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April 8, 2013



Dr. Burl Haar  
Executive Secretary  
Minnesota Public Utilities Commission  
121 7<sup>th</sup> Place East, Suite 350  
St. Paul, MN 55101-2147

**RE: Possible Amendment to Rules Governing Utility Proceeding, Practice, and Procedure, Minnesota Rules Chapter 7829, excluding part 7829.2550, which is subject to a separate pending rulemaking  
Docket No. U-999/R-13-24  
Comments**

Dear Dr. Haar:

Otter Tail Power Company ("Otter Tail") submits these Comments in response to the Minnesota Public Utilities Commission's ("Commission") February 15, 2013 Request for Comments in the above-captioned matter.

Otter Tail has electronically filed this document with the Commission which, in compliance with Minn. Rule 7829.1300, subp. 2, also constitutes service on the Department of Commerce, Division of Energy Resources and the Office of Attorney General-Residential Utilities Division. Copies of these Comments have been served on all persons on the service list for this Docket. A Certificate of Service is also enclosed.

If you have any questions regarding this filing, please contact me at 218-739-8838 or at [rlspangler@otpc.com](mailto:rlspangler@otpc.com).

Sincerely,

*/S/ RON L. SPANGLER JR.*

Ron L. Spangler Jr.  
Rate Case Manager

jce  
Enclosures  
By electronic filing  
c: Service List

**STATE OF MINNESOTA  
BEFORE THE  
MINNESOTA PUBLIC UTILITIES COMMISSION**

Possible Amendment to Rules Governing  
Utility Proceeding, Practice, and Procedure,  
Minnesota Rules Chapter 7829, excluding part  
7829.2550, which is subject to a separate  
pending rulemaking

Docket No. U-999/R-13-24

**OTTER TAIL POWER COMPANY'S  
COMMENTS**

**I. INTRODUCTION AND BACKGROUND**

On February 15, 2013 the Minnesota Public Utilities Commission (“Commission”) issued its request for Comments in the above-captioned matter. The Commission’s request for Comments included a draft of possible amendments to Minnesota Rules Chapter 7829 and the Commission set an initial comment due date of April 8, 2013. Otter Tail Power Company (“Otter Tail” or the “Company”) submits these limited comments on the Commission’s possible amendments to Minnesota Rules Chapter 7829. Otter Tail requests a clarification to the proposed procedure for excision, an addition that would require individuals to maintain current address information for purposes of being listed on a service list established by the Commission, and a recommendation that the Commission need not appoint an advisory committee to comment on the possible amendments to the rules.

**II. Minnesota Rules 7829.0500 Subp. 2. – Procedure for Excision**

In order to help eliminate confusion on the proper way to mark documents containing proprietary, trade secret or privileged information, Otter Tail proposes the following changes to Minnesota Rules 7829.0500 Subp. 2 as shown in strike-underline format.

Subp. 2. Procedure for excision.

Persons filing documents containing ~~proprietary information, trade secrets,~~  
protected data or other privileged information shall file one copy of the document  
with the information redacted ~~excise this information in all copies but the original~~  
~~and six copies.~~ The first page or cover page of a document from which protected  
information has been excised must be clearly captioned in bold print "PUBLIC  
DOCUMENT—NONPUBLIC (or PRIVILEGED) DATA HAS BEEN

EXCISED. The beginning and end of the excised protected data must be identified. One copy of the document without redactions shall be filed, designated as required in subpart 4 and identified as a nonpublic document during the electronic submission process.

The last sentence shown in double underline format is a slight modification of the description for filing a copy the nonpublic document as required by Minnesota Rules 7829.0500 subp. 4, and it is moved within the subdivision. In the proposed amendments, this description was originally included in the description of the requirement to file public versions of documents. We believe the rule will be clearer by keeping the descriptions for the proper way to mark-up public and nonpublic documents separate.

