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May 21, 2008

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VIA REGULAR MAIL & EMAIL

PUBLIC SERVICE COMMISSION

Illona Jeffcoat-Sacco
Executive Secretary
North Dakota Public Service Commission
State Capitol
Bismarck, ND 58505

**Re: Montana Dakota Utilities Co., and Otter Tail Corporation; Advance
Determination of Prudence, Big Stone II Generating Station
Case Nos. PU-06-481 and PU-06-482**

Dear Ms. Jeffcoat-Sacco:

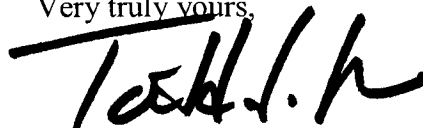
Enclosed for filing in the above matter please find an original and seven copies of the Applicants' Post-Hearing Brief and Proposed Findings of Fact, Conclusions of Law and Order along with an Affidavit of Service.

For our proposed Findings, we have used as a starting point draft Findings that Staff had prepared in August, 2007 and which the Commission considered in at least two working sessions prior to staying this proceeding. We have included both a black-line draft which shows proposed changes from the August 2007 draft, along with a clean version. Reply Briefs are due Friday, May 30, 2008.

Please direct any questions to Montana-Dakota's Mr. Daniel Kuntz (701-530-1016), Otter Tail's Mr. Mark Bring (218-998-7152), or to the undersigned.

Thank you for your consideration.

Very truly yours,



Todd J. Guerrero

TJG/kas
cc: Attached Service List (w/encl.)

Doc# 2677371\1

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Applicants' Post Hearing Brief

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Applicants' Post Hearing Brief

Otter Tail Corporation, Montana Dakota Utilities Co.

Otter Tail Corporation, Montana Dakota Utilities Co.

Todd Guerrero, Lindquist & Vennum PLLP

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

Montana-Dakota Utilities Co., and
Otter Tail Corporation;
Advance Determination of Prudence
Big Stone II Generating Station

Case No. PU-06-481
Case No. PU-06-482

**POST- HEARING BRIEF OF APPLICANTS
MONTANA-DAKOTA UTILITIES CO. AND
OTTER TAIL CORPORATION**

May 21, 2008

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I. INTRODUCTION

In June 2007 the North Dakota Public Service Commission held three days of hearing to consider the application by Otter Tail Corporation d/b/a Otter Tail Power Company (Otter Tail) and Montana-Dakota Utilities Co., a division of MDU Resources Group, Inc. (Montana-Dakota) (collectively “Applicants”) for an advance determination of prudence for the companies’ participation and ownership interest in the Big Stone Unit II project. Before the Commission could render a final decision, however, the Applicants announced that two of the original seven participants in the project – Great River Energy and Southern Minnesota Municipal Power Agency – had decided to withdraw from participation in the project.

Given the withdrawal, the Applicants determined that it was necessary to stay the pending proceeding and, along with each of the remaining project owners,¹ conduct additional resource planning to determine whether a slightly downsized unit – 500 MW to 580 MW – remained a prudent, cost effective resource alternative. Applicants presented the results of their updated analyses in their supplemental testimony and during the April 28-30, 2008, hearings. Those analyses, along with other factors Applicants considered, confirmed that constructing a supercritical pulverized coal plant at Big Stone City, South Dakota, remains a prudent, cost effective resource for the Applicants to meet their need for additional baseload generating capacity by 2013.

While the supplemental analysis was necessary, the results should not be surprising. Demand for electricity in North Dakota continues to grow and the Applicants’ forecasts continue to show a need for additional resources. There have been

¹ Missouri River Energy Services (Sioux Falls, SD), Central Minnesota Municipal Power Agency, (Blue Earth, MN) and Heartland Consumers Power District (Madison, SD).

no baseload units built in the region in more than 20 years. No party is contesting the Applicants' need for both energy and capacity. Similar to the 2007 proceeding, Intervenors Dakota Resource Council and Mark Trechock point generally to a wind and natural gas alternative, but once again are forced to concede they are unable to advance a specific plan that addresses the Applicants' needs more cost-effectively or reliably.

