

August 16, 2017

PUBLIC DOCUMENT

Daniel P. Wolf
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, Minnesota 55101

RE: **PUBLIC Response Comments of the Minnesota Department of Commerce, Division of Energy Resources**
Docket No. E017/M-17-279

Dear Mr. Wolf:

Attached are the **PUBLIC** response comments of the Minnesota Department of Commerce, Division of Energy Resources (Department) in the following matter:

Otter Tail Power Company's Petition for Approval of the Merricourt Wind Project.

The Petition was filed on April 11, 2017 by:

Cary Stephenson
Associate General Counsel
Otter Tail Power Company
215 South Cascade Street
Fergus Falls, Minnesota 56538-0496

The Department recommends that the Minnesota Public Utilities Commission (Commission) **approve Otter Tail Power Company's proposed Merricourt Wind Project subject to certain conditions and reporting requirements.** The Department is available to respond to any questions the Commission may have on this matter.

Sincerely,

/s/ DOROTHY MORRISSEY
Financial Analyst

DM/lt
Attachments

Before the Minnesota Public Utilities Commission

PUBLIC Response Comments of the Minnesota Department of Commerce Division of Energy Resources

Docket No. E017/M-17-279

I. BACKGROUND

On April 11, 2017, pursuant to Minn. Stat. §216B.1645, Otter Tail Power Company (OTP or the Company) submitted a petition to the Minnesota Public Utilities Commission (Commission) requesting approval of OTP's investment in a proposed 150 MW Merricourt wind generation project (Merricourt Project) located in McIntosh and Dickey Counties in North Dakota.

On June 19, 2017, the Minnesota Department of Commerce, Division of Energy Resources (Department or DOC) submitted comments which included conclusions, requested information and preliminary recommendations. The Department requested OTP in reply comments to:

- either request approval of this petition pursuant to Minn. Stat. §216B.50 or support why the statute is not applicable to the Merricourt Project;
- comply with or justify any variance to, Minn. Rule 7825.1800 - *Filing Requirements for Petitions to Acquire Property*;

The Department also made the following preliminary recommendations:

- direct OTP in its future rider recovery petition, to adjust the total capital costs by removing the internal capitalized costs when determining the return on and the recoverable capital through the renewable rider mechanism;
- cap the capital costs recoverable through a rider to the proposed Merricourt Project's total capital cost, adjusted by adding the allowance for funds used during construction (AFUDC) that accrued prior to the onset of rider recovery, and removing OTP's capitalized internal costs; and
- direct that any capital cost overruns omitted from rider recovery should not be treated as deferred amounts for future rate recovery.

On July 7, 2017, OTP filed reply comments with the requested information and stated its disagreement with the Department's recommendations to cap capital costs recoverable through the rider and to direct OTP not to treat capital costs omitted from rider recovery as deferred amounts for future rate recovery.

II. SUMMARY

A. RELEVANCE OF CERTAIN STATUTES AND RULES TO THE MERRICOURT PROJECT

OTP provided in its reply comments a discussion on the applicability of Minn. Stat. § 216B.50. OTP recognized that the Commission has applied this statute to similar Xcel Energy wind projects. However, OTP argued that this statute does not apply because the proposed Merricourt Project is adding to its plant by construction, and therefore meets the exception stated within Section 216B.50, Subd. 1 which reads,

This section does not apply to the purchase of property to replace or add to the plant of the public utility by construction.

In spite of OTP's primary position, OTP's reply comments stated that should the Commission make a determination that Section 216B.50 does apply to the Merricourt Project, it requests that the Commission approve the project as being consistent with the public interest. OTP also requested that the Commission grant a variance to the filing requirements outlined in Minn. Rule 7825.1800(B) which incorporates by reference Minn. Rules 7825.1400 (A)-(J). OTP reasoned that the variance request should be granted because much of the information listed within these rules' filing requirements is available in OTP's initial filing; therefore compliance would impose an excessive burden on the Company and would provide little if any useful information beyond what has already been provided. OTP's reply comments further added a brief discussion on its project financing plan. OTP stated that a variance in these circumstances is not at odds with any statutory provisions or prejudicial to any parties or interested persons.

B. ENVIRONMENTAL AVIAN ISSUES

OTP's reply comments discussed the approach to manage environmental risk and the associated cost risks to ratepayers with respect to avian issues related to the operation of the Merricourt Project. Also, in response to the Department's information request No. 6, OTP provided the U.S. Fish and Wildlife Service (USFWS) wind energy guideline elements and measures it is including in the Bird and Bat Conservation Strategy (BBCS) for the Merricourt

Project.¹ Some of the elements included in the BBCS plan are pre- and post-construction studies to assess impacts to bird and bat species, placing bird diverters atop power lines near stopover habitat, training workers to sight and report whooping cranes and piping plovers, and monitoring the wind farm during migration seasons.

