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**STATE OF MINNESOTA
BEFORE THE PUBLIC UTILITIES COMMISSION**

Beverly Jones Heydinger	Chair
Nancy Lange	Commissioner
Dan Lipschultz	Commissioner
Matt Schuerger	Commissioner
John Tuma	Commissioner

In the Matter of the Petition by Otter Tail
Power Company for Approval of Energy-
Intensive Trade Exposed Customer Rate

DOCKET NO. E-017/M-16-533

**COMMENTS OF THE OFFICE
OF THE ATTORNEY GENERAL**

I. INTRODUCTION

Otter Tail Power Company (“Otter Tail”) has asked the Commission to approve a significant electric rate discount for three Energy-Intensive Trade-Exposed (“EITE”) electric customers and to recover the costs of the discount from other ratepayers. This is the first time Otter Tail has requested an EITE rate, and the second time that the Commission has considered an EITE rate proposal.¹ Therefore, the Commission’s decision in this matter will have important implications on any future EITE filings because it will help build the framework that utilities consider as they develop their proposals. For the reasons set forth below, Otter Tail and the EITE customers have not met their burden of proof under the applicable statute, and the utility’s proposal should be rejected.

¹ See *In the Matter of a Petition to Ensure Competitive Electric Rates for Energy-Intensive Trade-Exposed Customers*, Dkt No. E015/M-15-984. The Commission is also currently reviewing another petition for an EITE rate. See *In the Matter of a Revised Petition by Minnesota Power for a Competitive Rate for Energy-Intensive Trade-Exposed Customers and an EITE Cost Recovery Rider*, Dkt. No. E-015/M-16-564.

II. HISTORY OF EITE LEGISLATION

During its 2015 special session, the Minnesota Legislature amended Minnesota law to allow certain utilities to offer new rate options for their EITE customers.² The statute states that it was intended to promote “the energy policy of the state of Minnesota to ensure competitive electric rates” for EITE customers.³ The statute allows certain utilities to “propose various EITE rate options . . . that include, but are not limited to, fixed rates, market-based rates, and rates to encourage utilization of new clean energy technology.”⁴

In normal rate cases, the Commission is allowed to ensure that a rate is “just and reasonable,” and that it is not “unreasonably preferential,” “unreasonably prejudicial,” or discriminatory.⁵ But the Minnesota Legislature required the Commission to forego its normal rate review process when a utility proposes an EITE rate. For example, the Minnesota Legislature exempted utilities that propose EITE rates from the normal filing requirements and procedures that usually apply in rate cases.⁶ These filing requirements and procedures help ensure that the rates established by the Commission are based on a comprehensive factual record. Instead, the Legislature stated that the Commission’s analysis when reviewing a proposed EITE rate is limited to determining whether the proposed rate provides a “net benefit to the utility or the state.”⁷ If the Commission finds a “net benefit” for the utility or the State, the law states that the Commission must approve the proposed rate.⁸ Further, the law requires the Commission to “make a final determination in a proceeding begun under this section within 90 days” of the

² See 1 Sp. 2015 Ch. 1, Art. 3, Sec. 26.

³ Minn. Stat. § 216B.1696, subd. 2(a) (2015).

⁴ Minn. Stat. § 216B.1696, subd. 2(a) (2015).

⁵ Minn. Stat. § 216B.1696, subd. 2(b) (2015); Minn. Stat. § 216B.03 (2015); Minn. Stat. § 216B.07 (2015).

⁶ Minn. Stat. § 216B.1696, subd. 2(b) (2015); Minn. Stat. § 216B.16 (2015).

⁷ Minn. Stat. § 216B.1696, subd. 2(b) (2015).

