

**STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION**

**Public Service Commission  
Reclamation  
Rulemaking**

**Case No. RC-07-163**

**Public Service Commission  
Public Utilities - Electric  
Rulemaking**

**Case No. PU-06-490**

**ORDER**

**January 16, 2008**

**Appearances**

**Commissioners Susan Wefald, Kevin Cramer, and Tony Clark.**

**William Binek, Chief Counsel, as Hearing Officer**

**Preliminary Statement**

On October 3, 2007, the North Dakota Public Service Commission (Commission) issued its notice of proposed rulemaking proposing to revise several sections of the Administrative Code including the following two cases:

**Reclamation: Case No. RC-07-163**

The proposed rule changes in Case No. RC-07-163 affect coal mining and reclamation rules under North Dakota Administrative Code Article 69-05.2. The most significant change pertains to the self-bonding provisions and it will allow the Commission to accept, in addition to Moody's Investors Service and Standards and Poor's ratings, bond ratings from other national recognized rating organizations for companies that guarantee self-bonds. Another change updates the terminology used for native grassland descriptions that are required as part of the pre-mine land use information in permit applications. The other change corrects a cross reference error in the permit approval criteria. The proposed rule changes are not expected to have an impact on the regulated community in excess of \$50,000.

**Public Utilities - Electric – Case No. PU-06-490**

The proposed rule change in Case No. PU-06-490 would amend section 69-09-02-35 of the North Dakota Administrative Code to adopt by reference the 2007 version

of the National Electric Safety Code for the installation and maintenance of electric supply and communication lines. The NESC is updated periodically, with a new edition issued every five years. The changes proposed would simply adopt the latest NESC 2007 Edition instead of the previously adopted 2002 Edition.

### **Public Hearing**

A public hearing on the proposed rule changes was noticed for and held at 1:00 p.m. November 26, 2007. The hearing was held in the Commission Hearing Room, 12th floor, State Capitol, Bismarck, North Dakota.

The notice of rulemaking was published once in all official county newspapers as evidenced by the affidavit of publication on file with the Commission. The notice was also forwarded to the Legislative Council for publication at least 30 days in advance of the November hearing.

The Commission allowed, after the conclusion of the rulemaking hearing, a comment period until December 6, 2007, during which data, views, or oral arguments concerning the proposed rulemaking could be received by the Commission and made a part of the rulemaking record to be considered by the Commission.

The following discusses the comments that were received:

#### **Reclamation: Case No. RC-07-163**

Commission staff testified at the hearing to explain the changes proposed to North Dakota Administrative Code Article 69-05.2, rules for surface coal mining and reclamation operations. The most significant rule change was based on a suggestion from the Falkirk Mining Company, a subsidiary of The North American Coal Corporation, and it pertains to the self-bonding provisions in North Dakota Administrative Code Section 69-05.2-12-05.1. A representative from The North American Coal Corporation also testified at the hearing and provided a letter of support for the proposed self-bonding change.

The Commission's comment period ended December 6, 2007. No other comments were received.

#### **Public Utilities - Electric – Case No. PU-06-490**

Commission staff testified at the hearing that the purpose of adopting the 2007 Edition of the National Electric Safety Code is to ensure that North Dakota safety requirements keep pace with industry standards. Staff testified that in practice the utilities are already applying the 2007 Edition.

The Commission's comment period ended December 6, 2007. No other comments were received.

## **Order**

The Commission orders that the proposed changes to the North Dakota Administrative Code, as attached to and made a part of this order, be submitted to the Attorney General for an opinion that the rules are in compliance with North Dakota Century Code Section 28-32-14 and are approved as to their legality.

### **PUBLIC SERVICE COMMISSION**

---

**Tony Clark  
Commissioner**

---

**Susan E. Wefald  
President**

---

**Kevin Cramer  
Commissioner**