

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Nancy Lange	Chair
Dan Lipschultz	Commissioner
Matthew Schuenger	Commissioner
Katie J. Sieben	Commissioner
John A. Tuma	Commissioner

In the Matter of Otter Tail Power Company's  
Petition for Approval of the Merricourt Wind  
Project

ISSUE DATE: January 10, 2018

DOCKET NO. E-017/M-17-279

ORDER APPROVING PROJECT  
UNDER MINN. STAT. § 216B.1645,  
SUBD. 1, AND AUTHORIZING COST  
RECOVERY

**PROCEDURAL HISTORY**

On April 11, 2017, Otter Tail Power Company (Otter Tail, or the Company) requested approval for an investment to procure 150 megawatts (MW) of wind generation in McIntosh and Dickey Counties in North Dakota (the Merricourt Project). The Company also asked the Commission to determine that the project could be used to meet Otter Tail's renewable energy obligations and to authorize cost recovery for the project through Otter Tail's Renewable Resource Cost Recovery Rider.

On June 19, 2017, the Minnesota Department of Commerce, Division of Energy Resources (the Department) filed comments with preliminary conclusions and requested additional information from Otter Tail.

On July 7, 2017, Otter Tail filed reply comments addressing the Department's comments.

On August 16, 2017, the Department filed a response to Otter Tail's reply, generally supporting approval of the project subject to reporting requirements. The Department recommended that the Commission find that the project qualifies as an eligible energy technology that can count towards Otter Tail's statutory renewable energy objectives, and recommended approval of rider cost-recovery subject to limitations and a cap on rider recovery.

On October 5, 2017, Otter Tail filed further reply comments disagreeing with the Department in part, particularly regarding the Department's proposed cap on rider recovery.

On October 26, 2017, the Commission met to consider the matter.

## FINDINGS AND CONCLUSIONS

### I. The Merricourt Project

The Merricourt Project will consist of 75 V110-2.0 MW Vestas wind turbine generators and will include real property interests; tower foundations; operational equipment; electric collection circuit lines; a collector system with an on-site collector substation; and additional infrastructure such as communications systems; meteorological towers; an operations and maintenance building; and monitoring, safety, lighting and measuring systems—over approximately 13,000 acres in McIntosh and Dickey Counties in North Dakota. The Project will interconnect to Montana-Dakota Utilities Company’s Merricourt 230 kV substation located approximately 13 miles southwest of Kulm, North Dakota. It will be developed and constructed by EDF Renewable Energy, Inc., and turned over to Otter Tail upon completion.

Under Minn. Stat. § 216B.1691, all Minnesota investor-owned utilities, generation and transmission cooperatives, municipal power agencies, and power districts (altogether, “utilities”) must generate or procure specific percentages of their total electric energy sold at retail using eligible renewable technologies—including wind generation. Otter Tail has requested (1) approval to acquire the 150 MW of wind generation, (2) a determination that the acquisition would satisfy the Company’s statutory renewable energy obligations, and (3) authorization to recover the cost of the investment through its Renewable Resources Cost Recovery Rider.

### II. Positions of the Parties

#### A. The Department

Upon reviewing the Company’s proposal, the Department recommended that the Commission determine that the Project can count toward the Company’s Renewable Energy Standard obligations under Minn. Stat. § 216B.1691, and that the project qualifies for cost recovery through the Company’s existing renewable resources rider.

However, the Department recommended that rider recovery be capped at the total project cost identified by the Company,<sup>1</sup> which resulted in the project being identified as the lowest levelized-cost-of-energy alternative. The Department argued that the Company selected the project because its cost estimate made it the best value of the projects being considered; but if the project’s actual costs exceed the estimate it could render other alternatives more cost effective. The Department argued that a “soft cap” on authorized rider recovery would hold the Company accountable for the cost estimates that affected its evaluation of the alternatives. The cap would be soft because the Company would be permitted to petition for cost-overrun recovery at a later date.

The Department also recommended that the Commission determine now that capital cost overruns would not be given deferred accounting treatment—an accounting method which would generally increase the amount of overruns recoverable in Otter Tail’s next general rate case.

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<sup>1</sup> Plus Allowance for Funds Used During Construction (AFUDC), and less the capitalized internal costs.

## **B. The Company**

The Company agreed with the Department's recommendations to approve the Project and authorize renewable resources rider recovery. But the Company argued that a cap on rider recovery was unjustified and unreasonably placed risk on the Company for costs outside of their control, such as interconnection costs. It argued that soft caps on rider recovery create an incentive for utilities to over-estimate the cost of projects to minimize the risk the caps impose, and that because actual rider recoveries are reviewed and approved in future filings the cap is unnecessary. In the alternative, it suggested that the Commission set the cap by using a different, higher cost estimate.

Otter Tail also argued that a Commission determination on the eligibility of cost overruns for deferred accounting would be premature.

## **III. Commission Action**

The Commission agrees with the parties that Otter Tail's investment in the Project should be approved, that the Project is an eligible energy technology under Minn. Stat. § 216B.1691, and that investment in the Project is being incurred to satisfy the requirements of that section. The Commission will therefore approve the investment under Minn. Stat. § 216B.1645, subd. 1.

And the Commission will approve recovery of project capital costs through Otter Tail's Renewable Resources Cost Recovery Rider up to the cost estimate identified by the Department. The project's relative cost effectiveness depends on the accuracy of the cost estimate. Capping rider recovery will provide the most straightforward mechanism to ensure that any cost overruns are reviewed for prudence before they are collected from ratepayers.

The Company reasonably bargained with EDF Renewable Energy to limit the risk Otter Tail faces with regard to cost increases—particularly for interconnection costs, an uncertain and variable cost that the Company identified as a possible source of cost overruns. It is reasonable to protect ratepayers from risks arising from cost overruns as well, while still allowing the Company timely recovery of its investment through its rider, only limited by the estimate that established the Project as cost effective. The Company can request recovery of additional amounts if they arise.

The Commission will not act on the possible deferred accounting treatment of cost overruns at this time because the issue is not ripe.

Finally, the Department recommended that the Company file reports on the Project's Conservation Strategy minimization and mitigation activity, and the Company did not object. The Commission agrees that these reports will serve the public interest and so will require them as set forth below.

## **ORDER**

1. The proposed Merricourt Project is approved under Minn. Stat. § 216B.1645, subd. 1.

2. The Merricourt Project qualifies for application toward Otter Tail's renewable energy objectives and obligations pursuant to Minn. Stat. § 216B.1691.
3. The Merricourt Project is exempt from the requirement to obtain a certificate of need under Minn. Stat. § 216B.243, subd. 5.
4. Rider recovery of project capital costs is authorized under Minn. Stat. § 216B.1645, subd. 2a, up to the trade secret amount identified on Page 10 of the Department's August 16, 2017, reply comments.
5. Otter Tail shall file informational reports on the Merricourt Project's Bird and Bat Conservation Strategy minimization and mitigation activity, including the related impact on Merricourt's operation, during the first ten years of operation (the first ten twelve-month periods). These reports must be filed within 30 days after the end of each of the first two years (i.e., first two 12-month periods) of operation, and within 30 days after the end of each five-year (60-month) interval of operation of the first ten years. Otter Tail shall also file any post-construction avian fatality surveys conducted during the first two years of operation.
6. This order shall become effective immediately.

BY ORDER OF THE COMMISSION

Daniel P. Wolf  
Executive Secretary



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