

DeSaye, Cara G.

From: DeSaye, Cara G.
Sent: Wednesday, June 30, 2010 9:31 AM
Subject: ND Public Service Commission Case Numbers PU-09-731, PU-09-733, PU-09-739, PU-10-30
Attachments: 049-010.pdf; 054-010.pdf

Attached for your information is the Order Adopting Settlement in:

**Montana-Dakota Utilities Co., a Division of
MDU Resources Group, Inc.
Discontinue Prudence Big Stone II
Application**

Case No. PU-09-731

**Montana-Dakota Utilities Co., a Division of
MDU Resources Group, Inc.
Deferred Accounting - Big Stone II
Application**

Case No. PU-09-733

Also attached for your information is the Order Adopting Settlement in:

**Otter Tail Power Company
Deferred Accounting - Big Stone II
Application**

Case No. PU-09-739

**Otter Tail Power Company
Discontinue Prudence Big Stone II
Application**

Case No. PU-10-30

Cara DeSaye
ND Public Service Commission
600 E. Boulevard Ave., Dept. 408
Bismarck, ND 58505-0480
701-328-4076
cdesaye@nd.gov

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Email forwarding Order Adopting Settlement - MDU and Otter Tail Power
Public Service Commission
- 57 PU-09-739 Filed 06/30/2010 Pages: 36
Email forwarding Order Adopting Settlement - MDU and Otter Tail Power
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- 52 PU-09-733 Filed 06/30/2010 Pages: 36
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Email forwarding Order Adopting Settlement - MDU and Otter Tail Power
Public Service Commission

pseppanen@fageninc.com
Paul Seppanen

pamradtkerussell@gmail.com
PAMELA RADTKE RUSSELL

bschmidt@kwh.com
Brad Schmidt
Cass County Electric Coop
4100 32nd Ave SW
Fargo ND 58104

jmittleider@nd.gov
John Mittleider
Department of Commerce
600 East Blvd
Bismarck ND 58505

kmaini@wi.rr.com
Kavita Maini
KM ENERGY CONSULTING LLC
961 N LOST WOODS RD
OCONOMOWOC WI 53066

amanda.filiowich@minot.af.mil
Captain Amanda Filiowich
Minot Air Force Base

taltmann@mrenergy.com
TASHA ALTMANN
MISSOURI RIVER ENERGY SERVICES
3724 W AVERA DR
SIOUX FALLS SD 57108

tamie.aberle@mdu.com
Tamie Aberle
Montana-Dakota Utilities Co
400 North 4th Street
Bismarck ND 58502-1457

dave.goodin@mdu.com
Dave Goodin
Montana-Dakota Utilities Co
400 North 4th Street
Bismarck ND 58502-1457

hfuglest@ndarec.com
Harlan Fugelsten
ND Assn Rural Electric Cooperatives
PO Box 727
Mandan ND 58554-0727

regulatory.records@xcelenergy.com
SaGonna Thompson
NORTHERN STATES POWER COMPANY

jennifer.sanner@xcelenergy.com
JENNIFER SANNER
NORTHERN STATES POWER COMPANY

kari.v.zipko@xcelenergy.com
Kari Zipko
NORTHERN STATES POWER COMPANY

gcoyne@otpc.com
Geri Coyne
Otter Tail Corporation
PO Box 410
Oakes ND 58474-0410

john.brodbeck@shell.com
JOHN BRODBECK
SHELL ENERGY NORTH AMERICA
340 E MAPLE AVE, STE 204A
LANGHORNE PA 19047

shewson@nd.gov
Sara Hewson
State Tax Department
State Capitol
Bismarck ND 58505

jkapsner@vogellaw.com
John Kapsner
Vogel Law Firm
P O Box 2097
Bismarck ND 58502-2097

dave.sederquist@xcelenergy.com
Dave Sederquist
Xcel Energy
2302 Great Northern Dr PO Box 2747
Fargo ND 58108-2747

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**Montana-Dakota Utilities Co., a Division
of MDU Resources Group, Inc.
Discontinue Prudence Big Stone II
Application**

Case No. PU-09-731

**Montana-Dakota Utilities Co., a Division
of MDU Resources Group, Inc.
Deferred Accounting - Big Stone II
Application**

Case No. PU-09-733

ORDER ADOPTING SETTLEMENT

June 25, 2010

Appearances

Commissioners Kevin Cramer, Tony Clark, and Brian P. Kalk.

Daniel S. Kuntz, Associate General Counsel, MDU Resources Group, Inc., PO Box 5650, Bismarck, ND 58501-5650.

Annette Bendish, Legal Counsel, Public Service Commission, 600 East Boulevard Avenue, Department 408, Bismarck, North Dakota 58505-0480, attorney for the Public Service Commission Advocacy Staff.

Derrick Braaten, Sarah Vogel Law Partners, 222 North 4th Street, Bismarck, North Dakota 58501-4004, attorney for the Dakota Resource Council and Mark Trechock.

Illona A. Jeffcoat-Sacco, General Counsel, Public Service Commission, 600 East Boulevard Avenue, Department 408, Bismarck, North Dakota 58505-0480, attorney for the Public Service Commission.

Al Wahl, Administrative Law Judge, Office of Administrative Hearings, 1701 North Ninth Street, Bismarck, North Dakota 58501-1882, appearing as hearing officer.

Preliminary Statement

On August 27, 2008, the Commission adopted an order approving the request of Montana-Dakota Utilities Co. (Montana-Dakota) for an advance determination of prudence for its ownership in the proposed Big Stone II generating facility and associated transmission facilities, Case No. PU-06-482.

On December 2, 2009, Montana-Dakota filed an application for a determination that Montana-Dakota's continued participation in the Big Stone II Generating Station is no longer prudent, Case No. PU-09-731.

On December 4, 2009, Montana-Dakota filed an application for authority to use deferred accounting for costs related to Montana-Dakota's efforts in securing new generation, primarily the Big Stone II Generating Station, until disposition of its next general electric rate case, Case No. PU-09-733.

On March 10, 2010, the Commission issued its Notice of Hearings consolidating Case No. PU-09-731 and Case No. PU-09-733 for a public hearing on May 5, 2010, and specifying the issues to be considered:

The issue to be considered in Case No. PU-09-731 is whether Montana-Dakota's continued participation in the Big Stone II Generating Station is no longer prudent.

The issue to be considered in Case No. PU-09-733 is whether authorization for deferred accounting of costs incurred during efforts to secure new electric generation, including participation in the Big Stone II project, is in the public interest.

On March 19, 2010, the Dakota Resource Council and Mark Trechock filed a Petition to Intervene in Case No. PU-09-731 and Case No. PU-09-733.

On March 24, 2010, the Commission issued its Order Granting Intervention to the Dakota Resource Council and Mark Trechock in Case No. PU-09-731 and Case No. PU-09-733.

