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STATE OF MINNESOTA
BEFORE THE PUBLIC UTILITIES COMMISSION

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In the Matter of Otter Tail Power Company's 2022–2036 Integrated Resource Plan

DOCKET NO. E-017/RP-21-339

COMMENTS OF THE OFFICE OF THE ATTORNEY GENERAL

INTRODUCTION

The Office of the Attorney General – Residential Utilities Division (OAG) submits these Comments in response to the Commission's January 18, 2024 notice of comment period. The purpose of these Comments is threefold. First, the OAG demonstrates that the Commission should not approve Otter Tail's proposal to designate one of its coal-fired power plants, Coyote Station, as an emergency-only resource. Second, the OAG highlights the risks of further investments in Astoria Station, a natural-gas-fired peaking plant, and recommends that the Commission impose a cap on rate recovery if it approves such investments. Finally, the OAG recommends that the Commission place certain conditions on the acquisition process for the resources that it approves to help ensure that they are procured at the lowest reasonable cost.

BACKGROUND

In September 2021, Otter Tail filed its resource plan, proposing to divest its interest in the Coyote Station coal-fired power plant by 2028 and to upgrade Astoria Station by adding the capability to store liquified natural gas (LNG) onsite for use when pipeline gas is unavailable.

In March 2023, the Company filed a supplemental resource plan walking back its proposal to exit Coyote Station by 2028 and instead proposing to retain its interest through 2040, the end of the plant's useful life.

In December 2023, Otter Tail filed a new plan in which it proposed to designate the Minnesota-allocated share of Coyote Station as "available maximum emergency" (AME). This proposal would mean that Minnesota's share of Coyote would only be offered to MISO, the regional grid operator, when that organization declares a "Maximum Generation" (Max Gen) event. And this would in turn mean that the plant would only run a few hours per year, at times when the regional grid is experiencing a capacity shortage.

In January 2024, the Commission heard oral arguments from the parties but took no action on Otter Tail's resource plan. Instead, the Commission issued a notice seeking comments on Otter Tail's new AME proposal for Coyote, among other topics.

ANALYSIS

I. COYOTE STATION IS AN EXPENSIVE RESOURCE, ESPECIALLY WHEN OPERATED AS "AVAILABLE MAXIMUM EMERGENCY."

Coyote Station has been an expensive resource for Minnesota ratepayers because of its high-fixed-cost fuel-supply agreement. This "Lignite Sales Agreement," or LSA, which Otter Tail signed in 2012, commits the Company to using coal at Coyote Station through 2040, and to paying for a large portion of that coal whether or not it is actually needed. As a result of the LSA, Coyote's production costs significantly exceeded its production revenues in 2015–2020.[1] New data provided in this docket for 2021–2023 shows that the plant realized about **[TRADE SECRET DATA BEGINS** **TRADE SECRET DATA ENDS]** in 2021,

[1] *In the Matter of the Application of Otter Tail Power Company for Authority to Increase Rates for Electric Utility Service in Minnesota*, Docket No. E-017/GR-20-719, Direct Testimony of Andrew Twite at 56–60 (Apr. 2, 2021).

which dwindled to **[TRADE SECRET DATA BEGINS TRADE SECRET DATA ENDS]** in 2023.[2]

Otter Tail's modeling both in its original resource plan and in its March 2023 supplemental plan showed that withdrawing from Coyote in 2028 would be cost-effective under most future scenarios. Nonetheless, in its supplemental plan, Otter Tail backed away from a 2028 exit, citing changes in MISO's reserve-margin requirements and capacity-accreditation methodologies, among other factors, as presenting risks not accounted for in the modeling.

