

## Staff Briefing Papers

Meeting Date November 29, 2018 Agenda Item \*\*5

Company Otter Tail Power Company

Docket No. **E-017/M-18-464**

**In the Matter of Otter Tail Power Company’s Petition for Approval of the Annual Rate Update to its Environmental Upgrades Cost Recovery Rider Rate and Rate Schedule 13.08**

- Issues
1. Should the Commission approve Otter Tail Power’s annual update of its Environmental Upgrades Cost Recovery Rider rate under its Rate Schedule 13.08, changing the rate from -0.935 percent of a customer’s bill to zero percent effective December 1, 2018?
  2. Should the Commission allow Otter Tail Power to refund (or recover) any over (or under) collected balance in the ECRR tracker account at that time and, if so, by what means?

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 **Relevant Documents**

**Date**

Otter Tail Power – Petition Filing	July 3, 2018
Department of Commerce (Department) – Comments	August 1, 2018
Otter Tail Power – Reply Comments	August 10, 2018

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The attached materials are work papers of the Commission Staff. They are intended for use by the Public Utilities Commission and are based upon information already in the record unless noted otherwise.

## I. Statement of the Issues

Should the Commission approve Otter Tail Power's annual update of its Environmental Upgrades Cost Recovery Rider rate under its Rate Schedule 13.08, changing the rate from -0.935 percent of a customer's bill to zero percent effective December 1, 2018?

Should the Commission allow Otter Tail Power to refund (or recover) any over (or under) collected balance in the ECRR tracker account at that time and, if so, by what means?

## II. Introduction

In its petition, Otter Tail Power Company (Otter Tail or Company) is seeking approval of its fourth annual update to the Environmental Upgrades Cost Recovery Rider (ECRR) under its Rate Schedule 13.08. For this annual update, OTP is requesting that the Commission allow an ECRR rate change from -0.935 percent of a customer's bill to zero percent effective December 1, 2018, when OTP expects the refund recovery balance to be closest to zero. In addition, OTP is proposing that any over or under collected balance remaining at that date, be deferred until the Company's next rate case. Alternatively, OTP requests permission to transfer any remaining (outstanding) balance in the tracker account to another rider.

The Department requested OTP provide supplemental information and indicated it expects to recommend approval of OTP's proposal to reduce the ECRR rate factor to zero percent. The Department indicated that it expects to recommend denial of the Company's proposed method to address any over-recovered or un-collected balance in the ECRR tracker account at the end of OTP's proposed collection period.

## III. Background

In its December 18, 2013 Order, in Docket No. E-017/M-13-648,<sup>1</sup> the Commission approved Otter Tail's ECRR rate rider, ECRR rate schedule and first ECRR rate. The Commission approved OTP's request for an ECRR rider pursuant to the Commission's authority under the Emissions-Reduction Rider statute, Minn. Stat. § 216B.1692. This approval allowed the Company to recover its share of eligible costs for the Big Stone Plant's Air Quality Control System (AQCS).

In Otter Tail's last general rate case, the Commission approved OTP's current percentage of revenue rate at -0.935 and its request to incorporate its ECRR amount into base rates effective November 1, 2017.<sup>2</sup> Otter Tail Power has been refunding an over-collection to its customers and the remaining refund balance is projected to change from \$85,675 in October, 2018 to an overpayment to customers of \$72,198 in November, 2018. In this docket, OTP proposes to increase the ECRR rate to zero and is seeking to recover the over-refund that will continue to grow until the rate is zeroed out.

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<sup>1</sup> In the Matter of Otter Tail Power Company's (OTP) Request for Approval of its Environmental Upgrades Cost Recovery Rider for the Big Stone Plant

<sup>2</sup> See Docket No. E017/M-16-373 Supplemental Filing – REVISED ATTACHMENTS filed August 28, 2017 and Docket No. E017/GR-15-1033, Page 5 of Order issued October 30, 2017.

#### IV. Parties' Comments

##### A. Otter Tail Power

On July 3, 2018, Otter Tail Power submitted its petition. This is OTP's fourth annual update to the Environmental Upgrades Cost Recovery Rider (ECRR) rate under OTP's Rate Schedule 13.08. The ECRR was originally established in Docket No. E-017/M-13-648 with the Commission's order on December 18, 2013, allowing OTP to recover its share<sup>3</sup> of eligible costs for the Big Stone Plant's Air Quality Control System (AQCS).

