

DONALD A. NEGAARD
JAMES E. NOSTDAHL
CAROL K. LARSON
DAVID J. HOGUE
REED A. SODERSTROM
BRENT M. OLSON
DEBRA L. HOFFARTH
SCOTT M. KNUDSVIG
RYAN D. SANDBERG
MATTHEW H. OLSON

ATTORNEYS LICENSED IN
NORTH DAKOTA
MINNESOTA
MONTANA


LAW OFFICES OF
PRINGLE & HERIGSTAD, P.C.
2525 ELK DRIVE
POST OFFICE BOX 1000
MINOT, NORTH DAKOTA 58702-1000
(701) 852-0381
FAX (701) 857-1361
E-mail: pringle@srt.com

OF COUNSEL
HERBERT L. MESCHKE
RETIRED
THOMAS A. WENTZ
JAN M. SEBBY

KENNETH G. PRINGLE
(1914-1983)
MITCHELL H. MAHONEY
(1929-1996)
ROGER O. HERIGSTAD
(1919-2003)
MARK F. PURDY
(1927-2011)

July 13, 2012

Mark Gruman
ND Public Service Commission
600 East Boulevard Avenue, Dept 108
Bismarck ND 58505-0408

Re: North Central Electric Cooperative, Inc. v. Otter Tail Power Company
Case Number PU-11-701

Dear Mr. Gruman:

Enclosed for filing in the above-named matter, please find an original and seven copies of the Reply to Otter Tail Power Company's Response to Request for Reconsideration.

I am also including one additional copy and kindly ask that you stamp as received and return it to our office in the envelope provided.

If you have any questions, please do not hesitate to contact me.

Sincerely,



Debra L. Hoffarth
DLH/js

cc Paul R. Sanderson, via electronic mail only
Bruce Gerhardson, via electronic mail only
ALJ Alan Hoberg, via electronic mail only
Tracy Kolb, via electronic mail only
Larry Baer, via electronic mail only
Turtle Mountain Tribe, Rjay Brunkow, via electronic mail only
Wayne Martian, North Central Electric Cooperative, Inc., via US Mail

BEFORE THE PUBLIC SERVICE COMMISSION OF NORTH DAKOTA

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

REPLY TO OTTER TAIL POWER COMPANY’S RESPONSE TO REQUEST FOR RECONSIDERATION

Otter Tail Power Company (“Otter Tail”) argues that North Central Electric Cooperative, Inc.’s (“North Central”) Request for Reconsideration should be denied because North Central did cite new facts or legal authority to justify reconsideration or reversal of the Commission’s Findings of Fact, Conclusions of Law, and Order.

Rule 60 of the North Dakota Rules of Civil Procedure allows for relief from judgment any reason that justifies release. N.D.R.CIV.PRO. 60(b)(6). The Commission rules indicate that a Request for Reconsideration must have the following contents:

“The petition must set forth clearly the facts claimed to constitute the grounds requiring reopening of the proceeding, including any material changes of fact or law alleged to have occurred since the conclusion of the hearing.”

N.D.Admin. Code § 69-02-06-01(1). In its Request for Reconsideration, North Central argues that the Commission misapplied the law. This misapplication of law justifies reversal of the Commission's order. There is no requirement in the Commission Rules that requiring new law. In any event, misapplication of law is a reason that justifies relief from judgment.

CONCLUSION

North Central seeks an order withdrawing the June 14, 2012 Findings of Fact, Conclusions of Law, and Order for Judgment and granting of North Central's Motion for Summary Judgment.

Dated this 13th day of July, 2012.

PRINGLE & HERIGSTAD, PC



Debra L. Hoffarth #05668
Attorneys for North Central Electric
Cooperative, Inc.
2525 Elk Drive, PO Box 1000
Minot ND 58702-1000
(701) 838-8752

BEFORE THE PUBLIC SERVICE COMMISSION OF NORTH DAKOTA

North Central Electric Cooperative, Inc.,)
)
 Complainant,)
)
 vs.)
)
 Otter Tail Power Company,)
)
 Respondent,)
)
 and)
)
 Turtle Mountain Band of Chippewa Indians,)
)
 Intervenor.)

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


STATE OF NORTH DAKOTA)
) ss
COUNTY OF WARD)

The undersigned, being duly sworn, deposes and says that: I am a United States citizen, over 18 years of age, and on July 13, 2012, I served a copy of the attached:

Reply to Otter Tail Power Company' Response to Request for Reconsideration

by electronic mail upon counsel at the below e-mail addresses:

Paul R. Sanderson psanderson@zkslaw.com
Bruce Gerhardson bgerhardson@otpc.com
Judge Alan Hoberg ahoberg@nd.gov
Rjay Brunkow rjaybru@hotmail.com
Tracy Kolb tkolb@zkslaw.com
Larry Baer lmbaer@baerlodge.com



Jill Stanislawski

Subscribed and sworn to before me this 13th day of July, 2012.

MALAURA SORENSEN
Notary Public
State of North Dakota
My Commission Expires Jan. 7, 2015



Notary Public, State of North Dakota
My Commission Expires _____