

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

Katie Sieben	Chair
Joseph Sullivan	Vice-Chair
Valerie Means	Commissioner
Matt Schuerger	Commissioner
John Tuma	Commissioner

In the Matter of Otter Tail Power Company’s
2022–2036 Integrated Resource Plan

DOCKET NO. E-017/RP-21-339

**REPLY COMMENTS OF THE OFFICE
OF THE ATTORNEY GENERAL**

INTRODUCTION

The Office of the Attorney General—Residential Utilities Division (“OAG”) respectfully submits these Reply Comments in response to the Commission’s November 28, 2022 Notice of Amended Procedural Schedule regarding Otter Tail Power Company’s (“Otter Tail” or “the Company”) request for authority to commence development of on-site liquified natural gas (“LNG”) fuel storage at its Astoria Station gas-fired peaking plant (“the Dual Fuel proposal”).

The OAG’s Initial Comments demonstrated that the Dual Fuel proposal’s revenue requirements will likely far exceed its potential cost savings. The Department of Commerce (“the Department”) came to similar conclusions regarding the cost-effectiveness of the project. However, the Department argues that the proposal’s potential reliability benefits justify its approval.

As detailed in the OAG’s Initial Comments, the Dual Fuel proposal’s potential reliability benefits would be limited. Moreover, this large investment in fossil fuel infrastructure would expose customers to regulatory policy risk, as both state and federal governments have prioritized the transition to carbon-free generation. Thus, the Dual Fuel proposal is not in the public interest and should be rejected. Rather than investing millions of dollars in new fossil fuel infrastructure at

Astoria, Otter Tail should explore in its upcoming IRP other investments that could more meaningfully ensure customers' safety during extreme weather.

ANALYSIS

I. RESPONSE TO THE DEPARTMENT OF COMMERCE.

A. The Dual Fuel Proposal Is Not Cost-Effective.

The Department's review of the Dual Fuel proposal included an evaluation of its ability to "keep the customers' bills and the utility's rates as low as practicable, given regulatory and other constraints."¹ The Department's analysis compared the Dual Fuel proposal's revenue requirements with the expected revenues from operation under LNG. Like the OAG, the Department found that the project's revenue requirements would likely significantly exceed its MISO market revenues, and so the proposal "is not justified solely based on the economic benefits as calculated by OTP."²

Despite its conclusions regarding the Dual Fuel proposal's potential bill impacts, the Department noted that resource plans must also be evaluated on their ability to "limit the risk of adverse effects on the utility and its customers from financial, social, and technological factors that the utility cannot control."³ The Department argued that "it is not unusual for projects undertaken for reliability purposes to fail a benefit/cost test" and concluded that "[c]onsidering all of the risks, . . . the Revised Proposal, while not directly connected to any existing reliability standard, is sufficiently related to reliability and related risks to make an economic test of lesser importance."⁴

The OAG agrees that the Dual Fuel proposal should be evaluated on both its bill impacts and its possible risk mitigation. However, the OAG does not agree that the Dual Fuel proposal's potential reliability improvements justify its approval. The OAG's Initial Comments demonstrated that the

¹ Minn. R. 7843.0500, subp. 3(B).

² Department of Commerce, Initial Comments at 8.

³ Minn. R. 7843.0500, subp. 3(E).

⁴ Department of Commerce, Initial Comments at 8.

project's reliability benefits are limited, as gas transmission lines are very reliable and Astoria Station is located on a particularly advantageous position on the Northern Border Pipeline.⁵ Further, the next two subsections highlight additional factors that should be included in the Commission's risk analysis.

B. Climate Change Is Reducing the Frequency of Extreme Low Temperatures.

In its analysis of the potential reliability benefits of the Dual Fuel proposal, the Department cited the North American Electric Reliability Corporation's ("NERC") *2022-2023 Winter Reliability Assessment*, which "highlighted the increased risk of extreme weather events" that could threaten reliability during winter peak events.⁶ The Department also stated that "NERC may be concerned that extreme weather events are likely to be more common than in the past."⁷

When considering the potential risk mitigation from the Dual Fuel proposal, it is imperative that the Commission consider not just the potential impacts of a severe winter weather event, but also the *probability* of these events. Contrary to NERC's concerns, Minnesota's rapidly warming climate means instances of extreme cold will likely occur less often in the future.