Table 1 below identifies Otter Tail Power's past ECRR filings.

**Table 1<sup>4</sup>**

ECRR History	Docket Number	Commission Approved	Rate Effective Date
Original ECRR Rate and Mechanism	E-017/M-13-648	December 18, 2013	January 1, 2014
First Update	E-017/M-14-647	November 26, 2014	December 1, 2014
Second Update	E-017/M-15-719	March 9, 2016*	No change
Third Update	E-017/GR-15-1033 and E-017-M-16-373	October 30, 2017	<b>November 1, 2017**</b>

\*Rate effective December 1, 2014 unchanged.

**\*\*Rate approved to pass back over-collection in tracker. No projects remain in rider.**

On October 30, 2017, at the end of OTP's last rate case, the Commission approved the Company's request to roll the AQCS project into base rates and to return the remaining over-collection to its customers through a credit over the following 12 months.<sup>5</sup>

In the instant petition, OTP is requesting the ECRR rate be changed from -0.935 percent of a customer's bill to zero percent, effective December 1, 2018.

Additionally, the Company is proposing two alternatives to resolve (zero-out) its November, 2018 projected ECRR tracker balance of \$72,198 (initially projected at \$38,901, but since corrected):

<sup>3</sup> OTP owns 53.9% of Big Stone Plant per the Department.

<sup>4</sup> Source: Docket No. E-017/M-18-464, Page 5, July 3, 2018 (emphasis added).

<sup>5</sup> Orders for Docket Nos. E-017/GR-15-1033 and E-017/M-16-373.

- 1) Use deferred accounting and address the balance in its next general rate case. OTP notes that this is consistent with the approach the Commission approved in Otter Tail Power's Renewable Resource Recovery Rider.<sup>6</sup>
- 2) Alternatively, OTP suggested the Commission could allow OTP to transfer the projected \$72,198 ECRR tracker balance to another rider such as the Fuel Clause Adjustment (FCA) rider.

Otter Tail Power recommended the first option and proposed to submit a compliance filing after the final balance is determined.

Finally, the Company proposed the following language be included in customers' December 2018 bills:

*Starting this month, the Resource Adjustment no longer includes the Environmental Cost Recovery Rider (ECRR) costs. The ECRR recovers costs associated with new environmental technologies at our Big Stone Plant that help to meet government requirements. The remaining costs are now included in base rates. For more information contact Customer Service at 800-257-4044 or place an inquiry at [otpc.com](http://otpc.com).*

The Company provided an updated rate schedule 13.08 in its Attachment 2 to the instant petition.

#### **B. Minnesota Department of Commerce, Division of Energy Resources:**

On August 1, 2018, the Department submitted its comments. The Department acknowledged that the Commission ordered the uncollected Big Stone AQCS project investment be removed from OTP's ECRR and shifted to base rates in OTP's 2015 rate case.<sup>7</sup> There are no proposed projects remaining to be included in the ECRR.

The Department states that the ECRR tracker balance through November, 2018 consists of a true-up amount and a carrying charge. The true up amount is a credit to customers through October, 2018, due to OTP's over-collection. The monthly carrying charge is also a credit and is calculated as 1/12 of OTP's cost of capital. The Department points out that pursuant to the Commission's May 1, 2017 *Finding of Fact, Conclusion and Order*, in Docket No. E-017/GR-15-1033, Otter Tail Power's cost of capital was set at 7.5056%. However, the Department notes that the ECRR tracker is using a carrying cost of 8.61% and recommends that this be corrected for the period from November, 2017 through October, 2018. The Department also notes that the Petition does not include a monthly tracker balance from August through October, 2017.

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<sup>6</sup> ORDER APPROVING REQUEST TO REDUCE RIDER RECOVERY FACTOR, APPROVING REFUND, AND SETTING REQUIREMENTS FOR FUTURE RIDER FILINGS, In the Matter of Otter Tail Power Company's Request for Approval of its 2012 Renewable Resources Cost Recovery Adjustment Factor, Docket No. E-017/M-12-708 (April 17, 2013)

<sup>7</sup> Order in Docket No. E-017/GR-15-1033, October 30, 2017

The Department requests that OTP provide actual numbers for the ECRR tracker for these missing months.