Otter Tail's latest proposal, to operate Coyote on AME status through 2040, would greatly increase the plant's cost on a per-megawatt–hour (MWh) basis. There are two reasons for this. First, putting Coyote on AME status would result in the plant generating many fewer MWh per year. Historically, the Minnesota share of Coyote has produced an average of **[TRADE SECRET DATA BEGINS TRADE SECRET DATA ENDS]** MWh annually.[3] Based on the number of "Max Gen" hours called by MISO over 2019–2023, however, Coyote would likely produce an average of around 840 MWh per year after being placed on AME status.[4] The second reason that the per-MWh cost of Coyote would go up under the AME proposal is that Otter Tail plans to continue recovering all of Coyote's fixed costs from ratepayers—including depreciation, fixed O&M expense, a full return on rate base, and the fixed LSA fuel costs.[5] Because Otter Tail proposes to continue recovering 100 percent of Coyote's fixed costs, the AME proposal would

[2] *See* OTP's Trade Secret Response to OAG IR 37, attach. 1 (Feb. 13, 2024).
[3] *See* OTP's Trade Secret Response to OAG IR 40, attach. 1 (Feb. 13, 2024) (showing historic production over 2013–2023).
[4] OTP's Response to CEO IR 107 (Mar. 11, 2024).
[5] *Compare* OTP's Trade Secret Response to CEO IR 95, attach. 1 (Feb. 9, 2024) (showing Coyote revenue requirements without AME) *with id.*, attach 2 (showing Coyote revenue requirements with AME). The plant's annual fixed fuel costs are substantially greater than annual depreciation and return *combined*.

only avoid about $6.9 to 7.9 million per year in variable fuel and reagent costs,[6] or less than three percent of the plant's annual revenue requirement in 2029.[7]

To gain perspective on Coyote's per-MWh cost under AME, the OAG sent Otter Tail Information Request No. 41. The request asked the Company to compare the cost per MWh of five resources: Coyote Station with and without AME, Astoria Station with and without onsite-storage upgrades, and a generic peaking plant.[8] The Company provided the table shown in Figure 1, below. Otter Tail's original table omitted several data points for Coyote Station with AME. Figure 1 highlights the cells where data was missing from Otter Tail's response and provides replacement figures using MWh data the Company provided in response to CEO IR 107:

Figure 1
Comparison of Cost per MWh of Various Generators[9]

	Capacity in MW	Annual MWh	Capacity Factor	Annual Cost ($000s)	$/MWh
				[PROTECTED DATA BEGINS…	
Coyote Station w/o AME	70	498,723	81%		
Coyote Station w/ AME	70	840	0.1%		
Astoria Station w/o dual fuel	135	116,519	11%		
Astoria Station w/ dual fuel	135	116,519	11%		
				…PROTECTED DATA ENDS]	
Generic peaker	23	18,487	9%	$ 4,178	$ 225.98

[6] *See* OTP Supplemental Filing at 7 (Dec. 15, 2023).
[7] *See* OTP's Trade Secret Response to CEO IR 95, attach. 1 (Feb. 9, 2024). The attachment shows **[TRADE SECRET DATA BEGINS** **TRADE SECRET DATA ENDS]** in 2029 Minnesota revenue requirements.
[8] *See* OTP's Trade Secret Response to OAG IR 41 (Feb. 20, 2024).
[9] Figure 1 is based on Table 1 from Otter Tail's Trade Secret Response to OAG IR 41. The highlighted figures have been supplied by the OAG. Coyote Station w/AME's annual MWh of 840 is from Otter Tail's response to CEO IR 107. The plant's capacity factor and $/MWh are calculated using that 840 MWh figure.

As Figure 1 illustrates, Coyote with AME would be extremely expensive on a cost-of-energy basis, far more so than Astoria Station or a generic peaker. In fact, under AME, Coyote's energy cost would be more than **[TRADE SECRET DATA BEGINS TRADE SECRET DATA ENDS]** that of a generic peaker, the next most expensive resource on a $/MWh basis. Capacity cost ($/MW) is arguably a fairer basis on which to compare Coyote to the other resources in Figure 1 since under AME the plant would be operated primarily as a capacity resource. But Coyote with AME is also expensive on a dollars-per-MW basis when compared with other resources shown in the figure. This is likely because Coyote was originally designed as a baseload resource—and therefore had higher capital costs than a peaking plant—and because of its high fixed fuel cost.

