

Emmons County,)	Case No. 08-2024-CV-00624
)	
Appellant,)	
)	
vs.)	STIPULATION AND REQUEST FOR
)	STAY
North Dakota Public Service Commission)	
and SCS Carbon Transport LLC,)	
)	
Appellees.)	
)	

[¶1] On March 8, 2024, Appellant Emmons County filed its notice of appeal (Index #1).

[¶2] The proceedings appealed from were initiated when SCS Carbon Transport LLC (“Summit”) filed an Application for Certificate of Corridor Compatibility and Route Permit and Waiver on October 17, 2022. PSC Case PU-22-391, PSC Docket Number 1.

[¶3] Summit filed a Motion and Brief to Declare Emmons County and Burleigh County Ordinances Superseded and Preempted. PSC Case PU-22-391, Docket Number 282. Emmons County filed a Petition to Intervene and Response in Opposition to Superseded and Preempted Motion on June 30, 2023. PSC Case PU-22-39, Docket Number 350. An Order Granting Emmons County’s Petition for Intervention was entered on July 11, 2023. PSC Case PU-22-39, Docket Number 354.

[¶4] The PSC issued an Order on August 4, 2023 denying Summit’s application for waiver of procedures and time schedules, application for a certificate of corridor compatibility and application for a route permit. PSC Case PU-22-391, Docket Number 366. On August 18, 2023, Summit filed a Petition for Reconsideration, Notice of Route Adjustment and Request for Limited

Rehearing. PSC Case PU-22-391, Docket Number 371. The PSC issued an Order on Petition for Reconsideration dated September 15, 2023 granting Summit's petition for reconsideration and granting a rehearing. PSC Case PU-22-391, Docket Number 396.

[¶5] The PSC issued an order on February 7, 2024 granting Summit's motion to declare Burleigh and Emmons County ordinances superseded and preempted. PSC Case PU-22-391, Docket Number 440. This order held that the Emmons and Burleigh County ordinances were superseded and preempted. *Id.*

[¶6] Burleigh County filed a Petition for Reconsideration on February 27, 2024. PSC Case PU-22-391, Docket Number 449. Certain Intervenors filed a Joinder to Burleigh County's Petition for Reconsideration. PSC Case PU-22-391, Docket Number 448. An Order on Petition for Reconsideration was filed on March 18, 2024 denying Burleigh County's petition for reconsideration. PSC Case PU-22-391, Docket Number 461.

[¶7] Emmons County filed this appeal of the PSC's order to supersede and preempt its ordinance. The PSC is currently scheduling hearings for Summit to demonstrate that it has addressed, or will address, the deficiencies noted in the PSC's August 4, 2023, Order. It is possible that one or more parties will file an appeal once an order on Summit's application is issued by the agency, and any petitions for reconsideration thereof have been addressed, and the record for those appeals will be substantially similar to this appeal. Given the possibility that additional appeals will be filed, the parties wish to stay this matter so that the parties can consolidate this matter with any other appeals arising from PSC Case PU-22-391 and request a stay until an order on Summit's application is issued by the agency.

[¶8] The parties agree that this matter should be stayed until the PSC issues an order on Summit's application, all petitions for reconsideration thereof have been resolved, and all timely

notices of appeal therefrom have been filed pursuant to N.D.C.C. § 28-32-42. Upon expiration of the time allowed for appeal by N.D.C.C. § 28-32-42, the parties will promptly notify the Court of any other appeals from the PSC's decisions in PSC Case PU-22-391.

DATED this 26th day of March, 2024.

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DATED this 28th day of March, 2024.

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DATED this 28th day of March, 2024.

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