

July 22, 2025

Mike Bull Minnesota Public Utilities Commission 121 7th Place East, Suite 350 St. Paul, Minnesota 55101-2147

RE: Comments of the Minnesota Department of Commerce Docket No. E017/M-25-49

Dear Mr. Bull:

Attached are the comments of the Minnesota Department of Commerce (Department) in the following matter:

Otter Tail Power's 2024 Annual Filing of the Demand Side Management Financial Incentive Project and Annual Filing to Update the ECO Rider (Petition)

The Petition was filed by Otter Tail Power on April 1, 2025.

The Department recommends that the Minnesota Public Utilities Commission (Commission) approve Otter Tail Power's Petition. The Department is available to answer any questions that the Commission may have.

Sincerely,

/s/ Dr. SYDNIE LIEB
Assistant Commissioner of Regulatory Analysis



Before the Minnesota Public Utilities Commission

Comments of the Minnesota Department of Commerce

Docket No. E017/M-25-49

I. INTRODUCTION

On April 1, 2025, Otter Tail Power Company (Otter Tail, OTP, or the Company) submitted its *Petition* with the Commission in Docket No. E017/M-25-49. The Petition contains the following requests for approval:

- Performance incentive of \$1,964,142 for 2024 ECO activities.
- 2024 ECO tracker account, resulting in a December 31, 2024, balance of negative \$3,194,439.
- 2025/2026 Average Conservation Cost Recovery Adjustment factor of \$0.00585/kWh to be effective November 1, 2025.
- Administrative changes to OTP's Energy Conservation and Optimization Rider.
- Variance to Minnesota Rules 7820.3500(K).

The Petition also contains the Company's 2024 Energy Conservation and Optimization (ECO) Status Report (Status Report). The Status Report is intended to fulfill the requirements of the Department's annual ECO reporting rules contained in Minnesota Rules part 7690.0550. Since the Company's Status Report does not require Commission approval, this portion of the Petition has been assigned to a separate docket.¹

II. PROCEDURAL BACKGROUND

April 1, 2025	OTP submitted its Petition with the Commission.
April 24, 2025	The Commission posted a Notice of Comment Period for the Petition.
June 25, 2025	The Department filed a request for variance extension, requesting an additional 21 days to complete its analysis and file comments.
June 25, 2025	The Commission granted the request for extension.

Topics open for comment:

 Should the Commission approve Otter Tail Power Co.'s (Otter Tail) proposed electric DSM Financial Incentive of \$1,964,142 for ECO activities in 2024?

¹ See Docket No. E017/CIP-23-94.

- Should the Commission approve Otter Tail's proposed 2024 ECO Tracker account, resulting in a year-end balance of (\$3,194,439)?
- Should the Commission approve Otter Tail's proposed Average Conservation Cost Recovery Adjustment (CCRA or "ECO Rider") factor of \$0.00585/kWh for bills rendered on and after November 1, 2025?
- Should the Commission approve Otter Tail's proposed "administrative changes" to its ECO Rider tariff?
- Should the Commission approve Otter Tail's request for a variance from Minnesota Rules 7820.3500 (K)?
- Are there other issues or concerns related to this matter?

III. DEPARTMENT ANALYSIS

The Department provides its analysis of Otter Tail's Petition in the following sections:

- A. Commission's 2024 Order
- B. Minnesota's Energy Conservation and Optimization Statute
- C. Proposed 2024 Shared Savings DSM Financial Incentive
- D. Proposed 2024 ECO Tracker
- E. Proposed Average Conservation Cost Recovery Adjustment for 2025/2026
- F. Proposed Administrative Changes to ECO Rider
- G. Proposed Request for a Variance from Minnesota Rules 7820.3500(K)
- H. Historical ECO Achievements and Shared Savings Incentives

A. COMMISSION'S 2024 ORDER

On November 8, 2024, the Commission issued its Order in Otter Tail's 2023 ECO Filing in Docket No. E-017/M-24-49, with the following determinations:

- Approved a DSM financial incentive of \$2,705,283.
- Approved proposed recoveries and expenditures in the Otter Tail's ECO tracker account during 2023 resulting in a year-end 2023 balance of (\$3,321,343).
- 3. Approved a Conservation Cost Recovery Adjustment of \$0.00555 per kWh to be effective the first billing cycle in the month following Commission approval, as well as the individual class rate factors, should the Commission deem this approval necessary.
- 4. Granted Otter Tail a variance to Minnesota Rules part 7820.3500(K) for one year after the issue date of the Commission's Order.
- 5. Approved Otter Tail's proposed changes to its tariff sheets.
- 6. Required Otter Tail to submit a compliance filing, within 10 days of the issue date of the Order, with revised tariff sheets reflecting the Commission's determinations in this matter.