As the Minnesota Department of Natural Resources ("DNR") has documented, winters have been warming rapidly in Minnesota, and occurrences of severe cold have decreased dramatically. As shown in Figure 1, winter temperatures in Minnesota increased by roughly six degrees between 1896 and 2021.⁸ Further, the frequency of extreme low temperatures—i.e., -35°F in northern Minnesota or -25°F in southern Minnesota—has decreased by *90 percent*.⁹ In the words of the DNR, "even though Minnesota always will see periodic severe cold spells, the long-term decline in cold extremes is all but guaranteed to continue."¹⁰

⁵ Office of the Attorney General, Initial Comments at 3–4.

⁶ Department of Commerce, Initial Comments at 7.

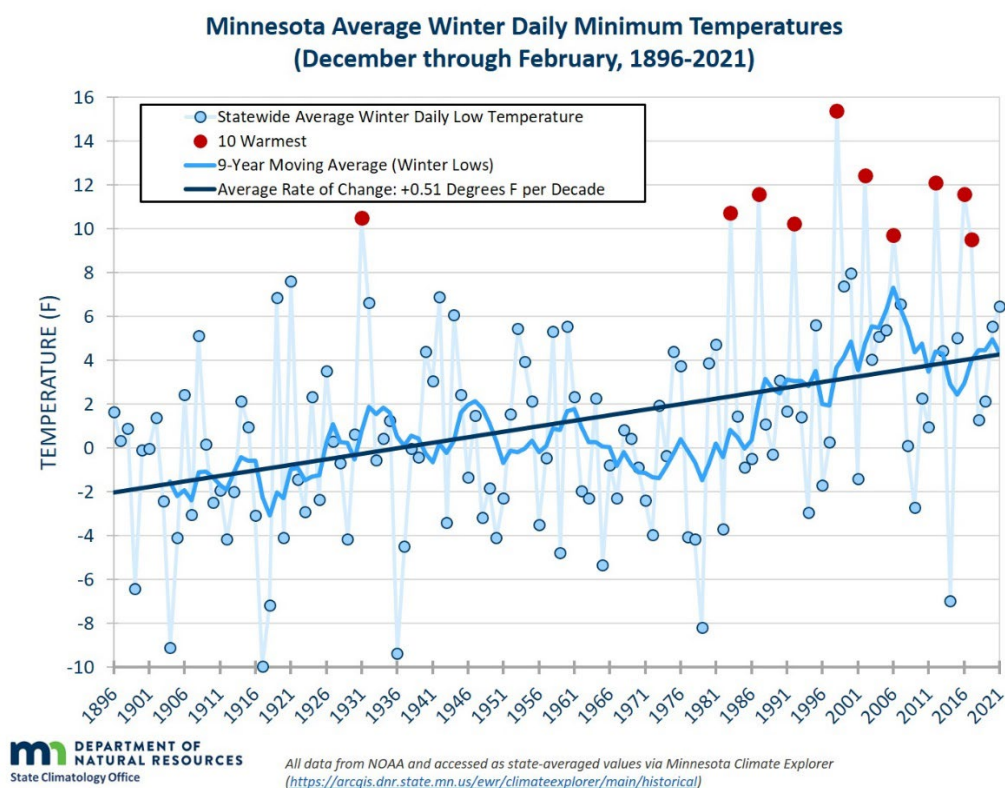
⁷ *Id.*

⁸ Minn. Dep't of Natural Res., [Climate trends](#), (last visited Jan. 19, 2023).

⁹ *Id.*

¹⁰ *Id.*

Figure 1



C. Large Fossil Fuel Investments Expose Customers to Regulatory Policy Risk.

The Dual Fuel proposal’s significant investment in fossil fuel infrastructure would expose Otter Tail’s customers to the risk of new federal or state policies restricting or banning the use of fossil fuels in electricity generation. The Walz Administration aims for Minnesota to consume 100 percent carbon-free electricity by 2040.¹¹ The Minnesota House has passed a bill to codify this goal in law, and the Senate is expected to vote on the bill as early as this week.¹² The Biden Administration has set an even faster goal of “100 percent carbon pollution-free electricity by 2035.”¹³

Otter Tail aims to install dual fuel capability at Astoria by 2026 and assumes the facility would operate through 2055.¹⁴ Thus, the Company believes the project will still be in-service long after the

¹¹ Kirsti Marohn, [Walz calls for 100 percent carbon-free electricity by 2040](#), MINN. PUB. RADIO, Jan. 25, 2021.

¹² Kirsti Marohn, [Minnesota House passes bill requiring carbon-free electricity by 2040](#), MINN. PUB. RADIO, Jan. 27, 2023.