The foregoing analysis omits two important factors that further increase the ratepayer impact of the AME proposal. First, Coyote's reduced generation under AME would mean less energy revenue from MISO for the plant. Information provided by Otter Tail suggests that these lost revenues would more than offset the $6.9 to 7.9 million per year in variable fuel and reagent cost savings that the Company projects will occur under AME.[10] Second, looking at Coyote's costs and revenues in isolation does not account for the replacement resources that will be needed to make up for Coyote's lost generation. Under Otter Tail's proposal to bifurcate resource-planning between Minnesota and the Dakota,[11] the entirety of this make-up generation would be paid for by Minnesota ratepayers.

[10] *See* OTP's Trade Secret Response to OAG IR 40, attach. 1 lines 9–12 (Feb. 13, 2024) (showing "theoretical lost MISO revenues" based on average day-ahead locational marginal prices in 2020–2023).
[11] *See* OTP Supplemental Filing at 3 (Dec. 15, 2023).

The holistic impact of the AME proposal, after accounting for needed replacement resources, can only be analyzed through capacity-expansion modeling. The OAG therefore asked Otter Tail to provide capacity-expansion modeling results comparing the December 2023 AME proposal to Otter Tail's March 2023 supplemental preferred plan (in which Coyote operates normally though 2040) and to Otter Tail's original plan to exit the plant by 2028. More specifically, the OAG asked Otter Tail to provide the net present value of revenue requirements and societal costs (NPVRR and NPVSC) for the three proposals under each of the future scenarios, or "sensitivities," that Otter Tail modeled in its March 2023 supplemental preferred plan (designated A–U). Table 1, below, depicts the format of the OAG's request:

Table 1
OAG's Modeling Request[12]

Sensitivity	Cost	MN Share – OTP Preferred Plan (3/31/23)	MN Share – MN Preferred Plan with AME (12/15/23)	MN Share – Withdraw from Coyote 12/31/2028
A	NPVRR			
	NPVSC			
. . .				
U	NPVRR			
	NPVSC			

Otter Tail objected to the OAG's request on the basis that the burden of preparing a response would outweigh the benefits to the case.[13] Otter Tail limited its response in two ways: First, the Company declined to analyze a 2028 exit on the grounds that "the Company does not propose such action."[14] Second, the Company did not provide any sensitivity analyses. It provided just a single set of NPVRR and NPVSC for the AME proposal and its supplemental preferred plan,

[12] *See* OAG IR 47 (Feb. 23, 2024).
[13] *See* OTP's Response to OAG IR 47 at 3 (Mar. 6, 2024).
[14] *Id.*

presumably using base-case assumptions.[15] Table 2 compares the NPVRR and NPVSC values that Otter Tail provided for its December 2023 AME proposal and the Minnesota portion of its March 2023 preferred plan:

Table 2
Otter Tail's Response to OAG IR No. 47
($000s)

	MN Portion of 2040 Supplemental Preferred Plan	12-15-2023 MN Preferred Plan with AME	AME Benefit (Cost)
NPVRR	$1,293,806	$1,319,208	($25,402)
NPVSC	$4,563,373	$3,848,155	$715,218

Table 2 shows that the AME proposal would cost ratepayers $25 million more than the Minnesota share of Otter Tail's supplemental preferred plan while avoiding $715 million in environmental costs. These environmental costs are avoided in large part because Coyote Station is not running regularly while under AME status and therefore not omitting carbon dioxide. Otter Tail's original proposal to exit Coyote Station in 2028, however, would also avoid these environmental costs and would likely have a much lower NVPRR than the AME proposal since ratepayers would not continue to pay all of Coyote Station's fixed costs.

Otter Tail's AME proposal would require ratepayers to bear significant costs in order to drive carbon-reduction benefits for society and preserve Otter Tail's lucrative investment in Coyote. And the available evidence suggests that a 2028 exit would be more beneficial to ratepayers and to society than placing Coyote Station on AME status. The fact that Otter Tail does not propose a 2028 exit is not a reason for the Commission to ignore it. The Commission has authority to "approve, reject, or modify" Otter Tail's plan consistent with the public interest[16] and

[15] *See id.* at 4. The Company stated that it derived the NPVSC values "using the newly approved externality values applied in a post-modeling approach." *Id.* at 3.
[16] Minn. Stat. § 216B.2422, subd. 2(a).

in doing so may consider "resource plans different from the plan proposed by the utility" that are advanced by parties and other interested persons.[17] Thus, whether or not Otter Tail has put a particular alternative "on the table" does not limit the Commission's authority to explore whether that option or other options that the utility has not proposed would be in the public interest.

