

**BEFORE THE STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

**KEITH AND DEANNA KESSLER
V.
MINNESOTA POWER, A DIVISION OF ALLETE, INC.**

CASE NO. PU-20-194

**PRE-FILED TESTIMONY OF MATTHEW FREUDENRICH
ON BEHALF OF MINNESOTA POWER**

March 8, 2021

1 **I. INTRODUCTION AND QUALIFICATIONS**

2

3 **Q. Please state your name, employer, and business address.**

4 A. My name is Matthew Freudenrich. I am a Project Manager for Hooper Corporation,
5 located at 2030 Pennsylvania Avenue, Madison, WI 53704.

6

7 **Q. Briefly describe your work history and education.**

8 A. I joined Hooper Corporation in late 2020, where I provide project management
9 support and oversight. Prior to my current position, I was a Project Implementation
10 and Construction Manager for Minnesota Power, a division of ALLETE, Inc.
11 (“Minnesota Power”), where I oversaw construction activities for multiple
12 infrastructure projects, including transmission lines, substations, and solar and wind
13 generation facilities. I was responsible for all aspects of construction, including
14 safety, environmental compliance, quality control, work performance, and contractor
15 and supplier management. Before working at Minnesota Power, I was a Project
16 Engineer and an Assistant Project Manager for Mortensen Company and, prior to
17 that, I was a Project Manager and Engineer for Fagen, Inc.

18

19 I have a B.S. in Civil Engineering from North Dakota State University, Fargo, North
20 Dakota. In addition, I am a licensed Professional Civil Engineer in the States of
21 North Dakota and Minnesota. A copy of my resume is provided proposed **MP**
22 **Exhibit 1-1.**

23

24 **II. PURPOSE OF TESTIMONY**

25

26 **Q. What is the purpose of your Direct Testimony?**

27 A. The purpose of my testimony is to discuss my role with respect to the Bison 4 Wind
28 Project (“Project”) in light of the North Dakota Public Service Commission’s (“PSC”)
29 Notice of Hearing, including:

- 30
 - Oversight of Project engineering and construction;

- 31 • Site visits to Turbine 441 and Section 15, Township 141 North, Range 87
32 West, Oliver County, North Dakota (“Section 15 Property”);
33 • Attending/testifying at the North Dakota Public Service Commission (“PSC”)
34 September 13, 2013 public hearing on the Certificate of Site Compatibility
35 (“CSC”) Application; and
36 • Interactions and alleged interactions with Keith and Deanna Kessler
37 (“Kesslers”).
38

39 **Q. What proposed hearing exhibits are provided with your testimony?**

40 A. The following proposed hearing exhibits accompany my testimony:

- 41 • MP Exhibit 1-1: Freudenrich Resume
42 • MP Exhibit 1-2: February 9, 2017 Minnesota Power Email Exchange
43

44 **III. INVOLVEMENT WITH BISON 4 PROJECT**
45

46 **Q. Please describe your role with respect to the Project.**

47 A. I was the Project Implementation Manager for the Project, which meant I oversaw
48 Project engineering and construction. In that role, I managed external engineering
49 consultants and construction contractors, and coordinated with and provided
50 engineering support for internal Minnesota Power teams (e.g., real estate,
51 environmental, and permitting) during Project development. I also testified on behalf
52 of Minnesota Power at the September 13, 2013 public hearing held by the PSC on
53 the CSC Application.
54

55 **IV. PROJECT LAYOUT DEVELOPMENT**
56

57 **Q. Were you involved in development of the Project layout filed with the PSC on**
58 **August 7, 2013 and included in public hearing Exhibit 2 in Case No. PU-13-**
59 **127?**

60 A. Yes.
61

32 **Q. What was your role in development of the Project layout?**
63 A. I was responsible for the engineering aspects of the layout, including ensuring the
64 design met engineering and constructability requirements.
65
66 **Q. Did you assist with micro-siting for the Project?**
67 A. Yes, I was part of the team that conducted micro-siting on May 14-17, 2013.
68
69 **Q. During May 14-17, 2013, did you visit the proposed site of each of the 83**
70 **proposed turbine locations, including Turbine 441, in conjunction with micro-**
71 **siting the Project layout?**
72 A. Yes.
73
74 **Q. Separately from the May 14-17, 2013 micro-siting visit, were you ever on the**
75 **Section 15 Property prior to the time the PSC issued its Order granting a**
76 **Certificate of Site Compatibility to the Project on September 25, 2013**
77 **(“Order”)?**
78 A. Yes.
79
80 **Q. When did you visit the Section 15 Property and what was the reason for your**
81 **visit?**
82 A. Prior to the micro-siting visit, I went to the Project site to determine how, exactly, the
83 micro-siting team could travel to each of the proposed turbine locations. As part of
84 that exercise, I went onto the Section 15 Property to try to identify a way to access
85 the proposed string of turbines that included Turbine 441. I crossed the Section 15
86 Property parallel to the fence running north-south until I reached the fence running
87 east-west across the property.
88
89 **Q. While on the Section 15 Property, were you in proximity to the structure at**
90 **issue in this matter (“Section 15 Structure”)?**
91 A. Yes. I drove through the farmyard near to the Section 15 Structure. I was looking to
92 see if anyone was around so I could let them know I was on the property and why I

93 was there. However, the house did not appear to be lived in, and no people were
94 around.