On April 14, 2010, Commission Advocacy Staff filed a Settlement Agreement between Montana-Dakota and the North Dakota Public Service Commission Advocacy Staff in Case No. PU-09-731 and Case No. PU-09-733. The participants to the Settlement Agreement agree that Montana-Dakota's discontinuation of participation in the project is prudent and Montana-Dakota should be authorized to recover costs related to the Big Stone II generation project, including a monthly carrying charge of 10.016 percent for the period from November 2, 2009 up until the time recovery of costs commences, but excluding a return on investment during the recovery period. The Settlement Agreement provides for recovery of costs over 36 months through the energy adjustment. The settlement is without prejudice to Montana-Dakota's inclusion of recovery of costs incurred during efforts to secure other new electric generation in a general rate filing request.

On May 5, 2010, the public hearing was held in the Commission Hearing Room at the State Capitol in Bismarck, North Dakota.

Montana-Dakota's application and testimony show that the Big Stone II project under Montana-Dakota's original prudency request was a 600 to 630 megawatt electric generation plant planned to meet the reasonably anticipated electric generation needs of

seven utilities. In the fall of 2007, two utilities representing 27.166 percent ownership interest withdrew from the project. The remaining project participants determined that a 500 to 580 megawatt electric generation plant could be supported as cost effective and pursued additional participants for the project. On September 11, 2009, another participant representing 19.333 percent ownership interest, who was also the project operator, withdrew from the project. The intended ownership interest of the remaining participants was 337 megawatts. The remaining participants attempted but were unable to secure commitments for new participants.

The Commission is convinced from the information provided that resizing, redesigning and re-permitting the plant would result in an anticipated commercial date that would not support the needs of the project participants. Further, that sufficient participation could not be obtained for a project within the design and permit scope of the Big Stone II Project.

At its May 25, 2010 work session concerning these proceedings, the Commission expressed concern about the inclusion in the Settlement Agreement of a monthly carrying charge on the North Dakota share of Big Stone II generation costs from the date on which the company ceased accumulating an allowance for funds used during construction (AFUDC) on the construction work in progress balance, which is November 2, 2009, up until the recovery of costs commences. On May 27, 2010, Montana-Dakota responded that it is amenable to replacing the 10.016 percent rate of return with its average 2009 AFUDC rate of 9.18 percent during the period preceding entry of a Commission order.

The settlement, with the conditions ordered in this Order, results in benefits to consumers. If not for the statute regarding advance determination of prudence and the Settlement Agreement, Montana-Dakota will request recovery of Big Stone II costs as rate base investment in a rate case proceeding. Rate base is typically depreciated over the life of the investment and the company is entitled to a reasonable return on the balance of investment that hasn't been depreciated. The settlement provides a recovery period of 36 months with no return on investment during the recovery period.

The effect of the settlement, with the conditions ordered in this Order, on a typical residential customer consuming 750 kilowatt-hours is approximately \$1.50 per month for three years.

Having considered this matter, the Commission has determined that the Settlement Agreement filed April 14, 2010 is reasonable and should be approved subject to the conditions stated below. Therefore, the Commission makes the following:

Order

The Commission orders:

1. The Settlement Agreement filed April 14, 2010, a copy of which is attached to this Order and made a part of this Order, is APPROVED, subject to the provisions in Ordering Paragraphs 4, 5 and 6, below.

2. Montana-Dakota's discontinuation of participation in the Big Stone II Project is prudent pursuant to the Settlement Agreement and North Dakota Century Code § 49-05-16(5).

3. Montana-Dakota is authorized recovery of the costs incurred in the Big Stone II project, pursuant to the Settlement Agreement.

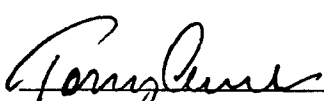
4. Montana-Dakota shall apply 9.18 percent rate of return on the North Dakota share of Big Stone II generation costs from the date on which the company ceased accumulating an allowance for funds used during construction (AFUDC) on the construction work in progress balance, which is November 2, 2009, up until the recovery of costs commences.

5. Montana-Dakota shall, within 15 days, file a rate schedule and documentation supporting calculation of the rate schedule, consistent with this Order and Settlement Agreement, in order to implement rates to become effective for bills rendered on and after August 1, 2010. The Commission will not suspend the rate schedule, but will promptly issue a Notice of Opportunity for Hearing on the rate schedule submitted by Montana-Dakota. Any amount of over- or under-collection of cost recovery resulting from final implementation of the rate schedule shall be addressed as called for by the Settlement Agreement.

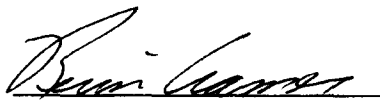
6. Montana-Dakota shall draft a bill insert for Commission approval regarding the recovery of Big Stone II generation costs. Montana-Dakota shall include the approved insert with customer bills every third month during the 36 month recovery period.

7. Montana-Dakota's Application for Deferred Accounting regarding costs incurred during its participation in the Big Stone II Project, Case No. PU-09-733, is rendered moot by this Order and is DISMISSED.

PUBLIC SERVICE COMMISSION



Tony Clark
Commissioner



Kevin Cramer
Chairman



Brian P. Kalk
Commissioner

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Montana-Dakota Utilities Co., a Division
of MDU Resources Group, Inc.
Discontinue Prudence Big Stone II
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Case No. PU-09-731

Montana-Dakota Utilities Co., a Division
of MDU Resources Group, Inc.
Deferred Accounting – Big Stone II
Application

Case No. PU-09-733

SETTLEMENT AGREEMENT

This Settlement Agreement is entered into by and between the North Dakota Public Service Commission Advocacy Staff (“Staff”) and Montana-Dakota Utilities Co., a Division of MDU Resources Group, Inc. (“Montana-Dakota”) (collectively, “the Parties”). The Parties agree that except as expressly provided herein, this Settlement Agreement resolves all outstanding issues in the above-captioned proceedings.

BACKGROUND

These proceedings involve two separate but related matters: (1) Montana-Dakota’s request for a determination that its continued participation in the Big Stone II project is no longer prudent, filed with the Commission on December 2, 2009; and, (2) Montana-Dakota’s request, filed with the Commission on December 4, 2009, for authority for deferred accounting of costs related to Montana-Dakota’s efforts in securing new electric generation, primarily the Big Stone II Generating Station, until disposition of its next general electric rate case.