B. MINNESOTA'S ENERGY CONSERVATION AND OPTIMIZATION STATUTE

In 2021, the Minnesota Legislature passed the Energy Conservation and Optimization Act (ECO Act).² The ECO Act primarily serves to modernize what was the Conservation Improvement Program (CIP) to provide a more holistic approach to energy efficiency programming. Notable highlights of the ECO Act include:

- Providing participating electric and natural gas utilities the opportunity to optimize energy use and delivery through the inclusion of load management³ and efficient fuel-switching (EFS) programs.⁴
- Raising the energy savings goals for the state's electric investor-owned utilities (IOUs).⁵
- More than doubling the low-income spending requirement for all IOUs.⁶
- Providing greater planning flexibility for participating municipal and cooperative utilities.
- Including activities to improve energy efficiency for public schools.⁸

Minn. Stat. § 216B.241 (ECO Statute) provides the framework for IOU ECO programs that deliver energy savings, load management programs, and EFS measures. This includes annual savings goals, which are determined as a percentage of the most recent three-year average of gross retail sales after subtracting sales to ECO-exempt customers. ⁹ 2024-2026 is the first program year period where requirements from the ECO Act take effect for the IOUs' ECO programs.

The ECO Statute grants jurisdiction to the Department over most of the state's ECO program regulatory activities. The Commission continues to have jurisdiction over two specific conservation items relevant to this proceeding: the Shared Savings DSM Financial Incentive and the recovery of ECO costs.

The Department has regulatory oversight in reviewing and approving utility plans and performance, ¹⁰ determining cost-effectiveness methodologies ¹¹, and the overall administration of the ECO framework. ¹² Utilities are also allowed to recover costs incurred from delivering ECO programs approved by the Department, ¹³ which are recovered through a tracker account reviewed and approved annually by the Commission. ¹⁴ Finally, the Commission can approve incentive plans encouraging utility success through ECO programs provided the plans meet certain statutory requirements. ¹⁵ The

²https://www.revisor.mn.gov/bills/text.php?number=HF164&type=bill&version=2&session=ls92&session_year=2021&session_number=0

³ Minn. Stat. § 216B.241, subd. 13.

⁴ Minn. Stat. § 216B.2403, subd. 8.

⁵ Minn. Stat. § 216B.241, subd. 1c(b).

⁶ Minn. Stat. § 216B.241, subd. 7(a).

⁷ Minn. Stat. § 216B.2403, subd. 3.

⁸ Minn. Stat. §§ 216B.2403, subd 3(j) and 216B.241, subd. 2(i).

⁹ Minn. Stat. § 216B.241, subd. 1c.

¹⁰ Minn. Stat. § 216B.241 Subd. 2 et seq

¹¹ Minn. Stat. § 216B.241 Subd. 1c(e)

¹² Minn. Stat. § 216B.241, 216B.2402, 216B,2403 and Minn. Rules 7690

¹³ Minn. Stat. § 216B.241, subd. 2b.

¹⁴ Minn. Stat. § 216B.16, subd. 6b.

¹⁵ Minn. Stat. § 216B.16, subd. 6c.

Commission has approved Shared Savings DSM Financial Incentive mechanisms for each three-year Triennial Plan since 2010 through Docket No. E,G-999/CI-08-133, ¹⁶ and approves annual financial incentives through the ECO tracker account proceedings. ¹⁷

C. PROPOSED 2024 SHARED SAVINGS DSM FINANCIAL INCENTIVE

C.1. Key Parameters from the 2024-2026 Shared Savings DSM Financial Incentive Plan

On January 25, 2024, the Commission's Order approved the current Shared Savings DSM Financial Incentive Plan, which applies to investor-owned gas and electric utilities for savings achieved through ECO during the 2024–2026 Triennial. The Department's review of the *Petition's* proposed Shared Savings Financial Incentive was informed by the requirements included in the Commission's January 25, 2024 Order.

