

AUG 14 2006

DATE

Mary Jo Stueve

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 Cc:  
 Subject: EL05-022 Second Notice of and Application for Reconsideration, CertofServ



EL05-022Applicatio Certificate of  
 nforReconsid... Service 14 Aug ...

Find attached Certificate of Service and Second Notice and

Application for  
 Reconsideration regarding DOCKET NO. EL05-022. Pursuant to 20:10:01:30.01 an  
 original and ten copies of the application to the Commission shall follow  
 "within 30 days from the issuance of the commission decision or order" via  
 U.S. Mail, postage paid. Legal Service and Interested Persons should  
 consider attached electronic Certificate of Service as service upon them,  
 unless hard copy is requested.

Sincerely,

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RECEIVED

AUG 16 2006

SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

Dated this 14th day of August 2006

*Mary Jo Stueve*  
 8/14/06

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RECEIVED

AUG 16 2006

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 AND APPLICATION  
FOR RECONSIDERATION  
SECOND APPLICATION

SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

NOTICE OF APPLICATION FOR RECONSIDERATION – SECOND APPLICATION

PLEASE TAKE NOTICE, that I, Mary Jo Stueve make this Motion for Reconsideration of the above matter to the South Dakota Public Utilities Commission (the Commission) as set forth in more detail below.

APPLICATION FOR RECONSIDERATION

Pursuant to ARSD 20:10:01:29 and ARSD 20:10:01:30:01, I, Mary Jo Stueve (Pro Se) respectfully make this Application to the Commission for Reconsideration of the Commission’s Order granting the permit in the docket of 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.

This Application for Reconsideration – Second Application, should be granted because of newly discovered information regarding material facts in this proceeding: 1) discovery of the existence of a U.S. based *global reach* carbon emissions trading market pertinent to this case; Chicago Climate Exchange (CCX)<sup>1</sup>, which documents significant cost increase and volatile financial risk such that co-owners and ratepayers could face cost and financial risk far more than that upon which the Order was based; and 2) discovery that the U.S. Supreme Court will consider requiring greenhouse gas rules during its 2006-07 term which starts in October.<sup>2</sup>

In presenting Purpose and Need and projected least (best) cost for the proposed BSII Project for power generation,

- Co-owners estimated future cost risk value of carbon emissions of the Big Stone II Power Plant primarily assuming SD \$0 and alternatively the high end of MN damage value of \$3.64 per ton CO2 in 2005 dollars to show BSII as the preferred least (best) cost option (see chart below)

In Joint Intervenors’ testimony, witnesses Schlissel and Sommer;

- Posited a midpoint, levelized price of \$19.10 per ton CO2 (see chart below),
- Testified that, “Market activity to date in the EU Emissions trading system illustrates the difficulty of predicting carbon emissions cost, and the financial risk potentially associated with carbon emissions”<sup>3</sup> (see chart below), and
- Noted that “...US businesses are unable to participate in the international market, and emissions reductions in the United States have no value in international market.”<sup>4</sup>

CCX related discovery by Intervenor Stueve shows that we are presented with carbon cost values *operating currently* in the U.S. market place, with global reach, above those upon which the Big Stone II Petition was based, to which the applicants testified. Additionally, contrary to JI testimony, US businesses can and have participated in international carbon markets via CCX and ECX.<sup>5</sup>

The above discoveries, pertinent to this case, show that we have operative carbon markets, funded and founded in part by the Chicago-based Joyce Foundation<sup>6</sup> in addition to and established previous to markets identified and/or not identified in either JI or App’ testimony, depicting for example, one carbon contract quadrupling in value on CCX dailies within three years time (2003-2006) from 0.98-4.40 (see chart below).