The Department also reviewed the requirements contained in the proposal approval subdivision of the Emissions-Reduction Rider statute, Minn. Stat. § 216B.1692, subd. 5(b):

- (1) allows the utility to recover costs of qualifying emissions-reduction projects net of revenues attributable to the project;
- (2) allows an appropriate return on investment associated with qualifying emissions - reduction projects at the level established in the public utility's last general rate case;
- (3) allocates project costs appropriately between wholesale and retail customers;
- (4) provides a mechanism for recovery above cost, if necessary to improve the overall economics of the qualifying projects to ensure implementation;
- (5) recovers costs from retail customer classes in proportion to class energy consumption; and
- (6) terminates recovery once the costs of qualifying projects have been fully recovered.

Regarding the first point, the Department recommended OTP explain if it received any offsetting revenues attributable to the ECRR, such as revenues related to emission allowances or tax credits and whether these have been included in the tracker. Additionally, the Department recommended OTP update its tracker balance to reflect its current cost of capital of 7.5056 percent.

Regarding OTP's preferred option to address a remaining balance; deferral to its next general rate case, the Department acknowledges that would be consistent with the treatment accorded to the remaining balance in OTP's renewable resource rider, in Docket No. E-017/M-12-708, as mentioned in the Petition. However, the Department points out that the balance of approximately \$60,000 in that case was significantly higher than the \$38,901 forecasted by OTP at the end of November, 2018 in this case. Note, this amount has been corrected for current cost of capital and is projected to be \$72,198 at the end of November, 2018.

In addition, deferring an uncollected balance to a succeeding rate case would require deferred accounting treatment. In the past, the Commission has required that to be considered for deferred accounting treatment, costs should be:

1. Related to utility operations for which ratepayers have incurred costs or received benefits;
2. Significant in amount;
3. Unusual or extraordinary items;
4. Subject to review for reasonableness and prudence.

The Department does not believe that Otter Tail Power's request meets the second and third criteria, and does not recommend deferred accounting for handling the uncollected balance at the end of November, 2018.

In regard to Otter Tail Power's second option: transferring the tracker balance to another rider, such as the Fuel Clause Adjustment rider, the Department points out that the Energy and Emission Control Products Cost Adjustment statute<sup>8</sup> does not contemplate recovery of non-FCA Rider balances through the Fuel Clause Adjustment. Consequently, the Department does not recommend this proposed option.

The Department goes on to state that it considers the projected \$38,901 credit balance (over-collection) to be *de minimis* and so does not need to be refunded. If the Commission disagrees, then the Department recommends the alternate proposal of a one-time credit (or charge) to customers to clear the balance. Since Otter Tail Power had 61,696 retail customers in 2016, the Department believes that a one-time credit (or charge) is unlikely to unduly impact its ratepayers.

Finally, the Department believes Otter Tail Power's proposed customer notice language is sufficiently clear and concise.

### **C. Otter Tail Power's Reply Comments**

On August 10, 2018, Otter Tail Power submitted its response. OTP included a revised tracker balance correcting OTP's rate of return from 8.61% to 7.5056% as of April 16, 2016. While compiling its response, OTP identified the need to correct the carrying cost rate, resulting in a newly projected tracker balance of \$72,198 at the end of November, 2018 – an increase of \$38,297 over the previous estimated balance of \$38,901. Ending the collection period on October 31, 2018 would result in a balance still owed to customers of (\$85,675). Further, OTP reports that it has not received any offsetting revenues related to the Big Stone Air Quality Control System.

Otter Tail Power disagrees with the Department that the remaining tracker balance should be denied cost recovery. OTP argues that the balance is "part of a prudently undertaken and qualifying emissions-reduction project ... with demonstrated benefits to customers." OTP also disputes the Department's characterization of the balance as "*de minimis*" when there is an "administratively simple, reasonable and fair way to address such balances in rates, as there is here".

In conclusion, Otter Tail Power asks for approval to set the ECRR to zero percent effective December 1, 2018 and approval for recovery either through a one-time charge or to defer recovery until its next rate case.

