

- i. No later November 12, 2012, Plaintiff shall file its motion for summary judgment.
 - ii. Defendant will file its opposition to Plaintiff's motion for summary judgment and cross-motion for summary judgment no later than December 10, 2012.
 - iii. Plaintiff will file its opposition to Defendant's motion for summary judgment and cross-motion for summary judgment no later than 30-days after the filing of the cross-motion.
 - iv. Defendant will file its reply brief no later than 30-days after the filing of Plaintiff's combined opposition and reply brief.
3. The parties do not anticipate that expert witnesses will be required in this action.
4. The parties do not anticipate that depositions will be required in this action.
5. The parties do not presently anticipate the need to join additional parties.
6. The parties do not anticipate that interrogatories will be served.
7. The parties do not anticipate the need for any discovery depositions or depositions taken for presentation at a trial.
8. Counsel have discussed between themselves and explored with their clients early involvement in alternative dispute resolution and conclude alternative dispute resolution is unlikely to facilitate settlement of this case due to the procedural, non-monetary remedies at issue in this proceeding. However, the parties will continue to informally explore settlement discussions.

9. The parties will not need a mid-discovery status conference, as discovery is not anticipated in this case.

10. The parties will voluntarily waive their rights to proceed before a district judge and consent to have a magistrate judge conduct any and all further proceedings in the case, including the trial, and order the entry of a final judgment.

11. The parties agree that this case presents primarily legal issues which are appropriately resolved through cross-motions for summary judgment. Therefore the parties do not anticipate the need for a trial in this case. However, in the unlikely event a trial would be necessary, the parties agree that any such trial would be nonjury.

12. As stated above, the parties do not anticipate the need for a trial. The parties estimate that the case will be resolved through cross-motions for summary judgment and a single day for hearing argument on those motions.

Respectfully submitted this 5th of October, 2012.

**STATE OF NORTH DAKOTA
WAYNE STENEHJEM
ATTORNEY GENERAL**

/s/Carrie La Seur (by Paul Seby with
permission)

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*Attorneys for the Defendant North Dakota Public
Service Commission*

ORDER

The above scheduling plan is approved with the following addition: Due to the complexity of the legal issues and the numerous "policy memoranda" at issue, the court finds good cause to permit the parties to submit filings exceeding the D.N.D. Civ. L.R. 7.1(A)(1) dispositive motions page limitations. Subject to the requirement that the number of pages filed be reasonable, the court grants the parties leave to file excess pages without filing additional D.N.D. Civ. L.R. 7.1(C) requests to exceed page limitations.

Dated this 12th day of October, 2012.

/s/ Charles S. Miller, Jr.
Charles S. Miller, Jr.
United States Magistrate Judge