C. COST CAP FOR RIDER RECOVERY AND DEFERRED ACCOUNTING OF COST OVERRUNS

OTP disagreed with the Department's recommendation to cap the rider recoverable amount of the Merricourt project to the Company's cost estimate of **[TRADE SECRET DATA HAS BEEN EXCISED]**. OTP argued that "The Department's rationale does not fit the Merricourt Project where Otter Tail faces significant, unavoidable uncertainty concerning interconnection costs." OTP further argued that "the Project remains prudent even at a capital cost of **[TRADE SECRET DATA HAS BEEN EXCISED]**"; therefore should the Commission adopt a cap, OTP believes a more appropriate soft cap is **[TRADE SECRET DATA HAS BEEN EXCISED]**.

In reply comments, OTP also disagreed with the Department recommendation that capital cost overruns (amounts in excess of the recommended cap) that are omitted from rider recovery should not be treated as deferred amounts for future rate recovery. OTP argued that, because the Company faces significant, unavoidable uncertainty concerning interconnection costs, it is premature to deny the Company deferred accounting treatment of expenses above the soft cap and stated it should be evaluated when OTP seeks recovery through its renewable rider.

III. DEPARTMENT ANALYSIS

A. RELEVANCE OF CERTAIN STATUTES AND RULES TO THE MERRICOURT PROJECT

The Department concludes that the Merricourt Project would be subject to Minn. Stat. §216B.50, based upon the Commission's application of this statute in recent dockets having similar transactions as referenced in the Department's June 19, 2017 comments (pages 5-8). The Department is not persuaded by OTP's reply argument that the cited the Minn. Stat. §216B.50 clause, "This section does not apply to the purchase of property to replace or add to the plant of the public utility by construction", applies to the Merricourt Project. When taking into account the prior form of this clause and the stated legislative purpose tied to its modification, the Department interprets that this particular clause is intended to apply to existing plant already owned by the petitioning utility. This statute's clause previously read as

¹ DOC Information Request No. 6 is included in Attachment RC-1 to these comments.

This section shall not be construed as applicable to the purchase of *units of property* for replacement or to the addition to the plant of the public utility by construction [emphasis added].

The language in this statute clause was modified in the 84th Legislative Session (2005 Regular Session). The 84th Legislative Session enacted new legislation with the stated purpose of “authorizing public utility owners of transmission facilities to transfer control or ownership of assets to transmission companies subject to federal energy regulatory commission jurisdiction under certain conditions, providing for review and approval, authorizing transfers by municipal utilities upon governing body approval” which caused some modification to Section 216B.50.² This 2005 enacted legislation expanded Minn. Stat. §216B.16 by adding new subdivision 7c, which introduced a linkage to Section 216B.50, and made correlating modifications to Section 216B.50. The legislative modifications to Section 216B.50 are included in Attachment RC-2 to these comments. The stated reasoning behind these legislative changes was to permit transfer of transmission assets and operation to transmission companies, and did not convey that such enactment was to relieve the utility from seeking Commission approval to add new generation fleet via construction as being in the public interest. For this reason, the Department is not persuaded by OTP’s argument that Section 216B.50 does not apply to the Merricourt Project.

Although the Department interprets the clause in Section 216B.50 to apply to existing plant based on the language in the prior version of that section, coupled with the stated legislative purpose at the time it was altered, the Department is cognizant that in a recent petition (Docket No. E002/M-16-777), the Commission did not make a determination as to whether or not Minn. Stat. §216B.50 applied to Xcel Energy’s petition to add wind generation facilities to its fleet.³

The Department recognizes that OTP’s proposed addition of the Merricourt Project, despite being located in North Dakota, will serve Minnesota customers, thus affecting the operating system serving this state. In fact, OTP assigns the majority of its utility operating costs (approximately 53 percent) to Minnesota.⁴ Moreover, though the language in Minn. Stat. §216B.50, subd. 1 includes the phrase “plant as an operating unit or system in this state” the Commission has previously found that §216B.50 applies to facilities located outside the state of Minnesota when such facilities are used by the utility to provide service to Minnesota customers and the facilities’ costs are included in customers’ rates approved by the Commission.

