

BEFORE THE PUBLIC SERVICE COMMISSION OF NORTH DAKOTA

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APR 24 2012

North Central Electric Cooperative, Inc. )  
)  
Complainant )  
vs. )  
)  
Otter Tail Power Company )  
)  
Respondent. )

**PUBLIC SERVICE COMMISSION**  
**PREHEARING CONFERENCE**  
**SUMMARY AND STIPULATIONS**

**Case No. PU-11-701**  
**OAH File No. 20120087**

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A prehearing conference regarding the above titled administrative matter was held on April 23, 2012, attended by the procedural hearing officer, ALJ Hoberg, counsel for the parties, Ms. Hoffarth, Mr. Sanderson, and Mr. Gerhardson, counsel for the Public Service Commission ("Commission"), Mr. Gruman, and two other Otter Tail employees who did not materially participate. No one appeared representing the Turtle Mountain Band of Chippewa Indians (the "Tribe" or "Tribal").

After the hearing officer summarized the status of the case, the parties agreed to the following stipulations:

1. Sky Dancer Casino is a Tribal owned facility.
2. Sky Dancer Casino is located on Tribal trust property.
3. The Tribe passed a resolution on November 23, 2011, stating that the Tribe wants Otter Tail Power Company to provide electric service to the Sky Dancer Casino facility.
4. The Tribe has a long-standing tribal utility code.
5. The Tribe filed a letter with the Commission through its tribal chairman on February 15, 2012, stating that the Tribe is aware of this proceeding and the Tribe "confirms that it is exercising its inherent sovereignty to determine which utility will provide electric service to Sky Dancer Casino pursuant to the legal precedent set forth in Devils Lake Sioux Tribe v. North Dakota Public Service Comm'n, 896 F.Supp. 955 (D.N.D. 1995)."

The parties agreed that the above facts are true but reserve the right to argue the relevancy of any of the stipulated facts in oral argument.

The parties agreed that unless a request for an evidentiary hearing is specifically made, the hearing scheduled for May 7, 2012, will be held only for the purpose of oral argument on a motion to dismiss and argument for summary disposition of the Complaint. If a request for an evidentiary hearing is made, and an evidentiary hearing is held on May 7, 2012, or otherwise, only parties, including any interveners, will be allowed to present evidence. If no request for an evidentiary hearing is made, only parties, including any interveners, will be allowed to make oral argument at the hearing on May 7, 2012. A request for an evidentiary hearing must be made prior to 5:00 p.m. on May 4, 2012.

The parties agreed that they are likely to waive the 45 day notice requirement of N.D.C.C. section 28-32-21 and N.D. Admin. Code section 69-02-02-02(5), and they will shortly be filing such a wavier with the Commission.

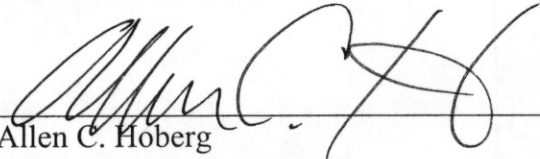
The parties agreed that the Commission's statement of the issues made by Commission Counsel at the prehearing conference are the issues for this matter. Commission counsel will notice the hearing and the issues for the hearing shortly and counsel agreed to state prior to the hearing if they object to the Commission's statement of the issues.

The parties acknowledged that the Tribe may file a petition to intervene. If the Tribe does file a petition to intervene, the parties agreed that if any party has an objection to the Tribe's intervention, the party will file the objection as soon as possible to expedite a ruling on the petition so that the May 7, 2012, hearing may be held as scheduled. Any petition to intervene must be filed at least 10 days prior to the hearing. See N.D. Admin. Code section 69-02-02-05.

Dated at Bismarck, North Dakota, this 23<sup>rd</sup> day of April, 2012.

State of North Dakota  
Public Service Commission

By: \_\_\_\_\_

  
Allen C. Hoberg  
Administrative Law Judge  
Procedural Hearing Officer  
Office of Administrative Hearings  
2911 North 14<sup>th</sup> Street – Suite 303  
Bismarck, North Dakota 58503  
Telephone: (701) 328-3200

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**CERTIFICATE  
OF SERVICE**

**Case No. PU-11-701  
OAH File No. 20120087**

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The undersigned certifies that true and correct copies of the **PREHEARING  
CONFERENCE SUMMARY AND STIPULATIONS** were mailed, regular mail, on the 23  
day of April 2012, to:

Debra L. Hoffarth  
Pringle & Herigstad  
P O Box 1000  
Minot, ND 58702-1000

Paul Sanderson  
Zuger Kirmis & Smith  
P O Box 1695  
Bismarck, ND 58502-1695

Bruce Gerhardson  
Otter Tail Power Company  
215 South Cascade Street  
Fergus Falls, MN 56538-0496

and that a true and correct copy of the above document was mailed, inside mail, at the State  
Capitol on the 23 day of April 2012, to:

Mark Gruman  
Public Service Commission  
600 East Boulevard Avenue  
Bismarck, ND 58505

OFFICE OF ADMINISTRATIVE HEARINGS  
Allen C. Hoberg, Administrative Law Judge

\_\_\_\_\_  
Louise Wetzel