The Big Stone II project was a proposed multi-owner coal-fired generating plant to be located at the site of the existing Big Stone Generating Plant near Big Stone city, South Dakota. Prior to Otter Tail Power Company’s (OTP) withdrawal from the project in September 2009, Montana-

Dakota had a 26.54% share of the project and a corresponding responsibility for shared project costs.¹

In June of 2005, Montana-Dakota entered in to project agreements with six other utilities for purposes of pursuing the project.² At that time, the participants applied for the necessary permits, began preliminary engineering work, and began other development work for the project. The Commission issued an Advance Determination of Prudence for Montana-Dakota's participation in the project in August 2008, in Case No. PU-06-482, for a minimum of 121.8 MW up to a maximum of 133 MW and proportionate ownership share of the associated transmission electric resource additions. The Commission's order was based on an updated analysis by the Big Stone II participants for the cost of a 500 MW to 580 MW facility with an on-line date of mid-2013. Also, other permits were received from the South Dakota Public Utilities Commission ("SDPUC"), who approved the project Site Permit in July 2006, and the Minnesota Public Utilities Commission ("MPUC"), who issued a Certificate of Need ("CON") for the Big Stone II transmission lines in March 2009. The project also obtained a Water Allocation Permit, Air Permit, and other necessary permits, and completed a Federal Environmental Impact Statement for the project. Where applicable, these permits were generally based upon a generating plant capacity of between 500 and 600 MW. Montana-Dakota has incurred approximately \$13.9 million for the permitting, engineering and other development activities for the project to date. The North Dakota jurisdictional share of the total costs is 69.351586% or approximately \$9.6 million.³

On September 11, 2009, OTP withdrew from further participation in the project. Montana-Dakota was one of four remaining participants after OTP's withdrawal. The remaining

¹ Or more precisely 26.544622425% based on Montana-Dakota's proportion of committed off-take: 116 MW of a total of 437 MW committed. Montana-Dakota's share of the project increased after Great River Energy ("GRE") and Southern Minnesota Municipal Power Agency ("SMMPA") withdrew from the project in September 2007. Without new participants to make up for GRE and SMMPA, Montana-Dakota's proportionate share of off-take was larger than its original share of 19.3333% of a total 600 MW committed.

² Preliminary investigation of the feasibility of a second unit at the Big Stone site and other project activities had been undertaken before the project group agreements were finalized and executed.

³ The jurisdictional allocation percentage is based on the system twelve month peak demand factor, or 69.351586% to North Dakota.

participants sought but were unable to obtain commitments from new project participants largely because of regulatory, legislative and environmental concerns affecting the project as well as the economic downturn. On November 2, 2009, Montana-Dakota and the other remaining participants determined it was no longer feasible to continue the development of the Big Stone II project as the project size, reflecting the remaining participants' combined MW shares, was smaller than the designed and permitted plant size. Thus, the project lacked the envisioned economies of scale, and the validity of the permits issued for a larger size plant was in question. The costs related to Montana-Dakota's efforts in securing new electric generation fall generally into the following cost categories: Engineering, project development, permitting, legal, other expenditures, and Allowance for Funds Used During Construction ("AFUDC"). In addition to the Big Stone II project costs, the costs include \$2.1 million associated with the Lignite Vision 21 Project and \$332,000 associated with the Milton R. Young III Project.

TERMS

Montana-Dakota and the Commission Advocacy Staff (collectively "the Parties") agree to the provisions as defined below and supported by this Settlement Agreement.

I. Recovery of Costs related to the Big Stone II Project

The Parties agree that:

- A. Montana-Dakota's discontinuation of participation in the project is prudent and therefore Montana-Dakota should be authorized to recover the portion of costs related to the Big Stone II generation project ("Big Stone II Generation Costs") as detailed in this Section I.
- B. Approximately \$13.9 million represents the total amount of Big Stone II Generation Costs incurred by Montana-Dakota to date; of which \$9.6 million represents North Dakota's jurisdictional share of such costs.⁴

⁴ Id.

- C. The recovery of Big Stone II Generation Costs will occur over 36 months, beginning with the first day of the first calendar month by which implementation can practically be achieved by Montana-Dakota following the Commission's approval of this Settlement Agreement.
- D. Montana-Dakota's recovery will be in the form of an annual rate that shall be established based on an amount equal to one-third of the estimated total recovery, divided by the estimate of retail energy sales (in kWh) over the twelve-month period for which the rate will be in effect, to arrive at a rate per kWh. This rate will be applied to all customer bills as part of the Fuel Clause Adjustment ("FCA") based on kWhs consumed.
- E. At least 30 days prior to the end of each annual period, Montana-Dakota shall make a report to the Commission to show the total amount to be recovered, as well as the amount recovered and the amount of actual kWh retail energy sales for the period (up to the time of the report). Montana-Dakota will also calculate any amount of over- or under-collection (based on actual amounts up to the time of the report and estimated sales for the remainder of the annual period), and that amount (the "True-up Amount") shall be added to or subtracted from the amount to be recovered in the next annual period. Any True-up Amount remaining at the end of the 36 month recovery period shall be collected from customers (for any under-collection) or refunded to customers (for any over-collection) through the FCA surcharge adjustment.
- F. Montana-Dakota shall include in its total recovery amount a monthly carrying charge on the North Dakota share of Big Stone II Generation Costs for the period from November 2, 2009 (the date in which it ceased accumulating AFUDC on the construction work in progress balance) up until when the recovery of costs commences as described in paragraph C. above. The carrying charge shall be Montana-Dakota's rate of return as approved in its most recent rate case (10.016 percent).
- G. An estimate of the rate described above based on an assumed implementation date of June 1, 2010, a North Dakota balance of \$10.2 million including carrying charges

through May 31, 2010 and projected kWh sales is \$0.00214 per kWh, or \$1.61 per month for a typical residential customer using 750 kWh.

II. Recovery of Costs related to the Lignite Vision 21 Project and Milton R. Young III Project

The Parties agree this settlement is without prejudice to Montana-Dakota's inclusion of recovery for costs related to the Lignite Vision 21 Project and the Milton R. Young III Project in its next general rate filing request. It shall be Montana-Dakota's burden of proof in any such proceeding to show that cost recovery is appropriate.

III. Miscellaneous

A. Basis of Settlement Agreement

It is agreed this Settlement Agreement is a negotiated settlement agreement subject to approval by the Commission.

B. Effect of the Settlement Negotiations

It is understood and agreed that all offers of settlement and discussions related to this Settlement Agreement are privileged and may not be used in any manner in connection with proceedings in this case or otherwise, except as provided by law. In the event the Commission does not approve this Settlement Agreement, the Settlement Agreement will not be admissible as evidence in this or any other proceeding and no part thereof may be used by any party for any purpose in this case or in any other.

C. Applicability and Scope

This Settlement Agreement shall be binding on the Parties, and their successors, assigns, agents, and representatives. Consistent with the Commission's settlement guidelines, this Settlement Agreement does not set policy or overturn precedent. This Settlement Agreement shall not in any respect constitute an agreement, admission or determination by any of the Parties as to the merits of any specific allegation or contention made by the Parties in this proceeding.

D. Effective Date

This Settlement Agreement shall be effective on the date of the Commission Order approving the Settlement Agreement.

