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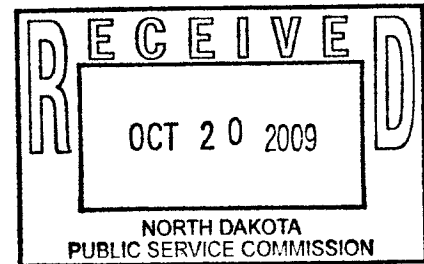
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October 20, 2009

DARRELL NITSCHKE
EXECUTIVE SECRETARY & DIRECTOR
PUBLIC SERVICE COMMISSION
600 EAST BOULEVARD, DEPT 408
BISMARCK ND 58505-0480



Re: NuStar Pipeline Operating Partnership, LP
Case No: PU-08-194
Our File No. 12607

Dear Mr. Nitschke:

Enclosed for filing is an original and seven copies of the Proposed Findings of Fact, Conclusions of Law and Order which has been served on the parties as shown on the Affidavit of Service. For your convenience, an electronic copy, in both Word format and PDF, has also been sent to dnitschk@nd.gov.

If you have any questions, please feel free to contact me.

Sincerely,



Thomas D. Kelsch

TDK:ms

Encs

c: NuStar Pipeline Operating Partnership, LP



54 PU-08-194 Filed: 10/20/2009 Pages: 19
Proposed Findings of Fact, Conclusions of Law and Order

NuStar Pipeline Operating Partnership, L.P.

ThomasKelsch,Kelsch-KelschRuff&Kranda

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OCT 20 2009

**PUBLIC SERVICE COMMISSION
STATE OF NORTH DAKOTA**

PUBLIC SERVICE COMMISSION

**NuSTAR PIPELINE OPERATING PARTNERSHIP L.P.)
NORTHERN PRODUCT SYSTEM) Case No. PU-08-194
PUBLIC CONVENIENCE AND NECESSITY)**

**PROPOSED FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER**

APPEARANCES

Thomas D. Kelsch and Todd D. Krands, Kelsch, Kelsch, Ruff & Kranda, 103 Collins Avenue, P. O. Box 1266, Mandan ND 58554-7266, as Attorneys for NuStar Pipeline Operating Partnership, L.P.

John M. Dingess and Patricia Madsen, Duncan Ostrander & Dingess, P.C., 3600 S Yosemite St, Suite 500, Denver, CO 80237-1829, as Special Counsel to the City of Fargo

Illona Jeffcoat-Sacco, Chief Counsel, Public Service Commission, State Capitol, Bismarck, ND 58505, on behalf of the Public Service Commission

Al Wahl, Office of Administrative Hearings, 1707 North 9th Street, Bismarck, ND 58501, and/or 138 East Edmonton Drive, Bismarck ND 58501, as Procedural Hearing Officer

STATEMENT OF THE CASE

On April 23, 2008, NuStar Pipeline Operating Partnership LP (NuStar), at the request of the North Dakota Public Service Commission staff, applied for a Certificate of Public Convenience and Necessity (PCN) for NuStar's North Product System.

The North Product System (Pipeline) was originally constructed by Standard Oil Company a predecessor to Amoco (Amoco) in the 1950s as a proprietary pipeline to transport petroleum products from Amoco's Mandan, North Dakota refinery to the BN

Railroad at Mandan, North Dakota and to Jamestown, North Dakota and on to locations in the State of Minnesota.

On May 21, 2008, the North Dakota Public Service Commission filed a Notice of Opportunity for Hearing in Case No. PU-08-194, and in the Notice it stated that the issues to be considered were:

1. Need for the service
2. Fitness and ability of the applicant to provide service
3. Effect on other public utilities providing similar service
4. Adequacy of the proposed service
5. Technical, financial and managerial ability of the applicant to provide service

On June 25, 2008, the City of Fargo (Fargo) filed a Petition to Intervene and a Request for a Hearing in Case No. PU-08-194.