95

96 **Q. Please describe what you saw.**

97 A. I saw a two-track (vehicle tracks with vegetation in between) that ended before what
98 appeared to have been a yard around an old farmhouse and some outbuildings. No
99 vehicles were present. A stock tank was located near the farmhouse and it looked
100 like the property was used for watering cattle.

101

102 **Q. Based on what you saw when on the Section 15 Property in 2013, did it appear**
103 **that anyone was living in the Section 15 Structure?**

104 A. No. Although there was evidence of some of the property being used for livestock, I
105 did not see anything that suggested that anyone was residing at the Section 15
106 Structure. For example, the two-track did not go up to the yard or the house,
107 indicating to me that there was not active travel up to the Section 15 Structure, which
108 would be typical of a house that is actually being lived in (or was recently lived in).

109

110 **Q. Based on what you saw when on the Section 15 Property in 2013, did it appear**
111 **that anyone had recently lived in the Section 15 Structure?**

112 A. No. The Section 15 Structure looked like it had not been lived in for many years.

113

114 **Q. If you had seen something that would have indicated the Section 15 Structure**
115 **was occupied, would you have shared that information with anyone?**

116 A. Yes, if I would have seen something that made me question whether the Section 15
117 Structure was unoccupied, I would have shared that information with Barry Gartner
118 and asked him to confirm the occupancy status of the structure.

119

120 **Q. Were there any instances on this Project where you saw something in the field**
121 **that led you to follow up with Mr. Gartner?**

122 A. Yes, Turbine 463 and the Aasmundstad place would be a good example. A main
123 road (28th Street SW) runs east/west just south of Turbine 463 in the SE/4 of

24 Section 19, Township 141 North, Range 87 West and the Aasmundstad place in the
125 SW/4 of Section 20, Township 141 North, Range 87 West. I often traveled along
126 that road while on site and had seen multiple outbuildings in proximity to Turbine 463
127 on the Aasmundstad property, so I wanted to confirm we were measuring the turbine
128 setback from the house (as opposed to inadvertently measuring from an
129 outbuilding). As a result, I asked Barry Gartner to double-check the distance
130 between Turbine 463 and the Aasmundstads' house. Barry did so and confirmed
131 the turbine was at least 1,400 feet from the Aasmundstads' house.
132

133 **Q. How did you know someone was living on the Aasmundstads' place?**

134 A. There was a gravel road running all the way up to the house, the house was kept up,
135 there were people coming and going from the place regularly, there was a dog at the
136 place, and there were vehicles and a camper present.
137

138 **V. PSC PUBLIC HEARING**

39

140 **Q. You indicated above that you attended and testified at the public hearing**
141 **conducted by the PSC on the CSC Application, is that correct?**

142 A. Yes.
143

144 **Q. Did you review the public hearing sign in sheet filed in Case No. PU-13-127**
145 **and provided as MP Exhibit 2-5 to Mr. Gartner's Direct Testimony?**

146 A. Yes.
147

148 **Q. To your knowledge, does the sign in sheet identify the Minnesota Power**
149 **employees who attended the hearing?**

150 A. Yes.
151

152 **Q. Have you reviewed the transcript of the public hearing, which is provided as**
153 **MP Exhibit 2-6 to Mr. Gartner's Direct Testimony?**

154 A. Yes.

55

156 **Q. Are you aware that the Kesslers assert in their Second Revised Complaint that**
157 **“during the public hearing” the Kesslers “told Minnesota Power’s**
158 **representatives that they will be using the house at issue, and specifically told**
159 **Minnesota Power representatives that their son will be living there as soon as**
160 **he gets back from college” (Second Revised Complaint, ¶ 4(2))?**

161 A. Yes, I am aware of that allegation in the Kesslers’ complaint.

162

163 **Q. Based on your recollection of the public hearing and your review of the**
164 **transcript of the same, to your knowledge, did Keith or Deanna Kessler speak**
165 **with any Minnesota Power employees during the public hearing?**

166 A. During the last part of the public hearing (after the break), Mr. Kessler testified about
167 concerns related to an underground water line, weed and vegetation management
168 along roads, and access road placement. I responded on the record to the concern
169 regarding the underground water line (the initial concern Mr. Kessler raised), noting
70 that Minnesota Power would work with landowners to avoid impacts, and would be
71 responsible if any impact did occur. Questions were not directed to Minnesota
172 Power on the other two concerns raised.