Advocacy Staff continues to conclude that the project is cost-effective and prudent, subject to certain conditions acceptable to Applicants.

While the Big Stone site is captive to a sole fuel supply shipper, Applicants have demonstrated via the testimony of its witness Thomas Crowley,² a pre-eminent expert with thirty years experience in fuel supply and rail transportation, that the coal and freight forecasts Applicants have conducted are reasonable.

Pursuant to the Commission's notice of hearing delineating the issues to be considered in these matters, and for the reasons described in more detail below, the Applicants have confirmed they have need for additional generating resources and related transmission interconnection facilities, that the alternatives that may exist for meeting the additional baseload generation needs are not preferable substitutes, and that therefore Applicants' participation in Big Stone II and related transmission facilities is reasonable and prudent.

² See OTP/MDU Ex. 328 (Crowley).

II. THE APPLICABLE SCOPE AND STANDARD.

In its January 10, 2007 Notice of Hearing, the Commission identified the following three issues to be addressed in this matter:

1. Whether the resource addition is reasonable and prudent;
2. Whether Applicants have need for additional generating resources; and
3. What alternatives exist for meeting additional generation needs?

Analysis of the second and third questions will inform in large part the answer to the first. Because this matter marks the first time the Commission has considered a request under N.D.C.C. § 49-05-16 regarding a proposed resource addition, it is helpful to repeat the standard by which the Commission should judge the prudence of the Applicants' proposed investment. That standard is essentially as follows:

“[M]anagers of a utility have broad discretion in conducting their business affairs and in incurring costs necessary to provide services to their customers. In performing our duty to determine the prudence of specific costs, the appropriate test to be used is whether they are costs which a reasonable utility management (or that of another jurisdictional entity) would have made, in good faith, under the same circumstances, and at the relevant point in time.

New England Power Co., Opinion No. 231, 31 FERC ¶61,084, *reh. denied*, Opinion No. 231-A, 32 FERC ¶61,112 (1985), *aff'd sub nom. Violet v. FERC*, 800 F.2d 280 (1st Cir. 1986).³ Both Advocacy Staff⁴ and the Intervenors⁵ agree this is the applicable standard. Thus, the standard by which this Commission should judge this case is not whether the Commission believes it would have picked a different resource alternative. Instead, it is

³ See also, *West Ohio Gas Co., v. Ohio*, 294 U.S. 63, 72 (1935) (“Good Faith is presumed on the part of the managers of a business.... In the absence of a showing of inefficiency or improvidence, a court will not substitute its judgment for theirs as to the measure of a prudent outlay.”)

⁴ See, Advocacy Staff Post-Hearing Brief, August 3, 2007, pp. 4-6.

⁵ Q: Do you find any fault with that particular [prudence] standard, Mr. Schlissel?
A: No. . . . I think that this is a reasonable enunciation of the general standard.”
Tr. Vol. II, p. 1220, l. 4-9 (Schlissel).

whether the utilities, proceeding in good faith, acted reasonably.⁶ Under this standard, the Commission is compelled to conclude that Applicants' proposed investment in Big Stone II and related transmission lines is reasonable and prudent.

III. APPLICANTS' NEED FOR ADDITIONAL RESOURCES IS UNCONTESTED.

In the 2007 proceeding, the Applicants submitted a great deal of evidence regarding their forecasts and need for energy and capacity.⁷ Applicants established that each requires additional generating capacity and energy to meet their needs. Given the fact that almost another year has elapsed since the Commission first heard this matter, the need for additional generation has only become more acute.