Otter Tail also notes that the Rule uses the term “privileged” in parallel with the terms “protected” and “non-public,” etc. Because the term “privileged” could cause confusion over what should be included in a non-public filing, Otter Tail recommends that references in the Rule to “privileged” information should be removed or clarified.

Otter Tail understands that the term “privileged” can be used in its general sense to mean private or not generally open to the public, but the term can also be used in its more narrow sense to mean information covered by a legal privilege that protect information from compelled disclosure. The laws regarding legally privileged communications, of course, protect such communications from disclosure in all filed documents, whether public or non-public. In fact, privileged communications would likely lose their privileged legal status if disclosure was made in a filed document (even if it was a non-public filing).

Otter Tail understands that these references to “privileged” information may not be intended to imply that legally privileged information should be included (disclosed) in the non-public version of filed documents, but to prevent misunderstanding Otter Tail recommends removal of references to the word “privileged.” The other terms in the rule, specifically “protected” and “non-public” are adequate for the rule and do not create the potential for such confusion. Alternatively, an explanation should be added in the Rule to clarify that references to “privileged” data and information are not intended to imply a compulsion to disclose communications covered by legal privilege (even in non-public filings).

## **Minnesota Rules 7829.0700 – Official Service list**

Otter Tail does not have concerns with the current service list requirements in Minnesota Rules 7829.0700. However we offer the following suggestion with the intent of minimizing the time, effort and costs associated with maintaining service lists for all parties involved. After a service list has been established by the Commission, Otter Tail has had situations where an individual on an official service list has changed their address and yet the individual has not notified the Commission of the change. In these situations, filings served on the individual are often returned as undeliverable. Otter Tail believes the Commission may want to consider adding language to Minnesota Rules 7829.0700 that would require individuals to maintain current address information for service lists. Otter Tail provides the following suggested language that could be incorporated in the Minnesota Rules 7829.0700:

Persons are responsible for maintaining current paper and electronic service address information. When a person is served and the mail is returned as undeliverable two times to a serving party, the Commission may remove the person from the applicable service list. A person may be added to the applicable service list at a later time by filings a request with the Commission.

We believe adding the above language to Minnesota Rules 7829.0700 will help improve the administrative efficiencies for all parties involved with matters before the Commission.

### **III. Establishment of an advisory comment**

In the Commission's request for Comments in this matter, the Commission invited parties to comment on whether or not the Commission should appoint an advisory committee to comment on the possible amendments to the rules. At this time, Otter Tail does not believe an advisory committee to be necessary. However, if the Commission does establish such a committee, Otter Tail would like to opportunity to have an Otter Tail representative on the committee.

[Remainder of page intentionally left blank – signature page follows]

Dated: April 8, 2013

Respectfully submitted,  
OTTER TAIL POWER COMPANY

By: /s/ RON L. SPANGLER JR.

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By: /s/ BRUCE GERHARDSON

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## CERTIFICATE OF SERVICE

**RE: Possible Amendment to Rules Governing Utility Proceeding, Practice, and Procedure, Minnesota Rules Chapter 7829, excluding part 7829.2550, which is subject to a separate pending rulemaking  
Docket No. U-999/R-13-24**

I, Jana Emery, hereby certify that I have this day served a copy of the following, or a summary thereof, on Dr. Burl W. Haar and Sharon Ferguson by e-filing, and to all other persons on the attached service list by electronic service or by First Class mail.

**Otter Tail Power Company  
Comments**

Dated this **8th** day of **April, 2013**

/s/ JANA EMERY

Jana Emery  
Regulatory Filing Coordinator  
Otter Tail Power Company  
215 South Cascade Street  
Fergus Falls MN 56537  
(218) 739-8879

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
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_13-24_Official
Linda	Chavez	linda.chavez@state.mn.us	Department of Commerce	85 7th Place E Ste 500  Saint Paul, MN 55101-2198	Electronic Service	No	OFF_SL_13-24_Official
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_13-24_Official
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_13-24_Official
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_13-24_Official