⁸ Minn. Stat. § 216B.1696, subd. 2(b) (2015).

utility's filing requesting an EITE rate.⁹ Finally, the statute directs that, either in a rate case or a rider between rate cases, “the commission shall allow the utility to recover any costs, including reduced revenues, or refund any savings, including increased revenues, associated with providing service to a customer under an EITE rate schedule.”¹⁰

III. OTTER TAIL’S PROPOSED EITE RATE

Otter Tail’s proposed EITE rate would, if approved, provide an electric rate discount of 20 percent to three wood-products manufacturers in the Bemidji and Cass Lake areas.¹¹ These customers include the following: Potlatch lumber mill in Bemidji (“Potlatch”); Cass Forest Products, with facilities in Cass Lake and Aitkin (“CFP”); and Norbord, Inc.’s facility in Solway (“Norbord”). To qualify for this discount, these customers must consume at least 60 percent of their normal electric consumption on an annualized basis.¹² The customers’ normal electric consumption is calculated as the average total energy usage from the previous five years and would be re-calculated each year by Otter Tail for each customer.¹³ If a customer receiving the EITE rate does not consume sixty percent of its normal electric consumption, the utility would recover the discounted rates from that customer in an annual true-up.¹⁴

Otter Tail estimates that its proposed EITE rate would shift electric costs of approximately \$938,000 from its EITE customers to its non-EITE customers.¹⁵ The utility proposes to recover this amount by an equal percentage rate increase on its non-EITE

⁹ Minn. Stat. § 216B.1696, subd. 2(c) (2015).

¹⁰ Minn. Stat. § 216B.1696, subd. 2(d) (2015).

¹¹ Otter Tail’s Petition at 10.

¹² *Id.*

¹³ Otter Tail’s Response to OAG Information Request 003, attached as Ex. 1.

¹⁴ Otter Tail’s Petition at 10.

¹⁵ *See* Otter Tail’s Petition at Attachment 1.

customers.¹⁶ Based on Otter Tail's calculations, this would increase rates for all non-EITE customers by almost a half percent.¹⁷

IV. THE COMMISSION'S REVIEW OF A PROPOSED EITE RATE

The Commission previously considered a request made in November, 2015 by Minnesota Power. In that case, the Commission rejected Minnesota Power's request and clarified the information that must be provided before an EITE rate can be approved. Overall, a utility proposing an EITE rate must establish by a preponderance of the evidence that it would result in a net benefit to the utility or the State.¹⁸ The Commission also expressly rejected the argument that it should give more deference to a proposed EITE rate than to other proposed rate changes. Instead, the Commission stated that the EITE Statute does not "eliminate or minimize the Commission's discretion to disapprove a proposed EITE rate."¹⁹ The Commission also confirmed that, like any rate adjustment, a proposed EITE rate "must be supported by competent evidence and analytical rigor" commensurate with its significance, and that the same evidentiary standards that apply to other rate changes must be met.²⁰

The Commission's order in the Minnesota Power matter also clarified how it will evaluate a utility's claim that its proposed EITE rate provides a "net benefit." Specifically, the Commission emphasized that "the phrase 'net benefit' is distinct from the uses of the word 'benefit' alone" and that "[t]he natural and ordinary conclusion is that a 'net benefit' is the benefit, net of corresponding negative consequences."²¹ In other words, it is not sufficient for a

¹⁶ See Otter Tail's Petition at Attachment 4.

¹⁷ *Id.*

¹⁸ Order Denying Petition Without Prejudice, *In the Matter of a Petition to Ensure Competitive Electric Rates for Energy-Intensive Trade-Exposed Customers*, at 9, Dkt. No. E015/M-15-984 (March 23, 2016) ("Minnesota Power Order").

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.* at 10.

utility proposing an EITE rate to show that it would result in benefits for the utility or the State. Rather, the record must “identif[y] potential benefits and costs, and quantif[y] both to the extent practicable.”²² The Commission must then determine whether the quantified benefits outweigh the quantified costs.

