

April 5, 2021

PUBLIC DOCUMENT

Will Seuffert
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
Saint Paul, Minnesota 55101-2147

RE: PUBLIC Supplemental Comments of the Minnesota Department of Commerce, Division of Energy Resources
Docket No. E017/M-21-99

Dear Mr. Seuffert:

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

In the Matter of a Petition by Otter Tail Power Company for Renewal of an Energy-Intensive, Trade-Exposed Customer Rate and Annual Update.

The Petition was filed on February 1, 2021 by:

Darlene C. Mandelke
Rates Analyst, Regulatory Administration
Otter Tail Power Company
215 South Cascade Street
Fergus Falls, MN 56538-0496

The Department recommends that the Minnesota Public Utilities Commission (Commission):

- 1) Approve OTP's 2020 Annual Update.
- 2) Approve OTP's request to renew its EITE rate for a four-year period.
- 3) Cap the OTP EITE Customer Group's Annual kWh baseline usage at the amount identified in Docket No. E-017/M-17-257 in Attachment A of OTP's February 15, 2018 Reply Comments beginning in 2021.
- 4) Require OTP to provide a compliance filing that verifies that it has made a \$10,000 contribution to a low-income agency consistent with Minnesota Statute 216B.1696, subd. 3.

The Department is available to answer any questions that the Commission may have in this matter.

Sincerely,

/s/ JOHN KUNDERT
Financial Analyst

SACHIN SHAH
Rates Analyst

JK/SS/ja
Attachment



Before the Minnesota Public Utilities Commission

PUBLIC Supplemental Comments of the Minnesota Department of Commerce Division of Energy Resources

Docket No. E-017/M-21-99

I. INTRODUCTION

On February 1, 2021, Otter Tail Power Company (OTP, Otter Tail, or the Company) petitioned the Minnesota Public Utilities Commission (Commission) for approval of its renewal of customer eligibility, updated baseline and annual update to the Energy-Intensive, Trade-Exposed (EITE) Rider Surcharge Rate under Otter Tail's Rate Schedule 13.09.

On March 19, 2021, the Minnesota Department of Commerce, Division of Energy Resources (Department) filed Comments asking the Company to provide additional information in its Reply Comments on the following topics:

- Has OTP made a \$10,000 deposit to a low-income agency as part of this filing?
- Can the Company **[TRADE SECRET DATA HAS BEEN EXCISED]**?
- Will OTP change the word "decrease" to "increase" in its bill notice?

On March 29, 2021 OTP filed its Reply Comments. The Company addressed the three issues the Department identified.

The Office of the Attorney General – Residential Utilities Division (OAG) also filed Comments in this docket. The OAG recommended that the baseline usage for the EITE Customer Group should be allowed to decrease when the rate is renewed, but it should not be allowed to increase beyond the annual usage approved as the 2016 baseline in Docket No. E017/M-17-257.

The Department provides its response to OTP's Reply Comments and the OAG's Comments in the following section.

II. ANALYSIS

A. *OTP'S RESPONSE TO THE DEPARTMENT'S COMMENTS*

The Department appreciates the Company's efforts to respond to the Department's request for information. The Company stated in its Reply Comments that it will make a \$10,000 deposit and provide the Commission with an informational filing confirming the same. Hence, the first issue the Department identified has been resolved.

OTP also explained in Reply Comments that it had updated the low-income sales average per kWh per year in its EITE model, but that the table it had provided in the filing was mislabeled. The Company provided an updated, properly labeled table in its Reply Comments.

Finally, the Company agreed to correct the language in its customer notice consistent with the Department's request. Thus, the Department believes that all the issues it identified in its Comments have been resolved.

B. OTP'S RESPONSE TO THE OAG'S COMMENTS

In its Reply Comments, OTP stated the following in response to the OAG's recommendation that the Commission not approve any increases to the baseline sales level beyond the usage level approved as the 2016 baseline in Docket No. E017/M-17-257 (the 2017 EITE Docket):

Otter Tail requests the Commission not decide at this time that any future upward adjustment to the baseline be capped at the original 2016 baseline. An upward adjustment to the baseline may be warranted if changes to an EITE customer's production, such as adding a production line, have occurred resulting in a significant increase in annual kWh sales.