In its Petition to Intervene, Fargo recited issues and concerns that went beyond the five factors to be considered by the Public Service Commission in granting or denying a PCN pursuant to N.D.C.C. § 49-03.1-04. A number of the issues in Fargo's Petition to Intervene involved pipeline transmission, citing factors and statutes that are neither relevant nor material to a PCN action.

After NuStar received Fargo's Petition to Intervene and Request for a Hearing, NuStar retained local legal counsel to represent it in this matter and conducted legal research into North Dakota's statutes, case law, and past Public Service Commission precedent.

After completing the research, NuStar determined that it was not required by North Dakota law to have a PCN for its North Product System for two reasons:

A. That NuStar , because it was providing services to only one customer Tesoro, does not fall within the definition of public utility under N.D.C.C. §49-03.1-02(2) in that it was not furnishing its services to the public generally, and

B. That NuStar did not “begin construction or operation of a public utility plant or system ...” as required by N.D.C.C. §49-03.1-01 so as to require a Public Convenience and Necessity.

A look at the issues to be decided for a Public Convenience and Necessity, N.D.C.C. §49-03.1-04, support the argument that a Public Convenience and Necessity is not needed in the case of a supplier that has been in existence and operating for an excess of 50 years.

1. Need for services: The Pipeline is the major delivery system of the fuel processed by the Mandan refinery. Clearly there is a need.

2. Fitness and ability of applicant to provide services: NuStar and NuStar under its former name Kaneb, has been providing services since 2002.

3. Effect on other public contacts providing similar services: This is the only refined pipeline going from Mandan East into Minnesota. Therefore, NuStar is the only provider of this service, and there is no effect on other public utilities.

4. Adequacy of proposed services: There is no change in the service for the last 50 years, and the Commission and NuStar have received no complaints regarding NuStar’s Pipeline service.

5. Technical, financial and managerial ability of applicant to provide services: The services have been provided for over 50 years. NuStar, and NuStar under its former name, Kaneb, has been providing the services for the past 7 years

as evidence in NuStar's indirect parent company, NuStar Energy L.P.'s Annual Reports for years 2002 to 2008.

On July 31, 2008, based on the above reasons, NuStar filed a request to withdraw its application for PCN.

On January 14, 2009 the Commission held an informal hearing.

On May 6, 2009, Al Wahl, Administrative Law Judge, entered an order granting Fargo's petition to intervene and scheduled an informal hearing for the purpose of determining whether:

1. 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. Chapter 49-03.1, and
2. Regardless of whether NuStar is a public utility within the meaning of the statute whether it is subject to the application of N.D.C.C. Chapter 49-03.1.

ALJ Wahl also 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 establishing that regardless of whether NuStar is a public entity, it is not subject to the application of N.D.C.C. Chapter 49-03.1.

A formal hearing was held on October 6, 2009 at the Commission Hearing Room. Fargo appeared at the formal hearing, represented by its legal counsel listed above. NuStar appeared by its legal counsel listed above and also by Diane Sinclair, special counsel and Joseph Graham who presented testimony.

At a formal hearing in Bismarck at the Commission Room, the Commission recorded the following exhibits:

