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November 14, 2012

RECEIVED
NOV 15 2012
PUBLIC SERVICE COMMISSION

Illona A. Jeffcoat-Sacco
Attorney at Law
Public Service Commission
State Capitol
Bismarck, ND 58505-0480

In re: City of Oxbow, et. al. v. North Dakota Public Service Commission
Civil Number: 09-2012-CV-03147

Dear Ms. Jeffcoat-Sacco:

Enclosed are the following documents with regard to the above-captioned matter:

1. Response to Brief in Opposition of Stay of Public Service Commission Order by NSP;
2. Notice of Hearing;
3. Notice of Entry of Order; and
4. Notice of Hearing on Motion to Dismiss and to Intervene.

Please note the Notice of Hearing on Motion to Dismiss and to Intervene is scheduled for December 10, 2012 at the Cass County Courthouse.

Very truly yours,

MITCHELL D. ARMSTRONG

tmh
enclosures

Jeffcoat-Sacco.2

Sheldon A. Smith*
Randall J. Bakke*■*●
Scott K. Porsborg*■●
Suzanne M. Schweigert*
Mitchell D. Armstrong*■
Shawn A. Grinolds*■
Stacy M. Moldenhauer*■
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* Licensed in North Dakota
■ Licensed in Minnesota
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* Board Certified Civil Trial Specialist by National Board of Trial Advocacy

134 PU-07-759 Filed: 11/15/2012 Pages: 19
APPEAL - Rsps to Brief, Notice of Hearing, Notice of Entry of Order, Executed Order to Amend Caption, Notice of Hearing on Motion to Dismiss
Public Service Commission
Mitchell Armstrong, SAAG

NOV 1 3 2012

STATE OF NORTH DAKOTA

COUNTY OF CASS

IN THE DISTRICT COURT

EAST CENTRAL JUDICIAL DISTRICT

CIVIL NO. 09-2012-CV-03147

City of Oxbow, Lonni Hayden, Warren Hayden, Kent Buhr, Danise Buhr, Jon Hager, Marcy Hager, Matt Quibell, Craig Jungberg, Colette Jungberg, Todd Miller, Nancy Miller, Vernon Skarie, June Skarie, Callie Schlieman, Brian Nettestad, Jayme Nettestad, Gregg Christensen, Cindy Christensen, Teri Lingen, Curt Lingen, Donna Peterson, Stanley Todd Miller, Jacqueline Miller, Nicole Bice, Dave Zens, Brenda Zens, James Haugrud, Bree Reinke, Loretta Carson, Dennis Biewer, John Frusciante, Shyla Frusciante, Don Cossette, Marjorie Cossette, Angela R. Cossette, Jana Reinke, Paul Reinke, Kathleen Lingen, Chris Lange, Kay Mahar, Paige Plecity, Michael Sorby, Royce Granlund, Darren Fitch, Matt Peterson, Jim Huesman, Stacey Biewer, Marcus Larson, Colleen Isralson, Tanya Harmon, E. John Carlson, David Harmon, Linda Covell, Don Covell, Daniel Zink, Arden Breimeier, Kristi Houska, Richard Houska, Ray Holzhey, Maria Baker, Ted Johnson, Pat Baker,Karla Slusher, Neal Roesler, Patricia Redlin, Gary Redlin, Jody Slusher, Patrick Reinke, James A. Schlieman, Mary Jane Nipstad, Doug Lingen, Brenda Carlson, Michael Bice, Roger Kotchian, Ryan Binek, Elroy Bakke, Ina Bakke, Raymond Grimen, Debra L. Larson, Noreen Granlund, Curt Bjertness, Gary Cossette

Appellants

v.

North Dakota Public Service Commission and Northern States Power Company, a Minnesota Corporation

Appellees.

RESPONSE TO BRIEF IN OPPOSITION OF STAY OF PUBLIC SERVICE COMMISSION ORDER BY NSP

INTRODUCTION

Appellants previously filed a Notice of Appeal of the decision of the North Dakota Public Service Commission ("PSC"). Appellants have also filed a Motion for Stay, as well as a Motion to Amend Caption to Include Northern States Power Company, a Minnesota Corporation ("NSP"). An Order Amending the Caption to Include NSP was entered by this Court on November 6, 2012.

