

October 16, 2015

Daniel P. Wolf  
Executive Secretary  
Minnesota Public Utilities Commission  
121 7<sup>th</sup> Place East, Suite 300  
St. Paul, Minnesota 55101

RE: **Comments of the Minnesota Department of Commerce, Division of Energy Resources**  
Docket No. E017/M-15-719

Dear Mr. Wolf:

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

Otter Tail Power Company's Petition for Approval of the Annual Rate Adjustment to its Environmental Cost Recovery Rider Rate.

The petition was filed on July 31, 2015 by:

Pete Beithon  
Manager, Regulatory Services  
Otter Tail Power Company  
215 South Cascade Street  
Fergus Falls, Minnesota 56538

The Department recommends that Otter Tail Power Company provide additional information in reply comments; the Department will provide additional comments subsequently. The Department is available to answer any questions the Minnesota Public Utilities Commission may have.

Sincerely,

/s/ MARK A. JOHNSON  
Financial Analyst

MAJ/ja  
Attachment

**BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION**

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

**DOCKET No. E017/M-15-719**

**I. BACKGROUND**

On January 23, 2012, the Minnesota Public Utilities Commission (Commission) issued its Order approving Otter Tail Power Company's (OTP or the Company) request for an Advanced Determination of Prudence (ADP) regarding the installation of an Air Quality Control System (AQCS) at its Big Stone Generation Station Plant located near Milbank, South Dakota in Docket No. E017/M-10-1082. The Big Stone Plant is a multiple-owner plant that OTP owns with Montana Dakota Utilities and NorthWestern Energy. OTP owns 53.9 percent of the plant.

On December 18, 2013, the Commission issued its Order approving OTP's request to begin recovery of costs associated with the Big Stone Plant's AQCS under OTP's proposed Environmental Cost Recovery Rider (ECR Rider) in Docket No. E017/M-13-648.

On November 26, 2014, the Commission issued its Order approving OTP's first annual update to its ECR Rider in Docket No. E017/M-14-647.

On May 27, 2015, the Commission issued its Order denying OTP's request to recover reagent costs associated with the Mercury and Air Toxics Standards (MATS) rule through OTP's fuel clause adjustment rider in Docket No. E017/M-14-649. In addition, the Commission denied OTP's request for variances to allow the recovery of costs and revenues associated with emission allowances through OTP's fuel clause adjustment rider.

On July 31, 2015, OTP filed the instant petition.

**II. SUMMARY OF FILING**

OTP requests approval of its 2015 ECR Rider rates to recover its Minnesota jurisdictional share of eligible costs associated with the Big Stone Plant's AQCS. A summary of OTP's proposed project costs and related revenue requirements for the period from October 2015 to September 2016 is included in Table 1 below:

**Table 1: Summary of Proposed Projects and Revenue Requirements**

Project:	2015/2016 Annual Revenue Requirements:
AQCS	\$12,764,911
True-up (tracker balance)	\$(601,473)
Carrying Costs	(\$59,747)
Total	\$12,103,691

The ECR Rider is applicable to electric service under all of OTP’s Retail Rate Schedules and is calculated as a percent adder to a portion of each customer’s bill, described as follows in OTP’s tariff at Section 13.08:

There shall be included on each Minnesota Customer’s monthly bill an Environmental Cost Recovery (“ECR”) charge based on the applicable cost recovery factor multiplied by the Customer’s monthly bill. The Customer’s monthly bill shall be based on all applicable charges and credits under the Company’s retail rate schedules in Sections 9, 10, 11, 12 and 14, except for Section 14.09 (TailWinds) and Section 14.11 (Released Energy). The Environmental Cost Recovery Charge will not apply to any Mandatory Riders or sales tax and any local assessments as provided in the General Rules and Regulations for the Company’s electric service. The Environmental Cost Recovery charge will be included in the Resource Adjustment line item on the Customer’s bill.

OTP proposes to continue to use the “percentage of bill method” to allocate costs to customer classes.

OTP’s calculated ECR Rider rate from this update is 7.056 percent, which is 0.050 percent higher than OTP’s current ECR Rider rate of 7.006 percent. However, OTP proposes to keep the current ECR Rider rate in effect. OTP stated that this proposal would minimize the impact on customers and reduce the administrative costs of changing the rates.

