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Notification of Service



Case Number: 08-2018-CV-01142
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Case Style: Minn-Kota Ag Products, Inc. vs. North Dakota Public Service Commission, et al.

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Case Style	Minn-Kota Ag Products, Inc. vs. North Dakota Public Service Commission, et al.
Date/Time Submitted	7/20/2018 3:22 PM CST
Filing Type	Brief
Filing Description	Statement in Lieu of Appellee Brief filed on behalf of Otter Tail Power Company
Filed By	Chelsey Norberg
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STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF BURLEIGH

SOUTH CENTRAL JUDICIAL DISTRICT

08-2018-CV-01142

Minn-Kota Ag Products, Inc.)
)
 Appellant,)
)
 vs.)
)
)
 North Dakota Public Service)
 Commission, Dakota Valley)
 Electric Cooperative, and Otter Tail)
 Power Company,)
)
 Appellees.)

**OTTER TAIL POWER COMPANY'S
 STATEMENT IN LIEU OF APPELLEE
 BRIEF**

[1] This matter is an appeal by Minn-Kota Ag Products, Inc. (Minn-Kota) from the Findings of Fact, Conclusions of Law and Order in Case Number PU-17-96 (Order), issued by the North Dakota Public Service Commission ("Commission") on March 29, 2018, denying Otter Tail Power Company's ("Otter Tail") application for a Certificate of Public Convenience and Necessity ("CPCN"), that if granted, would have authorized Otter Tail to provide permanent electric service to Minn-Kota's new \$20 million grain handling facility near the communities of Barney and Moreton, North Dakota. Minn-Kota appeals stating that the Commission erred in (a) denying Minn-Kota Petition to Intervene, thereby precluding Minn-Kota from an opportunity to, among other things, petition the Commission to reopen the proceeding for the purpose of taking additional evidence, and (b) failing to consider evidence - and struck evidence- offered by Minn-Kota to establish good cause for its intervention and in support of Otter Tail's CPCN application.

[2] Otter Tail has not appealed from the Commission's Order denying Otter Tail's application for a CPCN to serve Minn-Kota's grain handling facility. Consequently, OTP is

considered an appellee under this record. Notwithstanding Otter Tail's designation as an appellee, Otter Tail's interests align with Minn-Kota and its appeal, the goal of which is to secure authorization for Otter Tail to serve Minn-Kota's grain handling facility. Otter Tail files this Statement in accordance with a stipulation that any filing it elected to make would be made contemporaneously with Minn-Kota's brief on appeal, rather than in response to Minn-Kota's brief.

[3] Otter Tail's decision to forgo appealing the Commission's Order should not be construed unfavorably to Minn-Kota's appeal and arguments, or favorably to the arguments of other appellees. In the CPCN proceeding before the Commission Otter Tail argued that Minn-Kota satisfied the standard for intervention (CR Exhibit 75), and that the ten-factor test set forth in the Commission's Notice of Hearing strongly supports the issuance of a CPCN authorizing Otter Tail to serve Minn-Kota's grain handling facility (CR Exhibits 65, 69 and 70). Otter Tail reiterates those positions in this appeal, and respectfully request that the Court grant the relief sought by Minn-Kota.

Dated this 20th day of July, 2018.

Otter Tail Power Company

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