LAW AND ARGUMENT

I. THE MOTION FOR STAY SHOULD BE GRANTED BECAUSE APPELLANTS MEET THE BURDENS REQUIRED TO SHOW A STAY IS NECESSARY.

Appellants have presented an adequate amount of evidence proving that a stay is necessary. Generally, to be entitled to injunctive relief, a party must show no adequate remedy at law exists and irreparable injury will result if relief is not granted. Huber v. Oliver County, 1999 ND 220, ¶ 20, 602 N.W.2d 710. The briefs submitted on behalf of NSP and the PSC both reference factors to be used for guidance in determining an order for a stay. The four factors used for determining whether a court should issue a preliminary injunction are: (1) substantial probability of succeeding on the merits; (2) irreparable injury; (3) harm to other interested parties; and (4) effect on the public interest. Magrinat v. Trinity Hosp., 540 N.W.2d 625, 629 (N.D. 1995). "The granting or denying of injunctive relief rests within the sound discretion of the district court, and the court's ruling will not be reversed on appeal unless there has been an abuse of discretion." Huber, at ¶ 20.

The North Dakota Supreme Court discussed an injunction in Nodak Mutual Ins. Co. v. Ward County Farm Bureau, 2004 ND 60, ¶ 28, 676 N.W.2d 752, where Ward County Farm Bureau appealed from a judgment refusing to postpone the election of

directors. The Court stated, "postponing the election would have required that new proxies be sent to more than 26,000 policyholders at substantial cost and expense to Nodak. The court found no irreparable harm would result to Ward County Farm Bureau because the election could be challenged if it was wrongfully conducted." Id. The Court concluded that the district court did not abuse its discretion in refusing to postpone the special corporate election.

One of the concerns of Appellants is the preparation work that will be required to continue the construction of the transmission line. Part of the PSC's order includes a three-hundred foot easement under the wires. Trees will be removed to make way for the towers to support the transmission line as well as in the easement. Appellant's case is distinguished from Nodak because once the trees are cut down, they are forever cut down and the home to many wild life are gone forever. NSP argues that a monetary value can be placed on the trees and that new ones can be planted; however, real property is a unique and custom resource that a person can own. Once the trees and shelterbelts are clear-cut, they are gone for decades to come. In the end, neither money nor replanting of the removed trees can return the landscape to its original condition within the lifetimes of the Appellants. Many of the Appellants live out in the rural areas to enjoy nature. That will be lost if all of these trees are clear cut.

A. THERE IS A STRONG SHOWING APPELLANTS ARE LIKELY TO SUCCEED ON THE MERITS OF THE APPEAL.

The first factor this Court must consider in the four-part test is whether there is a strong likelihood that the appeal with be successful on the merits. Magrinat, at 629. In this case, there is a strong indication that the appeal will be successful. Appellants are not asking that NSP's entire Fargo Project be shut down and that NSP be prevented

from putting in a transmission line. Appellants are simply asking that the construction of the transmission lines be delayed until the PSC has had a chance to review and consider all of the evidence that was presented to it. Based on the PSC's Order and Findings of Fact, it is clear that the PSC based its decision solely on the information presented in the application made by NSP. Moreover, as outlined below, Appellants argue that not everyone who has an interest in this process was given an opportunity to be heard.

Evidence was presented at the January 20, 2012, PSC Hearing from several witnesses who opposed the proposed route location through Pleasant Township. (Order p. 7, Findings of Fact ¶ 37). The PSC found that "this process included several public input meetings." Id. Appellants contend that the alleged public input meetings were not held, nor were the landowners and residents given any notice that such meetings were going to be held.

Initially, "NSP preferred a route approximately four miles north of the proposed route." Id. A route four miles north of the current, Preferred Route, would have not impacted any of the Appellants, which is why Appellants favored NSP's initial route. The original proposed route would have placed the transmission line in the middle of Fargo's speculated flood diversion project. NSP made an accommodation for the City of Fargo even though there was no approved flood diversion project at the time of the public meeting in this case. It is noteworthy that there still is no approved flood diversion for the City of Fargo. This is important because the current placement of the transmission line does affect real people and their property, not just speculated interests such as Fargo's flood diversion.

Additionally, NSP made accommodations to the initial route for Dean Kraft, who operates two private airstrips on his property in Mapleton Township. Id. at ¶ 35. The reason for the accommodation was because planes would need to turn immediately after taking off in order to avoid flying underneath the transmission lines. Id. This special accommodation was made by NSP to Mr. Kraft, however NSP did not make any accommodations to the citizens in Pleasant Township and City of Oxbow who would have their homes, properties, and livelihoods near the transmission lines.

