

**Hamre, John G.**

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**From:** -Info-Public Service Commission  
**Sent:** Friday, May 04, 2012 12:50 PM  
**To:** Hamre, John G.  
**Subject:** FW: Stipulation  
**Attachments:** Stipulations for May 7th Hearing.pdf

**From:** Deb Hoffarth [<mailto:debhoffarth@gmail.com>]  
**Sent:** Friday, May 04, 2012 10:29 AM  
**To:** Hoberg, Allen C.  
**Cc:** -Info-Public Service Commission; Paul Sanderson; [bgerhardson@otpc.com](mailto:bgerhardson@otpc.com); Gruman, Mark E.; [rjaybru@hotmail.com](mailto:rjaybru@hotmail.com); Tracy Kolb  
**Subject:** Stipulation

Your Honor:

Please find enclosed a Stipulation Executed by both parties regarding stipulated facts and exhibits for the May 7th hearing. As I understand, the Tribe will not participate in the Stipulation or other evidentiary matters as they have entered only a special appearance to contest jurisdiction.

Sincerely,

Debra L. Hoffarth  
Pringle & Herigstad, P.C.  
2525 Elk Drive  
P.O. Box 1000  
Minot, N.D. 58702-1000  
Telephone: 701-852-0381  
Facsimile: 701-857-1361  
[dhoffarth@srt.com](mailto:dhoffarth@srt.com)  
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32 PU-11-701 Filed: 5/4/2012 Pages: 7  
Copy of email to ALJ with attached Stipulation

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

North Central Electric Cooperative, Inc.	)	
	)	
Complainant,	)	
	)	<b>Case No. PU-11-701</b>
vs.	)	<b>OAH File No. 20120087</b>
	)	
Otter Tail Power Company,	)	
	)	
Respondent,	)	
	)	
and	)	
	)	
Turtle Mountain Band of Chippewa Indians,	)	
	)	
Intervenor.	)	

**STIPULATION**

COMES NOW the Complainant North Central Electric Cooperative, Inc., by and through its attorney, Debra L. Hoffarth, of Pringle & Herigstad, PC, Minot, North Dakota; Respondent Otter Tail Power Company, by and through its attorney, Paul Sanderson, Bismarck, North Dakota hereby agree and stipulate to the following stipulations and exhibits in addition to those as part of the Prehearing Stipulations dated April 23, 2012:

1. December 12, 2011 Affidavit of Wayne Martian (Docket #1), with the exception of Paragraph 10 to the extent that it calls for a legal conclusion;
2. Request to Locate (Docket #1 - Exhibit 1 to Wayne Martian's Affidavit);
3. Photographs of Otter Tail Staking (Docket #1 - Exhibit 2 to Wayne Martian's Affidavit);
4. Photographs of Otter Tail Construction (Docket #1 - Exhibit 3 to Wayne Martian's Affidavit);

5. Grant of Easement for Right of Way to NDDOT from BIA (Docket # 7 - Exhibit A to North Central Electric Cooperative, Inc. Responding to Otter Tail's Motion to Dismiss);
6. Right of Way Plat for NDDOT (Docket #7 – Exhibit A1 to North Central Electric Cooperative, Inc. Responding to Otter Tail's Motion to Dismiss);
7. Amended Gaming Compact Between the Turtle Mountain Band of Chippewa Indians and the State of North Dakota (Docket #7 - Exhibit B to North Central Electric Cooperative, Inc. Responding to Otter Tail's Motion to Dismiss);
8. October 29, 1975 Underground Easements to North Central Electric Cooperative, Inc. from Turtle Mountain Tribe (Attached hereto as Exhibit 1);
9. Map Showing State Highway 5 Running Adjacent to Casino (Attached hereto as Exhibit 2); and
10. Otter Tail Power Company's Distribution Lines Cross North Dakota Highway 5 and North Central's Distribution line and Central Power Electric Cooperative Inc.'s Transmission Lines, from which North Central purchases its electricity.

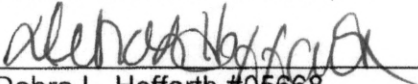
The parties agree that the above facts are true but reserve the right to argue the relevancy of any of the stipulated facts in oral argument.

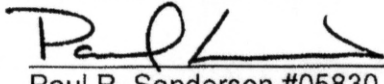
Dated this 4<sup>th</sup> day of May, 2012.

Dated this 4<sup>th</sup> day of May, 2012.

PRINGLE & HERIGSTAD, PC

ZUGER KIRMIS & SMITH

  
 \_\_\_\_\_  
 Debra L. Hoffarth #05668

  
 \_\_\_\_\_  
 Paul R. Sanderson #05830

Attorneys for North Central Electric Cooperative, Inc.  
 2525 Elk Drive, PO Box 1000  
 Minot ND 58702-1000  
 (701) 838-8752

Attorneys for Otter Tail Power Company  
 PO Box 1695  
 Bismarck ND 58502  
 (701) 223-2711

**THIS STIPULATION IS HEREBY APPROVED:**

Dated this \_\_\_\_ day of May, 2012.

