



Public Service Commission

State of North Dakota

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28 February 2013

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Re: GRE Spiritwood Energy Park Jurisdictional Determination, Case No. PU-12-767

Dear Mr. Olsen and Ms. Stephanson:

The purpose of this letter is to respond to your letter of 5 October 2012 requesting a jurisdictional determination from the Commission. The Commission discussed your letter and all subsequent filings in this case, and asked me to respond.

In your 5 October letter, you ask for a jurisdictional determination that GRE is not an electric public utility under N.D.C.C. Section 49-03-01.5 and therefore not required to obtain a certificate of public convenience and necessity from the Commission before extending electric service to customers to be located in a new Spiritwood Energy Park being developed adjacent to GRE's Spiritwood Generating Station. You informed the Commission that the energy park is to be owned and operated by the Spiritwood Energy Park Association, LLC, a North Dakota limited liability company that is jointly owned by GRE and the Jamestown Stutsman Development Corporation.

Your letter prompted the filing of petitions to intervene by Otter Tail Power Company and Montana-Dakota Utilities Co., briefs in support of and in opposition to both the jurisdictional determination and the intervention requests, and supplemental comments. All filings have been reviewed by the Commission.

Since your letter request is not an "adjudicative proceeding" as defined by N.D.C.C. section 28-32-01(1), intervention is not appropriate and the Commission will take no action on the petitions. Further, for the same reason, formal notice and hearing is not required. As noted above, however, the Commission has reviewed all filings. Otter Tail Power Company and Montana-Dakota Utilities Co. will be copied with this response.

GRE informed the Commission that it proposes to serve a new nitrogen fertilizer plant and a biorefinery. The biorefinery is to be owned by Dakota Spirit Energy, LLC, an affiliate of GRE. The fertilizer plant is proposed by CHS, Inc., a national farmer's cooperative headquartered in the twin cities. Service would be provided under contracts to be negotiated with each customer.

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Letter response to GRE's 5 October 2012 request for jurisdictional determination

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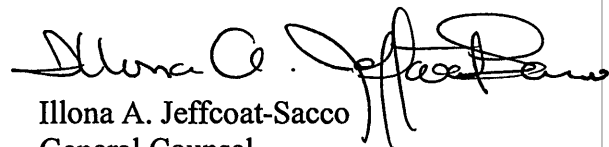
Illona A. Jeffcoat-Sacco

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In your first letter, you appeared to ask your question based on a potentially broader service, but your supplemental filing clarifies that you seek to provide electric service only to two customers in an energy park in which you have an ownership interest as part of an economic development effort in the area. We understand that you did not rule out the possibility of serving other future customers that may locate in the energy park. However, you stated that if there is an additional tenant, or if either of the two specific projects does not proceed, GRE will seek further guidance from the Commission. Under these specific facts, GRE does not appear to be holding itself out to provide electric service to the public generally.

Under the specific facts provided to the Commission, it appears that you are not required to obtain a certificate of public convenience and necessity prior to providing service to these two customers.

Best regards,


Illona A. Jeffcoat-Sacco
General Counsel

c. Dan Kuntz, MDU
Bruce Gerhardson, OTP