

June 12, 2014

Burl W. Haar
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, Minnesota 55101

RE: **Comments of the Minnesota Department of Commerce, Division of Energy Resources**
Docket No. E017/M-14-393

Dear Dr. Haar:

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

Otter Tail Power Company (Otter Tail or the Company) Request for a Variance to the Billing Error Rules.

The filing was submitted on May 13, 2014 by:

Svetlana A. Fedje
Pricing Analyst
Otter Tail Power Company
215 South Cascade Street
Fergus Falls, MN 56538-0496

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

Sincerely,

/s/ LERMA LA PLANTE
Financial Analyst

LL/lt
Attachment



BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

COMMENTS OF THE
MINNESOTA DEPARTMENT OF COMMERCE
DIVISION OF ENERGY RESOURCES

DOCKET NO. E017/M-14-393

I. BACKGROUND AND SUMMARY OF FILING

On May 13, 2014, Otter Tail Power Company (Otter Tail or the Company) filed a petition with the Minnesota Public Utilities Commission (Commission) for a variance to Minnesota Rules, part 7820.3800, the Billing Errors Rule, to allow the Company to provide a refund to a customer for overcharges that have occurred since November 2006 and a one-time modification to the Company's Billing Adjustments tariff section in the Company's Electric Rate Schedule.

Otter Tail requested this rule variance and one-time tariff modification in order to gain approval to provide a refund to a customer for overcharges that the customer paid during a period outside of the three-year limit set in Minnesota Rules and Otter Tail's Billing Adjustments tariff section.

Otter Tail stated that on April 1, 2014, Otter Tail's employee discovered that a customer taking service under the Large Dual Fuel rate rider was overcharged due to incorrect connection of the meter/radio receiver. As a result of the incorrect connection, the customer's usage was not appropriately measured during control periods. This resulted in the customer being overbilled during the period November 2006 through March 2014.

Upon discovery of the error in April 2014, the Company corrected the meter/radio receiver connection. Otter Tail proposed to provide a refund to the customer for overcharges occurring during the period November 2006 through March 2014.

The Company calculated a total refund for the customer of \$7,032.62 for the total timeframe both within and exceeding the Commission Rule and tariff periods. Otter Tail stated that it calculated interest consistent with Minn. Stat. 325E.02(b) as summarized in the table below. The Company has refunded the customer \$4,652.40 for the 3-year period April 2011 to March 2014.

Table 1: Refund Amounts Provided and Refund Amounts Requiring Variance

Time Period	Principal	Interest	Total
Refund Within Commission Rules and Tariff (04/11 - 3/14)	\$4,647.65	\$4.75	\$4,652.40
Refund Requiring Variance (11/06 - 03/11)	\$2,282.01	\$98.21	\$2,380.22
Total	\$6,929.66	\$102.96	\$7,032.62

II. DEPARTMENT ANALYSIS

Minnesota Rules, part 7820.3800 states in relevant part:

Subpart 1. Errors warranting remedy.

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

Subpart 2. Remedy for overcharge.

When a utility has overcharged a customer, the utility shall calculate the difference between the amount collected for service rendered and the amount the utility should have collected for service rendered, plus interest, for the period beginning three years before the date of discovery. Interest must be calculated as prescribed by Minnesota Statutes, section 325E.02, paragraph (b).

Subpart 4. Exception if error date known.

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

Otter Tail's Electric's Rate Schedule, Section No. 4.09, Billing Adjustments, *Twenty-first Revision*, states, in relevant part:

4.09 BILLING ADJUSTMENTS

Overbilled

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

The Company requested approval to issue a further refund for the amount overcharged to the customer for the periods which lie outside the 3-year limit.

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

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

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

The Department believes that the rule variance criteria can also be used to assess the reasonableness of the one-time tariff modification that Otter Tail has requested.

In support of Otter Tail's variance request, the Company stated that, given the amount of time at issue, enforcement of the rule would impose an excessive and unreasonable burden on its customer by limiting the refund from the total over-billed amount. Further, Otter Tail stated that granting the variance would not adversely affect the public interest. Lastly, Otter Tail stated that it is unaware of any conflict with any standards imposed by law. Otter Tail noted that the Commission has approved a utility's voluntary credit beyond the time period required by Minnesota Rules when special circumstances exist.

