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MAY 10 2012

PUBLIC SERVICE COMMISSION

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May 10, 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 Otter Tail Power Company's Response to Tribe's Special Appearance and North Central's Objection.

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)
Larry Baer (e-mail only)
Rjay Brunkow (e-mail only)
Tracy Kolb (e-mail only)

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Response to Tribe's Special Appearance and North
Central's Objection

Otter Tail Power Company

Paul Sanderson, Zuger Kirmis and Smith

BEFORE THE PUBLIC SERVICE COMMISSION OF NORTH DAKOTA

North Central Electric Cooperative, Inc.,)	
)	
Complainant,)	OTTER TAIL POWER COMPANY'S
)	RESPONSE TO TRIBE'S SPECIAL
vs.)	APPEARANCE AND NORTH
)	CENTRAL'S OBJECTION
Otter Tail Power Company,)	
)	
Respondent.)	Case No. PU – 11 - 701

Otter Tail Power Company ("OTP") submits the following Response to the Turtle Mountain Band of Chippewa Indian's ("Tribe") Special Appearance Objecting to Jurisdiction and North Central Electric Cooperative, Inc.'s ("North Central") Objection to the Tribe's Brief.

OTP has no objection to the Tribe's Special Appearance Objecting to Jurisdiction. The Tribe asserts the North Dakota Public Service Commission ("Commission") lacks subject matter regulatory and adjudicatory jurisdiction in this case. The Tribe's position is consistent with the position asserted in OTP's Motion to Dismiss.

OTP's contends that there are no new facts asserted by the Tribe in its Special Appearance which affect the issue of whether the Commission has jurisdiction over this case. The critical jurisdictional facts were stipulated to prior to the May 7th hearing:

- 1) Service is to be provided to the Sky Dancer Casino which is a Tribal owned facility;
- 2) Sky Dancer Casino is located on Tribal Trust property; and
- 3) The Tribe passed a resolution stating OTP is to provide service to the Sky Dancer Casino.

These jurisdictional facts are undisputed by any party and form the current record on the

issue of jurisdiction. The Commission is able to determine the issue of whether it has jurisdiction over this case based upon these undisputed jurisdictional facts. Therefore, any additional evidence is unnecessary for the Commission's determination of jurisdiction.

OTP respectfully requests the Commission grant its Motion to Dismiss North Central's Complaint.

Dated this 10th day of May, 2012.

By: /s/ Bruce Gerhardson
Bruce Gerhardson
Associate General Counsel
Otter Tail Power Company
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By: 
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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 10, 2012, I served a copy of the attached:

Otter Tail Power Company's Response to Tribe's Special Appearance and North Central's Objection

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

Debra L. Hoffarth
Judge Allen Hoberg
Mark Gruman
Larry Baer
Rjay Brunkow
Tracy Kolb

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Brenda Vitek

Subscribed and sworn to before me, today, May 10, 2012.



Notary Public, State of North Dakota