AMENDED EXHIBIT LIST							
Matter	NuStar Pipeline Operating Partnership L.P.; North Project System Application for Certificate of Public Convenience and Necessity						
Hearing	October 6, 2009, Bismarck						
No.	Description	Mkd	Idd	Ofd	W/D	Adm	Notes
Fargo 2	Report of Stutsman County, ND, taxable property for "NUSTARY PIPELINE OPEARATING PAR LP"	X	X	X		X	Fargo exhibits are not seriatim, but follow exhibit notebook index
Fargo 3	Proceedings of State Board of Equalization of North Dakota 2009	X	X	X		X	
Fargo 4	NuStar statements excerpted from its application, request to withdraw application, and the supplemental affidavit of Joe Graham	X	X	X		X	
Fargo 6	Newspaper article from 1953 and 1954 <i>New York Times</i> , 1954 <i>Chicago Tribune</i> , and 1954 <i>Time</i>	X	X	X		X	
Fargo 7	Map, National Pipeline Mapping System, showing NuStar pipelines, and Google maps of location	X	X	X		X	
Fargo 8	Engineering drawings of NuStar pipelines, pages 1 through 3 only	X	X	X		X	<i>N.B., confidential, trade secret; pages four through twelve refused</i>
NuStar 1	Brochure, NuStar "North System"	X	X	X		X	NuStar exhibits are seriatim as offered
NuStar 2	Map, NuStar pipeline system	X	X	X		X	
NuStar 3	Map, NuStar Jamestown terminals	X	X	X		X	
NuStar 4	Affidavit of Joe Graham, <i>etc.</i> , January 9, 2009	X	X	X		X	
NuStar 5	Supplemental affidavit of Joe Graham, <i>etc.</i> , August 6, 2009	X	X	X		X	
NuStar 6	Drawings made by Joe Graham to illustrate and explain his testimony	X	X	X		X	

Having allowed all interested persons an opportunity to be heard and having received and considered all testimony and evidence presented, the Commission makes the following:

FINDINGS OF FACT

At the formal hearing, Fargo did not call any witnesses or offer any testimony other than a few cross-examination questions of Joe Graham, NuStar's witness. Fargo offered six exhibits:

1. Exhibit Fargo 2 was a printout of the real estate tax records for Stutsman County tax listing some of NuStar Pipeline property in Stutsman County under the utilities category.
2. Exhibit Fargo 3 is not a factual document but is a copy of N.D.C.C. §57-06-02, assessment and taxation of Public Utilities. N.D.C.C. §57-06-02 contains a definition of a Pipeline Company. This definition is not controlling on this issue of whether NuStar is a public utility which is defined in N.D.C.C. §49-03.1-02(2).
3. Exhibit Fargo 4 consists of excerpts taken from NuStar's Application, NuStar's Request to Withdraw Application and Joe Graham's Supplemental Affidavit. Exhibit NuStar 5 shows that the Pipeline provides an essential public service in providing transportation of refined fuel products from the Tesoro Refinery.
4. Exhibit Fargo 6 is a series of newspaper articles from various papers in 1953 and 1954 which assert that the Mandan Refinery and the pipeline were completed in the early 1950s. The articles contained some inaccuracies identifying the 10" Pipeline as a 10 ¾" pipeline, as well as asserting that refined fuel was transported in the Pipeline from Moorhead to Central North Dakota. This was disputed by NuStar witness, Joe Graham, who testified that Standard Oil used to ship refined fuel from its Whiting, Illinois refinery to the Minneapolis area and then west to Moorhead. But that refined fuel never was shipped on the pipeline into North Dakota. Also upon the completion of the Mandan

Refinery to the present, refined petroleum from the Mandan Refinery was only shipped cast on the pipeline from Mandan through Moorhead and on to Roseville, Minnesota.

5. Fargo Exhibit 7 is a map of the pipeline in Jamestown North terminal and Jamestown East terminal along with a Google map of the Jamestown North terminal and Jamestown East terminal.

6. Fargo Exhibit 8 is confidential engineering drawings of the connections between the Pipeline and the Jamestown East terminal. Graham testified that Fargo's Exhibit 8 shows that the Pipeline can deliver fuel to the Jamestown East terminal but that no fuel from the Jamestown East terminal can be delivered onto the Pipeline.

7. Fargo had marked Exhibits 1, 5, 9, 10 and 11; however, these Exhibits were not offered into evidence and are not part of the record.

8. After Fargo submitted its exhibits and rested, NuStar called Joe Graham.

9. Joseph Graham is the Director of Tariffs and Regulatory Planning for NuStar Pipeline Operating Partnership L.P. (NuStar).

10. The Pipeline was originally constructed by Standard Oil Company a predecessor to Amoco (Amoco) in the 1950s as a proprietary pipeline to transport petroleum products from the Mandan, North Dakota refinery to various destinations in North Dakota and Minnesota.

