

STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION

North Central Electric Cooperative, Incorporated  
vs. Otter Tail Power Company  
Complaint

Case No. PU-11-701

AFFIDAVIT OF SERVICE CERTIFIED MAIL

STATE OF NORTH DAKOTA  
COUNTY OF BURLEIGH

Cara DeSaye deposes and says that:

she is over the age of 18 years and not a party to this action and, on the 23<sup>rd</sup> day of December, 2011, she deposited in the United States Mail, at Bismarck, North Dakota, one envelope with certified postage, return receipt requested, fully prepaid, securely sealed and containing photocopy of:

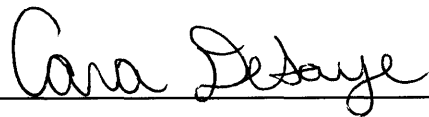
Formal Complaint of North Central Electric Cooperative, Incorporated  
Motion Dated December 21, 2011

The envelope was addressed as follows:

George A Koeck Registered Agent  
For Otter Tail Power Company  
PO Box 9156  
Fargo ND 58106-9156

Cert. No. 7010 1060 0001 0643 5329

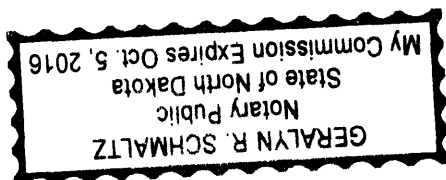
Each address shown is the respective addressee's last reasonably ascertainable mailing address.

  
\_\_\_\_\_

Subscribed and sworn to before me  
this 23<sup>rd</sup> day of December, 2011.

  
\_\_\_\_\_  
Notary Public

SEAL



AL-11-00003

DATE: 12-21-11



## MOTION

December 21, 2011

**North Central Electric Cooperative,  
Incorporated  
vs. Otter Tail Power Company  
Complaint**

**Case No. PU-11-701**

I move the Commission find the December 12, 2011 complaint filed by North Central Electric Cooperative, Incorporated states a *prima facie* case, and serve the complaint on the Respondent, Otter Tail Power Company, in Case No. PU-11-701.

JRL

DONALD A. NEGAARD  
JAMES E. NOSTDAHL  
CAROL K. LARSON  
DAVID J. HOGUE  
REED A. SODERSTROM  
BRENT M. OLSON  
DEBRA L. HOFFARTH  
SCOTT M. KNUDSVIG  
RYAN D. SANDBERG  
MATTHEW H. OLSON

ATTORNEYS LICENSED IN  
NORTH DAKOTA  
MINNESOTA  
MONTANA



LAW OFFICES OF  
**PRINGLE & HERIGSTAD, P.C.**

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MITCHELL H. MAHONEY  
(1929-1996)  
ROGER O. HERIGSTAD  
(1919-2003)  
MARK F. PURDY  
(1927-2011)

December 12, 2011

Executive Secretary  
Public Service Commission  
North Dakota State Capital  
600 East Boulevard, Dept. 408  
Bismarck ND 58505-0480

Re: **North Central Electric Cooperative, Inc. v. Otter Tail Power Company**  
**File Number 66-171.407**

Dear Gentlemen:

Please find enclosed for filing in the above-named matter the following documents:

1. Complaint; and
2. Affidavit in Support of Complaint.

I have included one original, 8 copies (seven copies for PSC and one for the Respondent) and also one courtesy copy. Once said Complaint is filed, please provide to our office a file stamped copy.

Thank you and if you have any questions, please do not hesitate to contact me.

Sincerely,

Debra L. Hoffarth  
DLH/jcs

Enclosures

cc Wayne Martian, North Central Electric Cooperative, Inc.

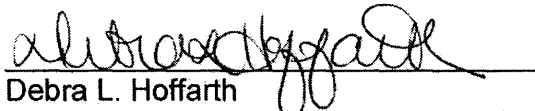


10. Otter Tail is subject to the jurisdiction of the Public Service Commission. Application of Otter Tail Power Co., 354 N.W.2d 701 (N.D. 1984); Application of Otter Tail Power Co., 451 N.W.2d 95, (N.D. 1990).

Therefore, under N.D.C.C. §§ 49-02-02 (2), (4), 49-03-01.1, 49-03-01.4, 49-03-05, North Central requests the Commission, with or without notice, to make its order restraining, enjoining and requiring Otter Tail to cease and desist from constructing an extension of its electric public utility plant and system to and from serving any customer at the place to be served and to require Otter Tail to conform to the laws of this State, until the further order of the Commission after hearing after due notice and that Otter Tail be ordered to remove the extension if its electric public utility plant and system to the Sky Dancer campus.