For the foregoing reasons, the OAG does not support approving Otter Tail's AME proposal. Should the Commission approve the proposal, however, its ratepayer benefits could be improved by limiting the fixed fuel costs that Otter Tail recovers through rates. Fuel-cost recovery is beyond the scope of this docket, but the Commission could (a) refer the reasonableness of Coyote Station's fuel costs to an appropriate docket, such as Otter Tail's annual fuel-clause docket or (b) allow interested parties to raise the issue in an appropriate proceeding.

II. THE ASTORIA ONSITE STORAGE PROJECT HAS SOME BENEFITS BUT WOULD SIGNIFICANTLY INCREASE ABANDONMENT LOSSES IF ASTORIA RETIRES EARLY.

The Astoria onsite-storage project would have some reliability and price-hedging benefits, but it also has significant costs. The onsite-storage project would mark a **[TRADE SECRET DATA BEGINS TRADE SECRET DATA ENDS]** increase over Astoria Station's original construction cost.[18] And it would add to the unrecovered plant balance that will remain if Astoria is forced to retire earlier than planned, a risk that Otter Tail does not address.

If the depreciation rates used during Astoria's service life underestimate the length of its life—as a result of, for example, changed circumstances that could force an early retirement—a positive plant balance will remain on Otter Tail's books upon retirement. This remaining undepreciated plant balance is sometimes referred to as an "abandonment loss."[19] By adding to

[17] Minn. R. 7843.0300, subp. 11.
[18] *See* OAG Comments at 10–11 (Sept. 13, 2023).
[19] *See generally Minneapolis St. Ry. v. City of Minneapolis*, 86 N.W.2d 657 (Minn. 1957). *See also* 1 Accounting for Public Utilities § 4.04[11][c] (2023) (referring to this type of loss as an "extraordinary loss").

Astoria's capital costs, the onsite-storage proposal would increase the potential abandonment loss if Astoria were to retire earlier than its current useful life suggests.

One of the factors that the Commission considers in resource planning is whether a utility's plan "limit[s] the risk of adverse effects on the utility and its customers from financial, social, and technological factors that the utility cannot control."[20] The Commission must therefore consider the abandonment-loss risk of a major new investment in Astoria Station. And it must weigh this risk against other relevant factors, such as the need to maintain or improve the adequacy and reliability of service, keep customer bills lows, and minimize socioeconomic and environmental impacts.

To better understand the abandonment-loss risk that the onsite-storage proposal entails, the OAG sent Otter Tail Information Request No. 36. Astoria Station was designed and constructed to have a useful life of 35 years and went into service in 2021,[21] meaning that it will not be fully depreciated until 2056. The proposed onsite-storage upgrades would have a "minimum design life of 30 years,"[22] meaning that if they went in service in 2027 as currently proposed, their expected retirement year would be 2057. In Information Request No. 36, the OAG asked Otter Tail to estimate Astoria Station's remaining plant balance as of January 2040 with and without the onsite storage upgrades. Table 3 summarizes the Company's response:

[20] Minn. R. 7843.0500, subp 3(E).
[21] OTP's Response to OAG IR 35 (Feb. 13, 2024).
[22] *Id.*

Table 3
Astoria Station's Net Book Value as of December 31, 2039

Net Book Value w/o Onsite Storage	Net Book Value w/ Onsite Storage	Difference
$67,673,598	**[Trade Secret Data Begins**	**Trade Secret Data Ends]**

As Table 3 shows, adding onsite storage capability to Astoria Station would increase the plant's net book value by **[TRADE SECRET DATA BEGINS TRADE SECRET DATA ENDS]** as of the beginning of 2040.