11. At the time the Pipeline was built and until December 2002, the same entity owned both the Pipeline and the Refinery.

12. During the time that the Pipeline and the Refinery were owned by the same entity, the Pipeline owner/operator (first Standard Oil, then Amoco, then BP/Amoco, finally

Tesoro) remained a proprietary pipeline, in which products transported in the Pipeline were owned by the entity that owned the Pipeline, or its affiliate.

13. The Pipeline remained a proprietary pipeline until NuStar, under its former name, Kaneb, converted the Pipeline to a common carrier pipeline in 2002. Kaneb purchased the Pipeline from the owner/operator Tesoro and filed the initial Tariff for the Pipeline with the Public Service Commission in 2002.

14. Effective March 31, 2008, Kaneb Pipe Line Operating Partnership, L.P. changed its name to NuStar Pipeline Operating Partnership L.P.

15. NuStar transports refined petroleum products that it does not own through the Pipeline. Tesoro retains ownership of the refined products, and NuStar only acts as a transporter of Tesoro's refined products.

16. Since Kaneb's purchase of the Pipeline in 2002, through March 2008, Kaneb and NuStar have issued 9 Tariffs which were accepted by the ND PSC without the ND PSC requiring Kaneb or NuStar to file for a certificate of Public Convenience and Necessity.

17. NuStar issued Tariff No. 2 and filed it with the ND PSC as a result of the name change from Kaneb Pipe Line Operating Partnership, LP to NuStar Pipeline Operating Partnership L.P. by NuStar, effective May 9, 2008. The predecessor tariff, NDPSC No. 9, was published and supplemented by NuStar under its previous name, Kaneb Pipe Line Operating Partnership, L.P.

18. NuStar's North System operates and delivers refined products to the following five NuStar owned terminals on the Pipeline.

- a. North System: Jamestown - North, ND
- b. North System: Moorhead, MN
- c. North System: Sauk Center, MN

- d. North System: Roseville, MN
- e. East System: Jamestown – East, ND

19. NuStar's North System operates and delivers refined products to one Burlington Northern owned and operated terminal on the Pipeline on a separate dedicated 3" pipeline. NuStar's Burlington Northern Railroad (BNRR) Line is a 2.7-mile, 3-inch diameter delivery line that transports RR40 diesel fuel from Tesoro's Mandan Refinery to Burlington Northern's Mandan, North Dakota, Railroad Yard. NuStar's 2.7-mile line section terminates at BNRR's custody transfer point.

20. The shipper of record for all shipped Pipeline volumes transported by NuStar has been and currently is only one shipper, Tesoro.

21. Since 2002 forward, NuStar and its predecessor Kaneb rates published with the North Dakota Public Service Commission, only apply to refined product volumes that originate at Mandan, North Dakota.

22. Transportation via the Pipeline between Tesoro's Mandan, ND refinery to Burlington Northern's Mandan, ND terminal or between Tesoro's Mandan, ND refinery and NuStar's Jamestown, ND terminals occurs entirely within North Dakota. Any other destinations on the Pipeline are outside of North Dakota and are outside the jurisdiction of the Commission.

23. NuStar is statutorily subject to the jurisdiction of the North Dakota Public Service Commission by virtue of its intrastate tariff.

24. The Pipeline's Jamestown, ND terminal (the "Jamestown North Terminal") is supplied only from the Mandan, North Dakota refinery.

25. A separate terminal at Jamestown, serves as a destination point for products that are transported along a separate pipeline called NuStar's East System, (the "Jamestown East Terminal"). The Jamestown East Terminal is located approximately 10.9 miles from the Jamestown North Terminal and was not part of the Pipeline built by Amoco and purchased by Kaneb from Tesoro. Kaneb constructed a pipeline connecting the Jamestown East Terminal to the Pipeline allowing the Pipeline to deliver to the Jamestown East Terminal. The Jamestown East Terminal is supplied from volumes that originate at Mandan, North Dakota, as well as from volumes that originate outside of North Dakota. Refined product volumes destined for the Jamestown East Terminal that originate outside of North Dakota are not transported along the Pipeline.