The current incentive mechanism awards utilities a percentage of their portfolio-wide Minnesota Test net benefits depending on their first-year energy savings achievement. In 2024, the cost-effectiveness test used to calculate net benefits for purposes of the incentive mechanism switched from the Utility Cost Test to the newly developed Minnesota Test, which incorporates additional considerations when measuring cost-effectiveness, such as greenhouse gas emission reductions. The 2024–2026 incentive mechanism modified the previous 2021–2023 incentive mechanism by updating achievement goals for first-year energy savings and the corresponding percentages of net benefits awarded, partially to account for the change in cost-effectiveness tests.

Tables 1 and 2 show the range of annual first-year energy savings a utility can achieve during the 2024–2026 Triennial and the corresponding percentage of net benefits awarded for each level of first-year energy savings.

¹⁶ Commission Order Establishing Utility Performance Incentives for Energy Conservation, January 27, 2010, Docket Number E,G-999/CI-08-133.

¹⁷ See Commission Orders in Docket Numbers G-008/M-24-43, G-004/M-24-44, G-022/M-24-45, G-011/M-24-46, G-002/M-24-47, E-015/M-24-48, E-017/M-24-49, and E-002/M-24-50.

¹⁸ Order Adopting Modifications to Shared Savings Demand-Side Management Financial Incentive Plan, January 25, 2024. Docket Number E,G-999/CI-08-133.

Table 1: 2024-2026 Natural Gas Incentive

First-Year Energy Savings Achievement (% of Retail Sales)	% of Net Benefits Awarded
0.7% (threshold) ¹⁹	1.90%
0.8%	2.32%
0.9%	2.74%
1.0%	3.16%
1.1%	3.58%
1.2% (goal) ²⁰	4.00% (cap)

Table 2: 2024-2026 Electric Incentive

First-Year Energy Savings Achievement (% of Retail Sales)	% of Net Benefits Awarded
1.5% (threshold)	1.30%
1.6%	1.90%
1.7%	2.50%
1.8%	3.10%
1.9%	3.70%
2.0%	4.30%
2.1%	4.90%
2.2% (goal)	5.50% (cap)

Incentive caps limit the total incentive each utility can earn. The 2024–2026 incentive mechanism includes two incentive caps for each utility, one based on net benefits (Net Benefits Cap) and one on portfolio expenditures (Expenditures Cap), with the incentive amount being limited to whichever cap is lower. For the 2024–2026 incentive, the gas Net Benefits Cap equals 4 percent of portfolio net benefits and the Expenditures Cap equals 20 percent of total portfolio expenditures. For electric utilities, the Net Benefits Cap equals 5.5 percent of portfolio net benefits and the Expenditures Cap equals 20 percent of total portfolio expenditures. For both gas and electric utilities, the Expenditures Cap increases from 20 to 25 percent if the utility achieves or surpasses the maximum first-year energy savings goal, which is 1.2 percent of average retail sales for gas utilities and 2.2 percent of average retail sales for electric utilities.

Under the ECO framework, gas utilities can include savings and net benefits from qualifying EFS programs when calculating their financial incentive, effectively treating EFS programs the same as

¹⁹ The achievement threshold refers to the achievement level a utility must reach before they begin earning an incentive for a given metric.

²⁰ The achievement goal refers to the achievement level that aligns with the maximum percentage of net benefits a utility can earn for a given metric.

²¹ Order Adopting Modifications to Shared Savings Demand-Side Management Financial Incentive Plan, January 25, 2024. Docket Number E,G-999/CI-08-133.

traditional ECO programs, provided it has achieved energy savings from non-EFS programs at or above 1 percent of retail sales.²² An electric utility cannot currently count savings or net benefits from EFS measures when calculating its overall Shared Savings DSM incentive, but a utility, the Department, or other stakeholder may propose a separate EFS incentive for approval by the Commission.²³

C.2. The Department's Review of Otter Tail's Proposed 2024 Shared Savings DSM Financial Incentive

The Petition covers ECO activities occurring in program year 2024. For its 2024 ECO achievements, OTP reported first-year energy savings of 50,321,324 kWh, expenditures of \$7,895,824, and net benefits of \$33,963,044.²⁴ These first-year savings equate to 3.11 percent of OTP's ECO-applicable three-year weather-normalized sales average of 1,617,134,595.

