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February 12, 2018

Darrell Nitschke  
Executive Secretary  
ND Public Service Commission  
600- East Boulevard Avenue  
Bismarck, ND 58505-0480

**RE: Otter Tail Power Company  
Case No. PU-17-96  
Minn-Kota Ag Products, Inc. - Richland County  
Public Convenience & Necessity  
Response to Minn-Kota Ag Products, Inc.'s Petition to Intervene and Request to  
Present Oral and Written Comments**

Dear Mr. Nitschke:

Otter Tail Power Company respectfully submits the enclosed Response to Minn-Kota Ag Products, Inc.'s Petition to Intervene and Request to Present Oral and Written Comments Filed on February 1, 2018.

An electronic copy of this filing is also being sent to you at [dnitschk@nd.gov](mailto:dnitschk@nd.gov) and to the North Dakota Public Service Commission at [ndpsc@nd.gov](mailto:ndpsc@nd.gov). An original and seven copies will be mailed to your attention.

Please feel free to contact me at (218) 739-8956 or by email at [cstephenson@otpco.com](mailto:cstephenson@otpco.com) if you have any questions.

Sincerely,

*/s/Cary Stephenson*  
Cary Stephenson  
Associate General Counsel

ljh  
Enclosures  
CC: ALJ Patrick J. Ward  
Kimberly J. Radermacher  
Zachary Pelham

**STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION**

**Otter Tail Power Company  
Minn-Kota Ag Products, Inc. - Richland County  
Public Convenience & Necessity**

**Case No. PU-17-96**

**OTTER TAIL POWER COMPANY'S RESPONSE TO  
MINN-KOTA AG PRODUCTS, INC.'S PETITION TO INTERVENE AND REQUEST  
TO PRESENT ORAL AND WRITTEN COMMENTS**

Minn-Kota Ag Products, Inc. (Minn-Kota) has filed a petition seeking to intervene and to present oral and written comments in the above-entitled matter. For the reasons stated herein, Otter Tail Power Company, (Otter Tail or Company) supports Minn-Kota's petition and respectfully requests that Minn-Kota be allowed to present oral and written comments in support of Otter Tail's Application for a Certificate of Public Convenience and Necessity.

Background

On February 1, 2018 Minn-Kota filed a petition with the Commission seeking to intervene in the above-entitled matter, which concerns electric service to a \$20 million grain handling facility (Facility) being constructed by Minn-Kota east of Barney, North Dakota. Specifically, Minn-Kota sought leave to present oral and written comments focusing on key issues under consideration by the Commission, including whether approval of Otter Tail's CPC&N application would result in wasteful duplication, potential waiver of soft stop motor standards and related reliability issues, and how the Facility impacts the public's interest. Dakota Valley Electric Cooperative (Dakota Valley) objected to Minn-Kota's petition in a filing dated February 2, 2018, arguing that while Minn-Kota has standing to be an intervenor, good cause did not exist to grant Minn-Kota's petition.

At a work session on the above-entitled matter on February 5, 2018 the Commission referred Minn-Kota's petition to the Administrative Law Judge. On February 5, 2018 the Administrative Law Judge directed Commission staff and the existing parties to make their positions known no later than February 12, 2018.

## Law & Argument

Otter Tail respectfully submits that Minn-Kota has satisfied the standard for intervention. North Dakota Admin. Code 69-02-02-05 provides the following concerning intervention in Public Service Commission proceedings:

### **69-02-02-05. Intervention.**

Any person with a substantial interest in a proceeding may petition to intervene in that proceeding by complying with this section. An intervention may be granted if the petitioner has a statutory right to be a party to the proceeding; or the petitioner has a legal interest which may be substantially affected by the proceeding, and the intervention would not unduly broaden the issues or delay the proceeding. The commission may impose conditions and limitations on an intervention to promote the interests of justice.

1. **Contents of petition to intervene.** A petition to intervene must be in writing and must set forth the grounds for intervention, the position and interest of the petitioner in the proceeding, what the petitioner would contribute to the hearing, and whether the petitioner's position is in support of or in opposition to the relief sought.
2. **When filed.** A petition to intervene in any proceeding must be filed at least ten days prior to the hearing, but not after except for good cause shown.
3. **Number of copies.** The petitioner will serve a copy of the petition on each party to the proceeding and will file with the commission the original and seven copies.
4. **Effect.** Admission as an intervenor shall not be construed as recognition by the commission that such intervenor might be aggrieved by an order of the commission in such proceeding.

It is not disputed that Minn-Kota has a legal interest which will be substantially affected by the proceeding. It is also clear that intervention, if granted, will not broaden the issue before the Commission or cause any material delay in the Commission rendering a decision. Minn-Kota's petition makes clear that this is seeking to present commentary on a narrow range of issues at the core of the Commission's ultimate decision.

Good cause exists for intervention. Minn-Kota is investing approximately \$20 million dollars in a state-of-the-art grain handling facility located on Highway 13, east of Barney, North Dakota. As the owner of the Facility, and the party most affected by the Commission's final decision, Minn-Kota is in a unique position to provide information

helpful to the Commission's deliberations. This includes commentary addressing questions raised by the Commission in its December 20, 2017 work session. Granting leave to Minn-Kota will allow the Commission to make a better-informed decision. Finally, it is appropriate and reasonable to allow a family-owned business that is taking significant private financial risk to develop a facility serving North Dakota growers and producers the opportunity to comment on key issues.

### Conclusion

Based on the foregoing Otter Tail respectfully requests that the Commission grant Minn-Kota's petition.

Respectfully submitted this 12<sup>th</sup> day of February 2018.

OTTER TAIL POWER COMPANY

By: /s/ Cary Stephenson  
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