

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

TRANSCRIPT OF WORK SESSION

December 20, 2017

1 CHAIRMAN CHRISTMANN: Good afternoon, everyone.
2 We are starting a work session on Case number PU-17-96,
3 Otter Tail Power Company, Minn-Kota Ag Products,
4 Incorporated, of Richland County, a PC&N case.

5 I'm Randy Christmann, chairman of the
6 Commission, and with me are Commissioners Kroshus and
7 Fedorchak. It is 2:31, December 20th, 2017. Also at
8 the table is our legal counsel, Zach Pelham, and Jerry
9 Lein, our engineer and advisor on the case, and Steve
10 Kohl (phonetic) at the electronic controls.

11 I don't have any opening comments. Do --

12 COMMISSIONER FEDORCHAK: I don't either.

13 CHAIRMAN CHRISTMANN: Is this your portfolio?

14 COMMISSIONER FEDORCHAK: No, Brian's.

15 CHAIRMAN CHRISTMANN: Brian's. Do you have any
16 comments?

17 COMMISSIONER FEDORCHAK: I don't.

18 CHAIRMAN CHRISTMANN: Do you have any comments?
19 Or do you want -- if not, just go ahead and kick it off.

20 COMMISSIONER KROSHUS: No, I don't have any
21 comments, just let's get started, get into it.

22 MR. LEIN: You guys want me to just --

23 COMMISSIONER KROSHUS: Yeah, why don't you
24 start?

25 MR. LEIN: I started to try and write an order

1 in this thing, and before I got too far into it, I kind
2 of punted and thought we just need to talk about it
3 first.

4 And so if you wanted to cut to the chase, I
5 think it boils down to whether or not duplication of
6 facilities by Otter Tail is wasteful. They will build a
7 substation off of that transmission line on-site and
8 provide what I would call better service to the customer
9 in doing that. However, there is a distribution system
10 in place there from the co-op that's perfectly capable
11 of serving that load.

12 When I say better service by Otter Tail, I mean
13 that they're going to be on an isolated circuit with
14 those big motors. And engineering-wise, that would be
15 preferable. When you put larger motors on a circuit,
16 when you start the circuit, when you start the motors
17 up, they tend to grab a lot of current when you first
18 start them, and that's the purpose of these soft start
19 devices, is to make that come in, if I'm remembering
20 right, one phase at a time so that they don't grab so
21 much current.

22 If you grab too much current off of the circuit
23 at one time, you can cause voltage brown-out type
24 conditions for the other customers just for a short
25 period of time, but they might feel the current in their

1 own devices, lights and stuff like that.

2 COMMISSIONER FEDORCHAK: Is there mitigating
3 technology for that --

4 MR. LEIN: The soft start devices that we were
5 talking about that the co-op would have required.

6 COMMISSIONER FEDORCHAK: And they bought, right?
7 Wasn't there testimony they bought those?

8 MR. LEIN: I think they already have them for
9 their bigger motors. Otter Tail would have required
10 those devices, too, I think, on the 100-horsepower
11 motors or bigger.

12 COMMISSIONER FEDORCHAK: Not that this is an
13 overriding concern of mine, but do those devices
14 compromise anything for the user, those soft starts, or
15 is it just the cost of them adds -- increases their
16 cost?

17 MR. LEIN: I think it's the cost.

18 COMMISSIONER FEDORCHAK: Okay.

19 MR. LEIN: I don't know if motors would last
20 longer or differently without them, but it might be that
21 they last longer with them. There might be some effect
22 there that I don't know.

23 COMMISSIONER FEDORCHAK: Okay. Thank you.

24 CHAIRMAN CHRISTMANN: I just want to interrupt
25 on that. I think -- I felt like that was a big factor

1 because, to me, one of the big factors in this case --
2 I'll step back. To me, a lot of the ten factors are
3 neutral. I can see a couple that sway one way or maybe
4 the other. The one that was the clearest was the
5 customer preference.

6 And part of what I heard from the customer was
7 not wanting to buy the soft start motors for the -- what
8 was it, either 30 or 50 horsepower on up to 100, at
9 which point then I think Otter Tail Power required them
10 as well. But in the testimony, after his testimony,
11 Dakota Valley Electric said they would waive that
12 requirement. And so to me, that's a pretty big factor
13 then, because that sort of changes what I think he was
14 basing his testimony on, or that part of his testimony.

15 MR. LEIN: And Dakota Valley's waiver was
16 subject to them being able to do it without having any
17 problems on the system.

18 CHAIRMAN CHRISTMANN: Their waiver was under
19 oath on the record.

20 MR. LEIN: But I mean the waiver has some
21 conditions with it. If they hook those motors up and
22 the rest of the circuit starts complaining, they're
23 going to have to go back in and get the soft start.

24 And I think that would be a condition of the
25 waiver that they grant, that says that we'll let you try

1 to get by without these soft start motors, but if it
2 turns out they're needed, you're going to have to get
3 them. I mean, there was something in the brief on that.

4 MR. PELHAM: There's something that we're going
5 to have to clarify that aspect of it, because I don't
6 think you can make a decision based on -- you can
7 certainly make a decision based on what's stated in the
8 record, but I'm not -- as I sit here today, I can't tell
9 you exactly what was specifically said.

10 I recall what you're saying, Commissioner
11 Christmann, as to the waiver. Was it equivocal, though?
12 I think we need to answer that question.

13 MR. LEIN: But my point with the -- with the
14 soft start, bringing them up, is the underlying
15 circuits, Otter Tail's is stronger and that's why it
16 doesn't need those soft starts earlier and there's no
17 other customers on there to be affected. Otter Tail's
18 straight off of that 41.6kV line and the co-op's is
19 going through a distribution system.

20 And that's where I go back to the duplication,
21 whether it's wasteful. I think your primary issue and
22 purpose behind the TIA was to avoid wasteful duplication
23 of facilities, and so your overriding concern in these
24 cases is to avoid wasteful duplication.

25 So if you're looking at it, the duplication

1 gives the customer a stronger service coming straight
2 off of that 41.6 and it gives them that stronger service
3 for less money. But at the same time, from the co-op's
4 point of view, they have a system built up in here
5 that's perfectly capable of serving this load.

6 COMMISSIONER FEDORCHAK: In addition to the
7 wasteful duplication, and that's part of this, but the
8 overriding issue that I keep coming back to is public
9 convenience and necessity.

10 MR. LEIN: Yep.

11 COMMISSIONER FEDORCHAK: Public.

12 MR. LEIN: Yep.

13 COMMISSIONER FEDORCHAK: And so, you know,
14 really keeping that at the forefront and in the review
15 of these factors which are supposed to help us determine
16 that, I mean there's no question that Otter Tail serves
17 the convenience of the business. They want them, I mean
18 they chose them, and they're cheaper.