¹³ Fact Sheet, White House, [President Biden Sets 2030 Greenhouse Gas Pollution Reduction Target Aimed at Creating Good-Paying Union Jobs and Securing U.S. Leadership on Clean Energy Technologies](#) (Apr. 22, 2021).

¹⁴ Otter Tail Power, Supplemental Comments at 17-19 (Nov. 4, 2022).

Walz and Biden administrations’ decarbonization targets. This means the Dual Fuel proposal would either 1) cease operations well before the end of its useful life, 2) require expensive retrofits that are not included in Otter Tail’s cost assumptions, or 3) render the Company unable to meet state and federal policy goals.

In its evaluation of risk, it is important that the Commission consider not just the pipeline gas cost risks highlighted by the Department, but also the additional risks the Company would be taking on by making a significant investment fossil fuel infrastructure with a long expected operating life. The dual fuel infrastructure may well have a much shorter operating life than Otter Tail assumes, which would exacerbate the potential bill increases highlighted in the OAG’s Initial Comments.

D. There Is No Urgency to Build the Dual Fuel Proposal.

Otter Tail has asked the Commission to expedite its review of the Dual Fuel proposal to avoid delaying construction of the project. However, the Company has not demonstrated a need for this urgency. The NERC Winter Assessment referenced above found that MISO’s winter reserve margin fell five percentage points this winter. However, as the Department notes, even after this decrease MISO’s 43 percent reserve margin is still well above the required “normal” reserve margin of 18 percent.¹⁵ Similarly, the Department notes that, though MISO has “indicated a concern with fuel assurance,” MISO has neither prioritized fuel assurance nor provided an analysis of its potential benefits.¹⁶ In other words, MISO does not require on-site fuel storage to receive capacity accreditation and has given no indication that it will do so.

State and federal policies have been evolving rapidly, and neither MISO nor FERC has required—or even incentivized—on-site fuel storage for gas units. Considering its large bill impacts and the uncertain policy future, the Commission should reject the Dual Fuel proposal at this time.

¹⁵ Department of Commerce, Initial Comments at 7.

¹⁶ *Id.*

CONCLUSION AND RECOMMENDATION

As detailed in the OAG's Initial Comments in this docket, the Dual Fuel proposal would provide minimal reliability benefits, and the proposal's revenue requirements will likely far exceed its potential benefits. Further, this large fossil fuel investment would expose Otter Tail's customers to regulatory policy risk. Accordingly, the Dual Fuel proposal is not in the public interest and should be rejected. Rather than investing millions of dollars in new fossil fuel infrastructure at Astoria, Otter Tail should explore in its upcoming IRP other investments that could more meaningfully ensure customers' safety during extreme weather.

Dated: February 1, 2023

Respectfully submitted,

KEITH ELLISON
Attorney General
State of Minnesota

/s/ **Andrew Twite**

ANDREW TWITE
Rates Analyst

/s/ **Peter G. Scholtz**

PETER G. SCHOLTZ
Assistant Attorney General
Atty. Reg. No. 0389936

445 Minnesota Street, Suite 1400
St. Paul, Minnesota 55101-2131
(651) 757-1473 (Voice)
(651) 296-9663 (Fax)
peter.scholtz@ag.state.mn.us

ATTORNEYS FOR OFFICE OF
THE ATTORNEY GENERAL—
RESIDENTIAL UTILITIES DIVISION



The Office of
Minnesota Attorney General Keith Ellison
helping people afford their lives and live with dignity and respect • www.ag.state.mn.us

February 1, 2023

Mr. Will Seuffert
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, MN 55101

Re: *In the Matter of Otter Tail Power Company's 2022–2036 Integrated Resource Plan*
MPUC Docket No. E-017/RP-21-339

Dear Mr. Seuffert:

Enclosed and e-filed in the above-referenced matter please find Reply Comments of the Minnesota Office of the Attorney General—Residential Utilities Division.

By copy of this letter all parties have been served. A Certificate of Service is also enclosed.

Sincerely,

/s/ **Peter G. Scholtz**

PETER G. SCHOLTZ

Assistant Attorney General

(651) 757-1473 (Voice)

(651) 296-9663 (Fax)

peter.scholtz@ag.state.mn.us

CERTIFICATE OF SERVICE

Re: *In the Matter of Otter Tail Power Company's 2022–2036 Integrated Resource Plan*
MPUC Docket No. E-017/RP-21-339

I, JUDY SIGAL, hereby certify that on the 1st day of February, 2023, I e-filed with eDockets *Reply Comments of the Minnesota Office of The Attorney General—Residential Utilities Division* and served a true and correct copy of the same upon all parties listed on the attached service list by e-mail, electronic submission, and/or United States Mail with postage prepaid, and deposited the same in a U.S. Post Office mail receptacle in the City of St. Paul, Minnesota.