The monthly bill impact of OTP’s proposal for a residential customer using, on average, about 750 kWh per month would be \$4.90 per month, or about \$59.00 per year. A summary of the monthly impact of OTP’s proposal on customers’ bills is provided below in Table 2.

**Table 2: Rate Impact of 7.006% ECR Rider Rate on Bills  
Excluding Other Riders<sup>1</sup>**

	Energy Usage	Demand Usage	Base Bill before ECR Rider	ECR Charge	Percent Increase due to the ECR Rider
Residential (101 Rate)	750		\$69.94	\$4.90	7.01%
Small Commercial (404 Rate)	750		\$73.88	\$5.18	7.01%
Large Commercial (603 Rate)	100,000	200	\$6,254.00	\$438.16	7.01%

OTP proposed that its updated rates become effective October 1, 2015, or the first day of the month following the Commission approval, should its decision be thereafter. Since OTP proposes no change to its ECR factor, there is no need for further analysis of rates that would result from implementation of the rate at a later date.

OTP expects the AQCS project to be in-service by December 2015.

### III. DOC ANALYSIS

#### A. STATUTORY REQUIREMENTS – ELIGIBILITY OF THE AQCS PROJECT FOR ECR RIDER RECOVERY

Minn. Stat. § 216B.1692, subd. 1(b) states that:

Notwithstanding paragraph (a), a project may be approved for the emission reduction rate rider allowed in this section if the project is to be installed on existing large electric generating power plants, as defined in section 216B.2421, subdivision 2, clause (1), that are located outside the state and are needed to comply with state or federal air quality standards, but only if the project has received an advance determination of prudence from the commission under section 216B.1695.

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<sup>1</sup> Per attachment included in Company's email response on October 1, 2015. A copy of this attachment is included as Attachment 1 to these comments.

The Department notes that the Big Stone Plant is a large electric generating power plant as defined in Minn. Stat. § 216B.2421, subd. 2, clause (1), and is located outside the state of Minnesota (in South Dakota). The AQCS project is needed to comply with EPA's Regional Haze Rule under South Dakota's State Implementation Plan (SIP). The Big Stone AQCS project received an ADP on January 23, 2012 in Docket No. E017/M-10-1082. Pursuant to the terms of the ADP, OTP has excluded costs related to the baghouse and activated carbon injection (ACI) system from its ECR rider request. Based on these facts, the Department concludes that the Big Stone AQCS project is eligible for an emission rate rider under Minn. Stat. § 216B.1692, subd. 1(b).

Minn. Stat. § 216B.1692, subd. 3 states:

**Filing petition to recover project costs.** (a) A public utility may petition the commission for approval of an emissions-reduction rider to recover the costs of a qualifying emissions-reduction project outside of a general rate case proceeding under section 216B.16. In its filing, the public utility shall provide:

- (1) a description of the planned emissions-reduction project;
- (2) the activities involved in the project;
- (3) a schedule for implementation;
- (4) any analysis provided to the Pollution Control Agency regarding the project;
- (5) an assessment of alternatives to the project, including costs, environmental impact, and operational issues;
- (6) the proposed method of cost recovery;
- (7) any proposed recovery above cost; and
- (8) the projected emissions reductions from the project.

The AQCS project was described in detail in the ADP proceeding, including the activities involved in the project, the schedule for the project's implementation, an assessment of alternatives to the project, and the projected emissions from the project. The method proposed for cost recovery is described in detail in OTP's July 31, 2015 petition. In addition, in compliance with the January 23, 2012 Order granting the ADP, OTP supplies quarterly updates to the Commission to describe progress on the project. OTP's most recent quarterly update was filed on October 14, 2015.

The Department has reviewed the applicable statutory requirements discussed above, and agrees with the OTP's assessment that the Big Stone AQCS project is eligible for recovery under its ECR Rider.

*A. PROJECT STATUS*

On page 3 of its petition, OTP stated that it has updated the in-service date for the AQCS project from October 2015 to December 2015. OTP stated that the delayed in-service date is due to extended maintenance at the plant during the planned outage. OTP stated that the effect of pushing back the in-service date by two months is a slight decrease in the revenue requirement during the collection period due to the delay in including monthly depreciation expense, and that, over time, growing sales and revenues have helped keep the rate low as the revenue requirement has increased.