### **D. Otter Tail Power's October 11, 2018 e-mail**

In the attached e-mail, dated October 11, 2018, Otter Tail Power provided a summary of its position and an updated estimate of the projected balance in its ECRR tracker account.

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<sup>8</sup> Minn. Stat. § 216B.16, subd. 7

Currently, the rate we have in place is returning an over-collection balance that existed November 1 of last year at the end of our rate case. Based on current projections, the tracker balances between now and the end of the year are as follows:

(OVER)/Under collected  
 October 31 – (\$71,746) still owe customers \$71,746  
 November 30 - \$86,214  
 December 31 - \$259,367

In this Docket, OTP proposed to set the rate to \$0.0 effective December 1, 2018. At that point, we currently forecast that we will have over-refunded to customers by approximately \$86k. We had proposed deferring recovery (deferred accounting) to our next rate case or possibly incorporating into another rider. OTP is also open to handling as a one-time charge as well. The Department is not supportive of allowing us to recover (estimates were smaller in initial filing) the balance. We hope the Commission will see that differently. OTP's other concern is how the balance will continue to grow if the rate remains in effect for another month as reflected in the estimate above.

Absent deferred accounting for any balance or approval to recover that amount in some future proceeding, OTP would need to write-off that balance.

## V. Staff Analysis

### A. Should the Commission approve Otter Tail Power's annual update of its Environmental Upgrades Cost Recovery Rider rate under its Rate Schedule 13.08, changing the rate from -0.935 percent of a customer's bill to zero percent effective December 1, 2018?

Per the Commission's October 30, 2017 Order in Docket No. E-017/GR-15-1033 and Docket No. E-017/M-16-373, the uncollected balance due to the Big Stone Power Plant's Air Quality Control System project investment was removed from the ECRR and rolled into OTP's base rates. There are no more project costs or revenue requirements remaining in the rate. In the instant petition, the Company is seeking approval to change its current ECRR rate from -0.935 percent to zero percent effective December 1, 2018.

Staff notes that the ECRR tracker balance is expected to change from an over-collected amount of (\$85,675) at October month-end to an over-refunded balance of \$72,198 at the end of November. The "over-refund" is projected to increase to more than \$250,000 by December 31<sup>st</sup>. All parties are in agreement that the rider recovery rate be zeroed out as soon as possible at the end of November.

**B. Should the Commission allow Otter Tail Power to refund (or recover) any over (or under) collected balance in the ECRR tracker account at that time and, if so, by what means?**

**i. Are the carrying charges and tracker balance reported reasonable?**

The ECRR tracker balance through November, 2018 consists of a true-up amount and a carrying charge. As of November, 2018, these amounts are a credit to customers, due to a cumulative over collection.

In its petition, OTP projected that this amount would be \$38,901. In its reply comments, OTP projected the true-up amount and carrying charge, corrected to reflect the cost of capital of 7.5056% from OTP's last rate case<sup>9</sup> would be a positive balance of \$72,198 at November 30, 2018.

In its October 11, 2018 e-mail, OTP projected the November 2018 ending balance in the ECRR tracker account would be approximately \$86,214. OTP projects this could increase to \$259,367 by the end of December 2018.

It has been Otter Tail's intention to end the collection period when the balance is closest to zero, therefore OTP is requesting zeroing out the ECRR rate and the remaining balance as of December 1, 2018.

**ii. How should Otter Tail power handle the expected ending balance?**

Otter Tail initially proposed either of two methods to handle the expected ending balance:

- 1) Deferred accounting, i.e. defer the ECRR tracker balance until the Company's next general rate case, or
- 2) Transfer the remaining tracker balance to another rider such as the Fuel Clause Adjustment (FCA).

Otter Tail also pointed out that the Commission has approved deferred accounting treatment for remaining balances in the past, as done in OTP's Renewable Resource Cost Recovery Rider after all rider projects were rolled into base rates in Docket No. E-017/GR-10-239.

The Department argues against deferred accounting treatment for the November 2018 ending tracker balance (forecasted at \$38,901 in OTP's initial filing), stating that the amount of the balance is neither "significant in amount" nor an "unusual or extraordinary item". These are two criteria that the Commission has required for deferred accounting consideration in past decisions. Further, the Department argues that the \$38,901 amount is "unlikely to significantly impact either ratepayers or the Company" and is, therefore, *de minimis* and should not be refunded or collected. However, the Department also states that if the Commission disagrees with its *de minimis* argument, there is a third option:

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<sup>9</sup> See Revised Attachment 1 in the Company's Reply Comments of August 10, 2018.



