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Minnesota Department of Commerce

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August 30, 2013

Burl W. Haar
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 300
St. Paul, Minnesota 55101

RE: ***Response Comments*** **of the Minnesota Department of Commerce, Division of Energy Resources to Otter Tail Power Company's** ***Reply Comments***
Docket No. E017/M-13-103

Dear Dr. Haar:

Attached please find the Minnesota Department of Commerce, Division of Energy Resources (DOC or the Department) *Response Comments* to the *Reply Comments* of Otter Tail Power Company (OTP or the Company).

Based on our review of OTP's *Reply Comments*, the DOC recommends that the Minnesota Public Utilities Commission (Commission) adopt the DOC's recommendations, as discussed in greater detail herein. The DOC is available to answer any questions that the Commission may have.

Sincerely,

/s/ MARK JOHNSON
Financial Analyst

MJ/ja
Attachment

division of energy resources
Minnesota Department of Commerce

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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

DOCKET NO. E017/M-13-103

I. BACKGROUND

On January 28, 2010, the Minnesota Public Utilities Commission (Commission) issued its Order approving Otter Tail Power Company's (OTP or the Company) first Transmission Cost Recovery Rider (TCR Rider) in Docket No. E017/M-09-881.

On March 26, 2012, the Commission issued its Order approving OTP's first annual update to its TCR Rider in Docket No. E017/M-10-1061 (10-61).

On March 15, 2013, the Commission issued its Order approving TCR Rider eligibility for three new projects in Docket No. E017/M-12-514 (12-514).

On February 7, 2013, OTP filed the instant petition.

On May 24, 2013, the Minnesota Department of Commerce, Division of Energy Resources (DOC) filed its comments and recommended that OTP provide the following information in their reply comments:

- an explanation as to why the Sheyenne – Audubon 230 kV Line Upgrade was no longer needed;
- the Commission-approved certificate of need (CN) cost estimates for all projects included in OTP's 2013 TCR Rider that required a CN. For any project that did not require a CN, the Department recommended that OTP provide the initial cost estimate first approved by the Commission in another proceeding;

- an explanation as to why OTP did not include any projected Midcontinent Independent System Operator (MISO) Schedule 37 and 38 revenues going forward when all other revenues and costs were projected through April 2014;
- a statement either confirming or denying the Department's understanding that OTP does not receive any other revenues (besides those revenues received under MISO Schedules 26/26A) from other parties for their use of OTP's Regional Expansion Criteria and Benefits (RECB) and Multi-Value Projects (MVP) transmission lines;
- the two figures comprising the $458,000 net increase in annual revenue requirements attributable to OTP's internal capitalized costs; and
- an explanation as to why it is reasonable for OTP to exclude MISO Schedule 26 revenues received from other parties that are attributable to the Company's internal capitalized costs.

On June 27, 2013, OTP filed its reply comments.

II. DOC's ANALYSIS

A. SHEYENNE – AUDUBON 230 KV LINE UPGRADE

Beginning on page 1 of its reply comments, OTP provided an explanation as to why the Sheyenne – Audubon 230 kV Line Upgrade (Sheyenne Project) was no longer needed. OTP stated that the Company's decision to cease further development of the Sheyenne Project was based on additional transmission studies which indicated that the project was no longer needed to support the interconnection of the Luverne and Ashtabula wind farms due to a separate regional transmission project near the point of interconnection. A more detailed explanation is provided on page 2 of the Company's reply comments. According to OTP, all costs for the Sheyenne Project have been removed from the Company's TCR Rider.

Based on our review, the DOC concludes that OTP's decision to discontinue development of the Sheyenne Project is reasonable. Moreover, the DOC concludes that all costs associated with the Sheyenne Project have been appropriately removed from OTP's TCR Rider.

B. FORECASTED MISO SCHEDULE 37 AND 38 REVENUES

In our initial comments, the Department asked OTP to explain in reply comments why the Company did not include any projected MISO Schedule 37 and 38 revenues going forward when all other revenues and costs were projected through April 2014. OTP replied that:

> The Department noted in Section D of its Comments that there were no MISO Schedule 37 and 38 revenues included in the forecast information provided in Attachments 2 and 13 of the

> Petition. In the calculation of the annual revenue requirements under Attachment GG, MISO determines the applicable financial obligations of American Transmission Systems, Incorporated ("ATSI"), Duke-Ohio ("DEO") and Duke-Kentucky ("DEK"). However, MISO does not provide a separate Schedule 37 and 38 revenue forecast, but instead includes the forecast for these revenues as part of the overall Schedule 26 revenue forecast. MISO does report the Schedule 37 and 38 revenues on an actual basis, and OTP includes these within the tracker just as other actual amounts within the tracker are updated on an on-going basis.