² Legislative Session No. 84 (2005 Regular Session), Chapter 97. [Senate Bill SF1368](#), 3E Relating to Energy, Article 1 – Transmission Companies. [House Bill HF1344](#), 3E, Article 1 – Transmission Companies, Section 8 – Commission approval language modified.

³ A Commission Order in Docket E002/M-16-777 had not been issued at the time these comments were written.

⁴ DOC Information Request No. 13, OTP Attachment 1, Schedule line 52, included here as Attachment RC-3.

For example, in its December 14, 1998 Order Finding Jurisdiction and Approving Property Transfer in Docket No. E017/PA-98-1345, the Commission provided its interpretation of Minn. Stat. §216B.50, subd. 1:

The Commission has long held that out-of-state property which is an integral part of a utility's Minnesota operating system is subject to the provisions of Minn. Stat. 216B.50, subd. 1. [footnote omitted] The statutory language contemplates this result, by referring not to discrete parcels of property but to "plant as an operating unit or system in this state." Clearly, the statutory intent was to cover utility assets integrated into a utility's overall operating system.

To hold otherwise would render the statute an absurdity, since it would give the Commission no authority to protect Minnesota customers from improvident or even potentially disastrous transfers of out-of-state facilities vital to the provision of reliable service in this state. For all these reasons, the Commission continues to hold that out-of-state utility property is subject to the provisions of Minn. Stat. 216B.50, when it is part of a utility's Minnesota operating unit or system.

As a result, the Department recommends that the provisions of Minn. Stat. §216B.50 be applied by the Commission in determining whether MP has shown that the proposed transactions and agreements are reasonable and consistent with the public interest.

Though not the weight of an order, the Department offers that in a 1996 Legislative report produced jointly by the Commission and the Department, a description of the Commission's regulatory responsibilities associated with Section 216B.50, reads as follows:

Minnesota Department of Public Service and Public Utilities Commission's Report to Legislature issued January 16, 1996

Page 11:

Mergers, Acquisitions and Property Transfers

Utilities may not buy, sell or rent property used as an operating system without Commission approval, unless the purchase or rental price is \$100,000 or less. No utility may merge or consolidate with another utility without Commission

approval. The Commission is to approve such transactions upon finding that they are consistent with the public interest. *Minn. Stat. § 216B.50.*

Regarding OTP's request for variance to Minn. Rule 7825.1800(B) and by reference Minn. 7825.1400 (A)-(J), the Department has no objection.⁵

B. ENVIRONMENTAL AVIAN ISSUES

The Department believes that OTP's BBCS for the Merricourt Project reasonably addresses the avian issues. However, to monitor the effectiveness of these strategies and the related operational impacts going forward, the Department recommends that the Commission require OTP to provide periodic informational reports during the early years of the project's operation. These reports should include the avian risk mitigation measures exercised and the related operational impacts. The Department recommends that these informational periodic reports be provided 30 days after the end of each of the first two years (i.e., first two 12-month periods) of Merricourt's operation, and 30 days after the end of each five-year interval of operation during the first ten years of operation; thus provide a total of at least four reports during the period production tax credits are earned. The Department also recommends that OTP file with the Commission any post-construction fatality surveys conducted during the first two years of operation to allow the Commission to assess the effectiveness of the avoidance and minimization measures adopted.

C. COST CAP FOR RIDER RECOVERY AND DEFERRED ACCOUNTING OF COST OVERRUNS

Among the Department's reasons stated in its June 19, 2017 comments (page 16), the Department emphasizes use of the soft cap value because it is the cost estimate value input used by OTP's modelling that lead the Company to select the Merricourt Project from the ten proposals evaluated. OTP pursued the proposed Merricourt Project alternative as having the lowest levelized cost of energy (LCOE)⁶, a value calculated using the estimated project cost of **[TRADE SECRET DATA HAS BEEN EXCISED]**.⁷ Although OTP's reply comments argued the Merricourt project remains prudent at **[TRADE SECRET DATA HAS BEEN EXCISED]**, the Department points out that under such cost assumption the Merricourt project LCOE **[TRADE SECRET DATA HAS BEEN EXCISED]**.⁸ When comparing the revised Merricourt project LCOE

⁵ Many of the rule filing requirements are present in the initial filing; also, OTP's recent balance sheet and capital structure information corresponding to Minn. Rule 7825.1400 is available in OTP's currently pending capital structure filing, Docket E017/S-17-337, wherein the Department recommends approval.

⁶ Initial Filing, p. 11.

⁷ See Attachment B to the Department's June 19, 2017 comments which includes the ten projects evaluated and their respective LCOE's.

