

July 19, 2015

PUBLIC DOCUMENT

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

RE: **PUBLIC Comments of the Minnesota Department of Commerce, Division of Energy Resources**
Docket No. E017/M-16-507

Dear Mr. Wolf:

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

Petition of Otter Tail Power Company for Approval of an Electric Service Agreement with Potlatch Land & Lumber LLC

The *Petition* was filed on June 6, 2016 by:

Cary Stephenson
Associate General Counsel
Otter Tail Power Company
215 South Cascade Street
P.O. Box 496
Fergus Falls, MN 55538-0496

The Department will make its final recommendation upon review of Otter Tail Power Company's reply comments.

The Department is available to answer any questions that the Minnesota Public Utilities Commission may have.

Sincerely,

/s/ MICHAEL N. ZAJICEK
Rates Analyst

MNZ/ja
Attachment

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

PUBLIC COMMENTS OF THE
MINNESOTA DEPARTMENT OF COMMERCE
DIVISION OF ENERGY RESOURCES

DOCKET No. E017/M-16-507

I. BACKGROUND AND SUMMARY OF PROPOSAL

Otter Tail and Minnkota Power Cooperative (Minnkota) entered into an interconnection agreement in 1962 (1962 Agreement). In 1971, Otter Tail, Beltrami Electric Cooperative (Beltrami),¹ and Minnkota entered into an Electric Service Agreement (ESA) to serve certain customers in the Cass Lake area through cooperative use and development of transmission facilities and interconnections (1971 Agreement) associated with the 1962 agreement. The 1971 Agreement was amended several times to accommodate service requests for facilities that require the use of transmission systems and interconnections that fall under the 1962 Agreement. In particular, the 1971 Agreement was amended in 1991 to facilitate Potlatch Land & Lumber LLC's (Potlatch) request for service to a new facility, Potlatch's Stud Mill Plant. Under the 1991 Agreement [TRADE SECRET DATA HAS BEEN EXCISED] for which Otter Tail paid Beltrami a negotiated wholesale power rate. Since 1991, Otter Tail has provided electric service, under various rate and voluntary rider options, to Potlatch's Stud Mill Plant,

On June 6, 2016, Otter Tail filed a petition with the Minnesota Public Utilities Commission (Commission) requesting approval of an electric service agreement (ESA) with Potlatch to serve the Stud Mill Plant under Otter Tail's Rate Schedule 14.03 (Petition). As noted above, Otter Tail currently provides retail service to Potlatch while Beltrami provides to Otter Tail a portion of the power consumed by Potlatch.

On February 1, 2016 (prior to the initial filing), Otter Tail and Potlatch entered into a "placeholder" ESA containing essentially the same provisions as the proposed ESA. The "placeholder" ESA terminates [TRADE SECRET DATA HAS BEEN EXCISED]. The term of

¹ Beltrami is a distribution cooperative that is a member of Minnkota.

the proposed ESA is one year, which automatically renews unless terminated in advance by Potlatch or Otter Tail.

Otter Tail indicated that the proposed ESA would allow Potlatch to participate in the load curtailment program offered by Beltrami, the terms of which are different from the terms of Otter Tail's curtailment program. Otter Tail indicated that the provisions of Beltrami's curtailment program would allow Potlatch additional operational flexibility.

Under the 1990 amendment Otter Tail provides service to Potlatch's facility, [TRADE SECRET DATA HAS BEEN EXCISED].

Under the current "placeholder" agreement [TRADE SECRET DATA HAS BEEN EXCISED]. Under the LGS rider, commercial customers can save on their electric service bill by agreeing to curtail loads down to firm demand or less when receiving a load control signal from Otter Tail. If a customer fails to curtail its demand upon notification from Otter Tail, the customer will forfeit any compensation due for that period and will be responsible for any and all costs and/or penalties incurred by Otter Tail due to the failure to curtail.

Under the current "placeholder" agreement and the proposed agreement, Potlatch receives load control signals from Otter Tail [TRADE SECRET DATA HAS BEEN EXCISED].