V. OTTER TAIL AND THE EITE CUSTOMERS HAVE NOT SHOWN A NET BENEFIT TO THE UTILITY OR THE STATE.

Otter Tail and the EITE customers argue that the proposed EITE rate should be approved because it would provide some level of financial support to companies that are important to the region and face global competition for their products. These parties suggest that supporting these companies is beneficial for three reasons. First, Otter Tail claims that retaining the EITE customers is important because they contribute to the utility’s embedded costs of service.²³ More specifically, Otter Tail states that if all of the EITE customers on its system closed, the company would need to increase rates for its other customers by more than 1.1 percent.²⁴ Second, Otter Tail claims that the EITE rate would “enhance the competitive position” of the EITE customers, which would result in the “potential for continued, and potentially even enhanced, production.”²⁵ Third, Otter Tail and the EITE customers claim that the continued presence of these customers would benefit the State.²⁶

The forest products industry clearly provides many important benefits to the utility, the State, and to the specific regions where they operate. The Commission should consider these benefits as it reviews Otter Tail’s proposal. But these benefits must also be put in their proper context. Ultimately, the Commission is not deciding whether the forest products industry or any

²² *Id.* at 11.

²³ Otter Tail’s Petition at 20.

²⁴ *Id.* at Attachment 4, column F.

²⁵ *Id.* at 21.

²⁶ *Id.*

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individual facility provides a benefit—or even a “net benefit”—to the utility or the State. Rather, the Commission must decide whether the *EITE rate* proposed by Otter Tail results in a net benefit for the utility or the State. Therefore, as the Commission considers the importance of these EITE facilities, it must assess whether the supporters of the proposed EITE rate have demonstrated that the special rates are needed and, if so, whether they would make a meaningful impact for the EITE customers. Any benefits that the Commission finds must then be weighed against the impact of shifting these costs onto other customers.

A. THE DEMOGRAPHIC AND ECONOMIC CONDITIONS OF OTTER TAIL’S SERVICE TERRITORY.

Otter Tail Power provides electricity service to over 60,000 customers in approximately 150 communities in western Minnesota.²⁷ The vast majority of those communities fall within the Northwest and Southwest Planning Regions, as designated by the Minnesota Department of Employment and Economic Development (“DEED”).²⁸ Within these planning regions are Economic Development Regions, made up of several counties.²⁹ Otter Tail Power does not serve every community or even every county located within the Northwest and Southwest Planning Regions, but a brief overview of the demographics of those regions helps to place Otter Tail Power customers into context with the rest of the State.

The Northwest Region is home to 558,673 people, which is a little more than 10 percent of the State’s total population.³⁰ It is one of the fastest non-metro growth areas in the State and the population is also older in comparison to the statewide demographics, with over one-third of

²⁷ Electric Rate Schedule, Section 15.00, approved in *In the Matter of the Application of Otter Tail Power Company for Authority to Increase Rates for Electric Utility Service in Minnesota*, Docket No. E017/GR-10-239 (updated on July 22, 2011).

²⁸ *Northwest Region*, Minn. Dep’t of Emp’t & Econ. Dev., <http://mn.gov/deed/data/regional-lmi/northwest-lmi.jsp> (last visited July 28, 2016); *Southwest Region*, Minn. Dep’t of Emp’t & Econ. Dev., <http://mn.gov/deed/data/regional-lmi/southwest-lmi.jsp> (last visited July 28, 2016).

²⁹ A full list of Planning Regions, Economic Development Regions, and counties is attached as Exhibit 2.

³⁰ *Northwest Minnesota: 2015 Regional Profile*, Minn. Dep’t Emp’t & Econ. Dev., at 2 (Oct. 1, 2015).

the population above the age of 55.³¹ A nearly 50 percent expansion of those aged 65 years and older is expected over the next two decades.³² The Northwest Region has a lower labor force participation rate as well as a consistently higher unemployment rates in comparison with the rest of the State over the past decade.³³ Finally, household incomes are significantly lower than the rest of the State in this region.³⁴

The Southwest Region is home to 392,415 people, or approximately seven percent of the State population in 2014.³⁵ The region has seen a slight decline in population since 2000, with 18 of the 23 counties experiencing population losses over that 14-year span.³⁶ Like the Northwest Region, the Southwest Region's population is older than the rest of the State, with 17.6 percent of residents aged 65 years and older compared to 13.9 percent statewide, an age group that is also expected to grow over the next two decades.³⁷ The region's labor force has experienced "substantial fluctuations" in size in response to changing economic conditions such as the recessions in 2001 and 2007, when workers entered the labor market for supplemental income.³⁸ The Southwest Region's unemployment rate has been lower than the rest of the State, but household and per capita incomes were also lower than statewide numbers.³⁹

B. THE COMMISSION SHOULD CONSIDER WHETHER OTTER TAIL'S THREE EITE CUSTOMERS NEED ELECTRIC RATE SUPPORT.

In evaluating the possible benefits of the proposed EITE rate, the Commission must consider whether providing electric rate discounts to Otter Tail's three EITE customers is

³¹ *Id.*

³² *Id.* at 3.

