

January 3, 2017

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

RE: **Comments of the Minnesota Department of Commerce, Division of Energy Resources**
Docket No. E017/M-16-1056

Dear Mr. Wolf:

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

A Petition of Otter Tail Power Company (Otter Tail, OTP or the Company) Requesting Approval of Variance to the Billing Error Rules.

The filing was submitted on December 14, 2016 by:

Svetlana A. Fedje
Pricing Analyst
Otter Tail Power Company
215 South Cascade Street
Fergus Falls, MN 56538

The Department recommends **approval** and is available to respond to any questions the Minnesota Public Utilities Commission may have on this matter.

Sincerely,

/s/ BEN KAMARA
Financial Analyst

BK/lt
Attachment

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

COMMENTS OF THE
MINNESOTA DEPARTMENT OF COMMERCE
DIVISION OF ENERGY RESOURCES

DOCKET NO. E017/M-16-1056

I. BACKGROUND AND SUMMARY OF FILING

On December 14, 2016, Otter Tail Power Company (Otter Tail, OTP or the Company) filed a petition with the Minnesota Public Utilities Commission (Commission) for a variance to Minnesota Rule, part 7820.3800, the Billing Errors Rule, and to the Billing Error Tariff requirements contained in the Company's Electric Rate Book, to allow the Company to provide credit to the Customer for overcharges due to incorrect billing frequency under the Outdoor Lighting: Dusk to Dawn (Section 11.04) 745 Rate, as follows:

When a light was originally set-up on the account, the bill amount was to be setup for billing two times per year rather than monthly. However, the account was inadvertently set to bill every month. This caused the light to bill at the biannual amount every month and therefore over billing the customer.

Otter Tail requested this rule variance and one-time tariff modification in order to gain approval to issue credits to the electric Customer for overcharges that the Customer paid during a period outside of the three-year limit set in Minnesota Rules and OTP's Electric Billing Error Tariff.

The Company stated that the overcharges were due to an incorrect implementation of billing frequency thus, caused the over-billing. Since discovering the error, the Company corrected the billing system. Otter Tail calculated and provided bill credits in accordance with Minnesota Rules, parts 7820.3800 and calculated interest consistent with Minn. Statutes § 325E.02(b) as summarized in the table below.

Otter Tail stated that, consistent with the Commission's March 29, 2010 Order in Docket E002/M-09-1302, it will send a letter to the affected Customer informing the Customer of the request for a variance and provide instructions on how to participate in this proceeding.

A. *THE CUSTOMER*

The Customer involved in the instant docket is receiving service under Section 11.04 of Otter Tail's Electric Rate Schedule entitled Outdoor Lighting, Dusk to Dawn, Rate code 31-745. The Company calculated a total credit for the Customer of approximately \$11,950.07¹ for the total time frame both within and exceeding the Commission Rule and Tariff periods. The Company stated that on January 13, 2016 it refunded the Customer in the amount of \$1,420.93² for the 3-year period provided for in Rule and Tariff. OTP calculated and provided billing credits in accordance with Minnesota Rules, part 7820.3800 and calculated interest consistent with Minnesota Statutes § 325E.02(b).

The following table summarizes the credit amounts associated with the Customer.

Table 1: Credit Amounts Provided and Credit Amounts Requiring Variance³

| Time Period | Principal | Interest | Total |
|---|------------|------------|-------------|
| Credit Provided (January 27, 2013 – December 29, 2015) | \$1,413.28 | \$7.65 | \$1,420.93 |
| Credit Requiring Variance (November 29, 1993 – December 29, 2015) | \$8,001.20 | \$2,527.94 | \$10,529.14 |
| Total | \$9,414.48 | \$2,535.59 | \$11,950.07 |

II. **DEPARTMENT ANALYSIS**

Minnesota Rules, part 7820.3800 states in relevant part:

Subpart 1. Errors warranting remedy.

When a customer has been overcharged or undercharged as a result of incorrect reading of the meter, **incorrect application of rate schedule, incorrect connection of the meter**, application of an incorrect multiplier or constant or other similar reasons, the amount of the overcharge shall be refunded to the customer or the amount of the undercharge may be billed to the customer as detailed in subparts 2 through 4.

Subpart 2. Remedy for overcharge.

When a utility has overcharged a customer, the utility shall calculate the difference between the amount collected for service rendered and the amount the utility should have collected for service rendered, plus interest, for the period beginning three years before the date of discovery. Interest must

¹ Consisting of \$11,950.07 of principal and \$2,535.59 of interest.

² Consisting of \$1,413.28 of principal and \$7.65 of interest.

³ See Petition Page 5 and DOC Attachment No.1, Page 1.

be calculated as prescribed by Minnesota Statutes, section 325E.02, paragraph (b).

Subpart 4. Exception if error date known.

If the date the error occurred can be fixed with reasonable certainty, the remedy shall be calculated on the basis of payments for service rendered after that date, but in no event for a period beginning more than three years before the discovery of an overcharge or one year before the discovery of an undercharge.