Minn. Stat. §216B.1696, subd. 2(d) states the following:

Upon approval of any EITE rate schedule, the utility shall create a separate account to track the difference in revenue between what would have been collected under the electric utility's applicable standard tariff and the EITE rate schedule. In its next general rate case or through an EITE cost recovery rate rider between general 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. The utility shall not recover any costs or refund any savings under this section from any energy-intensive trade-exposed customer or any low-income residential ratepayers as defined in Minnesota Statutes section 216B.16, subdivision 15.

On May 29, 2018 the Commission issued its *Order Authorizing Cost Recovery with Conditions* (May 29 Order) in the 2017 EITE Docket approving Otter Tail's proposed cost-recovery proposal with conditions. In its May 29 Order, the Commission determined that to implement Minn. Stat. § 216B.1696, subd. 2(d), the basis for "what would have been" collected would be the known revenues actually collected from EITE-eligible customers prior to the rate's implementation. The Commission selected the 2016

baseline year because 2016 was the most reasonable pre-EITE period available for comparison. The Commission stated:¹

Calculating the amount of any revenue increase and the resultant refund requires a determination of the “baseline” level of revenue that the utility earned from EITE customers **prior to implementation of the discount.**

...EITE-customer revenues from 2016 are an appropriate benchmark for measuring any revenue increase attributable to the EITE discount, since Otter Tail did not offer an EITE discount at that time, but began offering a discount in 2017. Use of 2016 revenues will ensure that EITE-paying customers benefit from any significant and sustained increase in EITE revenues that may result from the discount (emphasis added).

OTP argues that “an upward adjustment to the baseline may be warranted if changes to an EITE customer’s production, such as adding a production line, have occurred resulting in a significant increase in annual kWh sales.” As mentioned above, the Commission has already made a determination that 2016 should be the baseline year. Thus, even if there are changes to the EITE customer’s production that result in an increase in annual kWh sales, the EITE customers will receive their discounted rates.

Capping the OTP EITE Customer Group’s annual kWh at the amount approved in the May 29 Order implies that even if there are increased revenues as a result of changes to the EITE customer’s production that result in an increase in annual kWh sales, the cap will result in EITE-paying customers getting back some or all of the surcharges they paid to help spur the EITE customers’ purchase of additionally electricity, whereas without a refund they would, paradoxically, be required to pay more as OTP’s revenues from EITE customers increase.

Thus, for all the above reasons, the Department agrees with the OAG’s request to limit the EITE Customer Group’s annual baseline energy sales to the total annual usage approved in the 2016 EITE filing or to a lesser amount.

III. CONCLUSION AND RECOMMENDATIONS

The Department recommends that the Commission:

- 1) Approve OTP’s 2020 Annual Update.
- 2) Approve OTP’s request to renew its EITE rate for a four-year period.

¹ May 29 Order at pages 3-4.

- 3) Cap the OTP EITE Customer Group's Annual kWh baseline usage at the amount identified in Docket No. E-017/M-17-257 in Attachment A of the Company's Reply Comments dated February 15, 2018 beginning in 2021.
- 4) Require OTP to provide a compliance filing that verifies that it has made a \$10,000 contribution to a low-income agency consistent with Minnesota Statute.