The Applicants confirmed in the April 2008 hearings that this need for additional baseload generation resources remains. Mr. Bryan Morlock, Otter Tail's experienced resource planner, presented the results of his updated analyses showing Otter Tail's most recent load forecast predicts a slight increase in demand and energy requirements compared to the 2007 forecast, based in part on new large industrial loads, including the Cassleton, North Dakota ethanol plant.⁸ Mr. Morlock testified that collectively the five Big Stone II co-owners have a total need for Big Stone II in 2013 of 516 MW to 556 MW.⁹

⁶ As Advocacy Staff's expert Terry Deason clarified last summer, a prudence decision is based on whether the utility attempted to find a most reliable and economic resource for its customers. The particular state in which the investment is to be made is largely irrelevant. ("... let me say that I believe that the role of a utility regulator is to look at the prudence of decisions, to look at the way a utility can most reliably and cost-effectively provide service to its customers. If that means building a facility within the confines of the state, or even outside the state, so be it. I believe the economic future of the citizens of a state are best served by the least-cost, most reliable source of generation, regardless of where the source is located.") Tr. Vol. III, p. 704, lines 1-12 (Deason).

⁷ See, e.g., Applicants' Post-Hearing Brief, August 3, 2007, pp. 7-8.

⁸ OTP Exhibit 117, p. 2, l. 25-26 and p. 3, l. 1-2 (Morlock).

⁹ *Id.*, p. 12, l. 6-7.

Montana-Dakota, like Otter Tail, is expecting slightly more growth than forecast in 2007. James Heidell, testifying on behalf of Montana-Dakota, testified that Montana-Dakota's new econometric forecast shows a slightly higher growth rate for both demand and energy.¹⁰

In fact, the entire Midwest region, including North Dakota, faces looming power deficits.¹¹

There is really no dispute that Otter Tail and Montana-Dakota need additional generating capacity. The Commission's Advocacy Staff recognized this growing need during the 2007 hearing.¹² Advocacy Staff witness Terry Deason came to the same conclusion in this supplemental proceeding.¹³

Nor did the Intervenors in either proceeding contest the fact that additional generation is required:

- Q. You're [Mr. Schlissel] not challenging Otter Tail's forecast of need for resources; that's correct?
- A. That's correct.
- Q. And you're not challenging Montana-Dakota's need for resources; that's correct?
- A. That's correct. We're not challenging the need to do something.
- Q. And that's both with respect to their need for energy?
- A. Correct.
- Q. And for capacity?
- A. Correct.¹⁴

Thus, the question is whether the Applicants, proceeding in good faith, acted reasonably in determining that the alternatives that may exist for meeting the additional

¹⁰ MDU Exhibit 214, p. 8, l. 18-19 (Heidell).

¹¹ OTP Exhibit 112, p. 2, l. 8 to p. 3, l. 8 (Uggerud).

¹² See Advocacy Staff Post-Hearing Brief at p. 13 ("There are differences of opinion on how to meet the forecasted needs, but no one disagreed with MDU's or OTP's forecasts.")

¹³ See Ex. PSC 4, p. 3, l. 6-7 (Deason).

¹⁴ Tr. Vol. II, p. 1171, l. 23 to p. 1172, l. 11.

baseload generation needs are not better substitutes for the identified baseload generation resource.

IV. THERE ARE NO ALTERNATIVES TO BIG STONE UNIT II THAT CAN MEET THE APPLICANTS' ADDITIONAL GENERATION NEEDS IN A MORE COST-EFFECTIVE MANNER.

Similar to the 2007 proceeding, the Applicants in this new round of hearings conducted exhaustive examinations of their generation alternatives. The Commission can be assured that Applicants have no interest in making a proportionate investment in new facilities costing \$1.5 billion without first having determined through extensive resource planning and other evaluation that they have no better alternative to this project. Based on this review of alternatives, the Applicants have reasonably and prudently selected the Big Stone Unit II generation and transmission facilities as the most cost-effective solution to meet their respective baseload needs for electric energy.