⁸ DOC Information Request No. 8 included as Attachment RC-4.

value of **[TRADE SECRET DATA HAS BEEN EXCISED]** to the LCOE's of the remaining nine proposals evaluated, a different alternative **[TRADE SECRET DATA HAS BEEN EXCISED]**, which includes transmission interconnection costs borne fully by the developer⁹, is shown to have **[TRADE SECRET DATA HAS BEEN EXCISED]**. And another alternative, **[TRADE SECRET DATA HAS BEEN EXCISED]** LCOE, but OTP stated that this proposal did not include transmission costs. Consequently, a different alternative may have been pursued other than the currently proposed Merricourt Project if the modelled cost input was **[TRADE SECRET DATA HAS BEEN EXCISED]**. Moreover, OTP does not propose even to be bound by this higher amount as a cap.

Therefore, the Department maintains its recommendation of a soft cap applicable to the rider recovery mechanism using the project cost estimate of **[TRADE SECRET DATA HAS BEEN EXCISED]** to hold OTP accountable to their cost estimates and their evaluations of the alternatives. Alternatively, the Department recommends that the Commission require OTP to select a lower or comparable-cost proposal with less risk.

OTP is also in disagreement with the Department's recommendation that any capital cost overruns should not be treated as deferred amounts for future rate recovery, with the understanding that the remaining balance may be presented by OTP in a future rate case to be considered for rate inclusion. The Department's recommendation is fully consistent with the Commission's practices regarding requests for regulatory assets. The Commission has historically maintained rigorous standards for the granting of deferred accounting, including evaluation of the following conditions:

- related to utility operations;
- significant in amount;
- unforeseen, unusual or extraordinary items; and
- subject to review for reasonableness and prudence.

Should OTP incur an event it believes meets Commission standards, it could petition the Commission at that time.

Thus, the full cost of the investment is subject to amortization/depreciation once it is placed in service in accordance with generally accepted accounting principles and it is the Department's recommendation that that OTP should not book as a regulatory asset the portion of 1) depreciation, 2) return on investment, or 3) other capital-related costs attributed to the project's capital costs that exceed the soft cap. Making clear to OTP that it is to follow generally accepted accounting procedures with respect to the Merricourt Project is not

⁹ DOC Information Request No. 10 included as Attachment RC-5. And see also DOC Information Request No. 2 included in the Department's June 19, 2017 comments as Attachment B.

premature; rather, it acts as a preventative measure to avoid incorrect assumptions and potential conflicts in future filings.

With respect to OTP's argument that it faces significant, unavoidable uncertainty concerning interconnection costs, the Department points out that OTP has negotiated contract provisions with EDF Renewable Energy, Inc. (EDF) to automatically terminate the Asset Purchase Agreement (APA) should interconnection costs identified in the final Generator Interconnection Agreement (GIA) exceed a non-public stated amount.¹⁰ This contract provision mitigates interconnection cost risks and provides OTP a means to opt out and avoid exceeding project cost estimates. Additionally, if the project cost exceeds OTP's estimate presented in this petition, the Company has the opportunity to file a rate case to make its case for rate recovery of the remaining balance of cost overruns. There, the Company would need to demonstrate why it did not choose a project with less risk, or show that other projects face the same level of such risks.

D. PRORATED ACCUMULATED DEFERRED INCOME TAX (ADIT)

In its comments, the Department discussed the Internal Revenue Service (IRS) requirement for the proration of accumulated deferred income tax (ADIT) when using a forecasted test year and how this proration increases rate base which ultimately increases rates, despite that ratepayers prepaid the taxes. The Department believed that rider mechanisms having true-up features could undo the harm to ratepayers by using actual ADIT balances for the now-historical months when determining tracker balances. The Department also stated, however, that should the IRS determine that reversal of proration in a true-up is a violation of the IRS normalization requirements, use of a historical test year period would remain available to alleviate any harm to ratepayers. OTP's reply comments did not respond to the Department's comments on the prorate ADIT issue.

OTP has recently received its Private Letter Ruling (PLR). OTP's PLR requested an IRS ruling on the use of ADIT proration specific to a rate case scenario that involved implementation of interim rates subject to refund. While this PLR request did not discuss rider rate mechanisms with true-up features, it appears that the IRS is focused on the date when rates are implemented as the determining factor for the need to prorate ADIT. Moreover, the IRS recently issued a PLR for an undisclosed utility regarding use of prorated ADIT in rider true-ups, and from the Department's initial review, the IRS ruling did not appear to permit reversing proration in a true-up, even when the true-up is calculated after the end of the test period.¹¹ What that ruling means is that OTP's ratepayers would be harmed in an ongoing manner, since they would not receive full credit to rate base for prepaying OTP's federal income taxes in the

¹⁰ Initial Filing, p. 12.

