

ZUGER KIRMIS & SMITH

COUNSELORS AND ATTORNEYS AT LAW

Lyle W. Kirmis
Lance D. Schreiner, P.C.
James S. Hill, P.C. ^
Patrick J. Ward
Rebecca S. Thiem, P.C.
Jerry W. Evenson, P.C. ^
Lawrence A. Dopson
Lawrence E. King, P.C.
Tracy Vigness Kolb, P.C.
Shawnda R. Ereth
Constance N. Hofland
Paul R. Sanderson, P.C. ^
Kara J. Johnson
Claire J. Holloway

316 North Fifth Street
Provident Building
P.O. Box 1695
Bismarck, ND 58502-1695
(701) 223-2711
fax (701) 223-7387
zkslaw@zkslaw.com
www.zkslaw.com

John A. Zuger
1940-2006
Thomas O. Smith
1944-2001

RECEIVED

MAY 01 2012

PUBLIC SERVICE COMMISSION

^Certified Civil Trial Specialist
National Board of Trial Advocacy

Writer's direct e-mail: psanderson@zkslaw.com

May 1, 2012


Mr. Darrell Nitschke
Executive Secretary and Director of Administration
North Dakota Public Service Commission
State Capitol
600 East Boulevard, Dept. 408
Bismarck, ND 58505-0408

**Re: North Central Electric Cooperative, Inc. v. Otter Tail Power Company
Case No. PU-11-701**

Enclosed for filing in the above matter is an original and seven copies of a Petition to Intervene for Special Appearance to Object to Jurisdiction.

If you have any questions, please contact Paul Sanderson at 701-223-2711 or at psanderson@zkslaw.com.

Sincerely,



Brenda Vitek, Secretary to
Paul Sanderson

Enclosure
By electronic filing and hand-delivery

c: Debra L. Hoffarth (e-mail only)
Judge Allen Hoberg (e-mail only)
Mark Gruman (e-mail only)

25 PU-11-701 Filed: 5/1/2012 Pages: 4
Petition to Intervene for Special Appearance to
Object to Jurisdiction

Turtle Mountain Band of Chippewa Indians

Clara J. Holloway, Zuger Kirmis & Smith

BEFORE THE PUBLIC SERVICE COMMISSION OF NORTH DAKOTA

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

**PETITION TO INTERVENE FOR
SPECIAL APPEARANCE TO
OBJECT TO JURISDICTION**

Case No. PU – 11 - 701

PLEASE TAKE NOTICE that pursuant to North Dakota Administrative Code § 69-02-02-05, the Turtle Mountain Band of Chippewa Indians petitions the North Dakota Public Service Commission to intervene in this action by making a special appearance to object to the jurisdiction of the North Dakota Public Service Commission to determine which utility will provide electric service to the Sky Dancer Casino. .

The Turtle Mountain Band of Chippewa Indians files this Petition because it has a legal interest which may be substantially affected by this proceeding. The Turtle Mountain Band of Chippewa Indians asserts it possesses the inherent sovereignty to determine which utility will provide electric service to the Sky Dancer Casino. Our position is in opposition to the relief sought by North Central Electric Cooperative in its Complaint.

North Central Electric's Complaint is asking the Public Service Commission to, in effect, assert personal jurisdiction over the Tribe by determining who can provide electric service to the Casino. This Petition is necessary for the Turtle Mountain Band of Chippewa Indians to be heard at the hearing on this matter on May 7, 2012, pursuant to the Order issued by Judge Hoberg indicating the Tribe would need to intervene to be heard. This Petition is only to contest jurisdiction and should not be construed as voluntary general appearance under N.D.R.Civ.P. 4(b)(4). Wallwork Lease & Rental Co. v. Schermerhorn, 398 N.W.2d 127, 129 (N.D. 1986).

This Petition to Intervene will not unduly broaden the issues or delay the proceeding.

Dated this 1st day of May, 2012.

By: Clara J. Holloway
Tracy Vigness Kolb (ID# 05338)
Clara J. Holloway (ID# 06905)
ZUGER KIRMIS & SMITH
Attorneys for Turtle Mountain Band
of Chippewa Indians
P.O. Box 1695
Bismarck, ND 58502
Telephone (701) 223-2711

BEFORE THE PUBLIC SERVICE COMMISSION OF NORTH DAKOTA

North Central Electric Cooperative, Inc.,)

Complainant,)

vs.)

Otter Tail Power Company,)

Respondent.)

AFFIDAVIT OF ELECTRONIC SERVICE

Case No. PU – 11 - 701

STATE OF NORTH DAKOTA)
: ss.
COUNTY OF BURLEIGH)

The undersigned, being duly sworn, deposes and says that: I am a United States citizen, over 18 years of age, and on May 1, 2012, I served a copy of the attached:

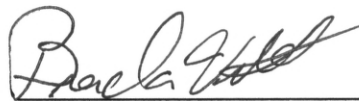
Petition to Intervene for Special Appearance to Object to Jurisdiction

by electronic mail upon counsel and other interested individuals at the below e-mail addresses:

Debra L. Hoffarth dhoffarth@srt.com

Judge Allen Hoberg ahoberg@nd.gov

Mark Gruman mgruman@nd.gov



Brenda Vitek

Subscribed and sworn to before me, today, May 1, 2012.



Notary Public, State of North Dakota