As outlined on page 8 of the Petition, Otter Tail requested recovery of a total financial incentive equal to \$1,964,142, which the Company states, "includes \$1,867,967 as an incentive for 2024 performance of conservation programs and load management and \$96,175 as a financial incentive for 2024 EFS performance." Otter Tail's proposed incentive is equal to 5.78 percent (\$1,964,142/\$33,963,044) of the Company's 2024 calculated net benefits and 24.87 percent (\$1,964,142/\$7,895,824) of the Company's 2024 expenditures.

Regarding Otter Tail's proposal for an incentive based on EFS net benefits, the Department notes that an EFS incentive mechanism for electric utilities has yet to be approved by the Commission, and the opportunity to include an EFS incentive for electric IOUs will sunset on December 31, 2032. Additionally, page 27 of the Petition provides a summary of Otter Tail's methodology for how it calculated its proposed \$96,175 EFS financial incentive, as follows:

The Company has calculated its net benefits from 2024 efficient fuel switching activities and has applied the payout rate of 5.5 percent of EFS net benefits, the same rate that was used for the Company's traditional ECO financial incentive. Applying the 5.5 percent payout rate to its 2024 EFS [Minnesota Cost Test] net benefits of \$1,748,635 is \$96,175.

The Department finds the Company's EFS methodology to be reasonable for its 2024 EFS activities. Given the statutory sunset on an electric EFS incentive, the Department believes allowing Otter Tail to earn an incentive for its 2024 EFS achievements will help continue to prioritize EFS measure implementation in the Company's ECO program and encourage innovative and effective programming.

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²² Commission's Order Adopting Modifications to Shared Savings Demand-Side Management Financial Incentive Plan, January 25, 2024, Docket Number E,G-999/CI-08-133.

²³ Minn. Stat. § 216B.16, subd. 6c

²⁴ Net benefits are from Table 2 in Appendix A of the Petition, which shows the calculation of the \$1,867,967 as an incentive for 2024 performance of conservation programs and load management. The net benefits figure excludes net benefits from regulatory assessments, EFS programs, and Otter Tail's Publicly-Owned Property Solar Program. Additionally, pages 21-22 of the Petition outline the calculation steps OTP used for the financial incentive calculation.

Overall, the Department's review indicates that the Company correctly calculated its financial incentive for 2024 ECO achievements and did not violate the Commission-approved caps. Therefore, the Department recommends that the Commission approve OTP's 2024 Shared Savings financial incentive of \$1,964,142.

Additionally, should the Commission find it helpful context, the Department also evaluated the broader ECO program achievements reported in the Company's Status Report. As mentioned earlier, since the Company's Status Report does not require Commission approval, this portion of the Petition has been assigned to a separate docket. ²⁵ On May 23, 2025, the Department filed a Staff Proposed Decision. The Proposed Decision provides Staff's evaluation of the Status Report's compliance with Minnesota Statutes and Rules, and Staff's examination of the technical assumptions behind the Company's reported ECO performance to ensure that energy savings are cost-effective, measurable, and verifiable. On July 9, 2025, the Department's Assistant Commissioner Decision approved the ECO achievements reported in Otter Tail's Status Report.

D. PROPOSED 2024 ECO TRACKER

In its Petition, Otter Tail requested approval of its report on recoveries and expenditures included in the Company's 2024 ECO tracker account. This activity can be found in Exhibit 5 of OTP's Petition and is summarized below in Table 3.

Table 3: Summary of Otter Tail's Proposed 2024 ECO Tracker Account²⁶

Line	Description	Time Period	Amount
1	Beginning Balance	December 31, 2023	(\$3,321,343)
2	ECO Expenses	January 1, 2024 through December 31, 2024	\$7,895,774
3	DSM Financial Incentive	Approved in 2024 for 2023 activities	\$2,705,283
4	Carrying Charges ²⁷	January 1, 2024 through December 31, 2024	(\$90,453)
5	ECO Expenses Subtotal [Line 1 + Line 2 + Line 3 + Line 4]	January 1, 2024 through December 31, 2024	\$7,189,261
6	CCRA Recovery	January 1, 2024 through December 31, 2024	(\$10,383,700)
7	Ending Balance [Line 5 + Line 6]	December 31, 2024	(\$3,194,439)

The Department reviewed Exhibit 5 of the Petition and concludes that the Company correctly calculated its 2024 ECO Tracker account. Therefore, the Department recommends the Commission approve Otter Tail's 2024 ECO Tracker, resulting in a year-end balance of (3,194,439).

²⁵ See Docket No. E017/CIP-23-94.

