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April 28, 2008

VIA ELECTRONIC MAIL

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



**RE: Otter Tail Corporation and Montana-Dakota Utilities Co.  
Advance Determination of Prudence for the Big Stone II Generating Station  
Case Nos. PU-06-482, PU-06-482  
Motion to Strike Supplemental Rebuttal Testimony of James Heidell**

Dear Ms. Jeffcoat-Sacco:

Enclosed for filing please find:

- (1) Motion to Strike Supplemental Rebuttal Testimony of James Heidell, along with an Affidavit of Service.

Thank you for your attention to this matter. Please contact me if you have any questions.

Very truly yours,

Carrie L. LaSeur

Copies to: **Service List (w/ encl.)**

**312 PU-06-482** Filed: 4/29/2008 Pages: 5  
**Motion to Strike Supplemental Rebuttal Testimony  
of James Heidell**

Joint Intervenors

Plains Justice, Carrie L. LaSeur

**307 PU-06-481** Filed: 4/29/2008 Pages: 5  
**Motion to Strike Supplemental Rebuttal Testimony  
of James Heidell**

Joint Intervenors

Plains Justice, Carrie L. LaSeur

RECEIVED

APR 29 2008

STATE OF NORTH DAKOTA

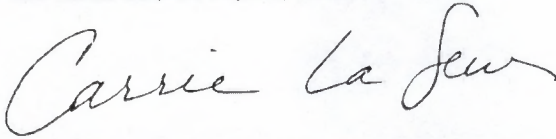
BEFORE THE PUBLIC SERVICE COMMISSION PUBLIC SERVICE COMMISSION

**In the Matter of the Application by  
Otter Tail Power Corporation and  
Montana-Dakota Utilities, Co.  
For an Advanced Determination of Prudence  
For the Big Stone II Generating Plant**

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

**AFFIDAVIT OF SERVICE**

The undersigned, being of legal age, hereby certifies that a true copy of Intervenor's Motion to Strike Testimony of James Heidell was served upon the service list below via electronic mail on the 25th day of April, 2008.



Carrie L. La Seur

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

**In the Matter of the Application by  
Otter Tail Power Corporation and  
Montana-Dakota Utilities, Co.  
For an Advanced Determination of Prudence  
For the Big Stone II Generating Plant**

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

**MOTION TO STRIKE SUPPLEMENTAL PREFILED REBUTTAL TESTIMONY  
OF JAMES HEIDELL**

Intervenors Dakota Resource Council and Mark Trechock (Intervenors) hereby submit this Motion to Strike Supplemental Prefiled Rebuttal Testimony of James Heidell, and in support thereof state:

1. On April 25, 2008, Applicants filed Supplemental Pre-filed Rebuttal Testimony of James Heidell.
2. The deadline for Applicants to file Pre-filed Rebuttal Testimony, as established by the Commission, was April 23, 2008.
3. Formal hearings in this matter are scheduled to commence Monday, April 28, 2008.
4. Counsel for Intervenors received this Supplemental Pre-filed Rebuttal Testimony via e-mail at 2:30 in the afternoon the Friday before hearings are scheduled to commence.
5. Mr. Heidell's claim that he could not complete his analysis over two weeks between April 9, 2008 and April 23, 2008 is not reasonable, and Applicants did not formally request additional time in order to properly complete Mr. Heidell's testimony.
6. If Mr. Heidell could not complete his analysis in the course of two weeks prior to the April 23, 2008 filing deadline, it is not reasonable to expect Intervenors to now have sufficient time to review and analyze Mr. Heidell's new testimony in one weekend,

during which time counsel and the expert witness for the Intervenors will be travelling to the hearing site.

7. Filing this testimony at the last minute violates the procedural deadlines established by the Commission for pre-filed testimony in this matter and prevents counsel for Intervenors from having the opportunity to review and analyze the contents of the testimony with Intervenors' expert witness and to prepare cross-examination.
8. The Commission should strike this late-filed testimony on the grounds that it violates the procedural schedule agreed to by the parties and established by the Commission, and because it violates the Intervenors' procedural rights to have sufficient time to review and analyze testimony and prepare cross-examination prior to the hearing.

Therefore, Dakota Resource Council and Mark Trechock move that the Commission strike the Supplemental Pre-filed Rebuttal Testimony of James Heidell from the record in this matter, and for such other relief as may be deemed appropriate.

Dated this 25<sup>th</sup> day of April, 2008

Respectfully submitted,

*Carrie La Seur*

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Plains Justice  
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