26. Refined petroleum products have not been transferred and cannot be transferred from the East System Pipeline to the Pipeline because there is no connection between the two pipelines.

27. Refined petroleum product cannot be transferred from the Jamestown East terminal into the North pipeline physically because neither the Jamestown East terminal or the East System Pipeline are engineered to be compatible. The East System Pipeline and the Jamestown East terminal have pumping capacity of approximately 400 barrels per hour. The Pipeline pumps product at approximately 1,800 to 2,000 barrels per hour. Therefore, these pipelines are highly incompatible.

28. NuStar's North Pipeline connects to terminals in Minnesota. However, product does not move from east to west along the pipeline from Minnesota into North Dakota. The Pipeline is uni-directional from Mandan to Roseville, Minnesota.

29. At the NuStar Internet Site, NuStar represented that the Pipeline, including the North Dakota and Minnesota Terminals in issue, to-wit: “the North System has three origination points: Tesoro Mandan; BP Whiting; and Magellan Midstream Partners, LP.” All products transported in the Pipeline originated at the Tesoro Mandan, North Dakota refinery. However, the other two origination points referenced above, (BP Whiting and Magellan), refer to locations outside of North Dakota from which it is possible for product to be delivered only to NuStar’s Roseville, Minnesota Terminal. No product that originates from BP Whiting or Magellan Midstream Partners is transported along the Pipeline.

30. The NuStar Internet Site is maintained by an affiliate of NuStar and is available to the general public.

31. The NuStar Terminals on the Pipeline are distribution terminals from which, at its shipper’s request, NuStar will permit tanker trucks to load refined products. Access to NuStar’s Jamestown North terminal is controlled by Tesoro. Access to the NuStar Jamestown East terminal is controlled by Tesoro and the shipper(s) on the East pipeline. NuStar simply provides a storage and terminal service for the benefit of Tesoro on the Jamestown North Terminal (which includes all terminals on the North System Pipeline) for Tesoro shipping from the Mandan refinery and for the shippers on the East System Pipeline delivering into the Jamestown East Terminal. NuStar does not deliver any products directly to the public.

32. All product delivered to NuStar’s North Jamestown Terminal in North Dakota originates from Tesoro’s Mandan, North Dakota refinery. All product delivered to Burlington Northern’s Mandan, North Dakota terminal originates from Tesoro’s Mandan,

ND refinery. In addition all product on the Pipeline is owned by NuStar's single shipper, Tesoro. NuStar represented to the Securities and Exchange Commission that the Pipeline, including Minnesota terminals, is supplied primarily by the Tesoro Mandan refinery. Graham testified that the Roseville, MN terminal could receive product at the terminal for BP Whiting or Magellan Pipelines but that none of their product could be shipped on the Pipeline.

33. Under Item No. 25 of NuStar's Tariff, effective May 9, 2008, any shipper or consignee may provide facilities for receiving, storing, and loading petroleum products at any delivery point on the pipeline, not limited to carrier's terminals. Only one shipper has historically or is currently providing these needed facilities.

34. Any new origination point on the Pipeline requires written Tariff notification to current tariff subscribers as well as to current Federal (FERC) and State (ND PSC) regulators on no less than 30 days notice.

35. Exhibit NuStar 1 is a map showing the Pipeline from Mandan through the two Jamestown terminals and on to Moorhead, Sauk Center and Roseville, Minnesota.

36. Exhibit NuStar 2 is a map of the East Pipeline that originates in Oklahoma and Kansas and terminates at the Jamestown East terminal.

37. Exhibit NuStar 3 is an aerial map of the Jamestown East terminal showing the Pipeline flowing up to the Jamestown East Terminal and then in an N direction returning back to its east-west pipeline (the Pipeline) and proceeding on to Minnesota. Exhibit NuStar 3 also shows the East Pipeline coming from the South and terminating at the Jamestown East terminal.

