

STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION

Otter Tail Corporation  
Advance Determination of Prudence  
Application

Case No. PU-06-481

Montana-Dakota Utilities Co.  
Advance Determination of Prudence  
Application

Case No. PU-06-482

AFFIDAVIT OF SERVICE BY REGULAR MAIL

STATE OF NORTH DAKOTA  
COUNTY OF BURLEIGH

Janet Marquart deposes and says that:

she is over the age of 18 years and not a party to this action and, on the 7<sup>th</sup> day of **January, 2010**, she deposited in the United States Mail, Bismarck, North Dakota, **eight** envelopes with regular postage, return receipt requested, fully prepaid, securely sealed and containing a photocopy of:

**Ex-Parte Communication**

The envelopes were addressed as follows:

Bruce Gerhardson  
Associate General Counsel  
Otter Tail Corporation  
215 S. Cascade St.  
Fergus Falls, MN 56538-0496

Donald R. Ball  
Vice President-Regulatory Affairs  
Montana-Dakota Utilities Co.  
400 N. 4<sup>th</sup> St.  
Bismarck, ND 58501

Daniel S. Kuntz  
Assistant General Counsel  
MDU Resources Group, Inc.  
PO Box 5650  
Bismarck, ND 58506-5650

John W. Breen, Jr.  
Attorney and Counselor at Law  
717 Williams Street  
Bismarck, ND 58501-2483

Todd J. Guerrero  
Lindquist & Venum P.L.L.P.  
4200 IDS Center  
80 South Eighth Street  
Minneapolis, MN 55402-2274

Mark Trechock, Staff Director  
Dakota Resource Council  
PO Box 1095  
Dickinson, ND 58602-1095

4 **PU-09-733** Filed: 1/7/2010 Pages: 5  
Affidavit of Service Regular Mail – Ex-Parte  
Communication Memo

Public Service Commission

4 **PU-09-731** Filed: 1/7/2010 Pages: 5  
Affidavit of Service Regular Mail – Ex-Parte  
Communication Memo

Public Service Commission

Pages: 5  
Filed: 1/7/2010  
**PU-06-482**  
Affidavit of Service Regular Mail – Ex-Parte  
Communication Memo

Public Service Commission

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Pages: 5  
Filed: 1/7/2010  
**PU-09-739**  
Affidavit of Service Regular Mail – Ex-Parte  
Communication Memo

Public Service Commission

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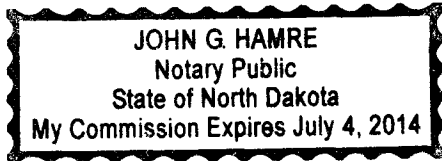
Carrie La Seur, President  
Plains Justice  
319 Third Street NW  
Mount Vernon, IA 52314

David Schlissel  
Synapse Energy Economics  
22 Pearl Street  
Cambridge, MA 02139

Each address shown is the respective addressee's last reasonably ascertainable post office address.

Subscribed and sworn to before me  
this 7<sup>th</sup> day of January, 2010.

SEAL



*Janet Marouant*

*John G. Hamre*  
Notary Public



# Public Service Commission

## State of North Dakota

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### COMMISSIONERS

Kevin Cramer  
Tony Clark  
Brian P. Kalk

Executive Secretary  
Darrell Nitschke

## MEMO

600 E. Boulevard Ave. Dept 408  
Bismarck, North Dakota 58505-0480  
Web: [www.nd.gov/psc](http://www.nd.gov/psc)  
E-mail: [ndpsc@nd.gov](mailto:ndpsc@nd.gov)  
Phone 701-328-2400  
Toll Free 1-877-245-6685  
Fax 701-328-2410  
TDD 800-366-6888 or 711

TO: Case File PU-09-733

RE: Ex Parte Communication

DATE: January 5, 2010

On December 23, 2009, I sent an email (attached) describing in general the kinds of costs included in MDU's request for deferred accounting treatment. Commissioner Kalk's request for what made up the amount is logical and the same reaction I had when reviewing the application. I requested the information from MDU to which Don Ball provided a spreadsheet detailing the total deferred amount. I summarized the information and provided the attached email to all parties of record in Case File PU-09-733.

On advice of counsel, because the case is so intimately related to the Big Stone 2 request for advance determination of prudence, the communication represents an ex parte communication and is now also being provided to Otter Tail Power Company and Dakota Resource Council as parties to the BS2 case.

Sincerely,

A handwritten signature in cursive script that reads "Mike Diller".

Mike Diller, Director of Economic Regulation

**Diller, Michael R.**

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**From:** Jeffcoat-Sacco, Illona  
**Sent:** Wednesday, December 30, 2009 5:20 PM  
**To:** Diller, Michael R.; Kalk, Brian P.  
**Cc:** Bendish, Annette M.; Fahn, Patrick J.; Cramer, Kevin; Clark, Tony T.; Ball, Don; Kuntz, Dan  
**Subject:** RE: BS2 Costs

This is a prohibited *ex parte* communication. See N.D.C.C. Section 28-32-37 for the definition of a prohibited *ex parte* communication and the proper procedure to follow before and after. If you have questions, call or e-mail.

*Illona A. Jeffcoat-Sacco*  
ND PSC  
701-328-2407 (fax 2410)  
[ijs@nd.gov](mailto:ijs@nd.gov)

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**From:** Diller, Michael R.  
**Sent:** Wednesday, December 23, 2009 10:47 AM  
**To:** Kalk, Brian P.  
**Cc:** Bendish, Annette M.; Jeffcoat-Sacco, Illona; Fahn, Patrick J.; Cramer, Kevin; Clark, Tony T.; Ball, Don; Kuntz, Dan  
**Subject:** BS2 Costs

Brian,

I'm copying in our lawyers, because there is some fear that this is an *ex parte* communication, as well as the other commissioners for their information. I don't think what I'm about to share will have any effect on your judgment in existing cases or future filings but they are better able to judge that and can advise you on how to handle it. You requested information on the \$16 million that MDU states it has spent on securing needed new generation in its application for deferred accounting. I have received a spreadsheet from MDU detailing the costs and breaking them down a couple of different ways, one by project and one by expense category. I believe the spreadsheet is good supporting information for MDU's deferred accounting application so perhaps MDU will officially file it and make it part of the record so there is more information as to what is being requested—now copying in Don Ball and Dan Kuntz.

By project, the \$16 million is comprised of Vision 21, Young III, BS2, Internal Costs and Capitalized Interest. By expense category, the bulk of the costs

are made up of about \$13 million in consulting fees / subcontract labor and \$2 million plus for capitalized interest and equity. I do not have further information at this time as to specific consulting contracts and agreements but hope this gives you a general idea of the types of expenditures involved. I believe more information will be forthcoming as the cases move forward and cost recovery is sought. Mike