A. Big Stone II Is the Most Prudent Baseload Alternative.

Otter Tail and Montana-Dakota in late 2007, and again in early 2008, conducted additional capacity expansion modeling to determine whether Big Stone II, as a slightly downsized plant, remained the least-cost resource option. Each company based its analysis on reasonable, updated assumptions incorporating certain statutory requirements.¹⁵

As they explain in their testimony, in every scenario modeled, their analysis indicated that participating in Big Stone II remains an integral component of their least cost expansion plan. In Otter Tail's case, its resource planning modeling demonstrated that it has a need for up to 170 MWs of Big Stone II, though it has decided to limit its

¹⁵ OTP Exhibit 117, p. 2, l. 7-21 (Morlock) and MDU Exhibit 214, p. 6, l. 11-21, and p. 7, l. 1-6 (Heidell).

participation in the project to no more than 130 MWs.¹⁶ Mr. Heidell testified that Montana-Dakota's approximately 130 MW share of the project made sense in addition to a plan that, like Otter Tail's plan, already includes conservation, renewable resources, and additional natural gas peaking units.¹⁷ While Applicants obviously do not rely exclusively on the results of "capacity expansion" modeling to base their resource decisions,¹⁸ it is nonetheless telling that under every set of assumptions modeled by the Applicants, the models show Big Stone II remains a part of the least-cost mix.

Advocacy staff witness Terry Deason raised a number of questions about the Applicants' modeling assumptions, but Applicants adequately addressed his concerns in their responses to Staff information requests and rebuttal testimony.¹⁹ Mr. Deason, who has more than 30 years of professional experience evaluating utility resource selection decisions, concluded that Big Stone II remained a prudent resource acquisition for both companies:

My review concludes that the applicants have demonstrated that a downsized version of Big Stone II is a cost-effective means to meet their need for additional baseload generation subject to conditions and additional explanation and clarification.²⁰

As Mr. Deason testified in 2007, there are risks and uncertainties inherent in any resource option, and the resource planning process involves weighing the advantages and disadvantages of each respective resource option.²¹ Given his expertise, Mr. Deason is uniquely qualified to pass judgment on the prudence of the Applicants' proposal. Mr. Deason's unbiased conclusion is that the Big Stone Unit II proposal should be approved,

¹⁶ Late Filed Ex. PSC 7.

¹⁷ MDU Ex. 214, p. 1, l. 20-23 (Heidell).

¹⁸ See OTP Exhibit 117, p. 9, l. 18-23, and p. 10, l. 1-3 (Morlock).

¹⁹ Tr. Vol. III, p. 1489, l. 7 to p. 1491, l. 24 (Deason).

²⁰ Tr. Vol. III at p. 1488 (Deason).

²¹ PSC Ex. 1, p. 44, l. 18-22; p. 45, l. 1-10 (Deason).

subject to several reasonable conditions that are acceptable to Applicants.²² Given Mr. Deason's salient perspective as a former commissioner of the Florida Public Utilities Commission, his response to a question from Commissioner Cramer was particularly perceptive and germane: Commissioner Cramer asked, "What should we be looking out for that's maybe not obvious?" Mr. Deason responded:

[A]s a regulator, I would suggest that you take some degree and comfort -- some degree of comfort that the applicants have brought to you a project which is not the easy course of action. I would think a regulator should be skeptical of a project which seems to be the easy course of action, one that is -- would receive less scrutiny from a number of intervenors, less scrutiny -- would be less capital intensive so that it would put less pressure on their financial statements, one that perhaps would -- that they would be perhaps more assured of cost recovery because it is not so controversial and because it is not subject to a greater degree of construction risk, that being a longer construction time and perhaps the materials and labor involved in that.

I think the applicants here are exposing themselves to some degree, but I think, you know, based upon my review, their motivations are because they're doing this because they believe it is what is in the best interest of their customers. Certainly they're doing it with an idea that it is -- in the long term it's going to be in the best interest of their stockholders, as well.

But as a regulator, I was always suspicious of projects which were -- took less time to construct, more dependent upon fuels that could fluctuate widely, and I'm talking about natural gas projects, and particularly in the State of Florida -- and I'm not so sure of the fuel adjustment process in North Dakota, but in Florida there is a fuel adjustment process, and while there is a great deal of review of those costs, generally the vast majority of all fuel costs get passed through to customers. So with utility management realizing that, the easy course or the natural inclination would be to go forward with a project that has a low capital cost, perhaps high fuel cost because they're going to get recovery, anyway, and they do not expose their stockholders to the level of risk that these applicants are coming forward and trying to get approval to proceed.

