

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Otter Tail Power Co., U.S. District Court, D. Minnesota, 1978-1 Trade Cases ¶61,854, (Jan. 9, 1978)

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United States v. Otter Tail Power Co.

1978-1 Trade Cases ¶61,854. U.S. District Court, D. Minnesota, Sixth Division, Civil Action No. 6-69-139, Dated January 9, 1978.

Case No. 2065, Antitrust Division, Department of Justice.

Sherman Act

Department of Justice Enforcement: Injunctive Relief: Ban on Institution of Litigation: Permission to Prosecute Suit.— A supplier of electric power that was barred by a Sherman Act judgment from instituting litigation to frustrate the establishment of municipal electric power systems (1972 TRADE CASES ¶73,791) was permitted (1) to prosecute an action to determine whether it was entitled to compensation for its property and service rights in a city establishing a municipal electric power system and whether the city had proceeded legally in seeking to establish the system; and (2) to appeal from a decision of the South Dakota Public Utilities Commission involving a dispute between the city, the state of South Dakota, the public utilities commission and the electric power company regarding the construction and application of statutory gas and electric utilities regulation.

For plaintiff: J. Earl Cudd, U. S. Atty., Minneapolis, Minn., Kenneth C. Anderson, Keith I. Clearwaters, Herbert D. Miller, Jr., and William L. Jaeger, Dept. of Justice, Washington, D. C. **For defendant:** Cyrus A. Field, of Field, Arvesen, Donoho & Lundeen, Fergus Falls, Minn.

Order

DEVITT, D. J.: The above-entitled matter came on for hearing before the Honorable Edward J. Devitt, District Judge, in the Court Room of the Federal Courthouse in the City of St. Paul, Minnesota, on January 9, 1978, upon the Motion of the defendant. Mark G. English, of the firm of Arvesen, Donoho, Lundeen, Hoff & Svingen, appeared on behalf of the defendant. Plaintiff informed the Court through Stephen G. Palmer of the office of the United States Attorney for Minnesota, that plaintiff had no objection to the Motion.

Subject to the further Order of the Court, upon Motion by either party, it is hereby ordered that Otter Tail be and hereby is authorized and permitted (1) to prosecute an action for the purpose of determining whether under state and federal law Otter Tail is entitled to compensation for its property and service rights in the City of White when a municipal electric system is established, and for the purpose of protecting and securing such compensation, and to determine whether the City had proceeded properly and according to law in seeking to establish a municipal electric system, and (2) to appeal from the Decision and Order on Rehearing, dated December 14, 1977, of the Public Utilities Commission of the State of South Dakota, and to participate in the resolution of the dispute between the City of White, South Dakota, the South Dakota Public Utilities Commission and Otter Tail involving the construction and application of Chapter 283, South Dakota Session Laws 1975 (SDCL Chapter 49-34A).