
From: Diller, Michael R.

Sent: Monday, March 12, 2007 10:27 AM

To: Diller, Michael R.; 'Brutlag, Bernadeen'; 'Bruce Gerhardson (bgerhardson@ottertail.com)'; 'Ball, Don'; 'Dan Kuntz (dan.kuntz@mduresources.com)'; 'Mulkern, Rita'; 'tamie.aberle@mdu.com'; 'John Breen (Jwbreen2@bis.midco.net)'; 'Terry Deason (tdeason@radeylaw.com)'; Hoberg, Allen C.

Cc: -Grp-PSC Commissioners; -Grp-PSC Legal; -Grp-PSC Public Utilities

Subject: RE: Big Stone II Work Session

I am resending this without the sound file of the work session as it was too large for emailing outside of the capitol complex. If you were not present via internet, then I suggest you go to our website and listen to the exchange between commission and staff.

<http://www.psc.state.nd.us/jurisdiction/pud/electricity/Big%20Stone%20II%20Prudence%20Application/06-481-482.html>

-----Original Message-----

From: Diller, Michael R.

Sent: Friday, March 09, 2007 1:52 PM

To: Brutlag, Bernadeen; Bruce Gerhardson (bgerhardson@ottertail.com); Ball, Don; Dan Kuntz (dan.kuntz@mduresources.com); Mulkern, Rita; tamie.aberle@mdu.com; John Breen (Jwbreen2@bis.midco.net); Terry Deason (tdeason@radeylaw.com); Hoberg, Allen C.

Cc: -Grp-PSC Commissioners; -Grp-PSC Legal; -Grp-PSC Public Utilities

Subject: Big Stone II Work Session

The commission held a work session yesterday to discuss administrative issues relative to cases PU-06-481 & PU-06-482.

Following are the dead lines for testimony, briefs and proposed orders to include findings of fact and conclusions of law.

- Staff and Intervenor testimony due May 1, 2007.
- Companies' briefs and proposed orders due May 1, 2007.
- Companies' rebuttal testimony is due May 15, 2007.
- Staff and Intervenor briefs and proposed orders are due May 15, 2007.
- Hearing is scheduled to begin May 29, 2007 at 8 AM and will likely run late the first day.
- Commission will issue order on June 13, 2007.

At the work session the commissioners provided a number of concerns that they would like addressed through testimony, briefs and the hearing process—please see attached sound file for the discussion that took place. I could provide a summary of the concerns myself but I think it is important to listen to the entire

meeting and develop your own notes to make sure your bases are covered.

Also attached is a memo I distributed in advance of the work session describing possible areas for staff review and staff assignments. This document was referred to during the work session and will be helpful in following the attached audio clip.

During the work session there was a lot of talk about what should be included in the pre-hearing briefs. The commission is concerned about only having two days for the hearing and does not want the hearing days cluttered with legal arguments. I have asked Illona to provide us with some direction with regard to the briefs—please see the following:

Briefs must include:

Each party's definition and interpretation of N. D. C. C. sections 49-06-24 and 49-02-23, together with an analysis of the applicability and impact of these sections on the party's application (Case No. PU-06-481 or Case No. PU-06-482);

Each party's legal definition of prudence as it relates to rate of return regulation of an investor owned electric utility and the legal standards in North Dakota applicable to a determination of prudence:

Whether there is any difference between the party's general definition of prudence and general legal standards applicable to a determination of prudence and that applicable to an advance determination of prudence under N.D.C.C. section 49-05-16, as set forth in the party's application (Case No. PU-06-481 or Case No. PU-06-482);

If yes, what other definition and/or legal standards should be applied to a prudence determination in the instant cases, and how;

The party's definition of, and legal standards in North Dakota applicable to, the other provisions of N.D.C.C section 49-05-16;

Any other legal argument the party deems relevant.

If you have any questions or concerns, please let me know. Mike