

Kolbo, Delaine

From: Smith, John (PUC)
Sent: Monday, July 10, 2006 12:37 PM
To: Douglas, Tina (PUC); Kolbo, Delaine
Subject: FW: EL05-022 Notice of & Petition for Dismissal

ELECTRONICALLY FILED
DATE JUL 08 2006

-----Original Message-----

From: Mary Jo Stueve [mailto:mjstueve@cleanwater.org]
Sent: Saturday, July 08, 2006 9:22 PM
To: Van Gerpen, Patty; Cremer, Karen; tjwelk@bgpw.com; john.davidso@usd.edu; mjstueve@hotmail.com
Cc: Smith, John (PUC); jmhaase@bgpw.com; cwmadsen@bgpw.com; dsasseville@lindquist.com; tguerrero@lindquist.com; bgerhardson@ottertail.com; mrolfes@otpc.com; tgraumann@otpc.com; overland@redwing.net; adam.lesley@johnsonpetersenlaw.com; oneill.michael@johnsonpetersenlaw.com; bgoodpaster@mncenter.org; sclemmer@ucsusa.org; noble@me3.org; billgrant@iwla.org; Even, Bill; ejredlin@cleanwater.org; peter.glaser@troutmansanders.com; sdpic@dailypost.com
Subject: EL05-022 Notice of & Petition for Dismissal

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF SOUTH DAKOTA

In the Matter of Otter Tail Power)
Company on Behalf of Big Stone II)
Co-owners for an Energy Conversion)
Facility Permit for the Construction)
Of the Big Stone II Project)

DOCKET NO. EL05-022

NOTICE OF & PETITION FOR
DISMISSAL

NOTICE OF PETITION FOR DISMISSAL

PLEASE TAKE NOTICE, that I, Mary Jo Stueve will Petition for Dismissal the above matter to the South Dakota Public Utilities Commission (the Commission) as set forth in more detail below.

PETITION FOR DISMISSAL

Pursuant to ARSD 20:10:01:02.04, I, Mary Jo Stueve (Pro Se) respectfully Petition the Commission for Dismissal, the Matter of Otter Tail Power Company on Behalf of Big Stone II Co-owners for an Energy Conversion Facility Permit for the Construction of the Big Stone II Project for reasons stated below.

In presenting Purpose and Need for the proposed Project for power generation, expressed in terms of supply and demand, Co-owners estimated consumer demand and future energy needs both for consumers to be *directly served* (SDCL 49-41B-11 (9)) (Applicants' Exhibit 53, 2-62, map showing Big Stone II Power Plant and Transmission area) as well as *indirectly served*, (requires interconnection with Western) (Applicants' Exhibit 73, p.54, map showing Co-owners' Service Territories). At the same time, Co-owners omitted cost analysis, risk appraisal and implications to consumers and current as well as future alternative generation providers if the proposed, necessary interconnection (Applicant's Exhibit 53, p. ES-1—ES-7) gets approved.

While acknowledging that omission of material fact does not equate to deliberate misstatement of material fact (SDCL 49-41B-13) it appears that in this matter we do not have a full showing by Co-owners' of cost and risk analysis for service areas directly served as well as *indirectly served*. And yet, Co-owners' utilized estimated consumer demand and future energy needs for areas directly served *as well as* indirectly served, placing into question Co-owners' conclusions with regards to this Project as being least (or best) cost and most reliable.

As it stands, Big Stone II Project could be viewed as an attempt to exercise monopoly power for Co-owners' interest via *voluntary* interconnection (Otter Tail Power Co. v. United States, 410 U.S. 366, 381) at the expense of consumers served and in an anticompetitive manner (Energy Policy Act 2005, Title XII Electricity, SEC.1233; SEC1235).

Dated this 8th day of July, 2006

Mary Jo Stueve
Pro Se
196 E 6th St #401
Sioux Falls SD 57104

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CERTIFICATE OF SERVICE

I, Mary Jo Stueve do hereby certify that a true and correct copy of Stueve's Notice of and Petition for Dismissal was served to the following Interested Persons List electronically on this 8th day of July 2006.

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Dated this 8th day of July, 2006

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(605) 332-3667

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Facility Permit for the Construction)
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DOCKET NO. EL05-022

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DISMISSAL**

CERTIFICATE OF SERVICE

I, Mary Jo Stueve, do hereby certify that a true and correct copy of Stueve's Notice of and Petition for Dismissal was served to the following on the Legal Service List electronically on this 8th day of July 2006 and by mailing the same to each by United States Post Office First Class Mail, postage thereon prepaid, at the addresses shown below, on 10th day of July, 2006.

Patty Van Gerpen
Executive Director
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Midwest Office, Union of Concerned Scientists, and Minnesota Center for Environmental
Advocacy

Dated this ____ day of July, 2006

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SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

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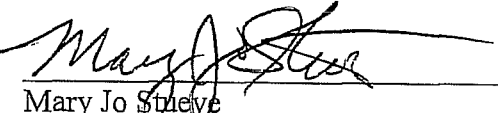
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