³³ *Id.* at 5.

³⁴ *Id.* at 7.

³⁵ *Southwest Minnesota: 2015 Regional Profile*, Minn. Dep't Emp't & Econ. Dev., at 2 (Sept. 1, 2015).

³⁶ *Id.*

³⁷ *Id.* at 2–3.

³⁸ *Id.* at 3.

³⁹ *Id.* at 5–7.

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needed. As part of this process, the Commission should recognize that Otter Tail and the EITE customers do not claim that providing these discounts would lead to increased economic activity or job growth. Instead, these parties argue that the proposed discount is needed because the EITE customers could possibly reduce their operations or close altogether. For instance, the EITE customers claim that the proposed EITE rate “is a job-retention measure and is not designed to incentivize increased production”⁴⁰ and that the “benefits come not in the form of increased production or economic development, but rather in retaining the existing economic benefits and jobs these EITE customers provide.”⁴¹ These customers also claim that the EITE rate “is reasonably likely to result in the *continued* very significant contributions of EITE members to the State and Otter Tail Power.”⁴² Similarly, the utility argues that the rate is needed to maintain the “continued presence” of these facilities on its system.⁴³ In other words, the “benefit” that Otter Tail and the EITE customers suggest is that the EITE rate would reduce the risk that these facilities might close. This is different from the Commission’s evaluation of Minnesota Power’s proposed EITE rate, which is directed at encouraging higher production levels.⁴⁴ Therefore, in this case, the Commission should evaluate the risk that these facilities may close as it considers whether providing the discount is reasonably likely to result in a net benefit to the utility or the State.

⁴⁰ EITE Customers’ Comments at 14.

⁴¹ *Id.* at 8.

⁴² *Id.* at 13 (emphasis added).

⁴³ Otter Tail’s Petition at 20-21.

⁴⁴ See Minnesota Power’s Revised Petition, *In the Matter of a Revised Petition by Minnesota Power for a Competitive Rate for Energy-Intensive Trade-Exposed Customers and an EITE Cost Recovery Rider*, at 42, Dkt. No. E-015/M-16-564 (“Minnesota Power also considered what percentage discount would be meaningful enough to encourage full production from its EITE customers”).

1. Otter Tail's EITE Customers are Operating at Full Levels.

The utility and the EITE customers have provided parties with important information about the operations at each of the EITE facilities. This information suggests that, for two reasons, there appears to be little risk that these facilities would close or substantially reduce output. First, the available information demonstrates that these facilities have consistently operated at healthy levels for the last decade and that they are operating at these healthy levels now. The chart below depicts the energy consumption of Otter Tail's three EITE customers from June of 2006 to June of 2016. As this chart shows, with the exception of a few brief downturns, these facilities have maintained consistent to increasing electric consumption over the past decade:

[TRADE SECRET DATA]

[TRADE SECRET ENDS]

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As shown above, Otter Tail's EITE customers have had a total of **[TRADE SECRET BEGINS]** **[TRADE SECRET ENDS]** meaningful production declines during the past 10 years. The reasons for these production declines is not clear. For example, it is not known whether they were related to plant re-tooling or maintenance, an over-supply of products, a lack of raw materials, or something else. In any event, these declines have all been brief, with the facilities quickly returning to their normal growth trends within a few months. This chart also shows that, as of June 2016, all of these facilities were operating consistent with their historic trends.