Based on the above, the Department concludes that forecasted MISO Schedule 37 and 38 revenues are reflected in the Company's TCR Rider via forecasted MISO Schedule 26 revenues. For clarity, the Department recommends that in the future, OTP should identify the revenues clearly in its initial filing.

C. ATTACHMENT O REVENUES

In our initial comments, the Department asked OTP to confirm our understanding of Attachment O revenues related to RECB projects and MVP's.

On page 3 of its reply comments, OTP confirmed our understanding that the Company does not receive any other revenues, besides those received under MISO Schedules 26/26A, from other parties for their use of OTP's RECB and MVP transmission lines. The Department appreciates OTP's confirmation.

D. INTERNAL CAPITALIZED COSTS

In our initial comments, the Department noted that under OTP's calculation, the removal of the Company's internal capitalized costs actually increased net revenue requirements by $458,000 and resulted in higher TCR Rider rates. As a result, the Department asked OTP to provide, in reply comments, the two figures comprising the $458,000 and explain why it was reasonable for OTP to exclude MISO Schedule 26 revenues received from other parties that are attributable to the Company's internal capitalized costs. OTP provided the figures comprising the $458,000 on Page 15, Table 2 of its reply comments.

As shown on Page 15, Table 2, Line 3 of OTP's reply comments, the majority of the $458,000 increase in net revenue requirements is due to the fact that OTP reduced its estimated MISO Schedule 26 revenue credits from $7,799,282 to $7,437,358, or by $361,924, to reflect the exclusion of the Company's internal capitalized costs.

The Department notes that OTP's actual MISO Schedule 26 revenues will not decrease due to the exclusion of recovery of additional internal capitalized costs from the TCR Rider.[1] MISO Schedule 26 revenues are based on the full investment of project's costs and do not reflect decisions made by other regulatory agencies to limit the amount of capital costs recovered in a rider. In other words, OTP still expects to receive the full amount of MISO Schedule 26 revenues of $7,799,282 from MISO because the federally tariffed rates remitted as Schedule 26 payments are based on a federal ratemaking formula, not on costs the Commission deems appropriate to include for recovery in a rider that increases retail rates above the levels determined to be just and reasonable in the utility's most recent rate case. The reduced amount of MISO Schedule 26 revenues reflects what would happen if MISO Schedule 26 revenues were based on lowered capital costs that excluded OTP's internal capitalized costs.

OTP's rationale for excluding a portion of MISO Schedule 26 revenues from the TCR Rider that are attributable to internal capitalized costs is further discussed in section II.F below.

E. CERTIFICATE OF NEED COST ESTIMATES

The Department also asked OTP to provide in reply comments the Commission-approved CN cost estimates for all projects included in OTP's 2013 TCR Rider that required a CN. If a CN was not required, the Department asked OTP to provide the cost estimates that were first approved by the Commission in another proceeding.

On page 7 of its reply comments, OTP provided the following table from the Company's response to DOC Information Request No. 4:

Project	CON Docket #	TCR Eligibility/ Update Docket #	TCR Eligibility/ Update Amount (millions)	OTP Ownership Percentage	OTP's Share of Approved Costs (millions)
Fargo-Monticello	06-1115	E017/M-10-1061	$640.0	13.2%	$84.5
Bemidji-Grand Rapids & Cass Lake	07-1222	E017/M-10-1061	$111.5	20.0%	$22.3[1]
Brookings-Hampton	06-1115	E017-M-12-514	$669.6	4.1%	$27.5
Ramsey	N/A	E017-M-12-514	$0.9	100.0%	$0.9

[1] As discussed below, utilities already recover a representative amount of internalized labor costs in base rates; as a result, it is not appropriate to recover additional internalized labor costs in riders.