Otter Tail's Rate Book, Section No. 4.09, First Revision, Pages 1 of 2 states, in relevant part:

4.09 BILLING ADJUSTMENTS Overbilled

If the Customer was over-billed, the Company shall recalculate bills for service during the period of the error, up to a maximum of three years from the date of discovery. Adjustments of bills will be made in accordance with the rules prescribed by the Commission. Interest will be calculated as prescribed by Minn. Stat. §325E.02b.

OTP stated that it has provided the affected Customer refund in accordance with Minnesota Rules and its Billing Error Tariff. The Company requested approval to issue further credits for the amount overcharged to the Customer for the periods that lie outside the 3-year limit.

Minnesota Rules, part 7829.3200, subp. 1 establishes the following criteria for evaluating a variance request:

The commission shall grant a variance to its rules when it determines that the following requirements are met:

- A. enforcement of the rule would impose an excessive burden upon the applicant or others affected by the rule;
- B. granting the variance would not adversely affect the public interest; and
- C. granting the variance would not conflict with standards imposed by law.

The Minnesota Department of Commerce, Division of Energy Resources (Department or DOC) believes that the rule variance criteria can also be used to assess the reasonableness of the one-time tariff modification that Otter Tail has requested.

In support of Otter Tail's variance request, the Company stated that, given the amount of time at issue, enforcement of the rule would impose an excessive burden on the Customer by limiting the credit from the total over-billed amount. Further, OTP stated that granting the variance would not adversely affect the public interest. Finally, Otter Tail stated that it is

unaware of any conflict with any standards imposed by law. The Company noted that the Commission has in the past approved a utility's voluntary credit beyond the time period required by Minnesota Rules when similar circumstances exist.

The Department concludes that the criteria for granting a variance as set forth by Minnesota Rules, part 7829.3200, subp. 1 are met for Otter Tail's variance request and for a one-time modification to the Company's tariff.

III. RECOMMENDATION

The Department recommends that the Commission approve Otter Tail's request for a variance to Minnesota Rules, part 7820.3800 and a one-time modification to its Electric Billing Error Tariff requirements for the purposes of providing the proposed refunds to the Customer.

/lt

From: [Fedje, Svetlana](#)
To: [Kamara, Ben \(COMM\)](#)
Cc: [Prazak, David](#)
Subject: RE: Docket No. 16-1056
Date: Wednesday, December 28, 2016 10:47:16 AM
Attachments: [Interest calculations Olson.19483.xlsx](#)

Ben,

Here are the answers:

1. Can you please provide the spreadsheet used that shows OTP's interest calculations?

Please see attached spreadsheet: "Interest calculations Olson.19483.xlsx"

2. In reference to Table 1, could you please provide the full dates? (The days were missing in your table).

Please see the updated dates in a table below:

| Time Period | Principal | Interest | Total |
|---|-------------------|-------------------|--------------------|
| <i>Within</i> Commission Rules and Tariff period: January 27, 2013 through December 29, 2015 | \$1, 413.28 | \$7.65 | \$1,420.93 |
| <i>Exceeding</i> Rules and Tariff Period: November 29, 1993 – December 29, 2012 | \$8001.20 | \$2,527.94 | \$10,529.14 |
| Total | \$9,414.48 | \$2,535.59 | \$11,950.07 |

3. Please confirm the Rate Class of the Customer.

Rate: 745 – Outdoor Lighting: Dusk to Dawn, Rate Level: 31, Revenue Class: 1 – Residential Area Lighting

4. Was the Customer credited or refunded? Or does OTP intend to do both after the Commission issued its Order? (I understand that the petition says refund but sometimes those words can be used interchangeably).

After the Commission issues its Order, the Customer will receive a refund for the total amount of \$10,529.14, in a form of a check. The other portion in the amount of \$1,420.93(Check) falls within the time limit period that allows the refund and have been refunded already.

Please let me know if you need anything else,

Lana Fedje

Pricing Analyst
Otter Tail Power Company

215 S. Cascade St.
Fergus Falls, MN 56537
Phone: 218-739-8799
Fax: 218-739-8032
email: sfedje@otpco.com

This email may include confidential or privileged information. If this is not intended for your use, please destroy immediately and contact the sender of this message.

From: Kamara, Ben (COMM) [mailto:Ben.Kamara@state.mn.us]
Sent: Tuesday, December 20, 2016 5:02 PM
To: Fedje, Svetlana
Subject: Docket No. 16-1056

This is an **EXTERNAL** email. DO NOT open attachments or click links in suspicious email.

Hi Lana,

I'm the assigned Analyst for the above mentioned docket you filed on Dec. 14.

I've got some questions for you:

1. Can you please provide the spreadsheet used that shows OTP's interest calculations?
2. In reference to Table 1, could you please provide the full dates? (The days were missing in your table).
3. Please confirm the Rate Class of the Customer.
4. Was the Customer credited or refunded? Or does OTP intend to do both after the Commission issued its Order? (I understand that the petition says refund but sometimes those words can be used interchangeably).

