



Public Service Commission
State of North Dakota

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December 15, 2008

Lawrence Bender
Fredrikson & Byron, P.A.
200 North Third Street
Suite 150
Bismarck, ND 58501-3879

Ron Ness
North Dakota Petroleum Council
P.O. Box 1395
Bismarck, ND 58502

Re: PU-08-831 Pecan Pipeline (North Dakota), Inc.
Natural Gas Pipeline Extension – Mountrail County

Dear Mr. Bender:

On December 14, 2008, Ron Ness of the North Dakota Petroleum Council sent an e-mail to Commissioner Clark regarding the jurisdictional question in the captioned case. There is no indication on the e-mail that the communication was served on the applicant, Pecan Pipeline (North Dakota), Inc. Consequently, the e-mail is an ex parte communication, prohibited by N.D.C.C. section 28-32-37(3) and Commission rule 69-02-05-11. Copies of the statute and rule are attached.

The e-mail has been docketed in the captioned case and by enclosure with this letter a copy is being served on the applicant. The e-mail is not part of the record evidence in this matter.

Ex parte communications are prohibited under North Dakota law and rule. Parties cannot communicate directly or indirectly with the Commission on a pending case without notice to other parties and an opportunity for other parties to participate in the communication.

If you have questions, please do not hesitate to call or e-mail.

Sincerely,


Darrell Nitschke
Director of Administration

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Letter re. Ex-Parte Communications - Prohibition

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Enclosures

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Letter re. Ex-Parte Communications - Prohibition

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Director of Admin., Darrell Nitschke

28-32-37. Ex parte communications.

3. Except as provided in subsection 4 or unless required for the disposition of ex parte matters specifically authorized by statute, no party to an adjudicative proceeding, no person who has a direct or indirect interest in the outcome of the proceeding, no person allowed to participate in the proceeding, and no person who presided at a previous stage in the proceeding may communicate directly or indirectly in connection with any issue in that proceeding, while the proceeding is pending, with any agency head or hearing officer in the proceeding without notice and opportunity for all parties to participate in the communication.

69-02-05-11. Ex parte communications.

Ex parte communications, as defined in North Dakota Century Code section 28-32-12.1, are strictly prohibited. Any ex parte written communication to the commission must be filed with the executive secretary of the commission who shall disclose the communications to the parties and place the communication in a public file associated with the pending proceeding, but separate from the record material upon which the commission can rely in reaching its decision.

History: Effective September 1, 1992.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 28-32-12.1, 49-01-07

Nitschke, Darrell D.

From: Clark, Tony T.
Sent: Monday, December 15, 2008 10:00 AM
To: Nitschke, Darrell D.
Subject: FW: gas

From: Ron Ness [mailto:ronness@ndoil.org]
Sent: Sunday, December 14, 2008 6:13 PM
To: Clark, Tony T.
Subject: gas

Tony, I hope you will carefully make the decision regarding the ruling on whether the gas lines needs to be permitted. It seems like this is being overblown and waiting another seven months is a much bigger impact than just letting it be considered a gathering system like all other wells being drilled and connected. I don't think they ever should have applied for the permit, it should have just been done but that's another story. The distance should not matter, you're either a gathering line or not. The legislature started trying to assist getting these wells connected two-years ago. The locals, royalty, mineral, and operators have waited long enough. A wind farm less than 100 mw is not regulated, an ethanol plant, and the list goes on and on.

We hope you will agree it's a gathering system.

Thanks

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Email - Ex Parte Communication from Ron Ness, ND
Petroleum Council