

July 9, 2018

Daniel P. Wolf
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, Minnesota 55101-2147

RE: **Comments of the Minnesota Department of Commerce, Division of Energy Resources**
Docket No. E017/M-18-378

Dear Mr. Wolf:

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

 Otter Tail Power Company's Community-Based Energy Development (C-BED) Tariff.

The filing was submitted on June 7, 2018 by:

 Tammy K. Mortenson
 Pricing and Tariff Administration Analyst
 Otter Tail Power Company
 215 South Cascade Street, PO Box 496
 Fergus Falls, Minnesota 56538-0496

The Department recommends that the Minnesota Public Utilities Commission (Commission) require Otter Tail Power Company to retain the C-BED tariff for the remainder of the UMM PA's 20-year term, but change the language of the tariff to make clear that it is closed in the future to new customers. The Department is available to answer any questions the Commission may have.

Sincerely,

/s/ MICHAEL N. ZAJICEK
Rates Analyst

MNZ/ja
Attachment

Before the Minnesota Public Utilities Commission

Comments of the Minnesota Department of Commerce Division of Energy Resources

Docket No. E017/M-18-378

I. BACKGROUND

On June 2, 2016 the Minnesota Legislature repealed the Community-Based Energy Development (C-BED) Statute, Minn. Stat. § 216B.1612.

On June 7, 2018 Otter Tail Power Company (Otter Tail or the Company) submitted a “compliance filing” notifying the Minnesota Public Utilities Commission (Commission) that it would cancel its C-BED tariff as of August 1, 2018. Otter Tail stated that the Company’s filing was being made to comply with the Legislature’s repeal of the C-BED Statute.

II. DEPARTMENT ANALYSIS

In response to a Minnesota Department of Commerce (Department) information request, Otter Tail indicated that the Company has one purchased power agreement (PPA) with the University of Minnesota Morris (UMM) that was created under Otter Tail’s C-BED tariff¹ When the C-BED statute was in effect. The UMM PPA began in 2011 and has a 20-year term. The Company stated via email to the Department that no customers will be affected by the cancellation of this tariff.

The Department, however, concludes that cancellation of the tariff would appear to affect UMM. The Department notes that the Commission approved the UMM PPA under the terms of OTP’s C-BED tariff which “provides guidelines for the negotiated purchase power agreements for service under this Tariff.” Specifically, the rate options under the tariff are as follows:

1. A negotiated rate up to a **Net Present Value Rate** over the 20-year life of the purchase power agreement;
2. A negotiated rate that is higher in the first ten years of the power purchase agreement than in the last ten years. The discount rate required to calculate the net present value must be the Company’s

¹ See Docket No. E017/M-11-372.

- normal discount rate used for its other business purposes at the time the power purchase agreement is negotiated.
3. At the discretion of the community-based project developer and the Company, a power purchase agreement may be negotiated with terms different than shown above.

Further, the tariff indicates that “A **qualifying owner** shall not be allowed to transfer the **C-BED project** to a non-qualifying owner during the initial 20 years of the contract.”

The UMM PPA has been in place for approximately 7 years of its 20-year term and, because UMM remains subject to the terms of the C-BED tariff, UMM would be an OTP customer that would be affected by the tariff’s cancellation. Without continued application of the tariff to UMM, the terms of UMM’s remaining 13 years under the PPA would be unclear as would OTP’s recovery from ratepayers. Additionally, in the event that either OTP or UMM wish in the future to renegotiate the terms of the PPA, or if UMM considers selling the project, the tariff would provide the terms by which such changes may occur. The Department also is concerned to the extent that OTP ratepayers paid rates that were higher during the first half of the 20-term than the rates that would be charged during the latter half of the PPA, ratepayers may be prejudiced by early termination of the PPA.

Therefore, the terms (tariff) under which the PPA was approved should remain in place for the remainder of the 20-year term of the PPA. This approach is consistent with the Commission’s decision in Docket No. G002/M-17-174, which states:

The Commission will allow Xcel Gas to continue to recover approximately \$1.83 million of costs through its State Energy Policy (SEP) Rider until all costs are recovered or the Company files a general rate case, with the understanding that no new costs will be added or recovered through the SEP Rider. Despite repeal of the statute, the cost components allowed to be recovered stem from revenue requirements for projects constructed and costs incurred before the statute was repealed. [Footnote omitted.]

The Department does, however, recommend that the Company change the C-BED Tariff to note that it is not open in the future to new customers.

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Analyst assigned: Michael N. Zajicek

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III. RECOMMENDATIONS

The Department recommends that the Commission require Otter Tail Power Company to retain its C-BED tariff for the remainder of the UMM PPA's 20-year term, but change the language of the tariff to make clear that it is closed in the future to new customers.

/ja

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
Comments**

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Dated this 9th day of July 2018

/s/Sharon Ferguson

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