/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
Public Supplemental Comments**

Docket No. E017/M-21-99

Dated this 5th day of April 2021

/s/Sharon Ferguson

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Amadeo	Bellino	amadeo.bellino@llojibwe.net	Leech Lake Band of Ojibwe	- 55101	Electronic Service	No	OFF_SL_21-99_Official Service List 21-99
Mariah	Bevins	Maria.Bevins@whiteearthnsn.gov	White Earth Reservation Business Committee	PO Box 418 White Earth, MN 56591	Electronic Service	No	OFF_SL_21-99_Official Service List 21-99
Tom	Boyko	tboyko@eastriver.coop	East River Electric Power Coop.	211 S. Harth Ave Madison, SD 57042	Electronic Service	No	OFF_SL_21-99_Official Service List 21-99
Ray	Choquette	rchoquette@agp.com	Ag Processing Inc.	12700 West Dodge Road PO Box 2047 Omaha, NE 68103-2047	Electronic Service	No	OFF_SL_21-99_Official Service List 21-99
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_21-99_Official Service List 21-99
Brooke	Cooper	bcooper@allete.com	Minnesota Power	30 W Superior St Duluth, MN 558022191	Electronic Service	No	OFF_SL_21-99_Official Service List 21-99
Jason	Decker	jason.decker@llojibwe.net	Leech Lake Band of Ojibwe	- 55101	Electronic Service	No	OFF_SL_21-99_Official Service List 21-99
Richard	Dornfeld	Richard.Dornfeld@ag.state.mn.us	Office of the Attorney General-DOC	Minnesota Attorney General's Office 445 Minnesota Street, Suite 1800 Saint Paul, Minnesota 55101	Electronic Service	Yes	OFF_SL_21-99_Official Service List 21-99
Charles	Drayton	charles.drayton@enbridge.com	Enbridge Energy Company, Inc.	7701 France Ave S Ste 600 Edina, MN 55435	Electronic Service	No	OFF_SL_21-99_Official Service List 21-99
Grace	Elliott	grace.elliott@llojibwe.net	Leech Lake Band of Ojibwe	- 55101	Electronic Service	No	OFF_SL_21-99_Official Service List 21-99

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Remi	Engbers	remi.engbers@woodsfuller.com	Woods, Fuller, Shultz & Smith P.C.	300 S Phillips Ave Ste 300 PO Box 5027 Sioux Falls, SD 57117-5027	Electronic Service	No	OFF_SL_21-99_Official Service List 21-99
Kelly C.	Engebretson	Kelly.Engebretson@lawmo ss.com	Moss & Barnett	150 S. 5th St #1200 Minneapolis, MN 55402	Electronic Service	No	OFF_SL_21-99_Official Service List 21-99
James C.	Erickson	jericksonkbc@gmail.com	Kelly Bay Consulting	17 Quechee St Superior, WI 54880-4421	Electronic Service	No	OFF_SL_21-99_Official Service List 21-99
Michael	Fairbanks	Michael.Fairbanks@whitee arth-nsn.gov	White Earth Reservation Business Committee	PO Box 418 White Earth, MN 56591	Electronic Service	No	OFF_SL_21-99_Official Service List 21-99
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_21-99_Official Service List 21-99
Jessica	Fyhrie	jfyhrie@otpc.com	Otter Tail Power Company	PO Box 496 Fergus Falls, MN 56538-0496	Electronic Service	Yes	OFF_SL_21-99_Official Service List 21-99
Edward	Garvey	garveyed@aol.com	Residence	32 Lawton St Saint Paul, MN 55102	Electronic Service	No	OFF_SL_21-99_Official Service List 21-99
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_21-99_Official Service List 21-99
Annete	Henkel	mui@mutilityinvestors.org	Minnesota Utility Investors	413 Wacouta Street #230 St.Paul, MN 55101	Electronic Service	No	OFF_SL_21-99_Official Service List 21-99
Shane	Henriksen	shane.henriksen@enbridge .com	Enbridge Energy Company, Inc.	1409 Hammond Ave FL 2 Superior, WI 54880	Electronic Service	No	OFF_SL_21-99_Official Service List 21-99