State of North Dakota  
Public Service Commission

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

UNDERGROUND EASEMENT

KNOW ALL MEN BY THESE PRESENTS, THAT we, the undersigned \_\_\_\_\_  
(I or We)

Turtle Mtn Band of Chippewa Indians  
(Designate whether single, widow, widower, husband and wife, or corporation)

of the post office address of Belmont, ND  
in consideration of their mutual covenants and for other valuable consideration,  
the receipt whereof is hereby acknowledged, do hereby grant unto NORTH CENTRAL  
ELECTRIC COOPERATIVE, INC., whose post office address is Bottineau, North Dakota  
and to its successors or assigns, the right to enter upon the lands of the under-  
signed, situated in the County of Bottineau, State of North Dakota, and  
more particularly described as follows:

NW 1/4, Sec. 35 Twp. 162 Rge. 71  
SE 1/4, Sec. 34 Twp. 162 Rge. 71  
N 1/2 SW 1/4, Sec. 34 Twp. 162 Rge. 71

and to place, construct, operate, repair, maintain, relocate, and replace a \_\_\_\_\_

15 KV line on said above described lands and in  
or upon, etc., together with the right to excavate and refill trenches for the  
location of the said underground rural distribution line and the further right  
to remove trees, bushes, undergrowth and other obstructions interfering with  
the location, construction, and maintenance of said underground electric distribu-  
tion line and the Cooperative is herewith further afforded the right and privilege  
to construct, place, and locate surface cable markers along the route of the said  
underground distribution line as required, along with the right to repair and  
maintain same.

The undersigned covenant that they are the owners of the above  
described lands and that the said lands are free and clear of encumbrances and  
liens of whatsoever character except those held by the following persons:

\_\_\_\_\_  
\_\_\_\_\_

and except taxes and assessments not yet due.

IN WITNESS WHEREOF, the undersigned have set their hand \_\_\_\_\_ and seal \_\_\_\_\_  
this 29th day of October, 1975.

WITNESS:  
Curtis A. Plouin \_\_\_\_\_  
James J. Agnew \_\_\_\_\_

ACKNOWLEDGMENT FOR INDIVIDUALS

STATE OF NORTH DAKOTA

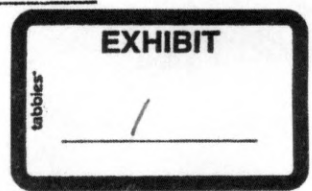
County of Bottineau

On this 29th day of October, 1975, before me, a  
Notary Public, appeared James J. Agnew - Turtle Mtn Band  
of Chippewa Indians known to me to be the person \_\_\_\_\_  
who is described in and who executed the within and foregoing instru-  
ment and acknowledged to me that \_\_\_\_\_ he \_\_\_\_\_ executed the same.

CLAYTON LIDER  
Notary Public, BOTTINEAU CO., N. DAK.  
My Commission Expires OCT. 16, 1978

Clayton Lider  
Notary Public

My Commission expires \_\_\_\_\_  
\_\_\_\_\_, North Dakota  
(County)



UNDERGROUND EASEMENT

KNOW ALL MEN BY THESE PRESENTS, THAT we, the undersigned \_\_\_\_\_

(I or We)

Turtle Mtn Band of Chippewa Indians  
(Designate whether single, widow, widower, husband and wife, or corporation)

of the post office address of Belmont, N. Dak  
in consideration of their mutual covenants and for other valuable consideration,  
the receipt whereof is hereby acknowledged, do hereby grant unto NORTH CENTRAL  
ELECTRIC COOPERATIVE, INC., whose post office address is Bottineau, North Dakota  
and to its successors or assigns, the right to enter upon the lands of the under-  
signed, situated in the County of Balala, State of North Dakota, and  
more particularly described as follows:

NW 1/4, \_\_\_\_\_, Sec. 35 Twp. 162 Rge. 71  
SE 1/4, \_\_\_\_\_, Sec. 34 Twp. 162 Rge. 71  
N 1/2, SW 1/4, \_\_\_\_\_, Sec. 34 Twp. 162 Rge. 71

and to place, construct, operate, repair, maintain, relocate, and replace a \_\_\_\_\_

15 KV. line on said above described lands and in  
or upon, etc., together with the right to excavate and refill trenches for the  
location of the said underground rural distribution line and the further right  
to remove trees, bushes, undergrowth and other obstructions interfering with  
the location, construction, and maintenance of said underground electric distribu-  
tion line and the Cooperative is herewith afforded the right and privilege  
to construct, place, and locate surface cable markers along the route of the said  
underground distribution line as required, along with the right to repair and  
maintain same.

The undersigned covenant that They are the owners of the above  
described lands and that the said lands are free and clear of encumbrances and  
liens of whatsoever character except those held by the following persons:

\_\_\_\_\_  
\_\_\_\_\_

and except taxes and assessments not yet due.

IN WITNESS WHEREOF, the undersigned have set their hand \_\_\_\_\_ and seal \_\_\_\_\_  
this 29th day of October, 1975.

WITNESS:

Curtis A. Plain \_\_\_\_\_  
Peter J. Agnes \_\_\_\_\_

ACKNOWLEDGMENT FOR INDIVIDUALS

STATE OF NORTH DAKOTA  
County of Bottineau

On this 29th day of October, 1975, before me, a  
Notary Public, appeared Peter J. Agnes - Turtle Mtn. Band  
of Chippewa Indians known to me to be the person \_\_\_\_\_  
who is described in and who executed the within and foregoing instru-  
ment and acknowledged to me that \_\_\_\_\_ he \_\_\_\_\_ executed the same.

CLAYTON LIDER  
Notary Public, BOTTINEAU CO., N. DAK.  
My Commission Expires OCT. 16, 1979

Clayton LIDER  
Notary Public

My Commission expires \_\_\_\_\_  
\_\_\_\_\_, North Dakota  
(County)



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**EXHIBIT**  
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