



Public Service Commission
State of North Dakota

COMMISSIONERS

Kevin Cramer
Tony Clark
Brian P. Kalk

Executive Secretary
Darrell Nitschke

MEMO

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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,

Mike Diller, Director of Economic Regulation

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- 3 PU-09-733 Filed 01/05/2010 Pages: 3
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- 3 PU-09-731 Filed 01/05/2010 Pages: 3
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- 379 PU-06-482 Filed 01/05/2010 Pages: 3
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- 370 PU-06-481 Filed: 1/5/2010 Pages: 3**
Memo re. Ex-Parte Communication

Diller, Michael R.

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

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