

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Montana-Dakota Utilities Co.
Applied Block Chain Office – Dickey County
Public Convenience & Necessity

Case No. PU-22-366

Montana-Dakota Utilities Co.
Applied Block Chain Data Processing Extension
Public Convenience & Necessity

Case No. PU-22-370

ORDER ON PROTEST AND REQUEST FOR HEARING

October 12, 2022

Introduction

On September 16, 2022, Montana Dakota Utilities (MDU) filed a Temporary Authority Permit Application to provide power for Applied Block Chain Office at a location in Dickey County, case number PU-22-366.

On September 16, 2022, MDU filed a Temporary Authority Permit Application to provide power for Applied Block Chain Data Processing also located at a location in Dickey County, case number PU-22-370.

On October 4, 2022, the Commission received an email response from Dakota Valley providing notice it planned to protest MDU's application in the above-captioned cases.

On October 7, 2022, the commission received a Notice of Protest and Request for Hearing from Dakota Valley Electric Cooperative (Dakota Valley) in the above-captioned cases.

Discussion

MDU filed an application for a temporary authority permit to provide service to a customer. Temporary authority allows a utility to provide service until such time that a permanent application could be heard and evaluated by the Commission. As provided on SFN 50560 (6-96), temporary service extensions are made from the most economical point of service.

In the captioned cases, Dakota Valley provided via email that it intends to serve the Applied Blockchain office with three-phase service by extending a line out of Dakota Valley Electric's Ellendale Substation over two miles away. Dakota Valley also provided it intends to serve the data processing location out of the MDU substation or provide temporary construction power from its single-phase distribution line that runs adjacent to the facility. Dakota Valley subsequently filed a formal Protest and Request for Hearing. In the filing, Dakota Valley requested a hearing be held and for the authorization of discovery. However, the Protest and Request for Hearing provided no supporting information or argument to support its request.

Additional filings provide that Applied Block Chain requires three-phase 480v service to continue construction utilizing a batch plant to pour concrete. Applied Block Chain expressed concern that a delay of multiple weeks or months may result in a forced delay until the spring thaw. Based upon the filings received, and Staff's inquiries into nearby facilities for Dakota Valley and MDU, a preliminary review would indicate that MDU's temporary extension of three-phase service from 0.37 miles away would be the most economical point of service during the construction phase.

Permits for temporary authority ensure timely receipt of utility service until permanent resolution to the issues consistent with the factors and guidance provided by the courts.¹ Receipt of a temporary authority permit does not create a presumption that a permanent certificate of public convenience and necessity should be granted and infrastructure constructed or extended as a result of a temporary authority permit should not be considered for the purpose of granting a permanent certificate of public convenience and necessity.

If a person requests a hearing but does not show good cause, the commission may determine the matter without a hearing. Based upon Dakota Valley's filings, they have not provided sufficient cause for a hearing on the Temporary Authority Permit to provide three-phase service during the construction phase. However, the Commission finds that additional requirements are necessary to secure a just and speedy determination of the issues for all parties.

As a result, the Commission finds a denial of Dakota Valley's Protest and Request for Hearing in the public interest. The Commission also finds that additional procedural requirements are prudent to ensure that a final decision may be reached without further delay.

¹ See e.g. *Application of Otter Tail Power.*, 169 N.W.2d 415 (N.D. 1969). See also, PU-17-096, Minn-Kota Ag Products, Inc. – Richland County, Public Convenience and Necessity (The Commission permitted a Temporary Authority Permit to Otter Tail Power Co. before denying the permanent Certificate of Public Convenience and Necessity in favor of Dakota Valley Electric Cooperative.)

Order

The Commission Orders:

1. The request for a hearing on the Temporary Authority Permit by Dakota Valley Electric Cooperative is denied.
2. MDU shall file an Application for Permanent Authority within 20 days of the issuance of this Order.
3. The parties are authorized to conduct discovery.

PUBLIC SERVICE COMMISSION



Randy Christmann
Commissioner



Julie Fedorchak
Chair



Sheri Haugen-Hoffart
Commissioner

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DISSENTING OPINION

Commissioner Sheri Haugen-Hoffart

October 12, 2022

The Commission has the discretion to determine a matter without a hearing if good cause is not shown. There is no requirement to deny this hearing despite the lack of cause presented. This request for temporary service is new before the public service commission due to the large load. Prior guidelines are only guidelines, and this is the first time a hearing has been requested for temporary service. Any person requesting a hearing under these circumstances should be granted. These blockchains can come up very quickly; therefore, all interested parties should be able to come before and hear to present their case.