

February 4, 2025

Will Seuffert  
Minnesota Public Utilities Commission  
121 7th Place East, Suite 350  
St. Paul, Minnesota 55101-2147

RE: Comments of the Minnesota Department of Commerce  
Docket No. E017/M-24-404

Dear Mr. Seuffert:

Attached are the comments of the Minnesota Department of Commerce (Department) in the following matters:

*In the Matter of Otter Tail Power Company's Petition for Approval of the Solway and Abercrombie Solar Projects.*

*In the Matter of the Petition of Otter Tail Power Company for Exemption from Certificate of Need for the 50 MW Solway Solar Project in Beltrami County, Minnesota.*

The Petitions were filed by Otter Tail Power Company on December 9, 2024 and December 13, 2024.

The Department recommends **approval with conditions** and is available to answer any questions the Minnesota Public Utilities Commission may have.

Sincerely,

/s/ Sydnie Lieb, Ph.D.  
Assistant Commissioner, Department of Regulatory Affairs

SR/ad  
Attachment



## Before the Minnesota Public Utilities Commission

### Comments of the Minnesota Department of Commerce

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Docket No. E017/M-24-404

#### I. INTRODUCTION

On December 9, 2024 Otter Tail Power Company (OTP or the Company) filed the Company's *Petition for Approval of the Solway and Abercrombie Solar Projects* (First Petition).<sup>1</sup> The First Petition requests the Minnesota Public Utilities Commission (Commission):

- approve investments in:
  - the 50-megawatt<sup>2</sup> (MW) Solway Solar Project, a solar generation facility to be constructed near Solway, Minnesota (Solway Project), and
  - the 295 MW Abercrombie Solar Project, a solar generation facility to be constructed in Abercrombie Township, Richland County, North Dakota (Abercrombie Project) (collectively Projects);<sup>3</sup>
- determine that the Projects are qualified for application towards OTP's obligations under Minnesota's renewable energy objectives and standards, including the Eligible Energy Technology Standard (EETS) and the Carbon Free Standard (CFS); and
- authorize future cost recovery for the Projects through OTP's Renewable Resources Cost Recovery Rider (Renewable Rider), subject to Commission review and approval of specific costs to be presented by the Company in a future petition.

On December 13, 2024 OTP filed the Company's *Petition for Exemption from Certificate of Need for the 50 MW Solway Solar Project in Beltrami County, Minnesota* (Second Petition).<sup>4</sup> The Second Petition seeks a determination from the Commission that the Solway Project is exempt from the Certificate of Need (CN) requirements of Minn. Stat. § 216B.243.

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<sup>1</sup> *In the Matter of Otter Tail Power Company's Petition for Approval of the Solway and Abercrombie Solar Projects*. Otter Tail Power Company. Petition. Docket No. E017/M-24-404. December 9, 2024. eDocket No. [202412-212834-02](#).

<sup>2</sup> According to the First Petition the Solway Project would have an operational capacity of 50 MW, and a nameplate capacity of 66 MW. The 50 MW operational size is based upon the Company's existing interconnection rights at the Solway Peaking Plant. The Solway Project would use the Midcontinent Independent System Operator, Inc. (MISO) surplus interconnection process.

<sup>3</sup> According to the First Petition the Abercrombie Project, also known as Flickertail Solar, was being developed by Flickertail Solar Project, LLC (Flickertail), a wholly owned subsidiary of Savion, LLC. OTP has entered into a contract to purchase the development assets from Flickertail.

<sup>4</sup> *In the Matter of the Petition of Otter Tail Power Company for Exemption from Certificate of Need for the 50 MW Solway Solar Project in Beltrami County, Minnesota*. Otter Tail Power Company. Petition. Docket No. E017/M-24-404. December 13, 2024. eDocket No. [202412-212996-01](#).