19 MR. LEIN: Yep.

20 COMMISSIONER FEDORCHAK: And they're more
21 reliable.

22 MR. LEIN: Yep.

23 COMMISSIONER FEDORCHAK: But how does that serve
24 public convenience?

25 MR. LEIN: Yep. That is the point here.

1 COMMISSIONER FEDORCHAK: Because there was
2 pretty -- I mean, it was pretty clear that there was no
3 expansion plans and Otter Tail didn't talk of
4 anticipating additional customers on that substation.
5 And they don't have any natural connection right in that
6 area to customers.

7 MR. LEIN: And those are reasons that you would
8 think that the duplication was wasteful.

9 Maybe we should talk about all of the issues
10 going down.

11 COMMISSIONER FEDORCHAK: I liked it the one
12 time, Jerry, when you had sort of the chart of the ten
13 factors and like, you know, checked off who on each one.

14 It's not maybe as clear on this case because
15 they are a little bit more fuzzy. I agree with you,
16 Randy, that there was maybe more ties.

17 MR. LEIN: Yeah, I --

18 COMMISSIONER FEDORCHAK: But I broke them down
19 in my own way.

20 MR. LEIN: Okay. I can --

21 COMMISSIONER KROSHUS: You've already done
22 that --

23 MR. LEIN: -- to do that too.

24 COMMISSIONER KROSHUS: -- in many ways, haven't
25 you?

1 MR. LEIN: Huh?

2 COMMISSIONER KROSHUS: I said, in effect, you've
3 already done that, haven't you, Jerry?

4 MR. LEIN: Yes. And that sheet you just copied
5 from me?

6 COMMISSIONER KROSHUS: Right, yes.

7 MR. LEIN: That was my table kind of.

8 COMMISSIONER FEDORCHAK: You want to share it
9 with all of us?

10 MR. LEIN: Let me make two more copies of it.

11 CHAIRMAN CHRISTMANN: Would you make a copy for
12 me too?

13 COMMISSIONER FEDORCHAK: Three more.

14 CHAIRMAN CHRISTMANN: I think everyone wants a
15 copy.

16 COMMISSIONER KROSHUS: In fairness, when I
17 copied it, I left my blank one on my desk, so I just,
18 hey, Jerry, can I grab that real quick and copy it?
19 Which is probably why you looked at me a little funny.
20 But no, we had -- I visited with Jerry on this.

21 (Pause)

22 CHAIRMAN CHRISTMANN: Good afternoon, Illona.
23 Did you miss TIA cases so much?

24 MS. JEFFCOAT-SACCO: No. I just thought that,
25 based on yesterday's discussion, there might be a

1 question, but I'm about -- I was just thinking I should
2 go, but (indiscernible). I want to see the chart first.

3 COMMISSIONER FEDORCHAK: Yes.

4 CHAIRMAN CHRISTMANN: Well, if you do have any
5 thoughts --

6 MS. JEFFCOAT-SACCO: Yeah.

7 CHAIRMAN CHRISTMANN: -- I would welcome them.

8 MS. JEFFCOAT-SACCO: I know.

9 COMMISSIONER FEDORCHAK: This is very official,
10 Jerry.

11 MR. LEIN: Yeah, that's what I was --

12 (Laughter)

13 CHAIRMAN CHRISTMANN: So despite these being
14 signed, we've not signed off on your conclusions.

15 MR. LEIN: It's not even a conclusion, it's just
16 some scribbling.

17 CHAIRMAN CHRISTMANN: Okay. I just want to make
18 it clear that we signed this document not filled in.

19 COMMISSIONER FEDORCHAK: Yeah, this is just the
20 notice of hearing.

21 MR. LEIN: It's not part of the record.

22 So going through that, if you look, it's just
23 the notice of hearing. And I only use it because the
24 issues are listed there.

25 And so the first issue is, obviously, Otter Tail

1 -- the customer prefers Otter Tail.

2 The second one: What suppliers are operating in
3 the general area? They both are.

4 The third one: What supply lines exist within a
5 two-mile radius? And I think that Dakota Valley had
6 more lines in the area. You know, and these things
7 aren't really all weighted equally either, so...

8 Next one: What customers are served by electric
9 suppliers within a two-mile radius? And Dakota Valley
10 had that one, too. If you recall, though, there were
11 those two towns that were just barely outside of
12 the two-mile radius that Otter Tail served.

13 MR. PELHAM: I think that's true, but I don't
14 know under the Act that that's -- I mean, it's got to be
15 a two-mile radius, so it's -- it's in there, but --

16 MR. LEIN: Yep. I'm just bringing it to your
17 attention when I say that I gave it to Dakota Valley
18 because they do have more --

19 MR. PELHAM: Just put it this way. I wouldn't
20 feel comfortable from a legal perspective in saying,
21 well, there's these two other communities that are
22 served by Otter Tail. It's outside of the Act and I
23 think that would be problematic.

24 COMMISSIONER FEDORCHAK: Where did the two-mile
25 radius come from and what's the justification for that

1 distance?

2 MR. LEIN: You know, there's not really a good
3 -- it was kind of arbitrary.

4 COMMISSIONER FEDORCHAK: By who? By us or by
5 the court?

6 MR. LEIN: Well, I think that it was us, but the
7 court affirmed it or somehow. The court ended up
8 spitting out these factors, but they kind of took them
9 from us, I think, when they -- when they put them out.
10 So there used to be one in a two-mile and a four-mile or
11 similar, three-mile radius or something like that, the
12 way the thing used to read, and over the years it's
13 turned into a two-mile radius. And I don't know that
14 it's -- that the two miles has a good reason other than
15 it just represents what's right around the load. In
16 this case, it's a rural area.

17 What are the difference with any -- between the
18 suppliers with reliability? And we talked about that
19 earlier. There is a bunch of discussion on SAIDI and
20 CAIDI and things like that in the record. I didn't put
21 a lot into those and put more into just the physics of
22 the proposed services. I think that both suppliers will
23 serve the load reliably, but the service proposed by
24 Otter Tail is likely more reliable.

25 COMMISSIONER KROSHUS: Would you characterize

1 both as highly reliable, though?

2 MR. LEIN: Sure.

3 COMMISSIONER KROSHUS: Okay. So we're splitting
4 hairs at the top?

5 MR. LEIN: With the CAIDI and SAIFI, yeah.
6 Maybe we're splitting hairs on both of them, but I'd
7 have to give the reliability, in my mind, to the Otter
8 Tail proposal. It's just better to have those motors on
9 their own circuit.

10 COMMISSIONER FEDORCHAK: I did on my chart, too,
11 but I have a question about how -- how we're supposed to
12 be viewing this factor. Because if you weigh it a lot,
13 it really just kind of reemphasizes customer preference,
14 I think, because you're really focusing on the
15 reliability for the one customer.

16 MR. LEIN: I think that you can do that with all
17 of these factors.

18 COMMISSIONER KROSHUS: Zach, could I, or either
19 of you, ask a question in terms of these ten factors?
20 Is it fair to say that they're not all equally weighted
21 at ten percent, compromise a hundred percent of --

22 MR. PELHAM: They're not equally weighted, no.

23 COMMISSIONER KROSHUS: And is it subject to how
24 you weight them on an individual basis, interpret them?

25 MR. PELHAM: The customer preference one is

1 probably, in some respects, you know, the least
2 weighted. It's a factor, the court has said, but it's
3 -- it can't be the factor. I don't think any one of
4 these can necessarily be the factor. I think there has
5 to be analysis given by you and the Commission -- or by
6 the Commission, rather, in the findings of facts.