E. Modification

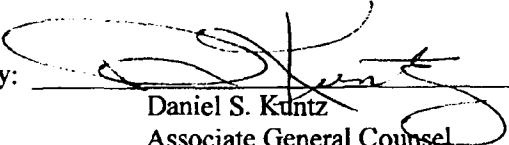
If the Commission Order modifies or conditions approval of this Settlement Agreement, it shall be deemed terminated if either Party files a letter with the Commission within three (3) business days of the date of such Order stating that a condition or modification to the Settlement Agreement is unacceptable to such Party.

CONCLUSION

The Parties have agreed to the forgoing terms to resolve the contested issues in the above-captioned proceedings. These terms are a result of negotiations between the Parties, are in the public interest and will result in reasonable electric rates. For these reasons, the Parties urge the Commission to approve the Settlement Agreement.

[Signature Pages Follow]

**Montana-Dakota Utilities Co.,
a Division of MDU Resources Group, Inc.**

By: 
Daniel S. Kuntz
Associate General Counsel

Dated this 14th day of April 2010.

North Dakota Public Service Commission Staff

By: Annette Bendish
Annette Bendish
Counsel to Advocacy Staff

Dated this 14 day of April 2010.

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**Otter Tail Power Company
Deferred Accounting - Big Stone II
Application**

Case No. PU-09-739

**Otter Tail Power Company
Discontinue Prudence Big Stone II
Application**

Case No. PU-10-30

ORDER ADOPTING SETTLEMENT

June 25, 2010

Appearances

Commissioners Kevin Cramer, Tony Clark, and Brian P. Kalk.

Mark B. Bring, Associate General Counsel, Otter Tail Corporation, 215 South Cascade Street, Fergus Falls, Minnesota 56537, attorney for Otter Tail Power Company.

Annette Bendish, Legal Counsel, Public Service Commission, 600 East Boulevard Avenue, Department 408, Bismarck, North Dakota 58505-0480, attorney for the Public Service Commission Advocacy Staff.

Richard Savelkoul, Felhaber, Larson, Fenlon & Vogt, P.A., 444 Cedar Street, Suite 2100, St. Paul, Minnesota 55101-2136, attorney for the North Dakota Large Industrial Group.

Derrick Braaten, Sarah Vogel Law Partners, 222 North 4th Street, Bismarck, North Dakota 58501-4004, attorney for the Dakota Resource Council and Mark Trechock.

Illona A. Jeffcoat-Sacco, General Counsel, Public Service Commission, 600 East Boulevard Avenue, Department 408, Bismarck, North Dakota 58505-0480, attorney for the Public Service Commission.

Al Wahl, Administrative Law Judge, Office of Administrative Hearings, 1701 North Ninth Street, Bismarck, North Dakota 58501-1882, appearing as hearing officer.

Preliminary Statement

On August 27, 2008, the Commission adopted an order approving the request of Otter Tail Power Company (Otter Tail) for an advance determination of prudence for its ownership in the proposed Big Stone II generating facility and associated transmission facilities, Case No. PU-06-481.

On December 14, 2009, Otter Tail filed an application for authority to use deferred accounting until its next rate case for costs incurred during its participation in the Big Stone II project, Case No. PU-09-739.

On January 19, 2010, Otter Tail filed an application for determination that continuation of the Big Stone II Project is no longer prudent, Case No. PU-10-30.

On March 10, 2010, the Commission issued its Notice of Hearings consolidating Case No. PU-09-739 and Case No. PU-10-30 for a public hearing on May 5, 2010, and specifying the issues to be considered:

The issue to be considered in Case No. PU-10-30 is whether Otter Tail's continued participation in the Big Stone II Generating Station is no longer prudent.

The issue to be considered in Case No. PU-09-739 is whether authorization for deferred accounting of costs incurred during participation in the Big Stone II project is in the public interest.

On March 12, 2010, Goodrich Corporation, Cargill Corporation, Cavendish Farms, Inc., Archer Daniels Midland Company, ComDel Innovation, Tharaldson Ethanol LLC, Bobcat Company and PrimeWood, Inc. (North Dakota Large Industrial Group) filed a Petition to Intervene in Case No. PU-09-739.

On March 18, 2010, the North Dakota Large Industrial Group filed a Petition to Intervene in Case No. PU-10-30.

On March 19, 2010, the Dakota Resource Council and Mark Trechock filed a Petition to Intervene in Case No. PU-09-739 and Case No. PU-10-30.

On March 24, 2010, the Commission issued its Orders Granting Intervention to the North Dakota Large Industrial Group, the Dakota Resource Council, and Mark Trechock in Case No. PU-09-739 and Case No. PU-10-30.

On April 23, 2010, Commission Advocacy Staff filed the Settlement Agreement between Otter Tail, Advocacy Staff, and the North Dakota Large Industrial Group in Case No. PU-09-739 and Case No. PU-10-30. The participants to the Settlement Agreement agree that Otter Tail's discontinuation of participation in the project is prudent and Otter Tail should be authorized to recover costs related to the Big Stone II generation project, including a monthly carrying charge of 8.62 percent for the period from September 1, 2009 up until the time recovery of costs commences, but excluding a

return on investment during the recovery period. The Settlement Agreement provides for recovery of costs over 36 months through the energy adjustment. The settlement also provides for inclusion in rate base investment of Big Stone II transmission costs incurred by Otter Tail should construction of all or a portion of the transmission facilities commence within three years of a Commission order approving the Settlement Agreement.

On May 4, 2010, Advocacy Staff filed a revision to page 5 of the Settlement Agreement between Otter Tail, Advocacy Staff, and the North Dakota Large Industrial Group in Case No. PU-09-739 and Case No. PU-10-30.

On May 5, 2010, the public hearing was held in the Commission Hearing Room at the State Capitol in Bismarck, North Dakota.

On May 10, 2010, Advocacy Staff filed a revision to page 3 of the Settlement Agreement between Otter Tail, Advocacy Staff, and the North Dakota Large Industrial Group in Case No. PU-09-739 and Case No. PU-10-30.

At the hearing, Otter Tail expounded on several reasons for discontinuing its participation in the Big Stone II project. The Commission was most convinced by Otter Tail's testimony regarding the uncertainty in the direction of the federal energy policy and the condition of the economy. Otter Tail stated that lenders had become concerned over the growing uncertainty in the direction of federal climate-change legislation and the Environmental Protection Agency's intent to regulate carbon dioxide and other greenhouse gases. Concerning the condition of the economy, Otter Tail stated that financial market conditions and potential cost-recovery risks that prevailed during the Big Stone II planning process made raising the large amount of necessary capital unreasonably costly. Otter Tail also testified concerning the risk under the project agreements that it could be required to increase its share of the plant or participate in a smaller and less economic project if additional participants did not join in the project, testified concerning uncertainty due to appellate processes regarding regulatory permits for the project, and testified concerning changes to recent energy price forecasts that are expected to result in changes to the company's next resource plan and resource adequacy requirements.