According to OTP, the cost estimates listed in the table above for the Fargo-Monticello and the Brookings-Hampton projects were included in their respective CN's. OTP stated that the Ramsey project did not require a CN and that the amount listed in the table above was the initial cost estimate approved by the Commission in the Company's eligibility filing in Docket No. E017/M-12-514.

With regards to the Bemidji – Grand Rapids project, OTP stated that the amount listed in the above table was the amount approved by the Commission in the Company's last TCR Rider filing in Docket No. E017/M-10-1061 (10-1061). The Department notes that OTP failed again to provide the initial CN amount approved by the Commission for the Bemidji-Grand Rapids project. Instead, on pages 8 and 11 its reply comments, OTP cited to the Company's last TCR Rider filing (10-1061) and Xcel's reconciliation of the project's cost in Xcel's TCR Rider filing in Docket No. E002/M-12-50 (12-50). OTP asserts that, in 10-1061, the Commission determined that all costs should be included in the TCR Rider; however, the context for the "all costs" determination referenced by OTP was the Commission's March 26, 2012 Order rejecting OTP's proposed alternative ratemaking treatment or "split-method" that would apportion the lines' total costs based on the portion of each line's load used to serve Minnesota-jurisdictional retail ratepayers. The Commission did not determine whether costs allowed to be recovered through a rider should be limited to the cost estimate included in a CN or eligibility proceeding. This issue is addressed in further detail in section II.G below.

The Department reviewed the Certificate and Need Application for the Bemidji-Grand Rapids project in Docket E-017, E-015, ET-6/CN-07-1222 (07-1222) and Xcel's TCR Rider filing in 12-50. As explained in our November 1, 2012 *Response to Reply Comments* in 12-50, the appropriate cost cap for the Bemidji-Grand rapids project is $74 million, after adjusting for inflation. As a result, the Department recommends that cost recovery for the Bemidji Project be limited to $74 million in the instant proceeding.

OTP's opposition to cost recovery caps is discussed below.

F. IMPACT OF REDUCING CAPITAL COSTS AND CORRESPONDING REVENUES ON TCR RIDER RATES

Beginning on page 4 of its reply comments, OTP explained why the Department's recommendations to reduce capital costs by imposing cost caps based on CN estimates or disallowing recovery of internal capitalized costs results in higher TCR Rider rates. Specifically, OTP stated that:

> While in most Rider circumstances reducing the amount of capital investment included in a Rider would reduce the Rider Rates, in this instance, TCRR [TCR Rider] rates will increase if the amount

of capital investment is reduced. The following will help explain why this occurs.

All but one of the transmission projects included in OTP's TCRR are regionally cost allocated projects that receive revenue through the FERC-approved MISO tariff. These MISO revenues are credited to the TCRR, reducing the TCRR revenue requirement.

In this way, by investing in such projects, OTP has reduced the amount OTP's customers currently pay for the projects. To help illustrate how investing in such a project reduces the cost to retail customers, Table 1 below compares what OTP customers currently pay for the Bemidji – Grand Rapids ("B-GR") project (with OTP as an investor in the project) with what customers would have paid had OTP not invested in the project [footnotes omitted]:

Table 1

	Bemidji–Grand Rapids Project Revenue Requirements 2013	
	With OTP Investment	**No OTP Investment**
Schedule 26 Expense[1]	1,228,463	1,228,463
MN Revenue Requirements[2]	1,447,707	0
Schedule 26 Revenue[3]	(1,879,798)	0
Total	796,372	1,228,463

As Table 1 illustrates, it is very beneficial to OTP's customers for OTP to invest in these regional projects and for the project costs and revenue credits to be included in the Rider rate calculations. Also, because the revenue credits are currently larger than the corresponding TCRR revenue requirements, the effect of reducing the amount of capital investment in the TCRR has what might appear a counterintuitive effect: the TCRR rates will *increase* as the total amount of capital investment reflected in the Rider *decreases*. The only way that a reduction in capital investment could result in a reduction to TCRR rates would be if the capital investment used for the Rider's revenue requirement calculation was reduced but the capital investment used to calculate the corresponding revenue credits was not reduced. Such an approach would be an artificial and inappropriate mismatching of the investment recognized in the TCRR for the two rate calculation components. It would essentially allow the TCRR to capture revenues from investments that are not being paid for through the TCRR. Such a mismatching would not be consistent with standard ratemaking treatment and the result would serve as a significant disincentive for OTP and other utilities to invest in these projects despite the benefits illustrated in Table 1. Such a mismatching would also be inconsistent with the Commission's ruling in OTP's last TCRR update that increased the amount of investment included in the TCRR for the purpose of increasing the corresponding credits, as will be explained further below.