B. UNLESS A STAY IS GRANTED, THERE WILL BE IRREPARABLE INJURY.

The second factor this Court must consider in the four-part test is whether there will be irreparable injury. Magrinat, at 629. Mr. Reinke will suffer irreparable injury if the trees on his property are cut down in anticipation of the transmission line being constructed on his land. Despite NSP's argument that the loss of Mr. Reinke's trees should not be considered an irreparable damage because he could be compensated for the loss, this argument falls flat. The trees on Mr. Reinke's property range from saplings to one-hundred year old trees. Even if NSP planted trees on Mr. Reinke's property to replace the ones that would get cut down, Mr. Reinke would not live long enough to be able to enjoy the newly planted trees as he does now. As mentioned above, these trees also provide a habitat for various wildlife animals. Newly planted trees simply cannot provide the cover required to protect certain species.

Appellants contend that they will suffer irreparable injury due to their homes losing value because of the proximity of the transmission lines to their homes. NSP argues that Mr. Reinke is the sole person that would suffer any actual harm, however, it

does not discuss the loss in values to homes in the area due to the transmission lines. There has been no evidence presented which proves that there will not be a decrease in home and property values due to the placement of the transmission line so close to Appellants' homes.

Local governments and residents in the area north of the proposed route requested that it not be located in those areas due to future development, "particularly considering the diversion project as proposed would effectively set a limit on expansion in the area." (Order p. 7, Findings of Fact ¶ 38). As a result of those expansion concerns and the proposed diversion, "NSP determined it was more prudent to select a route further south." Id. NSP selected and advocated to the PSC the route further south that comes close homes and the established communities of the Appellants versus a route north of it where there might be expansion or growth in the future.

C. NO SUBSTANTIAL HARM WILL COME TO OTHER INTERESTED PARTIES.

The third factor that this Court must consider in the four-part test is whether or not there will be substantial harm to other interested parties. Magrinat, at 629. NSP has not presented any evidence that they will suffer substantial harm if a stay was ordered. NSP alleges that a stay would preclude them from "doing any work in North Dakota, and it could result in significant cost increases depending on the duration of the stay and the ability to proceed with work in Minnesota." (Brief of NSP in Opposition to Stay, at p. 6). However, NSP provides no actual figures of actual monetary loss that it would suffer if a stay were ordered.

NSP states that is has obtained options for easements from 78 of 90 affected landowners along the Approved Route, and Mr. Reinke has not granted NSP an option for any easement on his property. (Chezik Aff., ¶ 5; Lahr Aff., ¶ 8). Mr. Reinke's property is the first property that the Approved Route lies on the North Dakota side of the Red River. It will be necessary for NSP to commence condemnation proceedings to obtain the remaining easements to place the transmission line on the affected properties where it does not have an easement. NSP admits in its Brief in Opposition that a "condemnation action could take a year or more to complete and construction during the pendency of condemnation will result in significant construction inefficiency in working around parcels included in the condemnation." (Chezik Aff. ¶ 6; Brief of NSP in Opp. To Stay). Therefore, the stay will not have any adverse financial impact on NSP because it could be facing a year-long delay in this project to obtain all of the necessary easements anyway.

NSP has given no concrete authority that the condemnation proceedings are likely to be successful. Appellants are in agreement that it would be inefficient to build around the condemnation parcels, and that no construction should begin until the condemnation proceedings are complete.

Appellants are not asking for a long stay, they are only asking for a stay until the appeal has concluded. The appeal should reasonably be concluded in much less than a year, unlike the condemnation proceedings which could still be pending a year from now.

NSP also argues that if the Court granted a stay of the construction, the local building permits NSP has obtained could be in jeopardy. This argument is not

persuasive. NSP began obtaining local permits in the fall of 2011, and it states that if the permits were going to expire, that it would need to seek extensions. (Chezik Aff., ¶ 5). NSP presented no evidence regarding how many permits may expire, when the permits may expire, or what would need to be done to obtain an extension of the permit. For all we know, it may be as simple as filling out a one-page request for an extension and sending the document to the local governing body who issued the original permit.