At its May 25, 2010 work session concerning the proceedings, the Commission expressed concern about the inclusion in the Settlement Agreement of a monthly carrying charge on the North Dakota share of Big Stone II generation costs from the date on which the company ceased accumulating an allowance for funds used during construction (AFUDC) on the construction work in progress balance, which is September 1, 2009, up until the recovery of costs commences. On May 27, 2010, Otter Tail responded that it is amenable to replacing the 8.62 percent rate of return with its average 7.65 percent AFUDC rate during the period preceding entry of a Commission order.

On June 23, 2010, Otter Tail filed a final version of the Settlement Agreement, incorporating the May 4, 2010 revision to page 5 and the May 10, 2010 revision to page 3.

The settlement, with the conditions ordered in this Order, results in benefits to consumers. If not for the statute regarding advance determination of prudence and the Settlement Agreement, Otter Tail would likely request recovery of Big Stone II costs as rate base investment in a future rate case proceeding. Rate base is typically depreciated over the life of the investment and the company is entitled to a reasonable return on the balance of investment that hasn't been depreciated. The settlement provides a recovery period of 36 months with no return on investment during the recovery period. Advocacy Staff calculated that recovery of Big Stone II costs over 36 months with no return on investment, rather than applying the currently authorized 8.62 percent rate of return, results in a reduction in cost recovery in present value terms of 12 percent.

The effect of the settlement, with the conditions ordered in this Order, on a typical residential customer consuming 750 kilowatt-hours is approximately \$0.62 per month for three years.

Having considered this matter, the Commission agrees that the Settlement Agreement filed April 23, 2010, as amended on May 4, 2010 and May 10, 2010, is reasonable and should be approved subject to the conditions stated below. Therefore, the Commission makes the following:

Order

The Commission orders:

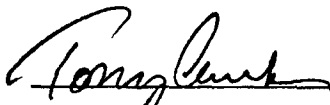
1. The final version of the Settlement Agreement filed June 23, 2010, a copy of which is attached to this Order and made a part of this Order, is APPROVED, subject to the provisions in Ordering Paragraph 4, 5 and 6 below.
2. Otter Tail's discontinuation of participation in the Big Stone II Project is prudent pursuant to the Settlement Agreement and North Dakota Century Code § 49-05-16(5).
3. Otter Tail is authorized recovery of the costs incurred in the Big Stone II project, pursuant to the Settlement Agreement.
4. Otter Tail shall apply 7.65 percent rate of return on the North Dakota share of Big Stone II generation costs from the date on which the company ceased accumulating an allowance for funds used during construction (AFUDC) on the construction work in progress balance, which is September 1, 2009, up until the recovery of costs commences.

5. Otter Tail shall, within 15 days, file a rate schedule and documentation supporting calculation of the rate schedule, consistent with this Order and Settlement Agreement, in order to implement rates to become effective for bills rendered on and after August 1, 2010. The Commission will not suspend the rate schedule, but will promptly issue a Notice of Opportunity for Hearing on the rate schedule submitted by Otter Tail. Any amount of over- or under-collection of cost recovery resulting from final implementation of the rate schedule shall be addressed as called for by the Settlement Agreement.

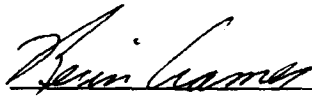
6. Otter Tail shall draft a bill insert for Commission approval regarding the recovery of Big Stone II generation costs. Otter Tail shall include the approved bill insert with customer bills every third month for the 36 month recovery period.

7. Otter Tail's Application for Deferred Accounting regarding costs incurred during its participation in the Big Stone II Project, Case No. PU-09-739, is rendered moot by this Order and is DISMISSED.

PUBLIC SERVICE COMMISSION



Tony Clark
Commissioner



Kevin Cramer
Chairman



Brian P. Kalk
Commissioner

STATE OF NORTH DAKOTA
BEFORE THE
PUBLIC SERVICE COMMISSION

In the Matter of the Application of
Otter Tail Power Company for
Authority to use Deferred Accounting

Case No. PU-09-739

And

In the Matter of the Application of
Otter Tail Power Company
for a Determination of
Prudence to Discontinue Participation
in the Big Stone II Generating Plant

Case No. PU-10-30

SETTLEMENT AGREEMENT

This Settlement Agreement is entered into by and between the North Dakota Public Service Commission Advocacy Staff ("Staff"), Otter Tail Power Company ("OTP") and the North Dakota Large Industrial Energy Group, Interveners, the members of which are listed below ("ND LIG"), (collectively, "the Parties"). The ND LIG includes Goodrich Corporation, Cargill Corporation, Cavendish Farms, Inc., Archer Daniels Midland Company, ComDel Innovation, Tharaldson Ethanol LLC, Bobcat Company and PrimeWood Inc., all of which are electric service customers of OTP. The Parties agree that this Settlement Agreement resolves all outstanding issues in the above-captioned proceedings.

BACKGROUND

These proceedings involve two separate but related matters -- OTP's request for authority to use deferred accounting for OTP's Big Stone II ("BSP II") development costs, filed with the North Dakota Public Service Commission ("Commission") on December 14, 2009, and a request by OTP for a determination that OTP's continued participation in the BSP II project was no longer prudent, filed with the Commission on January 19, 2010.

The Big Stone II project was a proposed multi-owner coal-fired generating plant to be located at the site of the existing Big Stone Generating Plant near Big Stone, South Dakota. At the time of its withdrawal, OTP had a 26.54% share of the project and a corresponding responsibility for shared project costs.¹

OTP worked on developing the project for several years. In June of 2005, OTP entered into project agreements with six other utilities for purposes of pursuing the project.² At that time, the participants applied for the necessary permits, began preliminary engineering work, and began other development work for the project. The Commission issued an Advance Determination of Prudence for OTP's participation in the project in July 2008, in Case No. PU-06-481. Also, other permits were received from the South Dakota Public Utilities Commission ("SDPUC"), who approved the project Site Permit in July 2006, and the Minnesota Public Utilities Commission ("MPUC"), who issued a Certificate of Need ("CON") for the Big Stone II transmission lines in March 2009. OTP's 2005 Integrated Resource Plan, which specifically included the Big Stone II project, was also approved by the MPUC in March 2009. The project also obtained a Water Allocation Permit, Air Permit, and other necessary permits, and completed a Federal Environmental Impact Statement for the project. According to OTP's Deferred Accounting Application, during the time these permit proceedings were pending OTP incurred \$13,173,953.55 for the permitting, engineering and other development activities for the project. The total costs were later reduced to \$12,692,127, as reflected on the Revised Attachment A (attached to this Settlement Agreement), which updates the Attachment A included with OTP's original Petition.³ The reduction was a result of liabilities that were mitigated after the Petition was filed at a lower cost than was

¹ Or more precisely 26.544622425% based on OTP's proportion of committed off-take: 116MW of a total of 437 MW committed. OTP's share of the project increased after Great River Energy ("GRE") and Southern Minnesota Municipal Power Agency ("SMMPA") withdrew from the project in September 2007. The project was permitted and engineered with an expected capacity between 500 and 550 MW, therefore, without new participants to make up for GRE and SMMPA, OTP's share of off-take was larger than its requirements and its share of obligation exceeded its expected investment.