7 And that's why this situation is a little bit
8 different, you know, as far as from my perspective and
9 advising you from a legal perspective. You have the
10 facts, and you as the fact finders are entitled to, in
11 fact called upon, to reach a decision based on the
12 facts.

13 But as specific as your question, Commissioner
14 Kroshus, you know, there is not an even -- necessarily
15 an even weight given to all of these factors. And as
16 been pointed out already in our discussion today is many
17 of these factors are -- there's not a favoring of one or
18 the other, there's an equal weight, I suppose, given.

19 So there are few factors here that are going to
20 be sort of the deciding factors, and then you in your
21 own minds have to reach your own decision based upon how
22 you weigh and how you value those factors that are not
23 carrying equal weight as to Dakota Valley and Otter
24 Tail.

25 But as to your question, Commissioner Fedorchak,

1 that you had asked right before, I mean, the -- you
2 know, this number five factor that we were talking about
3 with respect to reliability of service, and, you know,
4 does it get into the customer preference?

5 And you know, in some respects, the customer
6 preference, I don't want it to be confused in the sense
7 that we heard testimony from the representative of the
8 customer, Minn-Kota. Certainly their preference was
9 very clear. And also, some of that testimony elicited
10 some other areas that would, perhaps, could be argued as
11 supporting Otter Tail's position, and one of those, as
12 Mr. Lein has been talking about, the reliability facet
13 as far as the motors.

14 And that's outside of my wheelhouse. I'm the
15 legal guy and Jerry is going to take on more as to that,
16 but if that is -- that is certainly reliability in the
17 sense as to how those motors are going to be started up
18 and run the facility.

19 But as far as reliability of actually providing
20 the power to the location, I think that's -- and you
21 correct me if I'm wrong, Jerry -- that's more on equal
22 footing as far as the actual power being provided, other
23 than the power from Otter Tail is coming directly from
24 the 41.6kV line to the substation that's going to be
25 built, which is going to be used at this point, as I

1 understand it from the testimony, only for this
2 particular location.

3 COMMISSIONER FEDORCHAK: So basically, the way I
4 have kind of read that and concluded myself, is there
5 are differences but they both can serve them reliably,
6 and so that is sort of the baseline. And if you get
7 into degrees beyond what Brian was talking, say highly
8 reliable, then it's really -- gets to be just a benefit
9 to the one customer.

10 MR. LEIN: To some --

11 COMMISSIONER FEDORCHAK: Not a public
12 convenience.

13 MR. LEIN: Yeah, to some extent, as long as the
14 other customers on that circuit aren't affected by those
15 motors.

16 COMMISSIONER FEDORCHAK: Okay.

17 MR. LEIN: So that goes to number --

18 COMMISSIONER FEDORCHAK: Have you seen that one
19 in other cases play out, Jerry --

20 MR. LEIN: Yeah.

21 COMMISSIONER FEDORCHAK: -- the reliability?

22 MR. LEIN: The motor one has, I think, been a
23 factor lots of times in these TIA cases. There's
24 usually larger motors involved in these bigger loads,
25 and so it affects the power factor of the load and it

1 can affect the voltage on the circuit.

2 COMMISSIONER FEDORCHAK: And so do you know, do
3 you recall the Commission saying that, in the past, that
4 it jeopardized the reliability to other people to the
5 point that it impacted customer public convenience and
6 necessity?

7 MR. LEIN: I don't think so.

8 COMMISSIONER FEDORCHAK: Okay.

9 MR. PELHAM: One thing, too, that concerns me a
10 little bit here is, is we did hear some testimony as far
11 as potential impact on customers if one source is used
12 over the other. I'm not sure, and Jerry, maybe this is
13 something you can weigh in on, as to whether or not you
14 believe there's sufficient fact evidence in there to
15 make a determination as far as whether or not there
16 would be reliability issues potentially to other
17 customers, say, if Dakota Valley's power source was --
18 distribution source was used over Otter Tail's.

19 I mean, the one thing from our perspective,
20 "our" being the Commission's perspective, we just --
21 whatever we decide, whatever you decide, Commissioners,
22 it needs to be supported in the record, and so I want to
23 make sure that you believe that's clear.

24 MR. LEIN: I don't think we have anything in the
25 record that brings up the issue of whether other

1 customers would be affected on these members.

2 COMMISSIONER FEDORCHAK: Okay. Yeah, I don't
3 recall it from the hearing.

4 MR. LEIN: So --

5 CHAIRMAN CHRISTMANN: Well, that is sort of the
6 point of the slow start motors, right?

7 MR. LEIN: Yes, is to -- just to protect the
8 rest of the circuit.

9 MR. PELHAM: Just from a logic standpoint, it
10 wouldn't seem that either company would put in -- you
11 know, put in place a plan that would cause there to be
12 brownouts and would -- you know, each would -- both have
13 equal interests in ensuring that the capability and the
14 integrity of their system is upheld.

15 MR. LEIN: I would -- that's why, as I said, I
16 would expect that the co-op would require them if
17 they're needed. They might -- if they waiver them out,
18 it would be on a condition that they're not needed when
19 they -- once they get going, if people start having
20 issues with them, I think that they'd have to add them.

21 So I think this -- we're way up to six.

22 UNIDENTIFIED SPEAKER: Uh-huh.

23 MR. LEIN: Okay. Which of the available
24 suppliers will be able to serve the location in question
25 more economically and still earn an adequate return on

1 its investment?

2 I've been seeing that as kind of a two-prong
3 thing. They extend the service for an initial cost and
4 then they provide service. The wording here is provide
5 service, and so I think that includes the extension and
6 the cost afterwards, the ongoing cost of serving the
7 load, which is their cost of energy and capacity and
8 everything else.

9 So the co-op can extend service cheaper, quite a
10 bit cheaper, because it doesn't need that substation and
11 transformer.

12 Ongoing-wise, the cost to the customer are less
13 for Otter Tail. And the co-op, I think, gets their
14 power from Central Power Electric, and there's a pretty
15 hefty demand charge coming from Central Power that the
16 co-op needs to consider in its cost of ongoing service.

17 In my mind, the ongoing costs would go in Otter
18 Tail's favor. And so if I was looking at the order, I
19 would split it up and say the cost to extend service are
20 the co-op and the ongoing costs of providing service
21 would be cheaper with Otter Tail.

22 COMMISSIONER FEDORCHAK: Jerry, did Otter Tail's
23 rates include riders or was it just their rate?

24 MR. LEIN: They had an exhibit and it had with
25 and without the riders.

1 COMMISSIONER FEDORCHAK: Okay. Can you help
2 walk through that? Do you have it with you? Or I could
3 even do that with you separately if we don't want to
4 take the time during this work session, but...