173

174 **Q. Did either of the Kesslers testify at the September 13, 2013 public hearing**
175 **regarding a concern about the placement of any turbines, including Turbine**
176 **441?**

177 A. No.

178

179 **Q. Did either of the Kesslers testify at the September 13, 2013 public hearing**
180 **regarding the Section 15 Structure?**

181 A. No.

182

183 **Q. Other than the exchange on the record that you just described, to your**
184 **knowledge, did the Kesslers speak with any Minnesota Power employees**
185 **before, during, or after the public hearing on September 13, 2013?**

36 A. No.

187

188 **Q. Are you aware that the Kesslers assert in their Second Revised Complaint that**
189 **“[d]uring the public meeting (probably during a break) the Kesslers raised the**
190 **issue of the placement of Turbine 441 with Scott and Matt. In the presence of**
191 **other Minnesota Power representatives (some wearing suits) Matt blew up and**
192 **basically yelled at the Kesslers, telling them ‘we don’t have time to move**
193 **things around due to the tax credits, we have to get started, this isn’t the place**
194 **for it, we can meet latter [sic] and discuss it’” (Second Revised Complaint,**
195 **¶ 4(1))?**

196 A. Yes, I am aware the Kesslers made that allegation in their complaint.

197

198 **Q. Are you aware that in written discovery responses the Kesslers revised their**
199 **allegation on this issue, asserting that: “We raised the issue with TODD**
200 **SIMMONS and Matt, and Matt blew up and said ‘we don’t have time for this**
201 **[expletive], we have to get going on this, we need those tax credits’” (Kesslers**
202 **Supplemental Answers to Minnesota Power’s First Set of Request for**
203 **Admissions, Interrogatories, and Requests for Production of Documents to**
204 **Petitioners, Supp. Resp. to Request for Admission No. 8)?**

205 A. Yes, I am aware of that. When I was deposed, I explained that the Kesslers’
206 contention (that I allegedly “blew up” at them and Scott Monroe was with me when
207 that happened) was an impossibility because Scott Monroe was not at the hearing.
208 After my deposition, they produced an amended response identifying Todd Simmons
209 as the person who was allegedly with me when I allegedly “blew up” at them.

210

211 **Q. Did you have such a conversation with the Kesslers on September 13, 2013?**

212 A. No. With the exception of the exchange on the record during the public hearing
213 discussed above, I did not speak with the Kesslers on September 13, 2013.

214

215 **Q. Are you certain the conversation did not occur?**

16 A. Yes. Had I had a heated exchange with a landowner, I would remember such a
217 conversation. And given the size of the courtroom where the hearing took place, it is
218 not plausible that anyone could have “blown up” at anyone else in the room or
219 hallway during a break without many people noticing. For myself, and given the way
220 that Minnesota Power approached projects and relationships with landowners, if a
221 Minnesota Power representative had “blown up” at someone, it would have been a
222 big deal. Both the behavior and underlying concerns would have been addressed
223 immediately. Also, the benefits of addressing the Kesslers’ concern, had it been
224 raised, would have far outweighed the potential costs. Simply put, had the Kesslers
225 raised such a concern with me or anyone else, we would have taken steps to try to
226 address the concern. Further, at that point, we could have addressed the issue
227 without affecting either the Project schedule or economics. Finally, as I set out
228 above, Scott Monroe was not present at the public hearing, so he could not have
229 been involved in any conversations with the Kesslers that day. And, as Mr.
230 Simmons testifies in his prefiled direct testimony, he also did not have any
31 conversations with the Kesslers that day.

232

233 **Q. Prior to the PSC’s issuance of an Order for the Project, were you aware of any**
234 **planned use by the Kesslers or their sons of the Section 15 Structure as a**
235 **residence?**

236 A. No.

237

238 **Q. When was Turbine 441 constructed?**

239 A. The foundation for Turbine 441 was constructed in July 2014 and the turbine was
240 erected in October 2014.

241

242 **Q. When did you first learn the Kesslers had a concern regarding the placement**
243 **of Turbine 441 in relation to the Section 15 Structure?**

244 A. I first learned of a concern regarding the placement of Turbine 441 in relation to the
245 Section 15 Structure in February 2017. On February 9, 2017, I received an email
246 from Wade Isaacson asking whether there were any occupied dwellings in proximity

47 to Turbine 441 when we sited and constructed the turbine. The email stated that Mr.
248 Kessler had come to the office (in New Salem) that day, had said his son was living
249 at a house in Section 15 about 1,000 feet from Turbine 441, and noted a noise
250 concern. I responded that my recollection was that the house on Section 15
251 appeared vacant during micro-siting. A copy of my e-mail exchange with Mr.
252 Isaacson is attached as **MP Exhibit 1-2**.

253

254 **VI. CONCLUSION**

255

256 **Q. Does this conclude your Direct Testimony?**

257 A. Yes.

258