² Preliminary investigation of the feasibility of a second unit at the Big Stone site and other project activities had been undertaken before the project group agreements were finalized and executed.

³ Also, the Revised Attachment A reflects some minor re-classification of costs among the identified categories. Minor changes to the category descriptions were also made to reflect the reclassifications and to correct a few typographical errors.

expected and an adjustment to remove an error in the loading rate for some internal costs. The North Dakota jurisdictional share of the total costs is 40.32% or \$5,117,466.⁴

By fall of 2009, a combination of factors caused OTP to withdraw from participation. The combination of factors included: a) significant changes to recent energy price forecasts that are expected to result in changes to OTP's next resource plan and resource adequacy requirements; b) unprecedented financial market conditions and cost-recovery risks that made raising the large amount of necessary capital unreasonably costly; c) the risk that OTP could be required to either increase its share of the plant or participate in a smaller and less economic project if additional participants did not join in the project; and d) legislative and regulatory uncertainty surrounding federal energy and climate change policy.⁵ OTP was one of five remaining participants when it withdrew from the project.⁶ The remaining participants later discontinued the project.

The costs are more fully described in the Revised Attachment A to OTP's Deferred Accounting Petition, but fall generally into the following cost categories: Engineering, project development, permitting, legal, other expenditures, and Allowance for Funds Used During Construction ("AFUDC"). OTP has excluded from these costs and investments any costs that it has incurred for land in which it continues to have a title interest, and it has excluded any labor-related costs that were included in the revenue requirement in OTP's recent rate case (Case PU-08-742). For example, OTP incurred costs for certain easements relating to the project and OTP has a continuing real property right in those easements. Therefore, the costs of those easements is reflected in OTP's property accounts and not included in the deferral request. Additionally, OTP reviewed the internal labor costs included in this request and verified that they were excluded from the 2007 test year used in OTP's rate case (as they were being accounted for as Construction Work in Progress ("CWIP") along with the other project costs).

⁴ The jurisdictional allocation percentage is a composite of the E1 and D1 allocators set in OTP's last general rate case.

⁵ OTP's share of Big Stone II costs was estimated at about \$400 million. However, without the addition of other project participants, OTP's expected share of costs in a similarly sized project would have increased to approximately \$500 million or more. For purposes of illustrating the magnitude of the investment, OTP's total rate base as of the end of 2008 was approximately \$575 million.

⁶ Two Big Stone II Participants, GRE and SMMPA, withdrew from the project previously.

TERMS

OTP, Commission Advocacy Staff, and the ND LIG (collectively “the Parties”) agree to the provisions as defined below and supported by this Settlement Agreement.

I. Recovery of Costs related to the Generation Portion of the BSP II Project

The Parties agree that:

- A. OTP’s discontinuation of participation in the project was prudent and therefore OTP should be authorized to recover the portion of costs related to the BSP II generation project (“BSP II Generation Costs”) as detailed in this Section I.
- B. \$10,080,092 represents the total amount of BSP II Generation Costs incurred by OTP: of which \$4,064,293 represents North Dakota’s jurisdictional share of such costs.⁷
- C. The recovery of BSP II Generation Costs will occur over 36 months, beginning with the first day of the first calendar month by which implementation can practically be achieved by OTP following the Commission’s approval of this Settlement Agreement.
- D. OTP’s recovery will be in the form of an annual rate that shall be established based on one-third of the total recovery, divided by the estimate of energy and demand (kWh and kW) billing units, described in subsection G below, for the classes over the twelve-month period for which the rate will be in effect, to arrive at a rate for both kWh and kW billing units. The kWh and kW rates will be applied to all customer bills and appear as part of the energy adjustment based on actual kWhs consumed for the non-LGS class and actual kWhs and kW consumed for the LGS class.
- E. At least 60 days prior to the end of each annual period, OTP shall make a report to the Commission to show the amount recovered and the amount of actual billing determinants (kWh for the non-LGS class and a combination of kWh and kW for the LGS class) for the period (up to the time of the report). OTP will also calculate any

⁷ Based on a 40.32 percent Jurisdictional allocator.

amount of over- or under-collection (based on actual amounts up to the time of the report and estimated sales for the remainder of the annual period), and that amount (the "True-up Amount") shall be added to or subtracted from the amount to be recovered in the next annual period. Any True-up Amount remaining at the end of the 36 month recovery period shall be collected from customers (for any under-collection) or refunded to customers (for any over-collection) in a one-time adjustment to customer bills (and reflected as part of the energy and renewables adjustment line item).

- F. OTP shall include in its total recovery amount a monthly carrying charge on North Dakota share of BSP II Generation Costs for the period from September 1, 2009 (the date in which it ceased accumulating an allowance for funds used during construction (AFUDC) on the construction work in progress (CWIP) balance) up until the recovery of costs commences as described in paragraph C. above. The carrying charge shall be OTP's rate of return as approved in its 2008 rate case (8.62 percent), which amounts to a carrying charge of \$29,195 per month.
- G. The cost allocation between classes shall be based on the 2009 E1 and D1 class allocators. These class allocators will remain constant for the entire recovery period. For the LGS class, a kW and kWh charge will be derived by dividing E1 related costs by estimated kWh and dividing the D1 related costs by estimated kW. For the non-LGS class, the E1 and D1 related costs will be divided by estimated kWh.
- II. An estimate of the rates described above based on an assumed implementation date of June 1, 2010, are as follows: non-LGS customers - \$0.00082 per kWh, or \$0.62 per month for an typical residential customer with 750 kWh usage. LGS customers - \$0.00064 per kWh and \$0.079 per kW, or \$197.16 per month for a customer with a monthly usage of 600 kW and 234,000 kWh. These estimated rates are calculated by taking the North Dakota Share of BSP II Generation Costs (\$4,064,293) and adding the carrying charge for nine months (\$29,195 times 9 months = \$262,757, for a total of \$4,327,050), then amortizing that amount over 3 years. Table I shows additional support for these calculations.