5 CHAIRMAN CHRISTMANN: I think it's fine to go
6 ahead if Jerry's prepared.

7 MR. LEIN: Okay.

8 COMMISSIONER FEDORCHAK: Is it one of the
9 late-filed exhibits?

10 MR. LEIN: It is Exhibit 9. And they try to do
11 a cost comparison between the two providers, and they
12 used their own rate, which they say Rate 401 for
13 secondary service, and then they had Dakota Valley's
14 rate which they gave us in an exhibit too. I can't
15 remember which exhibit it was, but...

16 The comparison on 9 was done for two different
17 load factors. And the reason the load factor got to be
18 such an issue in this case is because Otter Tail has a
19 way lower demand rate, 52 cents, they call it a
20 facilities charge, 52 cents per Kw. The co-op has a \$12
21 per Kw demand charge.

22 And if you remember, this was a big load. I'd
23 say 1.5 megawatts maybe. They didn't know exactly what
24 it was, but this one was done for 1.1 megawatts and
25 1.5 megawatts.

1 COMMISSIONER FEDORCHAK: Was this, hold on one
2 second, the hearing Exhibit 9?

3 MR. LEIN: Yeah.

4 COMMISSIONER FEDORCHAK: Okay. Not a late
5 filed?

6 MR. LEIN: No.

7 COMMISSIONER FEDORCHAK: Okay, I'm with you.

8 MR. LEIN: So --

9 COMMISSIONER FEDORCHAK: Rider costs, oh, there
10 it is. Okay, very good.

11 MR. LEIN: Yeah. And that is -- they did that
12 for the 33 percent load factor.

13 COMMISSIONER FEDORCHAK: And do we know what
14 those -- because those costs change a lot, they
15 fluctuate up and down. Do we know where --

16 MR. LEIN: The rider costs?

17 COMMISSIONER FEDORCHAK: Yeah.

18 MR. LEIN: No. They -- I believe they just used
19 the riders that were in effect.

20 COMMISSIONER FEDORCHAK: As they are today?

21 MR. LEIN: Yeah. Or if they've changed --
22 didn't we just approve some? So it might have been the
23 riders before that. I'm not sure which ones they used,
24 but...

25 COMMISSIONER FEDORCHAK: Okay.

1 MR. LEIN: But it gives you an idea.

2 COMMISSIONER FEDORCHAK: Yeah.

3 MR. LEIN: And so the 33 percent load factor,
4 the overall bill is going to be less in favor for Otter
5 Tail than at the 23 percent load factor because --

6 CHAIRMAN CHRISTMANN: Say that whole sentence
7 again.

8 MR. LEIN: Okay. The bills are cheaper for
9 Otter Tail's service. They are more cheaper for Otter
10 Tail's service if the load factor is lower.

11 COMMISSIONER FEDORCHAK: So on that chart over
12 on the right, annual difference --

13 MR. LEIN: We're looking at --

14 COMMISSIONER FEDORCHAK: On the right, bottom
15 right part of Exhibit 9.

16 MR. LEIN: We're looking at the 23 percent load
17 factor on what page? Which says -- that's page 2.

18 COMMISSIONER FEDORCHAK: I think it says on the
19 bottom annual load factor at 33 percent.

20 MR. LEIN: So this is with the 33 percent load
21 factor. There was a difference -- you know, you kind of
22 have to --

23 COMMISSIONER FEDORCHAK: Well, then they didn't
24 -- okay, then they -- well, you have to look at the
25 discounted rates, so that's --

1 MR. LEIN: Yeah. I think -- you got a number
2 there, \$76,000 difference?

3 COMMISSIONER FEDORCHAK: Well, that's on -- what
4 about the next page, though? Yeah. Because that can --
5 includes the discounted rate.

6 MR. LEIN: You know, you can't absolutely
7 compare these because they subtracted out the power
8 factor. The co-op said that they would waive the power
9 factor charges.

10 COMMISSIONER FEDORCHAK: Uh-huh.

11 MR. LEIN: And so on the page that has the
12 23 percent load factor, the power factor charges are
13 waived out of there, and they come to \$30,000 a year.

14 COMMISSIONER FEDORCHAK: They're still in it on
15 this calculation, right?

16 MR. LEIN: Yeah. But I think the thing that you
17 could come away with is the overall bill differences
18 ranges between 66 and 108,000, somewhere, depending on
19 what they come up with.

20 COMMISSIONER FEDORCHAK: Sure. And so the
21 riders are included, that's helpful to know, but the --
22 are the capital credits calculated in any way? Because
23 that almost seems impossible to figure --

24 MR. LEIN: I do believe they are.

25 COMMISSIONER FEDORCHAK: Yeah. What has the

1 Commission done in the past with those?

2 MR. LEIN: I don't think we --

3 COMMISSIONER FEDORCHAK: I mean, it's just such
4 a different way of developing and designing rates. It
5 almost makes it impossible to compare them.

6 MR. LEIN: I don't think we have ever tried to
7 figure capital credits on a cost difference and --

8 COMMISSIONER FEDORCHAK: Is it --

9 MR. PELHAM: The difficulty --

10 COMMISSIONER FEDORCHAK: It isn't legitimate
11 then? Are we saying those don't matter?

12 MR. PELHAM: The difficulty in it is, is it does
13 -- if they are -- if they would be factored in, it would
14 require the Commission to be speculating as to what they
15 would be and to speculate what, while it's, perhaps, on
16 some level likely that at some point in time they're
17 going to get those, it's a period of time in which -- we
18 haven't been presented with, to my knowledge, of any
19 proposed calculation as to how they would be calculated
20 to backed by some type of person who has the expertise
21 to say this is what they are, the present value of those
22 capital credits would be.

23 So my concern from a legal perspective --

24 COMMISSIONER FEDORCHAK: They provided a lot of
25 testimony on that during the hearing, on the capital

1 credit, didn't they, estimation?

2 MR. LEIN: They --

3 MR. PELHAM: That they're going to get it.

4 MR. LEIN: They provided that they'd get them
5 but they never said any idea of how much they would be
6 or how they'd be -- and, you know, I think that the
7 board --

8 COMMISSIONER KROSHUS: I think they did.

9 COMMISSIONER FEDORCHAK: I thought they did.

10 MR. LEIN: -- kind of decides how to cut those
11 lose.

12 COMMISSIONER KROSHUS: I think I'd have to go
13 back into my notes. I know I -- there were questions, I
14 think, we all asked them, I know I asked questions
15 related to that and -- but to the earlier point, I also
16 realize that these are not a guarantee.

