

Commission Minutes | [previous page](#)

South Dakota Public Utilities Commission Meeting
September 10, 2013, at 9:30 A.M. CDT
Room 413, Capitol Building
Pierre, South Dakota

MINUTES OF THE COMMISSION MEETING

Chairman Gary Hanson called the meeting to order. Present were: Commissioners: Chris Nelson and Kristie Fiegen; Commission Counsel: John Smith and Rolayne Wiest; Commission Advisor: Greg Rislov; Staff Attorneys: Karen Cremer and Kristen Edwards; Staff Analysts: Patrick Steffensen, Brian Rounds, Brittany Mehlhaff, Darren Kearney, Jason Simmons, Eric Paulson, Robin Meyerink, and David Henry; Consumer Affairs Supervisor: Deb Gregg; and Staff: Sherry Dickerson

Also present were:

Bill VanCamp, Olinger, Lovald, McCahren & Reimers, P.C., representing AT&T Corp.; Rich Coit, South Dakota Telecommunications Association; and Brett Koenecke, May, Adam, Gerdes, and Thompson, LLP, representing Montana-Dakota Utilities Co.

Joining the meeting by telephone were:

Staff Analyst: Mary Zanter; Jay Shultz, Lynn, Jackson, Shultz and LeBrun, PC, representing Native American Telecom, LLC; Carey Roesel, Technologies Management, Inc., representing Broadvox-CLEC, LLC; Debbie Kutsunis, John Palmolea and Amanda Hosch, MidAmerican Energy Company; Phillip Schenkenberg, Briggs and Morgan, PA, representing Sprint Communications Company, LP; Wendy Harper, Vantage Point Solutions, representing Northern Valley Communications, LLC; Stuart Tommerdahl, Otter Tail Power Company; Ann Thompson, Sprint Communications Company, LP; Jason Weiers and Dean Pawlowski, Otter Tail Power Company; Tamie Aberle, Montana-Dakota Utilities Co.; Tom Welk, Boyce, Greenfield, Pashby & Welk, LLP, representing Otter Tail Power Company and Montana-Dakota Utilities Co.; and Scott Swier, Swier Law Firm, Prof. LLC, representing Native American Telecom, LLC

Consumer Reports

1. Status Report on Consumer Utility Inquiries and Complaints Received by the Commission (Consumer Affairs: Deb Gregg)

The Commission received a total of 63 contacts since the last report was prepared for the August 27, 2013 Commission meeting.

12 of the contacts involved telecommunication services, 26 of the contacts involved electrical services, 9 contacts involved cell phone service, 7 contacts were related to the Do Not Call Registry and 9 contacts were related to issues not regulated by the PUC.

1,225 of the 1,263 complaints received in 2013 have been resolved.

Electric

1. EL13-027 In the Matter of the Filing by MidAmerican Energy Company for Approval of Revisions to its Tariff Section No. 3 (Staff Analyst: Eric Paulson; Staff Attorney: Karen Cremer)

Ms. Debbie Kutsunis, MidAmerican Energy Company (MidAmerican), asked that the Commission approve MidAmerican's revised tariff pages. Mr. Eric Paulson, staff analyst, recommended that the Commission grant approval to MidAmerican's request effective September 15, 2013.

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Commissioner Fiegen moved to approve the proposed tariff revisions with an effective date of September 15, 2013. Motion carried 3-0.

2. EL13-028 In the Matter of the Application of Montana-Dakota Utilities Co. and Otter Tail Power Company for a Permit to Construct the Big Stone South to Ellendale 345 kV Transmission Line (Staff Analysts: Brian Rounds, Darren Kearney; Staff Attorney: Karen Cremer)

Ms. Karen Cremer, staff attorney, recommended that the Commission assess a filing fee not to exceed \$360,000 with an initial deposit of \$8,000. Mr. Tom Welk, Boyce, Greenfield, Pashby & Welk, LLP, representing Montana-Dakota Utilities Co., a division of MDU Resources and Otter Tail Power Company, asked that the Commission split the billing 50/50.

Commissioner Fiegen moved to assess a filing fee not to exceed \$360,000 with an initial deposit of \$8,000 and that the billing be split 50/50. Motion carried 3-0.

3. EL13-029 In the Matter of the Petition of Otter Tail Power Company for Approval of its 2014 Transmission Cost Recovery Eligibility and Rate Adjustment (Staff Analysts: Brittany Mehlhaff, Patrick Steffensen; Staff Attorney: Karen Cremer)

Ms. Karen Cremer, staff attorney, recommended that the Commission assess a filing fee of \$50,000 to account for actual expenses incurred in review of this filing commencing from the filing date and suspend the imposition of the tariff for 180 days beyond August 30, 2013. Ms. Cremer also recommended that the Commission give the Executive Director authority to enter into necessary consulting contracts. Mr. Stuart Tommerdahl, Otter Tail Power Company (OTP), stated that OTP had no objections.

Commissioner Hanson moved to assess a filing fee in an amount not to exceed \$50,000 to account for actual expenses incurred in review of this filing commencing from the filing date, to suspend the imposition of the tariff for 180 days beyond August 30, 2013, and to give the Executive Director authority to enter into necessary consulting contracts. Motion carried 3-0.