Table I

| | | | | | | | |
|---|-----------|-----------|------------------|------------|-----------|--------------------|-----------|
| Costs subject of settlement agreement (generation only) | | | | | | \$10,080,092 | |
| North Dakota share* 40.32% | | | | | | 4,064,293 | |
| Estimated carrying costs (assumes cost recovery begins June 2010)** | | | | | | 262,757 | |
| North Dakota costs | | | | | | \$4,327,050 | |
| Amount to be recovered in first 12 months | | | | | | \$1,442,350 | |
| Class factors | Weighting | LGS | | All others | | Total | |
| ND E1**** | 75.285% | 33.304% | \$361,639 | 66.696% | \$724,234 | \$1,085,873 | |
| ND D1**** | 24.72% | 24.445% | \$87,141 | 75.555% | \$269,336 | \$356,477 | |
| North Dakota | | | \$448,780 | \$993,570 | | \$1,442,350 | |
| | | LGS | | All others | | | |
| | | Rate | billing units*** | Revenue | Rate | billing units*** | Revenue |
| kWh billing | | \$0.00064 | 564,334,811 | \$361,639 | \$0.00082 | 1,217,550,599 | \$993,570 |
| kW billing | | \$0.079 | 1,104,373 | \$87,141 | n/a | n/a | n/a |
| North Dakota | | | \$448,780 | | | \$993,570 | |
| Total North Dakota year 1 revenue | | | | | | \$1,442,350 | |
| * Allocated to North Dakota based on a composite of D1 and E1 factors used for generation rate base in Otter Tail's most recent North Dakota rate case, Case No. PU-08-862. | | | | | | | |
| ** Carrying cost is the rate of return approved in Otter Tail's last rate case of 8.62% for nine months. | | | | | | | |
| *** June 2010 - May 2011 projected year 1 recovery period. | | | | | | | |
| **** Class factors are most recent actual year (2009). | | | | | | | |

II. Recovery of Costs related to the Transmission Portion of the BSP II Project

The Parties agree that:

- A. OTP should be allowed to account for the portion of costs related to the BSP II transmission project ("BSP II Transmission Costs") as detailed in this Section II.

- B. \$2,612,036 represents the total amount of BSP II Transmission Costs incurred by OTP; of which \$1,053,173 represents North Dakota's jurisdictional share of such costs.
- C. OTP shall return the North Dakota Share of Transmission costs to CWIP and such costs shall be eligible for AFUDC continuing as of September 2009 (the month when OTP ceased accruing AFUDC on the project).
- D. If construction of all or a portion of the transmission facilities commences within three years of the Commission Order approving this settlement Agreement, the above BSP II Transmission Costs and accumulated AFUDC shall be included in the rate base investment for these future transmission facilities. If construction is not commenced on any of the transmission facilities within three years of the Commission Order approving this Settlement Agreement, then OTP may petition the Commission to either continue accounting for these costs as CWIP or to commence recovery of such costs. It shall be OTP's burden of proof in any such proceeding to show that there is good cause to continue reflecting the costs as CWIP or that cost recovery is appropriate.

III. Miscellaneous

A. Basis of Settlement Agreement

It is agreed this Settlement Agreement is a negotiated settlement agreement subject to approval by the Commission.

B. Effect of the Settlement Negotiations

It is understood and agreed that all offers of settlement and discussions related to this Settlement Agreement are privileged and may not be used in any manner in connection with proceedings in this case or otherwise, except as provided by law. In the event the Commission does not approve this Settlement Agreement, the Settlement Agreement will not be admissible as evidence in this or any other proceeding and no part thereof may be used by any party for any purpose in this case or in any other.

C. Applicability and Scope

This Settlement Agreement shall be binding on the Parties, and their successors, assigns, agents, and representatives. Consistent with the Commission's settlement guidelines, this Settlement Agreement does not set policy or overturn precedent. This Settlement Agreement shall not in any respect constitute an agreement, admission or determination by any of the Parties as to the merits of any specific allegation or contention made by the Parties in this proceeding.

D. Effective Date

This Settlement Agreement shall be effective on the date of the Commission Order approving the Settlement Agreement.

E. Modification

If the Commission Order modifies or conditions approval of this Settlement Agreement, it shall be deemed terminated if either Party files a letter with the Commission within three (3) business days of the date of such Order stating that a condition or modification to the Settlement Agreement is unacceptable to such Party.

CONCLUSION

The Parties have agreed to the forgoing terms to resolve the contested issues in the above-captioned proceedings. These terms are a result of negotiations between the Parties, are in the public interest and will result in reasonable electric rates. For these reasons, the Parties urge the Commission to approve the Settlement Agreement.

[Signature Pages Follow]

Otter Tail Power Company

By:



Thomas R. Brause
Vice President Administration

Dated this 21st day of April, 2010.

North Dakota Public Service Commission Staff

By: Annette Bendish
Annette Bendish
Counsel to Advocacy Staff

Dated this 24 day of April, 2010.

North Dakota Large Industrial Energy Group

By: 

Richard J. Savelkoul,
Attorney for the North Dakota
Large Industrial Energy Group

Dated this 21 day of April, 2010.

**Otter Tail Power Company
Big Stone II Development Costs
For Period February 1, 2005 through January 26, 2010**

| | | |
|--|--|---------------------|
| 1 | Engineering, procurement and construction management | \$1,467,297 |
| 2 | Project development team (including labor) | \$3,474,522 |
| 3 | Permitting and environmental impact statement | \$2,602,562 |
| 4 | Legal | \$2,899,554 |
| 5 | Other expenditures | \$1,012,417 |
| 6 | Credit from participants that previously withdrew | -\$725,479 |
| 7 | AFUDC | \$1,961,253 |
| BIG STONE II PROJECT DEFERRAL REQUEST | | \$12,692,127 |

Ownership percentages:

OTP paid 19.33% of joint project costs through September 2007, the date when GRE and SMMPA withdrew. OTP funded 26.54% from September 2007 through its withdrawal on September 11, 2009. OTP's share of joint project costs were assigned on a composite percentage basis because of changes in ownership percentages over the life of the project.

Descriptions for breakdown categories:

- 1 **ENGINEERING, PROCUREMENT AND CONSTRUCTION MANAGEMENT:** The plant project's engineering, procurement and construction manager designed and specified the electric generating plant, solicited/evaluated six equipment bid packages in 2006, produced three major cost estimate renditions, performed a coal drying assessment, geotechnical investigation and ultra-supercritical study, and provided testimony at regulatory proceedings. Includes the cost of transmission studies conducted to determine the impact the proposed generator has on the transmission system and the upgrades to allow the generator to interconnect and deliver energy to the transmission system, and preliminary engineering efforts to determine proposed structure types and potential substation layouts.

- 2 **PROJECT DEVELOPMENT TEAM (INCLUDING LABOR):** Includes Otter Tail generation project labor; staff expenses such as meals, lodging, travel; and payments to several independent contractors. The project development team provided assistance for project engineering, permitting, communications and financing efforts. Transmission project management time spent on permitting, engineering, environmental, land or other specifically detailed tasks were included in those specific categories. General transmission staff project management time not specifically assigned to other categories is included here. Internal labor costs and expenses included in this filing were excluded from the test year expenses used in OTP's rate case.

- 3 **PERMITTING AND ENVIRONMENTAL IMPACT STATEMENT:** External costs associated with efforts to obtain the Federal EIS and the following permits: MN CON and route, SD site, PSD air, solid waste, water, and groundwater permits. Permitting activities include development of permits, filing fees and hearing expenses. Excludes all outside attorney fees as they are included in #4 legal. Plant permitting related internal labor costs are included in #2 project development. Transmission permitting costs presented here include outside consultants and internal labor and expenses to support these efforts.