Dated this 12<sup>th</sup> day of December, 2011

PRINGLE & HERIGSTAD, P.C.



Debra L. Hoffarth  
Attorneys for North Central Electric Cooperative, Inc.  
P.O. Box 1000  
Minot, ND 58702  
701-852-0381



temporary construction service. I also spoke with Dennis Ellefson, area manager of Rugby, Garrison, Jamestown, and Oakes who informed me that Otter Tail had received a request for electric service to Sky Dancer's new building on the Sky Dancer campus, including temporary construction service.

7. On December 1, 2011, North Central discussed this matter with the Turtle Mountain Tribal Chairman who confirmed the Tribe had requested electric service from Otter Tail.
8. On December 7, 2011, North Central received a request to locate its electrical lines for Otter Tail via North Dakota One-Call. The request indicates that the work to be done is the installation of electric main/poles & anchors at a location staked to the construction of the new casino. The request to locate and photographs are attached hereto as Exhibits 1 and 2.
9. On December 9, 2011, Otter Tail began construction of an extension of its public utility plant and system and of its transmission and distribution lines for electrical service on the Sky Dancer campus. It appears that Otter Tail will bore under Highway 5 and that Otter Tail will cross over two of North Central's main three phase underground feeders, one of which serves the Sky Dancer campus, with an overhead distribution line. Otter Tail will cross under Central Power Electric Cooperative, Inc.'s transmission, which provides electrical service to North Central's facilities. It is estimated that Otter Tail's construction will be complete by 12/13/2011. Photographs of the construction are attached hereto as Exhibit 3.
10. Otter Tail's construction of an extension of its public utility plant and system and of its transmission and distribution lines to serve Sky Dancer would interfere with North Central's service and system and is wasteful duplication of facilities.
11. Otter Tail has not obtained from the Public Service Commission a certificate that public convenience and necessity require or will require such construction and service by Otter Tail.

Dated this 12<sup>th</sup> day of December, 2011.

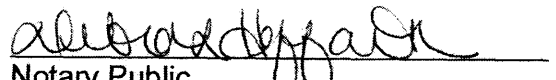


Wayne Martian, Manager  
North Central Electric Cooperative, Inc.

STATE OF NORTH DAKOTA    )  
  ) ss.  
COUNTY OF WARD            )

SUBSCRIBED AND SWORN TO before me this 10<sup>th</sup> day of December, 2011.

DEBRA L. HOFFARTH  
Notary Public  
State of North Dakota  
My Commission Expires Sept. 29, 2012



Notary Public  
For the State of North Dakota  
My commission expires: 9/29/2012

EXHIBIT 1

NORTH DAKOTA ONE-CALL  
REQUEST TO LOCATE

NORTH DAKOTA ONE-CALL

Request #: 11163327

LORQ ROUTINE

Send To: NCENTL01 Seq No: 1 Map Ref:

Original Call Date: 12/07/11 Time: 10:02 AM CT Op: mnkimb  
Work to Begin Date: 12/09/11 Time: 10:15 AM CT  
Transmit Date: 12/07/11 Time: 10:42 AM CT Op: mnkimb

County: ROLETTE Place: TURTLE MOUNTAIN UNOR  
Address: Street: HWY 281  
Nearest Intersecting Street: 39TH AVE NE

Type of Work: INSTALLATION OF ELECTRIC MAIN//POLES & ANCHORS

Work Being Done For: OTTER TAIL POWER

Depth: 6FT

Explosives: N Tnling/Boring: Y

Extent of Work: FROM GO E HWY 281 APPROX 1/2 MILE TO SKY DANCER CASINO  
: APPROACH LOCATED ON N SIDE OF RD AND STAKES LOCATED ON S SIDE OF APPROACH  
: AND MARK 25FT RADIUS OF EACH OF APPROX 15 STAKES GOING N AND W TO NEW  
: CONSTRUCTION OF NEW CASINO AND FROM THIS POINT MARK 20FT RADIUS OF WHITE  
: FLAGGD AREA GOING N INTO CASINO

Remarks: CALLER STATES WORK IS ALSO UNDERGROUND CABLE

: CALLER STATES 39TH AVE NE AKA BIA 11 AKA ROLETTE RD/HWY 281 AKA HWY 5

Twp: 162N Rng: 71W Sect-Qtr: 34

Ex. Coord NW Lat: 48.8210012 Lon: -99.8549928 SE Lat: 48.8046020 Lon: -99.8313530