## II. PROCEDURAL BACKGROUND

July 22, 2024	The Commission issued its <i>Order Modifying Otter Tail Power's 2023-2037 Integrated Resource Plan</i> (IRP Order). <sup>5</sup> The IRP Order ordered OTP to pursue 200 MW to 300 MW of solar to be operational by November 1, 2027, or as soon as practicable thereafter. The order also approved a bidding process for OTP.
August 16, 2024	OTP filed a compliance filing explaining the process and criteria the Company would use to evaluate solar projects. <sup>6</sup> Such a letter is the first filing with the Commission in OTP's bidding process. <sup>7</sup>
September 16, 2024	OTP filed a compliance describing the development of the project list, the application of the evaluation criteria to that list, and the solar projects the Company has identified as winning bids. <sup>8</sup> Such a letter is the second filing with the Commission in OTP's bidding process. <sup>9</sup>
October 18, 2024	The Office of the Attorney General – Residential Utilities Division (OAG) and the Minnesota Department of Commerce, Division of Energy Resources (Department) filed a letter stating, among other things, that an independent audit is not necessary for the Company's solar acquisition process. <sup>10</sup> Such a letter is part of OTP's bidding process. <sup>11</sup>
December 9, 2024	OTP filed the First Petition with several requests related to the Projects, including seeking Commission approval for inclusion and recovery of the Projects in the Company's Renewable Rider. This is the third step in OTP's bidding process.
December 13, 2024	OTP filed the Second Petition requesting confirmation that the Solway Project is exempt from the CN requirements.
December 19, 2024	The Commission issued a <i>Notice of Comment Period</i> (Notice) regarding the First Petition and the Second Petition. <sup>12</sup>

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<sup>5</sup> *In the Matter of Otter Tail Power's 2023–2037 Integrated Resource Plan*. Commission. Order. Docket No. E017/RP-21-339. July 22, 2024. eDocket No. [20247-208805-01](#). (hereinafter, IRP Order).

<sup>6</sup> *In the Matter of Otter Tail Power's 2023–2037 Integrated Resource Plan*. OTP. Letter. Docket No. E017/RP-21-339. August 16, 2024. eDocket No. [20248-209572-01](#).

<sup>7</sup> See point 13(d) of the IRP Order.

<sup>8</sup> *In the Matter of Otter Tail Power's 2023–2037 Integrated Resource Plan*. OTP. Letter. Docket No. E017/RP-21-339. September 16, 2024. eDocket No. [20249-210248-02](#).

<sup>9</sup> See points 13(f) and 13(g) of the IRP Order.

<sup>10</sup> *In the Matter of Otter Tail Power's 2023–2037 Integrated Resource Plan*. Department and OAG. Letter. Docket No. E017/RP-21-339. October 18, 2024. eDocket No. [202410-211131-02](#).

<sup>11</sup> See point 13(g) of the IRP Order.

<sup>12</sup> *In the Matter of Otter Tail Power Company's Petition for Approval of the Solway and Abercrombie Solar Projects*. Commission. Notice. Docket No. E017/M-24-404. December 19, 2024. eDocket No. [202412-213219-01](#).

According to the Notice the following topics are open for comment:

- Should the Commission approve OTP's investment in the Projects?
- Should the Commission determine that the Projects qualify for application toward OTP's EETS and CFS obligations?
- Should the Commission authorize future cost recovery of the Projects through the Renewable Resource Rider, subject to Commission review and approval of specific costs to be presented by the Company in a future petition under Minn. Stat. § 216B.1645, subd. 2a?
- Should the Commission find that the Solway Project satisfies the criteria for exemption pursuant to Minn. Stat. § 216B.2422, subd. 5, and is therefore exempt from the notice and comment proceedings required under Minn. Stat. § 216B.243, subd. 9?

Below are the comments of the Department regarding the issues specified in the Notice.

### **III. DEPARTMENT ANALYSIS**

#### **A. COMPLETENESS**

The Commission's Rules define the First Petition and the Second Petition each as a "miscellaneous filing" under Minnesota Rules 7829.0100, subp. 11 since no determination of OTP's overall revenue requirement is necessary. Minnesota Rules part 7829.1300 subp. 3 contains the completeness requirements for miscellaneous filings. The First Petition was also filed pursuant to Minn. Stat. § 216B.1645, subd. 2a (b), which also contains completeness requirements.

The Department reviewed the First Petition and the Second Petition for compliance with the completeness requirements. The Department concludes that the First Petition and the Second Petition are complete.

#### **B. APPROVE OTP'S INVESTMENTS**

The first issue specified in the Notice is "Should the Commission approve OTP's investment in the Projects?"

