STATEMENT OF ISSUE

Issue: Was the PUC's decision and the subsequent circuit court's order affirming that decision, to grant Big Stone II a permit under SDCL § 49-41B-22 (2006), in error as contrary to the clear language of the power plant siting statute and based upon improper considerations under that statute?

Circuit Court decision: The PUC's decision was proper and within the PUC's discretion under the power plant siting statute, SDCL § 49-41B-22 (2006).

Most apposite cases or statutes: SDCL § 49-41B-22 (2006); *In the Matter of Petition of West River Electric Ass'n. Inc.,* 675 N.W.2d 222, 2004 SD 11 (S.D. 2004); *In the Matter of Northwestern Public Service Company,* 560 N.W.2d 925, 1997 SD 35 (S.D. 1997).

Issue: Was the PUC's decision and the circuit court's order affirming that decision, to grant Big Stone II a permit under SDCL § 49-41B-22 (2006), clearly erroneous in light of the evidence as a whole?

Circuit Court decision: The PUC's decision was within the bounds of PUC's discretion and not clearly erroneous.

Most apposite cases or statutes: SDCL § 49-41B-22 (2006); *Schroeder v. Dept. of Social Services,* 545 N.W.2d 223, 1996 SD 34 (S.D. 1996).