38. Exhibit NuStar 4 is the Affidavit of Joseph Graham in support NuStar's Motion to Withdraw its Application for Certificate of Public Convenience and Necessity.

39. Exhibit NuStar 5 is the Supplemental Affidavit of Joe Graham in Support of the proposed Stipulation of Undisputed Facts.

40. Exhibit NuStar 6 is a two page drawing made by Joe Graham showing the Pipeline proceeding from the Mandan Refinery to the Jamestown North and Jamestown East terminals and then on to Moorhead, Minnesota and the 8" line from Moorhead to Sauk Centre and Roseville and the Amoco Pipeline from Whiting Illinois to the Twin Cities.

41. The Pipeline serves a very critical public need.

42. We find that NuStar is a common carrier on the Pipeline, but we do not find that NuStar is holding itself out to serve the public generally.

43. The preponderance of the evidence fails to establish that NuStar is engaged or employed to furnish its services to the public generally, or that it proposes to be so engaged or employed.

From the foregoing Findings of Fact, the Commission now makes its:

CONCLUSIONS OF LAW

1. 69-02-02-07. Amendments and withdrawals provides:

"2. Withdrawals. A participant desiring to withdraw a pleading filed with the commission may file a notice of withdrawal. The notice must set forth the reason for the withdrawal. A copy of the withdrawal notice must be served upon all other participants and a certificate of service to that effect must be filed with the notice of withdrawal. This section does not allow, without express permission of the commission, withdrawal of any pleading in any proceeding in which a hearing has been held or convened."

2. NuStar sought to withdraw its Application for Public Convenience and Necessity. NuStar filed a “Request to Withdraw Application for Certificate of Public Convenience and Necessity,” which contained the information necessary to comply with the requirements of a Notice to Withdraw, therefore, NuStar complied with 69-02-02-07.2 above. The application set forth the reason for the withdrawal, that NuStar was not a public entity as defined under North Dakota law, and was not required to obtain a PCN. NuStar did not begin construction or operation of the Pipeline as required by N.D.C.C. §49-03.1.01.

NuStar served the Request to Withdraw on Fargo and the Commission.

At the time the Application to Withdraw was filed by NuStar, the Commission had not scheduled, held or convened a hearing.

3. In North Dakota, the Public Service Commission only has such authority as is conferred upon it by legislature. Grafton v. Ottertail Power Co., 86 N.W.2d 197 (ND 1957).

4. Under 69-02-02-07 NuStar’s Application for Withdrawal of its Application of PCN should be granted by the Commission.

5. The Commission has jurisdiction over the parties and the subject matter of the proceedings under N.D.C.C. Chapter 49-03.1.

6. NuStar is not a public utility as defined by N.D.C.C. §49-03.1-02(2).

7. In the proceedings, Fargo has the burden of establishing that NuStar is “furnishing its product or services to the public generally.” Fargo did not meet its burden.

8. NuStar has the burden of showing that even if it is a public utility; it is not subject to the application of N.D.C.C. 49-03.1. NuStar met its burden.

9. NuStar is not a public utility under N.D.C.C. Chapter 49-03.1 because it is not engaged in or furnishing its services to the public generally in this state. NuStar is only providing services to one customer, Tesoro.

10. NuStar is not required to obtain a Certificate of Public Convenience and Necessity from the Commission under N.D.C.C. §49-03.1-01 because NuStar did not begin construction or begin operation of the Pipeline. The Pipeline was constructed over 50 years ago and has been in operation for over 50 years.

11. NuStar may be required to secure a Certificate of Public Convenience and Necessity in the future if it changes its operation in such a manner that the changes require a PCN.

12. The Commission has established legal precedent in a number of cases concerning the definition of the meaning of “furnish its products or services to the public generally” under N.D.C.C. §49-03.1-02(2).

