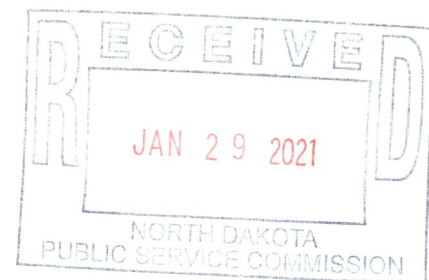


STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION



Keith and Deanna Kessler
v Minnesota Power, a division of ALLETE, Inc.
Complaint

Case No. PU-20-194

**PREHEARING CONFERENCE SUMMARY
AND SCHEDULING ORDER**

OAH File No. 20200211

At the request of the parties, the designated Administrative Law Judge, ALJ Timothy Dawson, held a prehearing conference at 10:15 a.m. on January 25, 2021. In attendance at the prehearing conference was attorney Lynn Boughey, for the Petitioners Keith and Deanna Kessler; attorneys Mollie Smith and Patrick Mahlberg for the respondent Minnesota Power; attorney Brian Johnson for the Public Service Commission; and staff for the Public Service Commission Jerry Lein.

In accordance with the rulings made verbally by the ALJ on the record, **IT IS HEREBY ORDERED:**

1. The following deadlines are adopted:
 - a) witness and exhibit lists: March 4, 2021
 - i) Exhibit lists must include proposed hearing exhibits in the possession of the parties as of the deadline.
 - ii) In the event either party has any question as to any specific exhibit, that party should email the other party, and the party proposing the exhibit has one full business day to respond to the request for information, delineating the document or providing a copy of the document to opposing counsel.

iii) If a party wants to add a proposed hearing exhibit after March 4, 2021, the party shall consult by email with opposing counsel; if there is an objection, the requesting party shall submit a written request to the ALJ, who will determine if the proposed exhibit will be allowed, applying a good cause standard.

- b) issuance of subpoenas by of counsel as to witnesses: March 4, 2021
- c) request to ALJ for subpoenas as to documents: March 4, 2021
- d) pre-filed written testimony: March 4, 2021
- e) motions in limine: March 11, 2021
- f) response to motions in limine: March 18, 2021
- g) prehearing briefs – filed before prehearing conference: March 22, 2021
- h) prehearing conference – 10:00 am: March 22, 2021
- i) hearing before the PSC: March 25-26, 2021
- j) post-hearing briefs and proposed findings of fact: April 15, 2021
Any brief by Mr. Boughey as to attorneys fees must be a separate brief.
- k) responsive post-hearing briefs: April 22, 2021

2. As to the issue of pre-filed written testimony, the parties will be allowed to submit pre-filed written direct testimony, and although this is not required, it is preferred.

3. The physical exchange of exhibits will occur by noon in Bismarck on March 24, 2021.

4. Over the Petitioners' objection, any witnesses or counsel may appear by videoconferencing, without the need to show good cause or present the request through motion due to the present pandemic and PSC practice.

5. As to subpoenas relating to witnesses, the attorneys of record are authorized to issue subpoenas under their own signature, and the parties have agreed to accept

service of those subpoenas via email on behalf of their clients and those within their client's control, and will take appropriate steps to ensure the attendance of that individual at the upcoming hearing. An individual subpoenaed may appear in person or by videoconferencing.

6. As to subpoenas relating to documentary evidence, counsel of record may present by written application subpoenas requesting documentary evidence to the ALJ, in accordance with North Dakota Administrative Code section 69-02-05-03(1-2), and the ALJ will issue a ruling either authorizing or denying the request. In doing so, the ALJ advises counsel that it will request an expedited response as to the request and rule on the request in an expedited manner soon after the time has elapsed for such a response. Any enforcement of such subpoena or denial of the request must be made to the District Court, as allowed by law under the Administrative Procedures Act.

Dated at Bismarck, North Dakota, this 28th day of January 2021.

State of North Dakota
Public Service Commission

By: 

Timothy J. Dawson
Administrative Law Judge
Office of Administrative Hearings
2911 North 14th Street – Suite 303
Bismarck, North Dakota 58503
Telephone: (701) 328-3200

AMERICANS WITH DISABILITIES ACT NOTIFICATION: A party shall promptly notify the Public Service Commission in writing if the party has a disability which will require auxiliary aids or services at the hearing so that the Public Service Commission can make appropriate accommodation prior to the hearing. Any request for an interpreter at the hearing must also be made in writing to the Public Service Commission. Any request for aids, services, or an interpreter should be as specific as possible about what is required by the party. Also, please send a copy of the notice or request to the administrative law judge.