



OFFICE OF ADMINISTRATIVE HEARINGS

STATE OF NORTH DAKOTA

1707 North 9th Street

Bismarck, North Dakota 58501-1882

Allen C. Hoberg  
DIRECTOR

April 24, 2007

701-328-3260  
Fax 701-328-3254  
oah@state.nd.us  
www.state.nd.us/oah

Mr. Bruce Gerhardson  
Associate General Counsel  
Otter Tail Corporation  
PO Box 496  
Fergus Falls, MN 56538-0496

Mr. Daniel S. Kuntz  
Associate General Counsel  
Montana-Dakota Utilities, Co.  
P.O. Box 5650  
Bismarck, ND 58506-5650

Ms. Carrie La Seur  
Plains Justice  
319 Third Street Northwest  
Mount Vernon, IA 52314

Mr. John W. Breen, Jr.  
Plains Justice  
717 Williams Street  
Bismarck, ND 58501

Mr. William W. Binck  
Public Service Commission  
600 East Boulevard Avenue, Dept. 408  
Bismarck, ND 58505-0480

Dear Counsel:

Enclosed is an order granting the applicants' motion in limine. After completing a draft of the order and further thought, and notwithstanding our discussion and any statement I made to the contrary, it seems to me better not to make any further provision of the order for the application of the statute. Surely, everyone understands my intention for the strict application of the statute, and if there will be any argument for any particular offer of evidence I think it will be better for us all to consider the provision of the statute rather than any provision of the order.

I understand that counsels' disagreements for discovery have been and will be resolved by counsel. Accordingly, the interveners' motion to compel responses to disclosure requests is deemed withdrawn.

I understand that the parties and the Commission will agree for a revised schedule for testimony, briefs, and proposed orders. Accordingly, the applicants' and interveners' motions to amend the schedule are deemed withdrawn.

It seems to me unnecessary to otherwise issue a prehearing order. I only reiterate my understanding that, in addition to any other identification, the exhibits will be identified as follows: The exhibits offered on behalf of Otter Tail Corporation will be marked "OTC" followed by a dash and a number; e.g., "OTC-1." The exhibits offered on behalf of Montana Dakota Utilities Co. will be marked "MDU" followed by a dash and a number in the same manner. The exhibits offered on behalf of Dakota Resource Council and Mark Trechock will be marked "T" followed

Mr. Gerhardson, Mr. Kuntz, Ms. La Seur, Mr. Breen, and Mr. Binek  
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by a dash and a number in the same manner. Notwithstanding that there will be identical exhibits offered for both cases, duplicate exhibits will be filed in each case. (I understand that counsel will attempt to have duplicate exhibits marked with the same number, and I expect that Commission staff will find that helpful.)

I also reiterate my request to the applicants to provide me with a list of the witness they expect to call, in the anticipated order of their testimony, and showing the name of counsel for the direct examination of the witness. And, on further thought, Ms. Le Seur, if you and Mr. Breen will divide the examination of your witnesses, please do the same. (As I think I mentioned, your list is only for my convenience for the conduct of the hearing. It is not a commitment to call witnesses in the order listed or to call any witness listed.)

As we discussed, the applicants will open, followed by the interveners and the Commission's advocacy staff, but the Commissioners also get to put their oar in—generally as they wish, of course. Routinely, I will ask the Commissioners for questions upon the completion of the cross-examination of a witness and upon the completion of any redirect and recross. I will ask the Commissioners for questions upon the completion of each counsel's argument. Upon the completion of argument and the Commissioners' questions, I will ask each counsel and the Commissioners if there is "anything further for the record." That is not an invitation for further argument, but rather the last chance to resolve any problem which might reasonably be resolved then while everyone is present. It is also an opportunity for the Commissioners to ask further questions, and, of course, in that event we will address any further question, each counsel in turn.

Thank you for your assistance, counsel, and please do not hesitate to e-mail me if I have overlooked anything or if you have any question or suggestion for the conduct of the hearing.

Sincerely,

A handwritten signature in black ink, appearing to read "Al Wahl", with a long horizontal flourish extending to the right.

Al Wahl  
Administrative Law Judge

AW/lmw

**STATE OF NORTH DAKOTA**  
**PUBLIC SERVICE COMMISSION**

OAH File No. 20070100

Otter Tail Corporation  
Advance Determination of Prudence Application

Case No. PU-06-481

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

Case No. PU-06-482


**ORDER GRANTING MOTION IN LIMINE**

Otter Tail Corporation and Montana-Dakota Utilities Co. having jointly moved for an order in limine prohibiting Dakota Resource Council from presenting any evidence of environmental externality values for the consolidated hearings of these cases, and the motion having been considered with the advice of counsel upon a prehearing conference held April 24, 2007, it is

Ordered, that no party shall offer for the consolidated hearings of these cases any evidence of "environmental externality values" as defined and prohibited by the provisions of N.D.C.C. § 49-02-23.

Dated at Bismarck, North Dakota, this 24th day of April, 2007 .

State of North Dakota  
Public Service Commission

By:   
Al. Wahl, Administrative Law Judge  
Office of Administrative Hearings  
1707 North 9th Street  
Bismarck, North Dakota 58501  
Telephone: (701) 328-3260

**STATE OF NORTH DAKOTA**  
**WORKFORCE SAFETY AND INSURANCE**

OAH File No. 20070100

Otter Tail Corporation  
Advance Determination of Prudence Application

Case No. PU-06-481

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

Case No. PU-06-482

**CERTIFICATE OF SERVICE**

The undersigned certifies that true and correct copies of the **ORDER GRANTING MOTION IN LIMINE** were sent by regular mail on the 24th day of April, 2007, to:

Bruce Gerhardson  
Associate General Counsel  
Otter Tail Corporation  
PO Box 496  
Fergus Falls, MN 56538-0496

Daniel S. Kuntz  
Associate General Counsel  
Montana-Dakota Utilities Co.  
PO Box 5650  
Bismarck, ND 58506-5650

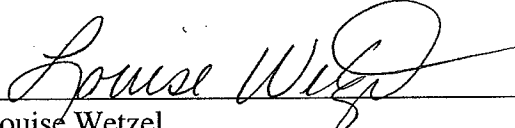
Carrie La Seur  
Plains Justice  
319 3rd Street Northwest  
Mount Vernon, IA 52314

John W. Breen, Jr.  
Plains Justice  
717 Williams Street  
Bismarck, ND 58501

and that a true and correct copy of the above document was mailed, inside mail, at the State Capitol on the 24th day of April, 2007, to:

William W. Binek  
Public Service Commission  
600 East Boulevard Avenue, Dept. 408  
Bismarck, ND 58505-0480

OFFICE OF ADMINISTRATIVE HEARINGS  
Al. Wahl, Administrative Law Judge

  
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Louise Wetzel