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

III. RECOMMENDATION

The Department recommends that the Commission approve Otter Tail's request for a variance to Minnesota Rules, part 7820.3800 and a one-time modification to its Billing Adjustments tariff requirements.

/lt

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-14-393

Dated this 12th day of **June 2014**

/s/Sharon Ferguson

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Christopher	Anderson	canderson@allete.com	Minnesota Power	30 W Superior St Duluth, MN 558022191	Electronic Service	No	OFF_SL_14-393_M-14-393
Julia	Anderson	Julia.Anderson@ag.state.mn.us	Office of the Attorney General-DOC	1800 BRM Tower 445 Minnesota St St. Paul, MN 551012134	Electronic Service	Yes	OFF_SL_14-393_M-14-393
Michael	Bradley	mike.bradley@lawmoss.com	Moss & Barnett	Suite 4800 90 S 7th St Minneapolis, MN 55402-4129	Electronic Service	No	OFF_SL_14-393_M-14-393
Gary	Chesnut	gchesnut@agp.com	AG Processing Inc. a cooperative	12700 West Dodge Road PO Box 2047 Omaha, NE 681032047	Electronic Service	No	OFF_SL_14-393_M-14-393
James C.	Erickson	jericksonkbc@gmail.com	Kelly Bay Consulting	17 Quechee St Superior, WI 54880-4421	Electronic Service	No	OFF_SL_14-393_M-14-393
Svetlana	Fedje	sfedje@otpc.com	Otter Tail Power Company	215 S Cascade St Fergus Falls, MN 56537	Electronic Service	No	OFF_SL_14-393_M-14-393
Sharon	Ferguson	sharon.ferguson@state.mn.us	Department of Commerce	85 7th Place E Ste 500 Saint Paul, MN 551012198	Electronic Service	No	OFF_SL_14-393_M-14-393
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_14-393_M-14-393
Burl W.	Haar	burl.haar@state.mn.us	Public Utilities Commission	Suite 350 121 7th Place East St. Paul, MN 551012147	Electronic Service	Yes	OFF_SL_14-393_M-14-393
Shane	Henriksen	shane.henriksen@enbridge.com	Enbridge Energy Company, Inc.	1409 Hammond Ave FL 2 Superior, WI 54880	Electronic Service	No	OFF_SL_14-393_M-14-393
James D.	Larson	james.larson@avantenergy.com	Avant Energy Services	220 S 6th St Ste 1300 Minneapolis, MN 55402	Electronic Service	No	OFF_SL_14-393_M-14-393

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Douglas	Larson	dlarson@dakotaelectric.com	Dakota Electric Association	4300 220th St W Farmington, MN 55024	Electronic Service	No	OFF_SL_14-393_M-14-393
John	Lindell	agorud.ecf@ag.state.mn.us	Office of the Attorney General-RUD	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012130	Electronic Service	Yes	OFF_SL_14-393_M-14-393
Kavita	Maini	kmaini@wi.rr.com	KM Energy Consulting LLC	961 N Lost Woods Rd Oconomowoc, WI 53066	Electronic Service	No	OFF_SL_14-393_M-14-393
Andrew	Moratzka	apmoratzka@stoel.com	Stoel Rives LLP	33 South Sixth Street Suite 4200 Minneapolis, MN 55402	Electronic Service	No	OFF_SL_14-393_M-14-393
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_14-393_M-14-393
Larry L.	Schedin	Larry@LLSResources.com	LLS Resources, LLC	12 S 6th St Ste 1137 Minneapolis, MN 55402	Electronic Service	No	OFF_SL_14-393_M-14-393
Stuart	Tommerdahl	stommerdahl@otpc.com	Otter Tail Power Company	215 S Cascade St PO Box 496 Fergus Falls, MN 56537	Electronic Service	No	OFF_SL_14-393_M-14-393