17 MR. LEIN: And there might have been a couple
18 and if I'm remembering --

19 COMMISSIONER KROSHUS: Traditionally, they're
20 paid out but --

21 MR. LEIN: If I'm remembering the record, I
22 think there might have been a couple of years when they
23 gave for examples as to what the credits that they
24 issued those years were, like in a percentage basis or
25 something like that, but --

1 MR. PELHAM: If you're using the capital
2 credits, they're not going to -- the customer would not
3 get those for what, is it ten years, roughly? Right?
4 Ten years --

5 MR. LEIN: Or 15 or 20.

6 MR. PELHAM: Or 15 or 20. So the -- my concern
7 is, is how do you calculate what that is? Because I
8 think it has to be calculated now as to what that would
9 bring down the co-op's proposal as far as costs go.

10 And while we may have received testimony as far
11 as capital credits into the future, one, it's
12 speculative as to what they will exactly be; two, they
13 have to be brought down to what the present value of
14 those are today so they can be used to compare with the
15 numbers that have been presented by Otter Tail.

16 That's -- and I'm not saying that can't be done,
17 I'm not saying that at all. I'm just saying that here,
18 I'm not sure that it has been done and whether or not we
19 have a record as to what it possibly would be or the
20 testimony that would allow us to make a reasonable --
21 reasonably rely on what it is being done for purposes of
22 making a -- what is going to be a legal decision.

23 COMMISSIONER KROSHUS: Right, right, that was --

24 COMMISSIONER FEDORCHAK: Well, they did include
25 it in their brief, and I don't know if it was provided

1 -- I thought they talked about it on the record, too.

2 COMMISSIONER KROSHUS: It was a late-filed
3 exhibit in terms of the history of capital credits.

4 MR. PELHAM: Yeah, okay. Now that's coming back
5 to me.

6 COMMISSIONER FEDORCHAK: This year capital
7 credits --

8 COMMISSIONER KROSHUS: Looking at it right now.

9 COMMISSIONER FEDORCHAK: Yeah.

10 MR. PELHAM: I'm certainly not discounting the
11 fact that capital credits exist and have been paid. The
12 difficulty I see is how do you compare that to what has
13 been presented on the record as we have it now.

14 COMMISSIONER KROSHUS: Right.

15 CHAIRMAN CHRISTMANN: I tend to agree with you,
16 Zach, that it's pretty speculative, and at the same
17 time, any time when we're calculating in the costs for
18 either of these competitors to provide service, their
19 rates are all going to change too.

20 MR. PELHAM: Right.

21 CHAIRMAN CHRISTMANN: And so we kind of sit here
22 in this vacuum. Otter Tail has already filed for a rate
23 increase, and I doubt that Dakota Valley's are going to
24 remain stable forever. And so really, all of this
25 having to do with prices --

1 MR. LEIN: Those are -- those are good points.

2 CHAIRMAN CHRISTMANN: -- almost as speculative
3 as --

4 MR. PELHAM: It is. And, you know, we're
5 presented -- we're the fact finders, we're not the fact
6 providers. The Commission has been provided with
7 testimony, has been provided with exhibits by both
8 companies, and based on that, you have a duty, a
9 responsibility, to make a decision based on that.

10 And the difficulty that I see in including an
11 analysis of capital credits, and I'm not going to repeat
12 myself, those are my concerns. Like I said, I'm not
13 saying it couldn't be done, but I'm not sure that in
14 this case we've received that information where you can
15 rely on it to compare it to the numbers presented.

16 MR. LEIN: And if I could add one more thing to
17 this. On this Exhibit 9 there, the top part of the
18 page, those are the numbers. The bottom part of the
19 page, they've assumed some usage in order to come up
20 with what the bill might be.

21 So we don't -- everything is speculation for me.
22 And the bottom part of this exhibit, the rates are
23 what's the only thing that we have. We don't know
24 really what the load factor is going to be. We've got
25 one party saying they think it's more in the

1 neighborhood of 30 and another one thinking more in the
2 neighborhood of 23 percent.

3 Higher load factor means you use more energy, so
4 that means that the energy rates are -- which are lower
5 for the Dakota Valley, are more of a factor.

6 COMMISSIONER FEDORCHAK: So are capital credits
7 just a bonus or are they a significant part of rate
8 making for the co-ops?

9 MR. LEIN: You know, I think of them as kind of
10 a -- almost a bonus. We didn't use -- we have some
11 money here that we were able to save and we didn't use
12 it, and so we -- it stayed in our accounts this time,
13 and it appears we're not going to need it and so we're
14 giving it back.

15 COMMISSIONER FEDORCHAK: That's kind of how I
16 viewed it until I read their brief, Jerry, and then they
17 used some numbers, saying that based upon projected
18 first year revenue for Minn-Kota of 275,000 and using
19 the actual allocation for 2016, Minn-Kota's potential
20 for capital credits in year one would be approximately
21 \$42,400.

22 It's a lot. I mean, that closes the gap
23 significantly.

24 COMMISSIONER KROSHUS: And it is supported by
25 the capital credit allocation that their existing

1 location in Wahpeton is getting, which was, in 2016,
2 revenue of 141, the allocation was 21,749.

3 I think for me the -- I don't even want to say
4 it's a difficulty, it's just the realization that the
5 co-ops have a different rate-making mechanism. While
6 fundamentally the same, there are nuances. We don't see
7 that. But I would have a hard time believing any
8 cooperative out there is not factoring in the potential
9 to pay out credits and keeping those on the books,
10 obviously, when there's a surplus and even projecting
11 them out when they're planning, doing their strategic
12 planning. I think it would be impossible to not have
13 that factored in.

14 MR. LEIN: If you'd like, we can look a little
15 bit more at the capital credit stuff. I'm thinking that
16 the real problem here, the difference is the \$12 demand
17 charge --

18 COMMISSIONER FEDORCHAK: Uh-huh, right.

19 MR. LEIN: It's making the big difference, I
20 think, in the bills, but -- that's why so much time in
21 the hearing was spent on the load factor. The higher
22 the load factor is, the less that \$12 demand charge
23 hurts them. But even if we --

24 COMMISSIONER FEDORCHAK: Why is that, Jerry?

25 MR. LEIN: -- figure the capital credits in, I

1 wouldn't -- in writing the order, I don't think I'd try
2 to quantify the difference in the rates as much as I
3 would just point them out. I guess I don't know till I
4 get in the order and see where it goes when I'm writing
5 it but --

6 COMMISSIONER FEDORCHAK: Can you explain that
7 load factor a little bit, why a higher load factor
8 lessens the impact of that demand charge?

9 MR. LEIN: So you remember the energy was demand
10 times the time that you draw it, multiply it by the time
11 that you draw it.

12 COMMISSIONER FEDORCHAK: Uh-huh.

13 MR. LEIN: So 100 percent load factor would mean
14 that they were drawing their peak load all the time.
15 And so if you were to try to figure out their energy
16 usage then, you'd take their peak load times the number
17 of hours in a year and that would be the number of
18 kilowatt hours that you'd get.

19 If you had a 23 percent load factor, like in
20 here, they're assuming that the thing operates
21 23 percent of the time. And so you would take your
22 load, the 1. -- in this case, it says 1.5 they used,
23 which makes it further harder to compare these two
24 pages, but they use 1.5 -- or 1,540 kilowatt hours --
25 kilowatts times .23 times, what is it, 8,470 hours in a

1 year, I think, something like that?

