

**Presented by:** Susan E. Wefald  
President  
Public Service Commission

**Before:** Energy Development & Transmission Committee  
Honorable Rich Wardner, Chairman

**Date:** December 6, 2007

### TESTIMONY

Mr. Chairman and members of the committee, I am Commissioner Susan Wefald, President of the North Dakota Public Service Commission. Today I am here to give you a short update on recent activities of the Public Service Commission. I plan to focus on three areas: four crude oil pipelines which have been before the Commission for consideration this fall; Rules the Commission is proposing; and proposed wind projects in the MISO queue.

#### Status of Crude Oil Pipeline Projects

There have been four crude oil pipeline projects which the Commission is considering this fall. One of these projects is the Belle Fourche pipeline, a thirty-two mile, eight-inch pipeline, in an existing corridor, near Alexander ND. The Commission received this pipeline corridor certificate and route permit application on September 18 2007, and issued an order approving the corridor certificate and route permit on November 9, 2007. (Case No. PU-07-596)

Enbridge Energy filed an application for two new pipelines (one 20 inch and one 36 inch), both are adjacent to existing Enbridge pipelines in a 28 mile corridor in Pembina

County, North Dakota. The Commission received these applications for a corridor certificate and route permit in April 2007 and July 2007 respectively. The Commission held a hearing on this matter in October, 2007, and has scheduled a working session on this case on December 7 to give direction to our staff on the Order in Case PU-07-108.

Trans Canada filed an application with the Commission for a corridor certificate and route permit in May 2007 for a 200-mile, 30-inch pipeline in the eastern part of North Dakota. The proposed Keystone pipeline is not in or adjacent to an existing pipeline corridor. The Commission has held five days of hearings on this case, most recently a day and a half last week. Now the Commission needs to wait until parties file late filed exhibits and proposed findings of fact and conclusions of law. The Commission expects to receive these documents in early January, and will then schedule work sessions on this case. (Case PU-06-421).

Trans Canada also filed an application for a certificate of public convenience and necessity (PCN) for the Keystone Pipeline. The Commission approved the PCN for this pipeline, with some conditions, in November 2007.

### **Proposed Rules**

Monday, November 26, the Commission held a hearing on proposed rules. I have attached a copy of the proposed rules on Wind Turbine Decommissioning. At the hearing we received comments from Basin Electric Power Cooperative supporting the rules, and suggesting three changes. I have attached a copy of Basin's comments.

Although others were in attendance at the hearing, there were no other suggested changes. (PU-07-642)

The Commission is also proposing rules on Time of Use Rates for large commercial and industrial electric customers. A copy of this proposed rule is also attached. MDU had several suggestions regarding this proposed rule, which the Commission will consider before adopting a final rule in this matter. (PU-07-641)

**Queue Issues**

Florida Power and Light approached the North Dakota Public Service Commission regarding Midwest Independent System Operator (MISO) queue issues earlier this fall. In order to interconnect to the electric transmission grid, each generating project must go through the interconnection queue. The queue at present is a “first in, first out” process that studies the effects each individual proposed generation project has on the reliability of the transmission grid. At the present time, the process is basically unworkable because of the number of new wind generation projects in the queue.

For example, Minnesota expects to have 1100 MW of wind generation in service by the end of 2007. The Minnesota renewable portfolio standard requires around 6,000 more MW of wind by 2025. In Comparison, the amount of regional wind generation waiting for interconnection in the MISO queue at the end of November 2007 was:

Minnesota:	26,838 MW
South Dakota:	11, 184 MW
North Dakota:	8,001 MW

Of course, wind is planned in other MISO states as well. The total amount of generation in the MISO queue is 71,819 MW. Of that, 55,483 MW is wind. Around one fifth of that wind total joined the queue in the last month!

The Federal Energy Regulatory Commission has scheduled a technical conference on this issue on December 11, and the Public Service Commission will be presenting comments at that meeting.

That concludes my testimony Mr. Chairman. I would be happy to answer any question you may have.

Proposed Rule

1. Definitions:

1. "Commercial wind energy conversion facility" means a wind energy conversion facility of equal to or greater than five hundred kilowatts in total nameplate generating capacity.
2. "Commission" means the public service commission
3. "Wind turbine" means a wind turbine of equal to or greater than five hundred kilowatts in total nameplate generating capacity.

2. The owner or operator of a commercial wind energy conversion facility is responsible for decommissioning that facility and for all costs associated with decommissioning that facility and associated facilities.

3. A commercial wind energy conversion facility or individual wind turbine is presumed to be at the end of its useful life if the facility or turbine generates no electricity for a continuous period of twelve (12) months. The presumption may be rebutted by submitting to the commission for approval a plan outlining the steps and schedule for returning the commercial wind energy conversion facility or wind turbine to service.

4. The facility owner or operator shall begin decommissioning a commercial wind energy conversion facility or wind turbine within 8 months after the time the facility or turbine reaches the end of its useful life, as determined in (#3). Decommissioning must be completed within 18 months after the facility or turbine reaches the end of its useful life.

5. Decommissioning and site restoration includes dismantling and removal of all towers, turbine generators, transformers, overhead and underground cables, foundations, buildings and ancillary equipment to a depth of four feet; and removal of surface road material and restoration of the roads and turbine sites to substantially the same physical condition that existed immediately before construction of the commercial wind energy conversion facility or wind turbine. To the extent possible, the site must be restored and reclaimed to the topography and topsoil quality that existed just prior to the beginning of the construction of the commercial wind energy conversion facility or wind turbine. Disturbed earth must be graded

and reseeded, unless the landowner requests in writing that the access roads or other land surface areas be retained.

