

STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION

Public Service Commission  
Weights and Measures  
Rulemaking

Case No. WM-10-63

Public Service Commission  
Decommissioning  
Rulemaking

Case No. PU-10-159

ORDER SUBMITTING RULES TO ATTORNEY GENERAL

July 28, 2010

Appearances

Commissioners Tony Clark, Kevin Cramer, and Brian P. Kalk

Preliminary Statement

On June 2, 2010 the North Dakota Public Service Commission (Commission) issued a formal Notice of Proposed Rulemaking and an Abbreviated Notice proposing to revise several sections to the North Dakota Administrative Code. The proposed rules are summarized as follows:

**Weights and Measures: Case No. WM-10-63**

The North Dakota Metrology Laboratory officially closed on June 30, 2010 and all of the proposed rule changes are related to that closing. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.

**Decommissioning: Case No. PU-10-159**

The proposed rule implements the requirement in 2009 House Bill 1449 (N.D.C.C. § 49-02-27) that the commission's wind farm decommissioning rules address present and future natural resource development. The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.

Public Hearing and Comments

The Abbreviated Notice was published once in all 52 official county newspapers the week of June 13 through June 19, 2010 with the exception of one county newspaper, the Ashley Tribune, which published on June 30, 2010. The Notice of

Intent to Amend Administrative Rules and Notice of Public Hearing and proposed rules were also sent to those identified as interested or affected parties. The notices were also forwarded on June 3, 2010 to the Legislative Council for publication.

A public hearing on the proposed rule changes was noticed for and held at 1:30 p.m. July 14, 2010. The hearing was held in the Commission Hearing Room, 12th floor, State Capitol, Bismarck, North Dakota.

The Commission allowed, after the conclusion of the rulemaking hearing, a comment period until July 26, 2010, during which data, views, or oral arguments concerning the proposed rulemaking could be received by the Commission and made a part of the rulemaking record to be considered by the Commission.

The only written comments filed were received at the hearing and were those of Commission staff.

### **Discussion**

#### **Weights and Measures: Case No. WM-10-63**

Staff prepared and filed a statement regarding the required regulatory analysis, takings assessment, and small entity regulatory analysis.

Staff testified that the proposed changes relate to the North Dakota Metrology Laboratory closing of June 30, 2010, and summarized the required changes relating to that closing. Staff also testified that the proposed changes also relate to providing flexibility to administer written tests at Bismarck or another location and to allow scheduling of written testing by the Weights and Measures Program Coordinator/Inspector.

No other comments were received and no changes are being made to the rules as originally proposed.

#### **Decommissioning: Case No. PU-10-159**

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Staff testified that the proposed changes implement the requirement in 2009 House Bill 1449 (N.D.C.C. § 49-02-27) that the commission's wind farm decommissioning rules address present and future natural resource development.

No other comments were received and no changes are being made to the rules as originally proposed.

## Order

The Commission orders:

The proposed changes to the North Dakota Administrative Code, as attached to and made a part of this order, be submitted to the Attorney General for an opinion that the rules are approved as to legality.


### PUBLIC SERVICE COMMISSION



**Tony Clark**  
Commissioner



**Kevin Cramer**  
Chairman



**Brian P. Kalk**  
Commissioner