The Department notes that having the plant out of service for a longer period of time will increase the amount of replacement power costs charged to ratepayers. However, it is not known at this time what the cost of replacement power will be for the period October through December. Thus, the Department requests that OTP provide in reply comments information about any provisions OTP might have in contracts, insurance or other resources to address the higher replacement power costs that will be charged. In addition, the Department expects to recommend that the Commission require OTP to file as a compliance to this docket the total costs of replacement power for the months of October through the date when Big Stone is fully back up to service.

*B. REASONABLENESS OF PROJECT REVENUE REQUIREMENTS AND OVERALL CAPITAL COSTS*

OTP discussed the components of its annual revenue requirement calculations on pages 6 through 8 of its petition. In addition, OTP provided its updated 2015/2016 annual revenue requirement calculations in Attachment 2 of its petition. As shown therein, OTP's projected annual revenue requirements for the period from October 1, 2015 through September 30, 2016 total approximately \$12,764,911.

The DOC reviewed OTP's updated annual revenue requirement calculations and concludes that, overall, OTP's annual revenue requirement calculations appear reasonable. The specific components of OTP's revenue requirement calculations required under Minn. Stat. § 216B.1692 , subd. 5(b) are discussed in Section F of these comments.

OTP stated on pages 5-6 of its petition that the original project budget was \$491 million and was reduced to \$405 million in March of 2013. OTP stated in its most recent quarterly update in Docket No. E017/M-10-1082 that the budget was reduced again to \$384 million in 2014. OTP's most recent quarterly update stated on page 3 that "Even with the outage extension, the project still should finish on or under budget." As a result, OTP's stated that its projected capital costs are expected to be approximately 21.8 percent lower than its original budget.

*C. TRUE-UP AND TRACKER BALANCE*

As shown on Attachment 1 of its petition, OTP proposed to decrease its 2015/2016 ECR Rider revenue requirements by \$601,473 to reflect prior over-recoveries. OTP's tracker balance calculations are shown in Attachment 3 of its petition.

The Department reviewed OTP's true-up and tracker balance calculations. The Department notes that OTP's calculations appear reasonable and consistent with past ECR Rider filings.

*D. CARRYING CHARGES*

In previous ECR Riders, the Commission allowed OTP to include monthly carrying charges on its tracker balance at a rate of 1/12 of OTP's cost of capital. As shown on Attachment 1 of its petition, OTP proposed to decrease its 2015/2016 ECR Rider revenue requirements by \$59,747 to reflect carrying charges on its tracker balance.

Based on our review, the DOC concludes that OTP's carrying charges appear reasonable and consistent with past ECR Rider filings.

The DOC agrees with this approach and notes that it is consistent with past ECR Rider filings and complies with the Commission's Orders in 10-1082 and 14-647.

*E. BAGHOUSE AND ACI SYSTEM*

As explained on pages 3 and 7-8 of its petition, the Commission's ADP approval did not include the new baghouse portion of the AQCS project or the ACI system that was being added to comply with the MATS rule. As such, OTP stated that it has excluded baghouse capital costs, ACI capital costs, various operating and maintenance expenses and reagent costs which will begin to be incurred once the AQCS goes into service. According to OTP, the total exclusions equate to approximately \$2.85 million in annual revenue requirements.

*F. SPECIFIC REQUIREMENTS UNDER MINN. STAT. § 216B.1692, SUBD. 5(B)*

Minn. Stat. § 216B.1692 , subd. 5 (b) authorizes the Commission to approve a Rider that:

- (1) allows the utility to recover costs of qualifying emissions-reduction projects net of revenues attributable to the project;
- (2) allows an appropriate return on investment associated with qualifying emissions- reduction projects at the level established in the public utility's last general rate case;
- (3) allocates project costs appropriately between wholesale and retail customers;

- (4) provides a mechanism for recovery above cost, if necessary to improve the overall economics of the qualifying projects to ensure implementation;
- (5) recovers costs from retail customer classes in proportion to class energy consumption; and
- (6) terminates recovery once the costs of qualifying projects have been fully recovered.

Each of these requirements is discussed below.

