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JEROME C. KETTLESON

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November 13, 2008

HAND-DELIVERED

Thomas D. Kelsch
Kelsch, Kelsch, Ruff & Kranda
103 Collins Avenue
P.O. Box 1266
Mandan, ND 58554-7266

RECEIVED

NOV 13 2008

Re: Appeal in PU-08-48
Civil No. 08-08-C-1709

PUBLIC HEARING - DISMISSAL

Dear Tom:

I have been trying to get you on the phone to discuss scheduling matters in the two RES, PEAK, Burchill Farms appeals. I am particularly concerned with the submission of the appellee brief in the matter pending before Judge Haskell, Civil No. 08-08-C-1709. It would seem to me reasonable to put off the filing of appellees' briefs in that appeal until after the Court has had an opportunity to decide the pending motion to dismiss appeal. You will recall oral argument is set for December 11, 2008 at 11:00 a.m. on the motion to dismiss the appeal in 08-08-C-1709. I propose that appellees submit their briefs two weeks following entry of an order by the Judge on the motion to dismiss. That would mean both our brief and the PSC's brief, and your reply to the briefs would be due after the Judge has decided one way or the other on the motion to dismiss. With the appeal pending on the intervention matter, it is difficult to get properly focused on what is basically meant to be an appeal on the merits on PU-08-48. It would seem especially appropriate to delay the filing of the appellee briefs because the requested relief in the motion to dismiss is based in part upon our conclusion that the first order concerning the May 22, 2008 public hearing is not a final order. Maybe by the time that the appellee briefs would be due, we would have some direction from Judge Hagerty in the intervention case.

-2- Thomas D. Kelsch
November 13, 2008

Thanks, Tom, for your consideration of these matters. I would like to talk with you about them on the phone, so if you would, please give me a call. In any case, please let me hear from you as soon as possible, so that if we cannot come to some kind of agreement, I will have the opportunity to petition the Court. Thanks for your time, Tom.

Sincerely,

PEARCE & DURICK

By 

Jerome C. Kettleison
Phone: (701) 333-0104

JCK/ef
Enclosure

cc. (w/encl.) Ilona Jeffcoat-Sacco – *Hand-Delivered*
(w/encl.) Annette Bendish – *Hand-Delivered*

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF BURLEIGH

SOUTH CENTRAL JUDICIAL DISTRICT

RES Americas Inc., PEAK Wind
Development LLC, and Burchill Farms
Incorporated,)

Civil No. 08-08-C-1709

Appellants,)

STIPULATION FOR EXTENSION
OF SCHEDULED BRIEFING

vs.)

Public Service Commission and
Minnkota Power Cooperative, Inc.,)

Appellees.)

STIPULATION

The parties to this stipulation are Appellees, Public Service Commission and Minnkota Power Cooperative, Inc., by and through their attorneys Illona Jeffcoat-Sacco, Annette Bendish, and Jerome C. Kettleson, and the Appellants, RES Americas Inc., PEAK Wind Development LLC, and Burchill Farms Incorporated, by and through their attorney, Thomas D. Kelsch.

WHEREAS, the time for submitting Appellees' briefs in the above matter is now scheduled for December 1, 2008;

AND WHEREAS, the attorney for the Appellee Minnkota Power Cooperative, Inc. has asked that other parties consider agreeing to additional time to file its appellee brief;

AND WHEREAS, the Appellee and Appellants have through their respective attorneys reached an agreement regarding granting of an extension for the filing and service of Appellees' briefs;

NOW THEREFORE, IT IS STIPULATED AND AGREED BY AND BETWEEN THE PARTIES THROUGH THEIR ATTORNEYS, AS FOLLOWS:

1. That Appellee Minnkota Power Cooperative, Inc. and appellee Public Service Commission, may file their appellee briefs fourteen (14) days after the entry of an order on the motion to dismiss pending before the Honorable Bruce B. Haskell. The motion to dismiss is scheduled for oral argument on December 11, 2008 before the Honorable Bruce B. Haskell, and the briefing by all parties has been completed.
2. That any party may submit this signed Stipulation to the Court without further notice to the other parties for the entry of the following Order granting such extension.

Dated: _____

JEROME C. KETTLESON (ID 03095)
Attorney for Minnkota Power Cooperative,
Inc., Appellee

Dated: _____

ILLONA JEFFCOAT-SACCO (ID 03315)
Attorney for Public Service Commission,
Appellee

Dated: _____

ANNETTE BENDISH (ID 05790)
Attorney for Public Service Commission,
Appellee

Dated: _____

THOMAS D. KELSCH (ID 03918)
Attorney for RES Americas Inc., PEAK
Wind Development LLC and Burchill
Farms Incorporated, Appellants

ORDER

The Court having reviewed the Stipulation for Extension of Scheduled Briefing in this matter, and finds the Appellees and Appellants have agreed that the appellee briefs by Minnkota Power Cooperative, Inc. and the Public Service Commission may be filed fourteen (14) days following the entry of this Court's Order on the pending motion to dismiss, which motion is scheduled for oral argument before this Court on December 11, 2008.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the Appellees may file and serve their appellee briefs on or before the fourteenth day following the entry of an Order on the motion to dismiss, which is scheduled for oral argument on December 11, 2008 before this Court. The reply brief by the Appellants will be scheduled for a time ten (10) days following the filing of the Appellees' briefs.

Dated this ____ day of November, 2008.

BY THE COURT:

Bruce B. Haskell
Judge of the District Court