Fundamentally, it should be recognized that one of the most beneficial aspects of the TCRR is that it provides a retail ratemaking mechanism that syncs up with the FERC-approved MISO rate mechanism for regionally allocated transmission investments. The MISO tariff allows a utility to recover on a current basis its annual revenue requirement for investments made in qualifying transmission facilities. Similarly, the Minnesota TCRR provides a retail mechanism that allows for the recovery of eligible investments. To avoid a double recovery on TCRR eligible transmission investments that also qualify for MISO regional recovery, the MISO revenues coming into the utility for those investments are applied to the TCRR as an off-setting revenue credit, thus reducing the amount that needs to be recovered from OTP retail customers.

As indicated above, this approach of including in the TCRR calculations all of the capital investment used in the MISO tariff mechanism was specifically addressed by the Commission in its Order in OTP's last annual TCRR Update. In its final Order in that Docket, the Commission addressed the question of how much of OTP's investment in regional projects should be included in its TCRR (the entire investment or only the amount that corresponds to retail service). The Order states:

"The Commission will apply standard ratemaking treatment to the costs of the Bemidji and Fargo transmission lines. All Minnesota-jurisdictional costs of the two lines will be included in the rider and all revenues attributable to the Minnesota-jurisdictional

> *portions of the lines will be credited to ratepayers."[Footnote omitted]*
>
> That Commission decision recognizes that while it would typically increase rates to add more capital investment to the TCRR, doing so in the case of these regional projects actually reduces current TCRR rates. The decision also explicitly recognizes that synchronizing the two mechanisms requires that the costs of projects included in the TCRR and revenue credits attributable to those costs must match.
>
> For these reasons, the capital costs included in the TCRR for OTP's eligible transmission project investments should not be reduced as proposed by the DOC. If costs are excluded from the TCRR revenue requirement calculation, then principals of matching would require that the revenue credits that correspond to the excluded costs should also be excluded. As described above, because OTP's TCRR projects are predominantly projects that qualify for MISO regional cost allocation, such an approach would result in higher TCRR rates.

The Department agrees that, under OTP's proposed methodology, removing revenues received from MISO that are associated with disallowed capital costs results in higher TCR Rider rates. However, OTP's methodology is inappropriate. OTP assumes that the portion of MISO Schedule 26 revenues associated with the disallowed capital costs will also be removed from the TCR Rider even though, as noted earlier, the amount of revenues that OTP actually receives from MISO will not decrease due to the exclusion of recovery in the rider of capitalized costs above previously approved levels. Riders give utilities an extraordinary means to recover costs; under normal ratemaking, utilities cannot recover costs of new facilities until the rate case subsequent to when the facilities are used and useful. However, it is critical for ratemaking to ensure that utilities have a reasonable incentive to minimize costs. In the words of the Minnesota Supreme Court, "by merely showing that it has incurred, or may hypothetically incur, expenses, the utility does not necessarily meet its burden of demonstrating it is just and reasonable that the ratepayers bear the costs of those expenses."[2] If a utility can show in a subsequent rate case that recovery of higher capital costs is reasonable, the utility can then recover those capital costs in the same manner as capital costs are recovered under normal ratemaking. This approach is fair to both utilities and ratepayers, and holds utilities accountable for their financial decision-making.

[2] Northern States Power Co., 416 N.W.2d 719, 722 (Minn. 1987).

By contrast, at the federal or MISO level, RECB/MVP project allocations are such that the higher the costs for a project with a MVP/RECB designation, the more revenues (through MISO Schedule 26) the owner receives from other utilities across the MISO footprint. As a result, utilities have little if any incentive to control costs. However, it is not appropriate to mix up federal and state ratemaking principles. MISO Schedule 26 revenues are based on the full investment of a project's costs and do not reflect decisions made by other regulatory agencies to limit the amount of capital costs recovered in a rider. Likewise, retail ratemaking principles in a rider must not be dictated by ratemaking at the federal level. Thus, the Department does not agree that OTP's matching argument should somehow allow OTP either to get automatic pass through recovery of costs that exceed the cost estimate in their CN or to withhold revenues associated with the project. The Department notes that there must be some incentive for OTP to minimize their costs, rather than allow a straight pass through of all costs via a rider.