²⁶ The detailed projection can be found in full in the Exhibit 5 spreadsheet attachment to OTP's filing.

²⁷ A monthly carrying charge rate of 1.77 percent was in effect from January through December of 2024.

E. PROPOSED AVERAGE CONSERVATION COST RECOVERY ADJUSTMENT FOR 2025/2026

OTP's current average CCRA factor for December 2024 through October 2025 is equal to \$0.00555/kWh, as approved by the Commission in its November 8, 2024, Order filed in Docket No. E-017/M-24-49.

For November 2025 through October 2026 (2025/2026), OTP is requesting approval to increase the average CCRA factor to \$0.00585/kWh.

Otter Tail projected its 2025/2026 ECO tracker activities assuming a \$0.00585/kWh CCRA that goes into effect at the beginning of November 2025. This information can be found in OTP's Exhibit 1 of its Petition and is summarized in Table 4 below.

Table 4: Otter Tail's Projected 2025/2026 ECO Tracker Account, Using a CCRA of \$0.00585/kWh

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Line	Description	Time Period	Amount
1	Beginning Balance	November 1, 2025	(\$1,645,113)
2	ECO Program Expenses	November 1, 2025 – October 31, 2026	\$10,609,571
3	Forecasted Incentive	Forecasted 2026 incentive for 2025 activities	\$2,000,000
4	Carrying Charges	November 1, 2025 – October 31, 2026	(\$16,360)
5	ECO Expenses Subtotal [Line 2 + Line 3 + Line 4]	As of October 31, 2026	\$12,593,211
6	CCRA Recoveries (\$0.00585 /kWh)	November 1, 2025 – October 31, 2026	(\$9,524,756)
7	Ending Balance [Line 1+ Line 5 + Line 6]	As of October 31, 2026	\$1,423,342

Table 4 shows that if Otter Tail's proposed CCRA rate of \$0.00585/kWh were to be in place for a year, the ending tracker balance in October 2026 would be under-recovered at \$1,423,342.

The Department typically recommends that the CCRA be set to a value that brings the projected tracker balance to \$0 over the course of a year, or, alternatively, over the course of the time the rate is proposed to be in place. This recommendation is based on the fact that maintaining higher tracker balances (either positive or negative) is associated with a larger mismatch between the time the expenses are incurred and the time they are recovered. This mismatch between expenses and recoveries is considered undesirable from a ratemaking perspective, as customer churn necessitates a corresponding mismatch between the customers benefiting from conservation services and customers paying for them.

The Department confirmed that Otter Tail calculated its composite CCRA rate correctly. The Department is therefore supportive of the Company's proposed CCRA and recommends Commission approval.

F. PROPOSED ADMINSTRATIVE CHANGES TO ECO RIDER

Otter Tail requested approval of administrative changes to the Company's ECO Rider tariff sheets. As described on page 4 of its filing, the Company proposed the following summary of changes:

Otter Tail Power requests to make administrative changes to its Energy Conservation and Optimization (ECO) Rider tariff, these are a continuation of the changes requested in the last annual update to maintain consistency between the ECO Programs and its recovery mechanism. Otter Tail Power also requests to update the statutory reference to Large Customer Facility customers that have the eligibility to opt out of ECO Programs. With the new ECO legislation, the updated reference should be Minn. Stat. 216B.241, Subd. 1a (a) instead of the current Minn. Stat. 216B.241, Subd. 1a (b).

The section "Redline and Clean Versions of Rate Schedule MN 13.02 – Energy Conservation and Optimization (ECO) Rider" in the *Petition* outlines Otter Tail's proposed administrative changes. The Company proposed the following language changes to the application of rider description found on page 1 of Section 13.02:

"Large Customer Facility" customers that have been exempted from the Company's Energy Conservation and Optimization Improvement Program plan charges pursuant to Minn. Stat. 216B.241, Subd. 1a (ab) shall receive a monthly exemption from energy and conservation improvement and optimization program plan charges pursuant to Minn. Stat.216B.16, subd. 6b Energy Conservation Improvement. Such monthly exemption will be effective beginning January 1 of the year following the grant of exemption. Upon exemption from conservation and optimization program plan charges, the "Large Customer Facility" customers can no longer participate in the Company's Energy Conservation and Optimization Improvement Program plan.

The Department has reviewed and finds that the Company's proposed redlined changes are reasonable. The Department therefore recommends the Commission approve Otter Tail's proposed tariff language changes.