¹¹ Internal Revenue Service PLR 201717008, released April 28, 2017.

early years of the project, due to higher taxes under uniform rather than accelerated depreciation.¹²

Given this information, the Department recommends that the effective dates for recovery of costs of the Merricourt Project be set at the end of each then-historical test year period in OTP's Renewable Resource Cost Recovery rider. For example, if OTP uses a calendar-year test period, then recovery of estimated 2017 costs could not occur until January 1, 2018.

If OTP can convince the IRS not to prorate ADIT in true-ups,¹³ then the effective date of riders could occur prior to the end of the test period. However, even if the IRS does not change its ruling, allowing OTP to recover costs of the Merricourt Project in the rider would still allow OTP to recover costs of the Merricourt Project far sooner than under traditional ratemaking, which delays recovery until the first rate case after a project is fully used and useful. By contrast, allowing recovery through a rider allows the utility to recover reasonably forecasted costs prior to when the project is fully used and useful and without the need for a rate case.

¹² The IRS has said that: "The purpose of the proration formula is ... to prevent the *immediate* flow-through of the benefits of accelerated depreciation to ratepayers" (emphasis added), as stated on page 6 of the PLR above. The IRS also stated on page 7 of the above PLR that the purpose "is to preserve for regulated utilities the benefits of accelerated depreciation as a source of cost-free capital. The availability of this capital is ensured by prohibiting flow-through." However, requiring proration of ADIT in true-ups would prevent not only immediate flow-through but *any* flow-through of the benefits of accelerated depreciation to ratepayers.

¹³ Under this approach, if the rider were put in place during the test period, OTP would still have access to cost-free capital *during the period that the rider is in place in the test period*. However, not prorating ADIT in the true-up would result in OTP then paying back only the principle of that cost-free loan to its ratepayers, with ratepayers receiving no "return" on their loan to OTP during the test-period of the rider. Thus, OTP's access to cost-free capital during the test period would not be "reversed." If OTP could convince the IRS to use this approach, it would then be possible for OTP to use effective dates prior to the end of the test period.

IV. CONCLUSION AND RECOMMENDATIONS

Upon the review of OTP's initial filing and its reply comments, the Department recommends that the Commission:

- Determine that the proposed Merricourt Project qualifies as an eligible energy technology that can count towards the Minnesota Renewable Energy Statute (RES) requirements set forth in Minn. Stat. §216B.1691;
- Determine that the proposed Merricourt Project, being built in North Dakota, is exempt from the certificate of need statute, Minn. Stat. §216B.243;
- Determine that the proposed Merricourt Project is subject to Minn. Stat. §216B.50 and find that the project is in the public interest;
- Grant OTP's requested variance to the filing requirements of Minn. Rules 7825.1800(B) and Minn. Rules 7825.1400 items (A)-(J);
- Determine that the proposed Merricourt Project qualifies for cost recovery under Minn. Stat. §216B.1645, subd. 2a and cap the total capital costs allowed for recovery through the rider mechanism to **[TRADE SECRET DATA HAS BEEN EXCISED]**, the total project cost provided by OTP which resulted in the lowest Levelized Cost of Energy alternative, plus Allowance for Funds Used During Construction (AFUDC), less the capitalized internal costs;
- Direct that any Merricourt project capital and capital-related costs excluded from the rider recovery mechanism, including the return of and return on these excluded capital costs, shall not be treated as deferred amounts held for future rate recovery;
- Require periodic informational reports on the Merricourt project's Bird and Bat Conservation Strategy minimization and mitigation activity undertaken, including the related impact on Merricourt's operation during the first ten years of operation (the first ten twelve-month periods). These reports should be provided 30 days after the end of each of the first two years (*i.e.*, first two 12-month periods) of operation, and 30 days after the end of each five-year (60-month) interval of operation of the first ten years; and require OTP to file with the Commission any post-construction avian fatality surveys conducted during the first two years of operation; and
- Adopt effective dates for OTP's Renewable Resource Cost Recovery rider rate to be set at the end of the test year period to alleviate harm to ratepayers that arises from prorated Accumulated Deferred Income Tax.