In addition to the energy consumption data provided by Otter Tail, the employment information provided by the EITE customers confirms that they are currently operating at their normal levels. Specifically, the EITE customers indicate that they employ a total of 272 people, and that they are all fully staffed with no employees furloughed or otherwise on extended leave.⁴⁵ For these reasons, the EITE customers appear to be operating at their full levels. This suggests that electric rate support is not needed, particularly when it is not intended to increase the production at these facilities.

Second, information provided by the EITE customers suggests that they anticipate maintaining their current operation levels into the foreseeable future. Specifically, the affidavits submitted by EITE members document recent investments totaling tens of millions of dollars of dollars in their facilities.⁴⁶ Many of these investments have been directed at reducing costs of electricity and other inputs, while others helped to increase production. Potlatch, for instance, indicated that it has increased production by **[TRADE SECRET BEGINS]** **[TRADE**

⁴⁵ See EITE Customers' response to OAG Information Request 004, attached as Ex. 3.

⁴⁶ Affidavit of Peter Aube at ¶ 15 ("Aube Aff."); Affidavit of David Goetz at ¶ 9 ("Goetz Aff."); Affidavit of Jack Wallingford at ¶ 14 ("Wallingford Aff.").

SECRET ENDS] in part because of investments totaling more than **[TRADE SECRET BEGINS]** **[TRADE SECRET ENDS]**, while reducing its electric consumption by **[TRADE SECRET BEGINS]** **[TRADE SECRET ENDS]** per year.⁴⁷ Similarly, Norbord claims that it invested \$15 million to “upgrade and modernize” its mill.⁴⁸ These investments are plainly good for the workers at these facilities and the surrounding communities. They also demonstrate that the EITE customers expect to continue production, and that they are able—and incited—to reduce their overall energy consumption. For these reasons, the information provided by Otter Tail’s EITE customers indicates that electric rates support is not needed to maintain their existing operations.

2. Otter Tail’s EITE Customers have not Shown a Meaningful Business Challenge to their Facilities.

The EITE customers point to several macro trends challenging wood products producers across the United States, while arguing that their own electric rates are not “competitive.” The trends referred to by these companies include a weaker Canadian currency, expiration of tariffs and quotas on imported products, lumber price reductions in Canada, and emerging methods of treating competitive Southern Yellow Pine.⁴⁹ The EITE customers then suggest that the challenge presented by these macro trends might be mitigated by reducing their electric rates to levels that are “competitive.” This argument is problematic, however, because the EITE customers fail to quantify the impact that these macro trends have on their facilities in any meaningful way. In addition, the companies fail to provide a consistent standard for the Commission to use in determining whether or not their rates are competitive.

⁴⁷ Aube Aff. at ¶ 15.

⁴⁸ Wallingford Aff. At ¶ 14.

⁴⁹ See Aube Aff. at ¶ 18; Goetz Aff. at ¶¶ 12-17.

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First, pointing to a few of these disadvantages does not provide the information the Commission needs to determine whether the discount proposed here is reasonably likely to benefit the utility or the State. The EITE customers have not indicated whether the challenges they refer to have resulted in reduced sales of their products, reduced orders, or required price reductions to unprofitable levels. Instead, they simply provide generic and largely unexplained claims of a possible detrimental impact to their businesses. For example, CFP claims that “[t]he combination of [these pressures] and uncompetitive electric rates threaten the viability of CFP.”⁵⁰ Norbord also claims that **[TRADE SECRET BEGINS]**

[TRADE SECRET ENDS].⁵¹ And Potlatch claims that **[TRADE SECRET BEGINS]**

[TRADE SECRET ENDS].⁵² These statements are not helpful, however, because they do not show whether these concerns are immediate or long-term, or concrete or theoretical. In other words, it is impossible to determine whether these statements refer to a defined, quantifiable threat to these companies’ businesses, or whether they refer to a more general assessment that these challenges could, in some scenario, have a negative impact on the industry. This distinction is particularly important in considering the possible benefits here, since the analysis above shows that these companies are currently operating at their full levels and expect to do so in the foreseeable future.

Second, while the EITE customers argue that their electric rates are not competitive, they have not provided a clear standard on which this claim can be measured. Instead, the different

⁵⁰ Goetz Aff. at ¶ 19.

