

## Jeffcoat-Sacco, Ilona

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**From:** Al Wahl [alwahl@gmail.com]  
**Sent:** Tuesday, September 06, 2011 9:19 AM  
**To:** Daniel S. Kuntz; Mark Bring; B. Andrew Brown; Gruman, Mark E.; Jeffcoat-Sacco, Ilona  
**Subject:** Montana-Dakota, PSC Case No. PU-11-163; Otter Tail Power, PSC Case No. PU-11-165  
**Attachments:** Prehearing Order, NDPSC PU-11-163, 165.PDF

Counsel, attached is the order upon the prehearing conference had for the captioned cases September 2. Regards, Al Wahl.

STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION

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PUBLIC SERVICE COMMISSION

**Montana-Dakota Utilities Co.,  
a Division of MDU Resources Group, Inc.  
Application for Advance Determination of Prudence  
Big Stone Air Quality Control System Project**

Case No. PU-11-163

**Otter Tail Power Company  
Application for Advance Determination of Prudence  
Big Stone Air Quality Control System Project**

Case No. PU-11-165

**PREHEARING ORDER**

Upon a prehearing conference held September 2, 2011, with counsel for each of the applicants, the commission's counsel for its adversary staff, and the commission's advisory counsel, the discussion had and the advice of counsel, it is

Recommended, that the commission order the proceedings for the separate applications of Montana-Dakota Utilities Co., Case No. PU-11-163, and Otter Tail Power Company, Case No. PU-11-165, for an advance determination of prudence of the Big Stone Air Quality Control System Project, consolidated for hearing pursuant to N.D. Admin. Code § 69-02-04-04, counsel agreeing that consolidation will facilitate and expedite the hearings for these cases, and neither the rights of the parties nor the public interest will be prejudiced by consolidation; and it is further

Recommended, that the commission provide that its consolidation of the hearings for these cases shall be upon the conditions that (1) the commission will keep a separate docket for each application, (2) there will be one consolidated hearing for the two applications, (3) evidence offered and received at the consolidated hearing shall be deemed relevant to both cases unless offered specifically and only for one case and accompanied by an explanation of the limited application of the evidence, and the limited application of such evidence will be specifically addressed and explained by any proposed finding of fact and conclusion of law based upon such evidence, (4) there will be one hearing record for the two applications, and all of the evidence offered and received at the consolidated hearing will be included in the one hearing record, and (5) the commission will issue

one order on the two applications based on findings of facts and conclusions of law supporting and explaining that order.

Upon consideration of scheduling requirements to facilitate and expedite the parties' preparation for hearing and the advice of counsel, it is

Ordered, that responses to discovery requests shall be served and filed within ten calendar days; provided, however, that if such response shall be unreasonable in the circumstance the responding party shall promptly advise the requesting party of the reason for delay of its response and the date that its response can be made; and it is further

Ordered, that as soon as can reasonably be done applicants shall serve and file reformat-  
ted Joint Exhibits 1, 2, 3, and 4 to add line numbers for each line of text (excluding tables and footnotes) for each page of the exhibits; and it is further

Ordered, that the commission advocacy staff shall serve and file not later than October 21, 2011, the questions and answers constituting the testimony of each witness it expects to call for the consolidated hearing, and the applicants shall serve and file not later than November 10, 2011, the questions and answers constituting the rebuttal testimony it expects to offer for the consolidated hearing; and it is further

Ordered, pursuant to the agreement and express consent of counsel, that all papers to be served for any proceedings for these cases may be served by electronic means; *e.g.*, e-mail, and otherwise in accordance with N.D.R.Civ.P. 5(b).

Dated September 6, 2011.

NORTH DAKOTA PUBLIC SERVICE COMMISSION

By:   
Al. Wahl, Administrative Law Judge