Thank you,

Ben Kamara
Public Utilities Financial Analyst
Minnesota Department of Commerce
85 7th Place East, Suite 500, Saint Paul, MN 55101
P: 651-539-1823



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CERTIFICATE OF SERVICE

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

MINNESTA DEPARTMENT OF COMMERCE

COMMENTS

Docket No. E017/M-16-1056

Dated January 3, 2017

/s/Marcella Emeott

| First Name | Last Name | Email | Company Name | Address | Delivery Method | View Trade Secret | Service List Name |
|-------------|------------|-------------------------------|------------------------------------|--|--------------------|-------------------|--------------------------|
| Julia | Anderson | Julia.Anderson@ag.state.mn.us | Office of the Attorney General-DOC | 1800 BRM Tower 445 Minnesota St St. Paul, MN 551012134 | Electronic Service | Yes | OFF_SL_16-1056_M-16-1056 |
| Christopher | Anderson | canderson@allete.com | Minnesota Power | 30 W Superior St Duluth, MN 558022191 | Electronic Service | No | OFF_SL_16-1056_M-16-1056 |
| Ray | Choquette | rchoquette@agp.com | Ag Processing Inc. | 12700 West Dodge Road PO Box 2047 Omaha, NE 68103-2047 | Electronic Service | No | OFF_SL_16-1056_M-16-1056 |
| James C. | Erickson | jericksonkbc@gmail.com | Kelly Bay Consulting | 17 Quechee St Superior, WI 54880-4421 | Electronic Service | No | OFF_SL_16-1056_M-16-1056 |
| Svetlana | Fedje | sfedje@otpc.com | Otter Tail Power Company | 215 S Cascade St Fergus Falls, MN 56537 | Electronic Service | No | OFF_SL_16-1056_M-16-1056 |
| Sharon | Ferguson | sharon.ferguson@state.mn.us | Department of Commerce | 85 7th Place E Ste 500 Saint Paul, MN 551012198 | Electronic Service | No | OFF_SL_16-1056_M-16-1056 |
| Bruce | Gerhardson | bgerhardson@otpc.com | Otter Tail Power Company | PO Box 496 215 S Cascade St Fergus Falls, MN 565380496 | Electronic Service | No | OFF_SL_16-1056_M-16-1056 |
| Shane | Henriksen | shane.henriksen@enbridge.com | Enbridge Energy Company, Inc. | 1409 Hammond Ave FL 2 Superior, WI 54880 | Electronic Service | No | OFF_SL_16-1056_M-16-1056 |
| James D. | Larson | james.larson@avantenergy.com | Avant Energy Services | 220 S 6th St Ste 1300 Minneapolis, MN 55402 | Electronic Service | No | OFF_SL_16-1056_M-16-1056 |
| Douglas | Larson | dlarson@dakotaelectric.com | Dakota Electric Association | 4300 220th St W Farmington, MN 55024 | Electronic Service | No | OFF_SL_16-1056_M-16-1056 |

| First Name | Last Name | Email | Company Name | Address | Delivery Method | View Trade Secret | Service List Name |
|------------|------------|-----------------------------|---------------------------------------|--|--------------------|-------------------|--------------------------|
| John | Lindell | john.lindell@ag.state.mn.us | Office of the Attorney General-RUD | 1400 BRM Tower 445 Minnesota St St. Paul, MN 551012130 | Electronic Service | Yes | OFF_SL_16-1056_M-16-1056 |
| Kavita | Maini | kmairi@wi.rr.com | KM Energy Consulting LLC | 961 N Lost Woods Rd Oconomowoc, WI 53066 | Electronic Service | No | OFF_SL_16-1056_M-16-1056 |
| Andrew | Moratzka | andrew.moratzka@stoel.com | Stoel Rives LLP | 33 South Sixth St Ste 4200 Minneapolis, MN 55402 | Electronic Service | No | OFF_SL_16-1056_M-16-1056 |
| Gary | Oetken | goetken@agp.com | Ag Processing, Inc. | 12700 West Dodge Road P.O. Box 2047 Omaha, NE 681032047 | Electronic Service | No | OFF_SL_16-1056_M-16-1056 |
| David G. | Prazak | dprazak@otpc.com | Otter Tail Power Company | P.O. Box 496 215 South Cascade Street Fergus Falls, MN 565380496 | Electronic Service | No | OFF_SL_16-1056_M-16-1056 |
| Larry L. | Schedin | Larry@LLSResources.com | LLS Resources, LLC | 332 Minnesota St, Ste W1390 St. Paul, MN 55101 | Electronic Service | No | OFF_SL_16-1056_M-16-1056 |
| Stuart | Tommerdahl | stommerdahl@otpc.com | Otter Tail Power Company | 215 S Cascade St PO Box 496 Fergus Falls, MN 56537 | Electronic Service | No | OFF_SL_16-1056_M-16-1056 |
| Daniel P | Wolf | dan.wolf@state.mn.us | Public Utilities Commission | 121 7th Place East Suite 350 St. Paul, MN 551012147 | Electronic Service | Yes | OFF_SL_16-1056_M-16-1056 |