⁵¹ Wallingford Aff. at ¶ 16.

⁵² Aube Aff. at ¶ 20.

companies use at least three different analyses to argue that their specific electric rates are higher than other facilities electric rates, while suggesting that their rates must be reduced to some level to make them “competitive.” Potlatch, for instance, compares the electric rate it paid in 2013 of [TRADE SECRET BEGINS] [TRADE SECRET ENDS] to a study of 17 lumber mills based almost exclusively in the Pacific Northwest and western Canada.⁵³ The company suggests its electric rate is not competitive because it ranked between [TRADE SECRET BEGINS] [TRADE SECRET ENDS] of this group at the time—with “lower” rankings referring to companies with higher electric rates.⁵⁴ Potlatch implies, therefore, that it should be ranked somewhere higher in this group to have competitive rates, but it does not say what ranking it believes would be sufficient.

Norbord, for its part, uses a different comparison group for its analysis. Norbord compares its current electric rate of approximately [TRADE SECRET BEGINS]

[TRADE SECRET ENDS] to other facilities it owns in Canada and the Southeastern United States.⁵⁵ The company then states that its EITE facility currently ranks [TRADE SECRET BEGINS] [TRADE SECRET ENDS] among these operations, and that the proposed discount would move it to [TRADE SECRET BEGINS] [TRADE SECRET ENDS].⁵⁶ Presumably, this would be a competitive rate according to Norbord.

The comments filed by the OTP-EITE members collectively use yet another comparison group, and another standard, to argue that their rates are not competitive. Specifically, the comments filed by the group compare Otter Tail’s rates to the industrial electricity rates “in

⁵³ Aube Aff. at ¶ 17.

⁵⁴ Aube Aff. at ¶ 17.

⁵⁵ Wallingford Aff. at ¶ 10.

⁵⁶ *Id.* at ¶ 11.

states where many of the OTP-EITE members' competitors are located.”⁵⁷ The OTP-EITE customers concede that this comparison shows Otter Tail's rates “are in the middle of the group.”⁵⁸ They claim, however, this is not sufficient to have “competitive” rates. Instead, the OTP-EITE customers argue that their electric rates are not competitive unless Otter Tail's rates are lower than a “significant majority” of this comparison group.⁵⁹ They then define a “significant majority” to mean that Otter Tail's rates must be in the lowest third of this group.⁶⁰ But, according to this standard, Norbord and perhaps Potlatch would still not have competitive rates based on their comparison groups. Accordingly, it is not clear what standard the EITE customers want the Commission to use in determining whether their rates are sufficiently competitive.

For these reasons, the supporters of the EITE rate have not demonstrated that Otter Tail's EITE customers need the proposed discount to maintain their operations. These facilities are currently operating at their full levels, and have made significant investments in their facilities.

C. THE COMMISSION SHOULD CONSIDER THE IMPACT OF THE PROPOSED DISCOUNT ON THE EITE CUSTOMERS.

Even if the Commission determines that these facilities face challenges that require electric rate support, it must consider whether the proposed EITE rate would meaningfully impact their operations. In this case, the evidence presented by the utility and EITE customers indicates that the discount would not significantly impact their costs.

⁵⁷ EITE Customers' Comments at 9-10.

⁵⁸ *Id.* at 10.

⁵⁹ *Id.*

⁶⁰ *Id.*

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According to the utility, the EITE customers stated that the cost of electricity was approximately five percent of their overall costs of production.⁶¹ The utility admitted that this was “a small percentage of the cost of production” for these companies.⁶² But based on the information provided by the EITE customers, even this rough estimate of five percent overstates the impact of their electric costs. Potlatch states that its costs of electricity represent **[TRADE SECRET BEGINS]** **[TRADE SECRET ENDS]** of its overall production costs.⁶³ CFP claims that this is **[TRADE SECRET BEGINS]** **[TRADE SECRET ENDS]**.⁶⁴ And Norbord claims that it is approximately 4.7 percent.⁶⁵ The fact that electricity represents such a small portion of the EITE customers’ production costs suggests that discounting electric rates may not provide these businesses with a significant benefit.