So while any project has to have a great deal of review, the fact that this project is not the easy course of action, I think as a regulator you should -- obviously you should not just approve it because it's not the easy course of action, but I think the fact that they're willing to go forward with this project should provide some degree of comfort, because the motivation is to get savings in the long term, and those savings are going

²² PSC Ex. 1, p. 46, l. 18-19 (Deason).

to be -- if projections go forward as planned, which we know they're going to be different to some degree, but as projected, the savings are going to be in the long term, and the savings are going to be achieved through lower fuel cost and the fact that this plant is dispatchable and there could be the opportunity for off-system sales, as I refer to them, and that the life of this plant is going to be an extremely long plant, and that once the depreciated value reaches to a point to where -- and they're still operating efficiently and effectively, there are going to be savings for the customers, but it's going to be long-term savings.²³

Given the presumed “dash to gas” in the electric power sector, it should indeed be comforting to this Commission that Applicants have thus far resisted taking the “easy path” for shareholders, but one that would likely be very rocky for ratepayers, despite a tremendous amount of pressure being exerted to do exactly that.

Last, while transmission did not take up much of the supplemental hearing,²⁴ new transmission has to be built to connect Big Stone Unit II to the grid. The Applicants described last summer how they employed a thorough screening analysis to evaluate the various transmission alternatives that were identified through the study process required by the Midwest Independent Transmission System Operator.²⁵ MISO supports the transmission project as the preferred alternative.²⁶ In the supplemental hearings, transmission expert Tim Rogelstad clarified that no change has been proposed to the transmission facilities as a result of downsizing the plant from 630 MW to 500 MW or 580 MW. As he clarified, essentially any generation facility larger than 150 MW at the Big Stone site would require something more than the existing 115 kV system.²⁷ The proposed 230 kV line to Morris, Minnesota and the 345 kV line to Granite Falls, Minnesota remain the best choice for interconnecting a 500 – 580 MW facility at Big

²³ Tr. Vol. III. P. 1512, l. 20 to p. 1515, l. 18.

²⁴ Intervenor filed no testimony on the transmission interconnection facilities proposed by Applicants.

²⁵ OTP/MDU Ex. 312, p. 7, l. 19-21, p. 8 l. 1-11 (Rogelstad).

²⁶ PSC Ex. 1, p. 31, l. 13 (Deason).

²⁷ OTP/MDU Ex. 325, p. 2, l. 10-12.

Stone. Importantly, there are more than 50,000 MWs of interconnection requests in the MISO queue in the tri-state region that were filed after Big Stone II's interconnection request. There are 59 projects, accounting for nearly 11,000 MW, in North Dakota alone.²⁸ The fact is that the region needs a significant amount of new transmission to serve future resource needs; the Big Stone transmission lines are a necessary step in that direction.

Applicants respectfully submit that they have demonstrated that the proposed transmission facilities are reasonable and prudent.

B. No More Reasonable Alternative to Big Stone II Has Been Suggested or Identified.

At no time in this proceeding has any party come forward with a specific alternative that could be even arguably considered a replacement for the baseload generation resource to be provided by Big Stone II. The best that the Intervenors can recommend is “that OTP and MDU investigate and implement portfolios of alternatives to Big Stone II Project that would include energy efficiency, more renewable resources, and to the most limited extent necessary, the addition of new natural gas-fired capacity.”²⁹ Notwithstanding that both OTP and MDU are in fact already addressing resource needs through investment in energy efficiency and renewables, the theoretical “wind plus gas” alternative suggested by the Intervenors does not demonstrate that a more reasonable alternative exists.

The Intervenors did not try to identify actual, real-world resource plan options for either Otter Tail or Montana-Dakota. Indeed, in an attempt to show that alternative resource plans exist for Montana-Dakota, the Intervenors attempted only to introduce an

²⁸ OTP/MDU Ex. 325, p. 3, l. 11-13.

²⁹ Ex. 110 at p. 7 l. 23-24 (Schlissel). *See also* Tr. Vol. II, pp. 1174-1176.

alternative resource plan summary that it had prepared for Montana-Dakota in the Minnesota transmission certificate of need/route permit docket relying on various carbon dioxide costs, contrary to NDCC § 49-02-23. Most of that part of Intervenors' testimony, however, was actually struck from the record.