/s/ Judy Sigal

JUDY SIGAL

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Laura	Bishop	Laura.Bishop@state.mn.us	MN Pollution Control Agency	520 Lafayette Rd Saint Paul, MN 55155	Electronic Service	No	OFF_SL_21-339_21-339
Ray	Choquette	rhoquette@agp.com	Ag Processing Inc.	12700 West Dodge Road PO Box 2047 Omaha, NE 68103-2047	Electronic Service	No	OFF_SL_21-339_21-339
Generic Notice	Commerce Attorneys	commerce.attorneys@ag.state.mn.us	Office of the Attorney General-DOC	445 Minnesota Street Suite 1400 St. Paul, MN 55101	Electronic Service	Yes	OFF_SL_21-339_21-339
	Cooper	bcooper@allstate.com	Minnesota Power	30 W Superior St Duluth, MN 55802-191	Electronic Service	No	OFF_SL_21-339_21-339
Aaron	Decker	adecker@mnccenter.org	Minnesota Center for Environmental Advocacy	1919 University Ave W Ste 515 Saint Paul, MN 55104	Electronic Service	No	OFF_SL_21-339_21-339
Adam	Duinink	aduinink@ncsrcc.org	North Central States Regional Council of Carpenters	700 Olive Street St. Paul, MN 55130	Electronic Service	No	OFF_SL_21-339_21-339
Kristin W	Duncanson	kristin@duncansongrowers.com		57746 Highway 30 Mapleton, MN 56065	Electronic Service	No	OFF_SL_21-339_21-339
James C.	Erickson	jericksonkbc@gmail.com	Kelly Bay Consulting	17 Quechee St Superior, WI 54880-4421	Electronic Service	No	OFF_SL_21-339_21-339
John	Farrell	jfarrell@lsr.org	Institute for Local Self-Reliance	2720 E. 22nd St Institute for Local Self-Reliance Minneapolis, MN 55406	Electronic Service	No	OFF_SL_21-339_21-339
Sharon	Ferguson	sharon.ferguson@state.mn.us	Department of Commerce	85 7th Place E Ste 280 Saint Paul, MN 55101-2198	Electronic Service	No	OFF_SL_21-339_21-339

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Stephanie L	Fitzgerald	sfitzgerald@mncenter.org	Minnesota Center for Environmental Advocacy	1919 University Ave W Ste 515 Saint Paul, MN 55104-3435	Electronic Service	No	OFF_SL_21-339_21-339
Barb	Freese	bfreese@mncenter.org	Minnesota Center for Environmental Advocacy	1919 University Ave W Ste 515 Saint Paul, MN 55104-3435	Electronic Service	No	OFF_SL_21-339_21-339
Jessica	Fyhrie	jfyhrie@otpc.com	Otter Tail Power Company	PO Box 496 Fergus Falls, MN 56538-0496	Electronic Service	Yes	OFF_SL_21-339_21-339
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_21-339_21-339
Julie	Goehring	julie@redriverbasincommission.org		708 70 Ave NW Moorhead, MN 56560	Electronic Service	No	OFF_SL_21-339_21-339
Adam	Heinen	aheinen@dakotaelectric.com	Dakota Electric Association	4300 220th St W Farmington, MN 55024	Electronic Service	No	OFF_SL_21-339_21-339
Kristin	Henry	kristin.henry@sierraclub.org	Sierra Club	2101 Webster St Ste 1300 Oakland, CA 94612	Electronic Service	No	OFF_SL_21-339_21-339
Nathan	Jensen	njensen@otpc.com	Otter Tail Power Company	215 S. Cascade St. Fergus Falls, MN 56537	Electronic Service	No	OFF_SL_21-339_21-339
Richard	Johnson	Rick.Johnson@lawmoss.com	Moss & Barnett	150 S. 5th Street Suite 1200 Minneapolis, MN 55402	Electronic Service	No	OFF_SL_21-339_21-339