- 3) Clear any remaining balance through a one-time charge or refund to customer's bills.

Further, the Department argues that the balance should not be transferred to another rider, particularly the Fuel Clause Adjustment rider as Minn. Stat. § 216B.16, subd. 7 “does not contemplate allowing recovery of non-FCA Rider balances through the FCA”. Staff is in agreement with the Department's argument.

In its August 10, 2018 Reply Comments, Otter Tail states that either deferring the balance to the next rate case or clearing the balance through a one-time customer charge or refund are both reasonable approaches. Otter Tail is prepared to support either decision.

Although staff agrees with the Department in considering this rider treatment not an “unusual or extraordinary item”, with perfect hindsight, it seems unusual that there was no remedy proposed or provision made to end the refunding or collection at a zero tracker balance in the event of a timing issue. So, while staff agrees with the Department that the amount – initially at \$38,901 but now projected at \$72,198 – may not be significant, the tracker balance at year-end (December 2018) is projected to grow to \$250,000. Given these facts, staff is sympathetic to Otter Tail's objection to the Department's argument that the amount is de minimis and should not be put into a regulatory asset or liability account or immediately refunded or collected.

In addition, the Department recommends that if the Commission decides to allow Otter Tail Power to collect the remaining balance projected at \$72,198 at the end of November 2018, that it be done through a one-time charge (or credit) to customers. As the Department pointed out in its earlier arguments, with over 61,000 retail customers reported in 2016, a one-time charge or refund before the end of December would not significantly impact customer bills. Otter Tail Power has indicated that it can support this outcome. However, staff believes adding a new line item to customer bills in the form of a new, one-time charge creates the possibility of customer confusion and should probably be avoided.

## VI. Decision Options

### 2018 ECRR Factor

1. Allow Otter Tail Power to reset the ECRR rate to zero percent effective December 1, 2018 or the first of the month following the date of the Commission's Order and
2. Accept Otter Tail Power's proposed language for Tariff Sheet 13.08

### November 30, 2018 Expected Ending ECRR Tracker Balance

3. Authorize Otter Tail Power to defer any ending balance to its next general rate case or
4. Authorize Otter Tail Power to transfer any ending balance to the Fuel Clause Adjustment rider or another rider or
5. Consider the amount de minimis and deny Otter Tail Power's request to collect the expected ending balance in the ECRR tracker account or
6. Authorize Otter Tail Power to collect any ending balance in its ECRR tracker account as a one-time charge or credit to its customers' bills.

### Compliance Filing

7. Within 10 days of the Commission issuing its Order, require Otter tail Power to submit revised tariff language, and updated tracker ECRR balances by month.

**From:** [Tommerdahl, Stuart](#)  
**To:** [Harding, Bob \(PUC\)](#)  
**Subject:** Docket No. E017/M-18-464: OTP MN ECR Status  
**Date:** Wednesday, October 10, 2018 2:38:05 PM

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Bob,

Per our phone conversation, here is a brief recap summary of the status of OTP's ECRR that we discussed:

Currently, the rate we have in place is returning an over-collection balance that existed November 1 of last year at the end of our rate case. Based on current projections, the tracker balances between now and the end of the year are as follows:

(OVER)/Under collected  
October 31 –(\$71,746) still owe customers \$71,746  
November 30- \$86,214  
December 31- \$259,367

In this Docket, OTP proposed to set the rate to \$0.0 effective December 1, 2018. At that point, we currently forecast that we will have over-refunded to customers by approximately \$86k. We had proposed deferring recovery (deferred accounting) to our next rate case or possibly incorporating into another rider. OTP is also open to handling as a one-time charge as well. The Department is not supportive of allowing us to recover (estimates were smaller in initial filing) the balance. We hope the Commission will see that differently. OTP's other concern is how the balance will continue to grow if the rate remains in effect for another month as reflected in the estimate above.

Absent deferred accounting for any balance or approval to recover that amount in some future proceeding, OTP would need to write-off that balance.

Thanks for the time and let me know if you have any further questions.

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