While the Intervenors would have this Commission believe that Applicants should simply do more conservation and more renewables, the record demonstrates that Applicants' baseload needs will not be met relying solely on conservation and renewable resources. Applicants are already pursuing renewable resources. To meet baseload needs, they will need to build thermal resources, and the most likely alternative to supplant the baseload power Big Stone II would provide the Applicants is increased natural gas generation, either as a primary or backup fuel supply, or as power purchased from the MISO market. Applicants believe that would be a pricey mistake.

Applicants presented testimony from Mr. Daniel Klein, president of a consulting firm with 30 years experience in the energy field.³⁰ As Mr. Klein testified, "Natural gas prices remain high and volatile."³¹ . . . Longer-term, the price outlook for natural gas consumers continues to worsen."³² Indeed, if Big Stone II were replaced with gas-fired capacity, an increase in gas prices of only \$1/MMBtu would increase generation costs by as much as \$28,000,000 in a single year,³³ and that assumes a natural gas price of approximately \$8.00/MMBtu. Natural gas prices are currently in the range of \$11.50/MMBtu. On May 15, 2008, Henry Hub futures prices were \$12.16/MMBtu for November 2008 delivery and \$12.53/MMBtu for December 2008 delivery.

³⁰ OTP/MDU Ex. 341 (Klein).

³¹ *Id.*, p. 7 l. 14 (Klein).

³² *Id.*, p. 7 l. 20 (Klein).

³³ OTP/MDU Ex. 341, p. 4, l. 15-17 and Tr. Vol. III, p. 1434, l. 4-12.

It is unlikely the Commission needs an expert to understand that burning natural gas for electricity generation presents a risky proposition. As the April 18, 2008 *Wall Street Journal* reported,³⁴ natural gas prices in the U.S. have risen 93% since late August. Since April 18, 2008, natural gas prices have risen an additional 8.8%, or approximately 110% since last August. Because even the prospect of future carbon regulation is likely to contribute to increased demand for natural gas, volatility will only increase.³⁵ With domestic natural gas production and imports from Mexico and Canada declining, the country is already beginning to rely more heavily on imported, overseas liquefied natural gas, with prices set in a world context and tied to global oil prices.³⁶

Accordingly, it is not difficult to understand both the economic and security risk such a situation presents. According to testimony provided by Applicants' witness Mr. Klein:

A map of proven world gas reserves, shown in the bottom half of OTP/MDU Exhibit 346, shows a similarly worrisome situation for natural gas. Out of 6,044 trillion cubic feet of proven gas reserves, over 80 percent are located in the Middle East, Eastern Europe and former USSR countries, and Africa. In fact, a look at natural gas reserves by country shows that at the beginning of this year, the U.S. ranked sixth in world gas reserves, with 3.1 percent of proven reserves. The nine other top-ten countries in gas reserves are Russia, Iran, Qatar, Saudi Arabia, Abu Dhabi, Nigeria, Algeria, Venezuela, and Iraq. These other nine countries, several of whom at best are reluctant business partners with the U.S., hold gas reserves that collectively account over three-fourths of the world's total. With the bulk of world gas reserves concentrated in a few key countries, many of whom are not especially friendly to U.S. interests, this growing dependence poses both economic and national security risks. Added to that the fact that China, India, Japan, and Western Europe are *not* among the large holders of oil and gas reserves, and we can easily appreciate how

³⁴ OTP/MDU Ex. 350 "Surge in Natural Gas Stoked by New Global Trade," by Ann Davis and Russell Gold, *The Wall Street Journal*, April 18, 2008, page 1.

³⁵ OTP/MDU Ex. 341, p. 12, l. 22 – p. 13, l. 13 (Klein).

³⁶ OTP/MDU Ex. 341, p. 9, l. 17 – p. 11, l. 3.

global competition for oil and natural gas will continue to underlie international trade and security concerns.³⁷

While the Intervenors recognize that natural gas prices are volatile,³⁸ they conveniently downplay the significance of this phenomenon. In their role as critics, they are immune from the gravity of the obligation to serve the public, a task that the Applicants and this Commission know well. The Intervenors' only response to the issue of natural gas risk is that it's "complicated."³⁹ On that issue, we can agree.