NSP has chosen to proceed in this manner at its own peril. It does not make sense why NSP chose to obtain permits several months before the public meeting was even held before the PSC. Permits were not required until the PSC's Order dated September 12, 2012 was issued and which required that NSP comply with all local zoning laws and obtain necessary permits from local government units. (Order at p. 9, Order at ¶ 5). The fact that NSP obtained the permits so far in advance and might be running into issues with extending the permits is not a valid argument against granting the stay as requested.

D. THE STAY WILL DO NO HARM TO THE CURRENT PUBLIC INTEREST.

The fourth factor that this Court must consider in the four-part test is the effect on public interest. Magrinat, at 629. There is no evidence that an order staying the PSC's decision will harm the public interest. NSP discusses that the Fargo Project is designed to meet customer demands in the Red River Valley, and this is not in dispute. (Brief of NSP in Opp. To Stay). However, in the PSC's Findings of Fact, it states that the Fargo Project was implemented to construct transmission infrastructure needed to "implement long-term and cost-effective solutions for customers to meet the growth in energy demand expected between 2009 and 2020." (Order at p. 3, Findings of Fact ¶

3). There is no way to show that a stay of the construction on a temporary basis will negatively impact future users of the transmission line. Likewise, there has been no credible evidence presented to show that Fargo's current transmission lines would not be able to meet the needs on a temporary basis. The project was expected to be completed in 2015. The stay requested by the Appellants is nowhere near that long. As previously mentioned, this appeal would be expected to be completed within the next few months rather than the three years.

CONCLUSION

Based on the foregoing reasons, Appellants ask that this Court enter an order staying the decision of the PSC as requested.

Dated this 9th day of November, 2012.

AALAND LAW OFFICE, LTD.

Jennifer A. Braun, ND ID# 06875
Ronald K. Hettich, ND ID# 06035
P.O. Box 1817
415 11th Street South
Fargo, ND 58107-1817
Phone: 701-232-7944
Fax: 701-232-4037
ATTORNEYS FOR APPELLANTS

STATE OF NORTH DAKOTA)
)SS.
COUNTY OF CASS)

AFFIDAVIT OF SERVICE BY MAIL

Holli Zortman, being first duly sworn deposes and states that she is of legal age and that on the 9 day of November, 2012, she served the following attached documents:

Response to Brief in Opposition of Stay of Public Service Commission Order by NSP

RE: In re: City of Oxbow vs. North Dakota Public Service Commission
Court File No: 09-2012-CV-03147

upon the following person or persons:

Lisa M. Agrimonti
Zeviel Simpser
Briggs and Morgan, P.A.
220 IDS Center
80 South 8th St.
Minneapolis, MN 55402

Mitchell D. Armstrong
Special Assistant Attorney General
122 E. Broadway Ave.
Bismarck, ND 58501

Office of Administrative Hearings
2911 North 14th St., Ste 303
Bismarck, ND 58501

ND Public Service Commission
600 E. Boulevard, Dept. 408
Bismarck, ND 58505-0480

by placing a true and correct copy thereof in an envelope and placing in the United States Mail to the above named person(s) at the above referenced address, Fargo, North Dakota.

Holli Zortman
Holli Zortman

Subscribed and sworn to before me this 9 day of November, 2012.

Sheri Vanderwolde
Notary Public
My Commission Expires:

SHERI VANDERWOLDE
Notary Public
State of North Dakota
My Commission Expires Jan. 9, 2015

NOV 1 3 2012

STATE OF NORTH DAKOTA

COUNTY OF CASS

IN DISTRICT COURT

EAST CENTRAL JUDICIAL DISTRICT

City of Oxbow, et al., Appellants,	)	Civil No: 09-2012-CV-03147
vs.	)	**NOTICE OF HEARING**
North Dakota Public Service Commission and Northern States Power Company, a Minnesota Corporation Appellees.	)	

TO: APPELLEES

PLEASE TAKE NOTICE that a hearing on the Motion for Stay of Public Service Commission Order will be heard on the 13th day of November, 2012 at 1:45 p.m. in the Cass County Courthouse, before the Honorable Lisa K. Fair McEvers or as soon thereafter as this Motion can be heard.

Dated this 7th day of November, 2012.

AALAND LAW OFFICE, LTD.