/lt

OTTER TAIL POWER COMPANY
Docket No: E017/M-17-279

Response to: Minnesota Department of Commerce
Analyst: Dorothy Morrissey
Date Received: 04/28/2017
Date Due: 05/08/2017
Date of Response: 05/08/2017
Responding Witness: Randy Synstelien, Principal Resource Planner

Information Request:

Topic: Avian Issues
Reference(s): Xcel Energy's April 13, 2011 Letter in Docket M-08-1437

Please provide a discussion on the current status of the avian concerns and issues associated with the Merricourt Project site, a subject issue that contributed to Xcel Energy's decision to terminate its pursuit of wind generation development of same region. Please explain how this issue is addressed within the agreements between the Company and EDF. Please also discuss how avian concerns associated with this region may impact the proposed-facility's operating provisions and potential generation output.

Attachments: 0

Response:

Before moving forward with the Project, the Company engaged in significant due diligence to identify potential risks and seek ways to mitigate those risks. Potential environmental risks included avian impacts. Based upon its investigation, the Company determined that risk could be mitigated by actions EDF is contractually obliged to undertake.

EDF made a number of affirmative representations, warranties, and covenants in the Asset Purchase Agreement. Several of these relate to avian issues and are designed to protect OTP. There are also several avian-related circumstances under which OTP's obligation to close the asset purchase is conditioned, or whereby OTP has the right to terminate the agreement prior to closing.

Moreover, EDF has formulated a draft Bird and Bat Conservation Strategy (BBCS) with avoidance and minimization measures and best management practices to protect bird and bat species. At least 30 days prior to the closing date on the purchase of the development assets, EDF is contractually obliged to submit the final version of the BBCS to the U.S. Fish and Wildlife Service (USFWS). USFWS's discussion of a BBCS is advisory only and the BBCS is not approved or disapproved by USFWS. Moreover, it does not constitute a federal agency action subject to NEPA or any other federal law or regulation. Since 2011, the USFWS has issued Land-Based Wind Energy Guidelines (WEG), and a Programmatic Environmental Impact Statement (PEIS) was developed between the Western Area Power Administration and USFWS for wind energy development in the Upper Great Plains Region. The Project's BBCS will incorporate elements of the WEG and PEIS, including:

- The Project will conduct several pre-construction and post-construction studies to assess impacts to bird and bat species. The results of these studies will be used to determine a possible need for additional protective measures as part of an adaptive-management process.
- Specific to whooping cranes, no whooping crane fatalities at wind farms have been documented and the Project is outside of the area where 85 percent of whooping crane sightings have occurred. No confirmed whooping crane sightings have occurred within the project area. However, avoidance and minimization measures will include:
 - Placing bird-flight diverters on top of power lines within one mile of suitable stopover habitat.
 - Training workers to identify and report whooping crane sightings.Monitoring the wind farm during migration seasons. Turbines and/or construction activity will be stopped within two miles of a sighting, and the sightings will be reported to the USFWS.
- Regarding Piping Plover, no piping plover fatalities at wind farms have been documented. To date, studies have not shown nesting habitat for the species within the project area. However, avoidance and minimization measures will include:
 - Training workers to identify and report piping plover sightings.
 - Implementing a three-mile buffer from turbines for any known critical piping plover habitat. and
Locating access roads, transmission lines, and other project facilities away from known critical piping plover habitat.

Sec. 8. Minnesota Statutes 2004, section 216B.50,
subdivision 1, is amended to read:

Subdivision 1. [COMMISSION APPROVAL REQUIRED.] No public utility shall sell, acquire, lease, or rent any plant as an operating unit or system in this state for a total consideration in excess of \$100,000, or merge or consolidate with another public utility or transmission company operating in this state, without first being authorized so to do by the commission. Upon the filing of an application for the approval and consent of the commission ~~thereto,~~ the commission shall investigate, with or without public hearing, ~~and in case of.~~ The commission shall hold a public hearing, upon such notice as the commission may require, ~~and if it shall find.~~ If the commission finds that the proposed action is consistent with the public interest, it shall give its consent and approval by order in writing. In reaching its determination, the commission shall take into consideration the reasonable value of the property, plant, or securities to be acquired or disposed of, or merged and consolidated. ~~The provisions of~~

This section ~~shall~~ does not be construed as applicable apply to the purchase of ~~units of property for~~ replace or add to the plant of the public utility by construction.