13. In *Western Gas Processors*, PSC case no. 9981, May 29, 1980, Western entered into an agreement with several oil producers for gathering casing head gas produced by the oil wells. Western transported the gas and, after processing, sold it to MDU, the sole purchaser of the output of the product. The Commission found that Western Gas was not selling its products or services to the public and did not propose to furnish its services to the public generally. The Commission found that Western was not selling its products or services to the public generally and determined that the Commission did not have jurisdiction to require a PCN.

13. *Williston Basins v. Koch*, case no. 552-92-442. Koch bought gas from producers under percentage of proceeds contracts. Five to ten percent of the residue gas was under

a buy back option to producers. Under the facts, Koch gathers compressed natural gas from approximately 1,100 producer wells, and then transports Koch owned gas plus the gas owned by in-kind owners (which amounted to five to ten percent of the residue gas). In addition, Koch had an exchange agreement with KN Energy whereby Koch would take KN Energy's Bowden gas to satisfy its customer obligations. Koch intended to transport only its own gas through the pipeline, but was also willing to transport small portions of the residue gas that it did not own.

The Commission found that the preponderance of the evidence failed to establish that Koch is engaged or employed to furnish its products or services to the public generally, or that Koch proposes to be so engaged or employed. Therefore, no PCN was required.

14. In *Williston Basics Interstate Pipeline v. Amerada Hess Corporation*, case no. PU-552-92-524, August 12, 1992, the Commission stated:

“7... We agree that the term ‘public generally’ as found in N.D.C.C. §49-03.1-02(2) refers to the relevant public who would potentially and in the course of their business, be able to utilize common pipeline carrier services...”

In this case, although the Commission found Amerada to be a common pipeline carrier, the Commission did not find that Amerada is holding itself out to serve the public generally.

From the Findings of Fact and Conclusions of Law, the Commission issues its:

ORDER

1. NuStar's Request to Withdraw its Application for Certificate of Public Convenience and Necessity is granted.

2. NuStar is not a public utility under N.D.C.C. §49.03.1-02(2) and is not required to obtain a Certificate of Public Convenience and Necessity for the Pipeline.

PUBLIC SERVICE COMMISSION

Tony Clark,
Commissioner

Kevin Cramer,
President

Brian Kalk,
Commissioner

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF NORTH DAKOTA

NUSTAR PIPELINE OPERATING PARTNERSHIP, LP) CASE NO. PU-08-194
NORTHERN PRODUCT SYSTEM)
PUBLIC CONVENIENCE AND NECESSITY)

AFFIDAVIT OF SERVICE

The undersigned hereby certifies that on the 20 day of October, 2009, the undersigned deposited in the United States Post Office at Mandan, North Dakota, a true and correct copy of the following document(s) in the above-captioned action:

Proposed Findings of Fact, Conclusions of Law and Order

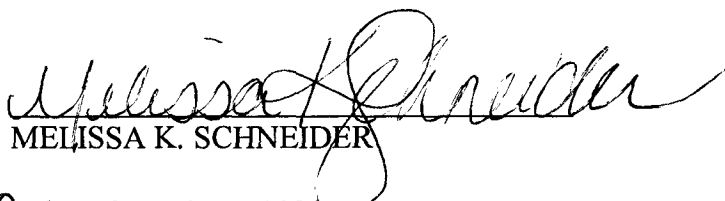
That a copy of the above document(s) was sent by electronic mail and securely enclosed in an envelope with postage duly prepaid, addressed as follows:

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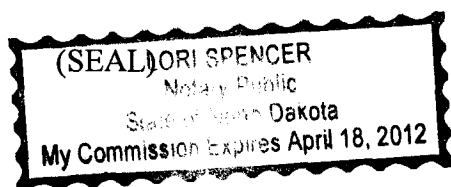
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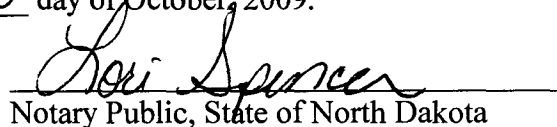
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MELISSA K. SCHNEIDER

Subscribed and sworn to before me this 20 day of October, 2009.




Notary Public, State of North Dakota