

IN THE SUPREME COURT
STATE OF NORTH DAKOTA

Supreme Court Case No. 20190127
Burleigh Co. No. 2018-CV-01142

Minn-Kota Ag Products, Inc.,

Appellant,

v.

North Dakota Public Service Commission, et al.,

Appellees.

STATEMENT OF APPELLEE OTTER TAIL POWER COMPANY

Otter Tail Power Company
Cary Stephenson
Associate General Counsel
(ND Bar #05017)
215 S. Cascade Street
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STATEMENT OF APPELLEE OTTER TAIL POWER COMPANY

[1] Minn-Kota Ag Products, Inc. (“Minn-Kota”) appeals the district court’s decision affirming the North Dakota Public Service Commission’s (“Commission”) March 29, 2018 order denying Otter Tail Power Company’s (“Otter Tail”) application for a certificate of public convenience and necessity (“CPCN”) to provide permanent electric service to Minn-Kota’s new commercial grain handling facility near the communities of Barney and Mooreton, North Dakota. Minn-Kota also appeals the district court’s decision to affirm the Commission’s denial of Minn-Kota’s petition to intervene in support of Otter Tail’s application.

[2] Otter Tail did not appeal the Commission’s order denying Otter Tail’s application for a CPCN and is therefore an appellee in this matter. Before the district court Otter Tail filed a Statement in Lieu of Brief noting that (1) Otter Tail’s interests align with Minn-Kota and its appeal, the goal of which is to permit Otter Tail to serve Minn-Kota’s grain handling facility, (2) that Otter Tail’s election not to appeal from the Commission’s order should not be construed unfavorably to Minn-Kota’s appeal and arguments, or favorably to arguments of the other appellees, and that (3) Otter Tail stands by the hearing record and filings it made in the CPCN proceeding before the Commission. In those filings Otter Tail argued that Minn-Kota satisfied the standard for intervention and that the ten-factor test set forth in the Commission’s Notice of Hearing strongly supports the issuance of a CPCN authorizing Otter Tail to serve Minn-Kota’s grain handling facility.

[3] Otter Tail reiterates the points set forth in its Statement in Lieu of Brief before the district court, and respectfully request that the Court grant the relief sought by Minn-Kota.

Dated this 19th day of August, 2019.

Otter Tail Power Company

By: /s/ Cary Stephenson (05017)

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CERTIFICATE OF SERVICE

State of Minnesota)
) ss
County of Otter Tail)

I, Cynthia C. Geray, being duly sworn, deposes and says that I am over the age of 18 years and not a party to this action and that on the 19th day of August, 2019, in portable document format, of the following document:

Statement of Appellee Otter Tail Power Company

was served, via the Odyssey Electronic Service and File System using the email address provided in the Odyssey Electronic Service and File System, upon the following:

Minn-Kota Ag Products, Inc.:
Loren Hansen at loren.hansen@gpmlaw.com

North Dakota Public Service Commission and its Attorneys:
Zachary Pelham at #zepfile@pearce-durick.com

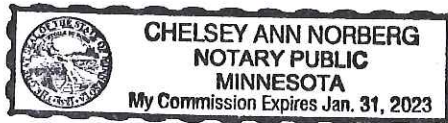
Attorney for Dakota Valley Electric Cooperative:
Kimberly Radermacher at kimrader@radermacherlaw.com

To the best of my knowledge, information and belief, such address is the actual email addresses of the parties intended to be served.

Cynthia C. Geray
Cynthia C. Geray

Subscribed and sworn to before me
this 19th day of August, 2019.

[SEAL]



[Signature]
Notary Public

My Commission Expires:

01 / 31 / 2023