Pipeline Safety

1. PS13-007 In the Matter of the Filing by Commission Pipeline Safety Staff for Approval of a Penalty for a Pipeline Safety Violation by Montana-Dakota Utilities Co. (Staff Analyst: Mary Zanter; Staff Attorney: Kristen Edwards)

Ms. Mary Zanter, Pipeline Safety Staff (Staff), recommended that the Commission withdraw the complaint and close the docket. Mr. Brett Koenecke, May, Adam, Gerdes, and Thompson, LLP, representing Montana-Dakota Utilities Co., had no objections.

Commissioner Fiegen moved to grant the Motion to Withdraw Complaint. Motion carried 3-0.

Telecommunications

1. TC11-087 In the Matter of the Application of Native American Telecom, LLC for a Certificate of Authority to Provide Interexchange Telecommunications Services and Local Exchange Services in South Dakota (Staff Analyst: Patrick Steffensen; Staff Attorney: Karen Cremer)

A lengthy discussion took place regarding docket TC11-087. An audio of the discussion can be found on the PUC website under Commission Actions, Commission Meeting Archives, 2013, September 10, 2013, <http://puc.sd.gov/commission/media/2013/puc09102013.mp3>.

Commissioner Nelson moved to grant Sprint's Motion to Quash Deposition Notice of Randy Farrar. Motion carried 2-1. Fiegen dissented.

Commissioner Nelson moved to deny Sprint's Motion to Quash Document Request 1 as discussed. Motion carried 3-0.

Commissioner Hanson moved to grant Sprint's Motion to Quash Document Request 2 and Document Request 3 as these requests had been withdrawn by NAT. Motion carried 3-0.

Commissioner Hanson moved to deny Sprint's Motion to Quash on Document Request 4 and Request 5. Motion carried 3-0.

Commissioner Nelson moved to grant Sprint's Motion to Quash Document Request 6. Motion carried 2-1. Fiegen dissented.

Commissioner Fiegen moved to deny Sprint's Motion to Quash Document Request 7. Motion carried 3-0.

Commissioner Fiegen moved to grant Sprint's Motion to Quash Document Request 8 as this request was withdrawn by NAT. Motion carried 3-0.

Commissioner Nelson moved to deny Sprint's Motion to Quash Document Request 9, 10, and 11. Motion carried 3-0.

Commissioner Nelson moved to grant Sprint's Motion to Quash Document Request 12(c) and moved to deny Sprint's Motion to Quash Document Request 12(a) and 12(b). Motion failed 1-2. Commissioners Hanson and Fiegen dissenting.

Commissioner Fiegen moved to deny Sprint's Motion to Quash Document Request 12(a). Motion carried 3-0.

Commissioner Fiegen moved to deny Sprint's Motion to Quash Document Request 12(b). Motion carried 2-1. Commissioner Hanson dissented.

Commissioner Fiegen moved to deny Sprint's Motion to Quash Document Request 12(c). Motion failed 1-2. Commissioners Hanson and Nelson dissenting.

Commissioner Nelson moved to grant Sprint's Motion to Quash Document Request 12(c). Motion carried 2-1. Commissioner Fiegen dissenting.

Commissioner Nelson moved to deny Sprint's Motion to Quash Document Request 13, with the limitation that this covers documents from January 1, 2009 to present. Motion carried 2-1. Commissioner Hanson dissenting.

Commissioner Nelson moved to deny Sprint's Motion to Quash Document Request 14. Motion carried 3-0.

Commissioner Hanson moved to deny Sprint's Motion to Quash Document Request 15, with the change that it applies to policy documents that were in effect from 2009 to the present. Motion carried 3-0.

Commissioner Nelson moved to deny Sprint's request for fees. Motion carried 3-0.

2. TC13-062 In the Matter of the Filing by Northern Valley Communications, LLC for Approval of Revisions to its Access Service Tariff No. 1 (Staff Analyst: Brian Rounds; Staff Attorney: Karen Cremer)

Ms. Wendy Harper, Vantage Point Solutions, representing Northern Valley Communications, LLC (NVC), requested that the Commission approve NVC's tariff revisions with an effective date of July 2, 2013. Mr. Brian Rounds, staff analyst, recommended that the Commission grant approval to

NVC's request effective July 2, 2013.

Commissioner Nelson moved to approve the requested tariff revisions effective July 2, 2013. Motion carried 3-0.

3. TC13-069 In the Matter of the Filing by Broadvox-CLEC, LLC for Approval of Revisions to its Access Services Tariff No. 1 (Staff Analyst: Eric Paulson; Staff Attorney: Karen Cremer)

Mr. Carey Roesel, Broadvox-CLEC, LLC (Broadvox), asked that the Commission approve Broadvox's revised tariff pages. Mr. Eric Paulson, staff analyst, recommended that the Commission grant approval to Broadvox's request with an effective date of July 1, 2013.

Commissioner Hanson moved to approve the requested tariff revisions effective July 1, 2013. Motion carried 3-0.

4. TC13-104 In the Matter of the Filing by Sprint Communications Company L.P. for Approval of Revisions to its Access Services P.U.C. Tariff No. 3 (Staff Analyst: Eric Paulson; Staff Attorney: Karen Cremer)

Ms. Ann Thompson, Sprint Communications Company, LP (Sprint), requested that the Commission approve Sprint's revised tariff pages. Mr. Eric Paulson, staff analyst, recommended that the Commission grant approval to Sprint's request with an effective date of September 1, 2013

Commissioner Fiegen moved to approve the requested tariff revisions effective September 1, 2013. Motion carried 3-0.

There being no further business, at the hour of 11:55 a.m., the South Dakota Public Utilities Commission meeting adjourned.

/S/Joy Lashley

Joy Lashley

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September 10, 2013