As previously noted, the proposed amendment to the ESA would allow [TRADE SECRET DATA HAS BEEN EXCISED].

II. DEPARTMENT ANALYSIS

The Commission has stated that ESA's should be approved only if the terms and conditions are in the public interest and are not discriminatory.² The Commission outlined two conditions that must be satisfied:

- 1) No party affected by the proposed electric service agreement should be worse off as a result of the amendment;
- 2) The rates under the electric service agreement must not be discriminatory, namely the rate would be available to any other large power customer facing similar circumstances.

Since this is a voluntary agreement, both parties have determined that they will benefit from the ESA. Otter Tail indicated that ratepayers may benefit from the incremental revenue provided by Potlatch's ability to purchase additional energy during certain periods.³ Further,

² ORDER APPROVING PROPOSED ELECTRIC SERVICE AGREEMENT, *In the Matter of Minnesota Power's Petition for Approval of an Electric Service Agreement between Magnetation and Minnesota Power*, Docket No. E015/M-14- 130 (May 6, 2014).

³ Petition, page 7.

Otter Tail indicated in response to DOC Information Request No. 1 (see Attachment A) that this amendment would not result in any reduction of energy provided, and could potentially result in increased energy usage at the Potlatch facility, which could result in potential benefits for Otter Tail and Beltrami under their current existing rates. The Department concludes that condition 1 above is satisfied.

As to rate discrimination, the rates charged to Potlatch under the ESA are the standard rates available to any other customers meeting the requirements outlined in Otter Tail's tariff provisions, and Beltrami's IPP program is available to other large customers in similar circumstances as Potlatch. However, the current record does not indicate whether there are any other customers in similar circumstances and, if so, whether Otter Tail has informed them of this potential option. The Department requests that Otter Tail address this in reply comments.

The Department notes that MN Stat. § 216B.05, Subd. 2a requires Commission approval for any contract between a public utility and one of its customers that contains provisions not already contained in the utility's tariffs. Therefore, Commission approval of the "placeholder" ESA that the Company entered into with Potlatch is required. However, the Company did not request Commission approval of the "placeholder" ESA, nor did Otter Tail provide an explanation for its necessity. Because the Department has no objections to any of the specific provisions of the "placeholder" ESA (which are nearly identical to the proposed ESA), the Department does not object to retroactive approval of the "placeholder" ESA, should the Commission approve the proposed ESA.

Finally, Otter Tail indicated in its response to DOC Information Request No. 2 (see Attachment B) that MN Stat. § 216B.40 allows utilities to serve customers located in another utility's service area by exception, but that these service-by-exception arrangements are not required to be noted on the Commission's official service area maps. Otter Tail referenced the Commission's May 23, 2016 Order in Docket No. E131,E017/C-15-176, indicating that the Commission "acknowledged the technological and administrative burdens associated with mapping." To the extent Otter Tail's response is an indication that it does not intend to inform the Commission of customers it serves by exception, the Department disagrees with Otter Tail's intent. The Commission's May 23, 2016 Order states:

In lieu of initiating a new proceeding, therefore, the Commission will simply direct its staff, in issuing the annual reminder to the utilities, to also ask the utilities to include a summary report of all current service area exceptions. The summary report should include –

- The start date of each exception,
- The end date of each exception, if any, and
- The city, rural electric association, or other utility participating in the exception.

Finally, the Commission will direct its staff to engage utilities and the Department in a discussion about filing exceptions as new mapping products are introduced that more easily allow exceptions to be added to maps.

The Commission clearly indicated that it expects utilities to inform the Commission of any service area exceptions. The Department trusts that Otter Tail is developing a comprehensive summary report of its service-by-exception customers, including the information listed in the bullets above, that will be filed with the Commission as soon as practicable.

III. DEPARTMENT RECOMMENDATION

The Department will provide its final recommendation upon reviewing Otter Tail's reply comments.

/ja