



August 21, 2018



Mr. Darrell Nitschke
Executive Secretary
North Dakota Public Service Commission
600 East Boulevard, Dept. 408
Bismarck, ND 58505-0480

Re: Response to Motion to Dismiss in DRC & ELPC v. Meridian Energy Group, Inc. (Case No. PU-18-223)

Dear Mr. Nitschke:

Enclosed for filing in Case PU-18-223, please find an original and ten copies of the Affidavit of Rachel Granneman in Support of Complainants/Petitioners to Respondent Meridian Energy Group, Inc.'s Motion to Dismiss. This document was inadvertently not included in our filing yesterday.

If you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read "JJ England".

JJ England

Enclosures

13 PU-18-223 Filed 08/22/2018 Pages: 4
Affidavit of Rachel Granneman in Support of Petitioner's Response to Motion to Dismiss
Dakota Resource Council & The Environmental Law & Policy Center
JJ England

BEFORE THE PUBLIC SERVICE COMMISSION OF NORTH DAKOTA

Environmental Law & Policy Center and Dakota Resource Council,)	
)	
)	
Complainants/ Petitioners,)	
)	
vs.)	Case No. PU-18-223
)	
Meridian Energy Group, Inc.,)	
)	
Respondent.)	

RULE 56(f) AFFIDAVIT OF RACHEL GRANNEMAN

I, Rachel Granneman, an attorney, being duly sworn, do hereby declare and state:

1. I represent Complainant/Petitioner Environmental Law & Policy Center (“ELPC”) in the above-captioned proceeding before the North Dakota Public Service Commission (“PSC”).
2. To the extent the PSC chooses to use the North Dakota Rules of Civil Procedure in this proceeding, this affidavit is submitted pursuant to Rule 56(f) to show that Complainants/Petitioners ELPC and Dakota Resource Council (“DRC”) cannot present all the material facts to oppose Meridian’s Motion without an opportunity to conduct discovery.
3. On August 8, 2018, Respondent Meridian Energy Group, Inc. (“Meridian”) filed a Motion to Dismiss, alleging a lack of subject matter jurisdiction, which was supported by a sworn affidavit from Meridian’s Chief Executive Officer, William Prentice.
4. The standards of North Dakota Rules of Civil Procedure Rule 56 apply to Meridian’s Motion because Meridian relies on evidence outside of the pleadings and jurisdictional facts are at issue.

5. ELPC and DRC allege that Meridian is violating N.D.C.C. § 49-22.1-04 by constructing its Davis Refinery without a certificate of site compatibility from the PSC. This allegation is based on Meridian's numerous and repeated statements to investors, news media, the public, and governmental agencies that it plans to build a 55,000 barrel per day ("bpd") refinery, which is beyond the 50,000 bpd threshold for siting review by the PSC.

6. Meridian claims in its Motion to Dismiss that it is now planning to construct a 49,500 bpd refinery.

7. The relevant jurisdictional facts in this case concern Meridian's current plans for the Davis Refinery, including the actual planned capacity and potential plans to expand beyond the 50,000 bpd threshold. Documents reflecting this information, such as internal communications, private communications with investors, engineering plans and blueprints, etc., are in Meridian's exclusive possession.

8. Accordingly, ELPC and DRC cannot provide all the material evidence that Meridian plans to construct a refinery to which siting review requirements would apply without the opportunity for discovery. ELPC and DRC have not yet had an opportunity to conduct discovery in this proceeding.

Executed this 20th day of Aug, 2018.



Elizabeth Prakel
8/20/2018

Rachel Granneman

Rachel Granneman (*Pro Hac Vice*)

Staff Attorney

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*Attorney for the Environmental Law &
Policy Center*

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the foregoing document was on the 21st day of August, 2018, served by e-mailing the same to:

Lawrence Bender
lbender@fredlaw.com

Derrick Braaten
derrick@braatenlawfirm.com

Scott Strand
sstrand@elpc.org

Rachel Granneman
rgranneman@elpc.org

and by mailing a copy via USPS First Class Mail to:

Patrick J. Ward
Administrative Law Judge
c/o Zuger Kirmis & Smith
PO Box 1695
Bismarck, ND 58502-1695

An original and ten copies of the foregoing document was also mailed by USPS mail to the North Dakota Public Service Commission on said date.

/s/ JJ England
JJ England