Company : OTTER TAIL POWER

Fax:

Contact Name: MIC DECOTEAU

(701)477-3577

Alt. Contact: MIC DECOTEAU / C

Phone: (701)550-0023

Caller Address: P.O. BOX 877

Call Back:

ROLLA, ND 58367

UNITED01

Link To Map for NCENTL01: <http://nd.itic.occinc.com/YWH4-CF2-W62-D2Y>

EXHIBIT 2

PHOTOGRAPHS OF OTTER TAIL  
STAKING

0101W Sub Pole





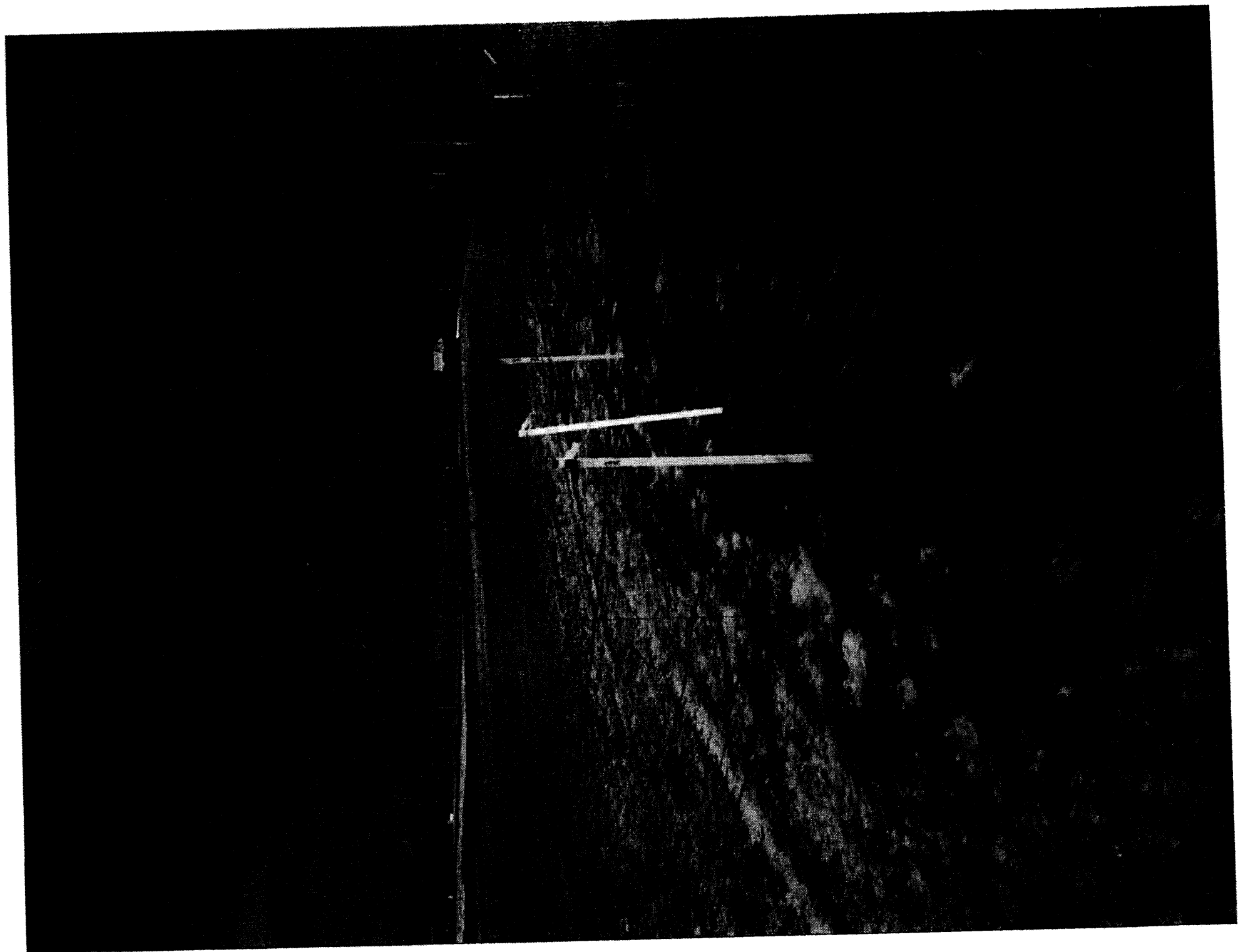


EXHIBIT 3

PHOTOGRAPHS OF OTTER TAIL  
CONSTRUCTION









