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**RECEIVED**

FEB 10 2012

February 10, 2012

VIA ELECTRONIC FILING and UPS OVERNIGHT MAIL

**PUBLIC SERVICE COMMISSION**

Mr. Darrell Nitschke  
Executive Secretary  
North Dakota Public Service Commission  
600 East Boulevard, Dept. 408  
Bismarck, ND 58505-0408

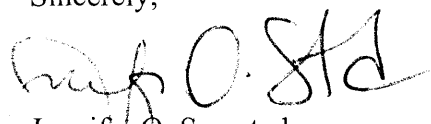
VIA EMAIL TO [dnitschk@nd.gov](mailto:dnitschk@nd.gov)  
AND [ndpsc@nd.gov](mailto:ndpsc@nd.gov)

**Re: Otter Tail Power Company Application for a Certificate of Public Convenience and Necessity**

Dear Mr. Nitschke:

Enclosed in the above-referenced matter is an original and seven (7) copies of Otter Tail Power Company's Application for a Certificate of Public Convenience and Necessity to construct, own and operate 16 miles of 115 kV line.

Sincerely,

  
Jennifer O. Smestad  
Associate General Counsel  
JS/cjk

Enclosures – Application and Attachments 1 & 2

cc: Jerry Lein via email to [jlein@nd.gov](mailto:jlein@nd.gov)  
Al Koeckeritz  
Pete Beithon

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

In the Matter of the Application of )  
Otter Tail Power Company, a Minnesota )  
Corporation, for a Certificate of )  
Public Convenience and Necessity For )  
Otter Tail's Construction of and Ownership )  
Of 16 miles of 115 kV Transmission Line )

Case No. \_\_\_\_\_

**APPLICATION FOR  
CERTIFICATE OF PUBLIC CONVENIENCE  
AND NECESSITY**

Pursuant to N.D.C.C. Chapter 49-03 and N.D.A.C. § 69-02-02-04, Otter Tail Power Company ("Otter Tail" or "the Company" or "Applicant"), a Minnesota Corporation, respectfully submits this application ("Application") for a Certificate of Public Convenience and Necessity ("CPCN") to construct, own and operate approximately 16 miles of 115 kV line traversing from Buffalo, North Dakota to Casselton, North Dakota (hereinafter the "Buffalo-Casselton Line"). The Buffalo-Casselton Line was approved by the Midwest Independent Transmission System Operator, Inc. ("MISO") Board of Directors in the MISO Transmission Expansion Plan in December, 2011.

The Buffalo-Casselton Line is not required to extend service to new retail customers of the Company in North Dakota. Rather the Line will provide enhanced regional reliability in the area.

**A. COMMUNICATIONS AND SERVICE**

Otter Tail respectfully requests that the following persons be placed on the Commission's official service list for all official communications in this case:

Jennifer O. Smestad  
Associate General Counsel  
Otter Tail Corporation

Pete Beithon  
Manager, Regulatory Services  
Otter Tail Power Company

215 South Cascade Street  
Fergus Falls, MN 56537  
Tel. 218-998-7144

215 South Cascade Street  
Fergus Falls, MN 56537  
Tel. 218-739-8607

Al Koeckeritz  
Manager, Project Management  
Otter Tail Power Company  
215 South Cascade Street  
Fergus Falls, MN 56537  
Tel. 218-739-8416

## **B. STATUTORY PROVISIONS**

The statutory provisions governing the requirement for a public utility to file for and obtain a CPCN are as follows:

**49-03-01. Certificate of public convenience and necessity – Secured by electric public utility.** No electric public utility henceforth shall begin construction or operation of a public utility plant or system, or of an extension of a plant or system,...without first obtaining from the commission a certificate that public convenience and necessity require or will require such construction and operation....

**49-03-01.1. Limitation on electric transmission and distribution lines, extensions, and service by electric public utilities.** No electric public utility henceforth shall...extend its electric transmission or distribution lines beyond or outside of the corporate limits of any municipality, nor shall it serve any customer where the place to be served is not located within the corporate limits of a municipality, unless and until, after application, such electric public utility has obtained an order from the commission authorizing such extension and service and a certificate that public convenience and necessity require that permission be given to extend such lines and to serve such customer.<sup>1</sup>

## **C. APPLICATION FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY**

Otter Tail respectfully submits this Application for a Certificate of Public Convenience and Necessity for the Buffalo-Casselton Project and respectfully requests that the Commission issue a CPCN after a notice of opportunity for hearing is issued in this proceeding, if no party requests a hearing. In support thereof, the Company states as follows:

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<sup>1</sup> For the reasons set forth in Otter Tail's August 8, 2007, application for a CPCN in PU-07-607; Otter Tail's December 2, 2003, application for a CPCN in Case No. PU-2805-03-677 at page 3, footnote 1; Otter Tail's July 31, 2003 memoranda cited therein; and Capital Electric Co-op. v. Public Service Commission, 534 N.W.2d 587 (N.D. 1995), Otter Tail respectfully but expressly reserves the right to challenge the Commission's authority under N.D.C.C. Chapter 49-03-01 to require a CPCN application.