There is no better baseload generation alternative to Big Stone II. The record convincingly supports the conclusion that Big Stone Unit II is a reasonable and prudent baseload generation resource addition.

V. APPLICANTS' FORECASTS OF COAL AND FREIGHT ARE REASONABLE.

Applicants acknowledge that construction of Big Stone Unit II, like all major utility investments, carries certain risks. One risk factored in by the Applicants that is of concern to the Commission is the fact the Big Stone site is captive to the Burlington Northern Santa Fe Railroad ("BNSF") for fuel delivery. That the Big Stone site is presently a captive shipper to the BNSF, however, does not justify a finding that Big Stone II and associated transmission facilities are imprudent. First, Applicants have undertaken a number of measures to minimize the risks related to fuel supply and delivery and, importantly, have testified that the conditions recommended by Advocacy Staff's expert Terry Deason are acceptable.⁴⁰

³⁷ OTP/MDU Ex. 341, p. 14, l. 4-18 (Klein).

³⁸ Tr. Vol. III, p. 1240, l. 2 (Schlissel).

³⁹ Tr. Vol. III, p. 1242, l. 2-3 (Schlissel).

⁴⁰ OTP Ex. 119, p. 19, l. 15-19 and Tr. Vol. I p. 852, l. 5-23 (Uggerud).

In response to the Commission's concerns regarding freight issues, the project has continued its discussions with BNSF. Applicants have received a recent proposal from the BNSF offering to jointly agree on a rate and execute a long-term contract for Big Stone II. Such a contract would have a normal rail inflation adjustor and coal train surcharge. While Applicants will certainly consider the offer, they continue to believe that entering into a long-term contract is not necessarily advisable at this time.⁴¹

Applicants have also addressed the Commission's concerns from last summer regarding Applicants' coal forecasts, sponsoring the testimony of preeminent coal and rail expert Thomas Crowley. Mr. Crowley independently prepared a *delivered* coal price forecast for the Big Stone II plant, finding a high level of similarity to the Applicants' original 2006 forecast. Significantly, Mr. Crowley testified that his forecast is lower than the Applicants' 2007 forecast (the forecast Applicants used in this proceeding) with the greatest divergence occurring during the time period 2019 to 2025. Mr. Crowley concluded, therefore, that Applicants' 2007 forecast is actually conservative (*i.e.*, favors alternatives other than Big Stone II); nevertheless the analysis demonstrates Big Stone II is needed relative to other baseload generation alternatives.⁴²

Thus, Applicants have established their forecast for coal and freight for years is reasonable, and provides the Commission with a conservative and reliable approach to assessing future coal and freight costs. The Intervenors did not sponsor any testimony on this issue, and there is no contradictory evidence in the record.

⁴¹ See OTP Ex. 112, p. 9, l. 17 to p. 10, l. 4 (Uggerud) and Tr. Vol. II, p. 1138 l. 1 to p. 1139, l. 18 (Crowley).

⁴² OTP/MDU Ex. 328, p. l. 16-21.

VI. THE APPLICANTS DO NOT OBJECT TO THE INCLUSION OF CONDITIONS IN THE COMMISSION'S PRUDENCE ORDER TO ENSURE THAT THE COMMISSION IS KEPT APPRISED OF DEVELOPMENTS.