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Kristin	Henry	kristin.henry@sierraclub.org	Sierra Club	85 Second Street San Francisco, CA 94195	Electronic Service	No	OFF_SL_21-99_Official Service List 21-99
Katherine	Hinderlie	katherine.hinderlie@ag.state.mn.us	Office of the Attorney General-DOC	445 Minnesota St Suite 1400 St. Paul, MN 55101-2134	Electronic Service	Yes	OFF_SL_21-99_Official Service List 21-99
Faron	Jackson, Sr.	faron.jackson@llojibwe.net	Leech Lake Band of Ojibwe	N/A	Electronic Service	No	OFF_SL_21-99_Official Service List 21-99
Richard	Johnson	Rick.Johnson@lawmoss.com	Moss & Barnett	150 S. 5th Street Suite 1200 Minneapolis, MN 55402	Electronic Service	No	OFF_SL_21-99_Official Service List 21-99
Max	Kieley	max.kieley@ag.state.mn.us	Office of the Attorney General-RUD	1400 Town Square Tower 445 Minnesota Street St. Paul, MN 55101	Electronic Service	Yes	OFF_SL_21-99_Official Service List 21-99
Michael	Krikava	mkrikava@taftlaw.com	Taft Stettinius & Hollister LLP	2200 IDS Center 80 S 8th St Minneapolis, MN 55402	Electronic Service	No	OFF_SL_21-99_Official Service List 21-99
Bill	Lachowitz	blachowitz@ibewlocal949.org	IBEW Local Union 949	12908 Nicollet Ave S Burnsville, MN 55337-3527	Electronic Service	No	OFF_SL_21-99_Official Service List 21-99
Douglas	Larson	dlarson@dakotaelectric.com	Dakota Electric Association	4300 220th St W Farmington, MN 55024	Electronic Service	No	OFF_SL_21-99_Official Service List 21-99
James D.	Larson	james.larson@avantenergy.com	Avant Energy Services	220 S 6th St Ste 1300 Minneapolis, MN 55402	Electronic Service	No	OFF_SL_21-99_Official Service List 21-99
Annie	Levenson Falk	annief@cupminnesota.org	Citizens Utility Board of Minnesota	332 Minnesota Street, Suite W1360 St. Paul, MN 55101	Electronic Service	No	OFF_SL_21-99_Official Service List 21-99

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Eric	Lipman	eric.lipman@state.mn.us	Office of Administrative Hearings	PO Box 64620 St. Paul, MN 551640620	Electronic Service	Yes	OFF_SL_21-99_Official Service List 21-99
Kavita	Maini	kmainsi@wi.rr.com	KM Energy Consulting, LLC	961 N Lost Woods Rd Oconomowoc, WI 53066	Electronic Service	No	OFF_SL_21-99_Official Service List 21-99
Darlene C	Mandelke	dmandelke@otpc.com	Otter Tail Power Company	15 S Cascade St PO Box 496 Fergus Falls, MN 56538-0496	Electronic Service	No	OFF_SL_21-99_Official Service List 21-99
Pam	Marshall	pam@energycents.org	Energy CENTS Coalition	823 7th St E St. Paul, MN 55106	Electronic Service	No	OFF_SL_21-99_Official Service List 21-99
Joseph	Meyer	joseph.meyer@ag.state.mn.us	Office of the Attorney General-RUD	Bremer Tower, Suite 1400 445 Minnesota Street St Paul, MN 55101-2131	Electronic Service	No	OFF_SL_21-99_Official Service List 21-99
Tim	Miller	Tim.Miller@mrenergy.com	Missouri River Energy Services	3724 W Avera Dr PO Box 88920 Sioux Falls, SD 57109-8920	Electronic Service	No	OFF_SL_21-99_Official Service List 21-99
Andrew	Moratzka	andrew.moratzka@stoel.com	Stoel Rives LLP	33 South Sixth St Ste 4200 Minneapolis, MN 55402	Electronic Service	No	OFF_SL_21-99_Official Service List 21-99
Matthew	Olsen	molsen@otpc.com	Otter Tail Power Company	215 South Cascade Street Fergus Falls, MN 56537	Electronic Service	No	OFF_SL_21-99_Official Service List 21-99
Ben	Passer	Passer@fresh-energy.org	Fresh Energy	408 St. Peter Street Ste 220 Saint Paul, MN 55102	Electronic Service	No	OFF_SL_21-99_Official Service List 21-99
Marcia	Podratz	mpodratz@mnpower.com	Minnesota Power	30 W Superior S Duluth, MN 55802	Electronic Service	No	OFF_SL_21-99_Official Service List 21-99