##### ***B.1. Need and Alternatives Analysis***

Regarding the size of the Projects exceeding the IRP Order's range, the Department notes that a well-developed integrated resource plan (IRP) provides the analytical basis for determinations in subsequent proceedings. In essence, resource acquisition typically conforms with the Commission's most recent IRP order unless facts in the resource acquisition proceeding dictate that the action plan should change. This approach is consistent with the Commission's order in a past resource acquisition proceeding:

... while a resource plan is intended to plot a utility's course for the next 15 years, it is based on facts known as of a specific point in time. As more facts become known, circumstances change and utilities must adapt – even in the absence of a new resource plan order.<sup>13</sup>

In terms of need, the IRP Order ordered OTP to pursue 200 MW to 300 MW of solar resources with a commercial operation date of November 1, 2027, or as soon as practicable thereafter.<sup>14</sup> In addition, Table 5 of the First Petition demonstrated that OTP's current resources do not meet the EETS nor the CFS. As explained below the Department verified OTP's calculations. Therefore, the Department concludes that OTP has a need for solar generally and for new EETS- and CFS-qualifying resources in particular. While the combined size of the Projects exceeds the Commission's 300 MW solar target, the EETS and CFS energy needs identified by OTP in Table 5 along with the pricing of the various bids received by OTP indicate that exceeding the 300 MW solar target is reasonable in this instance.<sup>15</sup>

In terms of alternatives, OTP evaluated several alternatives under the Company's Commission-approved bidding process. Below the Department concludes that OTP reasonably followed the steps outlined by the Commission and calculated the levelized cost of the various bids correctly. Even if it were to be concluded that the process was somewhat flawed, the significant gap in pricing between the Projects and the competing alternatives shows that superior alternatives are unlikely to be available.

Based upon this analysis, the Department concludes that OTP has demonstrated a need for the Projects' energy and that the bidding process demonstrated there are no superior solar alternatives. Therefore, the Department recommends that the Commission approve OTP's investment in the Projects.

## *B.2. Ratepayer Protections*

The Department recommends that the Commission limit cost recovery to an aggregate, symmetrical capital cost cap for the Projects with the capital cost recovered being set at the costs bid by OTP for the Solway Project and the Abercrombie Project combined.<sup>16</sup> This recommendation means that if up-front

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<sup>13</sup> See *In the Matter of the Petition of Xcel Energy for Approval of the Acquisition of 600 MW of Wind Generation*. Commission. Order Approving Acquisitions with Conditions. Docket No. E002/M-13-603 and E002/M-13-716. December 13, 2013. eDocket No. [201312-94604-02](#).

<sup>14</sup> IRP Order at point 11.

<sup>15</sup> It is common for actual resource acquisition to vary from the amount listed in a resource plan order based on the facts discovered by the acquisition process.

<sup>16</sup> For two prior examples of this condition see:

*In the Matter of the Petition of Xcel Energy for Approval of the Acquisition of Wind Generation from the Company's 2016-2030 Integrated Resource Plan*. Commission. Order. Docket No. E002/M-16-777. September 1, 2017. eDocket No. [20179-135205-01](#).

capital costs exceed the cap, the Company, not customers, bears the costs. If savings are achieved, however, the Company retains them. This treatment mirrors that of third-party bidders, so treating OTP in the same manner is reasonable and preserves the integrity of the bidding process. To not implement such a cap would give the Company a competitive advantage in that other bidders bear the risk of cost overruns—a risk which OTP would not face.

As with the Commission’s Order in Docket No. E002/M-22-403 (see footnote 16), the Department recommends the Commission authorize OTP to request Commission approval to exceed the symmetrical cost-cap if it can show that any cost it incurred above the cap are the result of a government action (e.g. tariff, trade investigation, etc.) that causes a meaningful disruption to solar panel supplies and market prices.

### *C. EETS AND CFS OBLIGATIONS*

The second issue specified in the Notice is “Should the Commission determine that the Projects qualify for application toward OTP’s EETS and CFS obligations?”

#### *C.1. EETS Obligation*

Minn. Stat. § 216B.1691 subd. 2a states:

Each electric utility shall generate or procure sufficient electricity generated by an eligible energy technology to provide its retail customers in Minnesota, or the retail customers of a distribution utility to which the electric utility provides wholesale electric service, so that the electric utility generates or procures an amount of electricity from an eligible energy technology that is equivalent to at least the following standard percentages of the electric utility's total retail electric sales to retail customers in Minnesota by the end of the year indicated:

- (1) 2012 12 percent
- (2) 2016 17 percent
- (3) 2020 20 percent
- (4) 2025 25 percent
- (5) 2035 55 percent.

