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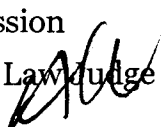
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MAY 07 2009

DATE: May 6, 2009

PUBLIC SERVICE COMMISSION

TO: Mr. Darrell Nitschke, Executive Director
North Dakota Public Service Commission

FROM: Al. Wahl, Temporary Administrative Law Judge 

RE: NuStar Pipeline Operating System
Northern Product System
PSC Case No. PU-08-194

Enclosed for docketing and filing in the captioned matter is the original prehearing order dated May 6, 2009, as issued by me, together with my certificate of service.

35 **PU-08-194** Filed: 5/7/2009 Pages: 4
Prehearing Order

ALJ, Al Wahl

Office of Administrative Hearings

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

OAH File No. 20080163

NuStar Pipeline Operating Partnership, LP
Northern Product System
Public Convenience and Necessity

Case No. PU-08-194

PREHEARING ORDER

Upon a prehearing conference had April 23, 2009, without objection to the petition of the City of Fargo to intervene in this proceeding in accordance with N.D. Admin Code § 69-02-02-05, and pursuant to the Commission's direction for the scheduling of a hearing for the determination of whether NuStar Pipeline Operating Partnership, LP (NuStar) is a public utility within the meaning of N.D.C.C. § 49-03.1-02(2) and subject to the application of N.D.C.C. Ch. 49-03.1, it is

Ordered, that the petition of the City of Fargo (Fargo) to intervene in this case pursuant to and in accordance with N.D. Admin Code § 69-02-02-05 is granted, and it is further

Ordered, that the hearing for the purposes of determining whether NuStar is a public utility within the meaning of N.D.C.C. § 49-03.1-02(2) and subject to the application of N.D.C.C. Ch. 49-03.1, and regardless whether it is a public utility within the meaning of the statute it is not subject to the application of N.D.C.C. Ch. 49-03.1, shall be held beginning at nine o'clock a.m., C.D.T., June 25, 2009, in the Commission Hearing Room, 12th Floor, State Capital, Bismarck, North Dakota; and it is further

Ordered, that Fargo shall have the burden of establishing that NuStar is a public utility within the meaning of N.D.C.C. § 49-03.1-02(2), and that NuStar shall have the burden of es-

tablishing that regardless whether it is a public utility within the meaning of the statute it is not subject to the application of N.D.C.C. Ch. 49-03.1, and it is further

Ordered, that Fargo and NuStar shall plan and act reasonably for the preparation for the hearing so that to the extent practicable all relevant evidence for the hearing may be provided without the necessity of testimony at the hearing,

Dated May 6, 2009.

State of North Dakota
Public Service Commission

By: 
Al. Wahl, Temporary Administrative Law Judge

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

OAH File No. 20080163

NuStar Pipeline Operating Partnership, LP
Northern Product System
Public Convenience and Necessity

Case No. PU-08-194

CERTIFICATE OF SERVICE

The undersigned certifies that complete and correct copies of the annexed **PREHEARING ORDER** were delivered to the U. S. Postal Service on May 6, 2009, addressed as follows, for delivery by regular mail:

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Mr. Todd D. Kranda
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Ms. Illona Jeffcoat-Sacco, General Counsel
North Dakota Public Service Commission
600 East Boulevard Avenue, Dept. 408
Bismarck, ND 58505-0480

Dated May 6, 2009.

OFFICE OF ADMINISTRATIVE HEARINGS


Al. Wahl