

**STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION**

**Public Service Commission  
Solar Decommissioning  
Rulemaking**

**Case No. PU-19-122**

**PUBLIC SERVICE COMMISSION STAFF TESTIMONY**

**September 19, 2019**

My name is Jerry Lein. I am a Public Utility Analyst in the Public Utilities Division of the Public Service Commission. The purpose of my testimony is to describe the proposed ND Admin. Code Chapter 69-09-10 administrative rules pertaining to solar decommissioning.

The Commission has previously adopted rules for wind turbine decommissioning and these proposed rules for solar are similar. In summary, the rules would require commercial scale generating facilities to be removed when they reach the end of their useful life and the site to be restored to its original condition or as near as practicable. In order to accomplish this purpose, proposed section 69-09-10-01 provides definitions of several terms used in proposed Chapter 69-09-10.

Decommissioning:

Section 69-09-10-02 of the proposed rules provides that the owner of solar facilities with 500 kW or more of generating capability has a decommissioning responsibility.

Section 69-09-10-03 defines abandonment and useful life. After construction begins there is a rebuttable presumption of abandonment if there

is a period of twenty four consecutive months with no significant construction. After construction there is a rebuttable presumption the facility is at the end of its useful life if its annual capacity factor falls below ten percent for two consecutive years. The owner is required to certify operations annually.

Section 69-09-10-04 provides a decommissioning period. After useful life or abandonment the owner shall begin decommissioning within twelve months and complete decommissioning within twenty-four months unless the Commission approves a plan to return the facility to operation.

Section 69-09-10-05 provides decommissioning requirements for restoration and reclamation of the site, including the removal of underground cables to a depth of twenty-four inches and complete removal of structure foundations.

Decommissioning Plan:

Section 69-09-10-06 provides that the owner must have a Commission-approved decommissioning plan and cost estimate prior to operation. After determining a plan is complete, the Commission has 60 days to act on the plan. The Commission can require an updated plan at any time, but the plan must be updated every five years beginning ten years after the initial approval.

Financial Assurance:

Section 69-09-10-07 provides that owners of existing facilities shall provide financial assurance upon ten years of operation sufficient to complete decommissioning.

Section 69-09-10-08 provides that new facilities must provide construction financial assurance equal to five percent of project cost prior to starting construction. This temporary assurance is returned after construction when a more permanent assurance acceptable to the Commission and sufficient to ensure decommissioning is received. The Commission may accept several forms of financial assurance, including a corporate or parent guarantee if certain conditions are met.

Failure to Decommission:

Section 69-09-10-09 provides that if an owner does not decommission the Commission may take action to do so, including action to require forfeiture of a bond.

Small Facilities Waiver:

Section 69-09-10-10 provides the Commission may grant a waiver of any of these decommissioning requirements for small facilities with no more than five MW of generating capability.

This concludes my testimony.

Thank you.