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*In the Matter of the Petition of Northern States Power Company, d/b/a Xcel Energy, for Approval of Sherco Solar 3 and the Apple River Solar Power Purchase Agreement.* Commission. Order. Docket No. E002/M-22-403. October 25, 2023. eDocket No. [202310-199871-01](#), at point 5.

The term “eligible energy technology” is defined by Minn. Stat. § 216B.1691 subd. 1 (c) as including solar. Therefore, the Department concludes that the Projects qualify for application toward OTP’s EETS obligation.

Table 5 of the First Petition shows that, without new renewable resources OTP will fall well short of the 55 percent in 2035 EETS obligation unless credit is given for market purchases. The Department reviewed OTP’s calculation of the EETS obligation and OTP’s eligible resources and concludes that OTP’s calculations are reasonable.<sup>17</sup>

The Department recommends that the Commission determine that the Projects qualify for application toward OTP’s EETS obligation.

### *C.2. CFS Obligation*

Minn. Stat. § 216B.1691 subd. 2g states:

In addition to the requirements under subdivisions 2a and 2f, each electric utility must generate or procure sufficient electricity generated from a carbon-free energy technology to provide the electric utility's retail customers in Minnesota, or the retail customers of a distribution utility to which the electric utility provides wholesale electric service, so that the electric utility generates or procures an amount of electricity from carbon-free energy technologies that is equivalent to at least the following standard percentages of the electric utility's total retail electric sales to retail customers in Minnesota by the end of the year indicated:

- (1) 2030        80 percent for public utilities; 60 percent for other electric utilities
- (2) 2035        90 percent for all electric utilities
- (3) 2040        100 percent for all electric utilities.

The term "Carbon-free" is defined by Minn. Stat. § 216B.1691 subd. 1 (b) as a technology that generates electricity without emitting carbon dioxide. Since solar panels generate electricity without emitting carbon dioxide, the Department concludes that the Projects qualify for application toward OTP’s CFS obligation.

Table 5 of the First Petition shows that, without new carbon free resources, OTP will fall well short of the 80 percent in 2030 CFS obligation. This obligation applies regardless of any credit is given for

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<sup>17</sup> Note that the data was provided in Attachment 1 to OTP’s response to Department Information Request No. 4.

market purchases. The Department reviewed OTP's calculation of the CFS obligation and OTP's eligible resources and concludes that OTP's calculations are reasonable.<sup>18</sup>

The Department recommends that the Commission determine that the Projects qualify for application toward OTP's CFS obligation.

*D. RENEWABLE RESOURCE RIDER*

The third issue specified in the Notice is "Should the Commission authorize future cost recovery of the Projects through the Renewable Resource Rider, subject to Commission review and approval of specific costs to be presented by the Company in a future petition under Minn. Stat. § 216B.1645, subd. 2a?"

Minn. Stat. § 216B. 1645, subd. 2a (a) defines which projects qualify for rider recovery:

A utility may petition the commission to approve a rate schedule that provides for the automatic adjustment of charges to recover prudently incurred investments, expenses, or costs associated with facilities constructed, owned, or operated by a utility to satisfy the requirements of section 216B.1691, provided those facilities were previously approved by the commission under section 216B.2422 or 216B.243, or were determined by the commission to be reasonable and prudent under section 216B.243, subdivision 9.

Thus, Minn. Stat. § 216B. 1645, subd. 2a (a) provides three paths for a project to address the EETS or CFS to qualify for rider recovery:

- approval via Minn. Stat. § 216B.2422, which allows a utility to select resources through a Commission-approved bidding process;
- approval via Minn. Stat. § 216B.243, which establishes the CN requirements; or
- approval via Minn. Stat. § 216B.243 subd. 9 which states that the CN requirements do not apply to a wind or solar generation facility that is intended to be used to meet the requirements of the EETS or the CFS.

