

**Presented by:** Tony Clark  
Commissioner  
Public Service Commission

**Before:** Energy Development and Transmission  
Committee

Honorable Rich Wardner, Chairman

**Date:** November 24, 2009

### **TESTIMONY**

Chairman Wardner and members of the Committee, thank you for the invitation to present testimony before you today. For the record, I am Public Service Commissioner Tony Clark. I am pleased to provide you with a Public Service Commission update on energy development and transmission issues.

Perhaps the most noteworthy regulatory development to take place since we last spoke with you, is the decision by the Federal Energy Regulatory Commission (FERC) to approve Midwest Independent System Operator (MISO) tariff revisions that decrease the risk that North Dakotans will pay an unfair share of the cost of generation development in our state.

As you are aware, the MISO, at least in the case of North Dakota investor owned utilities, operates the transmission grid and electricity market in our region of the country. As we had previously discussed with you, there was a significant change proposed in how transmission upgrade costs would be handled when a new generator comes on line.

The FERC issued an order on October 23 that adopted the reforms that were supported by both the PSC and the investor owned utilities in North Dakota. It is an order that should have utility ratepayers in North Dakota breathing a little easier. Under the former pricing rules, North Dakota utilities were on the hook to pay for 50 percent of the transmission upgrades when new generation was brought online. Most critically for North Dakotans is the fact that we were expected to pay 50 percent of those costs even when the power was entirely for the benefit of consumers elsewhere. In other words, if a utility developer from Ohio decided to build wind power in North Dakota solely for export, and it cost \$10 million in transmission upgrades, North Dakota ratepayers would be forced to pay \$5 million to hook-up the Ohio-bound generation.

Because North Dakota has plentiful wind, but few people to spread these costs over, it was estimated that a local utility like Otter Tail Power could see its electricity rates increase 30 percent to pay for transmission its customers do not need. While wind power development has generally garnered public support in North Dakota, it is easy to see how the public mood would sour if we are asked to pay an unfair share of the cost of its development.

Under the new tariff, the generator will pay 100 percent of the costs, unless a project is above 345kV, in which case the generator pays 90 percent, with 10 percent of costs being shared across the entire MISO footprint.

As I mentioned, the PSC supported the proposed reforms, both through direct advocacy before FERC Commissioners, and through formal filings. We believe the FERC made the right call in adopting the changes.

We also recognize this is not the final solution to cost allocation for generator interconnection in the MISO region. There are some issues with this methodology that will need to be addressed over the coming months and the FERC recognized this by requiring further refinements by next summer. Nonetheless, while regulators continue to explore new methods of funding needed transmission projects, the FERC order decreases the significant financial risks that North Dakota consumers were facing under the old rules.

I would also like to update the Committee on efforts being undertaken to plan for electric transmission upgrades. As we have previously informed the Committee, there are efforts at the national, regional and sub-regional level designed to better plan for the transmission upgrades necessary to meet the nation's growing energy needs.

The Upper Midwest Transmission Development Initiative, started by Gov. Hoeven and four other governors in our region, continues to meet and work collaboratively towards planning for possible grid expansion in North Dakota, South Dakota, Minnesota, Iowa and Wisconsin. Renewable zones and possible transmission upgrades and costs under various scenarios have been identified.

At the regional level, the Organization of MISO States is continuing its Cost Allocation and Regional Planning efforts. This should be coming to a conclusion over the next several months. The PSC has been involved with these efforts that may lead to a new cost allocation formula.

It is also anticipated that planning at the eastern interconnection level will begin in earnest this winter. As we previously reported, funding for this is coming through the US Department of Energy and will involve representatives of the Public Service

Commissions and Governor's offices in each of the states in the eastern interconnect. A first official meeting of this group is likely in late January.

With regard to projects the PSC has been siting, I will provide the committee with an update of the PSC's recent activities. By any measure, we continue to be exceptionally busy, which is continued proof of the high degree of interest and investment in North Dakota's energy sector.

Since October 1, the PSC has:

- received four new letters of intent, which indicate a developer intends to submit an application at a future date. Two of these were for electric transmission projects. One is a wind farm, and one is for a pipeline project.
- received three new applications for project siting. One each for a wind farm, electric transmission line and a pipeline.
- held two formal hearings. One was for a new 230kV transmission line in Williams and Mountrail Counties. The second was for a proposed wind farm in Rolette County.
- issued two new siting orders. One was for a transmission line, one was for a wind farm. Both are related to Allete's (Minnesota Power) proposed new wind farm in Morton and Oliver Counties.
- continued to monitor and receive updates for eleven permitted construction projects. One is an electric transmission project. Four are wind farms. Six are pipeline projects.

- received a filing for an advanced determination of prudence related to the CapX 2020 transmission upgrade project that involves both Xcel Energy and Otter Tail Power.

While there is no shortage of work at the PSC, we do feel that we have been able to both process these cases in a timely manner, and give the attention to detail that is demanded by the public's interest in ensuring these are sited the right way and with full due diligence. We are fortunate to have a very dedicated, professional and experienced staff that has made this possible. In addition, the flexibility the legislature has granted us to access siting fee money to process these cases, and hire outside consultants when necessary, has proven very valuable in giving us the tools to handle the work load. As the biennium progresses, we will continue to keep analyzing the PSC work load and keep you informed of our staffing needs.

Finally, and on a related matter, the PSC was asked by Legislative Council staff to provide the amount of siting fee money that is and has been assessed to project developers in the last few years. Under the relevant statute, those proposing to construct electric or pipeline transmission facilities are assessed \$5,000 for each \$1 million of investment in the proposed facility. Those wishing to construct generation facilities are assessed \$500 for each \$1 million of investment in the proposed facility. In either case, the application fees shall not be less than \$5,000 nor more than \$100,000.

Additionally, at the request of the Commission and with approval of the Emergency Commission, additional fees as necessary for completion of the siting project may be required. In no event shall the application fees above, or the additional

fees, exceed \$1,000 for each \$1 million in investment a proposed energy conversion facility, or \$10,000 for each \$1 million in investment in a proposed transmission facility.

In the 2007-09 biennium, siting fees totaled \$1,197,250. In the current biennium, developers have paid a total of \$230,000. To the extent the PSC does not need to utilize the fee money to process the case, it returns the unspent portion to the developer as provided in law and rule. Since the beginning of the 2007-2009 biennium, the PSC has refunded \$718,414.13.

Thank you again for the invitation to present testimony before you. I would be happy to answer any questions you may have.