



# Public Service Commission

## State of North Dakota

### COMMISSIONERS

Kevin Cramer  
Tony Clark  
Brian P. Kalk

Executive Secretary  
Darrell Nitschke

600 E. Boulevard Ave. Dept 408  
Bismarck, North Dakota 58505-0480  
Web: [www.nd.gov/psc](http://www.nd.gov/psc)  
E-mail: [ndpsc@nd.gov](mailto:ndpsc@nd.gov)  
Phone 701-328-2400  
Toll Free 1-877-245-6685  
Fax 701-328-2410  
TDD 800-366-6888 or 711

22 December 2010

Honorable Dennis R. Walaker  
Mayor, City of Fargo  
209 3rd St. N.  
Fargo, ND 58102

Re: Otter Tail Power Company - CapX - Public Convenience & Necessity - PU-10-606  
Northern States Power Company - CapX - Public Convenience & Necessity - PU-10-607

Dear Mayor Walaker:

Thank you for your letter of 29 November 2010 regarding the proposed CapX2020 project in North Dakota. Your letter references the two captioned Commission cases. The commission discussed your letter at the administrative matters portion of its regular meeting on 8 December 2010 and asked me to respond.

We appreciate your interest in the project and your input. The two cases you mentioned are the two applications for certificates of public convenience and necessity (PCN) under N.D.C.C. Ch. 49-03.1 (one for each North Dakota regulated utility involved in the project). Normally, location issues are not issues in PCN cases.

However, the project must also be sited under North Dakota's Energy Conversion and Transmission Facility Siting Act (N.D.C.C. Ch. 49-22). The siting case number for this project is PU-07-759, although no siting application has yet been filed. When it is filed, formal legal notice will be published and sent to legislators and city and county officials in the affected area. A hearing will be held in the county in which the line is to be located.

Please understand that because the siting case will be a formal case before the Commission, both written and verbal comments submitted to the Commission outside the hearing are not part of the formal evidentiary record on which the decision must be based. However, comments that are not part of the formal record may form the basis for investigation and testimony that may become part of the formal record. Comments become part of the formal record when they are made or submitted at the formal hearing, where they must be made under oath and subject to cross-examination.

5

**PU-07-759** Filed: 12/22/2010 Pages: 4  
**Letter response to letter comments from the Mayor of the City of Fargo**

10 PU-10-607 Filed 12/22/2010 Pages: 4  
Letter response to letter comments from the Mayor of the City of Fargo  
Public Service Commission  
Illona A. Jeffcoat-Sacco

10 PU-10-606 Filed 12/22/2010 Pages: 4  
Letter response to letter comments from the Mayor of the City of Fargo  
Public Service Commission  
Illona A. Jeffcoat-Sacco

Public Service Commission

Illona A. Jeffcoat-Sacco

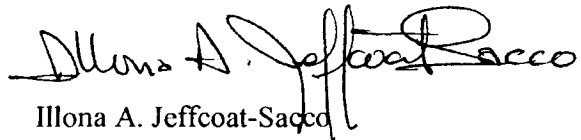
Honorable Dennis R. Walaker  
22 December 2010  
Page 2

Enclosed is a brochure that explains more about formal cases before the commission. The brochure can also be found at the following link: <http://www.psc.nd.gov/docs/ysk/pud-2-participation-process.pdf>.

We look forward to seeing you at the hearing and receiving your comments and testimony on the project once the siting case is filed.

Thank you again for your letter. If you have more questions, please call or e-mail me ([ijs@nd.gov](mailto:ijs@nd.gov)) or Scott Sheldon ([sfsheldon@nd.gov](mailto:sfsheldon@nd.gov)).

Best regards,

A handwritten signature in black ink, appearing to read "Illona A. Jeffcoat-Sacco". The signature is fluid and cursive, with a large initial "I" and "J".

Illona A. Jeffcoat-Sacco  
General Counsel

# You should know...



North Dakota Public Service Commission

Issue PUD-3, March 2010



North Dakota Public  
Service Commission

Commissioners:  
Kevin Cramer  
Tony Clark  
Brian P. Kalk

600 E Boulevard Ave.  
Department 408  
Bismarck ND  
58505-0480

Telephone:  
701-328-2400

Facsimile:  
701-328-2410

TDD/TTY:  
800-366-6888

E-mail:  
ndpsc@nd.gov

Website:  
www.psc.nd.gov

## Participation and Process in Major Cases

*Rate Case? Merger? Alternative Regulation Plan? Buy/Sell?*

### GETTING INVOLVED

- The general public can get involved in any matter pending before the Commission by calling, writing, e-mailing, attending a public input session or attending a formal hearing. Anyone may testify or comment at any Commission hearing.
- Letters, questions and comments may be sent to Darrell Nitschke, Executive Secretary, Public Service Commission, State Capitol, 600 East Boulevard Avenue, Bismarck, ND 58505-0480. Comments can also be sent via e-mail to the Executive Secretary at [dnitschk@nd.gov](mailto:dnitschk@nd.gov). The Commission's phone number is 701-328-2400; fax number 701-328-2410; and Relay North Dakota 1-800-366-6888 TTY. If you require any auxiliary aids or services, such as readers, signers, or Braille materials, please notify the Executive Secretary.

