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From: Wahl, Al
Sent: Wednesday, April 18, 2007 4:04 PM
To: Bruce Gerhardson; Daniel S. Kuntz; John W. Breen Jr.; Binek, William W.
Subject: Otter Tail Corporation and Montana-Dakota Utilities Co. Advance Determination of Prudence Applications

Counsel, as you may know, I am the administrative law judge designated to serve as the hearing officer for the captioned hearings. I am sending this e-mail just to you four to suggest and facilitate scheduling a prehearing conference for these hearings. If there will be others who represent your client who would attend, please forward this e-mail to them for their advice to you (but not to me, please).

I have been instructed by the Commission to proceed with the disposition of the motions pending for these hearings. Although perhaps a bit late in the day, it may be a good idea to deal with the motions in the context of a prehearing conference to do as much as we can to simplify and expedite the process of the hearings.

Tentatively, as an agenda for a prehearing conference I would first hear argument of the applicants' motion in limine, the interveners' motion to compel responses to discovery, and the interveners' request to amend the briefing and testimony schedule. My plan for oral argument is for counsel to address questions that I have, and I will advise you of my questions prior to the conference. (My initial reading of your motions, request, responses, and briefs prompts some questions. If, upon another reading and further thought, I don't have any questions I won't hear any argument, and you'll have my rulings sometime early next week. But I think that's unlikely. And it's possible, although I do not promise, that I will rule on the motions and request immediately following argument to expedite our preparation for the hearings.)

Mr. Breen, I do not have the interveners' "discovery requests" and the applicants' responses. You should, please, get a copy of all that to me yesterday, together with anything else you would file in support of your motion. You should be prepared to immediately revise your discovery requests upon my ruling on the motion in limine, and, as well, Mr. Gerhardsen and Mr. Kuntz, you should be prepared to reconsider your objections accordingly. Let's try to argue about discovery just once.

Following argument of the motions and request, if any, it may be helpful to everyone to consider any other questions or potential problems for our preparation for and the conduct of the hearings; *e.g.*, the order of proof; identity, examination, and cross-examination of witnesses; marking and handling of exhibits, stipulation for the admission of exhibits and any other stipulations to facilitate or expedite the hearing; any special requirements or accommodations for the presentation of any evidence, what-have-you, and otherwise to review together our plans for the hearings. I encourage your suggestions for matters which may be addressed prior to the hearings to be included for the agenda. Although it is my practice to leave the agenda for a prehearing conference open, the process obviously works much better if everyone has time to consider any question or potential problem.

As you doubtless have in mind, time is short. I have no idea how much time we might spend with a prehearing conference for these hearings, but two-three hours would not surprise me. Accordingly, my docket and the schedule for the Commission's hearing room would allow the scheduling of a prehearing conference anytime April 23 and 24, anytime after 10:00 a.m. April 25, anytime April 26, the afternoon of April 27, anytime April 30, the afternoon of May 1, and anytime May 3 or 4. Please advise me of your availability by e-mail. If you will promptly review each others' suggestions and further advise me of your preferences, I will pick a date and time accordingly, advise you immediately by e-mail, and get out an order and a cover letter with my questions just as soon as I can.

You should, please, put my name, address, and e-mail address in your file (and remove Judge Hoberg's). Do **not** send me documents that you file with the Commission. I will get those from the Commission in due course. But **do** send me everything that I am directly handling (*e.g.*, Mr. Breen, your discovery requests, *etc.*) and anything that you expect I will be handling or deciding for the hearings and which merits my prompt, if not immediate, attention. And otherwise I will welcome your advice and suggestion. Regards, Al Wahl.