Otter Tail Power Company
 Merricourt Wind Farm
 25 Years of Revenue Requirements

Line	1	2	3	4	5	6	7	8
	Projected	Projected	Projected	Projected	Projected	Projected	Projected	Projected
	2019	2020	2021	2022	2023	2024	2025	2026
[PROTECTED DATA BEGINS...]								
1	RATE BASE							
2	Plant Balance - Merricourt							
3	Accumulated Depreciation							
4	Net Plant in Service							
5	CWIP							
6	Accum. Deferred Inc. Taxes Fed & State							
7	Accum. Deferred Inc. Taxes Basis Difference							
8	Accum. Deferred Inc. Tx Credit - Federal PTC							
9	Deferred Tax Asset - State ITC							
10	Deferred Tax Liability - Federal							
11	Accum. Deferred Inc. TX Credit - ND ITC							
12	Deferred Tax Asset - Federal							
13	End of month rate base							
14	Average rate base							
15								
16								
17	Return on Rate Base							
18	7.506%							
19	Available for return (equity portion of rate base)							
20	4.94%							
21	EXPENSES							
22	<i>O&M and Depreciation</i>							
23	Operating Costs							
24	Ground Lease Payments							
25	Property Tax							
26	Book Depreciation							
27	Total O&M and Depreciation Expense							
28								
29	Income before Taxes							
30	Available for return (from above)							
31	Less book tax credits - Federal PTC							
32	Less book tax credits - ND ITC							
33	ND ITC - Federal impact							
34	Adjusted Income before interest and taxes							
35	Taxable Income (grossed up)							
36	1.7056							
37	Income Taxes							
38	Current and Def Income Taxes							
39	Tax Adjustment for Additional Tax Basis							
40	Federal PTC							
41	ND ITC							
42	ND ITC - Federal impact							
43	Total Income Tax Expense							
44								
45								
46	REVENUE REQUIREMENTS							
47	Expenses							
48	Return on rate base							
49								
50	Total revenue requirements							
51	13,661,071.50	14,123,559.14	10,593,852.67	7,592,725.20	4,518,399.89	2,976,150.96	171,853.89	(1,568,296.21)
52	7,240,331.01	7,485,448.21	5,614,713.31	4,024,123.85	2,394,739.74	1,577,351.97	91,082.10	(831,192.76)
	52.99973%							

**PUBLIC DOCUMENT – NOT PUBLIC (OR PRIVILEGED) DATA HAS BEEN
EXCISED**

Response to Information Request MN-DOC-008

Page 1 of 1

OTTER TAIL POWER COMPANY
Docket No: E017/M-17-279

Response to: Minnesota Department of Commerce
Analyst: Dorothy Morrissey
Date Received: 04/28/2017
Date Due: 05/08/2017
Date of Response: 05/08/2017
Responding Witness: Randy Synsteliem, Principal Resource Planner

Information Request:

Topic: Capital Sensitivities
Reference(s): Petition, p. 9

Please clarify and discuss what measure was evaluated by Otter Tail to conclude that the Merricourt Project “remains prudent” even at the non-public capital cost stated on page 9 of the Petition. Please provide the calculated value of the evaluated measure that results should the capital cost increase to the non-public stated amount.

Attachments: 0

Response:

The Company’s most recent resource plan (DOCKET E017-RP-16-386) selected at least 200 MW of full value 100 percent PTC wind generation in 57 of the 58 scenario sensitivities modeled. The base case price of the full value 100 percent PTC wind was modeled at \$30/MWh. The Merricourt Project’s levelized cost of energy is **[PROTECTED DATA BEGINS... ..PROTECTED DATA ENDS]** which is nearly 30 percent below the \$30/MWh threshold. When the high capital sensitivity cost of **[PROTECTED DATA BEGINS... ..PROTECTED DATA ENDS]** million is used, the Merricourt Project’s levelized cost of energy is **[PROTECTED DATA BEGINS... ..PROTECTED DATA ENDS]**, still well below the \$30/MWh threshold modeled in the resource plan.

OTP has taken reasonable efforts to maintain the secrecy of the information marked as PROTECTED DATA which derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use (the “Protected Data”). The Protected Data is therefore “trade secret information” and “nonpublic data” under Minn. Stat. § 13.37.

OTTER TAIL POWER COMPANY

Docket No: E017-M-17-279

Response to: Minnesota Department of Commerce

Analyst: Dorothy Morrissey

Date Received: 04/28/2017

Date Due: 05/08/2017

Date of Response: 05/08/2017

Responding Witness: Randy Synstelien, Principal Resource Planner

Information Request:

Topic: Project Risks

Reference(s): Petition, pp. 11-12

Please identify the second and third ranked proposals evaluated by the Company and discuss the applicability of the identified Merricourt project risks to these alternative proposals (transmission interconnection costs, federal PTC value risk, commercial risks); and discuss, in the event the second- or third-ranked proposal had been undertaken, what party was to bear such risks.