There is a risk that future regulations will make operating gas-fired peaking plants like Astoria cost-prohibitive by 2040. Last year, the U.S. EPA issued a proposed rule curbing greenhouse gas emissions from both existing and new natural-gas-fired power plants (though not from peaking plants).[23] In February of this year, the agency announced that it would be taking more time to develop the rule as it applies to existing gas plants.[24] According to EPA Administrator Michael Regan, this delay would allow the agency to develop "a new, comprehensive approach to cover the entire fleet of natural gas-fired turbines, as well as cover more pollutants including climate, toxic and criteria air pollution."[25] In other words, when the EPA's rule on existing natural gas plants is finalized, it will likely cover peaking plants. And it will likely require significant investments in pollution controls for a gas-fired plant to continue operating. If extensive enough, such requirements could render a plant's continued operation infeasible and force an early retirement.

[23] Maxine Joselow, *EPA Will Delay Final Emission Limits for Gas-Fired Power Plants*, WASH. POST, Mar. 1, 2024, at A2.
[24] *Id.*
[25] *Id.*

For the reasons discussed above, the Commission should weigh the risk of abandonment in deciding whether to approve the Astoria onsite-storage project. And, if the Commission approves the project, it should make clear that approval here does not guarantee Otter Tail full recovery of its investment if Astoria Station retires early; rather, post-retirement recovery will be addressed in a future rate case if the plant has to be abandoned before the end of its useful life. Further, if the project is approved, the Commission should cap the costs that may be recovered from ratepayers as discussed in Section III. Finally, the Commission should place additional guardrails on the resource-acquisition process to protect ratepayers, as outlined in Section IV.

III. THE COMMISSION SHOULD CAP RATE RECOVERY OF THE ASTORIA ONSITE-STORAGE PROJECT AT OTTER TAIL'S CURRENT COST ESTIMATE IF THE PROJECT IS APPROVED.

The Astoria onsite-storage project would involve substantial capital investments and increase Astoria Station's abandonment-loss risks. In order to help protect Minnesota ratepayers from cost overruns and abandonment losses, the Commission should order that rate recovery for the project's capital costs will be limited to the updated estimate the Company provided in November 2022, or **[TRADE SECRET DATA BEGINS TRADE SECRET DATA ENDS]** million.[26] Holding Otter Tail to this estimate is fair because it already reflects a **[TRADE SECRET DATA BEGINS TRADE SECRET DATA ENDS]** increase over the Company's original estimate.[27] Moreover, Otter Tail likely has likely built a contingency into the project's budget, which would protect the Company in the event that costs are higher than anticipated.

The Commission has often capped rider recovery of projects recovered through renewable-energy riders. In that situation, the cap operates as a "soft" cap—that is, it limits the costs that

[26] OTP's Trade Secret Supplemental Comments at 18 (Nov. 4, 2022).
[27] *See id.*

may be recovered through the rider but does not preclude the utility from requesting recovery above the cap in a rate case. The Commission has also approved absolute, or "hard," caps on cost recovery but typically has done so only when the cap is symmetrical—that is, if costs go above the cap, the utility must absorb them, and if costs remain below the cap, the utility would retain the savings (i.e., it would get to recover capital costs equal to its initial estimate).[28] The OAG is also aware of at least one case, involving Xcel Energy's Colorado affiliate, where parties agreed to a hard cap with a sharing of savings below the cap.[29]

If the Commission approves the Astoria onsite-storage project, it should require Otter Tail to implement a hard cap on recovery of capital costs, with a 90/10 sharing of any savings below the cap. That is, if costs go above Otter Tail's current estimate, the Company must absorb the overrun, but if the project comes in under budget, 90 percent of the savings are shared with ratepayers, and 10 percent of the savings are retained by the Company. Such a cap would protect ratepayers if the project goes over budget, while rewarding Otter Tail with a portion of the savings if the project comes in under budget. The potential for shared savings would provide Otter Tail with a strong incentive to control costs. And the use of a hard cap is appropriate because, between Otter Tail and ratepayers, Otter Tail is the party with the most control over project costs, and because Otter Tail will be protected by the contingency built into the project budget.