Finally, the Department notes that the burden is on the utility to support rate recovery that exceeds their CN (or other) estimate. Additionally, since OTP continues to receive the higher revenue amount for MISO Schedule 26, which may or may not be based on prudent costs, OTP is not harmed by passing these revenues on to ratepayers. However, OTP's ratepayers would be harmed if OTP's shareholders were allowed to retain a portion of the revenues that the Company would not be receiving but for investments in infrastructure used to provide service to ratepayers.

OTP's argument that there would be a mismatch if costs are disallowed from recovery in the rider while all revenues flow through the rider is misleading because the regulatory principles pertaining to cost recovery are different from that of the revenues, thus no "match" should be assumed. The costs are subject to the Commission's prudency review but the revenues are received due to another jurisdiction's determinations and are received regardless of whether the Commission determines that the costs upon which the revenues are based were prudently incurred. Therefore, the Department recommends that the Commission require OTP to pass through all MISO Schedule 26 revenues associated with the projects included in the TCR Rider that it receives from other utilities, including those revenues that are attributable to the Company's disallowed capital costs. OTP will have the opportunity to support recovery of the costs that exceed their cost estimate in its next rate case. Alternatively, OTP may choose to use normal ratemaking and simply wait for the rate case subsequent to the facilities being used and useful to recover the costs.

G. CAPPING OR LIMITING THE AMOUNT OF CAPITAL INVESTMENTS IN THE TCR RIDER

OTP noted in several places throughout their reply comments that they disagree with the Department's recommendations to: 1) limit the amount of capital cost recovery allowed in the TCR Rider (cost caps) based on amounts initially approved by the Commission in CN or eligibility filings (if a CN was not required); and 2) disallow recovery of the Company's internal capitalized costs in the TCR Rider. Each of these is discussed below.

1. Rider Recovery Cap

a) OTP's Reply

On pages 8-12 of its reply comments, OTP explained why the Company believes the Commission should not establish a practice of capping costs based on CN estimates. OTP stated that the Commission already approved a recovery amount of $111.5 million for the Bemidji-Grand Rapids project in the Company's last TCR Rider filing (10-1061). OTP also stated that the Commission already addressed in 10-1061 whether it was appropriate and beneficial to include more or less of the Bemidji-Grand Rapids and Fargo-Monticello project costs in the TCR Rider and ruled that all costs should be included. Moreover, OTP stated that the Department's recommendation to cap costs at the CN level was never raised in 10-1061, and that such a reduction in costs would have been directly contradictory to the Commission's ruling to include all costs so that all revenues could also be credited to the TCR Rider.

On pages 8 and 9 of its reply comments, OTP cited to the definition of estimated costs that was provided the CN proceeding (07-1222). According to OTP, the definition made clear that these were planning estimates, made before a route had been selected, before project design was conducted, and before any knowledge of construction conditions such as terrain could be reasonably assessed. Moreover, OTP stated that the CN application explicitly identified other costs such as those related to certificate of need, legal, environmental permitting, and right of way that were never quantified and included in the estimate.

OTP also stated that in the CN proceeding, the Department's comments concluded that the inputs used for estimating costs for the Bemidji-Grand Rapids project were reasonable. Furthermore, OTP stated that the Department's comments were adopted by the Commission as part of its Order in 07-1222 and that it was not possible for OTP to now meet some higher expectation with respect to the granularity or specificity of the cost estimates used in that proceeding.

