

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

State of North Dakota,)
Industrial Commission of North Dakota,)
Lignite Energy Council, Basin Electric)
Power Cooperative, The North)
American Coal Corporation, Great)
Northern Properties Limited)
Partnership, Missouri Basin Municipal)
Power Agency d/b/a Missouri River)
Energy Services, Minnkota Power)
Cooperative, Inc.,)

Eighth Circuit File No. 14-2156

Plaintiffs - Appellees,

**APPELLANTS' STATEMENT
OF ISSUES**

v.

Beverly Heydinger, Commissioner and
Chair, Minnesota Public Utilities
Commission, David C. Boyd,
Commissioner, Minnesota Public
Utilities Commission, Nancy Lange,
Commissioner and Vice Chair,
Minnesota Public Utilities Commission,
J. Dennis O'Brien, Commissioner,
Minnesota Public Utilities Commission,
Betsy Wergin, Commissioner,
Minnesota Public Utilities Commission,
and Mike Rothman, Commissioner,
Minnesota Department of Commerce,
each in his or her official capacity,

Defendants - Appellants.

Appellants raise the following issues on appeal:

1. Did the District Court err in finding Appellees presented a justiciable claim where the statute at issue has not been applied to Appellees and where Appellees failed to present evidence of an actual injury-in-fact?
2. Did the District Court err in refusing to abstain from exercising jurisdiction where a state administrative agency's construction of Minn. Stat. § 216H.03, subds 3(2) and (3) could avoid the need to consider Appellees' constitutional question?
3. Did the District Court improperly grant summary judgment to Appellees based on an erroneous interpretation of the scope of Minn. Stat. § 216H.03, subds. 3(2) and 3(3) and because these provisions only apply to utility services provided to Minnesota consumers?
4. Did the District Court err in enjoining the enforcement of Minn. Stat. § 216H.03, subds. 3(2) and 3(3)?
5. Did the District Court err in failing to grant summary judgment to Appellants?

Dated: May 30, 2014

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State of Minnesota

s/ Alethea M. Huyser

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ATTORNEYS FOR APPELLANTS

CERTIFICATE OF SERVICE

I hereby certify that on May 30, 2014, I electronically filed the foregoing document with the Clerk of the Court for the United States Court of Appeals for the Eighth Circuit by using the CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

s/ Alethea M. Huyser

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