In section III.B above, the Department concludes that OTP's resource acquisition process and analysis was reasonable. In section III.C above, the Department concludes that OTP has a need for additional energy to meet the EETS and CFS and that the Projects would help meet this need. In section III.E below, the Department concludes that the Solway Project qualifies for a CN exemption because it is being acquired via a bidding process approved by the Commission. The Abercrombie Project was acquired via the same bidding process.

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<sup>18</sup> Note that the data was provided in Attachment 1 to OTP's response to Department Information Request No. 4.



In summary, these three sets of analysis indicate it is reasonable to conclude that the Projects will address the EETS and CFS and that the Projects were acquired via Minn. Stat. § 216B.2422. Therefore, the Department recommends the Commission authorize future cost recovery of the Projects through the Renewable Resource Rider, subject to Commission review and approval of specific costs to be presented by the Company in a future petition.

#### *E. CN EXEMPTION*

The fourth issue specified in the Notice is “Should the Commission find that the Solway Project satisfies the criteria for exemption pursuant to Minn. Stat. § 216B.2422, subd. 5, and is therefore exempt from the notice and comment proceedings required under Minn. Stat. § 216B.243, subd. 9?”

The Second Petition seeks a Commission determination that the Solway Project is exempt from the CN requirements of Minn. Stat. § 216B.243. Since the Solway Project is 50 MW in size and located in Minnesota, it qualifies as a large energy facility (LEF) under Minn. Stat. § 216B.2421, subd. 2(1).<sup>19</sup> A CN is required prior to construction of an LEF under Minn. Stat. § 216B.243.<sup>20</sup> Note that the Abercrombie Project is not located in Minnesota and thus is not a LEF and no CN would be required.

The Second Petition states that the Solway project is exempt from the CN requirements for two reasons. First, OTP states that the Solway Project qualifies for an exemption under Minn. Stat. § 216B.2422, subd. 5 (Bidding Exemption).<sup>21</sup> Second, OTP states that the Solway Project qualifies for an exemption under Minn. Stat. § 216B.243, subd. 9 (RES/CFS Exemption).<sup>22</sup>

##### *E.1. Bidding Exemption*

For the Bidding Exemption to apply the Commission must determine that the Solway Project was selected in a bidding process approved or established by the Commission. Regarding establishing a Commission-approved bidding process, the IRP Order, in the text, states that:

the Commission also agrees with the OAG that additional requirements will help keep the process neutral and ensure Otter Tail’s customers do not overpay for capital investments. The Commission will therefore direct

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<sup>19</sup> An LEF is defined as “any electric power generating plant or combination of plants at a single site with a combined capacity of 50,000 kilowatts or more and transmission lines directly associated with the plant that are necessary to interconnect the plant to the transmission system.”

<sup>20</sup> Minn. Stat. § 216B.243 states that “No large energy facility shall be sited or constructed in Minnesota without the issuance of a certificate of need by the commission.”

<sup>21</sup> Minn. Stat. § 216B.2422, subd. 5 states “Notwithstanding any other provision of this section, if an electric power generating plant, as described in section 216B.2421, subdivision 2, clause (1), is selected in a bidding process approved or established by the commission, a certificate of need proceeding under section 216B.243 is not required.”

<sup>22</sup> Minn. Stat. § 216B.243, subd. 9 states “This section does not apply to a wind energy conversion system or a solar electric generation facility that is intended to be used to meet the obligations of section 216B.1691, subdivision 2a or 2g; provided that, after notice and comment, the commission determines that the facility is a reasonable and prudent approach to meeting a utility's obligations under that section.”

Otter Tail to use the bidding process the Department recommended in its comments filed on September 13, 2023, with modifications.<sup>23</sup>

Point 13 of the IRP Order then defines the Commission-approved bidding process:

13. For other approved resources, Otter Tail must use an acquisition process that:
- a. uses a minimum of three bidders for both of the major components of Astoria Station on-site fuel storage project and evaluates at least five proposals for all other resource acquisition projects;
  - b. ensures that the request for proposals (RFP) or procurement process is consistent with the Commission's then-most recent IRP order and direction regarding size, type, and timing unless changed circumstances dictate otherwise;
  - c. ensures that the RFP or procurement process includes the option for both power purchase agreements (PPA) and build-transfer proposals unless Otter Tail can demonstrate why either a PPA or build-transfer proposal is not feasible;
  - d. provides the Department and other stakeholders with notice of RFP or procurement process issuances;
  - e. notifies the Department and other stakeholders of material deviations from initial timelines;
  - f. updates the Commission, the Department, and other stakeholders regarding changes in the timing or need that occur between IRP proceedings;
  - g. where Otter Tail or an affiliate proposes a project,
    - i. requires Otter Tail to create separate teams for the Otter Tail project and for evaluation of the bids received, and
    - ii. engages an independent auditor, if required to by the Department and the OAG, to oversee the bid process and provide a report for the Commission;
  - h. includes in the RFP or procurement process a plan to address the impact of material delays or changes of circumstances on the bid process; and