6. Prior to commencement of operation of a commercial wind energy conversion facility or wind turbine, the facility or turbine owner or operator shall file with the commission the estimated decommissioning cost per turbine, in current dollars at the time of the application, for the proposed facility or turbine and a decommissioning plan that describes how the facility or turbine owner or operator will ensure that resources are available to pay for decommissioning the facility or turbine at the appropriate time. The commission shall review a plan filed under this section and shall issue an order approving or disapproving the plan within 6 months after the decommissioning plan was filed. The commission may at any time require the owner or operator of a commercial wind energy conversion facility or wind turbine to file a report with the commission describing how the facility or turbine owner or operator is fulfilling this obligation.

7. Owners and operators of existing commercial wind energy conversion facilities shall file with the commission the information required in (#6) within one year of the effective date of the rules.

8. After the 10<sup>th</sup> year of operation of a commercial wind energy conversion facility or wind turbine, the commission, by order, may require a performance bond, surety bond, letter of credit, corporate guarantee or other form of financial assurance that is acceptable to the commission to cover the anticipated costs of decommissioning the commercial wind energy conversion facility or turbine.

9. If the commercial wind energy conversion facility owner or operator does not complete decommissioning, the commission may take such action as may be necessary to complete decommissioning, including requiring forfeiture of the bond. The entry into a participating landowner agreement shall constitute agreement and consent of the parties to the agreement, their respective heirs, successors, and assigns, that the commission may take such action as may be necessary to decommission a commercial wind energy conversion facility or wind turbine, including the exercise by the commission, commission staff, and their contractors of the right of ingress and egress for the purpose of decommissioning the commercial wind energy conversion facility.

**General Authority:**

**Law Implemented:**

**BEFORE THE NORTH DAKOTA PUBLIC SERVICE COMMISSION**

Susan Weflad  
Kevin Cramer  
Tony Clark

President  
Commissioner  
Commissioner

In the Matter of Wind Turbine  
Decommissioning

Case No. 07-642

**COMMENTS OF BASIN ELECTRIC POWER COOPERATIVE**

On October 3, 2007, The North Dakota Public Service Commission published notice seeking comments on the above-referenced docket.

Basin Electric Power Cooperative (**Basin Electric**) owns and operates four wind towers, two at Minot, North Dakota and two at Chamberlin, South Dakota. Basin Electric purchases 130MW of wind power from FPLE generated from the wind projects at Edgley-Kulm, North Dakota, Wilton, North Dakota and Hyde County, South Dakota. Also, Basin Electric is in the planning stages for building an additional 115 MW of wind generation in the state of North Dakota. Based on this experience, and on our continued interest in wind generation development, Basin Electric offers the following comments.

**Proposed Rule 69-09-10-03: Useful Life:**

The Commission has proposed a presumption that an individual wind turbine is at the end of its useful life if the facility generated no electricity for a continuous period of twelve (12) months. Basin Electric suggests this is too short a period of time given our knowledge of the time needed for replacement parts. Replacing long lead time equipment can easily take twelve (12) months or longer. For example, in today's market, large transformers, gear boxes, and turbine blades can take over twelve (12) months today from order to delivery. Moreover, the demand for this equipment is anticipated to increase. In addition, there is a long lead time for large pieces of the construction equipment that is needed to erect and provide maintenance to wind turbines and related equipment. For example, to secure a crane often requires scheduling in excess of twelve (12) months.

Therefore, Basin Electric suggests 24 months of downtime before any presumption of the end of a "useful life" period.

**Proposed Rule 69-09-10-05: Decommissioning Requirements:**

The proposed requirement to reclaim the original top soil quality of an individual wind tower site would be difficult. Unlike a surface coal mine where reclamation and stockpiling of large masses of soils is involved, the multiple and small dispersed sites of a wind project would potentially require the stock piling of very small quantities of the topsoil at hundreds of sites for 25-30 years.

Basin Electric would suggest that upon decommissioning of a wind turbine site that the area disturbed be reclaimed on a best engineering practice basis with a goal of achieving comparative topsoil quality and topography.

**Proposed Rule 69-09-10-08: Financial Assurance:**

This proposed rule offers multiple ways in which financial assurance for the anticipated costs of decommissioning might take place. Basin Electric requests greater specify in regards to the options this assurance may be demonstrated. It is Basin Electric's preference that corporate guarantees be available to companies that meet a certain financial worthiness standard.



**Proposed Rule**

A new section to Chapter 69-09-02

**69-09-02-40 Time-of-Use Rates: Each utility shall:**

1. Offer time-based rate schedules for retail electricity sales to large commercial and industrial customers reflecting any variance in the utility's wholesale cost of electricity. The time-based rate schedule must enable the electric customer to manage energy use and cost through advanced metering and communications.
2. Provide each large commercial and industrial customer requesting service under the time-based rate schedule with a time-based meter to enable the utility and the customer to offer and receive such rate.

**General Authority: NDCC 28-32-02, 49-02-03, 49-02-04**

**Law Implemented: NDCC 49-02-03, 49-02-04**