1. That Applicant's full name and post office address are:

Otter Tail Power Company  
Attn: Jennifer O. Smestad  
Associate General Counsel  
215 South Cascade Street  
Fergus Falls, MN 56537

2. Applicant is a Minnesota corporation duly authorized to do business in the State of North Dakota as a foreign corporation, and is doing business in the State of North Dakota as a public utility subject to the jurisdiction of and regulation by the Commission under N.D.C.C. Title 49, as amended.

3. Applicant's Certificate of Incorporation and Amendments thereto have been previously filed with the Commission. Such Certificate and Amendments are hereby incorporated by reference, as though fully set forth herein.

4. This Application is being made pursuant to the provisions of Chapter 49-03 of the North Dakota Century Code.

**Attachment 1** depicts by diagram the Buffalo-Casselton Line.

5. Applicant seeks authorization to construct, own and operate the Buffalo-Casselton Line, which was approved as a reliability project in the MISO Transmission Expansion Plan approved in December, 2011. The Company is not extending retail service to any new electric customers in connection with the Buffalo-Casselton Line.

6. The Buffalo-Casselton Line will provide reliability support to the entire area stretching between Forman, Buffalo and Mapleton. It also improves the system during outages of the Buffalo-Maple River 345 kV line and the Forman-Gwinner 115 kV line. Furthermore, it provides another 115 kV path into the Fargo/Moorhead load area offering relief on existing 345/230 kV and 230/115 kV transformers.

7. Applicant is an experienced electric generation, transmission and distribution utility with the expertise and resources to construct and operate the Buffalo-Casselton Line. Otter Tail presently serves more than 129,000 retail electric customers in eastern North Dakota, northwestern Minnesota, and northeastern South Dakota.

7. There will be no change to the Applicant's retail electric service area. Otter Tail's retail electric customers will continue to be served by Applicant under applicable tariffs, rules, and regulations on file with the Commission. It is expected that the facilities that are the subject of this Application will be included in the Applicant's next rate case or in a rate rider filing.

8. Pursuant to N.D.C.C. § 49-22-24, the facilities shall be constructed to comply with the standards of the National Electrical Safety Code.

9. The Commission has indicated it considers ten (10) factors in determining whether to grant a CPCN for a new electric facility.<sup>2</sup> Applicant provides the following response to each of these factors:

- *From whom does the customer prefer electric service?*

Not applicable. No customer has requested direct retail service.

- *What electric suppliers are operating in the general area?*

Not applicable. The Buffalo-Casselton Line will not provide direct retail service in competition with any other retail electric suppliers in the area.

- *What electric supply lines exist within a two-mile radius of the location to be served and when were they constructed?*

Not applicable. The Buffalo-Casselton Line will not provide direct retail service.

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<sup>2</sup> See testimony of Jerry Lein of the Commission staff, presented to the Interim Electric Industry Competition Committee, April 24, 2000.

- *What customers are served by electric suppliers within at least a two-mile radius of the location to be served?*

Not applicable. The Buffalo-Casselton Line will not provide direct retail service.

- *What are the differences, if any, between the electric suppliers available to serve the area with respect to reliability of service?*

Not applicable. The Buffalo-Casselton Line will not provide direct retail service.

- *Which of the available electric suppliers will be able to serve the location in question more economically and still earn an adequate return on its investment?*

Not applicable. The Buffalo-Casselton Line will not extend the Company's retail electric service.

- *Would approval of the application result in wasteful duplication of investment or services?*

No.

- *Is it probable that the location in question will be included within the corporate limits of a municipality within the foreseeable future?*

The length of the Buffalo-Casselton Line is outside the corporate limits of any municipality.

- *Will the service by either of the electric suppliers in the area unreasonably interfere with the service or system of the other?*

Not applicable. The Buffalo-Casselton Line does not extend, and will not provide, retail electric service.

As indicated here, most of the ten criteria typically used by the Commission to review a CPCN application are inapplicable, and the Buffalo-Casselton Line satisfies the few remaining criteria.

10. Applicant believes it is in the public interest that Applicant be granted a Certificate of Public Convenience and Necessity for the authority it requests herein, and that public convenience and necessity require or will require such construction and operation. Pursuant to N.D.C.C. § 49-03-02, Otter Tail requests the Commission grant the requested Application not more than 20 days after a notice of opportunity for hearing is issued in this proceeding, if no party requests a hearing. **Attachment 2** provides a form of Notice of Opportunity for Hearing for the convenience of the Commission and staff.