EL05-022 Testimony (T) on CO2 Cost			Operative CO2 Emissions Markets			
Witness / Source	\$ / ton CO2 assuming legislation	Reference	CCX Carbon Financial Instrument (CFI) Contracts Prices quoted in \$ / ton <sup>7</sup>		ECX Carbon Financial Instrument Futures (CFI) Market Prices quoted in € / metric tonne <sup>8</sup> =USD	
Tielke	\$0/ton	App' Exh 44, at p. 16, lines 21-22 (public version)	Date	Close at	Date	Price
Hewson		App' Exh 30, at p. 3, lines 10-14				
Greig / MN PUC	\$0.35- \$3.64/ton	T. at p. 339, lines 16-18	<b>Dec 2003</b>	<b>.98</b>		Dec Sett
Greig	\$3.64	App' Exhibit 23, at p. 11, lines 6-13	Dec 2004	\$1.68	4/22/05	16.85 = \$21.43
Denney	\$5/ton	T. at p. 675, lines 19-22	Dec 2005	\$1.75	12/30/05	21.70 = \$27.60
Hewson, Jr	\$6/ton beginning 2013	Exam by PUC Johnson T. at p. 577-78, lines 12-25; 1-7.				Front Sett
Hewson, Jr	Considerably < \$14/ton	App' Exhibit 30, at p. 28, lines 4-5	Jan 2006	\$1.90	01/31/06	26.05 = \$33.12
Greig	'Breakeven' for investor-owned \$14/ton	Exam by PUC Johnson T. at p. 346-47, lines 13-25; 1-7; App' Exh 13-A, Section 6, p. 6-3	Feb 2006	\$2.05	02/28/06	25.95 = \$32.99
Schlissel & Sommer	Midpoint, leveled \$19.10/ton	T. at p. 726, lines 5-17	Mar 2006	\$2.75	03/31/06	26.95 = \$34.27
Greig	'Breakeven' for public power-ownership \$23/ton	Exam by PUC Johnson T. at p. 346-47, lines 13-25; 1-7; App' Exh 13-A, Section 6, p. 6-3	Apr 2006	\$3.90	04/28/06	13.30 = \$16.91
			May 2006	\$3.85	05/31/06	17.05 = \$21.67
			Jun 2006	\$4.55	06/30/06	15.65 = \$19.90
			<b>Jul 2006</b>	<b>\$4.40</b>	<b>07/31/06</b>	<b>16.05 = \$20.40</b>
					<b>Dec 2012</b>	<b>20.20 = \$25.68</b>

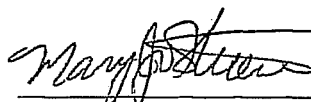
This U.S. based CO2 emissions market of global reach, CCX, only now discovered by this Intervenor, and not disclosed substantively by any party to the proceeding, is information that the Commission must address to assure that the BSII project is in the public interest and in the ratepayers' interest.

In light of the above, I, Mary Jo Stueve, respectfully request that the Commission:

- 1) Reconsider the Order granting the permit, and take into account the estimated cost increase of emissions over life of plant based on CO2 futures market.

- 2) Order that all parties disclose participation, including consultant and/or advisor, board member status, intent to approve membership, MOU's, and/or baseline CO2 emissions estimates and studies in relation to CCX/Climate Exchange Plc.<sup>9</sup>
- 3) Order that investor-owned entities MDU and Otter Tail voluntarily submit to Commission investigation in order to determine potential conflict of interest and/or financial risk related to CCX/Climate Exchange Plc with regards to any/all shareholders having more than 5%.
- 4) Order that all parties disclose itemized receipts and disbursements of Joyce Foundation funding for Big Stone II Intervention.

Dated this 14<sup>th</sup> day of August, 2006



Mary Jo Stueve  
Pro Se  
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Sioux Falls SD 57104

<sup>1</sup> CCX [www.chicagoclimateexchange.com](http://www.chicagoclimateexchange.com) is North America's only, and the world's first, legally binding multi-sectoral, rule-based and integrated greenhouse gas emission registry, reduction and trading system. Members of the Exchange generally trade to comply with the emission reduction requirements they have accepted under the CCX. A news release, shows that Liquidity providers trade on the Exchange for reasons other than compliance purposes, this includes serving as counter-parties to CCX Members that are seeking to engage in transactions Chicago, Illinois - October 23, 2003 REFCO LLC <http://www.envtm.org/docs/ccx/RefcoJoins.pdf>. The European Climate Exchange, [www.ecxeurope.com](http://www.ecxeurope.com), a wholly-owned subsidiary of CCX, manages the marketing for ECX Carbon Financial Instruments (ECX CFIs) ECX CFIs will be listed by and traded on the International Petroleum Exchange (IPE). The IPE is a wholly-owned subsidiary of IntercontinentalExchange Inc. (ICE) which operates global over the counter (OTC) marketplaces for the trading of commodities on its Internet-based Interchange trading platform. In 2001 the IPE became part of the US Company, Intercontinental Exchange. In 2005 the open outcry system was abolished and now all contracts of the IPE are traded electronically on screen only, under the brand name 'ICE Futures'. Joint Intervenors briefly mention Chicago Climate Exchange, and only as a legally binding agreement entered into by state of New Mexico in 2005. See JI Exh 6, Synapse Energy Economics - Climate Range and Electricity Resource Planning, Page 29, paragraph 1, lines 9-10

<sup>2</sup> Massachusetts v. U.S. Environmental Protection Agency, 05-1120, June 26 Bloomberg, Greg Stohr ([gstohr@blomberg.net](mailto:gstohr@blomberg.net)); Applicants' Exhibit 30, Witness Hewson, Jr., at page 27, line 10-11 filed Rebuttal Testimony commenting upon the carbon dioxide ("CO2") market risks discussed in the direct testimony of Schlissel and Sommer indicating that the Supreme Court had at that time not acted on said lawsuit, using this as one indicator that CO2 legislation unlikely.