Moreover, the EITE customers themselves do not claim that the rate proposed here would meaningfully impact their operations. They do not state, for instance, that providing these discounts would allow them to invest in needed equipment, hire needed workers, or maintain a sustainable profit level for their operations. Instead, the EITE customers uniformly rely on the abstract and unsubstantiated claim that it is “reasonably likely” that Otter Tail’s proposed EITE rate “could be one of the factors” that would keep their facilities viable.⁶⁶ What exactly this means is unclear, since any discount “could” be a “factor” in keeping any business viable—assuming that its viability is threatened. Regardless, the utility and the EITE companies have not established that providing this discount would make a material impact on the targeted facilities.

⁶¹ Otter Tail’s Petition at 2.

⁶² *Id.*

⁶³ Aube Aff. at ¶ 14.

⁶⁴ Goetz Aff. at ¶ 8.

⁶⁵ Wallingford Aff. at ¶ 9.

⁶⁶ Aube Aff. at ¶ 22; Goetz Aff. at ¶ 21; Wallingford Aff. at ¶ 18.

D. THE COMMISSION SHOULD CONSIDER THE COSTS TO NON-EITE CUSTOMERS OF PROVIDING THE EITE RATE.

If the Commission determines that Otter Tail's proposed EITE rate would result in meaningful and quantifiable benefits, it must weigh these benefits against the costs of increasing rates for Otter Tail's other customers. The only analysis of the costs of the EITE rate provided by Otter Tail and the EITE customers is that it would increase rates for non-EITE customers by approximately a half percent.⁶⁷ The utility has not, for instance, discussed its disconnection or late payment rates for non-EITE customers or whether rising electric costs could increase these rates. The utility has also not discussed how its proposal would affect electric costs paid by State and local governments, even though this is arguably the most direct cost to the "State" of providing these discounts. In any event, the increase to non-EITE customers would be in addition to the recent interim rate increase of 9.56 percent that Otter Tail received in its ongoing rate case.⁶⁸ In that rate case, Otter Tail has requested even larger rate increases for other classes, such as residential customers (11.5 percent) and irrigation customers (19 percent).⁶⁹ The Commission must consider the impact that this additional rate increase could have on customers who have already endured significant interim rate increases that could rise even more. As it stands, the utility has not provided a robust analysis of the important costs of its proposal.

VI. CONCLUSION

For the reasons set forth above, the Commission should reject Otter Tail's proposed EITE rate. Otter Tail and the EITE customers have not demonstrated that the rate is reasonably likely to result in material benefits to facilities that are already operating at their full levels. In

⁶⁷ Otter Tail's Petition at 23.

⁶⁸ See Interim Rate Tariff Sheet, *In the Matter of the Application of Otter Tail Power Company for Authority to Increase Rates for Electric Service in Minnesota*, at 1 Dkt. No. E-017/GR-15-1033 (April 15, 2016).

⁶⁹ Testimony of David G. Prazak, *In the Matter of the Application of Otter Tail Power Company for Authority to Increase Rates for Electric Service in Minnesota*, at 10 Dkt. No. E-017/GR-15-1033 (Feb. 16, 2016).

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addition, the utility has not conducted a thorough analysis of the possible costs of approving its proposal. Therefore, these parties have not shown that the proposed EITE rate would result in a net benefit to the utility or the State.

Dated: August 1, 2016

Respectfully submitted,

LORI SWANSON
Attorney General
State of Minnesota

s/ Ian Dobson

IAN DOBSON
Assistant Attorney General
Atty. Reg. No. 0386644

445 Minnesota Street, Suite 1400
St. Paul, Minnesota 55101-2131
(651) 757-1432 (Voice)
(651) 297-7206 (TTY)
ian.dobson@ag.state.mn.us

ATTORNEYS FOR OFFICE OF THE
ATTORNEY GENERAL—RESIDENTIAL
UTILITIES AND ANTITRUST DIVISION

OTTER TAIL POWER COMPANY
Docket No: E017/M-16-533

Response to: MN Office of the Attorney General
Analyst: Ian M. Dobson
Date Received: 07/01/2016
Date Due: 07/14/2016
Date of Response: 07/14/2016
Responding Witness: Bryce Haugen, Senior Rates Analyst, Regulatory Administration

