

July 6, 2021

Will Seuffert
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, Minnesota 55101

RE: **Reply Comments of the Minnesota Department of Commerce, Division of Energy Resources**
Docket No. E017/M-20-882

Dear Mr. Seuffert:

Attached are the reply comments of the Minnesota Department of Commerce, Division of Energy Resources (Department) in the following matter:

In the Matter of Otter Tail Power Company's Petition to add new service offerings to the LED Street and Area Lighting Dusk to Dawn Electric Rate Schedule.

The petition was filed on December 16, 2020 by:

Svetlana Fedje
Otter Tail Power Company
215 South Cascade Street
PO Box 496
Fergus Falls, MN 56538-0496

The Department recommends approval of Otter Tail's petition, with modification. The Department is available to answer any questions that the Minnesota Public Utilities Commission may have.

Sincerely,

/s/ DANIELLE WINNER
Rates Analyst

DW/ar



Before the Minnesota Public Utilities Commission

Comments of the Minnesota Department of Commerce Division of Energy Resources

Docket No. E017/M-20-882

I. INTRODUCTION

On December 16, 2020, Otter Tail Power (OTP or the Company) filed a *Petition* requesting that the Minnesota Public Utilities Commission (Commission):

- Approve OTP's proposal to add new decorative light emitting diode (LED) outdoor lighting options to the Company's LED Street and Area Lighting Dusk to Dawn Rate (Section 11.07), and;
- Approve OTP's proposal to make language clarifications to the same schedule.

Otter Tail submitted redlined and clean tariff sheets of the proposed changes and provided a marginal cost analysis for the proposed fixture additions.

The Department submitted comments on April 15, 2021 recommending approval of OTP's *Petition*, pending receipt of more information. The Department requested that Otter Tail explain how the carrying charge rate was derived and whether 200 feet of new conductor and directional boring costs will actually be incurred to replace old lights with new lights. Further, the Department recommended that that Company clarify its tariff language surrounding new underground customer service requests.

On April 27, 2021, OTP submitted a response to the Department. That response contained the following:

- Derivation of the Carrying Charge: Otter Tail provided Trade Secret information from the Company's 2020 Marginal Cost Study, demonstrating how the carrying charge had been calculated. The Department is satisfied with this response.
- 200 Feet of New Conductor and Directional Boring Costs: Otter Tail noted that the Decorative LED rates are intended as either new installations or replacement of an established lighting system not currently owned by OTP, such as aging municipal systems. As such, the Decorative Lights will indeed incur these types of costs, as the lighting infrastructure purchased from municipalities is often outdated and needs replacement.

Further, Otter Tail provided responses the Department's clarifying questions concerning underground service for Decorative Lighting and accepted the Department' proposed tariff language revisions. However, Otter Tail did not agree with Department's suggestion to clarify the tariff language, stating that the Company believed the proposed language to be sufficient.

The Department maintains that the tariff language concerning underground service should be clarified. Given that the Department needed to ask clarifying questions regarding the tariff language, the Department presumes that the language would not be clear to a hypothetical ratepayer.

For example, the Department did not understand what "Post Top" referred to, since that language was not used previously within the tariff. In response, Otter Tail noted that lights with "PT" at the end designate "Post Top" lights (ie, LED3PT and LED5PT). The Department disagrees that ratepayers should be expected to understand this abbreviation without first being introduced to the full term.¹

At another point, the Department did not understand what the policy would be for "Post Top, Aluminum Alloy Post, and Decorative Lighting," to which Otter Tail responded that these types of lights could not accommodate overhead lighting due to their design, and thus would not be subject to the underground service fee, up to 200 feet. The Department notes that although the Company's proposed language states that "Post Top, Aluminum Alloy Post, and Decorative Lighting" is excluded from the charge, and that no charge is applied "[i]f overhead service is not available," *at no point does the language specify that overhead service is not available to Post Top, Aluminum Alloy Post, and Decorative Lighting*. This language asks the reader to make a logical leap that may be clear to Otter Tail but is not obvious to others. The Department disagrees that ratepayers should be expected to make such logical leaps when reading a tariff.

Finally, the Department believes it is important to address one of Otter Tail's responses in its April 27, 2021 comments, as the response seemed to demonstrate a slightly different understanding of the filed rate doctrine than the Commission has articulated in the past. To the Department's lack of understanding regarding the underground service language and the suggestion to clarify the language, Otter Tail stated:

Please see the response to item b above, as well as Attachment 3 for the illustrations to the light options in question. Otter Tail considers the description sufficient. When Otter Tail's customer service representatives present lighting products for customer review, it will be clear if the product is a Post Top light or if it is not.

¹ Further, tariffs may be used by the Commission's Consumer Affairs Office (CAO) when they get questions or calls, and the Department presumes CAO would prefer abbreviations to be spelled out.