[28] *See, e.g.*, *In the Matter of the Petition of Xcel Energy for Approval of the Acquisition of Wind Generation from the Company's 2016–2030 Integrated Resource Plan*, Docket No. E-002/M-16-777, Order Approving Petition, Granting Variance, and Requiring Compliance Filing at 8–9 (Sept. 1, 2017).
[29] *See In the Matter of the Application of Public Service Company of Colorado for Approval of the 600 MW Rush Creek Wind Project Pursuant to Rule 3660(H)*, Colo. PUC Docket No. 16A-0117E, Non-Unanimous Settlement Agreement at 16–17 (Sep. 2, 2016).

IV. Resource Acquisition

In the final section of these Comments, the OAG discusses resource-acquisition procedures in two contexts: (1) for the Astoria Station onsite-storage project and (2) for other new resources that are approved by the Commission. The OAG's goal in both cases is to protect ratepayers from overpaying for capital investments, without adding undue time or cost to the acquisition process. With respect to the onsite-storage project, the Commission should require the use of at least three bidders for both equipment and fuel supply. With respect to other resources, the OAG reiterates its support for the Department's proposed bidding process.

A. If the Astoria Onsite-Storage Project Is Approved, the Commission Should Require Otter Tail to Use a Minimum of Three Bidders for Both Equipment and Fuel Supply. The Commission Should Also Consider Whether It Would Be Reasonable to Require Otter Tail to Use an Independent Auditor.

The Astoria onsite-storage project would involve substantial capital investments. These investments would ultimately be repaid by ratepayers, and ratepayers therefore have an interest in the project being procured at the lowest reasonable cost. One way for utilities to show that their costs are reasonable is by using competitive bidding.[30] And the Commission has often required utilities to use an independent auditor to oversee the procurement process.[31]

In response to a Staff information request, Otter Tail stated that it will use a competitive bidding process for the two main components of the onsite-storage project: (1) supply and

[30] *See In the Matter of Northern States Power Company d/b/a Xcel Energy's Application for Approval of its 2004 Resource Plan*, Docket No. E-002/RP-04-1752, Order Establishing Resource Acquisition Process, Establishing Bidding Process Under Minn. Stat. § 216B.2422, Subd. 5, and Requiring Compliance Filing at 6 (May 31, 2006) (stating that the purpose of a competitive bidding process is to get the best overall price for ratepayers).
[31] *See, e.g.*, *In the Matter of Xcel Energy's Petition for Approval of a Development Transfer Resource Acquisition Process*, Docket No. E-002/M-23-342, Order Approving Acquisition Process at 1–2 (Dec. 18, 2023) (approving acquisition process for resources needed to reutilize Sherco interconnection rights).

installation of equipment and materials and (2) fuel supply.[32] The Company further committed to using "[n]o less than three bidders" for the procurement of equipment and materials.[33] In response to an OAG information request, the Company confirmed that it will also use a minimum of three bidders for the project's fuel supply.[34] The OAG appreciates the Company's commitments to use a minimum number of bidders and recommends that the Commission accept these commitments if it approves the project.

Otter Tail has not proposed to use an independent auditor for the onsite-storage project and opposed doing so in response to OAG discovery. Specifically, the Company stated that it "does not believe use of an independent auditor to review the acquisition process is beneficial or necessary" and that the Company would "demonstrate the reasonableness of its process and projects costs in subsequent rate recovery proceedings . . . consistent with approval of our Astoria generation station which was approved in MN Docket No. E017/GR-15-1033 and for cost recovery in Docket No. E017/GR-20-719."[35] The fact that Otter Tail did not use an auditor in the past is not a reason not to use one in this case. Moreover, an independent auditor would help Otter Tail make its case for cost recovery in a future rate case. The OAG requests that Otter Tail address in reply comments why it believes that an independent auditor would not benefit the Astoria onsite-storage acquisition process.

B. With Regard to Procuring Other Approved Resources, the Commission Should Require Otter Tail to Adopt the Bidding Process Recommended by the Department in its September 2023 Comments.

