

THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE APPLICATION BY
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

EL05-022

Transcript of Proceedings

Petition for Dismissal Decision

July 20, 2006

COMMISSION STAFF

JOHN SMITH
KAREN CREMER
GREG RISLOV

APPEARANCES (appearing by telephone)

THOMAS J. WELK and CHRISTOPHER W. MADSEN,
BOYCE, GREENFIELD, PASHBY & WELK,
Attorneys at Law, P.O. Box 5015,
Sioux Falls, South Dakota 57117,
appearing on behalf of Big Stone II;

MARY JO STUEVE,
196 East 6th Street #401, Sioux Falls,
South Dakota 57104,
appearing pro se.

ORIGINAL

THURSDAY, JULY 20, 2006

2 CHAIRMAN SAHR: Good afternoon, this is Bob Sahr,
3 chairman of the commission. Right now we are having a little
4 trouble getting our folks in on the phone line, so we are live
5 here in Pierre, but we will be back in a couple minutes after
6 we get that resolved. Thank you.

7 (Brief pause.)

8 CHAIRMAN SAHR: Good afternoon, I'm going to take
9 roll. Jean Koster, did you just join the meeting?

10 MS. KOSTER: Yes, I'm here.

11 CHAIRMAN SAHR: And Chris Madsen, we lost the other
12 person that's with you on the phone line there in Sioux Falls.

13 MR. MADSEN: Mr. Welk is here with me, Mr. Chairman.

14 CHAIRMAN SAHR: Thank you very much. We are just
15 having a little bit of phone troubles here in Pierre, so we are
16 going to hold on for another minute or two. Apparently the
17 bridge wasn't live until fairly recently, so Commissioner
18 Johnson I know tried to call in earlier and couldn't get in
19 because the bridge wasn't live, so if you guys will just bear
20 with us a few minutes, we'll be back to you. Thank you.

21 (Brief pause.)

22 CHAIRMAN SAHR: Good afternoon, Commissioner Johnson?

23 VICE-CHAIR JOHNSON: Yes.

24 CHAIRMAN SAHR: It just shows it doesn't pay to be
25 ahead of schedule, I hear you had trouble calling in because

1 you were calling in too early.

2 VICE-CHAIR JOHNSON: I know, but I don't do it very
3 often, but I have been punished for doing it today.

4 CHAIRMAN SAHR: You are always timely, so thanks.

5 Mary Jo Stueve, are you on the line?

6 MS. STUEVE: Yes, thank you.

7 CHAIRMAN SAHR: So right now we have everyone on the
8 line except for Commissioner Hanson. Let's wait a minute or
9 two.

10 COMMISSIONER HANSON: Commissioner Sahr, I have been
11 on the line for a while here.

12 CHAIRMAN SAHR: Thank you. All right. It is July
13 20th, 2006 at approximately 3:30 p.m. We are here in the State
14 Capitol building, room 412. My name is Bob Sahr, I'm the
15 chairman of the South Dakota Public Utilities Commission.
16 Joining me via phone are Commissioners Dusty Johnson and Gary
17 Hanson. I would like to state at the outset that this
18 proceeding is being recorded or a record is being made by a
19 court reporter here in Pierre, so especially for those of you
20 appearing telephonically, please keep that in mind and make
21 sure that you speak slowly and clearly and if you can, try to
22 speak a little louder than maybe you normally would just so we
23 can make sure that we keep an accurate record.

24 With that in mind, we have one item on the agenda of
25 the ad hoc commission meeting, it's under electricity, it's

1 EL05-022 in the matter of the application by Otter Tail Power
2 Company on behalf of Big Stone II co-owners for an energy
3 conversion facility permit for the construction on the Big
4 Stone II project, and the issue today is shall the commission
5 grant the petition for dismissal? And I believe I'm going to
6 look at our general counsel. I believe Ms. Stueve filed that;
7 is that correct?

8 MR. SMITH: She filed it on July 8th and we have
9 actually already had oral argument on it in connection with the
10 oral argument on the 11th. That included argument on this so
11 today is just --

12 CONFERENCE OPERATOR: Jean Koster is joining the
13 meeting.

14 CHAIRMAN SAHR: Thank you, Jean, you might have gotten
15 dropped there.

16 MS. KOSTER: I did get dropped.

17 CHAIRMAN SAHR: I'm glad you are back on the line. We
18 just basically -- all three commissioners are on the -- well,
19 two are on the phone line, one is here in Pierre, so all three
20 of us are present and then our attorney, John Smith, was just
21 mentioning that the motion was filed July 8th and that we did
22 have arguments on the motion on our July 11th, is that when it
23 was?

24 MR. SMITH: That's correct.

25 CHAIRMAN SAHR: Please proceed, Mr. Smith.

1 MR. SMITH: We included argument on the motion on July
2 11th. Because of the problems we had with the phone at the
3 last -- at the decision meeting on the 14th, honestly what
4 happened is formal action on this motion was just inadvertently
5 omitted and we ran out of time and got cut off on our phone
6 bridge before we got that far. So to just wrap up the record
7 here, we need to, the commissioners need to take action on
8 that.

9 CHAIRMAN SAHR: We have had comments from the parties
10 and I guess I would just open to see if we have any additional
11 commissioner questions or comments, and if not, Mr. Smith, I
12 think we are probably at a place where we can go ahead and make
13 a motion on a particular issue before the commission today; is
14 that correct?

15 MR. SMITH: Yes, it is.

16 CHAIRMAN SAHR: Any questions from the commissioners
17 or comments?

18 COMMISSIONER HANSON: I have none.

19 VICE-CHAIR JOHNSON: Neither do I.

20 CHAIRMAN SAHR: Thank you. I will then move the
21 commission grant -- excuse me, that the commission deny the
22 petition for dismissal, and I did not do that to make everyone
23 think I was going to go the other way. I was reading the
24 motion a little too closely, so I will move, Chairman Sahr,
25 that the commission deny the petition for dismissal.

1 VICE-CHAIR JOHNSON: Go ahead, Gary.

2 COMMISSIONER HANSON: Commissioner Hanson seconds.

3 VICE-CHAIR JOHNSON: Commissioner Johnson, after
4 getting nudged out at the wire, will concur.

5 CHAIRMAN SAHR: Thank you very much. That is the only
6 agenda item that I have on my agenda for the ad hoc meeting.
7 Do we have any other business, Mr. Smith?

8 MR. SMITH: We do not.

9 CHAIRMAN SAHR: With that we will be adjourned. Thank
10 you.

11 (Whereupon, the proceedings were concluded at 3:35
12 p.m.)

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C E R T I F I C A T E

3 STATE OF SOUTH DAKOTA)
4 COUNTY OF HUGHES) ss.

5 I, Carla A. Bachand, RMR, CRR, Freelance Court
6 Reporter for the State of South Dakota, residing in Pierre,
7 South Dakota, do hereby certify:

8 That I was duly authorized to and did report the
9 testimony and evidence in the above-entitled cause;

10 I further certify that the foregoing pages of this
11 transcript represents a true and accurate transcription of my
12 stenotype notes.

13

14 IN WITNESS WHEREOF, I have hereunto set my hand on
15 this the 24th day of July 2006.

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Carla A. Bachard

Carla A. Bachand, RMR, CRR
Freelance Court Reporter
Notary Public, State of South Dakota
Residing in Pierre, South Dakota.

My commission expires: June 10, 2012.