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November 2, 2012

Debra Simenson  
Clerk of District Court  
PO Box 1055  
Bismarck, ND 58502

Re: North Central Electric Cooperative, Inc. v. North Dakota Public Service Commission, et al., Civil No. 08-2012-C-1464

Dear Ms. Simenson:

Enclosed for filing in the above matter is Turtle Mountain Band of Chippewa Indians' Appellee Brief.

Sincerely,

  
Tracy Vigness Kolb

Enclosure

cc: Debra Lynn Hoffarth (w/enc.)  
Mark E. Gruman (w/enc.)  
Paul Sanderson (w/enc.)

67 PU-11-701 Filed: 11/5/2012 Pages: 5  
APPEAL - Appellee Brief

Turtle Mountain Band of Chippewa Indians

Rjay J. Brunkow, Tribal Attorney

STATE OF NORTH DAKOTA  
COUNTY OF BURLEIGH


IN DISTRICT COURT  
SOUTH CENTRAL JUDICIAL DISTRICT  
CIVIL NO: 08-2012-C-1464

North Central Electric Cooperative, Inc., )  
)  
Appellant, )  
)  
vs. )  
)  
North Dakota Public Service )  
Commission, Otter Tail Power )  
Company, and Turtle Mountain )  
Band of Chippewa Indians )  
)  
Appellees. )

**TURTLE MOUNTAIN BAND OF  
CHIPPEWA INDIANS'  
APPELLEE BRIEF**

The Turtle Mountain Band of Chippewa Indians intervened in the underlying case before the North Dakota Public Service Commission for the limited purpose of asserting its inherent sovereignty over the determination of which utility will provide electric service to the Sky Dancer Casino. 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 pursuant to the legal precedent set forth in Devils Lake Sioux Indian Tribe v. North Dakota Public Service Comm'n, 896 F.Supp. 955 (D.N.D. 1995). The Tribe's position is in opposition to the relief sought by North Central Electric Cooperative in this appeal. The Tribe respectfully requests this Court affirm the dismissal of North Central Electric Cooperative's Complaint.

Dated this 2<sup>nd</sup> day of November, 2012.

By:   
Rjay Brunkow  
Tribal Attorney  
Turtle Mountain Band of Chippewa Indians  
P.O. Box 900  
Belcourt, ND 58316  
Telephone (701) 477-6121

Dated this 2nd day of November 2012.

By: Tracy Vigness Kolb  
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STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF BURLEIGH

SOUTH CENTRAL JUDICIAL DISTRICT

CIVIL NO: 08-2012-CV-01464

North Central Electric Cooperative, Inc., )

Appellant, )

vs. )

North Dakota Public Service )

Commission, Otter Tail Power )

Company, and Turtle Mountain Band )

of Chippewa Indians, )

Appellees. )

**AFFIDAVIT OF MAILING**

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 November 2, 2012, I served a copy of the attached:

**Turtle Mountain Band of Chippewa Indians' Appellee Brief**

by placing a true copy in a postage paid envelope or envelopes addressed to each person named below, at the address stated below, which is the last known address of the addressee, and by depositing said envelope in the United States mail at Bismarck, North Dakota.

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Paul Sanderson  
Zuger Kirmis & Smith  
PO Box 1695  
Bismarck, ND 58502

  
Victoria Szklarski

Subscribed and sworn to before me, today, November 2, 2012.

  
\_\_\_\_\_  
Notary Public

