



# Public Service Commission

## State of North Dakota

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November 16, 2017

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Dave Sederquist  
2302 Great N. Drive  
Fargo, ND 58102

RE: October 27, 2017 Second Request for Variance from Settlement Obligation  
to Request an Advance Determination of Prudence, PU-07-776

Dear Mr. Sederquist:

Case No. PU-07-776 was an application by Northern States Power Company to change rates for electric service to increase its North Dakota annual electric revenue by \$20 million.

NSP and Commission Advocacy Staff (Parties) negotiated a Settlement Agreement. The Parties filed the Settlement Agreement to resolve all outstanding issues in Case No. PU-07-776 including conflicts surrounding energy resource decisions and associated costs, transmission project decisions and associated costs, revenue requirements, rate design and other terms and conditions. The Commission understands that negotiation involves give and take by each party or concessions.

One concession was NSP's agreement to file for an ADP finding from the Commission for all proposed new construction, rehabilitation, or acquisition of a transmission facility that is 50 miles or longer.

The Commission's January 14, 2009 decision in Case No. PU-07-776 (Order) approved the Settlement Agreement, including NSP's commitment to file for an ADP finding on a transmission facility that is 50 miles or longer, and specifically made the Settlement provisions part of the order. Neither the Settlement nor the Order includes waiver authority for the Commission. To date, the Commission has not amended its Order.

NSP's October 27, 2017, letter describes a 182 mile Briggs Road – North Madison 345 kV transmission line and requests a waiver of the ADP filing requirement

**205 PU-07-776** Filed: 11/16/2017 Pages: 2  
**Response to 27 Oct. 2017 Second Request for Variance**

Public Service Commission

Patrick Fahn

that was agreed to by the Parties and adopted by Commission order. The Commission has no authority to waive a provision of a negotiated settlement agreement that is now a provision in an order. An order may be changed only by complying with North Dakota Century Code § 49-05-09.

The Parties may file an amended settlement for Commission approval, or one party may request an amendment of the Order.

Absent such a request, NSP must honor its commitment to file for an ADP finding on the Briggs Road – North Madison Project. NSP should withdraw its request for a waiver of the ADP filing requirement.

Best regards

A handwritten signature in cursive script that reads "Patrick Fahn".

Patrick Fahn  
Director, Public Utilities Division