2 UNIDENTIFIED SPEAKER: 760.

3 MR. LEIN: 760?

4 To come up with the number of kilowatt hours
5 used, which is their last entry on the page there. So
6 if you look at the number of kilowatt hours used, you
7 can go up and look at their rate per kilowatt hour and
8 calculate their rate.

9 So in this case, you'd take their peak demand
10 rate times 52 cents per Kw. That would be their demand
11 charges. And then take it times .23 times the number of
12 hours in a year times the rate per kilowatt hour and
13 that would be their energy charges.

14 So because the energy charges are less for the
15 co-op, if you have a higher load factor, you use more
16 energy.

17 COMMISSIONER FEDORCHAK: I see, yep.

18 MR. LEIN: Yeah. But the whole point being,
19 though, is you don't really know what they're going to
20 do. They're just trying to -- this is what it looks
21 like to us that they're going to do.

22 The bottom line is that it's more -- the bill is
23 more for the co-op service. And then there's a range of
24 what they kind of came up with depending on their
25 assumptions.

1 And the co-op makes a point that the capital
2 credits are -- are not in that range. I don't know if
3 it's really fair or not to take them into consideration,
4 but it's tough to do so.

5 CHAIRMAN CHRISTMANN: However, when you think of
6 public interest, that fee structure that provides for a
7 higher bill from the co-op brings that money back into
8 the co-op --

9 MR. LEIN: Yep.

10 CHAIRMAN CHRISTMANN: -- and presumably,
11 benefits all the other members too.

12 MR. LEIN: Yep.

13 CHAIRMAN CHRISTMANN: Public interest,
14 there's --

15 MR. LEIN: Yep.

16 CHAIRMAN CHRISTMANN: -- potential public
17 benefit there.

18 MR. LEIN: Yes.

19 MR. PELHAM: I think Jerry and I should take a
20 closer look at the capital credit aspect of it and --
21 because it is -- it's hard to quantify and compare, but
22 I don't necessarily think it should necessarily be
23 ignored either.

24 MR. LEIN: Yeah.

25 COMMISSIONER FEDORCHAK: Well, if it's a key

1 piece of their rate making, just because it's not how we
2 traditionally understand rate making, we don't have a
3 reference point, we can't ignore it. That's not --

4 MR. PELHAM: Because if we did ignore it and,
5 you know, it -- I think we have a responsibility to
6 consider all aspects of it and make a decision based on
7 that after having considered it. And if we don't do
8 that, then that's a problem potentially.

9 CHAIRMAN CHRISTMANN: So Zach, did you come back
10 to --

11 MR. PELHAM: I didn't come back. I said I just
12 want to look at it.

13 CHAIRMAN CHRISTMANN: Did you switch back to the
14 subject of capital credits? Because my last point
15 there --

16 MR. PELHAM: Oh.

17 CHAIRMAN CHRISTMANN: -- before you said that
18 wasn't about the capital credits.

19 MR. PELHAM: I'm sorry, I did. I wasn't
20 following you.

21 COMMISSIONER FEDORCHAK: He was still thinking
22 about it.

23 CHAIRMAN CHRISTMANN: Okay. I just wanted to be
24 clear about it. I wasn't talking about capital credits.

25 MR. PELHAM: Okay, I'm sorry.

1 CHAIRMAN CHRISTMANN: The revenues coming into
2 the co-op --

3 MR. PELHAM: Oh, okay.

4 CHAIRMAN CHRISTMANN: -- because of this bill
5 structure --

6 MR. PELHAM: Sure.

7 CHAIRMAN CHRISTMANN: -- which appears to
8 provide for higher bills for this customer --

9 MR. PELHAM: I'm a step slow today.

10 CHAIRMAN CHRISTMANN: -- potentially offset
11 costs for all other members.

12 MR. LEIN: And another thought that I brought up
13 earlier when we were discussing this is that the cost,
14 the marginal cost, the incremental cost for the co-op to
15 serve this thing include paying a big demand charge to
16 Central Power, so those are costs of them providing
17 service. But maybe if we --

18 COMMISSIONER FEDORCHAK: So where did you fall
19 on the economic and return on investment?

20 MR. LEIN: I would have kind of split it. I
21 would have said that overall the cost of providing
22 service, Otter Tail's favored on that one, but
23 (indiscernible) the cost of extending the service itself
24 is to the cooperative.

25 COMMISSIONER FEDORCHAK: Uh-huh. Serve more

1 economically and still earn an adequate return on its
2 investment.

3 So you could look at it, just the cost to serve
4 and return on investment, or are we obligated to look at
5 rates? I thought there's been case history here where
6 the rates, because they change, aren't a factor or
7 shouldn't be used as a factor in this.

8 MR. LEIN: We say that the cost of providing
9 service are reflected in the rates charged. They're
10 supposed to be cost-based rates, and so I think that's
11 kind of really been the crux of looking at the bill
12 under this --

13 COMMISSIONER FEDORCHAK: So it's all of it?
14 Uh-huh. Well, on that then, you have to consider
15 capital credits to get the full picture of the rates.

16 MR. LEIN: If we're going to write that up in
17 the order --

18 COMMISSIONER FEDORCHAK: Right.

19 MR. LEIN: -- that way, yeah, I think. But I
20 don't know that we can give a number on capital credits.
21 We can --

22 COMMISSIONER FEDORCHAK: Yeah, it will be tough.

23 MR. LEIN: Yeah. When they said their -- based
24 on first year revenue, their credits would be, like,
25 \$40,000, well, they're going to keep that for 15 years

1 before they give it back to them, I think, from what
2 I --

3 COMMISSIONER FEDORCHAK: Yeah, I don't quite --
4 I don't know when they start paying those out.

5 MR. LEIN: Well, it's hard to figure out --

6 MR. PELHAM: And what's the interest rate that
7 you apply to reducing it to the present value?

8 COMMISSIONER KROSHUS: Time value of money.

9 MR. PELHAM: Right.

10 MR. LEIN: And all of that. I guess --

11 CHAIRMAN CHRISTMANN: Because we don't know when
12 they're going to be paid out, that's --

13 MR. LEIN: No.

14 MR. PELHAM: Don't know when they're going to be
15 paid out. We don't know what the factor is. There
16 hasn't been any testimony --

17 COMMISSIONER KROSHUS: Why would that be --
18 sorry.

19 MR. LEIN: And you don't know if they'll be
20 paid. If the co-op has some tough times --

21 MR. PELHAM: Present value, you're saying,
22 Commissioner?

23 COMMISSIONER KROSHUS: My question was, why
24 would that be written into the order?

25 MR. LEIN: I don't -- I had not intended to.

1 We're just talking about it at this point.

2 COMMISSIONER KROSHUS: Oh, I'm sorry, I thought
3 you said you would write it into the order.

4 MR. LEIN: I think we have to say something
5 about them, but I don't know if we try to quantify them.
6 I don't really see how we can.