<sup>3</sup> JI Exhibit 6, Surrebuttal Testimony of Schlissel & Sommer, Section 6.1, Synapse Energy Economics - Climate Range and Electricity Resource Planning Page 28, paragraph 2, lines 7-9.

<sup>4</sup> JI Exhibit 6, Surrebuttal Testimony of Schlissel & Sommer, Section 6.1, Synapse Energy Economics - Climate Range and Electricity Resource Planning Page 28, paragraph 3, lines 1-3.

<sup>5</sup> See [www.chicagoclimateexchange.com](http://www.chicagoclimateexchange.com); and August 9, 2006 TRANS-ATLANTIC CLIMATE PACT Can Arnold Terminate Emissions? By Christa Case and Ranty R. Islam, <http://service.spiegel.de/cache/international/0.1518.430631.00.html> accessed 14 August 2006.

<sup>6</sup> <http://www.chicagoclimateexchange.com/about/> accessed 14 August 2006; "Trading Greenhouse Gases: How to Make the US Green", Ranty R. Islam, 9 August 2006, <http://service.spiegel.de/cache/international/0.1518.430658.00.html> accessed 14 August 2006.

<sup>7</sup> <http://www.chicagoclimatex.com/> accessed 14 August 2006.

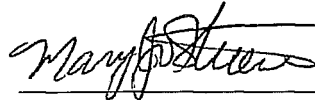
<sup>8</sup> [http://www.ecxeurope.com/index\\_flash.php](http://www.ecxeurope.com/index_flash.php) accessed 14 August 2006.

<sup>9</sup> On 31 March 2006, The Board of Climate Exchange Plc announced that it had entered into heads of agreement to acquire the outstanding shares in the Chicago Climate Exchange, Inc. ("CCX"). Richard L. Sandor, Chairman and Chief Executive Officer of CCX and Chairman of Climate Exchange Plc, is a majority shareholder, along with related parties, in CCX. This will result in Climate Exchange Plc owning 100% of the European Climate Exchange (ECX) and the Chicago Climate Exchange (CCX).

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- 2) Order that all parties disclose participation, including consultant and/or advisor, board member status, intent to approve membership, MOU's, and/or baseline CO2 emissions estimates and studies in relation to CCX/Climate Exchange Plc.<sup>9</sup>
- 3) Order that investor-owned entities MDU and Otter Tail voluntarily submit to Commission investigation in order to determine potential conflict of interest and/or financial risk related to CCX/Climate Exchange Plc with regards to any/all shareholders having more than 5%.
- 4) Order that all parties disclose itemized receipts and disbursements of Joyce Foundation funding for Big Stone II Intervention.

Dated this 14<sup>th</sup> day of August, 2006



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<sup>1</sup> CCX [www.chicagoclimateexchange.com](http://www.chicagoclimateexchange.com) is North America's only, and the world's first, legally binding multi-sectoral, rule-based and integrated greenhouse gas emission registry, reduction and trading system. Members of the Exchange generally trade to comply with the emission reduction requirements they have accepted under the CCX. A news release, shows that Liquidity providers trade on the Exchange for reasons other than compliance purposes, this includes serving as counter-parties to CCX Members that are seeking to engage in transactions Chicago, Illinois - October 23, 2003 REFCO LLC

<http://www.envtn.org/docs/ccx/RefcoJoins.pdf>. The European Climate Exchange, [www.ecxeurope.com](http://www.ecxeurope.com), a wholly-owned subsidiary of CCX, manages the marketing for ECX Carbon Financial Instruments (ECX CFIs) ECX CFIs will be listed by and traded on the International Petroleum Exchange (IPE). The IPE is a wholly-owned subsidiary of IntercontinentalExchange Inc. (ICE) which operates global over the counter (OTC) marketplaces for the trading of commodities on its Internet-based Interchange trading platform. In 2001 the IPE became part of the US Company, Intercontinental Exchange. In 2005 the open outcry system was abolished and now all contracts of the IPE are traded electronically on screen only, under the brand name 'ICE Futures'. Joint Intervenors briefly mention Chicago Climate Exchange, and only as a legally binding agreement entered into by state of New Mexico in 2005. See JI Exh 6, Synapse Energy Economics – Climate Range and Electricity Resource Planning, Page 29, paragraph 1, lines 9-10

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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 )

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**DOCKET NO. EL05-022**  
**CERTIFICATE OF SERVICE**

I, Mary Jo Stueve, do hereby certify that a true and correct copy of Stueve's Notice and Second Application for Reconsideration was served to the following Legal Service and Interested Person's List electronically this 14<sup>th</sup> day of August, 2006, and shall constitute as service upon all unless hard copy is requested *except*; as Pursuant to 20:10:01:30.01 an original and ten copies of Second Application for Reconsideration shall be sent via U.S. Mail, postage paid, to the Commission via Patty Van Gerpen.

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Dated this 14<sup>th</sup> day of August, 2006

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