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<sup>23</sup> IRP Order at 18.

- i. ensures that any RFP or procurement process documents for peaking resources issued are technology neutral.
- j. The commission will evaluate whether a cap is appropriate in any future process to approve a project or cost recovery for a particular project.<sup>24</sup>

Thus, the text of the IRP Order directed OTP to use a bidding process, which was later defined in Order Point 13. While the Commission-approved bidding process is new for OTP, the various compliance letters filed by the Company demonstrate OTP's attempt to implement the Commission-approved process. Therefore, the Department agrees with OTP and recommends that the Commission determine that the Solway Project is exempt from the CN requirements under the Bidding Exemption because the Solway Project was selected in a bidding process approved or established by the Commission.

### *E.2. RES/CFS Exemption*

For the RES/CFS Exemption to apply the Commission must determine that the Solway Project is a reasonable and prudent approach to meeting OTP's obligations under Minn. Stat. § 216B.1691, subd. 2a (EETS) or 2g (CFS). Under Minn. Stat. § 216B.243, subd. 9, when making the reasonableness determination, the Commission must consider six factors:

- 1) the size of the facility relative to a utility's total need for renewable resources;
- 2) alternative approaches for supplying the renewable energy to be supplied by the proposed facility;
- 3) the facility's ability to promote economic development, as required under section 216B.1691, subdivision 9;
- 4) the facility's ability to maintain electric system reliability;
- 5) impacts on ratepayers; and
- 6) other criteria as the Commission may determine are relevant.

#### *E.2.1. Size*

The first consideration is the size of the Solway Project relative to OTP's need for renewable resources. Table 5 of the First Petition shows that it would require both of the Projects and an additional 200 MW of wind to meet the CFS standard in 2035.<sup>25</sup> Therefore, the Department concludes that the size of the Solway Project is reasonable.

#### *E.2.2. Alternatives*

The second consideration is alternative approaches for supplying renewable energy. Alternatives in terms of different types (such as wind) were evaluated in OTP's most recent resource plan. The IRP Order determined that 200 MW to 300 MW of solar resources were best for OTP. Alternatives in terms

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<sup>24</sup> IRP Order at 20-21.

<sup>25</sup> Table 6 of the First Petition shows the same data as Table 5, but assumes the Projects are only allocated to Minnesota rather than both Minnesota and South Dakota.

of different projects were evaluated by OTP during the bidding process. Overall, the Company evaluated eight solar projects totaling about 1 GW.

According to the Second Petition, while there were several considerations, the Solway Project “was selected primarily because its levelized cost of energy (LCOE) was significantly lower than six of the other projects evaluated.” The Department reviewed OTP’s calculation of the LCOE for the various projects. The Department experimented with different start and end dates for the LCOE calculation and different discount rates. In all instances the Solway Project’s LCOE was significantly lower than the others. Therefore, the Department concludes that OTP’s evaluation of alternatives to the Solway Project is reasonable.

### *E.2.3. Economic Development*

The third consideration is the Solway Project’s ability to promote economic development, as required under Minn. Stat. § 216B.1691, subd. 9. When considering economic development Minn. Stat. § 216B.1691, subd. 9 (a) provides six reasonable actions the Commission must take and benefits that must be maximized:

- (1) the creation of high-quality jobs in Minnesota paying wages that support families;
- (2) recognition of the rights of workers to organize and unionize;
- (3) ensuring that workers have the necessary tools, opportunities, and economic assistance to adapt successfully during the energy transition, particularly in environmental justice areas;
- (4) ensuring that all Minnesotans share (i) the benefits of clean and renewable energy, and (ii) the opportunity to participate fully in the clean energy economy;
- (5) ensuring that statewide air emissions are reduced, particularly in environmental justice areas; and
- (6) the provision of affordable electric service to Minnesotans, particularly to low-income consumers.