Jennifer A. Braun
Ronald K. Hettich
P.O. Box 1817
415 11th Street South
Fargo, ND 58107-1817
Phone: 701-232-7944
Fax: 701-232-4037
ND ID# 06875
ND ID# 06035

ATTORNEYS FOR APPELLANTS

NOV 1 3 2012

STATE OF NORTH DAKOTA

COUNTY OF CASS

IN DISTRICT COURT

EAST CENTRAL JUDICIAL DISTRICT

City of Oxbow, et al.,	)	
Appellants,	)	Civil No: 09-2012-CV-03147
vs.	)	**NOTICE OF ENTRY OF ORDER**
North Dakota Public Service Commission and Northern States Power Company, a Minnesota Corporation	)	
Appellees.	)	

TO: APPELLEES

PLEASE TAKE NOTICE that on the 6th day of November, 2012, an Order to Amend Caption to Include the Appellee Northern States Power Company, a Minnesota Corporation was entered in the office of the Clerk of District Court, Cass County, Fargo, North Dakota, a copy of which is attached hereto.

Dated this 7th day of November, 2012.

AALAND LAW OFFICE, LTD.

Jennifer A. Braun
Ronald K. Hettich
P.O. Box 1817
415 11th Street South
Fargo, ND 58107-1817
Phone: 701-232-7944
Fax: 701-232-4037
ND ID# 06875
ND ID# 06035

ATTORNEYS FOR APPELLANTS

NOV 1 3 2012

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF CASS

EAST CENTRAL JUDICIAL DISTRICT

City of Oxbow, et al., Appellants,	)	Civil No: 09-2012-CV-03147
vs.	)	**ORDER TO AMEND CAPTION TO INCLUDE THE APPELLEE NORTHERN STATES POWER COMPANY, A MINNESOTA CORPORATION**
North Dakota Public Service Commission Appellee.	)	

The above-entitled matter came before the undersigned at the Courthouse in the City of Fargo, County of Cass, State of North Dakota, on the 6th day of November 2012.

The parties appeared through Stipulation to Amend Caption to Include the Appellee Northern States Power Company, A Minnesota Corporation. The Stipulation was signed by the Appellant on November 2, 2012, the Appellee on October 31, 2012, and the proposed Appellee on October 31, 2012. The Appellant was represented by Jennifer A. Braun and Ronald K. Hettich, Aaland Law Office, Fargo, North Dakota. The Appellee is represented by Mitchell D. Armstrong, Special Assistant Attorney General, Bismarck, North Dakota. The proposed Appellee was represented by Lisa Agrimonti and Zeviel Simpser, Briggs and Morgan, P.A., Minneapolis, Minnesota.

Based upon the arguments of counsel and upon all files and records herein, and being duly advised in the proceeding, the Court now makes the following:

FILED-CLERK OF DISTRICT CO

IT IS HEREBY ORDERED:

NOV 6 2012

1. The caption of this case shall be amended, and Northern States Power Company, A Minnesota Corporation shall now be named as an appellee and included

CASS COUNTY, ND

Filed - Clerk Of District Court
11/5/2012 5:34:00 PM
Cass County, ND

on any further pleadings and documents in this matter.

Dated this 6th day of November, 2012

Judge of District Court

Filed - Clerk Of District Court
11/5/2012 5:34:00 PM
Cass County, ND

STATE OF NORTH DAKOTA)
)SS.
COUNTY OF CASS)

AFFIDAVIT OF SERVICE BY MAIL

Holli Zortman, being first duly sworn deposes and states that she is of legal age and that on the 8 day of November, 2012, she served the following attached documents:

1. **Notice of Hearing**
2. **Notice of Entry of Order**
3. **Order to Amend Caption to Include the Appellee Northern States Power Company, a Minnesota Corporation**

RE: In re: City of Oxbow vs. North Dakota Public Service Commission and Northern States Power Company, a Minnesota Corporation
Court File No: 09-2012-CV-03147

upon the following person or persons:

Lisa M. Agrimonti
Zeviel Simpser
Briggs and Morgan, P.A.
220 IDS Center
80 South 8th St.
Minneapolis, MN 55402

Mitchell D. Armstrong
Special Assistant Attorney General
122 E. Broadway Ave.
Bismarck, ND 58501

Office of Administrative Hearings
2911 North 14th St., Ste 303
Bismarck, ND 58501

ND Public Service Commission
600 E. Boulevard, Dept. 408
Bismarck, ND 58505-0480

Al Wahl
138 East Edmonton Dr.
Bismarck, ND 58503

by placing a true and correct copy thereof in an envelope and placing in the United States Mail to the above named person(s) at the above referenced address, Fargo, North Dakota.

Holli Zortman

Holli Zortman

Subscribed and sworn to before me this 8 day of November, 2012.