7 COMMISSIONER KROSHUS: I think we could make a
8 generalized statement.

9 MR. LEIN: Yeah.

10 COMMISSIONER KROSHUS: They appear to be highly
11 reliable in terms of history, not just for this
12 cooperative but for others. I mean, in some ways, it's
13 just -- it's almost apples and oranges because we don't
14 see how they put their rate schedules together.

15 MR. LEIN: So you could think a co-op giving
16 back credits every year, if they give them back every
17 year, but -- and you could say on average then it
18 appears that, now anyway, they're running so much a year
19 or something.

20 COMMISSIONER KROSHUS: So here's a question.
21 When an investor-owned has a true-up, referring just --

22 MR. LEIN: Yep.

23 COMMISSIONER KROSHUS: -- as an example at the
24 end of the year and then we take that historical trend,
25 if you will, and it's applied, or we look at it in terms

1 of projected rates for a customer, do we back that out?

2 MR. LEIN: Well --

3 COMMISSIONER KROSHUS: If it has -- it results
4 in a decrease and we don't give them the decrease
5 because we don't know that that's a reliable trend going
6 forward. It's looking back at history versus looking
7 toward the future, but -- I just think there are a lot
8 of ways to get to these numbers at the end of the day.

9 MR. LEIN: You're right. And there is -- it's
10 kind of like a snapshot here because these riders all
11 change and there is a balancing account, like you said,
12 with a true-up in them that goes up and down. And the
13 numbers are an approximation at this point, and the
14 approximation really depends on how much energy they're
15 going to be using, which we don't know, so...

16 COMMISSIONER FEDORCHAK: But you could do a
17 range, you know, because we have quite a lot of
18 specifics in terms of what the rates would be based on
19 23 or 33 percent load and then say testimony was
20 provided that suggests capital credits in the range of
21 whatever is justified here in the record, whatever is
22 provided could impact Dakota Valley's rates by that
23 amount.

24 MR. LEIN: Yes, let's look and see if we can
25 come up with something on the capital credits. We'll go

1 back into the record and see what we can do.

2 Okay. So the next one -- are we ready for the
3 next issue?

4 The next issue, which supplier's extended
5 electric service would best serve orderly and economic
6 development of electric service in the general area?

7 You can see I gave that to Dakota Valley because
8 it's their area really. They've got a distribution
9 system in place, and adding to that extends their three
10 phase service another -- more into that area where the
11 load is. And Otter Tail's not really developed in the
12 area. That was my way of thinking for it.

13 COMMISSIONER FEDORCHAK: So you're saying it's a
14 natural extension of their infrastructure?

15 MR. LEIN: Yeah.

16 CHAIRMAN CHRISTMANN: Not sure it's a real
17 important factor because there was no evidence of future
18 economic development plans for anything in the area.

19 MR. LEIN: That's true.

20 CHAIRMAN CHRISTMANN: But I mean it is here, and
21 I suppose when something big like this develops,
22 sometimes something else does happen beside it so --

23 MR. LEIN: Yeah.

24 CHAIRMAN CHRISTMANN: -- I suppose it is a
25 possibility even though we don't have evidence of that.

1 MR. PELHAM: But if that were to happen, then
2 possibly the Otter Tail substation could be utilized for
3 that purpose too then.

4 MR. LEIN: That's true as well. All of sudden
5 you got a new substation in there.

6 MR. PELHAM: That's where I think we'd be
7 speculating a lot, because there's no evidence that has
8 been presented that indicates that there's likelihood of
9 future development. Could it happen? Absolutely,
10 but...

11 COMMISSIONER FEDORCHAK: It seems to be at the
12 crux of public convenience and necessity to me, that --
13 I mean, orderly and economic development of electric
14 service in a general area. I mean, I know that's where
15 I --

16 MR. LEIN: It was a central issue in the Menards
17 case, I thought.

18 COMMISSIONER FEDORCHAK: And I mean, because
19 public convenience and necessity is the umbrella with
20 which we're to view this stuff. And so orderly and
21 economic development of electric service in the area is,
22 I think, our principal charge in even looking at this
23 stuff.

24 MR. LEIN: Yep.

25 CHAIRMAN CHRISTMANN: And I don't know what kind

1 of ag producers are along the way, but certainly some
2 amount of ag producers are always clamoring if only they
3 had three phase service, and so this will get it closer
4 to some of them. Now, whether there are particular
5 producers who are clamoring for it, we don't know, but
6 there is that.

7 MR. LEIN: Yeah. And you know, you could have
8 given it -- you could give this to Otter Tail as well.
9 I mean, I gave it to Dakota Valley in my mind just
10 because it's their area.

11 COMMISSIONER FEDORCHAK: Does Otter Tail have a
12 distribution service in this area?

13 MR. LEIN: No. They would have after this is --

14 COMMISSIONER FEDORCHAK: After this.

15 MR. LEIN: Yeah.

16 COMMISSIONER FEDORCHAK: But there is an
17 existing distribution service in this area?

18 MR. LEIN: Yeah. And so like I said, you could
19 give this to Otter Tail as well. You could say that
20 having their service in the area is good for the
21 economic development in the area.

22 COMMISSIONER FEDORCHAK: Uh-huh.

23 MR. LEIN: Of the service, of the electric
24 service in the area.

25 MR. PELHAM: But you're also going to be able to

1 say the same for Dakota Valley, I think.

2 MR. LEIN: Yeah.

3 MR. PELHAM: So I don't know -- I think this
4 factor has to be looked at as far as the present time
5 not necessarily in the future.

6 COMMISSIONER FEDORCHAK: Well, in combination
7 with number eight.

8 MR. LEIN: It is the key, I think --

9 COMMISSIONER FEDORCHAK: And I think those two
10 go together.

11 MR. LEIN: Would approval of the application
12 result in wasteful duplication of investment or service?
13 Number eight.

14 And, you know, if I'm remembering right, I think
15 there's a purpose in the TIA that was stated by the
16 legislature, and that was to avoid wasteful duplication
17 of capital intensive electric facilities. And so I
18 think that that is the whole purpose of this. And
19 customer preference is the lesser.

20 And then I zero in on the word "wasteful". In
21 my interpretation of this, "wasteful" is a key word,
22 because I think there's always to be duplication of
23 things.

24 COMMISSIONER FEDORCHAK: Uh-huh. Well, and to
25 that point, Jerry, maybe that's how it points --

1 connects to the orderly and economic development of
2 service, because it -- if you're duplicating service,
3 would you be doing it to serve some customers in that
4 area that you already have or are you -- is somebody
5 else already doing that? And so it would be wasteful.

6 MR. LEIN: It leaves you with almost some
7 discretion, looking at these factors, in my mind, to sum
8 up what we've got and then, in this case, decide if the
9 duplication is wasteful from the public perspective.

10 And so we'll skip to nine?

11 (Laughter)

12 MR. PELHAM: Yeah, eight is really the -- I
13 agree with Jerry, is the crux of -- not necessarily the
14 crux, but one of the cruxes here.