OTP stated that the issue of whether costs for the Bemidji-Grand Rapids project should be capped arose in Xcel's TCR Rider filing in 12-50. According to OTP, Xcel's reply comments in 12-50 explained that CN planning estimates have not historically been applied as a cap in recovery proceedings and that if the Commission were to establish a principle that TCR Rider recoveries should be limited to CN planning estimates, that ruling should only apply on a going forward basis. OTP stated that it generally agreed with Xcel's comments in 12-50 and noted that the Commission has not yet issued an Order in that proceeding.

b) DOC's Response

The Department reviewed OTP's reply comments regarding cost recovery caps. The Department remains unpersuaded by OTP's arguments. As noted in our initial comments, the Commission has already established the practice of imposing cost caps in TCR Riders. The Commission stated in its April 7, 2010 Order in Docket No. E002/M-09-1048 that:

> …the Commission finds that TCR project cost recovery through the rider should be limited to the amount of the initial cost estimates at the time the projects are approved as eligible projects, with the opportunity for the Company to seek recovery of excluded costs on a prospective basis in a subsequent rate case. A request to allow cost recovery for project costs above the amount of the initial estimate may be brought for Commission review only if unforeseen or extraordinary circumstances arise on a project.

The Department notes that cost estimates are used extensively throughout CN and Route Permit proceedings and are relied upon by the Commission, particularly in considering whether alternatives to the proposed project should be pursued rather than the proposed project. Further, approval of projects in such proceedings is not a blank check for cost recovery in riders.

The Department also notes that absent cost recovery caps tied to the record in which the project was selected and approved, utilities have little incentive to expend the effort needed to accurately report project costs in CN and Route Permit proceedings, nor to ensure that the actual costs are as reasonable as possible. Moreover, disregarding CN and Route Permitting cost estimates and allowing utilities to recover all costs jeopardizes the integrity of the CN and Route Permitting process and the figures relied upon by the Commission in those decisions.

As noted above, TCR riders give utilities the extraordinary ability to charge their ratepayers for costs of facilities prior to the ordinary timing: the first rate case after the project goes into service. In exchange, ratepayers need some assurance that utilities are being held accountable for the costs they charge to ratepayers. Requiring utilities to wait until the first rate case after a project is in service to justify recovery of cost overruns of projects is the least that can be done to assure ratepayers that utilities are being held accountable.

The Department notes that the Commission clearly recognized the importance of placing caps in cost recovery riders in Xcel's RES Rider. In its April 22, 2010 Order in Docket No. E002/M-10-1066, the Commission stated that:

> In this proceeding, Xcel has proposed to recover through its RES rider costs for three projects which are higher than the Company originally indicated in obtaining approval from the Commission for cost recovery of the projects. The [Department] has given the costs proposed for RES rider recovery careful scrutiny, and has raised concerns with the current cost estimates versus the originally forecasted costs. As recommended by the [Department],

> the Commission will approve Xcel's proposed RES rider revenue calculation with the following modifications: the Nobles costs will be reduced by $1.74 million, and the Merricourt project will be allowed increased costs of $3.108 million. In addition, the Commission will reduce the Company's proposed Wind2Battery cost recovery by $200,000. The Commission recognizes, however, that this leaves the Company with unrecovered costs. To balance the statutory provision allowing a utility to recover costs of renewable and transmission projects through rate riders, with the statutory requirement that rates must be just and reasonable, the Commission will follow the recommendation of the [Department]. The Commission will allow Xcel to recover, through its RES rider, only the costs up to the amounts of the initial estimates at the time the projects are approved as eligible projects. No amounts above what Xcel initially indicated the projects would cost will be allowed to flow through the RES rider. Nor will additional cost overruns be eligible for deferred accounting. However, Xcel will be allowed to seek recovery, on a prospective basis, of additional costs at the time of its next rate case, upon a showing that it is reasonable to require ratepayers to pay for any such additional costs. This approach allows Xcel to recover the majority of the costs for projects eligible for RES rider recovery promptly, while providing at least some incentive for Xcel to minimize costs and help protect ratepayers. (Cites omitted)

Based on the above discussion, the Department recommends that the Commission continue to limit the amount of capital cost recovery allowed in the TCR Rider (cost caps) based on amounts initially approved by the Commission in CN or eligibility filings (if a CN was not required).

2. Internal Capitalized Costs

On pages 13-17 of its reply comments, OTP explained why it believes internal capitalized costs should not be excluded from its TCR Rider. The Department notes that this issue was fully addressed and vetted in Minnesota Power's TCR Rider filing in Docket No. E015/M-10-799. The Department maintains its position as discussed therein and continues to conclude that the Commission's decision regarding this issue was correct. Specifically, the Commission's May 11, 2011 Order in that proceeding stated:

> Under Minn. Stat. § 216B.03, a utility's rates must be just and reasonable. The Company carries the burden to meet this requirement, and any doubt as to the reasonableness of a rate is to be resolved in favor of the consumer.