In initial comments, the Department of Commerce recommended that the Commission approve a bidding process for Otter Tail's future resource acquisitions that are larger than 100 MW

[32] OTP's Response to PUC IR 8 (Jan. 31, 2024).
[33] *Id.*
[34] *See* OTP's Response to OAG IR 48 at 1 (Mar. 22, 2024).
[35] *Id.* at 3.

and last longer than five years.[36] The OAG supported the Department's recommendation in reply comments. Otter Tail, however, objected to what it characterized as a "highly structured" bidding process outlined by the Department.[37] And the Company generally argued that its current resource-acquisition processes had worked well in the past.[38]

The OAG sent the Company Information Request No. 51 to better understand the nature of its objection to the Department's bidding process. Based on the Company's responses, it appears that the main area of disagreement is over the need to use separate teams and an independent auditor when the Company bids in its own project.[39] With regard to creating separate teams to develop the Company's project and to evaluate bids, Otter Tail states that it "does not see the need or have the resources for the additional costs associated with creating separate teams for the Company proposed projects."[40] With regard to using an independent auditor, Otter Tail argues that "the cost and added process of engaging an independent auditor to provide a report for the Commission is unnecessary and will lead to unnecessary additional costs for customers as well as longer time to implement."[41]

The OAG does not find these arguments persuasive. When a utility enters its own project into a competitive process that it controls, there is an inherent conflict of interest. Using a separate team to evaluate projects and an independent auditor to oversee the process helps ensure that the projects are evaluated in a neutral manner. This also helps ensure confidence in the process, encouraging more and better bids, and it helps ensure that bids are selected on their merits. The

[36] Department Comments at 35–36 (Sept. 13, 2023).
[37] OTP Reply Comments at 51 (Oct. 30, 2023).
[38] *See id.* at 51–53.
[39] *See* OTP's Response to OAG IR 51 at 2, para. E (Mar. 22, 2024).
[40] *Id.*
[41] *Id.*

OAG can appreciate that a utility of Otter Tail's size may find it challenging to staff two separate teams. The Commission, however, has approved a bidding process for Minnesota Power, a utility that is not much larger than Otter Tail.[42] Minnesota Power's bidding process requires that utility to engage an independent auditor to oversee the bid process where Minnesota Power or an affiliate proposes a project.[43] Therefore, if Otter Tail or an affiliate proposes a project, the Company should be required to engage an independent auditor.

In closing, the OAG emphasizes that Otter Tail's proposal to place the Minnesota share of Coyote Station on AME status, and its related proposal to bifurcate resource-planning between Minnesota and the Dakotas, would mean that all replacement resources will be paid for solely by Minnesota ratepayers. If the AME proposal is approved, therefore, it will heighten the importance of a carefully designed procurement process to protect ratepayers from paying too much for Coyote's replacement resources. While Otter Tail has done a good job with past procurements, this does not mean that its processes cannot be improved upon.

CONCLUSION

For the foregoing reasons, the Commission should take the following actions:

1. Find that Otter Tail's proposal to place Coyote Station on AME status is not in the public interest;
2. If the Astoria Station onsite-storage project is approved, cap rate recovery at Otter Tail's current cost estimate, with a 90/10 sharing of any savings below the cap; and
3. For resource acquisition:
    a. If the Astoria onsite-storage project is approved, require Otter Tail to use a minimum of three bidders for both major components of the project (equipment and fuel); and

[42] *See In the Matter of Minnesota Power's 2021–2035 Integrated Resource Plan*, Docket No. E-015/RP-21-33, Order Approving Plan and Setting Additional Requirements at 10 (Jan. 9, 2023).
[43] *See id.*

b. For other approved resources, require the Company to use the bidding process recommended by the Department.

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Respectfully submitted,

KEITH ELLISON
Attorney General
State of Minnesota

/s/ **Peter G. Scholtz**

PETER G. SCHOLTZ
Assistant Attorney General
Atty. Reg. No. 0389936

445 Minnesota Street, Suite 1400
St. Paul, Minnesota 55101-2131
(651) 757-1473 (Voice)
(651) 296-9663 (Fax)
peter.scholtz@ag.state.mn.us

ATTORNEYS FOR OFFICE OF
THE ATTORNEY GENERAL –
RESIDENTIAL UTILITIES DIVISION