In discussing economic development OTP highlighted that the Solway Project will:

- last approximately 12 to 14 months and employ 70 to 80 construction workers at peak;
- pay prevailing wages;
- support multiple employment sectors;
- result in temporary, positive impacts on local economies;
- create long-term benefits including reliable electric service and economic benefits through increases in utility property taxes;
- support increases in renewable energy production; and
- enhance the capacity for the energy industry (including OTP) to accommodate growing communities, which will benefit local economies.

Additional data was provided by OTP in response to Department Information Request No. 2. Overall, the Department concludes that the Solway Project will maximize the benefits under the six criteria.

#### *E.2.4. Reliability*

The fourth consideration is the Solway Project's impact on reliability. The Second Petition discusses reliability in two ways. First, the Solway Project will maintain reliability because interconnection of the Solway Project will follow the Midcontinent Independent System Operator, Inc. (MISO) process, which is designed to ensure that new generation does not impact the reliability of the grid. Second, MISO will operate the system such that the energy produced by the Solway Project will be reliably integrated. The Department agrees with OTP that there are no indications of a negative reliability impact from the Solway Project.

#### *E.2.5. Ratepayer Impact*

The fifth consideration is the Solway Project's impact on ratepayers. The Company's bidding process is designed to evaluate reasonable alternatives in an economic manner. The Solway Project was selected, in part, due to having the lowest LCOE—which means having the lowest direct impact on ratepayers. Therefore, the Department concludes that the Solway Project's impact on ratepayers is reasonable.

#### *E.2.6. Other Criteria*

The sixth consideration is any other criteria the Commission may deem relevant. The Department is not aware of any other criteria.

#### *E.2.7. Conclusion*

Considering the analysis above, the Department concludes that the Solway Project is a reasonable and prudent approach to meeting OTP's obligations under the EETS and the CFS. Therefore, the Department recommends that the Commission determine that the Solway Project qualifies for recovery via OTP's Renewable Rider. The Department also recommends that the Commission determine that the Solway Project qualifies for an RES/CFS Exemption from CN requirements.

### **IV. DEPARTMENT RECOMMENDATIONS**

First, the October 18, 2024 letter filed jointly by OAG and the Department stated that:

The Ratepayer Advocates, however, hereby require Otter Tail to retain an independent auditor to oversee the acquisition process for wind and battery resources identified in its IRP and provide a report for the Commission. This requirement applies if Otter Tail or an affiliate proposes a wind or battery project or if Otter Tail receives a proposal for a build-transfer project.

Based on analysis of First Petition and the Second Petition, along with the information in the record, the Department has prepared recommendations, which are provided below. The recommendations correspond to the subheadings of Section III above.

*B. APPROVE OTP'S INVESTMENTS*

- B.1. The Department recommends that the Commission approve OTP's investment in the Projects.
- B.2. The Department recommends that the Commission limit cost recovery to an aggregate, symmetrical capital cost cap for the Projects with the capital cost recovered being set at the costs bid by OTP for the Solway Project and the Abercrombie Project combined.
- B.2. the Department recommends the Commission authorize OTP to request Commission approval to exceed the symmetrical cost-cap if it can show that any cost it incurred above the cap are the result of a government action (e.g. tariff, trade investigation, etc.) that causes a meaningful disruption to solar panel supplies and market prices.

*C. EETS AND CFS OBLIGATIONS*

- C.1. The Department recommends that the Commission determine that the Projects qualify for application toward OTP's EETS obligation.
- C.2. The Department recommends that the Commission determine that the Projects qualify for application toward OTP's CFS obligation.

*D. RENEWABLE RESOURCE RIDER*

- the Department recommends the Commission authorize future cost recovery of the Projects through the Renewable Resource Rider, subject to Commission review and approval of specific costs to be presented by the Company in a future petition

*E. CN EXEMPTION*

- E.1. The Department agrees with OTP and recommends that the Commission determine that the Solway Project is exempt from the CN requirements under the Bidding Exemption because the Solway Project was selected in a bidding process approved or established by the Commission.
- E.2.7. The Department recommends that the Commission determine that the Solway Project qualifies for recovery via OTP's Renewable Rider.
- E.2.7. The Department also recommends that the Commission determine that the Solway Project qualifies for an RES/CFS Exemption from CN requirements.

