

**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**

**ORDER DENYING PETITION TO INTERVENE OF MINN-KOTA AG PRODUCTS, INC.**

On February 1, 2018, Minn-Kota Ag Products, Inc. (“Minn-Kota”) submitted a Petition to Intervene and Request to Present Oral and Written Comments to the Public Service Commission pursuant to Section 69-02-02-05 of the Public Service Commission Rules of Practice and Procedure. One of the parties to the original proceeding, Dakota Valley Electric Cooperative, Inc. (“DVEC”), submitted objections to the request to intervene on February 2, 2018. Otter Tail Power (“OTP”) supports the request. PSC staff takes no position.

The North Dakota Public Service Commission with authority granted under N.D.C.C. § 28-32-28 of the Administrative Agency’s Practices Act has adopted rules for allowing petitions for intervention at § 69-02-02-05 of the North Dakota Administrative Code. Those rules provide that any person with a “substantial interest” in a proceeding may petition to intervene so long as “the intervention would not unduly broaden the issues or delay the proceeding.” The rule also provides that “a petition to intervene in any proceeding must be filed at least 10 days prior to the hearing, but not after except for good cause shown.” (Emphasis added.)

DVEC has argued that under the above rule, Minn-Kota’s right to intervene has long passed and it has not shown good cause for intervening more than three months after the evidentiary hearing. It should be noted, one of the principals of Minn-Kota,

George Schuler, IV, did testify at length regarding his feelings about Minn-Kota's preferences for OTP as service provider at the hearing. In addition to the hearing already taking place over three months ago, the PSC has held a couple of work sessions since that time.

Therefore, assuming Minn-Kota meets the substantial interest test, the only basis to grant a petition for leave to intervene at this point would be for good cause shown because the petition is not timely. Minn-Kota asserts in its petition that its interests had not been "adequately represented by either party to the proceeding." However, OTP has argued that same position and Minn-Kota has previously made many of the same arguments it attempts to make now through the testimony of Mr. Schuler at the hearing. In my opinion, the issues have been substantially and thoroughly laid before the Commission and the Commission can make a reasoned and intelligent decision on the certificate of public convenience and necessity as to the appropriate provider of electric service for this Minn-Kota facility. I also believe there is more than sufficient alignment between the interests of Otter Tail Power and Minn-Kota regarding the arguments that have already been presented and that the interests of Minn-Kota have been adequately represented in front of the commission both at the hearing and in the work sessions subsequent to the hearing.

I conclude that Minn-Kota has not shown the requisite good cause required by the rules and the Administrative Agencies Practices Act for its late attempt to intervene and submit additional information to the commission in this hearing.

THEREFORE, the Petition to Intervene and Request to Present Oral and Written Comments of Minn-Kota in this proceeding is in all things DENIED.

Dated this 19<sup>th</sup> day of February, 2018.

State of North Dakota  
OFFICE OF ADMINISTRATIVE HEARINGS

By: 

Patrick J. Ward ID#03626

Administrative Law Judge

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Val Leopold

Subscribed and sworn to before me, today, February 19, 2018.

Betty Hertz  
NOTARY PUBLIC

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BETTY H. MERTZ  
Notary Public  
State of North Dakota  
My Commission Expires November 7, 2020