### 1) *COSTS NET OF REVENUES*

In its previous ECR Rider in Docket No. E017/M-13-648, OTP stated that it did not anticipate any revenues attributable to the AQCS project but would credit them to the ECR Rider tracker if any such revenues were earned in the future.<sup>2</sup> Since OTP did not address this issue in the current petition, the DOC recommends that OTP explain in reply comments if it received any such revenues, like those related to emission allowances or revenues or credits (such as tax credits), and whether these revenues have been included in the ECR Rider tracker.

### 2) *RETURN ON INVESTMENT*

Minn. Stat. 216B.1691, subd. 5(b)(2) allows a return on investment at the level approved in the utility's last general rate case.

In the instant petition, OTP used the rate of return of 8.61 percent, which was approved in its last retail rate case. The DOC agrees with this approach and notes that this is the same method approved by the Commission in previous ECR Rider filings.

### 3) *ALLOCATIONS*

Minn. Stat. 216B.1691, subd. 5(b)(3) allows the Commission to approve a Rider that allocates costs between wholesale and retail sectors.

OTP used its energy (E1) and demand (D1) allocators from its last retail rate case to allocate costs to its Minnesota jurisdiction. The DOC understands that the E1 and D1 allocators account for the split between retail and wholesale operations. As a result, the DOC concludes that OTP's proposed allocations appear reasonable and consistent with past ECR Rider filings.

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<sup>2</sup> Per OTP's July 31, 2013 initial filing in E017/M-13-648, Page 10.



4) *RECOVERY ABOVE COST*

Minn. Stat. 216B.1691, subd. 5(b)(4) allows the Commission to approve a Rider that provides a mechanism for recovery above cost, if necessary to improve the overall economics of the qualifying projects to ensure implementation.

The DOC is not aware of any instances where OTP has requested, or the Commission has approved, a mechanism for recovery above cost in OTP's ECR Riders, or of any basis for allowing such recovery.

5) *RATE DESIGN*

Minn. Stat. 216B.1691, subd. 5(b)(5) allows the Commission to approve a Rider that recovers costs from retail customer classes in proportion to class energy consumption.

As noted above, OTP proposed to continue to use the "percentage of bill" method to allocate costs between customer classes. The DOC agrees with this approach and notes that this is the same method approved by the Commission in previous ECR Rider filings.

6) *TERMINATION UPON RECOVERY*

Minn. Stat. 216B.1691, subd. 5(b)(6) allows the Commission to approve a Rider that terminates recovery once the costs of qualifying projects have been fully recovered.

Since the AQCS project is expected to go into service in late 2015, the Department does not expect OTP to fully recover the costs associated with the project for several years. In fact, the DOC anticipates that this project will be moved into OTP's base rates in its next rate case.

#### **IV. SUMMARY AND RECOMMENDATIONS**

The DOC recommends that OTP explain in reply comments whether it receives any revenues (such as emission allowance revenues, tax credits, etc.) attributable to the AQCS project and whether these revenues have been included in the ECR Rider tracker.

The Department also requests that OTP provide in reply comments information about any provisions OTP might have in contracts, insurance or other resources to address the higher replacement power costs that will be charged due to the longer-than-expected plant outage.

The Department will offer additional comments and recommendations in subsequent response comments after it has reviewed OTP's reply comments.

**Table 1: Rate Impact of 7.006% ECR Rider Rate on bills  
excluding other riders, COE and CIP\***

	Energy Usage	Demand Usage	Base Bill before ECR Rider	ECR Charge	Percent Increase do th ECR Rider
Residential (101 Rate)	750		\$69.94	\$4.90	7.01%
Small Commercial (404 Rate)	750		\$73.88	\$5.18	7.01%
Large Commercial (603 Rate)	100,000	200	\$6,254.00	\$438.16	7.01%

**Table 1: Rate Impact of 7.006% ECR Rider Rate on bills  
including other riders, COE and CIP\***

	Energy Usage	Demand Usage	Total Bill before ECR Rider	ECR Charge	Percent Increase do th ECR Rider
Residential (101 Rate)	750		\$81.13	\$4.90	6.04%
Small Commercial (404 Rate)	750		\$85.07	\$5.18	6.09%
Large Commercial (603 Rate)	100,000	200	\$7,515.60	\$438.16	5.83%

\* Per discussion with OTP, it should be FCA and CIP, not COE and CIP.

## 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  
Comments**

**Docket No. E017/M-15-719**

**Dated this 16<sup>th</sup> day of October 2015**

**/s/Sharon Ferguson**

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