Information Request:

3. Explain how Ottertail determines the EITE customers' "normal consumption" used to set the 60 percent threshold.

Attachments: 0

Response:

Otter Tail Power will use each customer's most recent five years of total historic energy usage to establish a benchmark for continued qualification for the EITE discount. The benchmark will be 60 percent of the five year average of total annual energy usage billed from the five calendar years immediately preceding the approval of any customer for an EITE discount. This benchmark number will not change while the customer is receiving the EITE discount. Otter Tail Power will review the five year average if a customer seeks to renew the EITE discount at the end of the initial five-year period.

Planning Regions, Economic Development Regions, and Counties

Planning Region: Southwest Minnesota

Economic Development Regions (OTP counties in **bold**)¹⁴

Region 6W (**Big Stone, Chippewa, Lac qui Parle, Swift, Yellow Medicine**)

Region 8 (Cottonwood, Jackson, **Lincoln, Lyon**, Murray, Nobles, Pipestone, **Redwood**, Rock)

Region 9 (Blue Earth, Brown, Fairbault, Le Seur, Martin, Nicollet, Sibley, Waseca, Watonwan)

Planning Region: Northwest Minnesota

Economic Development Regions (OTP counties in **bold**)

Region 1 (**Kittson, Marshall, Norman, Pennington, Polk, Red Lake, Roseau**)

Region 2 (**Beltrami, Clearwater**, Hubbard, Lake of the Woods, **Mahnomen**)

Region 4 (**Becker, Clay, Douglas, Grant, Otter Tail, Pope, Stevens**, Traverse, **Wilkin**)

Region 5 (**Cass**, Crow Wing, Morrison, Todd, Wadena)

¹⁴ List was generated using Section 15.00 of Otter Tail Power's rate schedule, which was last updated in 2011; it is meant to be illustrative, not exhaustive.

State Of Minnesota
Office Of The Attorney General
Utility Information Request

Requested from:

MPUC Docket No. E-015/M-16-533

Andrew Moratzka

*In the Matter of the Petition by Otter Tail Power
Company for Approval of Energy-Intensive Trade
Exposed Customer Rate*

By: Ian Dobson
Telephone: (651) 757-1432

Date of Request: July 15, 2016
Due Date: July 27, 2016

Question

Re: Cass Forest Products; Norbord, Inc. and Potlatch Corporation (collectively, "OTP-EITE")

1. How many individuals are directly employed at each facility when operating at full production.
2. How many individuals are currently employed at each facility, excluding individuals who have been furloughed or are otherwise on extended leave.
3. How many individuals are currently furloughed or otherwise on extended leave of employment at each facility.

Response

1. How many individuals are directly employed at each facility when operating at full production.
 - a. Cass Forest Products
 - i. Cass Lake mill: 25
 - ii. Aitkin mill: 5
 - b. Norbord, Inc.
 - i. Solway mill: 134

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- c. Potlatch Corporation
 - i. Bemidji mill: 108

- 2. How many individuals are currently employed at each facility, excluding individuals who have been furloughed or are otherwise on extended leave. To be clear, after conversation with counsel for OAG, we understand that OAG is focused on how many workers have been laid off due to market forces.
 - a. Cass Forest Products
 - i. Cass Lake mill: 25
 - ii. Aitkin mill: 5

 - b. Norbord, Inc.
 - i. Solway mill: 134

 - c. Potlatch Corporation
 - i. Bemidji mill: 108

- 3. How many individuals are currently furloughed or otherwise on extended leave of employment at each facility.
 - a. Cass Forest Products
 - i. Cass Lake mill: 0
 - ii. Aitkin mill: 0

 - b. Norbord, Inc.
 - i. Solway mill: 0

 - c. Potlatch Corporation
 - i. Bemidji mill: 0

Response by _____
Title _____
Department _____
Telephone _____