> The Commission concurs with the Department that the Company has not established that recovering internal costs under the rider is consistent with the rider statute's requirement "that recovery from Minnesota retail customers for the allowance for funds used during construction is not sought through any other mechanism." The Company has not shown that internal costs are not being recovered through base rates. Rather, the Department has demonstrated that a representative portion of the Company's internal costs *are* being recovered through base rates.

The Department concludes that the Commission should reach the same conclusion for OTP.

Based on the above, the Department recommends that the Commission, consistent with its decision in Docket No. E015/M-10-799, require OTP to exclude all internal capitalized costs in its TCR Rider.

H. CARRYING CHARGES ON TRACKER BALANCES

In OTP's most recent Renewable Energy Rider petition, Docket No. E017/M-12-708, Commission Staff questioned whether it was appropriate to include a carrying charge on tracker balances. As a result, the Commission's April 2, 2013 Order in Docket No. E017/M-12-708 asked OTP to justify in its next rider filing the inclusion of any carrying charges in the tracker balances.

OTP addressed this issue on pages 17 and 18 of its reply comments. OTP stated that carrying charges apply to both over-collections and under-collections in its riders. In this case, OTP stated that it had previously over-collected costs, meaning that OTP owes money to ratepayers. As a result, the tracker balance was reduced by the $27,000 of carrying charges, which in turn reduced the overall revenue requirement for the next collection period. OTP stated that its carrying charges are based on its current rate of return from its last electric rate case (Docket No. E017/GR-10-239). Finally, OTP stated that the DOC's initial comments in this proceeding concluded that OTP's carrying charge calculations were reasonable. As a result, OTP recommended that the Commission find that the Company has complied with the Commission's April 2, 2013 Order in Docket No. E017/M-12-708.

The Department agrees that OTP has complied with the Commission's Order in Docket No. E017/M-12-708. Moreover, the DOC agrees that OTP's calculation of carrying charges appears reasonable.

I. CURRENT RATE OF RETURN

As noted in our initial comments, the TCR Statute, Minn. Stat. §216B.16, subd. 7b (3) states that TCR recovery should allow "a return on investment at the level approved in the utility's last general rate case, unless a different return is found to be consistent with the public interest." Thus, given the extraordinary ratemaking allowed in this rider and OTP's reluctance to be held financially responsible, the Commission may wish to invoke authority under existing statutes to reduce OTP's return on investment in the TCR from the 8.61 percent used by OTP in this proceeding.[3]

II. SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS.

The Department concludes that:

- OTP's decision to discontinue development of the Sheyenne Project is reasonable. Moreover, the DOC concludes that all costs associated with the Sheyenne Project have been appropriately removed from OTP's TCR Rider;
- forecasted MISO Schedule 37 and 38 revenues are reflected in the Company's TCR Rider via forecasted MISO Schedule 26 revenues. However, in the future, OTP should identify the revenues clearly in its initial filing;
- the appropriate cost cap for the Bemidji-Grand Rapids project is $74 million, after adjusting for inflation;
- OTP has complied with the Commission's Order in Docket No. E017/M-12-708; and
- Given the extraordinary ratemaking allowed in this rider and OTP's reluctance to be held financially responsible, the Commission may wish to invoke its authority under existing statutes to reduce OTP's return on investment for the purposes of the TCR Rider from the 8.61 percent used by OTP in this proceeding.

The Department recommends that the Commission:

- limit the amount of capital cost recovery allowed in OTP's TCR Rider (cost caps) based on amounts initially approved by the Commission in CN or eligibility filings (if a CN was not required);
- exclude recovery of internal capitalized costs in OTP's TCR Rider;
- limit cost recovery for the Bemidji Project to $74 million (total basis) in the instant proceeding; and

[3] See Docket No. E017/GR-10-239.

- require OTP to include all MISO Schedule 26 revenues associated with the TCR Rider projects that the Company receives from other utilities, including those that are attributable to its disallowed capital costs. OTP will have the opportunity to support recovery of costs that exceed their CN estimate in the Company's next rate case.

/ja

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

Response Comments

Docket No. E017/M-13-103

Dated this **30th** day of **August, 2013**

/s/Sharon Ferguson

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