

**BEFORE THE PUBLIC SERVICE COMMISSION OF NORTH DAKOTA**

North Central Electric Cooperative, Inc. )

Complainant )

vs. )

Otter Tail Power Company )

Respondent. )

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

**RECEIVED**

MAY 02 2012

**PUBLIC SERVICE COMMISSION**

Case No. PU-11-701

OAH File No. 20120087

The petitioner to intervene in this matter is the Turtle Mountain Band of Chippewa Indians (the "Tribe"), a Tribal entity, not a natural person but, rather, an artificial person. The petition was submitted by the Tribe's chairman, Merle St. Claire. A "Tribal Attorney," Rjay Brunkow, subsequently filed a Notice of Appearance of Counsel for the Turtle Mountain Band of Chippewa Indians. It appears that neither Mr. St. Claire nor Mr. Brunkow is a North Dakota licensed attorney. There has been no filing of a petition to intervene by a North Dakota licensed attorney and neither has there been a *pro hac vice* motion filed for the practice of law by Mr. Brunkow under Admission to Practice Rule 3.

Under the rulings of *State v. Riemers*, 2008 ND 191, 757 N.W. 2d 50 and *Wetzel v. Schlenvogt*, 2005 ND 190, 705 N.W. 2d 836, an unlicensed natural person may not act as an attorney for an artificial person; this holding applies to all artificial persons. *Riemers*, 2008 ND 190, ¶ 9, citing *Wetzel* 2005 ND 190, ¶ 11; see *Griggs v. Missouri*, 2009 WL 2900254 (W.D. Mo. 2009). Thus, there has been no proper filing of a petition to intervene; the Tribe's filing of its petition with the Commission is void. *Riemers*, 2008 ND 190, ¶ 10, citing *Wetzel* 2005 ND 190, ¶ 12.

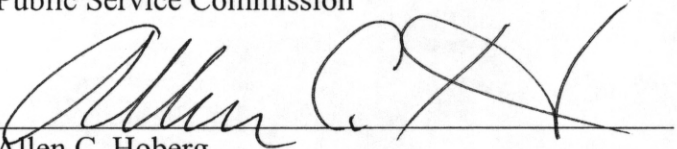
Although N.D. Admin. Code section 69-02-02-05 may give the Tribal Chairman the right to appear in Commission proceedings, practice before the Commission is regulated by N.D. Admin. Code section 69-02-02-06. Attorneys from other jurisdictions may practice before the Commission with Commission permission. This is a complaint proceeding wherein the only participants to appear and practice before the Commission's proceedings are the Complainant, the Respondent, and Interveners. In light of the rulings cited above and the recent revisions to

Admission to Practice Rule 3, it would be improper to allow the Tribe's petition to intervene. An attorney licensed in North Dakota or an attorney admitted to practice *pro hac vice*, must file the petition.

Dated at Bismarck, North Dakota, this 1<sup>st</sup> day of May, 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**

.....  
The undersigned certifies that true and correct copies of the **ORDER ON PETITION  
TO INTERVENE FOR SPECIAL APPEARANCE TO OBJECT TO JURISDICTION**  
were mailed, regular mail, on the 1 day of May 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

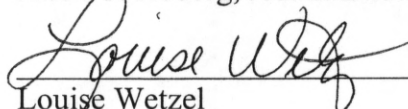
Bruce Gerhardson  
Otter Tail Power Company  
215 South Cascade Street  
Fergus Falls, MN 56538-0496

Rjay Brunkow  
Tribal Attorney  
Turtle Mountain Band of Chippewa  
Highway 5 West  
P.O. Box 900  
Belcourt, ND 58316

and that a true and correct copy of the above document was mailed, inside mail, at the State  
Capitol on the 1 day of May 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