### DECIDING ON PARTICIPATION

Comments made at Public Input Sessions, or otherwise outside the formal hearing process, are not made under oath and are not subject to cross-examination. They will not become part of the formal record on which the decision will be based, but may form the basis for investigation and testimony that becomes part of the formal record. Testimony and comments made at a formal or technical hearing must be made under oath and will be subject to cross-examination.

- Interested parties may not cross-examine witnesses or conduct discovery unless they are granted *Intervenor* status. Once a party becomes an intervenor, that party may cross-examine other witnesses and conduct discovery. Contact the Commission about how to intervene in any case.
- Applicants, complainants, respondents and intervenors will be served with all pleadings, filings and decisions in the case. Others who want to receive copies of any of these documents should make a request at the address above, or search the Commission's website for the information.

### FILING

When a major utility case is filed, staff reviews the information and outlines the issues for Commission consideration. The Commission sets up a procedural time frame for investigating, receiving public input and holding a technical hearing. The Commission also appoints some staff members as advocates in the case and other staff members as Commission advisors.

### INVESTIGATION

The investigation is conducted primarily by the staff advocates. These persons review the materials filed by the applicants and request other necessary information in order to better analyze the issues. The staff advocates may request that the Commission retain outside professionals to help with the investigation. Sometimes other parties intervene and in that case, often the intervenor conducts its own investigation. Also, sometimes the applicant

The reader agrees that use of this information is entirely at the customer's own risk. The Public Service Commission's services are provided "as is," without warranty of any kind, either expressed or implied, including without limitation any warranty for information provided through or in connection with this service.

# Participation and Process in Major Cases

*Rate Case? Merger? Alternative Regulation Plan? Buy/Sell?*  
(cont.)

conducts an investigation of the staff or intervenor's case.

## **PUBLIC NOTICE**

Early in the process the Commission schedules public hearings on the case and issues a notice. The notice contains the questions the Commission will examine and specific information on the hearings. It is published in the daily newspapers in the affected areas, and mailed to those who have asked to be on the mailing list. Notices may be issued separately for the technical hearings and the public input sessions, or one notice may be issued for both.

## **PUBLIC INPUT SESSIONS**

Public input sessions are held in some major cases. They are intended to be held early enough in the process to allow the staff time to investigate the issues that are raised by the public at the session. Usually these are held in the affected area of the state, or via interactive television in several affected areas simultaneously. Public input sessions are informal, no sworn testimony is taken and no one is cross-examined. Interested persons are encouraged to comment or ask questions at these sessions. Interested persons may also write to, e-mail, or call the Commission concerning the case.

## **TECHNICAL OR FORMAL HEARINGS**

Later in the process the Commission will hold a technical or formal hearing, where the applicants, staff and intervenors will present technical testimony on the issues.

The public is welcome at the technical hearing, but the main purpose of the technical hearing is to produce a record of evidence about the issues, which the Commission will then use to make its decision. Witnesses at the technical hearing are sworn and are subject to cross-examination. Usually these are held in Bismarck, but may be held in other affected areas in the state.

## **DELIBERATIONS AND WORKING SESSIONS**

After the hearings, the Commission will take the matter under advisement. The Commission will then hold an open working session in which it will sit down with its advisory staff and discuss the case. These sessions are open to the public, but participation is usually limited to Commissioners and staff. After one or more working sessions, the Commission will direct its advisory staff to draft an order that reflects the discussion from the working sessions. Once the order is prepared, the matter is put on the Commission's formal meeting agenda for a final decision.

## **TRADE SECRET REQUESTS**

Sometimes parties in the case will have information which for competitive reasons they do not want to disclose publicly, but which can be disclosed to those who have a need to know and who sign a nondisclosure agreement concerning the information. When such requests are made, the staff responds with a recommendation concerning the request and the Commission determines whether or not to grant the request. The decision must be based on the trade secret protections found in the North Dakota Rules