Attachments: 0Response:

Attachment 1 to IR MN-DOC-002 reflects that Proposal 3A was ranked second and Proposal 7b was ranked third. The table below indicates which party would likely have borne the risks mentioned above. Please note that the second and third ranked proposals were not the subject of final negotiated contracts that would have definitively allocated counterparty risk.

<u>Risk</u>	<u>Proposal 3A</u>	<u>Proposal 7B</u>
Transmission Interconnection Risk	OTP	Developer
PTC Risk	Developer	Developer
Commercial Risk	Developer	Developer

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
Public Response Comments**

Docket No. E017/M-17-279

Dated this 16th day of August 2017

/s/Sharon Ferguson

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Julia	Anderson	Julia.Anderson@ag.state.mn.us	Office of the Attorney General-DOC	1800 BRM Tower 445 Minnesota St St. Paul, MN 551012134	Electronic Service	Yes	OFF_SL_17-279_M-17-279
Christopher	Anderson	canderson@allete.com	Minnesota Power	30 W Superior St Duluth, MN 558022191	Electronic Service	No	OFF_SL_17-279_M-17-279
Ray	Choquette	rchoquette@agp.com	Ag Processing Inc.	12700 West Dodge Road PO Box 2047 Omaha, NE 68103-2047	Electronic Service	No	OFF_SL_17-279_M-17-279
Ian	Dobson	Residential.Utilities@ag.state.mn.us	Office of the Attorney General-RUD	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012130	Electronic Service	Yes	OFF_SL_17-279_M-17-279
James C.	Erickson	jericksonkbc@gmail.com	Kelly Bay Consulting	17 Quechee St Superior, WI 54880-4421	Electronic Service	No	OFF_SL_17-279_M-17-279
Sharon	Ferguson	sharon.ferguson@state.mn.us	Department of Commerce	85 7th Place E Ste 280 Saint Paul, MN 551012198	Electronic Service	No	OFF_SL_17-279_M-17-279
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_17-279_M-17-279
Bryce	Haugen	bhaugen@otpc.com	Otter Tail Power Company	215 S Cascade St P.O. Box 496 Fergus Falls, MN 56538	Electronic Service	No	OFF_SL_17-279_M-17-279
Shane	Henriksen	shane.henriksen@enbridge.com	Enbridge Energy Company, Inc.	1409 Hammond Ave FL 2 Superior, WI 54880	Electronic Service	No	OFF_SL_17-279_M-17-279
Douglas	Larson	dlarson@dakotaelectric.com	Dakota Electric Association	4300 220th St W Farmington, MN 55024	Electronic Service	No	OFF_SL_17-279_M-17-279

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
James D.	Larson	james.larson@avantenergy.com	Avant Energy Services	220 S 6th St Ste 1300 Minneapolis, MN 55402	Electronic Service	No	OFF_SL_17-279_M-17-279
Kavita	Maini	kmains@wi.rr.com	KM Energy Consulting LLC	961 N Lost Woods Rd Oconomowoc, WI 53066	Electronic Service	No	OFF_SL_17-279_M-17-279
Andrew	Moratzka	andrew.moratzka@stoel.com	Stoel Rives LLP	33 South Sixth St Ste 4200 Minneapolis, MN 55402	Electronic Service	No	OFF_SL_17-279_M-17-279
Larry L.	Schedin	Larry@LLSResources.com	LLS Resources, LLC	332 Minnesota St, Ste W1390 St. Paul, MN 55101	Electronic Service	No	OFF_SL_17-279_M-17-279
Cary	Stephenson	cStephenson@otpc.com	Otter Tail Power Company	215 South Cascade Street Fergus Falls, MN 56537	Electronic Service	Yes	OFF_SL_17-279_M-17-279
Randy	Synsteliën	rsynsteliën@otpc.com	Otter Tail Power Company	215 S Cascade St Fergus Falls, MN 56537	Electronic Service	No	OFF_SL_17-279_M-17-279
Stuart	Tommerdahl	stommerdahl@otpc.com	Otter Tail Power Company	215 S Cascade St PO Box 496 Fergus Falls, MN 56537	Electronic Service	No	OFF_SL_17-279_M-17-279
Daniel P	Wolf	dan.wolf@state.mn.us	Public Utilities Commission	121 7th Place East Suite 350 St. Paul, MN 551012147	Electronic Service	Yes	OFF_SL_17-279_M-17-279