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Nick	Kaneski	nick.kaneski@enbridge.com	Enbridge Energy Company, Inc.	11 East Superior St Ste 125 Duluth, MN 55802	Electronic Service	No	OFF_SL_21-339_21-339
William D	Kenworthy	will@votesolar.org	Vote Solar	332 S Michigan Ave FL 9 Chicago, IL 60604	Electronic Service	No	OFF_SL_21-339_21-339
Kate	Knuth	kate.knuth@gmail.com		2347 14th Terrace NW New Brighton, MN 55112	Electronic Service	No	OFF_SL_21-339_21-339
Randy	Kramer	rlkramer89@gmail.com	Water and Soil Resources Board	42808 Co. Rd. 11 Bird Island, MN 55310	Electronic Service	No	OFF_SL_21-339_21-339
James D.	Larson	james.larson@avantenergy.com	Avant Energy Services	220 S 6th St Ste 1300 Minneapolis, MN 55402	Electronic Service	No	OFF_SL_21-339_21-339
Eric	Lindberg	elindberg@mncenter.org	Minnesota Center for Environmental Advocacy	1919 University Avenue West Suite 515 Saint Paul, MN 55104-3435	Electronic Service	No	OFF_SL_21-339_21-339
Alice	Madden	alice@communitypowermn.org	Community Power	2720 E 22nd St Minneapolis, MN 55406	Electronic Service	No	OFF_SL_21-339_21-339
Kavita	Maini	kmairi@wi.rr.com	KM Energy Consulting, LLC	961 N Lost Woods Rd Oconomowoc, WI 53066	Electronic Service	No	OFF_SL_21-339_21-339
Jan	Malcolm	Health.Review@state.mn.us	Minnesota Department of Health	PO Box 64975 St. Paul, MN 55164-0975	Electronic Service	No	OFF_SL_21-339_21-339

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Andrew	Moratzka	andrew.moratzka@stoel.com	Stoel Rives LLP	33 South Sixth St Ste 4200 Minneapolis, MN 55402	Electronic Service	No	OFF_SL_21-339_21-339
Matthew	Olsen	molsen@otpco.com	Otter Tail Power Company	215 South Cascade Street Fergus Falls, MN 56537	Electronic Service	No	OFF_SL_21-339_21-339
Debra	Opatz	dopatz@otpco.com	Otter Tail Power Company	215 South Cascade Street Fergus Falls, MN 56537	Electronic Service	No	OFF_SL_21-339_21-339
Generic Notice	Residential Utilities Division	residential.utilities@ag.state.mn.us	Office of the Attorney General-RUD	1400 BRM Tower 445 Minnesota St St. Paul, MN 55102131	Electronic Service	Yes	OFF_SL_21-339_21-339
Stephan	Roos	stephan.roos@state.mn.us	MN Department of Agriculture	625 Robert St N Saint Paul, MN 55155-2538	Electronic Service	No	OFF_SL_21-339_21-339
Nathaniel	Runke	nrunke@local49.org		611 28th St. NW Rochester, MN 55901	Electronic Service	No	OFF_SL_21-339_21-339
John	Saxhaug	john_saxhaug@yahoo.com		3940 Harriet Ave Minneapolis, MN 55409	Electronic Service	No	OFF_SL_21-339_21-339
Will	Seuffert	Will.Seuffert@state.mn.us	Public Utilities Commission	121 7th E Ste 350 Saint Paul, MN 55101	Electronic Service	Yes	OFF_SL_21-339_21-339
Bria	Shea	bria.e.shea@xcelenergy.com	Xcel Energy	414 Nicollet Mall Minneapolis, MN 55401	Electronic Service	No	OFF_SL_21-339_21-339
Cary	Stephenson	cStephenson@otpco.com	Otter Tail Power Company	215 South Cascade Street Fergus Falls, MN 56537	Electronic Service	Yes	OFF_SL_21-339_21-339

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Stuart	Tommerdahl	stommerdahl@olpco.com	Otter Tail Power Company	215 S Cascade St PO Box 496 Fergus Falls, MN 56537	Electronic Service	Yes	OFF_SL_21-339_21-339
Amelia	Vohs	avohs@mncenter.org	Minnesota Center for Environmental Advocacy	1919 University Avenue West Suite 515 St. Paul, Minnesota 55104	Electronic Service	Yes	OFF_SL_21-339_21-339
Laurie	Williams	laurie.williams@sierraclub.org	Sierra Club	Environmental Law Program 1536 Wynkoop St Ste 200 Denver, CO 80202	Electronic Service	No	OFF_SL_21-339_21-339
Cameron	Winton	winton.cam@dorsey.com	Dorsey & Whitney LLP	50 S 6TH ST STE 1500 Minneapolis, MN 55402	Paper Service	No	OFF_SL_21-339_21-339
Patrick	Zomer	Pat.Zomer@lawmoss.com	Moss & Barnett PA	150 S 5th St #1200 Minneapolis, MN 55402	Electronic Service	No	OFF_SL_21-339_21-339