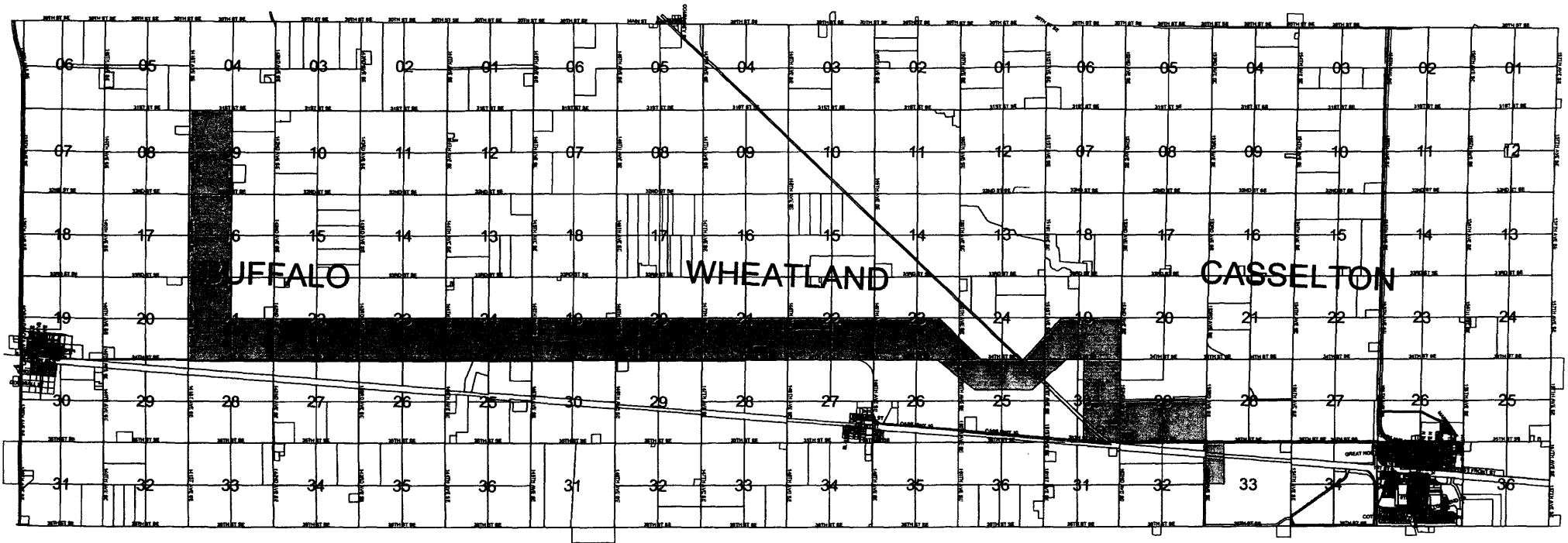
11. Supporting Documents

As described in more detail above, the following attachments enclosed with this Application are required by N.D.C.C. § 49-03-01, et seq.

<u>Attachment</u>	<u>Description</u>
1	Map of the proposed Buffalo-Casselton Line
2	Form of Notice of Opportunity for Hearing

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# Proposed 115kV Line Casselton to Buffalo

**STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION**

**Otter Tail Power Company,  
Application for a Certificate of  
Public Convenience and Necessity**

**Case No. PU \_\_\_\_\_**

**NOTICE OF OPPORTUNITY FOR HEARING**

\_\_\_\_\_, 2012

On \_\_\_\_\_, 2012, Otter Tail Power Company ("Otter Tail") submitted an application for a Certificate of Public Convenience and Necessity for construction and ownership of 16 miles of 115 kV Transmission Line. Otter Tail states that issuance of a CPCN would serve the public interest. Otter Tail is a public utility under Title 49 of the North Dakota Century Code, headquartered at 215 South Cascade Street, Fergus Falls, Minnesota.

The issues to be considered in this matter are:

1. Whether public convenience and necessity will be served by construction, ownership and operation of the facilities;
2. Whether the applicants are fit, willing and able to provide service.

Those interested are invited to comment on this application in writing. Persons desiring a hearing must file a written request identifying their interest in the proceeding and the reasons for requesting a hearing. Comments and requests for hearing must be received by \_\_\_\_\_, 2012. If deemed appropriate, the Commission can determine the matter without a hearing.

For more information contact the Public Service Commission, State Capitol, Bismarck, North Dakota 58505, 701-224-2400, or Relay North Dakota 1-800-366-6888 TTY. If you require any auxiliary aids or services, such as readers, signers, or braille materials please notify Darrell Nitschke, Executive Secretary.

**PUBLIC SERVICE COMMISSION**

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**Kevin Cramer  
Commissioner**

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**Tony Clark  
Chairman**

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**Brian P. Kalk  
Commissioner**