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Patricia Van Gerpen
Executive Director
Public Utilities Commission
500 East Capitol Avenue
Pierre, South Dakota 57501

RE: **IN THE MATTER OF THE FILING BY THE CITY OF WHITE FOR
APPROVAL OF ITS REVISED SERVICE TERRITORY AS A RESULT OF
ANNEXATION**

EL07-024

Our file: 0034

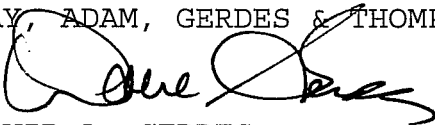
Dear Patty:

Attached for filing is Otter Tail's Motion to Dismiss with
Certificate of Service in the above-referenced docket.
Please file the same. There are no attachments.

With a copy of this letter service by e-mail is made upon the
service list.

Yours truly,

MAY, ADAM, GERDES & THOMPSON LLP



DAVID A. GERDES

DAG:mw

Enclosure

cc/enc: Service List

Bruce Gerhardson

Kevin Kouba

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

IN THE MATTER OF THE FILING)	EL 07-024
BY THE CITY OF WHITE FOR)	
APPROVAL OF ITS REVISED)	OTTER TAIL'S
SERVICE TERRITORY AS A)	MOTION TO DISMISS
RESULT OF ANNEXATION)	

COMES NOW Otter Tail Power Company ("Otter Tail") and moves the Commission to dismiss the captioned docket, upon the following grounds and for the following reasons:

1. The petitioner has not made an offer consistent with the terms of SDCL § 49-34A-50. The statute requires an

Offer to purchase the electric distribution properties of the utility . . . , together with all of the utility's rights to serve within such area, for a cash consideration which shall consist of the present-day reproduction cost, new, of the facilities being acquired, less depreciation computed on a straight-line basis; plus an amount equal to the cost on a nonbetterment basis of constructing any necessary facilities to reintegrate the system of the utility outside the annexed area after detaching the portion to be sold; plus as compensation for service rights, an annual amount, payable each year for a period of seven years, equal to the sum of twenty-five percent of the gross revenues received from power sales to consumers of electric power within the annexed area during said seven-year period.

As of this date, Otter Tail has received no such offer. Further, the petition fails to state sufficient terms and a cash basis upon which the amount being offered can be determined.

2. The petition is premature. SDCL § 49-34A-52 permits Otter Tail, within 90 days after receipt of a valid offer to acknowledge the offer. Thereafter, the parties ". . . shall

proceed to act." If the parties are unable to agree upon a price and other terms of the transfer, either party is then entitled to apply to the Commission to determine the amount of payment. It is only after that process has been completed that modification of electric territory boundaries can occur under the statutory procedure.

3. Otter Tail is entitled to utilize the statutory time before acknowledging the offer to review the terms and conditions of the offer so that it is prepared to negotiate all of the details necessary to accomplish the transfer of the territory, customers and facilities. This is precisely what the statutory process is designed to offer, that is, a process by which the purchased utility can in an orderly fashion determine the cost and process of the transfer.

WHEREFORE Otter Tail prays that the Commission dismiss the petition, permit the parties to follow the statutory process and consider a petition for modification of the electric territory boundaries after the parties have completed the statutory process.

Dated this 21 day of August, 2007.

MAY, ADAM, GERDES & THOMPSON LLP

BY: 

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CERTIFICATE OF SERVICE

David A. Gerdes of May, Adam, Gerdes & Thompson LLP hereby certifies that on the 21 day of August, 2007, he made by electronic service a true and correct copy of the foregoing in the

above-captioned action to the following at their last known e-mail addresses, to-wit:

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