Sheri Vanderwolde

Notary Public
My Commission Expires: Jan 9, 2015

SHERI VANDERWOLDE
Notary Public
State of North Dakota
My Commission Expires Jan. 9, 2015

NOV 1 3 2012

STATE OF NORTH DAKOTA

COUNTY OF CASS

IN THE DISTRICT COURT

EAST CENTRAL JUDICIAL DISTRICT

CIVIL NO. 09-2012-CV-03147

IN THE MATTER OF:

City of Oxbow, Lonni Hayden, Warren Hayden, Kent Buhr, Danise Buhr, Jon Hager, Marcy Hager, Matt Quibell, Craig Jungberg, Colette Jungberg, Todd Miller, Nancy Miller, Vernon Skarie, June Skarie, Callie Schlieman, Brian Nettestad, Jayme Nettestad, Gregg Christensen, Cindy Christensen, Teri Lingen, Curt Lingen, Donna Peterson, Stanley Todd Miller, Jacqueline Miller, Nicole Bice, Dave Zens, Brenda Zens, James Haugrud, Bree Reinke, Loretta Carson, Dennis Biewer, John Frusciante, Shyla Frusciante, Don Cossette, Marjorie Cossette, Angela R. Cossette, Jana Reinke, Paul Reinke, Kathleen Lingen, Chris Lange, Kay Mahar, Paige Plecity, Michael Sorby, Royce Granlund, Darren Fitch, Matt Peterson, Jim Huesman, Stacey Biewer, Marcus Larson, Colleen Isralson, Tanya Harmon, E. John Carlson, David Harmon, Linda Covell, Don Covell, Daniel Zink, Arden Breimeier, Kristi Houska, Richard Houska, Ray Holzhey, Maria Baker, Ted Johnson, Pat Baker, Karla Slusher, Neal Roesler, Patricia Redlin, Gary Redlin, Jody Slusher, Patrick Reinke, James A. Schlieman, Mary Jane Nipstad, Doug Lingen, Brenda Carlson, Michael Bice, Roger Kotchian, Ryan Binek, Elroy Bakke, Ina Bakke, Raymond Grimen, Debra L. Larson, Noreen Granlund, Curt Bjertness, Gary Cossette,

Appellants,

v.

North Dakota Public Service Commission,

Appellee.

NOTICE OF HEARING ON MOTION TO DISMISS AND TO INTERVENE

TO: JENNIFER A. BRAUN & RONALD K. HETTICH, AALAND LAW OFFICE, LTD., P.O. BOX 1817, 415 11TH STREET SOUTH, FARGO, NORTH DAKOTA 58107, ATTORNEYS FOR APPELLANTS.

PLEASE TAKE NOTICE that Northern States Power Company, a Minnesota corporation's Motion to Intervene and Motion to Dismiss, both filed October 29, 2012, will be heard on December 10, 2012 at 10:30 a.m. at the Cass County Courthouse, 211 9th Street South Fargo, North Dakota, 58103.

Dated: November 8, 2012

BRIGGS AND MORGAN, P.A.

By: _____

Lisa M. Agrimonti (#06547)
Zeviel T. Simpser (#06794)
2200 IDS Center
80 South Eighth Street
Minneapolis, Minnesota 55402-2157
Tel: (612) 977-8400
Fax: (612) 977-8650
Email: lagrimonti@briggs.com

5022437

City of Oxbow, et al. vs. North Dakota Public Service Commission
Civil No. 09-2012-CV-03147

AFFIDAVIT OF SERVICE BY MAIL

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

Diane Bailey-Andersen, being first duly sworn, deposes and states that on the 8th day of November, 2012, she served a copy of the attached **Notice of Hearing on Motion to Dismiss and to Intervene**,

upon:

Mitchell D. Armstrong
Special Assistant Attorney General
122 E. Broadway Ave.
Bismarck, ND 58501

Jennifer A. Braun
Ronald K. Hettich
P.O. Box 1817
415 11th Street South
Fargo, ND 58107-1817

(which is the last known business address of said attorney(s)) by depositing a true and correct copy thereof in the United States mail, in Minneapolis, Minnesota, postage prepaid.

Diane Bailey-Andersen

Subscribed and sworn to before me
this 8th day of November, 2012

Notary Public

JILL N. YEAMAN
Notary Public
Minnesota
My Commission Expires January 31, 2016

5023610v1