15 Because we've had evidence that's been presented
16 really from both sides and both sides argue it, so I
17 would -- but Jerry's right, I mean, there's discretion
18 here. And how you view it, it is going to be your
19 decision.

20 And, you know, the opinion can be crafted in the
21 manners you decide and we -- Jerry and I discussed this,
22 and it's not Jerry's decision, it's not my decision,
23 it's your decision as far as this particular factor. We
24 can help you out in answering our view on what it means,
25 but I'm not comfortable with making any type of

1 recommendation, that's not my role, my role is to
2 provide legal counsel, and certainly can help you
3 through that process, but ultimately, it's a decision
4 that you get to make.

5 COMMISSIONER FEDORCHAK: Well, do you guys have
6 more consideration to that point? Are you on the fence?

7 CHAIRMAN CHRISTMANN: Yeah. And, you know, at
8 least on some -- some of these, I think a person weighs
9 in and looks at this factor and is it a plus or minus.
10 Some of them, I find myself struggling to judge them
11 alone.

12 Reliability and affordability are factors in
13 whether something is wasteful or not, especially
14 reliability mentioned here in a different number
15 specifically. Well, if we were to grant the certificate
16 to someone and didn't take reliability into
17 consideration, I think you could reach a different
18 conclusion on a case than if you do take reliability
19 into consideration.

20 If you're going to just have a gold standard of
21 extremes, then I guess nothing is wasteful, everybody
22 should have their own individualized system where
23 nothing can be impacted by anything else. But that's
24 not the way -- that's not the kind of system that we
25 have. There is some level of risk and such.

1 And so we need to calculate in these various
2 factors, the reliability and whether there's enough
3 revenue and such along with -- well, each of the various
4 ones in figuring out whether something is wasteful or
5 not.

6 COMMISSIONER FEDORCHAK: I wonder if we were --
7 if you could have the extremes, then there would be no
8 need for us to make these kind of decisions because the
9 companies could just decide for themselves what they
10 wanted to pay and go ahead, right?

11 MR. PELHAM: Here we have two companies that
12 want to provide the power. They both are actively
13 seeking to provide it here.

14 So I mean -- one factor, too, off of what
15 Commissioner Christmann, you just said, I don't think
16 it's lost and I think it's been brought up several times
17 already today, is the public convenience and necessity.
18 So I mean the public, you know, wasteful duplication,
19 investment or service, public, not necessarily for the
20 individual customer, the cost related for the public,
21 not necessarily for the individual customer.

22 So that point can't be lost, and I'm not saying
23 that you're losing it.

24 COMMISSIONER KROSHUS: And the public would be
25 within that distribution area and it would be separated

1 out by rural versus city, which -- so which public are
2 we talking? The public that the co-op serves or the
3 public that Otter Tail serves?

4 MR. PELHAM: Now we're really defining the
5 issue, aren't we? It's a good point, though,
6 Commissioner.

7 COMMISSIONER KROSHUS: But it is -- you know,
8 when I go through these things, which public are we
9 talking about? Because they don't all get the same
10 electric bill.

11 MR. PELHAM: Uh-huh.

12 COMMISSIONER KROSHUS: And the larger loads
13 customers benefit all customers for that company. So
14 it's in their public's best interest, if you will, to
15 get the load, and both will, obviously and
16 understandably, argue the same way.

17 COMMISSIONER FEDORCHAK: On a similar case --

18 COMMISSIONER KROSHUS: Because they don't all
19 benefit equally, at least from a utility rate
20 standpoint. Then you get into the other parts of the
21 equation. But since both can provide service and it's
22 going to be built, I don't -- I don't think we jump into
23 that.

24 COMMISSIONER FEDORCHAK: But I think for the
25 public issue, it's not just the public in this case.

1 That's why we have to look at stuff like wasteful
2 duplication and orderly and economic development.

3 Because over time, there's a broader public
4 interest of applying these factors on these decisions so
5 that there isn't a whole bunch of duplication occurring
6 all over, because that would then erode the benefit to
7 all the publics, not just the public in this case,
8 because people would start paying more for wasteful
9 duplication.

10 COMMISSIONER KROSHUS: They would --

11 CHAIRMAN CHRISTMANN: I agree with that and
12 you're right. And I think the answer to the question is
13 yes, Dakota Valley has their public and Otter Tail has
14 their public, but this case, these types of cases come
15 to us to serve our public, which is everybody in the
16 state.

17 COMMISSIONER FEDORCHAK: Uh-huh.

18 MR. PELHAM: Yeah, I think that's the public
19 we're looking at.

20 CHAIRMAN CHRISTMANN: Most of the people in the
21 state probably aren't going to be impacted by this in
22 any way other than precedent of future cases.

23 MR. PELHAM: Sure.

24 CHAIRMAN CHRISTMANN: But here, it's that
25 southeast region probably -- well, everybody that would

1 be impacted by Otter Tail or Dakota Valley, I think,
2 is --

3 COMMISSIONER KROSHUS: But you can't compare the
4 two because one has a much bigger footprint in a
5 multi-state area than the other.

6 CHAIRMAN CHRISTMANN: Right, their impact to the
7 public is overall not by how many customers benefit or
8 how many future customer benefits.

9 COMMISSIONER KROSHUS: So I think it does have
10 to be more definitive in my opinion. I just see it a
11 little differently because we aren't talking about the
12 same types of organizations. They're different, there
13 are differences, and they're distinct differences.

14 MR. PELHAM: But I think to Commissioner
15 Christmann's point, the public is the public as a whole.
16 You as Public Service Commissioners have a duty and
17 responsibility to the public to determine for the public
18 as a whole, not necessarily parsing out Dakota Valley
19 customers as one public and Otter Tail Power customers
20 as one public. It's the public.

21 And I mean, so how is this case going to be
22 applied in future cases? How have we applied it? You
23 know, each case has its different circumstances. There
24 are different circumstances, so the factors weigh
25 differently in each situation.

1 So I don't know that necessarily splitting out
2 the public of one power provider as to the public of the
3 other power provider is necessarily the proper analysis
4 here. I think it has to be viewed from a public policy
5 as a whole state analysis.

6 COMMISSIONER KROSHUS: State of North Dakota
7 or --

8 MR. PELHAM: State of North Dakota, yeah.

9 COMMISSIONER KROSHUS: So then how do you factor
10 out the Minnesota customers that Otter Tail serves?

11 MR. PELHAM: That's a very good question. I
12 don't know. I don't know how you factor that out, but I
13 mean, here we are, you're elected officials of North
14 Dakota citizens.

15 COMMISSIONER KROSHUS: I think there are 101
16 different ways that you can approach and look at this.
17 I just go down the list of ten factors, and one of the
18 things that keeps going through my mind, over what time
19 period? Is it based on -- so we're taking past history
20 to some extent, we're applying it to present day, and
21 we're trying to project out into the future.

22 And I think you could ask a hundred different
23 people and they'd each have a slightly different way of
24 looking at it or maybe a more than slightly different
25 way, a significantly differently way of looking at it.

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