



Public Service Commission

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November 27, 2024

Derrick Braaten
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RE: RC-24-244 and RC-24-245

Dear Mr. Braaten:

The Commission has received your November 26, 2024 response to the Request for Updated Filings (Request) sent on behalf of the Chair.

Under N.D.C.C. § 38-14.1-20, any individual with an adversely affected interest may request a Formal Hearing. As outlined in N.D.C.C. § 38-14.1-30, such a request triggers formal hearing procedures. Specifically, N.D.C.C. § 38-14.1-30(3) requires the hearing to occur within 30 days of the request and be conducted in accordance with the provisions of Chapter 28-32.

Consistent with N.D.C.C. § 28-32-21(1)(a), when initiating a formal adjudicative proceeding subject to judicial review (as opposed to an informal conference), the expectation is that the request, or an accompanying filing, necessitates that the request, or an accompanying filing, include a concise statement of the claims upon. It should reference the statute or rule alleged to be violated, and the relief sought. Similarly, the Commission's practice and procedure provides a person alleging acts done or omitted in violation of law, rule or order be in a form to "fully advise the respondent and the commission of the factual and legal grounds of the complaint, the injury complained of, and the specific relief sought." N.D. Admin. Code § 69-02-02-02.

Beyond considerations of fairness and efficiency, the clarity and specificity of the filings have practical implications for the Reclamation Division and Commissioners. Formal Hearings and subsequent orders under N.D.C.C. ch. 38-14.1 operate on a compressed schedule. An adequate filing is necessary to provide Commissioners and the Reclamation Division opportunity to investigate issues raised, conduct necessary site inspections, review coal mining operations, and assess the permit in relation to the adversely affected person. Broad and unspecific claims, such as those involving "reclamation practices, testing and sampling practices, and reclamation success, as well as general review of the permit and concerns of the landowners" do not provide an adequate foundation for preparation, review, or to ensuring the appropriate subject matter expertise at the hearing.

Following a discussion with the Chair, it was inferred that additional response time may be appropriate in recognition of the holiday schedule. While the timing of the Request may have been expedited, it is worth noting that the hearing is now less than 20 days away, including the Thanksgiving holiday. In light of these circumstances, and consistent with the Commission's prior request and the updates provided by

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the Voigts in cases RC-19-189 and RC-19-190 regarding Renewal and Revision, the Chair requests that you communicate a date by which the Commission can expect an updated response to the November 21, 2024 Request.

Sincerely,



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