While the Department understands that ratepayers do need to talk to a utility's customer service representative at times, the Commission has also been clear that since Minn. Stat. §216B.05 requires tariffs be open to public inspection, tariffs are to be considered "a single, comprehensive source of information [that] remains thorough and accurate *for customer use*."² Since utilities must adhere to the terms of their filed tariffs, tariffs *must* be as clear as possible and should not leave room for interpretation. Since Otter Tail appears to require additional resources to explain the terms of its tariff (such as the illustrations in Attachment 3 or a conversation with a customer service representative), this suggests that the tariff language is insufficient.

In its April 15, 2021 comments, the Department pointed out ways in which the tariff language was confusing so that Otter Tail could clarify the language. Generally, it would make more sense for the Company to clarify its own language, as OTP understands its own policies better than does the Department. However, in the interest of time, the Department suggests the following tariff language changes, based on its understanding of the Company's responses:

UNDERGROUND SERVICE SUPPLIED BY THE COMPANY:

If the Customer requests underground service to a ~~a~~ new outdoor lighting unit for which overhead service is otherwise available, the Company will supply up to 200 feet of wire and add an additional \$2.52 to the monthly rate specified above. This applies to the following lights: LED5, LED8, LED10, LED20 – Flood, and LED30 – Flood.

If overhead service is not available, there is no additional charge for new underground service, up to 200 feet. ~~There is no additional charge for~~ This applies to the following lights: LED5PT, ~~or~~ LED3PT fixtures, DLEDA7, DLEDG7, DLEDE17, or fixtures mounted on Aluminum Alloy Standards.

For any new installation requiring an underground conductor extended over 200 feet per fixture, the customer will be charged a monthly rate of \$0.11 per foot. If there are multiple fixtures installed, any additionally installed length of conductor shall be combined in one monthly charge.

EQUIPMENT AND OVERHEAD SERVICE SUPPLIED BY THE COMPANY: The light shall be mounted on a suitable new or existing Company-owned pole. Any extension beyond an average installation length of ~~150'~~ 150 feet of wire will be at the expense of the Customer.

² ORDER APPROVING TARIFFS, REQUIRING TARIFFS, AND DIRECTING ONGOING TARIFF UPDATES TO REFLECT RULE AND STATUTE CHANGES, Docket E,G, 999/CI-09-970, Order issued January 26, 2010, page 3. While this order concerned the issue of updating tariffs to reflect statute and rule changes, the docket was a generic docket that also explored the purpose of tariffs generally and how much detail they should contain.

The Company will install, own and operate, and have discretion to replace or upgrade ~~a high intensity discharge~~ LED light including suitable reflector or a flood light including a lamp, or a bracket for mounting on wood poles with overhead wiring and photo-electric or other device to control operating hours.

The Department understands that this language may need further revision if it does not accurately represent Otter Tail's proposed underground service policy. With that understanding, the Department recommends that the Commission approve Otter Tail's *Petition*, with a modification to use the Department's proposed tariff language.

/ar

CERTIFICATE OF SERVICE

I, Sharon Ferguson, hereby certify that I have this day, served copies of the following document on the attached list of persons by electronic filing, certified mail, e-mail, or by depositing a true and correct copy thereof properly enveloped with postage paid in the United States Mail at St. Paul, Minnesota.

**Minnesota Department of Commerce
Reply Comments**

Docket No. E017/M-20-882

Dated this 6th day of July 2021

/s/Sharon Ferguson

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Generic Notice	Commerce Attorneys	commerce.attorneys@ag.state.mn.us	Office of the Attorney General-DOC	445 Minnesota Street Suite 1400 St. Paul, MN 55101	Electronic Service	Yes	OFF_SL_20-882_M-20-882
Jon	Fabre	jfabre@otpc.com	Otter Tail Power Company	215 S Cascade St Fergus Falls, MN 56538-0496	Electronic Service	No	OFF_SL_20-882_M-20-882
Svetlana	Fedje	sfedje@otpc.com	Otter Tail Power Company	215 S Cascade St Fergus Falls, MN 56537	Electronic Service	Yes	OFF_SL_20-882_M-20-882
Sharon	Ferguson	sharon.ferguson@state.mn.us	Department of Commerce	85 7th Place E Ste 280 Saint Paul, MN 551012198	Electronic Service	No	OFF_SL_20-882_M-20-882
David G.	Prazak	dprazak@otpc.com	Otter Tail Power Company	P.O. Box 496 215 South Cascade Street Fergus Falls, MN 565380496	Electronic Service	Yes	OFF_SL_20-882_M-20-882
Generic Notice	Residential Utilities Division	residential.utilities@ag.state.mn.us	Office of the Attorney General-RUD	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012131	Electronic Service	Yes	OFF_SL_20-882_M-20-882
Will	Seuffert	Will.Seuffert@state.mn.us	Public Utilities Commission	121 7th PI E Ste 350 Saint Paul, MN 55101	Electronic Service	Yes	OFF_SL_20-882_M-20-882
Cary	Stephenson	cStephenson@otpc.com	Otter Tail Power Company	215 South Cascade Street Fergus Falls, MN 56537	Electronic Service	Yes	OFF_SL_20-882_M-20-882