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
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_21-99_Official Service List 21-99
Rate Case Inbox	Rate Case Inbox	mnrates@otpc.com	Otter Tail	N/A	Electronic Service	No	OFF_SL_21-99_Official Service List 21-99
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_21-99_Official Service List 21-99
Richard	Savelkoul	rsavelkoul@martinsquires.com	Martin & Squires, P.A.	332 Minnesota Street Ste W2750 St. Paul, MN 55101	Electronic Service	No	OFF_SL_21-99_Official Service List 21-99
Larry L.	Schedin	Larry@LLSResources.com	LLS Resources, LLC	332 Minnesota St, Ste W1390 St. Paul, MN 55101	Electronic Service	No	OFF_SL_21-99_Official Service List 21-99
Peter	Scholtz	peter.scholtz@ag.state.mn.us	Office of the Attorney General-RUD	Suite 1400 445 Minnesota Street St. Paul, MN 55101-2131	Electronic Service	Yes	OFF_SL_21-99_Official Service List 21-99
Robert H.	Schulte	rhs@schultheassociates.com	Schulte Associates LLC	1742 Patriot Rd Northfield, MN 55057	Electronic Service	No	OFF_SL_21-99_Official Service List 21-99
Will	Seuffert	Will.Seuffert@state.mn.us	Public Utilities Commission	121 7th Pl E Ste 350 Saint Paul, MN 55101	Electronic Service	Yes	OFF_SL_21-99_Official Service List 21-99
Janet	Shaddix Elling	jshaddix@janetshaddix.com	Shaddix And Associates	7400 Lyndale Ave S Ste 190 Richfield, MN 55423	Electronic Service	Yes	OFF_SL_21-99_Official Service List 21-99
Cary	Stephenson	cStephenson@otpc.com	Otter Tail Power Company	215 South Cascade Street Fergus Falls, MN 56537	Electronic Service	Yes	OFF_SL_21-99_Official Service List 21-99

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
William	Taylor	bill.taylor@taylorlawsd.com	Taylor Law Firm	4820 E. 57th Street Suite B Sioux Falls, SD 57108	Electronic Service	No	OFF_SL_21-99_Official Service List 21-99
Stuart	Tommerdahl	stommerdahl@otpc.com	Otter Tail Power Company	215 S Cascade St PO Box 496 Fergus Falls, MN 56537	Electronic Service	Yes	OFF_SL_21-99_Official Service List 21-99
Pat	Treseler	pat.jcplaw@comcast.net	Paulson Law Office LTD	4445 W 77th Street Suite 224 Edina, MN 55435	Electronic Service	No	OFF_SL_21-99_Official Service List 21-99
Laurie	Williams	laurie.williams@sierraclub.org	Sierra Club	Environmental Law Program 1536 Wynkoop St Ste 200 Denver, CO 80202	Electronic Service	No	OFF_SL_21-99_Official Service List 21-99
Cha	Xiong	cha.xiong@ag.state.mn.us	Office of the Attorney General-DOC	445 Minnesota St. Suite 1400 St. Paul, Minnesota 55101	Electronic Service	Yes	OFF_SL_21-99_Official Service List 21-99
Laurie	York	laurie.york@whiteearth- nsn.gov	White Earth Reservation Business Committee	PO Box 418 White Earth, MN 56591	Electronic Service	No	OFF_SL_21-99_Official Service List 21-99
Patrick	Zomer	Pat.Zomer@lawmoss.com	Moss & Barnett a Professional Association	150 S. 5th Street, #1200 Minneapolis, MN 55402	Electronic Service	No	OFF_SL_21-99_Official Service List 21-99