

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA**

IN THE MATTER OF THE APPLICATION OF)	ORDER FOR AND NOTICE OF
MONTANA-DAKOTA UTILITIES CO. AND)	HEARING
OTTER TAIL POWER COMPANY FOR A)	
PERMIT TO CONSTRUCT THE BIG STONE)	EL13-028
SOUTH TO ELLENDALE 345 KV)	
TRANSMISSION LINE)	

On August 23, 2013, Montana-Dakota Utilities Co., a Division of MDU Resources Group, Inc., a Delaware corporation, and Otter Tail Power Company, a Minnesota corporation, (jointly, the Applicants) filed with the South Dakota Public Utilities Commission (Commission) an Application for a Facility Permit for the Big Stone South to Ellendale 345 kV Transmission Line project (Application) and a Motion to Schedule Prehearing Conference (Motion). The Application requests Commission approval of a permit to construct a 345-kilovolt (kV) transmission line of approximately 150 to 160 miles in South Dakota (Project). The line will cross the South Dakota and North Dakota border in Brown County, South Dakota and extend south and east through Brown, Day, and Grant counties to the Big Stone South Substation in Grant County, South Dakota, near Big Stone City. Modifications to the Project may occur depending on the final route permitted, land rights, and final engineering design. The Commission has jurisdiction over this matter pursuant to SDCL Chapters 1-26 and 49-41B and ARSD Chapter 20:10:22.

On August 26, 2013, the Commission issued a Notice of Application; Order for and Notice of Public Input Hearings; Notice of Opportunity to Apply for Party Status (Order). On August 29, 2013, the Commission electronically transmitted notice of the Application and the intervention deadline of October 22, 2013, to interested individuals and entities on the Commission's PUC Weekly Filings electronic listserv. On September 6, Applicants served the Order by certified mail on all landowners within a half mile of the Project. On September 13, 2013, the Order was served on the governing bodies of all counties and municipalities in the project area, and notices of the public hearings were published in project area newspapers as provided in SDCL 49-41B-5.2 and 49-41B-15. On September 13, 2013, the Commission issued an Order Assessing Filing Fee assessing a filing fee not to exceed the statutory maximum of \$360,000 with a minimum fee of the statutory \$8,000 minimum. The public hearings were held as scheduled on October 17, 2013, in Aberdeen and Milbank.

On October 18, 2013, Gerald Pesall filed an Application for Party Status. On October 21, 2013, Applicants filed responses to the Commission staff's (Staff) first set of data requests. On November 6, 2013, the Commission issued an Order Granting Intervention and Party Status to Gerald Pesall. On January 13, 2014, the Commission issued a Procedural Scheduling Order setting the matter for formal evidentiary hearing on June 10-12, 2014, in Room 413 of the State Capitol Building in Pierre beginning at 1:00 p.m. CDT with days two and three beginning at 8:00 a.m. CDT. On January 27, 2014, Applicants filed a First Amendment to Application (Amendment).

Due to Applicants having made some route changes in certain areas of the Project which will result in some additional landowners coming within the half-mile Project corridor, on March 17, 2014, Commission issued a second Notice of Application; Order for and Notice of

Public Input Hearing; Notice of Opportunity to Apply for Party Status for an additional public input hearing to be held in Aberdeen on May 20, 2014 (Second Order). The Second Order was served by the Commission on all persons on the service list and notice was published in area newspapers. On March 19, 2014, Applicants served by certified mail all additional landowners now within one-half mile of the Project as modified. On April 14, 2014, James R. McKane III, Clark T. Olson, Schuring Farms, Inc., Bradley R. Morehouse, and Kevin Anderson filed Applications for Party Status. On May 1, 2014, the Commission issued an Order Granting Intervention and Party Status to James R. McKane III, Clark T. Olson, Schuring Farms, Inc., Bradley R. Morehouse, and Kevin Anderson.

The Commission will hold a formal evidentiary hearing on the Application, as amended, on June 10-12, 2014, in Room 413 of the State Capitol Building in Pierre beginning at 1:00 p.m. CDT with days two and three beginning at 8:00 a.m. CDT. The parties shall arrive at the hearing room 30 minutes prior to commencement for the marking of exhibits.

The issues at the hearing will be as set forth in SDCL 49-41B-22 as follows:

1. Whether the proposed transmission Project will comply with all applicable laws and rules;
2. Whether the Project will pose a threat of serious injury to the environment or to the social and economic condition of inhabitants or expected inhabitants in the siting area;
3. Whether the Project will substantially impair the health, safety or welfare of the inhabitants; and
4. Whether the Project will unduly interfere with the orderly development of the region with due consideration having been given to the views of governing bodies of affected local units of government.

Based upon these factors, the Commission will decide whether the permit should be granted, denied, or granted upon such terms, conditions or modifications of the construction, operation or maintenance as the Commission finds appropriate, including the appropriate bond amount under SDCL 49-41B-38.

The hearing will be a formal adversarial evidentiary hearing conforming to SDCL Chapter 1-26. All parties have the right to be present and to be represented by an attorney. These rights and other due process rights may be forfeited if not exercised at the hearing. If a party or their representative fails to appear at the time and place set for the hearing, the Final Decision will be based on the testimony and other evidence, if any, provided during the hearing or a Final Decision may be issued by default pursuant to SDCL 1-26-20. All persons testifying will be sworn and subject to cross examination by the Commission Staff, the Commission, and other parties. After the hearing, the Commission will consider all evidence and testimony that was presented at the hearing. The Commission may then enter Findings of Fact, Conclusions of Law, and a Final Decision regarding this matter. As a result of the hearing, the Commission will determine whether a permit for the Project should be granted, denied, or granted upon such terms, conditions, or modifications of the construction, operation, or maintenance of the Project as the Commission deems appropriate. The Commission's Final Decision may be appealed by the parties to the state Circuit Court and the state Supreme Court as provided by law.

It is therefore

ORDERED, that the Commission will hold a formal evidentiary hearing on the Application, as amended, on June 10-12, 2014, in Room 413 of the State Capitol Building in Pierre beginning at 1:00 p.m. CDT, with days two and three beginning at 8:00 a.m. CDT except as otherwise directed by the Commission or hearing examiner at the hearing. The parties shall arrive at the hearing room 30 minutes prior to commencement on day one for the marking of exhibits.

Pursuant to the Americans with Disabilities Act, these hearings will be held in physically accessible locations. Please contact the Public Utilities Commission at 1-800-332-1782 at least 48 hours prior to the hearing if you have special needs so arrangements can be made to accommodate you.

Dated at Pierre, South Dakota, this 13 day of May, 2014.

CERTIFICATE OF SERVICE
The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, by facsimile or by first class mail, in properly addressed envelopes, with charges prepaid thereon.
By: <u>Joy Lashley</u>
Date: <u>05.13.14</u>
(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

Gary Hanson

GARY HANSON, Chairman

Chris Nelson

CHRIS NELSON, Commissioner

Kristie Fiegen

KRISTIE FIEGEN, Commissioner