The Applicants have consistently stated that they do not object to the conditions suggested by Mr. Deason on behalf of the Advocacy Staff. Mr. Deason specified five conditions in his testimony in the first round of hearings and added one more in this supplemental hearing.⁴³ To follow are conditions recommended by Advocacy Staff.⁴⁴

1. Applicants shall advise the Commission quarterly beginning January 1, 2009, of the progress in obtaining all necessary approvals, permits, and licenses from other regulatory bodies and of the anticipated date of commencement of construction.
2. Applicants shall advise the Commission when construction of Big Stone Unit II actually commences.
3. Applicants shall provide a forecasted budget for construction costs for the upcoming year beginning on January 1, 2009. Each subsequent report filed on January 1 shall include an analysis of any deviations from the forecasted budget and the actual expenditures for the year and an explanation of changes in forecasts for future years.
4. Applicants shall immediately advise the Commission of any decision by the Applicants not to go forward with construction of Big Stone Unit II and of any factors that jeopardize the viability or continuation of the project.
5. Applicants shall continue their present operational practices for management of the coal that is burned at Big Stone. Applicants will maintain reports regarding implementation of these practices and will provide these reports to the Commission upon request.
6. Applicants shall conduct a study of the number of rail cars necessary to serve Big Stone II and do a cost benefit analysis of whether any additional railcars should be light weight aluminum railcars. Applicants shall submit the results of that study to the Commission by January 1, 2011.

⁴³ Ex.PSC 4, at p. 28, l. 1-3 (Deason).

⁴⁴ These conditions are essentially the same as the conditions the Applicants included in their draft findings submitted in August 2007 after the first round of hearings, with slight changes to update some deadlines and to address the new condition suggested by Mr. Deason to report on carbon dioxide regulations and new cost estimates.

7. Applicants shall conduct a study to calculate the costs and impacts of maintaining a higher coal inventory level. Applicants shall compare the costs of maintaining a higher level of coal with the costs and likelihood of future curtailments of shipments of coal from inadequate fuel deliveries. Applicants shall submit the results of the study to the Commission with a recommendation on the appropriate inventory level by January 1, 2011.

8. Applicants shall continue to monitor potential carbon dioxide regulations and provide an update of the cost-effectiveness of Big Stone II prior to commencement of construction.

VII. CONCLUSION

Applicants have carefully analyzed their need for additional generation resources to serve their customers. Resources need to be built. Constructing a highly efficient supercritical pulverized coal plant at a time when any kind of fossil fuel plant is under close scrutiny is not without controversy. But every resource selection comes with risks and uncertainties. Big Stone II is the least-cost alternative to meet the Applicants' baseload need under all reasonable scenarios.

Big Stone II is not the only project these Applicants are undertaking to address need. They will each be increasing their commitments to conservation and renewables. Those efforts, however, are not a substitute for addressing Applicants' baseload need.

Applicants have demonstrated that they have need for additional generating resources (along with the transmission to interconnect the resources), that the alternatives that may exist for meeting the additional baseload generation needs are not preferable substitutes for the identified baseload generation resource, and therefore, that their investment in Big Stone II is prudent and reasonable.

The Applicants respectfully request that the Commission issue an order so finding.

Date: May 21, 2008

Respectfully submitted,

**Montana-Dakota Utilities, Co. a division of Otter Tail Corporation
MDU Resources Group, Inc.**

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STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Otter Tail Corporation, Advance
Determination of Prudence
Application

AFFIDAVIT OF SERVICE

Montana-Dakota Utilities Co.,
a Division of MDU Resources Group,
Inc., Advance Determination of Prudence
Application

Case Nos. PU-06-481, PU 06-482

Kristen A. Swenson, of the City of Minneapolis, County of Hennepin, in the State of Minnesota, being duly sworn on oath says: that on the 21st day of May, 2008, she served the following:

Applicants' Post-Hearing Brief and Proposed Findings of Fact, Conclusions of Law and Order along with an Affidavit of Service.

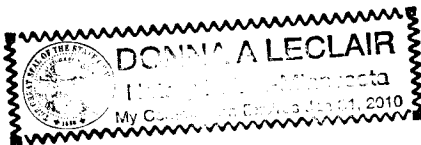
A copy has also been served upon the attached service list via electronic mail and U.S. Mail.

Kristen A. Swenson

Subscribed and sworn to before me
this 21st day of May, 2008.

Donna A. LeClair

Notary Public



STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Otter Tail Corporation, Advance
Determination of Prudence
Application

SERVICE LIST

Montana-Dakota Utilities Co.,
a Division of MDU Resources Group,
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Application

Case Nos. PU-06-481, PU 06-482

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