## **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**  
**Comments**

**Docket No. E017/M-24-404**

Dated this **4<sup>th</sup>** day of **February 2025**

**/s/Sharon Ferguson**

#	First Name	Last Name	Email	Organization	Agency	Address	Delivery Method	Alternate Delivery Method	View Trade Secret	Service List Name
1	Ray	Choquette	rchoquette@agp.com	Ag Processing Inc.		12700 West Dodge Road PO Box 2047 Omaha NE, 68103-2047 United States	Electronic Service		No	M-24-404
2	Generic	Commerce Attorneys	commerce.attorneys@ag.state.mn.us		Office of the Attorney General - Department of Commerce	445 Minnesota Street Suite 1400 St. Paul MN, 55101 United States	Electronic Service		Yes	M-24-404
3	Sharon	Ferguson	sharon.ferguson@state.mn.us		Department of Commerce	85 7th Place E Ste 280 Saint Paul MN, 55101-2198 United States	Electronic Service		No	M-24-404
4	Paula	Foster	pfoster@otpc.com	Otter Tail Power Company		215 S Cascade St PO Box 496 Fergus Falls MN, 56538-0496 United States	Electronic Service		Yes	M-24-404
5	Jessica	Fyhrie	jfyhrie@otpc.com	Otter Tail Power Company		PO Box 496 Fergus Falls MN, 56538-0496 United States	Electronic Service		No	M-24-404
6	Amber	Grenier	agrenier@otpc.com	Otter Tail Power Company		215 S. Cascade St. Fergus Falls MN, 56537 United States	Electronic Service		Yes	M-24-404
7	Derek	Haugen	dhaugen@otpc.com	Otter Tail Power Company		215 South Cascade Street PO Box 496 Fergus Falls MN, 56538-0496 United States	Electronic Service		Yes	M-24-404
8	Adam	Heinen	aheinen@dakotaelectric.com	Dakota Electric Association		4300 220th St W Farmington MN, 55024 United States	Electronic Service		No	M-24-404
9	Nick	Kaneski	nick.kaneski@enbridge.com	Enbridge Energy Company, Inc.		11 East Superior St Ste 125 Duluth MN, 55802 United States	Electronic Service		No	M-24-404
10	James D.	Larson	james.larson@avantenergy.com	Avant Energy Services		220 S 6th St Ste 1300 Minneapolis MN, 55402 United States	Electronic Service		No	M-24-404
11	Kavita	Maini	kmaini@wi.rr.com	KM Energy Consulting, LLC		961 N Lost Woods Rd Oconomowoc WI, 53066 United States	Electronic Service		No	M-24-404
12	Andrew	Moratzka	andrew.moratzka@stoel.com	Stoel Rives LLP		33 South Sixth St Ste 4200 Minneapolis MN, 55402 United States	Electronic Service		No	M-24-404
13	Matthew	Olsen	molsen@otpc.com	Otter Tail Power Company		215 South Cascade Street Fergus Falls	Electronic Service		No	M-24-404



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						MN, 56537 United States				
14	Generic Notice	Regulatory	regulatory_filing_coordinators@otpc.com	Otter Tail Power Company		215 S. Cascade Street Fergus Falls MN, 56537 United States	Electronic Service		No	M-24-404
15	Generic Notice	Residential Utilities Division	residential.utilities@ag.state.mn.us		Office of the Attorney General - Residential Utilities Division	1400 BRM Tower 445 Minnesota St St. Paul MN, 55101-2131 United States	Electronic Service		Yes	M-24-404
16	Will	Seuffert	will.seuffert@state.mn.us		Public Utilities Commission	121 7th PI E Ste 350 Saint Paul MN, 55101 United States	Electronic Service		Yes	M-24-404
17	Cary	Stephenson	cstephenson@otpc.com	Otter Tail Power Company		215 South Cascade Street Fergus Falls MN, 56537 United States	Electronic Service		Yes	M-24-404
18	Stuart	Tommerdahl	stommerdahl@otpc.com	Otter Tail Power Company		215 S Cascade St PO Box 496 Fergus Falls MN, 56537 United States	Electronic Service		No	M-24-404