

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

NOTICE OF HEARING

January 20, 2021

Please take notice that a **public hearing** on Case No. PU-20-194 will **begin Thursday March 25, 2021 at 10:00 a.m. CST, in the Commission Hearing Room, 12th Floor, State Capitol, Bismarck, North Dakota 58505.**

On April 23, 2020, Keith and Deanna Kessler (Kesslers) filed a complaint that one of their residences, referred to as the Section 15 structure, was not identified as an occupied residence during the siting process for **Minnesota Power's** 210MW Bison 4 Wind Project in Oliver County, North Dakota, causing turbine number 441 to be constructed within 1400 feet of the structure.

The issues to be considered in this matter are:

1. The proper definition of "occupied residence" to be adopted by the PSC
2. Does this definition apply at throughout the application process, from the date of the filing of the application to the completion of the projection, including but not limited to the public hearing on the application.
3. As to the Section 15 structure,
 - a) Whether ALLETE should have identified the structure as an "occupied residence" in its application and the map provided to the ALJ and PSC.
 - b) Whether ALLETE had previously been informed by the Kesslers that the structure is a residence or is intended to be used as a residence in the near future.
 - d) Whether ALLETE, based on its knowledge relating to the structure, should have advised the ALJ at the public hearing that the designation or use of the structure was at issue.
 - e) Whether ALLETE, based on its knowledge relating to the structure, should have advised the ALJ of all facts relating to the structure and advised the ALJ that the issue needs to be resolved.

f) Whether ALLETE, based on its knowledge of the use or intended use of the structure, should have moved the placement of the turbine farther away from the structure so as to comply with the set-back requirements.

4. As to the conduct of ALLETE in regards to the Kesslers,

a) Whether ALLETE took any actions to dissuade the Kesslers from raising the issue of the placement of the turbine during the public hearing.

b) Whether ALLETE through any of its employees, agents, or representatives at any time in regards to the application and the structure provided incorrect or false information to the ALJ or the PSC.

5. If the Section 15 structure is considered by the PSC to be an “occupied residence” for purposes of the application, what remedies are appropriate.

6. Whether the PSC’s prior decision as to attorney fees should be reconsidered and attorney fees be allowed.

7. Any other issues raised in the Amended Formal Complaint that the parties or the Commission decides to discuss or raise the hearing.

For more information contact the Public Service Commission, State Capitol, Bismarck, North Dakota 58505, 701-328-2400; or Relay North Dakota 1-800-366-6888 TTY. If you require any auxiliary aids or services, such as readers, signers, or Braille materials, please notify the Commission at least 24 hours in advance.

PUBLIC SERVICE COMMISSION

**Julie Fedorchak
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**Brian Kroshus
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**Randy Christmann
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