G. PROPOSED REQUEST FOR A VARIANCE FROM MINNESOTA RULES 7820.3500 (K)

On pages 8-9 of the Petition, Otter Tail requested a rule variance to Minnesota Rules part 7820.3500 (K), stating that this request "would allow the Company to continue to include the Conservation Improvement Adjustment on customer bills within the Resource Adjustment line item." Otter Tail also stated that "the Company has been using the combined Resource Adjustment since July 1995, and customers have become familiar with the single-line item on their bill."

As the Department noted in Section III A, the Commission's November 8, 2024, Order in Docket No. E-017/M-24-49 granted a variance to Minnesota Rules parts 7820.3500(K) for one year after the date of that Order.

For reference, the contents of Minnesota Rules, parts 7820.3500 (K) are as follows:

7820.3500 BILLING CONTENT.

Bills rendered periodically to customers for electric and gas service shall include, but are not limited to, the following information:

[...]

K. fuel or power adjustment clause separately itemized, if applicable;

Based on its review of the Company's rationale for the proposed variance, the Department recommends that the Commission, as it has in past years, grant a variance to this rule.

H. HISTORICAL ECO ACHIEVEMENTS AND SHARED SAVINGS INCENTIVES

In Table 5, the Department examined energy savings, demand savings, expenditures, and incentive values for select years. The Department observes that Otter Tail's energy savings and financial incentive decreased from 2023 to 2024 and when comparing 2024 to the Company's 2022-2024 average savings and incentive figures.

In Figure 1, the Department also provides a more comprehensive summary of Otter Tail's ECO performance over time. The Department finds that Otter Tail continues to make impressive progress toward its ECO savings achievements.

Table 5: Savings, Expenditures, and Incentives for Selected Years²⁸

	Energy Savings (kWh)	Demand Savings (kW)	ECO Expenditures	Shared Savings Incentive
2024	50,321,324	28,544	\$7,895,824	\$1,964,142
2023	61,144,189	19,598	\$7,729,380	\$2,705,283
2022	50,557,160	22,540	\$7,696,226	\$2,414,490
Average 2022-2024	54,007,558	23,561	\$7,773,810	\$2,361,305
Compare 2024 to 2023	-17.70%	45.65%	2.15%	-27.40%
Compare 2024 to Avg 2022-2024	-6.83%	21.15%	1.57%	-16.82%

²⁸ Data reflects savings and expenditures used to calculate the financial incentive, and thus does not include savings and spending due to specific programs that were excluded from the financial incentive calculation.

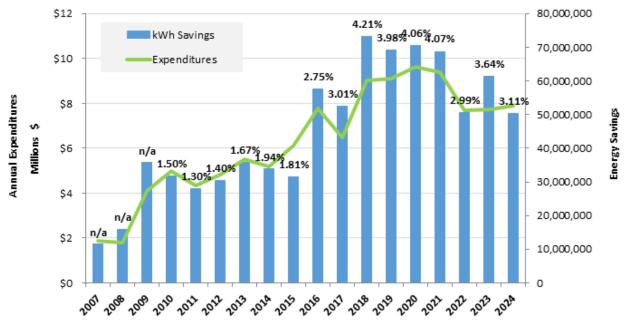


Figure 1. Historical ECO Performance

IV. DEPARTMENT RECOMMENDATIONS

The Department reviewed OTP's Petition and concluded that it is generally reasonable. Based on analysis of the Petition and the information in the record, the Department has prepared recommendations to the Commission, which are provided below. The Department is available to answer any questions the Commission may have.

A. RECOMMENDATIONS TO THE COMMISSION

- A.1. Approve a performance incentive of \$1,964,142 for 2024 ECO activities;
- A.2. Approve Otter Tail's 2024 ECO tracker account, as summarized in Table 1 above, resulting in a December 31, 2024 tracker balance of (\$3,194,439);
- A.3. Approve an average CCRA of \$0.00585/kWh, to be effective November 1, 2025, or the first month following the Commission's Order in this proceeding;
- A.4. Approve Otter Tail's proposed administrative changes to its ECO tariff sheets;
- A.5. Approve Otter Tail's request for a variance from Minnesota Rules 7820.3500 (K) for one year after the issue date of the Commission's Order in this proceeding; and
- A.6. Require Otter Tail to submit a compliance filing, within 10 days of the issue date of the Order in the present docket, with revised tariff sheets reflecting the Commission's determinations in this matter.