gas customers would have seen a rate case several years ago already. Regional Vice President for NSP Greg Chamberlain said as much in his direct testimony.¹ Since then, the company has invested even more in system upgrades. In 2018, 2019 and 2020, the company invested \$27.4 million in its North Dakota distribution

¹ Chamberlain Direct, page 3, lines 17-19.

Dissenting Opinion Continued

Case No. PU-21-381
Northern States Power Company
2021 Natural Gas Rate Increase
Application

system.² These investments likely would've triggered another rate case.

Also in their testimony, the company indicated that compliance with PHMSA's Distribution Integrity Management Program (DIMP) will require "annual programmatic investments in renewing aging mains and service pipe"³ beginning in 2022. All of this underscores the fact that NSP's system is both aging and growing. The company was understandably clear in this rate case. To continue meeting system needs, additional investments and therefore revenues from customers are going to be required. The facts are quite evident. As the gas system ages, the long period of limited rate increases is in the past.

As the rate regulator, my job is to seek the best, most fair way to generate from customers the revenues needed to maintain system safety and reliability. That's our goal: safety and reliability at the lowest possible cost. As we address this rate case and look ahead to the future, forcing all of these significant new costs into one basic service charge that every residential customer, regardless of use, must pay to receive service is not the best, most fair way to generate these revenues.

The straight fixed variable rate design is not without merit, but it is a blunt instrument that collects every single system cost into one bucket and divides that equally between residential customers. Low users and high users pay the same with no tools to manage these increasing costs. As we enter this era of rate increases, a more refined rate design is warranted that gives customers more control of their bill. Now is the time to re-instill the two-part billing for residential customers that includes a fixed charge and a volumetric usage charge. This is particularly relevant in the current case where many of the system investments that drove the need for the rate case – the Fargo Capacity Project and the peaking plant refurbishments – are capacity improvements. To the extent that demand among residential customers varies, which we know it does, capturing some of the residential customers' rates in a demand-based charge is an important tool for customers that will be more fair and accurate. Customers who want a stable rate throughout the year, can choose balanced billing to mitigate large swings in their monthly costs.

² Zich Direct, page 14, Table 1

³ Direct Testimony and Schedule Joni H. Zich, page 5, lines 7-10.

Dissenting Opinion Continued

Case No. PU-21-381
Northern States Power Company
2021 Natural Gas Rate Increase
Application

While company benefits of the SFV design are obvious, it is troubling to me that many of the benefits of this rate design that have been touted for customers have not materialized in a meaningful way. The company claims the rate design eliminates any disincentive to promote energy conservation and provides for a lower return on equity. However, NSP did not provide any material evidence of their efforts to promote energy conservation. Nor did they provide any evidence that in the 18 years of using the SFV rate design, North Dakota customers increased conservation or energy efficiency. Regarding return on equity, the promises are equally hollow. In Colorado, for example, Xcel customers have a \$12 basic service charge and yet the company has a 9.57 percent ROE, notably less than the 9.8 percent agreed to for North Dakota in this settlement, which assumed the continuation of the SFV rate.

I believe a more reasonable and balanced approach for this commission is to part from the straight fixed variable rate design for residential customers. With the infrastructure investment occurring now and, in the future, as well as volatile gas rates and major changes in our utility systems, customers should have more tools and choices to help them control costs. The two-part rate design I proposed is a measured but important step in that direction and would have been a better approach for this commission and the customers we serve.



Julie Fedorchak, Commissioner

Case No. PU-22-322
Otter Tail Power Company
Economic Development
Rates

Ms. Haugen-Hoffart: I move the Commission adopt the Order in Otter Tail Power Company, Economic Development, Rates, Case No. PU-22-322.

Mr. Christmann: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-22-337
Montana-Dakota Utilities Co.
High Density Contracted Demand
Response
Tariff and Rates

Ms. Haugen-Hoffart: I move the Commission adopt the Order in Montana-Dakota Utilities Co., High Density Contracted Demand Response, Tariff and Rates, Case No. PU-22-337.

Mr. Christmann: I second the motion.

Roll Call: All voting "Aye."

Case No. PU-22-366
Montana-Dakota Utilities Co.
Applied Block Chain Office - Dickey
County
Public Convenience & Necessity

Case No. PU-22-370
Montana-Dakota Utilities Co.
Applied Block Chain Data Processing
Extension
Public Convenience & Necessity

Case No. PU-22-371
Montana-Dakota Utilities Co.
Electric Service Agreement - Applied
Blockchain
Approval

Case No. PU-22-173
Northern States Power Company
Border Winds Energy Project - Rolette
County
Siting Application

Case No. PU-22-362
Montana-Dakota Utilities Co.
North Dakota Soybean Processors,
Inc., Cass County
Public Convenience & Necessity

Ms. Haugen-Hoffart: 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 these cases for hearing under North Dakota Administrative Code Section 69-02-04-04 and issue a Notice of Opportunity for Consolidated Hearing in Montana-Dakota Utilities Co., Applied Block Chain Office – Dickey County, Public Convenience and Necessity, Case No. PU-22-366 and Montana-Dakota Utilities Co., Applied Block Chain Data Processing Extension, Public Convenience and Necessity, Case No. PU-22-370.

Mr. Christmann: I second the motion.

Roll Call: All voting "Aye."

Ms. Haugen-Hoffart: I move the Commission reduce the application fee to \$10,000 and issue a Notice of Opportunity for Hearing in Montana-Dakota Utilities Co., Electric Service Agreement - Applied Blockchain, Approval, Case No. PU-22-371.

Mr. Christmann: I second the motion.

Roll Call: All voting "Aye."

Ms. Fedorchak: I move the Commission adopt the Order in Northern States Power Company, Border Winds Energy Project – Rolette County, Siting Application, Case No. PU-22-173.

Mr. Christmann: I second the motion.

Roll Call: All voting "Aye."

Ms. Fedorchak: I move the Commission issue a Notice of Opportunity for Hearing in Montana-Dakota Utilities Co., North Dakota Soybean Processors, Inc., Cass County, Public Convenience & Necessity, Case No. PU-22-362.

Ms. Haugen-Hoffart: I second the motion.

Roll Call: All voting "Aye."

ATTEST

THE COMMISSION ADJOURNED AT 11:59 A.M.


Executive Secretary


JULIE FEDORCHAK, CHAIR