**Otter Tail Power Company
Big Stone II Development Costs
For Period February 1, 2005 through January 26, 2010**

- 4 **LEGAL:** Payments to outside legal firms for generation and transmission activities. Includes work on the project agreements including the Participation Agreement, O&M Services Agreement, Joint Facilities Agreement, Trust Agreement, Interconnection and Transmission Upgrade Allocation Agreement, and Blanket Easement Agreement. Includes outside counsel charges related to financing, new participants and equipment contracts. Also includes external attorney fees for obtaining permits including MN CON and route, SD site, solid waste, water, groundwater and PSD air permits.

- 5 **OTHER:** Includes groundwater tolerance testing costs, insurance premiums and broker fees, communications expenses, scrubber evaluation costs, SD use tax payments, and credits for SD tax rebates. Includes payments for property easements, options and purchases, mineral and water rights, as well as property tax payments, and other miscellaneous charges net of lease revenues. Includes property purchases committed and obligated prior to withdrawing from the project. EXCLUDES any costs for property rights for which OTP continues to have a title interest.

- 6 **CREDIT FROM PARTICIPANTS THAT PREVIOUSLY WITHDREW:** When GRE and SMMPA withdrew from the project in September 2007 they forfeited their trust fund balances and paid exit payments in accordance with the project agreements. The dollars shown here are OTP's 26.54% share of GRE and SMMPA exit payments and trust fund balances when they withdrew from the project.

- 7 **AFUCD:** Allowance for funds used during construction on OTP's CWIP investment for the period February 1, 2005 to August 31, 2009.

**PROCEDURAL HISTORY OF CASE NO. PU-09-739 PRIOR TO FILING OF
SETTLEMENT AGREEMENT**

On December 14, 2009, Otter Tail Power Company filed its Application for Deferred Accounting regarding cost incurred during its participation in the Big Stone II Project. On December 17, 2009, the Commission filed a Letter Returning Otter Tail Power Company's \$50 filing fee.

On December 31, 2009, the Commission Appointed Annette Bendish, Mike Diller, and Jerry Lien as Advocacy Staff.

On January 5, 2010, Mike Diller, Director Economic Regulation, filed a Memo regarding an Ex Parte Communication generally describing the kinds of costs included in Montana-Dakota Utilities Co.'s request for deferred accounting treatment. An Affidavit of Service indicating service on the parties listed on the official service list was filed on January 7, 2010 by the Commission.

On January 11, 2010, the Commission filed a letter addressed to Bruce Gerhardson, Otter Tail Power Company Associate General Counsel indicating the Motion Appointing Advocacy Staff had been approved by the Commission. Annette Bendish, Mike Diller, and Jerry Lien were appointed. On January 19, 2010, those parties on the official service list were noticed of the passing of the Motion Appointing Advocacy Staff.

On January 26, 2010, the Commission filed a Request for Administrative Law Judge, and on January 28, 2010 the Office of Administrative Hearings filed a letter Designating Al Wahl as Administrative Law Judge.

On March 10, 2010, the Commission Issued a Notice of Hearings scheduling a consolidated public hearing for case numbers PU-09-739 and PU-10-30 beginning at 8:30 a.m. CDT on May 5, 2010; an email Notice to the North Dakota Newspaper Association for publication as well as a reply email from the North Dakota Newspaper Association confirming publication process and dates. An Affidavit of Service indicating service on the parties listed on the official service list was filed by the Commission on March 11, 2010 and March 15, 2010.

On March 12, 2010, the Commission filed a Letter to Parties Regarding Court Reporter indicating that the May 5, 2010 hearing would be electronically recorded, and if the parties would like a court report to also record the hearing, they should notify the Commission at least two weeks prior to the hearing of their wishes.

On March 12, 2010, the North Dakota Large Industrial Group filed a Petition to Intervene on behalf of the North Dakota Large Industrial Energy Group.

On March 19, 2010, the Dakota Resource Council and Mark Trechock filed a Petition to Intervene of Dakota Resource Council and Mark Trechock.

ATTACHMENT B

On March 24, 2010, the Commission filed a Motion Adopting Order Granting Intervention to Dakota Resource Council and Mark Trechock. The Commission on March 24, 2010 filed an Order Granting Intervention to Dakota Resource Council and Mark Trechock.

On March 24, 2010, the Commission filed a Motion Adopting Order Granting Intervention to those parties belonging to the North Dakota Large Industrial Group. The Commission on March 24, 2010 filed an Order Granting Intervention to those parties belonging to the North Dakota Large Industrial Group.

On March 26, 2010, the Commission filed an Affidavit of Service indicating service to those parties listed on the official service list of the Orders Granting Intervention.

On April 7, 2010, the North Dakota Newspaper Association filed their Affidavit of Publication and Invoice for the publication of the Notice of Hearing.

On April 20, 2010, the Commission filed an Affidavit of Service indicating service of the Montana-Dakota Utilities Co. cases' Settlement Agreement upon those parties listed on the official service list.

**PROCEDURAL HISTORY OF CASE NO. PU-10-30 PRIOR TO FILING OF
SETTLEMENT AGREEMENT**

On January 19, 2010, Otter Tail Power Company filed its Application for Determination That Continuation of the Big Stone II Project is No Longer Prudent.

On January 26, 2010, the Commission filed a Request for Administrative Law Judge, and on January 28, 2010, the Office of Administrative Hearings filed a Letter Designating Al Wahl as Administrative Law Judge.

On February 19, 2010, the Commission filed a Letter Regarding Certified Mail of Notices and Orders addressed to Bruce Gerhardson, Otter Tail Power Company Associate General Counsel and Bernadeen Brutlag, Otter Tail Power Company Manager of Regulatory Services stating that certified mailings would be sent to Mr. Gerhardson and Ms. Brutlag would receive regular mailings of those documents unless otherwise notified by Otter Tail Power Company.

On March 10, 2010, the Commission Issued a Notice of Hearings scheduling a consolidated public hearing for case numbers PU-09-739 and PU-10-30 beginning at 8:30 a.m. CDT on May 5, 2010; an email notice to the North Dakota Newspaper Association for publication as well as a reply from the North Dakota Newspaper Association confirming publication process and dates. An Affidavit of Service indicating service on the parties listed on the official service list was filed by the Commission on March 11, 2010 and March 15, 2010.

On March 12, 2010, the Commission filed a Letter to Parties Regarding Court Reporter indicating that the May 5, 2010 hearing would be electronically recorded, and if the parties would like a court report to also record the hearing, they should notify the Commission at least two weeks prior to the hearing of their wishes.

On March 18, 2010, the North Dakota Large Industrial Group filed a Petition to Intervene on behalf of the North Dakota Large Industrial Group.

On March 19, 2010, the Dakota Resource Council and Mark Trechock filed a Petition to Intervene of Dakota Resource Council and Mark Trechock.

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